

Serial: 205290

IN THE SUPREME COURT OF MISSISSIPPI

No. 2016-M-00442-SCT

***PHILIP A. GUNN, SPEAKER OF THE
HOUSE OF THE REPRESENTATIVES***

Petitioner

v.

REPRESENTATIVE J. P. HUGHES, JR.

Respondent

EN BANC ORDER

This matter is before the Court, en banc, on the Petition for Interlocutory Appeal by Permission, or in the Alternative, for Extraordinary Writ of Prohibition on Mandamus Directed to the Circuit Court for the First Judicial District of Hinds County, Mississippi, and Motion for Stay filed by Philip A. Gunn. A response was filed by J.P. Hughes Jr. After due consideration, the Court finds that the petition for interlocutory appeal should be granted and this matter advanced on the Court's docket. The parties shall address (1) whether the judiciary has jurisdiction over this dispute in light of Sections 1 and 2, Article 1 of the Mississippi Constitution, and/or (2) whether this Court should refrain from exercising its jurisdiction over the issues raised in this matter. In briefing the issues, the parties should address *Hunt v. Wright*, 70 Miss. 298, 11 So. 608 (1892), *Tuck v. Blackmon*, 798 So. 2d 402 (Miss. 2001), and any other authority they deem relevant to the matters before this Court.

The record, if any, shall be filed with the Clerk of this Court by May 17, 2016. Gunn's brief shall be filed by June 7, 2016; Hughes's brief shall be filed by June 21, 2016; Gunn's reply brief shall be filed by June 28, 2016. No extensions will be granted. The parties shall appear for oral argument on Tuesday, July 19, 2016, at 10:00 a.m.

IT IS THEREFORE ORDERED that the Petition for Interlocutory Appeal by Permission, or in the Alternative, for Extraordinary Writ of Prohibition on Mandamus Directed to the Circuit Court for the First Judicial District of Hinds County, Mississippi, and Motion for Stay filed by Philip A. Gunn is hereby granted. The notice of appeal is deemed to have been filed, and the filing fee is due and payable to the Clerk of this Court. Filing of the record and briefing is due as directed herein.

IT IS FURTHER ORDERED that the Corrected En Banc Order entered by this Court on March 24, 2016, shall remain in effect until further order of this Court.

SO ORDERED, this the 9th day of May, 2016.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., CHIEF JUSTICE
FOR THE COURT

**KING, J., OBJECTS TO THE ORDER WITH SEPARATE WRITTEN STATEMENT
JOINED BY KITCHENS, J.**

LAMAR, J., NOT PARTICIPATING.

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KING, JUSTICE, OBJECTING WITH SEPARATE WRITTEN STATEMENT:

¶1. I object to the order granting interlocutory appeal. The circuit court order has been stayed, and the legislative session is concluded. Thus, there seems to be no urgency to address this matter. Instead of granting interlocutory appeal, I would allow this matter to proceed in the circuit court, where a full record could be developed. *See* M.R.A.P. 10(a) (the content of the appellate record “shall consist of designated papers and exhibits filed in the trial court, the transcript of proceedings, if any, and . . . a certified copy of the docket entries . . .”); *Hardy v. Brock*, 826 So. 2d 71, 76 (Miss. 2002) (“Mississippi appellate courts may not consider information that is outside the record.”).

¶2. Among the matters that might be more properly developed for appellate review by proceeding in the circuit court are:

1. Does the Speaker of the House have the authority to determine constitutional issues?
2. If so, what is the source of the Speaker’s authority to determine constitutional issues?

3. What is the purpose, or what are the purposes, of that portion of Article 4, Section 59, that requires that a bill be read in full upon the demand of any member? Miss. Const. art. 4, § 59.
4. What authority can be cited that supports your opinion as to the purpose, or those purposes, that you have identified?
5. Did other methods exist by which the House could comply with the dictates of Article 4, Section 59, and still responsibly attend to legislative business?
6. If there are other methods by which the House could have complied with the dictates of Article 4, Section 59, and still have responsibly attended to legislative business, what are they?
7. If there are no other methods by which the House could have complied with the dictates of Article 4, Section 59, and still have responsibly attended to legislative business, why not?

¶3. These are matters that can be developed most adequately in the trial court; however, since this Court has granted interlocutory appeal in this matter, I trust that the parties will be prepared to address these matters during argument.

KITCHENS, J., JOINS THIS SEPARATE STATEMENT.