

WEDNESDAY

MARCH 3, 2004

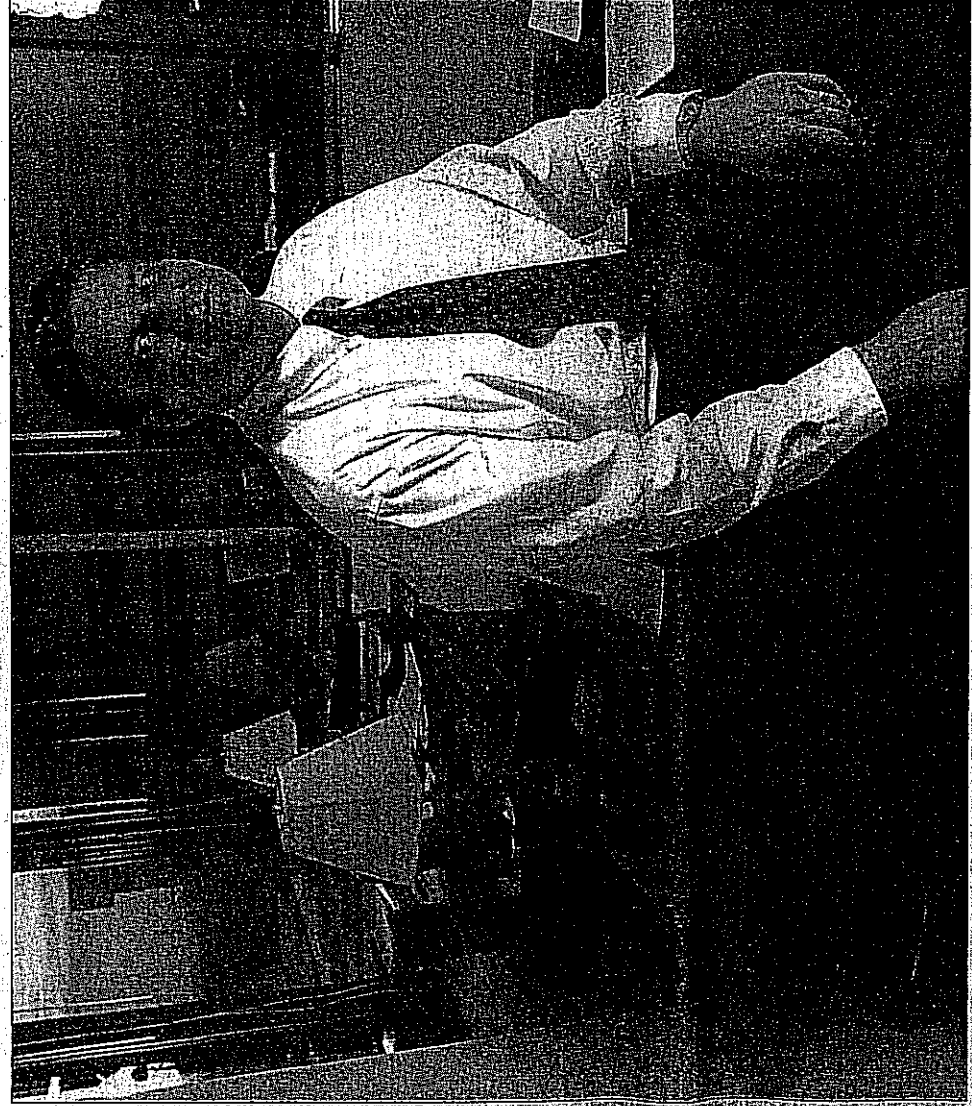
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DAIRY REPORT

\$1.50 VOL. 115, NO. 43

ESTABLISHED 1890

FULTON COUNTY DAILY REPORT



ALISON CHURCH/DAILY REPORT

Attorney Brett A. Schroyer: The justices reaffirmed that domestic relations issues should be left to states.

JUSTICES UPHOLD GUIDELINES ON CHILD SUPPORT

Although state officials failed to follow federal law, Georgia rules are OK

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Georgia's child support guidelines survived a second challenge in state Supreme Court on Monday. The court's decision, which was unanimous, reversed a lower-court decision that had found the guidelines unconstitutional.

The justices found that even though Georgia officials have failed to follow a federal law requiring them to review child support guidelines every four years, the state's plan does not do "major damage" to the federal interest.

The justices' decision in *Ward v. McFall* was one of 11 rulings handed down on Monday.

Among the others was a 4-3 decision that said Henry County authorities did not have to return extra money from a special sales tax. The tax was supposed to fund \$60 million in road improvements but ended up raising \$71.8 million.

Writing for the majority, Justice George H. Carley held that because the road improvements were not finished, state law allowed authorities to keep

Henry County Can Keep Tax Surplus, Justices Say

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the money to complete the project funded by the special tax. Chief Justice Norman S. Fletcher and Justices Robert Benham and Carol W. Hunstein joined Carley.

Justice P. Harris Hines, joined by Presiding Justice Leah Ward Sears and



FILE PHOTO

Justice P. Harris Hines dissented in the decision to rule for Henry County.

Justice Hugh P. Thompson, dissented.

The majority's result, Hines wrote, "is that the burden of the uncompleted county projects is shifted to the unwitting taxpayer, rather than holding the taxing authority accountable for a seemingly unrealistic assessment of cost and/or project scope." *Haugen v. Henry County*, No. S03A1444 (Sup. Ct. Ga. March 1, 2004).

The challenge was brought by Henry resident James L. Haugen, an attorney who represented himself. A 2002 graduate of Mercer University School of Law, Haugen said he brought the case in the month before he took the bar exam.

An associate at Pursley Lowery Meeks, Haugen said he will ask the justices to

reconsider. He said the majority decision is sound with regard to the issue addressed, "but they didn't fully address the issues."

Patrick D. Jaugstetter, the attorney for the Henry government, could not be reached for comment.

Four-Year Updates

The child support issue has been simmering for a couple of years.

In 2002, an Atkinson County judge tossed out the state's child support guidelines, calling them "arbitrary" and in violation of state and federal equal protection laws, among other things.

But on appeal, the state high court last year reversed, issuing a unanimous decision in *Georgia Dept. of Human Resources v. Sweat*, 276 Ga. 627.

The case decided on Monday dealt with Rockdale Superior Court Chief Judge Sidney L. Nation's order stating that Georgia's child support laws are unconstitutional because they haven't been reviewed and updated every four years as required by federal law.

But on appeal, the state justices also reversed that ruling. In a decision by Hines, the justices cited a 1987 U.S. Supreme Court case, *Rose v. Rose*, 481 U.S. 619, which said state laws governing domestic relations had to do "major damage" to federal interests before federal courts could override those laws.

"If Georgia has not reviewed its guidelines in the exact manner stated in [the federal law], it does not 'do major damage' to that federal interest," Hines wrote.

Hines added that since the secretary of health and human services continues to approve federal funds for Georgia with regard to child support payments, the court would defer to the executive branch's assessment of the state's compliance with the law. *Ward v. McFall*, No. S03A1365 (Sup. Ct. Ga. March 1, 2004).

Traditional Roles Reversed

Like the *Sweat* case, the case decided Monday showed a reversal of traditional roles: A father had custody of two children and was seeking higher child support payments from his ex-wife. In this case, Christopher Ward challenged Nation's order reducing his child support from \$375 per month—25 percent of ex-wife Laura McFall's income—to \$125 per month.

Brett A. Schroyer, Ward's lawyer, said he was somewhat surprised by the win.

The other side, he said, "had done their

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[The majority's result] is that the burden of the uncompleted county projects is shifted to the unwitting taxpayer.

— P. Harris Hines

homework" and made a good argument that the state had not kept up with the federal standard.

But he said the justices reaffirmed that domestic relations issues should be left to the states.

McFall was represented by Daryl G. LeCroy, who also represents the mother who challenged the guidelines in *DHR v. Sweat* and a father challenging the guidelines in a case expected to be decided by the Georgia high court in the next six weeks.

LeCroy said the guidelines "are not related to what it takes to raise children."

LeCroy had not decided what his next move would be, but he said the *Ward* case was "ideal" for asking the U.S. Supreme Court for certiorari. □