

**IN THE SUPREME COURT
STATE OF GEORGIA**

DEIDRE WHITE et al.,

Appellants,

v.

CITY OF MABLETON,

Appellee.

Case No.:

S24A1273

Lower Court No.:

2313734

REQUEST FOR ORAL ARGUMENT

Pursuant to Rule 51, Appellants DEIDRE WHITE *et al.*, by and through counsel, submit this Request for Oral Argument in the above-styled case. The undersigned counsel certifies that he has notified counsel for Appellee the City of Mableton of this Request for Oral Argument, and counsel for the Appellee does not desire oral argument. *See* Rule 51(3). Appellants show this Court that oral argument is needed and would be helpful on this important question of first impression—whether a city and a community improvement district (“CID”) can be created by the General Assembly in the same act under the Georgia Constitution’s “Single Subject Rule.” This case squarely presents that important question of first impression. Rule 51(2).

Cities and CIDs have separate legal identities and are provided for in separate parts of the Georgia Constitution. *Compare* Ga. Const. of 1983, Art. IX, Sec. II, Para. II (cities) *with* Ga. Const. of 1983, Art. IX, Sec. VII, Para. I (CIDs). A CID has separate powers, a separate governing body, separate taxing authority, and separate debts. *See* Ga. Const. of 1983, Art. IX, Sec. VII, Para. III & IV. Furthermore, CIDs must “cooperate with the governing authority of the county or municipality for which the community improvement district is created.” *Id.* at Para. V. One does not generally have to cooperate with oneself—underscoring this separateness between cities and CIDs.

For over 150 years, this Court has held that any act that regulates or creates two separate, legally distinct units of local government is a quintessential violation of the Single Subject Rule. *See Bd. of Public Education v. Barlow*, 49 Ga. 232, 242 (1873) (Single Subject violation for law that tried to create a separate board of education and regulate the mayor of a city); *Christie v. Miller*, 128 Ga. 412, 412–13 (1907) (Single Subject violation for law that regulated court fees in the City of Savannah and the County of Chatham); *Schneider v. City of Folkston*, 207 Ga. 434, 434–35 (1950) (Single Subject violation for law that acted

upon two cities). The obvious reasoning of these cases is that you cannot have a “single objective” when you are creating or regulating *two* legally distinct units of local government in the *same bill*.

In this case, the trial court granted Appellee the City of Mableton’s 12(b)(6) motion to dismiss and dismissed Appellants’ Single Subject Rule challenge to House Bill 839 (“HB 839”), the local act that created the City of Mableton and “one or more community improvement districts.” R. 261. Citing *Fulton Cnty. v. City of Atlanta*, the trial court identified the correct test for Single Subject Rule violations as “whether all of the parts of the [act] are germane to the accomplishment of a single objective.” 305 Ga. 342, 346 (2019) (cleaned up). The trial court reasoned that HB 839 did not violate Single Subject because the City of Mableton and CIDs have a “high degree of overlap” in the powers that they can employ, and thus, are “highly related, or germane, to each other.” Order, R. 266. In finding no Single Subject violation, the trial court also dismissed Appellants’ ballot question challenge brought pursuant to *Rea v. City of LaFayette*, 130 Ga. 771, 772 (1908). R. 267.

The trial court cited but appears to have disregarded the binding precedent that any local act that creates or regulates two separate units

of government is a quintessential violation of the Single Subject Rule. *See Barlow*, 49 Ga. at 242; *Christie*, 128 Ga. at 413; *Schneider*, 207 Ga. 435. The trial court’s opinion does not substantively address the plain reasoning of these cases—that creating or regulating two distinct legal entities cannot ever be a “single purpose” under the Single Subject Rule. Rather, the trial court’s opinion focuses on the similarities of powers between what a city and a CID can exercise. Such similarities, of course, would apply with even greater force between cities and counties. However, the act in *Christie* was struck down, even though Chatham County and the City of Savannah have identical Home Rule powers. 128 Ga. at 413. The *Christie* Court struck down the entire act—even though the act was regulating court costs and procedure in both Savannah and Chatham County. The separateness of the city and county is what mattered—not any shared powers they may have had. Furthermore, it did not matter that the *Christie* act was regulating generally the same thing—court costs and procedure—in two separate units of local government.

Oral argument would be helpful to explore to what extent *Barlow*, *Christie*, and *Schneider* should control this case or whether they have

been superseded by newer cases such as *Fulton Cnty*. Oral argument would also be helpful to examine the nature of CIDs in relation to cities or counties for which they are created. Given the various legal separations between cities and CIDS (governing structure, tax authority, debt obligations), oral argument can be helpful to determine whether such differences are sufficient to make them two distinct units of government, requiring separate bills for their creation and separate ballot questions to the voters. This case presents an opportunity to question counsel about the appropriate test for Single Subject violations as applied to the creation of a city and CIDs in the same bill, which is “an important question of first impression for this Court.” Rule 51(2). Accordingly, this Court should GRANT this request for oral argument.

The undersigned counsel certifies that this submission does not exceed the word count limit imposed by Rule 20.

Respectfully submitted this 29th day of July 2024.

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that there is a prior agreement with counsel for Appellee the City of Mableton, Mr. Harold D. Melton, Esq., to allow documents in a .pdf format sent via email to suffice for service under Supreme Court Rule 14. The undersigned counsel certifies that a .pdf copy of this request has been emailed to the counsel listed below contemporaneously with filing of the same.

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