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Appeal court rules Collier clerk has legal right to investment interest

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Originally published 03:45 p.m., February 4, 2009

Updated 09:22 p.m., February 4, 2009

NAPLES — A state appeal court has ruled that Collier County's clerk of courts has the right to invest interest from county government funds he controls and use it to operate his office.

In its recent ruling siding with Clerk of Circuit Court Dwight Brock, the 2nd District Court of Appeal chided Collier commissioners for their incorrect interpretation of the law.

In its decision, the three-judge panel called the law, which affects circuit clerks statewide, "clear and unambiguous."

Collier County government "cites no statutory or other authority that convinces us that the statute means anything other than what it plainly says, which is that the interest is income to the clerk," the judges wrote.

County Attorney Jeff Klatzkow said of the ruling: "We're reviewing our options" and that he will discuss it with commissioners next week.

Commissioner Tom Henning, who has questioned the expensive legal fight between county leaders and Brock, called it a battle over money and power.

"It makes the other question moot," Henning said of a remaining aspect of Brock's lawsuit — whether he is classified as a fee officer or budget officer. "There's no need to continue this fight when we could be working together to serve the public."

How the clerk is classified affects what money Brock can keep for his operations.

Brock's attorney, Tom Grady, now a state representative, said he is pleased with the decision in a case that has gone through five judges.

"We've thought that the law was clear all along, but we had trouble convincing everyone of that," Grady said. "(This) was an effort by the county commissioners to take over control of the money. They just flat-out lost, period."

Grady said more than \$2 million in county taxpayer money has been spent by both sides in battles with Brock and the losing side will have to pay attorney fees.

Due to a judge's order, the county and Brock were splitting the funds while awaiting a ruling.

The appeal ruling reverses a June 18 decision by Circuit Judge Jack Lundy of Glades County, who sided with commissioners' arguments that interest earned on county funds invested by Brock didn't belong to his office and couldn't be used without commission authorization.

The appeal ruling sends the case back to Circuit Court for a ruling in Brock's favor.

In addition to the fee officer vs. budget officer question, there is another lawsuit between Brock and county officials over who has the authority to decide which county accounts are audited. Grady expects a decision soon.

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