

Collier Clerk Dwight Brock loses appeal over who can OK purchases less than \$50,000



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Collier commissioners can allow county employees to spend up to \$50,000 without approval for individual purchases, the state's Second District Court of Appeals ruled Wednesday, affirming a

process used for more than a decade.

The appellate court agreed with a lower court's decision to toss out a lawsuit filed by Collier Clerk Dwight Brock over the county's purchasing practices.

Brock had argued County Manager Leo Ochs had no right to spend up to \$50,000 on behalf of Collier without direct approval by commissioners. The practice keeps the public in the dark over how its money is spent and allows county employees to split up major contracts into several smaller deals to meet the \$50,000 threshold, Brock argued.

Commissioners have allowed the practice for years, saying it is necessary to delegate the smaller day-to-day spending to keep the government functioning.

Circuit Court Judge James Shenko agreed. He threw out the case early this year, saying buying items under a certain dollar threshold is an "administrative" function that can be delegated by commissioners.

Brock appealed.

Because the appellate court affirmed the ruling without issuing an opinion of its own, it would be difficult for the clerk's office to further appeal the case, said **Jamie Cole**, a lawyer representing Ochs and the county.

"If they had issued an opinion and there was something in there you disagreed with, you can go try to get them to change their mind. You can ask for a hearing or appeal it further," Cole said.

"It's really almost impossible to appeal something like this to the Supreme Court when there is no opinion attached to appeal," he said.

If the practice had been found illegal, it would have affected the way most counties in the state do business, Cole said.

"We know every noncharter county in the state was watching this because they're all doing the same thing," he said.

The ruling is disheartening, said Crystal Kinzel, deputy chief clerk. Brock couldn't be reached to comment Wednesday.

The clerk's office still was deciding Wednesday how to proceed, Kinzel said.

"We think the courts have ignored three attorney general opinions that were pretty clear," she said.

"This was about trying to preserve taxpayer dollars and make sure business is done in the sunshine," Kinzel said.

"If the courts and taxpayers aren't concerned that staff is doing this, then it makes us wonder why we should be concerned," she said. "We'll see where we go from here." Ochs said he hopes the ruling ends the issue, which has racked up more than \$1 million in legal bills between the two local government offices.

"Those bills are still coming in," Ochs said.

"I'm gratified and happy for the board of county commissioners so they know they're the ones that set the policy," he said.

"This policy has been in place since before I got here in 1986. It's been working well and had been honored not only by commissioners and the county manager's office but by the clerk for years and years and years."

Over the years, Brock and commissioners have been quick to use the court system to settle purchasing and auditing disputes. Since 2002, the two sides repeatedly have sued each other over the power and role of the clerk's office.

With three new commissioners set to join the commission in a month and the latest lawsuit potentially finished, Commissioner Donna Fiala said she is hopeful the legal battles will end.

"I hope he just lets this one go and we can get on a new and friendlier footing," Fiala said.

