

SUPREME COURT OF ARIZONA

League of Ariz. Cities & Towns v. Martin, 219 Ariz. 556

201 P.3d 517 (2009) · No. CV-08-0379-SA · Decided February 3, 2009

SUMMARY

The Arizona Supreme Court held that Section 47 of House Bill 2209, requiring Arizona counties, cities, and towns to deposit money into the state general fund, was not an appropriation properly included in the general appropriations bill. Because the provision did not identify and reduce a prior appropriation, it violated Article 4, Part 2, Section 20 of the Arizona Constitution. The court accepted special-action jurisdiction, rejected the Governor's laches defense, and denied the League's request for attorneys' fees.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	Berch, Vice Chief Justice; Ruth V. McGregor, Chief Justice; Michael D. Ryan, Justice; Andrew D. Hurwitz, Justice; W. Scott Bales, Justice
JURISDICTION	Arizona
DECIDED	February 3, 2009
DOCKET	CV-08-0379-SA
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The League filed an original special action in the Arizona Supreme Court challenging the constitutionality of section 47 of House Bill 2209, the 2008-2009 general appropriations act. The Supreme Court accepted special-action jurisdiction and granted relief.
STANDARD OF REVIEW	Special-action jurisdiction is highly discretionary. The court reviewed the constitutional and statutory issues de novo.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Arizona issued en banc.
PARTIES	League of Arizona Cities and Towns v. Dean Martin, Arizona State Treasurer, in his official capacity, Janet Napolitano, Governor of the State of Arizona

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QUESTIONS PRESENTED

1. Whether the Arizona Supreme Court should exercise special-action jurisdiction over the League's constitutional challenge.
2. Whether the League's delay in filing the special action barred the challenge under laches.
3. Whether section 47 of HB 2209 constituted an appropriation that could constitutionally be included in the general appropriations bill under article 4, part 2, section 20 of the Arizona Constitution.
4. Whether the League was entitled to attorneys' fees under A.R.S. section 12-348(A).

HOLDINGS

1. The court accepted special-action jurisdiction because the case presented novel constitutional issues of statewide importance, involved the highest levels of state government, and required prompt resolution concerning the current state budget.
2. The League's approximately four-and-one-half-month delay did not bar its challenge because the delay was not unreasonable under the circumstances and the Governor failed to demonstrate prejudice.
3. Section 47 was not an appropriation and therefore was improperly included in the general appropriations bill. It violated article 4, part 2, section 20 of the Arizona Constitution.
4. The League was not entitled to attorneys' fees under A.R.S. section 12-348(A) because the statute excludes a city, town, or county from fee recovery and the League asserted standing as the representative of cities and towns.

KEY QUOTATIONS

"We hold that it is not such an appropriation." (at 518)

"The essential parts of this definition are the "certain sum," the "specified object," and the "authority to spend."" (at 521)

"Because § 47 does not reduce any identified prior appropriation, it violates Article 4, Part 2, Section 20, and is therefore unconstitutional." (at 522)

"For the foregoing reasons, we conclude that § 47 is not an appropriation and therefore was not properly included in the general appropriations bill." (at 522)

FACTUAL BACKGROUND

House Bill 2209 required Arizona counties, incorporated cities, and towns to deposit \$29,748,400 into the state general fund during fiscal year 2008-2009, including approximately \$18.3 million attributable to the petitioning cities and towns. The League challenged section 47 after discussions with the Governor's Office failed to resolve

its constitutional concerns. The payment deadline was June 30, 2009, leaving substantial time for legislative budget adjustments when the special action was filed.

PROCEDURAL HISTORY

Arizona enacted HB 2209, section 47, requiring counties and incorporated cities and towns to deposit specified amounts into the state general fund. After negotiations with the Governor's Office failed, the League filed a special action approximately four and one-half months after enactment. The Arizona Supreme Court accepted jurisdiction, rejected the Governor's laches argument, held section 47 unconstitutional, and denied attorneys' fees.

DISPOSITION

writ_granted

CASES CITED

- Forty-Seventh Legislature v. Napolitano, 213 Ariz. 482, 485, 487, 143 P.3d 1023, 1026, 1028 (2006)
- Randolph v. Groscost, 195 Ariz. 423, 425, 989 P.2d 751, 753 (1999)
- Rios v. Symington, 172 Ariz. 3, 5, 7-11, 833 P.2d 20, 22, 24-28 (1992)
- State Comp. Fund v. Symington, 174 Ariz. 188, 192, 848 P.2d 273, 277 (1993)
- Sotomayor v. Burns, 199 Ariz. 81, 83, 13 P.3d 1198, 1200 (2000)
- Harris v. Purcell, 193 Ariz. 409, 412, 414, 973 P.2d 1166, 1169, 1171 (1998)
- Flynn v. Rogers, 172 Ariz. 62, 66, 834 P.2d 148, 152 (1992)
- Jerger v. Rubin, 106 Ariz. 114, 117, 471 P.2d 726, 729 (1970)
- Tovrea v. Umphress, 27 Ariz. App. 513, 521, 556 P.2d 814, 822 (1976)
- Lubin v. Thomas, 213 Ariz. 496, 497, 144 P.3d 510, 511 (2006)
- Mathieu v. Mahoney, 174 Ariz. 456, 459-460, 851 P.2d 81, 84-85 (1993)
- Hunt v. Callaghan, 32 Ariz. 235, 239, 257 P. 648, 649 (1927)
- Black & White Taxicab Co. v. Standard Oil Co., 25 Ariz. 381, 406, 218 P. 139, 148 (1923)
- State v. Angle, 54 Ariz. 13, 21, 91 P.2d 705, 708 (1939)

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