

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

April in Paris v. Becerra

No. 2:19-cv-02471-KJM-CKD (E.D. Cal. Mar. 6, 2023) · No. 2:19-cv-02471-KJM-CKD; consolidated with No. 2:19-cv-02488-KJM-CKD · Decided March 7, 2023

SUMMARY

The United States District Court for the Eastern District of California resolves consolidated cross-motions for summary judgment concerning whether the federal Endangered Species Act preempts California Penal Code sections 653o and 653r as applied to alligator and crocodile products. The court holds that the state laws are expressly preempted because they prohibit conduct authorized by federal regulations and grants the plaintiffs’ motions while denying the defendants’ motions.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 7, 2023
DOCKET	2:19-cv-02471-KJM-CKD; consolidated with No. 2:19-cv-02488-KJM-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Consolidated actions challenging California Penal Code sections 653o and 653r. After granting preliminary injunctive relief, the court resolved the parties' cross-motions for summary judgment concerning whether the Endangered Species Act preempts California criminal prohibitions on importing, possessing, and selling alligator and crocodile products.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Cross-motions are evaluated separately under the same standard. The court applied de novo statutory interpretation and express-preemption analysis.
PRECEDENTIAL VALUE	unpublished
PARTIES	April in Paris, et al., Louisiana Wildlife and Fisheries Commission, et al. v. Rob Bonta, et al.

TOPICS

endangered species act

environmental law

federalism

statutory interpretation

summary judgment

PRACTICE AREAS

environmental law

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QUESTIONS PRESENTED

1. Whether the Endangered Species Act's express-preemption provision, 16 U.S.C. § 1535(f), preempts California Penal Code sections 653o and 653r insofar as they prohibit federally authorized interstate or foreign commerce in American alligator products.
2. Whether the same California provisions are expressly preempted with respect to products of Nile and saltwater crocodilians covered by federal special rules and CITES-based exemptions.
3. Whether the permanent injunction entered in *Fouke v. Brown* applies to the plaintiffs' claims involving American alligator products.
4. Whether intervenors established grounds to dissolve or modify the *Fouke* permanent injunction.

HOLDINGS

1. The Endangered Species Act expressly preempts California Penal Code sections 653o and 653r to the extent they prohibit interstate or foreign commerce in American alligator products that federal regulations authorize through exemptions or permits.
2. The permanent injunction entered in *Fouke v. Brown* applies to the plaintiffs' claims concerning American alligator products, and intervenors failed to establish grounds for modifying or dissolving it.
3. California Penal Code sections 653o and 653r are expressly preempted under 16 U.S.C. § 1535(f) insofar as they prohibit interstate or foreign trade in Nile and saltwater crocodilian products authorized by federal special rules and CITES-based exemptions.

KEY QUOTATIONS

“When Congress passed the Endangered Species Act, it intended to preempt state laws prohibiting what federal regulations authorize.” (at 1)

“Congress cannot have intended for broad conditions in federal regulations to short circuit the express preemption in section 6(f).” (at 16)

“The plaintiffs have shown, however, that Congress intended to preempt state laws that prohibit interstate and foreign trade when federal regulations authorize that trade, and they have shown that California Penal Code section 653o and 653r run afoul of that express preemption.” (at 25)

FACTUAL BACKGROUND

Federal regulations issued under the Endangered Species Act authorized specified imports, exports, takings, sales, and transfers of American alligator products and certain Nile and saltwater crocodilian products, subject to

regulatory conditions. California Penal Code sections 653o and 653r prohibited importing, possessing with intent to sell, or selling crocodile and alligator bodies, parts, and products. Plaintiffs alleged that the state prohibitions conflicted with federal exemptions and authorizations governing interstate and foreign commerce.

PROCEDURAL HISTORY

Businesses dealing in alligator and crocodile products and Louisiana organizations filed separate actions shortly before California's prohibition took effect. The parties stipulated to a temporary restraining order; the court permitted intervention, consolidated the cases, and granted plaintiffs' motions for a preliminary injunction. On cross-motions for summary judgment, the court granted plaintiffs' motions, denied defendants' motions, directed the parties to propose a schedule for final resolution and remedies, and ordered the second docket closed administratively.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. The court granted plaintiffs' cross-motions for summary judgment and denied defendants' cross-motions. The parties were ordered to meet and confer and file a joint report within twenty-eight days proposing a schedule for final resolution, including appropriate remedies. The clerk was directed to close the consolidated secondary case docket.

CASES CITED

- Gibbs v. Babbitt, 214 F.3d 483, 503 (4th Cir. 2000)
- Fouke Co. v. Brown, 463 F. Supp. 1142 (E.D. Cal. 1979)
- Man Hing Ivory & Imports, Inc. v. Deukmejian, 702 F.2d 760 (9th Cir. 1983)
- H.J. Justin & Sons, Inc. v. Deukmejian, 702 F.2d 758 (9th Cir. 1983) (per curiam)
- United States v. Alaska, 521 U.S. 1, 59 (1997)
- Facebook, Inc. v. Duguid, 141 S. Ct. 1163, 1170 (2021)
- Barnhart v. Thomas, 540 U.S. 20, 26 (2003)
- Brown v. Plata, 563 U.S. 493, 542 (2011)
- Ryan Karnoski v. Donald Trump, Karnoski v. Trump, 926 F.3d 1180, 1198 (9th Cir. 2019)
- Sharp v. Weston, 233 F.3d 116, 1170 (9th Cir. 2000)
- Alto v. Black, 738 F.3d 1111, 1120 (9th Cir. 2013)
- FCC v. Fox Television Stations, Inc., 556 U.S. 502, 515 (2009)
- United States v. Aldana, 878 F.3d 877, 882 (9th Cir. 2017)
- City of Columbus v. Ours Garage & Wrecker Serv., Inc., 536 U.S. 424, 438 (2002)
- Engine Manufacturers Ass'n v. South Coast Air Quality Management District, 498 F.3d 1031, 1040 (9th Cir. 2007)

- *Tocher v. City of Santa Ana*, 219 F.3d 1040, 1045 (9th Cir. 2000)
- *Tillison v. City of San Diego*, 406 F.3d 1126 (9th Cir. 2005)
- *Chamber of Commerce of the United States v. Whiting*, 563 U.S. 582, 594 (2011)
- *Nielsen v. Preap*, 139 S. Ct. 954, 972 (2019)
- *Lacoste v. Department of Conservation of State of Louisiana*, 263 U.S. 545, 551 (1924)
- *American Civil Liberties Union of Nevada v. City of Las Vegas*, 333 F.3d 1092, 1097 (9th Cir. 2003)

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