

SUPREME COURT OF IDAHO

Kuna Boxing Club, Inc. v. Idaho Lottery Commission, 149 Idaho 94

233 P.3d 25 (2009) · No. No. 34886 · Decided January 21, 2009

SUMMARY

The Idaho Supreme Court affirmed the suspension of Kuna Boxing Club's bingo license by the Idaho Lottery Commission. The court held that the Commission's emergency suspension was justified, but that its failure to provide a postdeprivation evidentiary hearing violated statutory procedure; the error was harmless and did not prejudice substantial rights or violate due process.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Horton, Justice; Burdick, Justice; J. Jones, Justice; W. Jones, Justice; Trout, Justice Pro Tem
JURISDICTION	Idaho
DECIDED	January 21, 2009
DOCKET	No. 34886
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kuna Boxing appealed the district court's decision affirming the Idaho Lottery Commission's emergency suspension of its bingo license under the Idaho Administrative Procedure Act.
STANDARD OF REVIEW	The Idaho Supreme Court independently reviews the agency record when the district court acts in its appellate capacity under the APA. It upholds agency action unless the agency violated statutory or constitutional provisions, exceeded its authority, used unlawful procedure, lacked substantial evidentiary support, or acted arbitrarily, capriciously, or abusively. The court defers to agency factual findings unless clearly erroneous, reviews legal questions freely, and may defer to a reasonable agency interpretation of statutes that is not contrary to express statutory language.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential
PARTIES	Kuna Boxing Club, Inc. v. The Idaho Lottery Commission, The Idaho Lottery

TOPICS

judicial review of agency action

administrative procedure act

procedural due process

lottery

gambling

PRACTICE AREAS

administrative law

gaming and gambling law

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Commission's emergency suspension of Kuna Boxing's bingo license complied with the Idaho Administrative Procedure Act, including the statutory requirement for a postdeprivation evidentiary hearing.
2. Whether the Commission's failure to provide a postdeprivation evidentiary hearing violated Kuna Boxing's procedural due process rights under the Fourteenth Amendment.

HOLDINGS

1. The Commission reasonably determined that Kuna Boxing's connection to Whiting and USA Boxing, a prior bingo-law violator, presented an immediate danger to the public health, safety, or welfare and justified emergency suspension under Idaho Code section 67-5247.
2. The Commission violated the APA and Idaho bingo statutes by failing to provide Kuna Boxing with a postdeprivation evidentiary hearing after suspending its license, but the violation was harmless because Kuna Boxing had already received an evidentiary hearing on the same factual issue and showed no prejudice to substantial rights.
3. The Commission did not violate Kuna Boxing's procedural due process rights because Kuna Boxing had already received an opportunity to contest the adverse evidence and conceded that it had no new or additional evidence to present at a postdeprivation hearing.

KEY QUOTATIONS

"The Commission did not afford Kuna Boxing a postdeprivation hearing that complied with these statutory requirements." (at 31)

"Although the Commission's decision was "made upon unlawful procedure," I.C. § 67-5279(2)(c), we are required to affirm the agency's action "unless substantial rights of the appellant have been prejudiced."" (at 32)

"Accordingly, we conclude that the Commission did not violate Kuna Boxing's right to procedural due process." (at 32)

FACTUAL BACKGROUND

Kuna Boxing's president, Philip Whiting, had previously served as president of USA Boxing when USA Boxing violated Idaho bingo-recordkeeping requirements and had its bingo license revoked. Kuna Boxing also planned to use the same bingo facility previously used by USA Boxing. After issuing Kuna Boxing a license, the Idaho

Lottery Commission emergency-suspended it based on the organizations' connections and the perceived danger to the public welfare from bingo-law violations.

PROCEDURAL HISTORY

The Commission initially denied Kuna Boxing's bingo-license application, but after an evidentiary hearing a hearing officer recommended issuance of the license. The Commission adopted that recommendation and issued the license, then sua sponte suspended it under the APA's emergency-action provision because of Kuna Boxing's connection to individuals and an organization that had violated Idaho bingo laws. After the Commission affirmed the suspension without conducting a post-suspension evidentiary hearing, the district court affirmed, and Kuna Boxing appealed to the Idaho Supreme Court.

DISPOSITION

affirmed

CASES CITED

- Sons & Daughters of Idaho, Inc. v. Idaho Lottery Commission, 144 Idaho 23, 156 P.3d 524 (2007)
- Cooper v. Board of Professional Discipline of the Idaho State Board of Medicine, 134 Idaho 449, 4 P.3d 561 (2000)
- J.R. Simplot Co. v. Idaho State Tax Commission, 120 Idaho 849, 820 P.2d 1206 (1991)
- Mason v. Donnelly Club, 135 Idaho 581, 21 P.3d 903 (2001)
- Bell v. Burson, 402 U.S. 535, 539 (1971)
- Zinermon v. Burch, 494 U.S. 113, 127-28 (1990)
- Mathews v. Eldridge, 424 U.S. 319, 335 (1976)