

SUPREME COURT OF IOWA

State of Iowa ex rel. Thomas J. Miller, Attorney General of Iowa v.  
Midwest Pork, L.C., Peter DeCoster, Austin J. DeCoster d/b/a  
DeCoster Farms of Iowa and Iowa Ag-Construction Company, Inc.

625 N.W.2d 694 (Iowa 2001) · No. No. 99-0348 · Decided April 25, 2001

SUMMARY

The Supreme Court of Iowa held that Iowa Code section 455B.202(2)(a) prohibited a person subject to a pending environmental enforcement action from constructing confinement feeding operation structures for another person or entity. The court concluded that the statute's term "construct" included physically building the facilities but did not include financing their construction. The court reversed and remanded for an injunction against Austin DeCoster and Iowa Ag-Construction, while affirming dismissal as to Midwest Pork and Peter DeCoster.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| COURT                 | Supreme Court of Iowa                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| WRITING FOR THE COURT | TERNUS, Justice                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| JURISDICTION          | Iowa                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| DECIDED               | April 25, 2001                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| DOCKET                | No. 99-0348                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | The State sought injunctive relief under Iowa Code chapter 455B against defendants allegedly constructing or financing construction of confinement feeding facilities while subject to pending environmental enforcement actions. After a bench trial, the district court dismissed the action. The State appealed, arguing that Austin DeCoster's financing and Iowa Ag-Construction's building of the facilities fell within Iowa Code section 455B.202(2)(a). |
| STANDARD OF REVIEW    | Equity actions seeking injunctive relief are reviewed de novo. Statutory interpretation is reviewed for correction of errors at law.                                                                                                                                                                                                                                                                                                                             |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PARTIES               | State of Iowa ex rel. Thomas J. Miller, Attorney General of Iowa v. Midwest Pork, L.C., Peter DeCoster, Austin J. DeCoster d/b/a                                                                                                                                                                                                                                                                                                                                 |

## TOPICS

environmental law

statutory interpretation

equitable relief

appellate procedure

construction law

## PRACTICE AREAS

environmental law

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## QUESTIONS PRESENTED

1. Whether the term "construct" in Iowa Code section 455B.202(2)(a), as it existed in 1997, includes building a confinement feeding structure for another person or entity.
2. Whether financing construction of a confinement feeding structure constitutes constructing the structure under section 455B.202(2)(a).
3. Whether Iowa Ag-Construction and Austin DeCoster violated section 455B.202(2)(a) by building confinement facilities for Midwest Pork.
4. Whether Midwest Pork and Peter DeCoster were subject to the statutory prohibition.

## HOLDINGS

1. The term "construct" includes building an animal feeding operation structure for oneself or for another person or entity; the statute is not limited to construction for the builder's own use.
2. Financing the construction of confinement facilities does not constitute constructing those facilities under the 1997 version of section 455B.202(2)(a).
3. Iowa Ag-Construction and Austin DeCoster violated section 455B.202(2)(a) by building confinement facilities for Midwest Pork, even though others owned the facilities.
4. Midwest Pork and Peter DeCoster were not subject to the prohibition because there was no evidence they were parties to a pending chapter 455B enforcement action, and the State abandoned its agency and sham-corporation theories.

## KEY QUOTATIONS

*"Section 455B.202(2)(a) prohibits a person subject to a chapter 455B enforcement action from building a livestock confinement structure, regardless of whether the structure is owned by that person or by another person or entity."* (701)

*"This statute, as it existed in 1997, did not preclude a person subject to its prohibitions from financing the construction of such structures."* (701)

## FACTUAL BACKGROUND

The Iowa Attorney General had filed three chapter 455B enforcement actions against Austin DeCoster concerning violations at hog confinement operations. After those actions were filed, Midwest Pork, formed by

Peter DeCoster and his wife, purchased property from Austin DeCoster for hog confinement operations and contracted with Iowa Ag-Construction, which Austin DeCoster solely owned, to build facilities. By trial, facilities had been constructed at six sites, with construction financed through loans from Austin DeCoster and his wife.

## PROCEDURAL HISTORY

The district court denied preliminary injunctive relief and, after trial, found that Midwest Pork was not a sham corporation, that no agency relationship was proven between Peter DeCoster or Midwest Pork and Austin DeCoster, and that section 455B.202(2)(a) did not prohibit Austin DeCoster from constructing facilities for others through Iowa Ag-Construction. The State abandoned the sham-corporation and agency theories on appeal. The Supreme Court of Iowa conducted de novo review, reversed as to Austin DeCoster and Iowa Ag-Construction, affirmed dismissal as to Midwest Pork and Peter DeCoster, and remanded for entry of a limited injunction.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

Enter an injunction against Austin DeCoster d/b/a DeCoster Farms of Iowa and Iowa Ag-Construction Company, Inc., limited to prohibiting construction of confinement facilities for Midwest Pork, Peter DeCoster, and related individuals or entities. The injunction should not address facilities already constructed.

## CASES CITED

- Perkins v. Madison County Livestock & Fair Ass'n, 613 N.W.2d 264, 267 (Iowa 2000)
- State v. Vargason, 607 N.W.2d 691, 695 (Iowa 2000)
- State v. Westeen, 591 N.W.2d 203, 208 (Iowa 1999)
- State v. Guzman-Juarez, 591 N.W.2d 1, 2 (Iowa 1999)
- State ex rel. Miller v. DeCoster, 596 N.W.2d 898, 902 (Iowa 1999)
- Perkins v. Madison County Livestock & Fair Ass'n, 613 N.W.2d 264, 269 (Iowa 2000)
- Garwick v. Iowa Department of Transportation, 611 N.W.2d 286, 290 n. 3 (Iowa 2000)
- William C. Mitchell, Ltd. v. Brown, 576 N.W.2d 342, 347 (Iowa 1998)
- Iowa West Racing Ass'n v. Iowa Racing & Gaming Commission, 546 N.W.2d 898, 900 (Iowa 1996)
- Holiday Inns Franchising, Inc. v. Branstad, 537 N.W.2d 724, 728 (Iowa 1995)
- Douglass v. Iowa City, 218 N.W.2d 908, 914 (Iowa 1974)