

SUPREME COURT OF PENNSYLVANIA

Casino Free Philadelphia v. Pennsylvania Gaming Control Board

934 A.2d 1249 (Pa. 2007) · Decided November 21, 2007

SUMMARY

The Pennsylvania Supreme Court rejected a facial constitutional challenge to 4 Pa.C.S. § 1102(10), which requires consideration of the public interest and social effects of gaming in decisions under the Gaming Act. The Court held that Section 1102, read as a whole, provides sufficient policy guidance and does not violate Pennsylvania's constitutional prohibition on delegating legislative power. The Court denied injunctive relief as moot and declaratory relief on the merits.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Chief Justice Cappy; Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice Baldwin; Justice Fitzgerald
JURISDICTION	Pennsylvania
DECIDED	November 21, 2007
DISPOSITION	other
PROCEDURAL POSTURE	Petitioners invoked the Pennsylvania Supreme Court's original jurisdiction to bring a facial constitutional challenge to 4 Pa.C.S. § 1102(10) and sought declaratory and injunctive relief.
STANDARD OF REVIEW	Facial constitutional review of a statute under the anti-delegation clause of Article II, § 1 of the Pennsylvania Constitution.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Casino Free Philadelphia, The Multi-Community Alliance, Barbara Dowdall, Georjean Brinkley, Neighbors Allied For The Best Riverfront, Joanne and Paul Sherman, Edward Verrall, Northern Liberties Neighbors Association, Deborah Rudman, R & K Standard, Inc. d/b/a Standard Tap, Manpants, LLC d/b/a Johnny Brenda's Tavern v. Pennsylvania Gaming Control Board

TOPICS

- casino regulation
- gambling
- declaratory judgment
- equitable relief
- constitutional law

PRACTICE AREAS

constitutional law

administrative law

gaming regulation

declaratory and injunctive relief

QUESTIONS PRESENTED

1. Whether 4 Pa.C.S. § 1102(10), considered within the context of the policies and objectives listed in Section 1102, violates Article II, § 1 of the Pennsylvania Constitution by unlawfully delegating legislative power to the Pennsylvania Gaming Control Board.
2. Whether petitioners' challenges to particular Gaming Control Board decisions could be considered in a proceeding presenting a facial constitutional challenge.
3. Whether petitioners' requested injunction concerning Class 2 license decisions was moot.

HOLDINGS

1. Section 1102, including subsection (10), does not violate Article II, § 1 of the Pennsylvania Constitution because the statute supplies sufficient policies and objectives to channel the Gaming Control Board's discretion and does not delegate the power to make basic policy choices.
2. The court would not address challenges to particular Board decisions in a proceeding limited to a facial constitutional challenge to the Gaming Act.
3. The request for injunctive relief was moot because the Gaming Control Board had issued adjudications concerning all Class 2 licenses before the court considered the application.

KEY QUOTATIONS

“While the General Assembly may, with adequate standards and guidelines, constitutionally delegate the power and authority to execute or administer a law, the prohibition against delegation of ‘legislative power’ requires that the basic policy choices be made by the General Assembly.” (1252-1253)

“The statute lists nearly a dozen different policies and objectives that the Board should consider, one of which is the social effect provision; this does not constitute legislation that confers carte blanche legislative power on an administrative agency to declare basic policy questions.” (1253)

“The Legislature is not constitutionally required to micromanage the administrative agencies it creates.” (1253)

FACTUAL BACKGROUND

Petitioners were civic organizations, businesses, and individuals residing or conducting business in Philadelphia. They challenged Section 1102(10) of Pennsylvania's Gaming Act, which directs that the public interest and social effects of gaming be considered in decisions or orders under the Act. The requested injunction concerned the Board's decision-making process for Class 2 licenses, but the Board issued adjudications for all such licenses before the court considered the application.

PROCEDURAL HISTORY

Petitioners filed an application for leave to file a petition in the nature of a complaint seeking declaratory judgment and injunctive relief. The court directed the matter to be submitted on briefs. Before that order, the Gaming Control Board issued adjudications concerning all Class 2 licenses, rendering the requested injunction moot; the court denied declaratory relief on the merits.

DISPOSITION

other

CASES CITED

- Pennsylvanians Against Gambling Expansion Fund v. Commonwealth, 583 Pa. 275, 877 A.2d 383 (2005)
- Blackwell v. State Ethics Commission, 523 Pa. 347, 567 A.2d 630 (1989)

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