

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Wiley v. Toppings, 210 W. Va. 173

556 S.E.2d 818 (2001) · No. No. 29064 · Decided November 28, 2001

SUMMARY

The Supreme Court of Appeals of West Virginia held that, when two conflicting versions of a statutory provision are enacted during the same legislative session, the last-enacted version controls. Applying that rule, the court determined that the definition of "timbering operations" in Chapter 61 of the 1994 Regular Session governed, answered the certified question, and dismissed the matter from its docket.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Starcher, J.
JURISDICTION	West Virginia
DECIDED	November 28, 2001
DOCKET	No. 29064
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Circuit Court of Lincoln County certified three questions to the Supreme Court of Appeals of West Virginia in an underlying timber-trespass case. The Supreme Court exercised its discretion to decline two questions and answered the remaining statutory-interpretation question.
STANDARD OF REVIEW	De novo review applies because the certified question presents a purely legal issue.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Appeals of West Virginia.
PARTIES	Leonard Wiley, Lafe Block v. Roger Toppings, Margaret Toppings

TOPICS

- statutory interpretation
- legislative intent
- legislative history
- appellate procedure
- standard of review

PRACTICE AREAS

- statutory interpretation
- environmental law
- appellate procedure

QUESTIONS PRESENTED

1. When two conflicting versions of the same statutory provision are enacted during the same legislative session and on the same day, whether the last-enacted version controls.
2. Whether the last-enacted version of the definition of "timbering operations" in West Virginia Code § 19-1B-3(e) (1994), enacted as Chapter 61, controls over the earlier version enacted as Chapter 119.

HOLDINGS

1. When two statutory enactments conflict, the later-enacted expression of legislative will controls, even when both enactments were made effective on the same date.
2. The definition of "timbering operations" contained in Chapter 61 of the 1994 Acts of the Legislature, codified in West Virginia Code § 19-1B-3(e) (1994), is the controlling definition.

KEY QUOTATIONS

"In the instant case we hold that the last-enacted version of the statutory definition of "timbering operations" is legally controlling." (556 S.E.2d at 819)

"When faced with two conflicting enactments, this Court and courts generally follow the black-letter principle that "effect should always be given to the latest ... expression of the legislative will"" (556 S.E.2d at 820)

FACTUAL BACKGROUND

During the 1994 Regular Legislative Session, the West Virginia Legislature enacted two conflicting versions of the definition of "timbering operations" in West Virginia Code § 19-1B-3(e), both passed on March 12, 1994. The earlier version included an additional exemption for individuals who occasionally severed or removed standing trees for sale below a specified annual income threshold, while the later version omitted that language. The statutory conflict arose in an underlying timber-trespass case involving whether a party had obtained a license and filed the required notification under the Logging Sediment Control Act.

PROCEDURAL HISTORY

The Circuit Court of Lincoln County entered an order on October 6, 2000, certifying questions concerning the conflicting 1994 statutory definitions of timbering operations. The Supreme Court accepted one question, answered it in favor of the last-enacted statutory version, and dismissed the matter from its docket.

DISPOSITION

dismissed

CASES CITED

- Kincaid v. Mangum, 189 W. Va. 404, 432 S.E.2d 74 (1993)
- Gallapoo v. Wal-Mart Stores, Inc., 197 W. Va. 172, 475 S.E.2d 172 (1996)
- Joseph Speidel Grocery Co. v. Warder, 56 W. Va. 602, 49 S.E. 534 (1904)

- Doe v. Attorney General, 425 Mass. 210, 680 N.E.2d 92 (1997)
- People v. Frye, 113 Ill. App. 3d 853, 447 N.E.2d 1065 (1983)
- State v. Montiel, 56 N.M. 181, 241 P.2d 844 (1952)
- Bailey v. Drane, 96 Tenn. 16, 33 S.W. 573 (1896)
- Derby v. State, 14 Ohio C.D. 304, 24 Ohio C.C. 304, 6 Ohio C.C. (N.S.) 91 (Ohio Cir. 1902)
- Yocheim v. State, 21 Ohio C.D. 430, 31 Ohio C.C. 430, 12 Ohio C.C. (N.S.) 430 (Ohio Cir. 1909)

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