SUPREME COURT OF PENNSYLVANIA

Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania and Tom Wolf, in His Official Capacity as Governor of Pennsylvania

PEDF · No. 65 MAP 2020 · Decided August 5, 2022

SUMMARY

This concurring opinion addresses whether Pennsylvania statutes authorizing appropriations from the Oil and Gas Lease Fund are facially unconstitutional under Article I, Section 27 of the Pennsylvania Constitution. The opinion concludes that the statutes are not facially unconstitutional because the fund may contain non-trust assets and some appropriations may support legitimate trust administration. It emphasizes, however, that the Commonwealth must maintain detailed accounts of oil-and-gas-related trust revenues and expenditures, allowing for future as-applied challenges.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Christine Donohue
JURISDICTION	Pennsylvania
DECIDED	August 5, 2022
DOCKET	65 MAP 2020
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the Commonwealth Court's order denying the parties' requested declarations in a facial constitutional challenge and requiring the Commonwealth to maintain detailed accounts of oil-and-gas lease trust monies and their expenditures.
STANDARD OF REVIEW	Facial constitutional challenges are evaluated under the plainly legitimate sweep standard; a facial challenge fails where the challenged provisions have constitutional applications, and factual disputes about actual implementation are addressed through an as-applied challenge.
PRECEDENTIAL VALUE	Published concurring opinion in a Pennsylvania Supreme Court decision; the concurrence joins the majority's disposition and supplies additional reasoning.

PARTIES	Pennsylvania Environmental Defense Foundation v. Commonwealth of Pennsylvania, Tom Wolf, in his official capacity as Governor of Pennsylvania

TOPICS

environmental law · trust administration · mineral rights · constitutional law · appellate procedure

PRACTICE AREAS

environmental law · constitutional law · trusts · mineral rights · appellate procedure

QUESTIONS PRESENTED

1. Whether Sections 104(P) and 1601 of the 2017 and 2018 General Appropriations Acts were facially unconstitutional because they permitted Oil and Gas Lease Fund monies to finance DCNR operations.
2. Whether the Commonwealth, as trustee of Pennsylvania's public natural resources, was required to maintain detailed accounts identifying oil-and-gas lease trust monies and tracking their expenditures.
3. Whether the record supported a declaration that all current uses of the Oil and Gas Lease Fund were consistent with the Commonwealth's fiduciary duties.

HOLDINGS

1. The facial challenge to Sections 104(P) and 1601 fails because the Oil and Gas Lease Fund may contain non-trust assets and the appropriations may include expenses legitimately allocable to trust administration; any unconstitutional use of trust assets must be established through an as-applied challenge.
2. The Commonwealth must maintain detailed accounts of all revenue generated from oil-and-gas leasing activity and track how trust and non-trust proceeds are spent in administering the public natural-resources trust.
3. The court could not declare that all of the Commonwealth's current uses of the Oil and Gas Lease Fund were wholly consistent with its trustee responsibilities without an as-applied analysis and a developed factual record.

KEY QUOTATIONS

> *"A constitutional application dooms the facial challenge."* (6)

> *"the depository for Oil and Gas Lease Fund monies, must account for the trust asset portion of the fund and the DCNR must account for the expenditure of those trust assets."* (8)

> *"a detailed account must be maintained for all revenue generated from oil and gas leasing activity."* (9)

FACTUAL BACKGROUND

The Oil and Gas Lease Fund was reconstituted to receive rents and royalties from Commonwealth oil and gas leases, certain mineral-resource payments, and other appropriated or transferred money. The Commonwealth commingled the fund's monies without maintaining records sufficient to identify the source of the balance or to track whether trust principal was used for trust or non-trust purposes. The challenged appropriations funded Department of Conservation and Natural Resources operations, including salaries, travel, contractual services, equipment, and other expenses that could include both trust-administration and non-trust activities.

PROCEDURAL HISTORY

Pennsylvania Environmental Defense Foundation and the Commonwealth sought competing declarations concerning the constitutionality of appropriations from the Oil and Gas Lease Fund and the Commonwealth's compliance with its trustee duties under Article I, Section 27 of the Pennsylvania Constitution. The Commonwealth Court denied both parties' requested declarations concerning the facial validity and overall legality of the appropriations, but granted the Foundation summary relief requiring detailed accounting and tracking of trust monies. The Supreme Court affirmed the relevant result, and Justice Donohue concurred, joining the majority while explaining why the facial challenge failed and why the accounting requirement was necessary.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Commonwealth must comply with the Commonwealth Court's accounting order by maintaining detailed accounts for all revenue generated from oil-and-gas leasing activity and tracking the expenditure of trust and non-trust proceeds. The accounting may support future as-applied challenges.

CASES CITED

- Pennsylvania Environmental Defense Foundation v. Commonwealth, 161 A.3d 911 (Pa. 2017)
- Pennsylvania Environmental Defense Foundation v. Commonwealth, 214 A.3d 748 (Pa. 2019)
- Pennsylvania Environmental Defense Foundation v. Commonwealth, 255 A.3d 289 (Pa. 2021)
- Pennsylvania Environmental Defense Foundation v. Commonwealth, 2020 WL 6193643 (Pa. Commw. Ct. 2020)
- Clifton v. Allegheny County, 969 A.2d 1197 (Pa. 2009)
- Robinson Township v. Commonwealth, 83 A.3d 901 (Pa. 2013)
- Washington State Grange v. Washington State Republican Party, 552 U.S. 442 (2008)
- Sabri v. United States, 541 U.S. 600 (2004)
- Schall v. Martin, 467 U.S. 253 (1984)