

SUPREME COURT OF COLORADO

Cherokee Metropolitan District v. Meridian Service Metropolitan District

266 P.3d 401 (Colo. 2011) · No. Case Nos. 108A879 and 118A197 · Decided December 12, 2011

SUMMARY

The Colorado Supreme Court held that Meridian Service Metropolitan District had a right to intervene under Colorado Rule of Civil Procedure 24(a) in a declaratory judgment action concerning water-replacement credits and return flows. The court concluded that Meridian had an interest that could be practically impaired and that Cherokee Metropolitan District did not adequately represent Meridian's interests. The court reversed the denial of intervention, vacated the declaratory judgment, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Marquez
JURISDICTION	Colorado
DECIDED	December 12, 2011
DOCKET	Case Nos. 108A879 and 118A197
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Two direct appeals from water court proceedings: Meridian appealed the denial of its motion to intervene as of right in a declaratory judgment action, and Cherokee appealed the water court's subsequent order granting declaratory relief while Meridian's intervention appeal was pending.
STANDARD OF REVIEW	The denial of a motion to intervene as of right is reviewed de novo. The intervention determination is fact-specific, and the motion is evaluated on the record existing when it was filed.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Meridian Service Metropolitan District, Cherokee Metropolitan District v. Cherokee Metropolitan District, Upper Black Squirrel Creek Ground Water Management District

TOPICS

intervention appellate procedure administrative law municipal law civil procedure

PRACTICE AREAS

civil procedure water law administrative law municipal law appellate procedure

QUESTIONS PRESENTED

1. Whether Meridian had a right to intervene under C.R.C.P. 24(a)(2) in the declaratory judgment proceedings between Cherokee and UBS.
2. Whether the water court's declaratory judgment should stand after Meridian was improperly denied the opportunity to intervene and participate.

HOLDINGS

1. Meridian satisfied the interest requirement of C.R.C.P. 24(a)(2) because it claimed an interest in protecting its rights to reuse wastewater return flows from the jointly planned treatment facility, and that interest related to the declaratory judgment action challenging use of those flows.
2. Meridian satisfied the impairment requirement of C.R.C.P. 24(a)(2) because the declaratory judgment could practically preclude it from using the wastewater return flows for replacement credit, and Meridian had no independent means to challenge the water court's interpretation of the stipulation.
3. Meridian satisfied the inadequate-representation requirement of C.R.C.P. 24(a)(2) because its interests were similar to, but not identical with, Cherokee's, and reasonable doubts existed about whether Cherokee would adequately represent Meridian.
4. Because Meridian had a right to intervene but was denied an opportunity to participate, the water court's declaratory judgment had to be vacated and the proceedings reopened to allow Meridian to be heard.

KEY QUOTATIONS

“We hold that Meridian had a right to intervene under C.R.C.P. 24(a).” (403)

“The proceedings must be reopened to give Meridian an opportunity to be heard.” (408)

FACTUAL BACKGROUND

Cherokee and Meridian are governmental entities that provide water, and UBS manages groundwater withdrawals from the Upper Black Squirrel Creek designated groundwater basin. Cherokee and UBS settled earlier water-rights litigation through a 1999 stipulation requiring Cherokee to return certain wastewater flows to the basin for aquifer recharge. Cherokee and Meridian later entered an intergovernmental agreement to build a wastewater treatment facility and jointly sought replacement credit for return flows, but UBS challenged the application and obtained declaratory and preliminary injunctive proceedings that could affect Meridian's claimed rights.

PROCEDURAL HISTORY

The water court denied Meridian's motion to intervene under C.R.C.P. 24(a) in litigation between Cherokee and UBS concerning wastewater return flows and a replacement plan. While Meridian's appeal was pending, the water court proceeded without Meridian and granted UBS declaratory relief. The Colorado Supreme Court consolidated the appeals, reversed the denial of intervention, vacated the declaratory judgment, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the water court's denial of Meridian's motion to intervene, vacate the declaratory judgment order, reopen the proceedings to allow Meridian to participate and be heard as of right, and conduct further proceedings consistent with the opinion.

CASES CITED

- Feigin v. Alexa Group, Ltd., 19 P.3d 23 (Colo. 2001)
- O'Hara Group Denver, Ltd. v. Marcor Housing Systems, Inc., 197 Colo. 530, 595 P.2d 679 (1979)
- Smuck v. Hobson, 408 F.2d 175 (D.C. Cir. 1969)
- Hulst v. Dower, 121 Colo. 150, 213 P.2d 834 (1949)
- Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129 (1967)