

SUPREME COURT OF THE STATE OF HAWAII

Kaho'ohanohano v. State, 114 Haw. 302

162 P.3d 696 (2007) · Decided July 23, 2007

SUMMARY

The Hawai'i Supreme Court considered challenges to Act 100 of the 1999 legislative session, which retroactively applied certain Employees' Retirement System investment earnings to offset employer contributions. The court held that the individual plaintiffs lacked standing, but that the ERS trustees had standing and were entitled to summary judgment on their claim that Act 100 violated article XVI, section 2 of the Hawai'i Constitution by impairing accrued retirement benefits. The case was remanded for further proceedings on the trustees' remaining claims.

CASE DETAILS

COURT	Supreme Court of the State of Hawai'i
WRITING FOR THE COURT	Acoba, J.; Acoba; Duffy; Levinson; Moon; Nakayama; Place; Town
JURISDICTION	Hawaii
DECIDED	July 23, 2007
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal by the individual and organizational plaintiffs and intervening ERS trustees from summary judgment for the State and dismissal of other claims; cross-appeals were filed by the counties and the State.
STANDARD OF REVIEW	Constitutional questions are reviewed de novo under the right/wrong standard. Standing and other jurisdictional issues are reviewed as questions of law; summary judgment is proper where no genuine issue of material fact exists and the moving or nonmoving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of the State of Hawai'i.
PARTIES	George Kaho'ohanohano, Loren Andrade, Pauline Efhan, Norma Carvalho, State of Hawaii Organization of Police Officers, Jackie Ferguson-Miyamoto, Henry F. Beerman, Odetta Fujimori, Darwin J. Hamamoto, Pili-aloha E. Lee Loy, Alton Kuioka, Colbert M. Matsumoto, Georgina Kawamura, Trustees of the Employees' Retirement System of the State of Hawai'i v. State of Hawai'i, City and

TOPICS

constitutional law

standing

mootness

summary judgment

appellate procedure

PRACTICE AREAS

constitutional law

civil procedure

public employee retirement benefits

municipal law

appellate procedure

QUESTIONS PRESENTED

1. Whether the individual plaintiffs and SHOPO had standing to challenge Act 100.
2. Whether the ERS Trustees had standing in their fiduciary capacities to challenge legislation allegedly impairing the ERS.
3. Whether the Trustees' declaratory-relief claims were moot after Act 100 had been implemented.
4. Whether the action presented a nonjusticiable political question.
5. Whether sovereign immunity barred the Trustees' claims for declaratory and injunctive relief.
6. Whether HRS § 661-5's two-year statute of limitations applied to the Trustees' constitutional claims.
7. Whether Act 100 violated article XVI, section 2 of the Hawai'i Constitution by impairing accrued ERS benefits and the sources funding those benefits.

HOLDINGS

1. The individual plaintiffs and SHOPO lacked standing because they failed to demonstrate an actual or threatened, distinct, and palpable injury to themselves or their members resulting from Act 100.
2. The ERS Trustees had standing as fiduciaries to challenge Act 100 because they alleged an actual or threatened injury to the ERS and its funds, the injury was fairly traceable to Act 100, and declaratory or injunctive relief could redress it.
3. The Trustees' claims for declaratory relief were not moot because a substantial controversy remained and declaratory relief could terminate the uncertainty concerning Act 100 and future diversion of ERS investment earnings.
4. The Trustees' constitutional challenge was justiciable and was not barred by the political-question doctrine.
5. Sovereign immunity did not bar the Trustees' claims for prospective declaratory and injunctive relief because the requested relief was not tantamount to an award of damages and did not have a direct and unavoidable effect on the State treasury.
6. HRS § 661-5 did not bar the Trustees' constitutional claims because those claims were not cognizable under HRS chapter 661.

7. Article XVI, section 2 of the Hawai'i Constitution protects not only ERS members' accrued retirement benefits but also, as a necessary implication, the sources of funds used to provide those benefits. Act 100 violated that provision because it retroactively diverted ERS employer contributions and impaired the funding sources for accrued benefits.

KEY QUOTATIONS

“Because of this implied protection, Act 100 violated article XVI, section 2 by impairing the sources used to fund the constitutionally protected “accrued benefits.”” (at 338)

“Accordingly, because all three prongs of the Akinaka standing test are satisfied, see Sierra Club, 100 Hawai‘i at 250, 59 P.3d at 885, Trustees have standing as fiduciaries of the retirement system and its members to challenge legislation that would impair the ERS.” (at 330)

“Article XVI, section 2 must necessarily protect funding of the ERS. To hold otherwise would permit the State to jeopardize the security of the retirement system,—the very circumstance that the delegates of the 1950 Constitutional Convention expressly sought to prevent.” (at 342)

FACTUAL BACKGROUND

The Employees' Retirement System of the State of Hawai'i is funded by employee and employer contributions and investment earnings, and its Trustees are charged with administering the system and protecting its funds. Act 327, enacted in 1997, required the ERS to retain all investment earnings beginning in fiscal year 1997, but Act 100, enacted in 1999 and made retroactive, allowed excess actuarial investment earnings for fiscal years 1997 and 1998 to offset State and county employer contributions. The diversion allegedly removed approximately \$346.9 million from the ERS and increased its unfunded actuarial liability, impairing the sources of funds for accrued retirement benefits.

PROCEDURAL HISTORY

Plaintiffs filed a class action challenging Act 100 of the 1999 Hawai'i legislative session, which retroactively permitted excess ERS investment earnings to offset employer contributions. The circuit court certified the class, permitted the Trustees to intervene, granted summary judgment to the State, denied plaintiffs' partial-summary-judgment motions, and dismissed other claims without prejudice. The Hawai'i Supreme Court held that the individual plaintiffs lacked standing, but that the ERS Trustees had standing; it rejected mootness, political-question, sovereign-immunity, and statute-of-limitations objections to the Trustees' claims and determined that Act 100 violated article XVI, section 2 of the Hawai'i Constitution.

DISPOSITION

vacated

REMAND INSTRUCTIONS

As to the individual plaintiffs, remand for entry of an order dismissing their claims for lack of jurisdiction. As to the Trustees, vacate the circuit court's judgment and remand with instructions to enter summary judgment against

the State and in favor of the Trustees on the declaratory-judgment claim that Act 100 violated article XVI, section 2 of the Hawai'i Constitution. Remand the Trustees' remaining declaratory-relief claims for appropriate disposition. The requested injunctive relief should not issue under the circumstances.

CASES CITED

- Pele Defense Fund v. Puna Geothermal Venture, 77 Hawai'i 64, 67, 881 P.2d 1210, 1213 (1994)
- Mottl v. Miyahira, 95 Hawai'i 381, 389, 395, 23 P.3d 716, 724, 730 (2001)
- Akinaka v. Disciplinary Bd. of the Hawai'i Supreme Court, 91 Hawai'i 51, 55, 979 P.2d 1077, 1081 (1999)
- Sierra Club v. Hawai'i Tourism Auth., 100 Hawai'i 242, 250-52, 59 P.3d 877, 885-87 (2002)
- Honda ex rel. Kamakana v. Bd. of Trs. of the Employees' Ret. Sys., 108 Hawai'i 338, 343-44, 120 P.3d 237, 242-43 (2005)
- Keahole Defense Coalition, Inc. v. Board of Land & Natural Resources, 110 Hawai'i 419, 427-28, 134 P.3d 585, 593-94 (2006)
- Kemp v. State of Hawai'i Child Support Enforcement Agency, 111 Hawai'i 367, 385, 141 P.3d 1014, 1032 (2006)
- United Public Workers, AFSCME, Local 616 v. Yogi, 101 Hawai'i 46, 57-58, 62 P.3d 189, 200-01 (2002)
- Board of Education v. Waihee, 70 Haw. 253, 262-63, 768 P.2d 1279, 1285 (1989)
- Bush v. Watson, 81 Hawai'i 474, 481-82, 918 P.2d 1130, 1137-38 (1996)
- Pele Defense Fund v. Paty, 73 Haw. 578, 601, 607-11, 837 P.2d 1247, 1262, 1265-67 (1992)
- Vail v. Employees' Ret. Sys. of the State of Hawaii, 75 Haw. 42, 52-57, 856 P.2d 1227, 1233-36 (1993)
- Sgaglione v. Levitt, 37 N.Y.2d 507, 375 N.Y.S.2d 79, 337 N.E.2d 592, 594 (1975)
- In re Guardianship of Carlsmith, 113 Hawai'i 236, 239, 151 P.3d 717, 720 (2007)
- Save Sunset Beach Coalition v. City & County of Honolulu, 102 Hawai'i 465, 474, 78 P.3d 1, 10 (2003)
- Watland v. Lingle, 104 Hawai'i 128, 133, 85 P.3d 1079, 1084 (2004)
- Office of Hawaiian Affairs v. State, 96 Hawai'i 388, 400-01, 31 P.3d 901, 913-14 (2001)
- Retirement Board of the Employees Retirement System of Providence v. Cianci, 722 A.2d 1196, 1197-99 (R.I. 1999)
- Rees v. Carlisle, 113 Hawai'i 446, 459, 153 P.3d 1131, 1144 (2007)