SUPREME COURT OF ALABAMA

Jordan v. Siegelman

949 So. 2d 887 (Ala. 2006) · No. 1040354 · Decided July 21, 2006

SUMMARY

The Supreme Court of Alabama affirmed summary judgment for state officials in a taxpayer action challenging the transfer of Alabama Securities Commission fee and fine revenues to the state general fund. The court held that Jordan lacked taxpayer standing because the challenged transfers did not expose him to liability to replenish state funds through taxation. The court did not reach the issues of state immunity or the constitutionality of the transfers.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Smith, Justice; See, J.; Lyons, J.; Woodall, J.; Parker, J.
JURISDICTION	Alabama
DECIDED	July 21, 2006
DOCKET	1040354
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jordan appealed from a summary judgment entered for the state officials in his taxpayer action challenging the transfer of Alabama Securities Commission funds to the state general fund.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court applies the same standard as the trial court, determining whether there is no genuine issue of material fact and whether the movant is entitled to judgment as a matter of law, viewing the evidence in the light most favorable to the nonmovant.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Alabama
PARTIES	Billy Ray Jordan v. Donald Siegelman, Governor of the State of Alabama, Henry Mabry, Finance Director of the State of Alabama, Joseph Borg, Director of the Alabama Securities Commission, Harold Kushner, Chairman of the Alabama Securities Commission, William Pryor, Attorney General of the State of Alabama, Robert Childree, Comptroller of the State of Alabama, Lucy Baxley, Treasurer of the State of Alabama

TOPICS

standing | summary judgment | civil procedure | constitutional law | remedies

PRACTICE AREAS

civil procedure | constitutional law | remedies | state government finance

QUESTIONS PRESENTED

1. Whether Jordan had taxpayer standing to challenge the transfer of surplus Alabama Securities Commission funds to the state general fund.
2. Whether a taxpayer may maintain an action challenging the transfer of public funds when the challenged funds are generated by fees and fines rather than taxes and the taxpayer has no liability to replenish them.
3. Whether Jordan had standing to seek recovery of funds allegedly wrongfully expended.

HOLDINGS

1. A taxpayer has standing to challenge an alleged unlawful expenditure or transfer of public funds only when the challenged conduct creates a liability for the taxpayer to replenish the public treasury through taxation. Because the Alabama Securities Commission was self-funded and the challenged transfers did not expose Jordan to such liability, Jordan lacked taxpayer standing.
2. The asserted necessity of a taxpayer action does not independently establish taxpayer standing; the controlling inquiry remains whether the challenged conduct creates liability for the taxpayer to replenish public funds.
3. A taxpayer lacks standing to sue a state official to recover public funds allegedly wrongfully expended because of the official's acts.

KEY QUOTATIONS

> *"Crucial to the determination that Broxton lacked standing was this Court's conclusion that "it is [the] liability to replenish the public treasury through the payment of taxes that gives a plaintiff in a taxpayer's action standing.""* (at 890)

> *"It is as true in Jordan's case as it was in Broxton that "it is the liability to replenish public funds that gives a taxpayer standing to sue, and there is no question that here there is no liability to replenish state funds.""* (at 891)

FACTUAL BACKGROUND

The Alabama Securities Commission is a self-funded state agency supported by registration fees and fines rather than tax revenues or appropriations from the state general fund. Over several years, surplus funds designated for the Commission were transferred or appropriated to the general fund. Jordan, asserting taxpayer and citizen status, challenged those transfers as unconstitutional and unlawful and sought to require repayment with interest.

PROCEDURAL HISTORY

Jordan filed the action in the Montgomery Circuit Court on September 10, 2002, seeking declaratory, injunctive, restitutionary, and attorney-fee relief. The parties filed cross-motions for summary judgment. On October 22, 2004, the trial court entered summary judgment for the state officials, holding, among other things, that Jordan lacked taxpayer standing. The Supreme Court of Alabama affirmed on the standing ground and did not reach state immunity or the constitutional claims.

DISPOSITION

affirmed

CASES CITED

- Childree v. Hubbert, 524 So. 2d 336 (Ala. 1988)
- Williams v. State Farm Mut. Auto. Ins. Co., 886 So. 2d 72, 74 (Ala. 2003)
- Blue Cross & Blue Shield of Alabama v. Hodurski, 899 So. 2d 949, 952-53 (Ala. 2004)
- Wilson v. Brown, 496 So. 2d 756, 758 (Ala. 1986)
- Bass v. South-Trust Bank of Baldwin County, 538 So. 2d 794, 797-98 (Ala. 1989)
- West v. Founders Life Assur. Co. of Fla., 547 So. 2d 870, 871 (Ala. 1989)
- Prince v. Poole, 935 So. 2d 431, 442 (Ala. 2006)
- Dow v. Alabama Democratic Party, 897 So. 2d 1035, 1038-39 (Ala. 2004)
- Broxton v. Siegelman, 861 So. 2d 376, 383-86 (Ala. 2003)
- Hunt v. Windom, 604 So. 2d 395, 396-97 (Ala. 1992)
- Zeigler v. Baker, 344 So. 2d 761, 763-64 (Ala. 1977)
- Court of County Revenues v. Richardson, 252 Ala. 403, 41 So. 2d 749 (1949)
- Poyner v. Whiddon, 234 Ala. 168, 174 So. 507 (1937)
- Thompson v. Chilton County, 236 Ala. 142, 181 So. 701 (1938)
- Travis v. First Nat. Bank of Evergreen, 210 Ala. 620, 98 So. 890 (1924)
- Reynolds v. Collier, 204 Ala. 38, 85 So. 465 (1920)
- Goode v. Tyler, 237 Ala. 106, 186 So. 129 (1939)
- Hall v. Blan, 227 Ala. 64, 148 So. 601 (1933)
- Turnipseed v. Blan, 226 Ala. 549, 148 So. 116 (1933)
- Lee v. Bronner, 404 So. 2d 627, 629 (Ala. 1981)
- Fergus v. Russel, 270 Ill. 304, 110 N.E. 130 (1915)
- Department of Administration v. Horne, 269 So. 2d 659 (Fla. 1972)
- Knutson v. Bronner, 721 So. 2d 678, 682 n. 6 (Ala. 1998)
- Beckerle v. Moore, 909 So. 2d 185, 187-89 (Ala. 2005)