SUPREME COURT OF PENNSYLVANIA

Pennsylvania Bankers Ass'n v. Pennsylvania Department of Banking, 598 Pa. 313

956 A.2d 956 (2008) · No. Nos. 31 MAP 2007, 32 MAP 2007, 33 MAP 2007 · Decided September 24, 2008

SUMMARY

The Supreme Court of Pennsylvania held that the Department of Banking violated due process by dismissing the Banks as intervenors after granting them unconditional intervention and failing to provide notice that their status remained subject to proof. The Court reversed the Commonwealth Court, reinstated the Banks as parties, and remanded for consideration of the remaining claims. The Court distinguished Biester because the Banks were not given continuing notice that their intervention status was disputed.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Baer; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Todd; Justice McCaffery
JURISDICTION	Pennsylvania
DECIDED	September 24, 2008
DOCKET	Nos. 31 MAP 2007, 32 MAP 2007, 33 MAP 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Banks that had been granted unconditional intervenor status in an administrative proceeding appealed after the Pennsylvania Department of Banking later dismissed them as intervenors. The Commonwealth Court affirmed, and the Supreme Court of Pennsylvania granted allowance of appeal.
STANDARD OF REVIEW	Questions of law are reviewed de novo, with plenary scope of review.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Pennsylvania Bankers Association, Pennsylvania Business Bank, Fulton Bank, Premier Bank v. Pennsylvania Department of Banking, Pennsylvania Department of Revenue, Attorney General of the Commonwealth, TruMark Financial Credit Union

TOPICS

administrative procedure act · agency adjudication · judicial review of agency action · intervention · procedural due process

PRACTICE AREAS

administrative law · constitutional law · appellate procedure · civil procedure

QUESTIONS PRESENTED

1. Whether the Department violated due process by dismissing the Banks as intervenors after granting them unconditional intervention under the public-interest provision without notice that their status remained subject to proof under the direct-interest provision.
2. Whether the Commonwealth Court properly affirmed the Department's dismissal of the Banks as intervenors.

HOLDINGS

1. When an agency grants unconditional intervention under the public-interest provision, due process requires notice that intervenor status remains disputed and an opportunity to present evidence before the agency dismisses the intervenors for failing to satisfy a different intervention provision. The Department therefore improperly revoked the Banks' intervenor status.

KEY QUOTATIONS

> *"We note that the basic tenets of due process apply with equal force in administrative proceedings as they do in judicial proceedings."* (956 A.2d at 965)

> *"In this context, due process required that the Banks have notice that their status as intervenors was in dispute and that additional proof of standing to intervene was required."* (956 A.2d at 966)

> *"We reverse its decision, reinstate the Banks as parties in this action, and remand for the Commonwealth Court to address the remaining claims raised in the Banks' Petition for Review."* (956 A.2d at 970)

FACTUAL BACKGROUND

Pennsylvania credit unions sought to convert their fields of membership from common-bond organizations to geography-based membership under 17 Pa.C.S. § 501(e). Several banks opposed the conversions and petitioned to intervene, asserting that competition from tax-exempt credit unions would directly harm them. The Department granted the Banks intervention under the public-interest provision of GRAPP, permitted them to participate fully in the hearing, and then dismissed them after the hearing for failing to establish a direct interest under a different intervention provision.

PROCEDURAL HISTORY

The Department approved TruMark Financial Credit Union's and Freedom Credit Union's proposed conversions to geography-based membership and dismissed the Banks as intervenors after the administrative hearing. The

Commonwealth Court affirmed the Department's order. The Supreme Court reversed the Commonwealth Court, reinstated the Banks as parties, and remanded for consideration of the Banks' remaining claims.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Reverse the Commonwealth Court's order, reinstate the Banks as parties, and remand to the Commonwealth Court to address the remaining claims in the Banks' Petition for Review, including the unresolved merits-premised arguments.

CASES CITED

- Pennsylvania Bankers Ass'n v. Pennsylvania Department of Banking, 893 A.2d 864 (Pa. Cmwlth. 2006)
- Pennsylvania Bankers Ass'n v. Pennsylvania Department of Banking, 598 Pa. 1, 948 A.2d 790 (2008)
- In re Application of Biester, 487 Pa. 438, 409 A.2d 848 (1979)
- William Penn Parking Garage, Inc. v. City of Pittsburgh, 464 Pa. 168, 346 A.2d 269 (1975)
- C.C.H. v. Philadelphia Phillies, Inc., 596 Pa. 23, 940 A.2d 336, 346 (2008)
- Kowenhoven v. County of Allegheny, 587 Pa. 545, 901 A.2d 1003 (2006)
- Fiore v. Board of Finance and Revenue, 534 Pa. 511, 633 A.2d 1111, 1114 (1993)
- Smith v. Gallagher, 408 Pa. 551, 185 A.2d 135 (1962)
- National Credit Union Administration v. First National Bank & Trust Co., 522 U.S. 479, 118 S. Ct. 927, 140 L. Ed. 2d 1 (1998)
- West Chester Area School District v. Collegium Charter School, 571 Pa. 503, 812 A.2d 1172, 1186 (2002)
