

SUPREME COURT OF VIRGINIA

Volkswagen of America, Inc. v. Smit

689 S.E.2d 679 (Va. 2010) · No. Record No. 082305 · Decided February 25, 2010

SUMMARY

The Supreme Court of Virginia held that Code § 46.2-1569(7), governing equitable allocation of vehicles by motor vehicle manufacturers, was impermissibly vague as applied to Volkswagen of America, Inc. The Court concluded that Volkswagen lacked fair notice that the statute required delivery of at least one vehicle of each requested newly introduced model to a dealer under the circumstances presented. The Court reversed the judgment affirming the Commissioner’s violation finding, vacated the Court of Appeals’ Commerce Clause ruling, and entered final judgment for Volkswagen.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Lawrence L. Koontz, Jr.; Keenan; Koontz; Kinser; Lemons; Goodwyn; Millette; Russell, S.J.
JURISDICTION	Virginia
DECIDED	February 25, 2010
DOCKET	Record No. 082305
DISPOSITION	other
PROCEDURAL POSTURE	Volkswagen petitioned the Supreme Court of Virginia for review of the Court of Appeals' affirmance of an administrative finding that Volkswagen violated Code § 46.2-1569(7). The Supreme Court awarded review limited to Volkswagen's dormant Commerce Clause and due process challenges.
STANDARD OF REVIEW	Constitutional questions are reviewed de novo. The court applied an as-applied vagueness analysis and placed the burden on Volkswagen to establish a dormant Commerce Clause violation.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of Virginia.

PARTIES

Volkswagen of America, Inc. v. Demerest B. Smit, Commissioner of the Virginia Department of Motor Vehicles, Virginia Department of Motor Vehicles, other appellees

TOPICS

void for vagueness procedural due process commerce clause judicial review of agency action
statutory interpretation

PRACTICE AREAS

constitutional law administrative law motor vehicle franchise regulation statutory interpretation

QUESTIONS PRESENTED

1. Whether Code § 46.2-1569(7), as applied to Volkswagen's failure to ship newly introduced Passats and New Beetles to Miller Auto, was impermissibly vague under the Due Process Clauses of the United States and Virginia Constitutions.
2. Whether the Court of Appeals' determination that Code § 46.2-1569(7) did not violate dormant Commerce Clause principles should stand.

HOLDINGS

1. Code § 46.2-1569(7) was impermissibly vague as applied because neither the statutory language nor any regulation or official guidance gave Volkswagen fair notice that it was prohibited from shipping zero newly introduced vehicles to Miller Auto under the circumstances identified by the Commissioner.
2. The court did not decide whether Code § 46.2-1569(7) was facially invalid or whether it violated the dormant Commerce Clause because the appeal could be resolved on the narrower as-applied due process ground.

KEY QUOTATIONS

“A statute, ordinance, or regulation which delegates discretionary authority to an administrative officer to determine its application does not satisfy due process if it lacks standards which are sufficiently clear to guide the officer, and inform those subject to his jurisdiction, of how that discretion is to be exercised.” (687)

“In the absence of fair notice from the language of the statute or that the Commissioner would interpret the statute as prohibiting it from not shipping at least one of each requested vehicle model to Miller Auto in any month that it was capable of doing so, Volkswagen was denied its right to due process.” (687-688)

FACTUAL BACKGROUND

Volkswagen imported vehicles from its German parent and distributed them through a national allocation system to approximately 600 franchise dealers. When demand exceeded supply for newly introduced 1998 Passats and New Beetles, Volkswagen allocated vehicles using a mathematical algorithm subject to regional adjustments. Miller Auto requested both models but received no shipments during the relevant periods, although Volkswagen

imported 18,454 Passats from October 1997 through March 1998 and 5,637 New Beetles during February and March 1998.

PROCEDURAL HISTORY

The Commissioner of the Virginia Department of Motor Vehicles found that Volkswagen violated the vehicle-allocation statute by failing to supply Miller Auto with requested Passats and New Beetles. In an earlier appeal, the Supreme Court reversed because the Commissioner had misinterpreted the statute and vacated the constitutional rulings. After remand and renewed proceedings, the Commissioner again found a violation; the circuit court and Court of Appeals affirmed. The Supreme Court reversed the judgment affirming the violation, vacated the Court of Appeals' Commerce Clause ruling, and entered final judgment for Volkswagen.

DISPOSITION

other

CASES CITED

- Volkswagen of America, Inc. v. Smit, 266 Va. 444, 587 S.E.2d 526 (2003)
- Volkswagen of America, Inc. v. Quillian, 39 Va. App. 35, 569 S.E.2d 744 (2002)
- Volkswagen of America, Inc. v. Smit, 52 Va. App. 751, 667 S.E.2d 817 (2008)
- Klarfeld v. Salsbury, 233 Va. 277, 355 S.E.2d 319 (1987)
- Appalachian Voices v. State Corp. Comm'n, 277 Va. 509, 675 S.E.2d 458 (2009)
- Tanner v. City of Virginia Beach, 277 Va. 432, 674 S.E.2d 848 (2009)
- Jaynes v. Commonwealth, 276 Va. 443, 666 S.E.2d 303 (2008)
- Cochran v. Fairfax County Bd. of Zoning Appeals, 267 Va. 756, 594 S.E.2d 571 (2004)
- Boddie v. Connecticut, 401 U.S. 371 (1971)
- Connection Distrib. Co. v. Holder, 557 F.3d 321 (6th Cir. 2009)
- Mahan v. National Conservative Political Action Committee, 227 Va. 330, 315 S.E.2d 829 (1984)
- Motley v. Virginia State Bar, 260 Va. 243, 536 S.E.2d 97 (2000)
- Maynard v. Cartwright, 486 U.S. 356 (1988)
- Hill v. Colorado, 530 U.S. 703 (2000)
- Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc., 455 U.S. 489 (1982)
- Greenville Women's Clinic v. S.C. Dep't of Health, 317 F.3d 357 (4th Cir. 2003)
- Grayned v. City of Rockford, 408 U.S. 104 (1972)
- Fallon Florist, Inc. v. City of Roanoke, 190 Va. 564, 58 S.E.2d 316 (1950)
- Chapel v. Commonwealth, 197 Va. 406, 89 S.E.2d 337 (1955)
- City of Waynesboro v. Keiser, 213 Va. 229, 191 S.E.2d 196 (1972)
- Thompson v. Smith, 155 Va. 367, 154 S.E. 579 (1930)
- Mutual Film Corp. v. Ohio Industrial Commission, 236 U.S. 230 (1915)

- Judicial Inquiry & Review Commission v. Elliott, 272 Va. 97, 630 S.E.2d 485 (2006)
- Sargent Elec. Co. v. Woodall, 228 Va. 419, 323 S.E.2d 102 (1984)

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