

SUPREME COURT OF CONNECTICUT

Lewis v. Planning & Zoning Commission

275 Conn. 383 (2005) · Decided September 6, 2005

SUMMARY

The Connecticut Supreme Court held that the plaintiff lacked standing under General Statutes § 22a-16 to challenge an inland wetlands permit and the construction of a storm drainage system based solely on alleged defects in the permitting process or the absence of a permit. Because the plaintiff’s claims did not independently allege unreasonable pollution, impairment, or destruction of the environment, the trial court lacked subject matter jurisdiction. The judgment was reversed and the case was remanded with direction to dismiss the action.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Palmer, J.
JURISDICTION	Connecticut
DECIDED	September 6, 2005
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiff appealed from the trial court's judgment for the defendants after the court struck his claim concerning construction of a storm drainage system and granted summary judgment against his claim challenging the validity of a wetlands permit. The Supreme Court of Connecticut transferred the appeal from the Appellate Court pursuant to General Statutes § 51-199 (c) and Practice Book § 65-1.
STANDARD OF REVIEW	Subject matter jurisdiction is reviewed as a question of law under plenary review. The court independently determines whether the trial court's legal conclusions are legally and logically correct and supported by the record.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Walter J. Lewis, Jr. v. Planning & Zoning Commission of the Town of Clinton, Inland Wetlands and Conservation Commission of the Town of Clinton, Chelsea G.C.A. Realty Partnership, L.P., Town of Clinton, Commissioner of Environmental Protection

TOPICS

standing subject matter jurisdiction judicial review of agency action administrative law
environmental law

PRACTICE AREAS

environmental law administrative law civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether General Statutes § 22a-16 grants standing to challenge the validity of a wetlands permitting process based on alleged defects in the permit application or agency approval procedures.
2. Whether General Statutes § 22a-16 grants standing to challenge construction of a storm drainage system allegedly undertaken before the required water discharge permit was obtained, without an independent allegation that the construction caused or was likely to cause unreasonable pollution.
3. Whether the trial court lacked subject matter jurisdiction and therefore was required to dismiss the action when the plaintiff lacked standing under § 22a-16.

HOLDINGS

1. Section 22a-16 does not confer standing on a plaintiff whose claim is based solely on an allegedly flawed permitting process. A claim that conduct was not properly authorized is distinct from a claim that the conduct has caused or is reasonably likely to cause unreasonable pollution, impairment, or destruction of the environment.
2. Section 22a-16 does not confer standing to challenge construction merely because the defendant allegedly failed to obtain a required permit before beginning construction, absent an allegation sufficiently independent of the permitting violation that the construction caused or was likely to cause unreasonable pollution.
3. Because the plaintiff lacked standing under § 22a-16, the trial court lacked subject matter jurisdiction over the action, and the action had to be dismissed.

KEY QUOTATIONS

“First, any private party, including a municipality, without first having to establish aggrievement, may seek injunctive relief in court for the protection of the public trust in the air, water and other natural resources of the state from unreasonable pollution, impairment or destruction” (392)

“As we further explained, “to establish a prima facie case under § 22a-16, the plaintiff must establish that the conduct of the defendant, acting alone, or in combination with others, has, or is reasonably likely ... to pollute [unreasonably] . . . the public trust in the . . . water of the state. . . .” (393)

“Because the plaintiff has no standing under § 22a-16 to assert either of his claims, the action must be dismissed for lack of subject matter jurisdiction.” (394)

FACTUAL BACKGROUND

In 1994, the inland wetlands and conservation commission of Clinton issued Chelsea G.C.A. Realty Partnership, L.P. a permit for activities associated with developing the Clinton Crossing Premium Outlet Center on a forty-seven-acre parcel. The plaintiff alleged that the permit was invalid because Chelsea submitted a wetlands map materially different from the town's previously approved map and because the commission approved the application without first amending the town map. He also alleged that Chelsea constructed a storm drainage system before obtaining a required water discharge permit, but did not allege independently that either activity caused or was likely to cause unreasonable pollution.

PROCEDURAL HISTORY

The trial court initially dismissed or struck the plaintiff's claims for lack of subject matter jurisdiction and failure to state a legally sufficient claim. The Appellate Court reversed in part and remanded, concluding that the trial court had improperly found no subject matter jurisdiction, while deeming the storm-drainage claim abandoned on appeal. On remand, the trial court struck the storm-drainage claim and granted the defendants' summary judgment motions on the wetlands-permit claim. The Supreme Court reversed and remanded with direction to dismiss the entire action for lack of subject matter jurisdiction because the plaintiff lacked statutory standing under General Statutes § 22a-16.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment and remand the case to the trial court with direction to render judgment dismissing the action for lack of subject matter jurisdiction.

CASES CITED

- Lewis v. Planning & Zoning Commission, 49 Conn. App. 684, 688, 691, 694, 717 A.2d 246 (1998)
- Fort Trumbull Conservancy, LLC v. Alves, 262 Conn. 480, 485-87, 815 A.2d 1188 (2003)
- Fish Unlimited v. Northeast Utilities Service Co., 254 Conn. 21, 31, 755 A.2d 860 (2000)
- Waterbury v. Washington, 260 Conn. 506, 800 A.2d 1102 (2002)
- Connecticut Coalition Against Millstone v. Rocque, 267 Conn. 116, 119-20, 140-41, 145-46, 148, 836 A.2d 414 (2003)