

INDIANA SUPREME COURT

State of Indiana v. Norfolk Southern Railway Company

State of Indiana v. Norfolk Southern Railway Co., 107 N.E.3d 468 (Ind. 2018) · No. 18S-IF-193 · Decided September 24, 2018

SUMMARY

The Indiana Supreme Court held that the Interstate Commerce Commission Termination Act expressly preempts Indiana’s blocked-crossing statute. Although the presumption against preemption applies because states have traditionally regulated railroad crossings, the statute directly regulates rail transportation by affecting train speed, length, scheduling, and operations. The court affirmed summary judgment for Norfolk Southern and did not reach preemption under the Federal Railroad Safety Act.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Chief Justice Rush; Justice David; Justice Massa; Justice Slaughter; Justice Goff
JURISDICTION	Indiana
DECIDED	September 24, 2018
DOCKET	18S-IF-193
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed a trial court order granting Norfolk Southern summary judgment on 23 blocked-crossing citations. The Indiana Supreme Court granted transfer after the Court of Appeals reversed the trial court, and it affirmed the summary judgment ruling.
STANDARD OF REVIEW	De novo review of the legal question of express preemption and the trial court's grant of summary judgment.
PRECEDENTIAL VALUE	Published, precedential Indiana Supreme Court opinion
PARTIES	State of Indiana v. Norfolk Southern Railway Company

TOPICS

- statutory interpretation
- federalism
- plain meaning rule
- administrative law
- interstate disputes

PRACTICE AREAS

Railroad law

Federal preemption

State-federal relations

Administrative law

Summary judgment

QUESTIONS PRESENTED

1. Whether the presumption against federal preemption applies to Indiana's blocked-crossing statute in the railroad-crossing context.
2. Whether the Interstate Commerce Commission Termination Act expressly preempts Indiana's blocked-crossing statute.
3. Whether it was necessary to decide the Federal Railroad Safety Act preemption issue after finding ICCTA preemption.

HOLDINGS

1. The longstanding presumption against preemption applies because regulation of railroad-highway crossings has traditionally been governed by state law and Indiana has a legitimate, longstanding police-power interest in protecting public use of those crossings.
2. The ICCTA expressly preempts Indiana's blocked-crossing statute because the statute provides a state remedy that directly regulates rail transportation by managing or governing railroad operations.
3. ICCTA preemption is not limited to state regulations expressly characterized as economic.
4. The court did not reach the Federal Railroad Safety Act preemption issue because the ICCTA independently preempted Indiana's blocked-crossing statute.

KEY QUOTATIONS

"We hold that while the longstanding presumption against preemption applies here, Indiana's blocked-crossing statute is a remedy that directly regulates rail transportation and is thus expressly preempted by the Interstate Commerce Commission Termination Act." (at 1)

"So "[s]ubstantial interference with railroad operations will be preempted; routine crossing disputes will not."" (at 9)

"So since Indiana's blocked-crossing statute is a remedy that directly regulates rail operations, the ICCTA categorically preempts it." (at 13)

"While the presumption against preemption applies in this railroad-crossing context, the ICCTA's preemption provision unambiguously preempts Indiana's blocked-crossing statute." (at 14)

FACTUAL BACKGROUND

Indiana's blocked-crossing statute prohibited a railroad from obstructing a public railroad-highway grade crossing for more than ten minutes, subject to an exception for circumstances outside the railroad's control, and imposed a minimum \$200 fine. Norfolk Southern accumulated 23 citations near its Allen County trainyard between December 2014 and December 2015. Undisputed evidence showed that switching operations, track

congestion, and mechanical defects could cause blockages exceeding ten minutes, and that compliance could require faster or shorter trains or cutting trains into segments followed by reassembly and brake testing.

PROCEDURAL HISTORY

Norfolk Southern received 23 citations under Indiana's blocked-crossing statute and moved for summary judgment, arguing express preemption under the Interstate Commerce Commission Termination Act and the Federal Railroad Safety Act. The Allen Superior Court granted summary judgment on all citations, finding both statutes preemptive. The Court of Appeals reversed, concluding that neither federal statute expressly listed blocked-crossing laws as preempted. The Indiana Supreme Court granted transfer, vacated the Court of Appeals opinion, and affirmed the trial court on the basis of ICCTA preemption without reaching FRSA preemption.

DISPOSITION

affirmed

CASES CITED

- State v. Norfolk Southern Railway, 84 N.E.3d 1230, 1236, 1238 (Ind. Ct. App. 2017)
- Kennedy Tank & Manufacturing Co. v. Emmert Industrial Corp., 67 N.E.3d 1025, 1028-30 (Ind. 2017)
- Young v. Hood's Gardens, Inc., 24 N.E.3d 421, 423 (Ind. 2015)
- KS&E Sports v. Runnels, 72 N.E.3d 892, 905 (Ind. 2017)
- Basileh v. Alghusain, 912 N.E.2d 814, 818 (Ind. 2009)
- Arizona v. United States, 567 U.S. 387, 398 (2012)
- United States v. Locke, 529 U.S. 89, 108 (2000)
- United Transportation Union v. Long Island Railroad, 455 U.S. 678, 687 (1982)
- Erie Railroad v. Board of Public Utility Commissioners, 254 U.S. 394, 410 (1921)
- Pennsylvania Railroad v. Huss, 96 Ind. App. 71, 77, 180 N.E. 919, 921 (1932)
- CSX Transportation, Inc. v. Easterwood, 507 U.S. 658, 661, 663-70 (1993)
- Friends of Eel River v. North Coast Railroad Authority, 399 P.3d 37, 43, 53-57, 62-64 (Cal. 2017)
- City of Ozark v. Union Pacific Railroad, 843 F.3d 1167, 1170 (8th Cir. 2016)
- Elam v. Kansas City Southern Railway, 635 F.3d 796, 805-06 (5th Cir. 2011)
- Fayus Enterprises v. BNSF Railway, 602 F.3d 444, 448-50 (D.C. Cir. 2010)
- Bates v. Dow AgroSciences LLC, 544 U.S. 431, 449 (2005)
- Franks Investment Co. v. Union Pacific Railroad, 593 F.3d 404, 410-13 (5th Cir. 2010) (en banc)
- Union Pacific Railroad v. Chicago Transit Authority, 647 F.3d 675, 678 (7th Cir. 2011)
- Island Park, LLC v. CSX Transportation, 559 F.3d 96, 105 (2d Cir. 2009)
- Adrian & Blissfield Railroad v. Village of Blissfield, 550 F.3d 533, 539, 541 (6th Cir. 2008)
- Delaware v. Surface Transportation Board, 859 F.3d 16, 18-19 (D.C. Cir. 2017)
- Florida East Coast Railway v. City of West Palm Beach, 266 F.3d 1324, 1331 (11th Cir. 2001)

- Oregon Coast Scenic Railroad v. Oregon Department of State Lands, 841 F.3d 1069, 1077 (9th Cir. 2016)
- Association of American Railroads v. South Coast Air Quality Management District, 622 F.3d 1094, 1097 (9th Cir. 2010)
- City of Girard v. Youngstown Belt Railway, 979 N.E.2d 1273, 1281 (Ohio 2012)
- Allied Erecting & Dismantling Co. v. Surface Transportation Board, 835 F.3d 548, 550 (6th Cir. 2016)
- PCS Phosphate Co. v. Norfolk Southern Corp., 559 F.3d 212, 218-19 (4th Cir. 2009)
- Norfolk & Western Railway v. State, 180 Ind. App. 185, 188, 387 N.E.2d 1343, 1344 (1979)
- Maynard v. CSX Transportation, Inc., 360 F. Supp. 2d 836 (E.D. Ky. 2004)
- People v. Burlington Northern Santa Fe Railroad, 209 Cal. App. 4th 1513 (2012)
- Burlington Northern & Santa Fe Railway v. Department of Transportation, 206 P.3d 261 (Or. Ct. App. 2009)
- City of Seattle v. Burlington Northern Railroad, 41 P.3d 1169 (Wash. 2002) (en banc)

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