

SUPREME COURT OF KENTUCKY

Beshear v. Haydon Bridge Co., Inc.

416 S.W.3d 280 (Ky. 2013) · Decided November 21, 2013

SUMMARY

The Kentucky Supreme Court reviewed post-remand orders concerning transfers from the Kentucky Workers' Compensation Funding Commission's Special Fund and Pneumoconiosis Fund. The Court held that sovereign immunity barred retroactive injunctive relief requiring repayment of funds to the Commission and rejected the related common-fund attorney-fee award. It also agreed that the plaintiffs lacked standing to challenge transfers from the Pneumoconiosis Fund and reversed the Franklin Circuit Court's judgment in the appealed respects.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Abramson; Abramson; Cunningham; Keller; Minton; Noble; Scott; Venters
JURISDICTION	Kentucky
DECIDED	November 21, 2013
DISPOSITION	reversed
PROCEDURAL POSTURE	The Governor and State Budget Director appealed portions of the Franklin Circuit Court's orders granting retroactive and prospective injunctive relief, awarding attorney fees, and enjoining transfers from the Pneumoconiosis Fund. The Supreme Court of Kentucky accepted transfer from the Court of Appeals under CR 74.02.
STANDARD OF REVIEW	De novo review of sovereign-immunity, separation-of-powers, statutory, constitutional, standing, and attorney-fee issues; the opinion does not state a single formal standard-of-review formulation.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Steven L. Beshear, Mary E. Lassiter v. Haydon Bridge Company, Inc., Greater Louisville Auto Dealers Association, Kentucky Automobile Dealers Association, M & M Cartage Co., Inc., Springfield Laundry & Dry Cleaners, Inc., Usher Transport, Inc.

TOPICS

remedies

equitable relief

separation of powers

standing

constitutional law

PRACTICE AREAS

constitutional law

government immunity

remedies

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether sovereign immunity barred a retroactive injunction requiring the Commonwealth to transfer money from the General Fund back to the Benefit Reserve Fund.
2. Whether the separation-of-powers provisions of the Kentucky Constitution barred the judiciary from ordering the transfer of funds from the General Fund to the Benefit Reserve Fund.
3. Whether KRS 45.111, *Ross v. Gross*, or Section 242 of the Kentucky Constitution authorized or required restoration of the transferred funds.
4. Whether plaintiffs' counsel was entitled to attorney fees under KRS 412.070 based on an alleged common fund.
5. Whether the plaintiffs had standing to challenge transfers from the Pneumoconiosis Fund.
6. Whether the trial court properly enjoined prospective transfers from the Pneumoconiosis Fund.

HOLDINGS

1. Sovereign immunity bars a retroactive injunction requiring the Commonwealth to withdraw money from the General Fund and restore it to the Benefit Reserve Fund, regardless of whether the relief is labeled a retroactive injunction, reparative injunction, or equitable restitution.
2. The separation-of-powers provisions of the Kentucky Constitution prohibit the judiciary from ordering the executive branch to withdraw money from the General Fund and deposit it into another governmental account without legislative authorization.
3. Kentucky courts may issue temporary and permanent prospective injunctions to restrain unconstitutional legislative or executive action, including embargoing funds before an unconstitutional transfer occurs.
4. Plaintiffs' counsel was not entitled to attorney fees under KRS 412.070 because no common fund was recovered against the Commonwealth.
5. The plaintiffs lacked standing to challenge transfers from the Pneumoconiosis Fund because none had contributed to that fund or demonstrated a present or substantial injury from the challenged transfers.

KEY QUOTATIONS

“It requires payment of state funds, not as a necessary consequence of compliance in the future with a substantive federal-question determination, but as a form of compensation to those whose applications were processed on the slower time schedule at a time when petitioner was under no court-imposed obligation to conform to a different standard.” (at 294)

“Clearly, we are without authority to invade the province of the General Assembly by ordering that funds be drawn from the General Fund and deposited to another governmental account, the BRF.” (at 296)

“The injunctive powers, quite simply, are how the judiciary accords relief in these circumstances, not by invading sovereign immunity, not by stretching its powers to reach the State Treasury and thereby order a withdrawal from the General Fund after the fact, no matter how fitting that might appear.” (at 298)

FACTUAL BACKGROUND

The plaintiffs are Kentucky employers that paid assessments supporting the Special Fund portion of the Benefit Reserve Fund. Budget bills transferred money from the Special Fund to the General Fund and the Department of Mines and Minerals, and later budget bills transferred money from the separately funded Pneumoconiosis Fund to the Office of Mine Safety and Licensing. On remand from Haydon Bridge I, the trial court ordered repayment of transfers made from 2000 through 2010, permanently enjoined certain future transfers, and awarded more than \$8 million in attorney fees.

PROCEDURAL HISTORY

The plaintiffs originally challenged budget-bill provisions affecting the Special Fund portion of the Kentucky Workers' Compensation Funding Commission's Benefit Reserve Fund. In Haydon Bridge I, the Supreme Court held that suspension of annual appropriations was constitutional but that transfers from commingled funds were unconstitutional. On remand, the Franklin Circuit Court ordered repayment of prior transfers, enjoined transfers from both the Special Fund and Pneumoconiosis Fund, and awarded plaintiffs' counsel a 25 percent common-fund fee. The Supreme Court reversed the appealed portions of those orders.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The appealed portions of the Franklin Circuit Court's February 18, 2011 and August 16, 2011 opinions and orders were reversed. The opinion does not provide additional remand instructions.

CASES CITED

- *Beshear v. Haydon Bridge Co., Inc.*, 304 S.W.3d 682 (Ky. 2010)
- *Commonwealth ex rel. Armstrong v. Collins*, 709 S.W.2d 437 (Ky. 1986)
- *Caneyville Volunteer Fire Department v. Green's Motorcycle Salvage, Inc.*, 286 S.W.3d 790, 799 (Ky. 2009)
- *Reyes v. Hardin County*, 55 S.W.3d 337, 338-39 (Ky. 2001)
- *Divine v. Harvie*, 23 Ky. (7 T.B. Mon.) 439 (1828)
- *Bach v. Bach*, 288 S.W.2d 52, 54 (Ky. 1956)
- *Tate v. Salmon*, 79 Ky. 540, 543 (Ky. 1881)
- *Withers v. University of Kentucky*, 939 S.W.2d 340, 344 (Ky. 1997)
- *Board of Trustees of the University of Kentucky v. Hayse*, 782 S.W.2d 609 (Ky. 1989)
- *Ex parte Young*, 209 U.S. 123 (1908)
- *Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984)

- Frew ex rel. Frew v. Hawkins, 540 U.S. 431 (2004)
- Philgot v. Patton, 837 S.W.2d 491, 493 (Ky. 1992)
- Rose v. Council for Better Education, Inc., 790 S.W.2d 186 (Ky. 1989)
- Edelman v. Jordan, 415 U.S. 651 (1974)
- Ford Motor Co. v. Department of Treasury, 323 U.S. 459, 464 (1945)
- Native Village of Noatak v. Blatchford, 38 F.3d 1505, 1512 (9th Cir. 1994)
- Ross v. Gross, 300 Ky. 337, 188 S.W.2d 475 (1945)
- Federal Maritime Commission v. South Carolina State Ports Authority, 535 U.S. 743, 751-53 (2002)
- Wisconsin Medical Society, Inc. v. Morgan, 328 Wis. 2d 469, 787 N.W.2d 22 (2010)
- Tuttle v. New Hampshire Medical Malpractice Joint Underwriting Association, 159 N.H. 627, 992 A.2d 624 (2010)
- Diemer v. Commonwealth of Kentucky, Transportation Cabinet, 786 S.W.2d 861, 864 (Ky. 1990)
- Legislative Research Commission v. Brown, 664 S.W.2d 907, 912 (Ky. 1984)
- Sibert v. Garrett, 197 Ky. 17, 246 S.W. 455, 457 (1922)
- Fletcher v. Commonwealth, 163 S.W.3d 852, 871 (Ky. 2005)
- Akers v. Floyd County Fiscal Court, 556 S.W.2d 146, 149 (Ky. 1977)
- Smothers v. Lewis, 672 S.W.2d 62, 64 (Ky. 1984)
- Legislative Research Commission v. Fischer, 366 S.W.3d 905 (Ky. 2012)
- Hannah v. Commonwealth, 306 S.W.3d 509 (Ky. 2010)
- Commonwealth, Department for Natural Resources v. Maynard, 537 S.W.2d 169 (Ky. 1976)
- Tax Ease Lien Investments 1, LLC v. Commonwealth Bank & Trust, 384 S.W.3d 141, 143 (Ky. 2012)
- Merrick v. Smith, 347 S.W.2d 537, 538 (Ky. 1961)
- Commonwealth Natural Resources and Environmental Protection Cabinet v. Kentec Coal Co., Inc., 177 S.W.3d 718, 732 (Ky. 2005)
- Steel v. Meek, 312 Ky. 87, 226 S.W.2d 542, 543 (1950)