

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Hartley Hill Hunt Club v. County Commission of Ritchie County, 220 W. Va. 382

647 S.E.2d 818 (2007) · No. No. 33176 · Decided May 11, 2007

SUMMARY

The Supreme Court of Appeals of West Virginia upheld the constitutionality of W. Va. Code § 20-2-5(28), which authorized county elections concerning Sunday hunting on private land. The court rejected challenges based on the state constitutional right to bear arms for lawful hunting, legislative delegation, ballot language, and equal protection, and affirmed the circuit court's judgment.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Starcher; Judge Donald Cookman, sitting by temporary assignment
JURISDICTION	West Virginia
DECIDED	May 11, 2007
DOCKET	No. 33176
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a circuit court order granting defendants' motion for summary judgment and denying plaintiffs' motion for summary judgment in a declaratory judgment action challenging the constitutionality of West Virginia Code § 20-2-5(28) (2001).
STANDARD OF REVIEW	De novo review applies to questions of law involving statutory interpretation and interpretation of the West Virginia Constitution. A statute may be invalidated on constitutional grounds only when its unconstitutionality appears beyond a reasonable doubt; reasonable constructions must be used to sustain constitutionality.
PRECEDENTIAL VALUE	Published West Virginia Supreme Court of Appeals opinion; binding state precedent.
PARTIES	Hartley Hill Hunt Club, Nolan Aleshire, Isaac Staats, Jack Summers, American Civil Liberties Union of West Virginia v. County Commission of Ritchie County, West Virginia Farm Bureau, Inc.,

Fayette County Farm Bureau, Gilmer County Farm Bureau, Mercer County Farm Bureau, Nicholas County Farm Bureau, Preston County Farm Bureau, Ritchie County Farm Bureau, Summers County Farm Bureau, Wood County Farm Bureau, John L. Kessler, Walter Ashby, Arnold Smith, Chris Nash, Paul Canterbury, Thomas Keener, Hicle Rexrode, Philip L. Gregg, Danny Montgomery, Arden Hodge, Lynwood Ireland, Carl Amick, Jack H. Lester, Gary E. Oates, David H. Lawson

TOPICS

constitutional law

statutory interpretation

election law

due process

equal protection

PRACTICE AREAS

constitutional law

state constitutional law

statutory interpretation

election law

hunting and wildlife regulation

summary judgment

QUESTIONS PRESENTED

1. Whether West Virginia Code § 20-2-5(28), which permits counties to prohibit Sunday hunting on private land through local-option elections, violates the constitutional right to keep and bear arms for lawful hunting under Article III, § 22 of the West Virginia Constitution.
2. Whether the statute unconstitutionally delegates the Legislature's lawmaking power to county voters.
3. Whether the statutory ballot language violates due process because it could mislead or confuse voters.
4. Whether the county-based local-option scheme violates the equal-protection guarantee in Article III, § 10 of the West Virginia Constitution.

HOLDINGS

1. Article III, § 22 of the West Virginia Constitution protects the right to keep and bear arms for lawful hunting, but it does not create an unfettered right to hunt. The Legislature may use its police power to enact reasonable laws defining what forms of hunting are lawful, and the Sunday-hunting restrictions in West Virginia Code § 20-2-5(28) are reasonable.
2. West Virginia Code § 20-2-5(28) does not unconstitutionally delegate legislative power merely because the operation of a statute in a particular locality depends on the result of a local-option election.
3. The ballot language stating, 'Shall hunting on Sunday be authorized in ____ County?' did not violate due process because the appellants failed to show, under an objective reasonable-voter standard, that the language could have misled or confused a reasonable voter.
4. West Virginia Code § 20-2-5(28) does not violate Article III, § 10 of the West Virginia Constitution because its county-based classifications are rational, reasonably related to proper governmental purposes, and apply equally to persons within each class.

KEY QUOTATIONS

“Article III, Section 22 does not create an unfettered right to hunt, but rather preserves an individual's right to bear arms for purposes of “lawful hunting.”” (647 S.E.2d at 824)

“This clause preserves the State's right, through the exercise of its police power, to enact reasonable laws defining what forms of hunting are lawful.” (647 S.E.2d at 825)

“The Legislature's decision to permit statewide local option elections in W.Va.Code, 20-2-5(28), to determine whether Sunday hunting on private land would be authorized or prohibited, did not violate the Constitution.” (647 S.E.2d at 827)

FACTUAL BACKGROUND

In 2001, the West Virginia Legislature enacted statutory provisions regulating Sunday hunting, including a provision allowing each county to hold a local-option election concerning Sunday hunting on private land. In May 2002, Ritchie County voters voted 1,454 to 859 to prohibit Sunday hunting on private land. The appellants, including a private hunting club that leased land in Ritchie County and individuals who hunted or owned property there but did not reside in the county, challenged the statute and election on constitutional grounds.

PROCEDURAL HISTORY

After Ritchie County voters approved a prohibition on Sunday hunting on private land, the appellants filed a declaratory judgment action seeking to invalidate the statute authorizing county local-option elections. The Circuit Court of Ritchie County granted the appellees' motion for summary judgment on February 9, 2006, concluding that the statute did not violate the West Virginia Constitution. The Supreme Court of Appeals of West Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- *Chrystal R.M. v. Charlie A.L.*, 194 W. Va. 138, 459 S.E.2d 415 (1995)
- *Appalachian Power Co. v. Gainer*, 149 W. Va. 740, 143 S.E.2d 351 (1965)
- *State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139 (1988)
- *State ex rel. West Virginia Division of Natural Resources v. Cline*, 200 W. Va. 101, 488 S.E.2d 376 (1997)
- *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 63 S. Ct. 1178, 87 L. Ed. 1628 (1943)
- *Minersville School District v. Gobitis*, 310 U.S. 586, 60 S. Ct. 1010, 84 L. Ed. 1375 (1940)
- *Rutter & Co. v. Sullivan*, 25 W. Va. 427 (1885)
- *Haigh v. Bell*, 41 W. Va. 19, 23 S.E. 666 (1895)
- *Koen v. Fairmont Brewing Co.*, 69 W. Va. 94, 70 S.E. 1098 (1911)
- *Boyles v. Barbour County Court*, 116 W. Va. 689, 182 S.E. 868 (1935)
- *Tweel v. West Virginia Racing Commission*, 138 W. Va. 531, 76 S.E.2d 874 (1953)

- Charles Town Raceway, Inc. v. West Virginia Racing Commission, 143 W. Va. 257, 101 S.E.2d 60 (1957)
- State ex rel. Bess v. Black, 149 W. Va. 124, 139 S.E.2d 166 (1964)
- Tri-State Greyhound Racing, Inc. v. Johnson, 160 W. Va. 33, 230 S.E.2d 837 (1976)
- State ex rel. Cooper v. Caperton, 196 W. Va. 208, 470 S.E.2d 162 (1996)
- State v. McCoy, 107 W. Va. 163, 148 S.E. 127 (1929)
- Merrill v. West Virginia Department of Health and Human Resources, 219 W. Va. 151, 632 S.E.2d 307 (2006)
- Gibson v. West Virginia Department of Highways, 185 W. Va. 214, 406 S.E.2d 440 (1991)
- Atchison v. Erwin, 172 W. Va. 8, 302 S.E.2d 78 (1983)
- Hartsock-Flesher Candy Co. v. Wheeling Wholesale Grocery Co., 174 W. Va. 538, 328 S.E.2d 144 (1984)
- State ex rel. Heck's Inc. v. Gates, 149 W. Va. 421, 141 S.E.2d 369 (1965)
- State ex rel. Blankenship v. Richardson, 196 W. Va. 726, 474 S.E.2d 906 (1996)
- Bull v. Read, 13 Gratt. 78, 54 Va. 78 (Va. 1855)

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