

SUPREME COURT OF INDIANA

Ridenour v. Furness

514 N.E.2d 273 (Ind. 1987) · No. No. 06S01-8710-CV-963 · Decided October 19, 1987

SUMMARY

The Supreme Court of Indiana reviewed an interlocutory appeal concerning a preliminary injunction against the Department of Natural Resources' emergency ban on gill nets in Lake Michigan. The court applied the public-interest exception to mootness, adopted the Court of Appeals' reasoning regarding the appellees' lack of standing, and reversed the trial court. The court also rejected reliance on a liquor-permit case as establishing a property interest in the fishing licenses.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Givan, Justice; Shepard, Chief Justice; DeBruler, Justice; Pivarnik, Justice; Dickson, Justice
JURISDICTION	Indiana
DECIDED	October 19, 1987
DOCKET	No. 06S01-8710-CV-963
DISPOSITION	reversed
PROCEDURAL POSTURE	Interlocutory appeal from a preliminary injunction issued by the trial court against the Indiana Department of Natural Resources' Director; the Court of Appeals reversed, and the Indiana Supreme Court granted transfer.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	James M. Ridenour, as Director of the Indiana Department of Natural Resources, Michigan City Charter Boat Association v. Clay Furness, Chris Furness, Jeff Furness, Mike Brazinski, Harold Bucy, Chris Camalick, Clem Cho, Bill Dickinson, John Hart, Lance Kaeding, Tom Mayoch, Howard Westerman, Phil Smidt & Son, Inc.

TOPICS

- mootness
- standing
- interlocutory appeal
- injunctions
- judicial review of agency action

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the otherwise moot challenge to the Department of Natural Resources' temporary gill-net ban should be considered under Indiana's public-interest exception to the mootness doctrine.
2. Whether the appellees had standing to challenge enforcement of the Department of Natural Resources' emergency order.
3. Whether the trial court properly issued a preliminary injunction against the Department of Natural Resources' Director.

HOLDINGS

1. A moot challenge may be considered on the merits under Indiana's public-interest exception when the issue recurs year after year, is of great public interest, and the nature of the governing regulations makes recurrence and repeated litigation likely.
2. The appellees lacked standing to challenge the DNR's emergency order because they had no legally cognizable property right in the relevant licenses or permits sufficient to support the action.

KEY QUOTATIONS

“The law in Indiana is well settled that although a specific issue may be moot, the fact that it recurs year after year and is of great public interest is sufficient to allow the issue to be considered on its merits.” (274)

“The nature of these regulations is such, due to their seasonal application and the requirement for nearly constant change, that the weapon of temporary injunction could be used to frustrate almost any regulation of the DNR.” (275)

FACTUAL BACKGROUND

The Indiana Department of Natural Resources issued an emergency order temporarily banning the use of gill nets by fishermen in Lake Michigan. Commercial fishermen and a restaurant sought to enjoin the agency's Director from enforcing the order. Because the particular order and incident had become moot, the Supreme Court addressed the controversy under Indiana's public-interest exception to the mootness doctrine and also adopted the conclusion that the appellees lacked standing.

PROCEDURAL HISTORY

The Indiana Department of Natural Resources promulgated an emergency order temporarily banning the use of gill nets by fishermen in Lake Michigan. Commercial fishermen and a restaurant sought an injunction against enforcement, and the trial court issued a preliminary injunction. The Court of Appeals reversed, and the Indiana Supreme Court granted transfer, adopted the Court of Appeals' opinion except for its reliance on a bond in addressing mootness, and reversed the trial court.

DISPOSITION

reversed

CASES CITED

- Ridenour v. Furness, 504 N.E.2d 336 (Ind. Ct. App. 1987)
- Indiana Education Employment Relations Board v. Mill Creek Classroom Teachers Association, 456 N.E.2d 709, 712 (Ind. 1983)
- Lake County Beverage Co. v. 21st Amendment, Inc., 441 N.E.2d 1008 (Ind. App. 1982)

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