

SUPREME COURT OF VERMONT

Travelers Indemnity Co. v. Wallis

2003 VT 103 (Vt. 2003) · No. No. 02-360 · Decided October 31, 2003

SUMMARY

The Vermont Supreme Court reviewed Travelers Indemnity Company's challenge to the Department of Labor and Industry's practices for issuing interim workers' compensation benefit orders under 21 V.S.A. § 662(b). The court held that challenges to the Commissioner's implementation of the statute were subject to primary jurisdiction and administrative remedies, but that facial constitutional challenges to the statute could proceed through a declaratory judgment action. The court affirmed dismissal of the as-applied claims and reversed and remanded as to the facial challenges.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Dooley, J.; Amestoy, C.J.; Johnson, J.; Skoglund, J.; Allen, C.J. (Ret.), specially assigned
JURISDICTION	Vermont
DECIDED	October 31, 2003
DOCKET	No. 02-360
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Travelers appealed from the Washington Superior Court's dismissal of its complaint for lack of subject matter jurisdiction. The complaint challenged the Department of Labor and Industry's administration of interim workers' compensation benefit orders and asserted facial constitutional challenges to 21 V.S.A. § 662(b).
STANDARD OF REVIEW	Dismissal for lack of subject matter jurisdiction is reviewed de novo, with uncontroverted factual allegations accepted as true and construed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Vermont.
PARTIES	Travelers Indemnity Co. v. R. Tasha Wallis, Commissioner, Department of Labor and Industry

TOPICS

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QUESTIONS PRESENTED

1. Whether Travelers' complaint was an appeal requiring certified questions under 21 V.S.A. § 671 or a declaratory judgment action.
2. Whether the primary-jurisdiction doctrine required dismissal of Travelers' challenges to the Commissioner's implementation and application of 21 V.S.A. § 662(b).
3. Whether Travelers could bring a facial constitutional challenge to 21 V.S.A. § 662(b) in a declaratory judgment action without first pursuing administrative remedies or obtaining certified questions.

HOLDINGS

1. Travelers' complaint was a declaratory judgment action challenging the Department's general practices, rather than an appeal requiring certified questions from the Commissioner under 21 V.S.A. § 671.
2. The primary-jurisdiction doctrine requires dismissal of challenges to the Commissioner's application and implementation of § 662(b), because those challenges involve mixed questions of fact and law committed in the first instance to the Commissioner's expertise and administrative process.
3. Travelers may bring a declaratory judgment action challenging the facial constitutionality of the statutory scheme under § 662(b), including its alleged lack of an objective standard and lack of recoupment for interim benefits, without treating the action as an appeal requiring certified questions.

KEY QUOTATIONS

“The doctrine of primary jurisdiction cautions courts against “exercising jurisdiction when an alternative tribunal with expertise in the subject matter is available to decide the dispute.”” (321)

“We also agree that the complaint is broad enough to encompass these facial challenges within it.” (323-24)

FACTUAL BACKGROUND

Travelers issued workers' compensation policies and regularly appeared before the Commissioner in workers' compensation claims. It challenged the Commissioner's practice of ordering interim payments under 21 V.S.A. § 662(b) after an employer or carrier denied a claim, before a hearing and final determination. Travelers alleged that the Department ordered interim payments despite evidence supporting denial, relied on ex parte information, and lacked adequate standards and recoupment procedures, asserting statutory, due-process, and equal-protection violations.

PROCEDURAL HISTORY

Travelers filed a superior-court complaint seeking review, declaratory relief, and injunctive relief concerning interim workers' compensation orders. After the Department rescinded the interim order identified in the original complaint, Travelers filed an amended complaint alleging similar conduct in additional cases. The superior court dismissed the action after treating it as an appeal requiring certified questions under 21 V.S.A. § 671; the Supreme Court accepted Travelers' characterization of the action as declaratory but affirmed dismissal of the as-applied challenges on primary-jurisdiction grounds and reversed and remanded as to the facial constitutional challenges.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Proceed with Travelers' facial challenges to 21 V.S.A. § 662(b) consistent with the opinion; dismissal of the claims challenging the Commissioner's implementation of § 662(b) remains affirmed.

CASES CITED

- Jordan v. State, 166 Vt. 509, 702 A.2d 58 (1997)
- C.V. Landfill, Inc. v. Environmental Board, 158 Vt. 386, 610 A.2d 145 (1992)
- In re Agency of Transportation, 157 Vt. 203, 596 A.2d 358 (1991)
- Flanders Lumber & Building Supply Co. v. Town of Milton, 128 Vt. 38, 258 A.2d 804 (1969)
- Williams v. State, 156 Vt. 42, 589 A.2d 840 (1990)
- Pitts v. Howe Scale Co., 110 Vt. 27, 1 A.2d 695 (1938)
- Wood v. Fletcher Allen Health Care, 169 Vt. 419, 739 A.2d 1201 (1999)
- Molesworth v. University of Vermont, 147 Vt. 4, 508 A.2d 722 (1986)
- In re State Aid Highway No. 1, Peru, 133 Vt. 4, 328 A.2d 667 (1974)
- Demag v. American Insurance Cos., 146 Vt. 608, 508 A.2d 697 (1986)
- Bedini v. Frost, 165 Vt. 167, 678 A.2d 893 (1996)
- Alexander v. Town of Barton, 152 Vt. 148, 565 A.2d 1294 (1989)
- Stone v. Errecart, 165 Vt. 1, 675 A.2d 1322 (1996)
- Harrington v. Department of Employment & Training, 152 Vt. 446, 566 A.2d 988 (1989)
- Wentworth v. Crawford & Co., 174 Vt. 118, 807 A.2d 351 (2002)
- Georgia Oilmen's Association v. Georgia Department of Revenue, 261 Ga. App. 393, 582 S.E.2d 549 (2003)
- Christian Nursing Center v. Department of Human Services, 419 N.W.2d 86 (Minn. Ct. App. 1988)
- Verkouteren v. Supervisor of Assessments, 38 Md. App. 216, 380 A.2d 642 (1977)
- In re D.A. Associates, 150 Vt. 18, 547 A.2d 1325 (1988)