

SUPREME COURT OF MICHIGAN

Taxpayers of Michigan Against Casinos v. State, 471 Mich. 306

685 N.W.2d 221 (Mich. 2004) · No. 122830 · Decided July 30, 2004

SUMMARY

The Supreme Court of Michigan held that the Legislature's approval of tribal-state gaming compacts through House Concurrent Resolution 115 did not constitute legislation requiring enactment by bill. The court concluded that the compacts were contracts between sovereign entities and that the resolution did not violate the Michigan Constitution's local-acts clause. The court remanded the issue of whether the compacts' amendment provision violated separation of powers because the lower courts had not addressed that issue on the merits.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Corrigan, C.J.; Cavanagh, J.; Kelly, J.; Markman, J.; Taylor, J.; Weaver, J.; Young, J.
JURISDICTION	Michigan
DECIDED	July 30, 2004
DOCKET	122830
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs sought declaratory relief challenging the validity of tribal-state gaming compacts approved by concurrent legislative resolution. The Ingham Circuit Court ruled that the compacts constituted legislation requiring approval by bill and agreed that the compact amendment provision violated separation of powers. The Michigan Court of Appeals reversed on those issues and affirmed the rejection of the local-acts challenge. The Supreme Court of Michigan affirmed in part and remanded the amendment-provision issue.
STANDARD OF REVIEW	De novo review applies to summary disposition and to constitutional questions.
PRECEDENTIAL VALUE	published binding precedent of the Supreme Court of Michigan
PARTIES	Taxpayers of Michigan Against Casinos, Laura Baird v. State of Michigan, North American Sports Management Company, Inc. IV, Gaming Entertainment, LLC

TOPICS

tribal gaming gaming compacts indian affairs separation of powers constitutional law

PRACTICE AREAS

constitutional law Indian law gaming law state constitutional law federalism

QUESTIONS PRESENTED

1. Whether legislative approval of tribal-state gaming compacts through HCR 115 constituted legislation that Michigan Constitution article 4, § 22 required to be enacted by bill.
2. Whether the compact provision allowing the Governor to amend the compacts without legislative approval violated Michigan Constitution article 3, § 2's separation-of-powers requirement.
3. Whether HCR 115 constituted a local or special act prohibited by Michigan Constitution article 4, § 29.

HOLDINGS

1. The Legislature's approval of the tribal-state gaming compacts through HCR 115 did not constitute legislation. The compacts were contracts between sovereign entities rather than unilateral regulations, so Michigan Constitution article 4, § 22 did not require approval by bill.
2. Because the compacts were not legislation and Michigan's Constitution did not prescribe a particular approval method for contracts of this type, the Legislature had discretion to approve them by concurrent resolution.
3. The amendment-provision issue was ripe after Governor Granholm attempted amendments, but the Supreme Court would not decide it without a developed lower-court record. The issue was remanded to the Court of Appeals for consideration, with authority to remand to the trial court if additional fact-finding was necessary.
4. HCR 115 was not a local act and therefore did not violate Michigan Constitution article 4, § 29.

KEY QUOTATIONS

"We hold that a more accurate definition of "legislation" is one of unilateral regulation." (226)

"The states have no authority to regulate tribal gaming under the IGRA unless the tribe explicitly consents to the regulation in a compact." (227)

"Thus, although a state's gaming laws apply in the absence of a tribal-state compact, they apply only as federal law." (229)

"The power to regulate as a governmental function, and the power to contract for the same end, are quite different things." (230)

"Thus, we hold that the compacts are not "local acts."" (235)

FACTUAL BACKGROUND

Governor Engler negotiated tribal-state compacts with four Michigan Indian tribes in 1997 and the compacts were modified and re-executed in 1998. The compacts governed class III gaming under the federal Indian Gaming Regulatory Act and became effective after approval by the Governor, the tribes, the Michigan Legislature, and the Secretary of the Interior. The Legislature approved the compacts through HCR 115 rather than a bill, and the compacts included a provision purporting to permit the Governor to amend them without legislative approval. Plaintiffs challenged the approval method, the amendment provision, and the compacts' references to specified counties under Michigan's local-acts clause.

PROCEDURAL HISTORY

Governor Engler negotiated gaming compacts with four Michigan tribes, and the Michigan Legislature approved modified compacts through House Concurrent Resolution 115. Plaintiffs challenged the compacts under Michigan constitutional provisions requiring legislation to be enacted by bill, separating governmental powers, and restricting local or special acts. The circuit court ruled partly for plaintiffs; the Court of Appeals reversed on the legislation and separation-of-powers issues and affirmed on the local-acts issue. The Supreme Court affirmed the Court of Appeals except that it remanded the compact-amendment issue for further consideration.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand the compact-amendment provision issue to the Michigan Court of Appeals to determine whether the provision allowing the Governor to amend the compacts without legislative approval violates Michigan Constitution article 3, § 2. The Court of Appeals may remand to the trial court if further fact-finding is necessary. In all other respects, affirm the Court of Appeals.

CASES CITED

- California v. Cabazon Band of Indians, 480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987)
- Worcester v. Georgia, 31 U.S. (6 Pet.) 515, 557, 8 L. Ed. 483 (1832)
- United States v. Wheeler, 435 U.S. 313, 323, 98 S. Ct. 1079, 55 L. Ed. 2d 303 (1978)
- Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc., 523 U.S. 751, 754, 756, 118 S. Ct. 1700, 140 L. Ed. 2d 981 (1998)
- Gaming Corp. of America v. Dorsey & Whitney, 88 F.3d 536, 545-547 (8th Cir. 1996)
- Seminole Tribe of Florida v. Florida, 517 U.S. 44, 58, 76 n.18, 116 S. Ct. 1114, 134 L. Ed. 2d 252 (1996)
- United Keetoowah Band of Cherokee Indians v. Oklahoma, 927 F.2d 1170, 1177 (10th Cir. 1991)
- AT&T Corp. v. Coeur d'Alene Tribe, 295 F.3d 899, 909 (9th Cir. 2002)
- Confederated Tribes of the Chehalis Reservation v. Johnson, 135 Wash. 2d 734, 750, 958 P.2d 260 (1998)
- Kansas v. Finney, 251 Kan. 559, 836 P.2d 1169 (1992)
- New Mexico v. Johnson, 120 N.M. 562, 904 P.2d 11 (1995)
- Van v. Zahorik, 460 Mich. 320, 326, 597 N.W.2d 15 (1999)

- DeRose v. DeRose, 469 Mich. 320, 326, 666 N.W.2d 636 (2003)
- Blank v. Department of Corrections, 462 Mich. 103, 113-114, 611 N.W.2d 530 (2000)
- Immigration & Naturalization Service v. Chadha, 462 U.S. 919, 952-956, 103 S. Ct. 2764, 77 L. Ed. 2d 317 (1983)
- Hart v. Wayne County, 396 Mich. 259, 272, 240 N.W.2d 697 (1976)
- Attorney General ex rel. Eaves v. State Bridge Commission, 277 Mich. 373, 378, 269 N.W. 388 (1936)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/michigan-supreme-court-of-michigan/2004/taxpayers-of-michigan-against-casinos-v-state-471-mich-306-dum1jn3d>