

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, INDIANAPOLIS DIVISION

Lebamoff Enterprises, Inc. v. Snow

757 F. Supp. 2d 811 (S.D. Ind. 2010) · No. No. 1:09-cv-744-JMS-TAB · Decided December 6, 2010

SUMMARY

The court granted summary judgment to the Indiana Alcohol & Tobacco Commission in a challenge to Indiana's requirement that wine dealers make off-premises deliveries through the dealer or a permitted employee. The plaintiffs argued that the delivery requirement violated the Commerce Clause and was preempted by federal law. The court concluded that the requirement was facially neutral and analyzed it under the Pike balancing test, consistent with Indiana's three-tier alcohol distribution system.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, Indianapolis Division
WRITING FOR THE COURT	Jane Magnus-Stinson
JURISDICTION	Indiana
DECIDED	December 6, 2010
DOCKET	No. 1:09-cv-744-JMS-TAB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs challenged an Indiana wine-delivery restriction under the Commerce Clause and the Federal Aviation Administration Authorization Act's preemption provision. Following removal from state court, the parties filed cross-motions for summary judgment.
STANDARD OF REVIEW	Summary judgment is appropriate when the admissible, uncontroverted evidence would require judgment as a matter of law; the court views reasonable inferences in favor of the nonmoving party and evaluates cross-motions independently. The party challenging a facially neutral statute bears the burden of establishing an unconstitutional burden on interstate commerce.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the district and elsewhere, subject to controlling Supreme Court and Seventh Circuit precedent.

PARTIES

Lebamoff Enterprises, Inc. d/b/a Cap N' Cork, Randy Lewandowski,
Luther Stroder v. P. Thomas Snow, in his official capacity as Chairman
of the Indiana Alcohol & Tobacco Commission

TOPICS

dormant commerce clause preemption supremacy clause commercial litigation federalism

PRACTICE AREAS

constitutional law federal courts commercial litigation alcohol regulation preemption

QUESTIONS PRESENTED

1. Whether Indiana Code section 7.1-3-15-3(d), which requires Indiana wine dealers to make off-premises deliveries through the permit holder or a permitted employee in a face-to-face transaction, violates the dormant Commerce Clause.
2. Whether Indiana Code section 7.1-3-15-3(d) is preempted by the Federal Aviation Administration Authorization Act, 49 U.S.C. section 14501(c)(1), under direct or conflict-preemption principles.

HOLDINGS

1. Indiana Code section 7.1-3-15-3(d) is facially neutral because it regulates Indiana wine dealers without distinguishing between in-state and out-of-state wine, wineries, or carriers; therefore, strict scrutiny does not apply.
2. Indiana Code section 7.1-3-15-3(d) survives Pike balancing because it regulates evenhandedly, advances the legitimate and powerful local interest of reducing minors' access to alcohol, and plaintiffs failed to present quantifiable evidence that the burden on interstate commerce was clearly excessive in relation to that interest.
3. Indiana Code section 7.1-3-15-3(d) is not preempted under 49 U.S.C. section 14501(c)(1) and *Rowe v. New Hampshire Motor Transport Association* because it regulates wine dealers rather than motor carriers and does not regulate a carrier's price, route, or service.
4. Indiana Code section 7.1-3-15-3(d) is not conflict-preempted because plaintiffs failed to show that compliance with state and federal law is impossible or that the Indiana requirement stands as an obstacle to Congress's objectives.

KEY QUOTATIONS

“state laws cannot ban, or severely limit, the direct shipment of out-of-state wine while simultaneously authorizing direct shipment by in-state producers; if a [s]tate chooses to allow direct shipment of wine, it must, under the Commerce Clause, do so on evenhanded terms.” (at 818)

“If a statute regulates even-handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits.” (at 822)

“it takes more than lawyers' talk to invalidate a statute under Pike.” (at 826)

FACTUAL BACKGROUND

Indiana law permitted wine dealers to deliver wine to customers' residences or designated locations only through the dealer or an employee holding an employee permit. Cap N' Cork, an Indiana wine retailer, preferred to use UPS rather than its permitted employees for distant deliveries, and two Indianapolis-area consumers preferred delivery rather than traveling to Fort Wayne. Cap N' Cork contracted with UPS and received three citations from the Indiana Alcohol & Tobacco Commission, prompting the constitutional and preemption challenge.

PROCEDURAL HISTORY

Cap N' Cork received citations from the Indiana Alcohol & Tobacco Commission for using UPS to deliver wine in violation of Indiana Code section 7.1-3-15-3(d). It filed a state-court action challenging the statute, and the Indiana Attorney General removed the case to federal district court. The district court denied plaintiffs' motion for summary judgment, granted the Commission Chairman's motion, and entered judgment for the defendant.

DISPOSITION

other

CASES CITED

- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Singer v. Raemisch, 593 F.3d 529 (7th Cir. 2010)
- Outlaw v. Newkirk, 259 F.3d 833 (7th Cir. 2001)
- Schacht v. Wis. Dep't of Corrections, 175 F.3d 497 (7th Cir. 1999)
- Franklin v. City of Evanston, 384 F.3d 838 (7th Cir. 2004)
- Pike v. Bruce Church, Inc., 397 U.S. 137 (1970)
- Granholm v. Heald, 544 U.S. 460 (2005)
- Baude v. Heath, 538 F.3d 608 (7th Cir. 2008)
- Hunt v. Washington State Apple Advertising Commission, 432 U.S. 333 (1977)
- City of Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985)
- Nat'l Paint & Coatings Ass'n v. City of Chicago, 45 F.3d 1124 (7th Cir. 1995)
- Cavel International, Inc. v. Madigan, 500 F.3d 551 (7th Cir. 2007)
- Rowe v. N.H. Motor Transport Ass'n, 552 U.S. 364 (2008)
- Aux Sable Liquid Prods. v. Murphy, 526 F.3d 1028 (7th Cir. 2008)
- Hoagland v. Town of Clear Lake, 415 F.3d 693 (7th Cir. 2005)
- Frank Bros. v. Wis. Dep't of Transp., 409 F.3d 880 (7th Cir. 2005)
- Bowen v. Kendrick, 487 U.S. 589 (1988)
- Hines v. Elkhart Gen. Hosp., 603 F.2d 646 (7th Cir. 1979)
- Brownsburg Area Patrons Affecting Change v. Baldwin, 137 F.3d 503 (7th Cir. 1998)

- Crawford v. Marion County Election Board, 553 U.S. 181 (2008)
- United States v. Marshall, 75 F.3d 1097 (7th Cir. 1996)
- Leisy v. Hardin, 135 U.S. 100 (1890)
- Bowman v. Chicago & Northwestern Railway Co., 125 U.S. 465 (1888)

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