

SUPREME COURT OF NEW HAMPSHIRE

Starr v. Governor, 154 N.H. 174

910 A.2d 1247 (2006) · No. No. 2005-470 · Decided September 26, 2006

SUMMARY

The Supreme Court of New Hampshire affirmed dismissal of Darren Starr’s petition for declaratory judgment challenging the enactment of the state’s truth-in-sentencing law during a gubernatorial special legislative session. The court held that the challenge to the legislature’s authority and procedural compliance presented a nonjusticiable political question, and it rejected the petitioner’s state and federal due process claims because public proceedings and hearings provided adequate notice and an opportunity to be heard.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Dalianis, J.; Broderick, C.J.; Duggan, J.; Galway, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	September 26, 2006
DOCKET	No. 2005-470
DISPOSITION	affirmed
PROCEDURAL POSTURE	The petitioner appealed the Superior Court's dismissal of his petition for declaratory judgment challenging the enactment of RSA 651:2, II-e.
STANDARD OF REVIEW	Questions of law, including justiciability, are reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Hampshire.
PARTIES	Darren Starr v. Governor

TOPICS

- constitutional law
- procedural due process
- separation of powers
- appellate procedure
- standard of review

PRACTICE AREAS

- constitutional law
- appellate procedure
- criminal procedure
- post-conviction relief

QUESTIONS PRESENTED

1. Whether Starr's challenge to the legislature's authority to enact RSA 651:2, II-e during a gubernatorially called special session presented a nonjusticiable political question.
2. Whether the enactment of RSA 651:2, II-e violated the due process protections of Part I, Article 15 of the New Hampshire Constitution or the Fourteenth Amendment to the United States Constitution.

HOLDINGS

1. The New Hampshire Constitution grants the legislature full power and authority to enact laws for the benefit and welfare of the State whenever it is in session, including a special session; the Governor's call does not limit the legislature's legislative response. In any event, the challenge to the legislature's adherence to its procedural rules presents a nonjusticiable political question.
2. The enactment of RSA 651:2, II-e did not violate the due process protections of either the New Hampshire Constitution or the Fourteenth Amendment because the legislative proceedings were open to the public and interested members of the public had notice of and an opportunity to be heard on the amendment.

KEY QUOTATIONS

“Part II, Article 5 of the State Constitution plainly constitutes a “textually demonstrable constitutional commitment” of the authority to make laws to the legislative branch.” (910 A.2d at 1250)

“the legislature, alone, has complete control and discretion whether it shall observe, enforce, waive, suspend, or disregard its own rules of procedure.” (910 A.2d at 1251)

“Because it is evident that the citizens of New Hampshire had notice of and an opportunity to be heard on the amendment, we conclude that the enactment of RSA 651:2, II-e during the 1981-1982 special session did not violate the due process protections of Part I, Article 15 of the State Constitution.” (910 A.2d at 1252)

FACTUAL BACKGROUND

In 1981, the Governor called the New Hampshire legislature into a special session to address matters including corrective legislation concerning laws enacted during the regular session. During that session, the legislature enacted an amendment to House Bill 20 that became RSA 651:2, II-e, the state's truth-in-sentencing law. Starr was convicted of second-degree murder in 1987 and sentenced under that statute. He later challenged the legislature's authority to enact the statute during the special session and alleged that the enactment violated state and federal due process.

PROCEDURAL HISTORY

Starr was convicted of second-degree murder and sentenced under New Hampshire's truth-in-sentencing statute. In December 2004, he sought a declaratory judgment that the legislature had illegally enacted the statute during a special session and that the enactment violated due process. The Superior Court granted the Governor's motion to dismiss on March 3, 2005, and Starr appealed.

DISPOSITION

affirmed

CASES CITED

- Hughes v. Speaker, N.H. House of Representatives, 152 N.H. 276, 876 A.2d 736 (2005)
- Baines v. N.H. Senate President, 152 N.H. 124, 876 A.2d 768 (2005)
- Petition of Judicial Conduct Comm., 151 N.H. 123, 855 A.2d 535 (2004)
- Opinion of the Justices, 115 N.H. 686, 349 A.2d 593 (1975)
- Keefe v. Roberts, 116 N.H. 195, 355 A.2d 824 (1976)
- City of Claremont v. Truell, 126 N.H. 30, 489 A.2d 581 (1985)
- State v. Ball, 124 N.H. 226, 471 A.2d 347 (1983)
- L C & S, Inc. v. Warren County Area Plan Commission, 244 F.3d 601 (7th Cir. 2001)

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