UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Peter P. Merrill v. Town of Addison, and State of New York, Intervenor-Appellee

Peter P. Merrill v. Town of Addison, 763 F.2d 80 (2d Cir. 1985) · No. No. 743, Docket 84-7760 · Decided May 24, 1985

SUMMARY

The Second Circuit affirmed summary judgment for the Town of Addison in a 42 U.S.C. § 1983 challenge to New York Real Property Tax Law § 305. The court held that the plaintiff's equal protection claim was barred by res judicata based on prior New York state-court litigation, and therefore did not reach the constitutional merits. The court also addressed the procedural requirements for state intervention under 28 U.S.C. § 2403(b).

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Wilfred Feinberg, Chief Judge; James L. Oakes, Circuit Judge; Ralph K. Winter, Circuit Judge
JURISDICTION	Federal
DECIDED	May 24, 1985
DOCKET	No. 743, Docket 84-7760
DISPOSITION	affirmed
PROCEDURAL POSTURE	Merrill appealed from the United States District Court for the Western District of New York's disposition of his 42 U.S.C. § 1983 challenge to the constitutionality of New York Real Property Tax Law § 305. The district court dismissed the complaint for failure to state a valid claim and granted summary judgment to the Town of Addison.
STANDARD OF REVIEW	De novo review of the legal and preclusion issues presented on appeal; summary judgment is proper when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential federal appellate opinion
PARTIES	Peter P. Merrill v. Town of Addison, State of New York, Intervenor-Appellee

TOPICS

res judicata · section 1983 · equal protection · property tax · civil procedure

PRACTICE AREAS

constitutional law · civil rights · tax law · civil procedure · municipal law

QUESTIONS PRESENTED

1. Whether the district court's failure to certify the constitutional challenge to the New York Attorney General under 28 U.S.C. § 2403(b) deprived the court of jurisdiction or required remand.
2. Whether Merrill's equal-protection challenge to New York Real Property Tax Law § 305 was barred by the preclusive effect of prior New York state-court litigation.
3. Whether New York Real Property Tax Law § 305 violated the Equal Protection Clause by permitting localities to use different assessment methods, thereby changing the relative value of the clergy tax exemption.

HOLDINGS

1. A district court's failure to certify the constitutionality of a state statute to the state attorney general under § 2403(b) does not deprive the court of subject-matter jurisdiction. Where the statute has been defended belatedly on appeal and no harm or prejudice is shown, remand is unnecessary.
2. Merrill's federal equal-protection challenge was barred by the prior New York state-court litigation because New York courts would preclude him from relitigating the validity of § 305 on that ground.
3. The court did not decide the constitutional merits because the claim was precluded. The court nevertheless stated that a statutory classification rationally related to legitimate governmental objectives generally does not violate equal protection absent a suspect classification or infringement of a constitutionally protected right.

KEY QUOTATIONS

> *"Certification is thus a duty of the court that should not be ignored, even if the claim is obviously frivolous or may be disposed of on other grounds."* (763 F.2d at 82)

> *"In Allen, the Court held that federal courts must give "preclusive effect to state-court judgments whenever the courts of the State from which the judgments emerged would do so.""* (763 F.2d at 83)

FACTUAL BACKGROUND

Merrill, a Baptist minister residing in Addison, New York, owned a home purchased for $17,000 in 1977. Before 1983, Addison assessed property at approximately ten percent of value, so Merrill's $1,500 clergy exemption eliminated his property-tax liability. In 1983, Addison adopted full-value assessment, assessed Merrill's home at $22,000, and imposed a $441.35 tax after applying the exemption. Merrill claimed that allowing localities to choose full-value or fractional assessment irrationally caused clergy members' exemptions to have different relative effects.

PROCEDURAL HISTORY

Merrill previously litigated state-court claims challenging New York Real Property Tax Law § 305 and Addison's 1983 assessment. The New York Supreme Court for Steuben County dismissed or denied the claims, and the Appellate Division affirmed both orders in April 1984. Merrill then filed this federal § 1983 action in May 1984; the district court dismissed the complaint and ruled for the Town. During the federal appeal, the Second Circuit notified the New York Attorney General and permitted the State to intervene under 28 U.S.C. § 2403(b).

DISPOSITION

affirmed

CASES CITED

- Wallach v. Lieberman, 366 F.2d 254, 257 n.8 (2d Cir. 1966)
- Kealey Pharmacy & Home Care Services v. Walgreen Co., 761 F.2d 345 (7th Cir. 1985)
- Puffer's Hardware v. Donovan, 742 F.2d 12 (1st Cir. 1984)
- Bridges v. Phillips Petroleum Co., 733 F.2d 1153, 1156 n.7 (5th Cir. 1984), cert. denied, 105 S. Ct. 921 (1985)
- Jones v. City of Lubbock, 727 F.2d 364, 372 (5th Cir. 1984)
- Sutton v. City of Milwaukee, 672 F.2d 644, 648-49 (7th Cir. 1982)
- Davis v. Fendler, 650 F.2d 1154, 1163-64 (9th Cir. 1981)
- Thatcher v. Tennessee Gas Transmission Co., 180 F.2d 644, 648 n.7 (5th Cir. 1950), cert. denied, 340 U.S. 829 (1950)
- New York City Transit Authority v. Beazer, 440 U.S. 568, 582 (1979)
- Montana v. United States, 440 U.S. 147, 153-54 (1979)
- Southern Pacific Railway Co. v. United States, 168 U.S. 1, 48-49 (1897)
- Allen v. McCurry, 449 U.S. 90, 96, 101 (1980)
- Reilly v. Reed, 45 N.Y.2d 24, 407 N.Y.S.2d 645, 379 N.E.2d 172 (1978)
- San Antonio Independent School District v. Rodriguez, 411 U.S. 1, 40 (1973)
- Madden v. Kentucky, 309 U.S. 83, 88 (1940)
- Hellerstein v. Assessor of Town of Islip, 37 N.Y.2d 1, 371 N.Y.S.2d 388, 332 N.E.2d 279 (1975)
- Foss v. City of Rochester, 104 A.D.2d 99, 481 N.Y.S.2d 191 (App. Div. 4th Dep't 1984)