

SUPREME COURT OF KENTUCKY

Jones v. Crittenden

96 S.W.3d 13 (Ky. 2002) · Decided November 21, 2002

SUMMARY

The Kentucky Supreme Court considers whether discrimination and retaliation claims brought under the Kentucky Civil Rights Act by Kentucky National Guard members are justiciable in a civilian court. It holds that federal constitutional and statutory control over the National Guard, together with the Feres doctrine and related military nonjusticiability principles, precludes the claims absent an express congressional authorization. The court affirms the Court of Appeals' issuance of a writ directing dismissal of the claims.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Graves; Lambert, C.J.; Cooper, J.; Graves, J.; Wintersheimer, J.; Johnstone, J.; Stumbo, J.; Keller, J.
JURISDICTION	Kentucky
DECIDED	November 21, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Kentucky Department of Military Affairs and Kentucky National Guard petitioned for a writ of prohibition or mandamus after the Franklin Circuit Court denied their motion for summary judgment in discrimination and retaliation claims brought under the Kentucky Civil Rights Act. The Kentucky Court of Appeals granted the writ, and the Supreme Court of Kentucky reviewed that decision.
STANDARD OF REVIEW	Review of the Court of Appeals' issuance of a writ of prohibition or mandamus and the underlying legal question of justiciability and federal preemption.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential.
PARTIES	Kentucky Department of Military Affairs, Kentucky National Guard v. Robert A. Jones, Cynthia White, Larry White, Reginald Youngblood

TOPICS

- military law
- civil rights
- preemption
- federalism
- constitutional law

PRACTICE AREAS

military law

civil rights

constitutional law

federal preemption

appellate writ practice

QUESTIONS PRESENTED

1. Whether Kentucky National Guard members may pursue discrimination and retaliation claims under KRS Chapter 344 for injuries arising from military service.
2. Whether federal control over the National Guard and the constitutional allocation of military authority make those claims nonjusticiable in a civilian court absent an express congressional authorization.
3. Whether the Court of Appeals properly granted a writ preventing the Franklin Circuit Court from proceeding with the claims.

HOLDINGS

1. Claims brought by Kentucky National Guardsmen under KRS Chapter 344 for injuries incurred while in military service are not justiciable in civilian court because Congress has not expressly authorized such suits.
2. The federal military scheme strongly implies preemption of state regulation of discrimination suits against military authorities in the circumstances presented.
3. The Court of Appeals properly granted the writ, and the Supreme Court of Kentucky affirmed that decision.

KEY QUOTATIONS

“As a result of having constitutional moorings in both the Militia Clause and the Armies Clause, the Guard’s role in our federal system is uniquely dualistic. This role does not fit neatly within the scope of either state or national concerns; historically the Guard has been, and today remains, something of a hybrid.” (96 S.W.3d at 15)

“Consequently, we hold that claims brought by Kentucky National Guardsmen pursuant to KRS Chapter 344 for injuries while in military service are not justiciable because Congress has not expressly permitted such suits.” (96 S.W.3d at 20)

FACTUAL BACKGROUND

Robert A. Jones, Cynthia White, Larry White, and Reginald Youngblood were current or former members of the Kentucky National Guard. They asserted discrimination and retaliation claims under the Kentucky Civil Rights Act based on actions occurring while they were serving in the military. The Kentucky National Guard and Kentucky Department of Military Affairs argued that adjudicating the claims would intrude on federally controlled military affairs and that the claims were preempted and nonjusticiable in a civilian court.

PROCEDURAL HISTORY

Current and former Kentucky National Guard members sued under KRS Chapter 344. The Franklin Circuit Court denied the National Guard defendants' motion for summary judgment, which argued that the claims

presented a federally preempted and nonjusticiable military matter. The Court of Appeals granted a writ directing the circuit judge to refrain from proceeding with trial and to dismiss the claims. The Supreme Court of Kentucky affirmed.

DISPOSITION

affirmed

CASES CITED

- Maryland v. United States, 381 U.S. 41 (1965), vacated on other grounds, 382 U.S. 159 (1965)
- Dukakis v. U.S. Department of Defense, 686 F. Supp. 30 (D. Mass. 1988), aff'd, 859 F.2d 1066 (1st Cir. 1988), cert. denied, 490 U.S. 1020 (1989)
- Johnson v. Powell, 414 F.2d 1060 (5th Cir. 1969)
- Johnson v. Orr, 780 F.2d 386 (3d Cir. 1986)
- Bruton v. Schnipke, 370 F. Supp. 1157 (E.D. Mich. 1974)
- Orloff v. Willoughby, 345 U.S. 83 (1953)
- Chappell v. Wallace, 462 U.S. 296 (1983)
- Parker v. Levy, 417 U.S. 733 (1974)
- United States ex rel. Toth v. Quarles, 350 U.S. 11 (1955)
- Schlesinger v. Councilman, 420 U.S. 738 (1975)
- Goldman v. Weinberger, 475 U.S. 503 (1986)
- Greer v. Spock, 424 U.S. 828 (1976)
- Perpich v. Department of Defense, 496 U.S. 334 (1990)
- Feres v. United States, 340 U.S. 135 (1950)
- United States v. Standard Oil Co., 332 U.S. 301 (1947)
- Coffman v. State of Michigan, 120 F.3d 57 (6th Cir. 1997)
- Major v. United States, 835 F.2d 641 (6th Cir. 1987)