SUPREME COURT OF OKLAHOMA

Richardson v. State ex rel. Oklahoma Tax Commission

2017 OK 85 · No. 116162 · Decided November 1, 2017

SUMMARY

The Oklahoma Supreme Court denied original jurisdiction over a taxpayer's challenge to three Oklahoma House bills alleged to violate the constitutional restrictions on revenue bills. The court held that the challenge to one bill was not ripe and that challenges to the other two were moot because those bills had already been addressed in related decisions; a separate concurrence would have found lack of standing.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Watt, J.; Combs, C.J.; Gurich, V.C.J.; Kauger, J.; Winchester, J.; Edmondson, J.; Reif, J.; Wyrick, J.
JURISDICTION	Oklahoma
DECIDED	November 1, 2017
DOCKET	116162
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original-jurisdiction application seeking declaratory relief and writs of prohibition and/or mandamus challenging three Oklahoma House bills as unconstitutional revenue bills.
STANDARD OF REVIEW	The court applied justiciability principles governing original jurisdiction, including ripeness and mootness; it did not reach the merits of the H.B. 2348 challenge.
PRECEDENTIAL VALUE	published Oklahoma Supreme Court opinion; the text states that it had not yet been released for publication and remained subject to revision or withdrawal
PARTIES	Gary L. Richardson, as a resident taxpayer, of the State of Oklahoma v. State of Oklahoma, ex rel. Oklahoma Tax Commission, Mary Fallin, Governor, in her official capacity, Mike Schulz, Senate President Pro Tempore, in his official capacity, Charles McCall, Speaker of the House, in his official capacity

TOPICS

appellate jurisdiction | tax | ripeness | mootness | constitutional law

PRACTICE AREAS

constitutional law | taxation | appellate procedure

QUESTIONS PRESENTED

1. Whether the Oklahoma Supreme Court should assume original jurisdiction over a challenge alleging that H.B. 2433, H.B. 2348, and H.B. 1449 are unconstitutional revenue bills under Article V, section 33 of the Oklahoma Constitution.
2. Whether the challenge to H.B. 2348 was ripe when it was uncertain whether the bill would increase state revenue.
3. Whether challenges to H.B. 2433 and H.B. 1449 were moot because the court had already decided their constitutional status in other cases.

HOLDINGS

1. The challenge to H.B. 2348 was not ripe because it was unclear whether the bill would increase Oklahoma revenue.
2. The challenge to H.B. 2433 was moot because the court had already determined that removal of a tax exemption is not a tax levy in the strict sense and that H.B. 2433 was not subject to Article V, section 33.
3. The challenge to H.B. 1449 was moot because the court had already determined that the Motor Fuels Tax Fee was a revenue-raising tax levy subject to Article V, section 33 and that H.B. 1449 was unconstitutional.

KEY QUOTATIONS

> *"Petitioner, Gary Richardson, requests this Court assume original jurisdiction to grant declaratory and other appropriate relief. Petitioner alleges that House Bills (H.B.) 2433, 2348, and 1449 are revenue bills that violate Article V, Section 33 of the Oklahoma Constitution. We deny original jurisdiction."* (¶ 0)

> *"To be appropriate for judicial inquiry, a controversy must be justiciable. A justiciable controversy must be definite, concrete, and capable of a decision granting or denying specific relief of a conclusive nature."* (¶ 5)

FACTUAL BACKGROUND

H.B. 2433 partially removed a state sales-tax exemption for motor-vehicle purchases. H.B. 2348 froze Oklahoma's standard income-tax deduction at the 2017 level rather than continuing to tie it to the federal deduction, but its revenue effect was uncertain. H.B. 1449 imposed annual motor-fuels tax fees on electric-drive and hybrid-drive vehicles and directed the proceeds to the State Highway Construction and Maintenance Fund.

PROCEDURAL HISTORY

Richardson filed an application in the Oklahoma Supreme Court on June 28, 2017. The court heard oral argument on August 8, 2017. The court declined to assume original jurisdiction because the challenge to H.B. 2348 was not ripe and the challenges to H.B. 2433 and H.B. 1449 were moot in light of intervening decisions addressing those bills.

DISPOSITION

writ_denied

CASES CITED

- Oklahoma Automobile Dealers Association v. State ex rel. Oklahoma Tax Commission, 2017 OK 64
- Sierra Club v. State ex rel. Oklahoma Tax Commission, 2017 OK 83
- Dank v. Benson, 2000 OK 40, ¶ 8, 5 P.3d 1088, 1091
- Rogers v. Excise Board of Greer County, 1984 OK 95, ¶ 15, 701 P.2d 754, 761
- Fent v. Fallin, 2014 OK 105, ¶¶ 13, 18, 345 P.3d 1113, 1117-18
- Deutsche Bank National Trust Co. v. Matthews, 2012 OK 14, ¶ 4, 273 P.3d 43, 45-46
- Lujan v. Defenders of Wildlife, 504 U.S. 555, 560, 570 n.5 (1992)
- Hendrick v. Walters, 1993 OK 162, ¶ 5 n.14, 865 P.2d 1232, 1236 n.14
- Cities Service Co. v. Gulf Oil Corp., 1999 OK 16, ¶ 3, 976 P.2d 545, 547
- DaimlerChrysler Corp. v. Cuno, 547 U.S. 332, 342 (2006)
- Elk Grove Unified School District v. Newdow, 542 U.S. 1, 11 (2004)