

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Baker v. USD 229 Blue Valley

No. No. 20-3054, United States Court of Appeals for the Tenth Circuit (November 3, 2020)

SUMMARY

****Baker v. USD 229 Blue Valley, 10th Cir. 2020**** – Standing; Article III injury-in-fact; vaccination religious exemption. The Tenth Circuit affirmed dismissal for lack of standing, holding that a parent who received a religious exemption for her child from school vaccination requirements failed to show a concrete, imminent injury from the mere possibility the district might revoke the exemption. Her desire to have future "options" for homeschooling or child care was a "some day" intention insufficient to establish injury-in-fact. The court rejected pre-enforcement standing theories where no credible threat of enforcement existed.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Matheson; McHugh; Eid
JURISDICTION	Federal
DECIDED	November 3, 2020
DOCKET	No. 20-3054
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from dismissal for lack of standing under Rule 12(b)(1).
STANDARD OF REVIEW	We review de novo a dismissal for lack of subject-matter jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1). We review any findings of jurisdictional facts for clear error.
PRECEDENTIAL VALUE	Published
PARTIES	Terri E. Baker v. USD 229 Blue Valley; Lee A. Norman; Derek Schmidt; Laura Kelly

TOPICS

- standing
- subject matter jurisdiction
- motions to dismiss
- constitutional law
- appellate jurisdiction

PRACTICE AREAS

- Constitutional Law
- Civil Procedure

QUESTIONS PRESENTED

1. Whether Ms. Baker has Article III standing to challenge Kansas vaccination laws and religious exemptions based on the possible revocation of S.F.B.'s religious exemption.
2. Whether Ms. Baker has Article III standing based on her desire to exercise certain options for S.F.B.'s schooling or care (home schooling, school programs, licensed child care).

HOLDINGS

1. Ms. Baker has not shown an injury in fact because the district granted the exemption and has not indicated any intent to revoke; the threat of revocation is not imminent or credible.
2. Ms. Baker's desire to have options for S.F.B. is a 'some day' intention that does not establish actual or imminent injury.

KEY QUOTATIONS

“To establish injury in fact, a plaintiff must show that he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'” (at 8)

“An allegation of future injury may suffice if the threatened injury is 'certainly impending,' or there is a 'substantial risk that the harm will occur.'” (at 8-9)

“Ms. Baker's unusual standing theory falls outside any recognized notion of injury based on the potential enforcement of a law.” (at 11)

“The Bakers submitted a religious-exemption statement, the District decided not to enforce the vaccination requirement against S.F.B., and it instead granted him an exemption. Ms. Baker alleges no facts to suggest the District will revisit this decision, and Dr. Schmidt has declared that it will not.” (at 13)

“As in Lujan v. Defenders of Wildlife, Ms. Baker's desire to have 'options' for S.F.B. is a 'some day' intention that does not establish 'actual or imminent injury.'” (at 15)

FACTUAL BACKGROUND

Ms. Baker's son S.F.B. attended preschool in the Blue Valley School District. The Bakers submitted a statement to the District claiming a religious exemption from vaccination requirements. The statement did not expressly state that S.F.B. was an adherent of a religious denomination under Kan. Stat. § 72-6262(b)(2), but the District accepted it and granted the exemption. S.F.B. remained unvaccinated and attended preschool without incident. Ms. Baker feared the District would revoke the exemption. She also wished to have the option of enrolling S.F.B. in a non-accredited private school (home school), school programs, or licensed child care, but anticipated denial of a religious exemption under Kansas law.

PROCEDURAL HISTORY

The district court granted motions to dismiss for lack of subject-matter jurisdiction, holding that Ms. Baker had not satisfied the injury-in-fact requirement to have standing. The court dismissed the action without prejudice. Ms. Baker appealed.

DISPOSITION

affirmed

CASES CITED

- Chance v. Zinke, 898 F.3d 1025 (10th Cir. 2018)
- Ingram v. Faruque, 728 F.3d 1239 (10th Cir. 2013)
- Rio Grande Silvery Minnow (*Hybognathus amarus*) v. Bureau of Reclamation, 599 F.3d 1165 (10th Cir. 2010)
- Hollingsworth v. Perry, 570 U.S. 693 (2013)
- Spokeo, Inc. v. Robins, 136 S. Ct. 1540 (2016)
- Susan B. Anthony List v. Driehaus, 573 U.S. 149 (2014)
- Clapper v. Amnesty Int'l USA, 568 U.S. 398 (2013)
- Lujan v. Defs. of Wildlife, 504 U.S. 555 (1992)
- Pueblo of Jemez v. United States, 790 F.3d 1143 (10th Cir. 2015)
- Holt v. United States, 46 F.3d 1000 (10th Cir. 1995)
- Stuart v. Colo. Interstate Gas Co., 271 F.3d 1221 (10th Cir. 2001)
- Wheeler v. Hurdman, 825 F.2d 257 (10th Cir. 1987)
- Redmon v. United States, 934 F.2d 1151 (10th Cir. 1991)
- Babbitt v. Farm Workers, 442 U.S. 289 (1979)
- Virginia v. Am. Booksellers Ass'n, Inc., 484 U.S. 383 (1988)
- Winsness v. Yocom, 433 F.3d 727 (10th Cir. 2006)
- D.L.S. v. Utah, 374 F.3d 971 (10th Cir. 2004)
- Mink v. Suthers, 482 F.3d 1244 (10th Cir. 2007)
- Cressman v. Thompson, 798 F.3d 938 (10th Cir. 2015)
- Consumer Data Indus. Ass'n v. King, 678 F.3d 898 (10th Cir. 2012)
- United States v. Sup. Ct. of N.M., 839 F.3d 888 (10th Cir. 2016)
- Kansas Natural Resource Coalition v. U.S. Department of Interior, 971 F.3d 1222 (10th Cir. 2020)
- Paper, Allied-Indus., Chem. & Energy Workers Int'l Union v. Continental Carbon Co., 428 F.3d 1285 (10th Cir. 2005)
- Pringle v. United States, 208 F.3d 1220 (10th Cir. 2000)
- Day v. Bond, 500 F.3d 1127 (10th Cir. 2007)
- Awad v. Ziriaux, 670 F.3d 1111 (10th Cir. 2012)
- Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, 454 U.S. 464 (1982)

CITED IN

- Baker v. USD 229 Blue Valley, Baker v. USD 229 Blue Valley, 979 F.3d 866, 872 (10th Cir. 2020)
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