

SUPREME COURT OF OREGON

Kellas v. Department of Corrections, 341 Or. 471

145 P.3d 139 (2006) · No. SC S51378; CA A118362 · Decided October 12, 2006

SUMMARY

The Oregon Supreme Court held that ORS 183.400(1) authorizes any person to challenge the validity of an administrative rule without demonstrating a personal stake or practical effect on individual rights. The court rejected the Court of Appeals' conclusion that constitutional justiciability principles required such a showing and remanded for consideration of the merits of the rule challenge.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Durham, J.; Carson, C.J.; Gillette, J.; De Muniz, J.; Balmer, J.; Kistler, J.
JURISDICTION	Oregon
DECIDED	October 12, 2006
DOCKET	SC S51378; CA A118362
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Department of Corrections and Criminal Justice Commission petitioned the Oregon Supreme Court for review of a Court of Appeals decision dismissing Kellas's petition under ORS 183.400 for lack of standing.
STANDARD OF REVIEW	The court reviewed the standing issue as a question of statutory and constitutional law, including the scope of the legislature's authority and the judicial power under the Oregon Constitution.
PRECEDENTIAL VALUE	Published Oregon Supreme Court opinion; precedential.
PARTIES	Department of Corrections, Criminal Justice Commission v. Scott Thomas Kellas

TOPICS

- judicial review of agency action
- administrative procedure act
- administrative law
- appellate procedure
- constitutional law

PRACTICE AREAS

Administrative law

Appellate procedure

Constitutional law

Statutory interpretation

QUESTIONS PRESENTED

1. Whether ORS 183.400(1), which permits a petition by any person to challenge the validity of an administrative rule, requires the petitioner to show a personal stake or that the requested relief will have a practical effect on the petitioner's interests.
2. Whether the Oregon Constitution imposes an additional personal-injury or practical-effects requirement on a petitioner authorized by ORS 183.400(1) to challenge an administrative rule.
3. Whether the Court of Appeals erred by dismissing Kellas's rule challenge without reaching its merits.

HOLDINGS

1. ORS 183.400(1) authorizes any person to petition the Court of Appeals to determine the validity of an administrative rule and imposes no additional statutory requirement that the petitioner demonstrate a personal stake, personal injury, or practical effect on individual interests.
2. The Oregon Constitution does not require a petitioner authorized by ORS 183.400(1) to demonstrate a personal right, personal injury, or practical effect on individual interests before an Oregon court may exercise judicial power over the rule challenge.
3. The Court of Appeals erred by dismissing Kellas's petition for lack of standing; the petition satisfied ORS 183.400(1), and the Court of Appeals must address the merits.

KEY QUOTATIONS

“The legislature intends by the statute to authorize any person to invoke the judicial power of the court to test the validity of every administrative rule under existing statutory and constitutional law and, thus, to advance the objective that all agency rulemaking shall remain within applicable procedural and substantive legal bounds.” (at 142)

“The correct question accordingly is not whether Article VII, section 1, requires a personal stake in the proceeding. Rather, the question is whether the legislature has empowered citizens to initiate a judicial proceeding to vindicate the public's interest in requiring the government to respect the limits of its authority under law.” (at 146)

FACTUAL BACKGROUND

Brian Kellas, the respondent's adult son, spent 311 days on court-ordered house arrest before pleading guilty to robbery and burglary. After sentencing, the Department of Corrections refused to credit that period against his prison term, relying on two administrative rules. Scott Thomas Kellas challenged those rules under ORS 183.400, asserting that they conflicted with ORS 137.370(2)(a) and the Fourteenth Amendment, but the Court of Appeals dismissed the challenge for lack of standing.

PROCEDURAL HISTORY

Kellas challenged two administrative rules governing credit for pretrial house arrest. The Oregon Court of Appeals declined to reach the merits, held that Kellas lacked standing because invalidation would not have a practical effect on his individual interests, and dismissed the petition. The Oregon Supreme Court reversed and remanded for the Court of Appeals to address the merits.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals must address the merits of Kellas's petition challenging the administrative rules.

CASES CITED

- Eckles v. State of Oregon, 306 Or. 380, 383, 760 P.2d 846 (1988)
- Local No. 290 v. Department of Environmental Quality, 323 Or. 559, 566, 919 P.2d 1168 (1996)
- Kellas v. Department of Corrections, 190 Or. App. 331, 334, 78 P.3d 1250 (2003)
- Utsey v. Coos County, 176 Or. App. 524, 539-40, 32 P.3d 933 (2001)
- Yancy v. Shatzer, 337 Or. 345, 362, 97 P.3d 1161 (2004)
- State v. Ware, 13 Or. 380, 10 P. 885 (1886)
- State ex rel. Durkheimer v. Grace, 20 Or. 154, 158, 25 P. 382 (1890)
- Marbet v. Portland General Electric, 277 Or. 447, 453-57, 561 P.2d 154 (1977)
- Brian v. Oregon Government Ethics Commission, 319 Or. 151, 159, 874 P.2d 1294 (1994)
- Cooper v. Eugene School District No. 4J, 301 Or. 358, 723 P.2d 298 (1986)
- Deras v. Keisling, 320 Or. 1, 3, 879 P.2d 850 (1994)
- Oregon Newspaper Publishers v. Department of Corrections, 329 Or. 115, 118 n.1, 988 P.2d 359 (1999)
- ASARCO Inc. v. Kadish, 490 U.S. 605, 617, 109 S. Ct. 2037, 104 L. Ed. 2d 696 (1989)
- Oregon Cry. Mfgs. Ass'n v. White, 159 Or. 99, 78 P.2d 572 (1938)
- Eacret v. Holmes, 215 Or. 121, 333 P.2d 741 (1958)
- Gortmaker v. Seaton, 252 Or. 440, 443, 450 P.2d 547 (1969)
- Cummings Construction v. School District No. 9, 242 Or. 106, 408 P.2d 80 (1965)
- Budget Rent-A-Car v. Multnomah County, 287 Or. 93, 597 P.2d 1232 (1979)
- People for Ethical Treatment v. Institute of Animal Care, 312 Or. 95, 99, 817 P.2d 1299 (1991)
- McIntire v. Forbes, 322 Or. 426, 433-34, 909 P.2d 846 (1996)