

SUPREME COURT OF OKLAHOMA

Cossey v. Cherokee Nation Enterprises, LLC

212 P.3d 447 (Okla. 2009) · No. No. 105,300 · Decided January 20, 2009

SUMMARY

The Oklahoma Supreme Court considers whether an Oklahoma state district court is a court of competent jurisdiction under the Tribal Gaming Compact between the Cherokee Nation and Oklahoma. The court addresses state-court jurisdiction, tribal sovereign immunity, Public Law 280, the Indian Gaming Regulatory Act, and the Montana framework for tribal authority over nonmembers. It holds that the state court is a court of competent jurisdiction for the plaintiff's tort claim.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Watt, J.; Taylor, V.C.J.; Opala, J.; Winchester, J.; Colbert, J.; Edmondson, C.J.; Kauger, J.; Hargrave, J.; Reif, J.
JURISDICTION	Oklahoma
DECIDED	January 20, 2009
DOCKET	No. 105,300
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff brought a personal-injury tort action in Oklahoma state court after being injured at the Cherokee Casino. Defendants specially appeared and moved to dismiss for lack of subject-matter and personal jurisdiction. After the trial court denied the motion, the Oklahoma Supreme Court granted certiorari to review the certified interlocutory order.
STANDARD OF REVIEW	De novo review of the legal question whether the state court had jurisdiction.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Cherokee Nation Enterprises, LLC, formerly known as Cherokee Nation Enterprises, Inc., Cherokee Nation Enterprises v. Loyman Cossey

TOPICS

tribal jurisdiction

tribal sovereignty

tribal gaming

subject matter jurisdiction

personal injury

PRACTICE AREAS

Federal Indian law

Tribal gaming

Civil procedure

Torts

Subject-matter jurisdiction

QUESTIONS PRESENTED

1. Whether the District Court of Rogers County is a court of competent jurisdiction under the Cherokee Nation-State of Oklahoma Tribal Gaming Compact.
2. Whether Public Law 280 or the Indian Gaming Regulatory Act precluded Oklahoma state-court jurisdiction over the non-Indian plaintiff's tort claim arising at a tribal casino.
3. Whether the Cherokee Nation's sovereign interests or the Montana exceptions required the claim to be heard in tribal court rather than state court.

HOLDINGS

1. The Oklahoma district court is a court of competent jurisdiction under the Cherokee Nation-State Tribal Gaming Compact to hear Cossey's tort claim.
2. Public Law 280 is not an impediment to Oklahoma state-court jurisdiction in this case and is inapplicable to the Compact-based tort claim.
3. Neither the Indian Gaming Regulatory Act nor this Compact enlarged the Cherokee Nation's tribal-court jurisdiction over Cossey's claim.
4. The Cherokee Nation's sovereign interests were not implicated in a manner requiring tribal-court jurisdiction because Cossey's visit to the casino did not fall within either Montana exception.

KEY QUOTATIONS

"We hold that the state court is a "court of competent jurisdiction" as that term is used in the Compact executed by the parties." (212 P.3d at 450)

"In the present case, we find the Tribe has not met its burden of establishing that it falls within one of Montana's exceptions." (212 P.3d at 459)

"The Oklahoma district court is a "court of competent jurisdiction" to hear Cossey's tort claim." (212 P.3d at 460)

FACTUAL BACKGROUND

Loyman Cossey, a non-Indian Oklahoma resident, was injured on October 19, 2005, while visiting the Cherokee Casino in Roland, Oklahoma. He sued Cherokee Nation Enterprises, the casino operator, in Oklahoma state court. The casino was located on land alleged to be Indian land, and the parties agreed that the Cherokee Nation gaming compact included provisions consenting to suit on specified tort claims.

PROCEDURAL HISTORY

Cossey sued Cherokee Nation Enterprises in the District Court of Rogers County, Oklahoma. The trial court denied CNE's motion to dismiss, concluding that the state court had jurisdiction and was a court of competent jurisdiction under the Cherokee Nation-State gaming compact. The Oklahoma Supreme Court reviewed the interlocutory order and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Proceed with the tort action in the Oklahoma district court consistent with the opinion. The trial court must address the merits and any remaining factual issues, including the status of the casino land and the Tribe's liability; the Supreme Court expressed no opinion on the validity of the underlying injury claim.

CASES CITED

- Tibbetts v. Sight 'n Sound Appliance Centers, Inc., 2003 OK 72, 77 P.3d 1042
- Christian v. Gray, 2003 OK 10, 65 P.3d 591
- Lewis v. Sac & Fox Tribe of Okla. Hous. Auth., 1994 OK 20, 896 P.2d 503
- Kennerly v. District Court of Ninth Judicial District of Montana, 400 U.S. 423 (1971)
- Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505 (1991)
- Osprey L.L.C. v. Kelly-Moore Paint Co., Inc., 1999 OK 50, 984 P.2d 194
- Shea v. Shea, 1975 OK 90, 537 P.2d 417
- Nevada v. Hicks, 533 U.S. 353 (2001)
- Tafflin v. Levitt, 493 U.S. 455 (1990)
- Williams v. Lee, 358 U.S. 217 (1959)
- Strate v. A-1 Contractors, 520 U.S. 438 (1997)
- Montana v. United States, 450 U.S. 544 (1981)
- Plains Commerce Bank v. Long Family Land & Cattle Co., 554 U.S. 316 (2008)
- Atkinson Trading Co. v. Shirley, 532 U.S. 645 (2001)
- Bittle v. Bahe, 2008 OK 10, 192 P.3d 810
- Martin v. Aramark Services, Inc., 2004 OK 38, 92 P.3d 96