

SUPREME COURT OF ALABAMA

Schramm v. Spottswood

109 So. 3d 154 (Ala. 2012) · No. 1110794; 1110915 · Decided October 19, 2012

SUMMARY

The Alabama Supreme Court affirmed judgments approving pier-construction permits issued to the Spottswoods by the Alabama Department of Conservation and Natural Resources and Baldwin County, despite the permits’ deviation from the applicable 10-foot setback rule. The court held that the agency had a rational basis for permitting the setback exception to avoid unreasonable infringement of the Spottswoods’ common-law riparian right to build out to navigable water, and it affirmed denial of the Spottswoods’ motion to revisit previously established riparian boundaries.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Justice; Malone, C.J.; Parker, J.; Shaw, J.; Stuart, J.; Wise, J.
JURISDICTION	Alabama
DECIDED	October 19, 2012
DOCKET	1110794; 1110915
DISPOSITION	affirmed
PROCEDURAL POSTURE	Schramm appealed the Baldwin Circuit Court's judgment approving DCNR and Baldwin County pier-construction permits issued to the Spottswoods despite the 10-foot setback requirement. The Spottswoods cross-appealed the denial of their Rule 59(e) motion to alter, amend, or vacate the prior judgment establishing their riparian boundaries.
STANDARD OF REVIEW	For the administrative-permit issue, the circuit court's judgment is reviewed without a presumption of correctness, and the agency decision must be affirmed unless it was arbitrary, capricious, or not made in compliance with applicable law; the reviewing court may not substitute its judgment for that of the agency. Review of the denial of a Rule 59(e) motion is for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Howard M. Schramm, Jr., George G. Spottswood, Amy H. Spottswood v. George G. Spottswood, Amy H. Spottswood, Alabama Department

TOPICS

real estate

judicial review of agency action

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether DCNR's decision to issue the Spottswoods a pier permit allowing construction within the 10-foot riparian setback was arbitrary, capricious, or contrary to applicable law.
2. Whether the trial court abused its discretion by denying the Spottswoods' Rule 59(e) motion filed nearly five years after the judgment establishing their riparian boundaries.

HOLDINGS

1. DCNR Rule 220-4-.09(4)(c)(1) provides a lawful basis for DCNR to grant an exception to the 10-foot setback requirement when strict enforcement would unreasonably infringe upon a traditional common-law riparian right.
2. DCNR's decision to approve the Spottswoods' pier permit despite the setback violation was not arbitrary, capricious, clearly unreasonable, or without a rational basis.
3. The trial court acted within its discretion in denying the Spottswoods' motion to alter, amend, or vacate the prior judgment because the motion sought to relitigate an issue already decided by the trial court and affirmed on appeal.

KEY QUOTATIONS

“There is no dispute that the proper standard of review in cases based on an administrative agency’s decision is whether that decision was arbitrary or capricious or was not made in compliance with applicable law.” (at 159-160)

“Thus, the Spottswoods do have the common-law right to build a pier in the waters in front of their property extending out to the point of navigability, and, under Rule 220-4-.09(4)(c)(1), DCNR may interpret and implement its rules in a manner that will respect that right.” (at 161)

“For these reasons, we cannot conclude that DCNR’s decision to approve the Spottswoods’ plans for construction of the pier was clearly unreasonable, arbitrary, or without a rational basis.” (at 162)

“The issues decided by an appellate court become the law of the case on remand to the trial court, and the trial court is not free to reconsider those issues.” (at 162-163)

FACTUAL BACKGROUND

The parties owned three adjoining waterfront lots on Mobile Bay, and prior litigation established the upland and riparian boundaries between the properties. The Spottswoods sought permits to construct a replacement pier, but their proposed pier would not maintain the 10-foot setback from the riparian boundary required by DCNR and Baldwin County regulations. DCNR determined that the unusual shape of the Spottswoods' riparian-use area and the need to reach reasonable navigable depth justified allowing the pier within the setback, while maintaining a reasonable separation from neighboring piers.

PROCEDURAL HISTORY

The Baldwin Circuit Court established the parties' upland and riparian boundaries in a 2007 judgment and retained jurisdiction over subsequent boundary and pier-construction issues. After DCNR and Baldwin County issued permits allowing the Spottswoods to construct a pier within the applicable setback area, Schramm and the Reimers sought to invalidate the permits. The circuit court denied that request and also denied the Spottswoods' motion to modify the 2007 boundary judgment. The Supreme Court of Alabama affirmed both rulings.

DISPOSITION

affirmed

CASES CITED

- Spottswood v. Reimer, 41 So. 3d 787 (Ala. Civ. App. 2009)
- Ex parte Cove Properties, Inc., 796 So. 2d 331 (Ala. 2000)
- Cove Properties, Inc. v. Walter Trent Marina, Inc., 796 So. 2d 322 (Ala. Civ. App. 1999)
- Ex parte City of Fairhope, 739 So. 2d 35 (Ala. 1999)
- State Health Planning & Resource Development Administration v. Rivendell of Alabama, Inc., 469 So. 2d 613 (Ala. Civ. App. 1985)
- Alabama Department of Public Health v. Perkins, 469 So. 2d 651 (Ala. Civ. App. 1985)
- State Department of Revenue v. Acker, 636 So. 2d 470 (Ala. Civ. App. 1994)
- Bradley v. Town of Argo, 2 So. 3d 819 (Ala. 2008)
- Ex parte S.T.S., 806 So. 2d 336 (Ala. 2001)
- Murphree v. Murphree, 600 So. 2d 301 (Ala. Civ. App. 1992)
- Wehby v. Turpin, 710 So. 2d 1243 (Ala. 1998)
- Port Clinton Associates v. Board of Selectmen, 217 Conn. 588, 587 A.2d 126 (1991)
- State ex rel. Head v. Slotness, 289 Minn. 485, 185 N.W.2d 530 (1971)
- Rogers v. South Slope Holding Corp., 172 Misc. 2d 33, 656 N.Y.S.2d 169 (Sup. Ct. 1997)
- Hoff v. Peninsula Drainage District No. 2, 172 Or. 630, 143 P.2d 471 (1943)
- Great American Insurance Co. v. Tugs Cissi Reinauer, 933 F. Supp. 1205 (S.D.N.Y. 1996)
- Illinois Central Railroad Co. v. Illinois, 146 U.S. 387, 13 S. Ct. 110, 36 L. Ed. 1018 (1892)