

TEMPORARY EMERGENCY COURT OF APPEALS

Bulzan v. Atlantic Richfield Co.

620 F.2d 278 (Em.App. 1980) · Decided April 7, 1980

SUMMARY

The court considered whether a party is entitled to bring a private action for treble damages and injunctive relief under section 210 of the Economic Stabilization Act when the underlying violations have already been the subject of a remedial order by the Federal Energy Administration. The court held that the entry of a remedial order does not foreclose the complainant's right to institute a private action for damages and injunctive relief under section 210. The court reasoned that the administrative and private remedies provided by the Act are independent and serve different purposes, with private remedies focusing on the relationship between a violator and an aggrieved party, while administrative remedies focus on the relationship between a violator and the federal government.

CASE DETAILS

COURT	Temporary Emergency Court of Appeals
WRITING FOR THE COURT	Peck
JURISDICTION	USA
DECIDED	April 7, 1980
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the grant of summary judgment for Atlantic Richfield Company in a private action seeking treble damages and injunctive relief under section 210 of the Economic Stabilization Act.
STANDARD OF REVIEW	De novo review of the district court's grant of summary judgment and its interpretation of the Economic Stabilization Act.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Bulzan v. Atlantic Richfield Co.

TOPICS

- administrative law
- judicial review of agency action
- exhaustion of remedies
- remedies
- summary judgment

PRACTICE AREAS

- administrative law
- energy regulation
- civil procedure
- statutory interpretation
- remedies

QUESTIONS PRESENTED

1. Whether the entry of a final Federal Energy Administration remedial order forecloses an aggrieved party from bringing a private action for treble damages and injunctive relief under section 210 of the Economic Stabilization Act.
2. Whether the potential conflict between a private judicial action and an administrative order requires dismissal of the private action rather than use of procedures such as primary-jurisdiction abstention, agency participation, discovery, or adjustment of damages.

HOLDINGS

1. The entry of a remedial order by the Federal Energy Administration or Department of Energy does not foreclose an aggrieved party's right to institute a private action for damages and injunctive relief under section 210 of the Economic Stabilization Act.
2. Potential inconsistency between a private judicial determination and a prior or subsequent agency determination does not require dismissal of the private action; courts may use less drastic procedures to manage the conflict.

KEY QUOTATIONS

"We conclude that the district court failed to recognize the basic dichotomy between private actions under section 210 and administrative actions under section 211. Accordingly, we reverse." (620 F.2d at 281)

"Consistent with these decisions, we now hold that the entry of a remedial order by the FEA or DOE does not foreclose the complainant's right to institute a private action for damages and injunctive relief under section 210." (620 F.2d at 283)

"Contrary to the conclusion of the district court, we hold that the entry of the remedial order by the FEA did not bar plaintiff's right to institute a private action for damages and injunctive relief pursuant to section 210 of ESA." (620 F.2d at 284)

FACTUAL BACKGROUND

Bulzan, a commission supplier of petroleum products, was informed by Atlantic Richfield that he could no longer deliver products to three service stations whose business he had developed and historically serviced. The Federal Energy Administration determined that Bulzan was a wholesale purchaser-reseller and that Atlantic Richfield's usurpation of the customers violated the Mandatory Petroleum Allocation Regulations. The agency issued a remedial order requiring Atlantic Richfield either to supply Bulzan with equivalent product volumes or to pay him the commissions he would have earned. After the administrative order became final, Bulzan brought a private action seeking treble damages and injunctive relief based on the same underlying violations.

PROCEDURAL HISTORY

The Federal Energy Administration issued a remedial order requiring Atlantic Richfield to recognize Bulzan's status as a wholesale purchaser-reseller and either supply him with specified petroleum products or pay the commissions he would have earned. After the order became final, Bulzan filed a private action in the Northern District of California under section 210, which was transferred to the Northern District of Ohio under 28 U.S.C.

§ 1404(a). The district court granted Atlantic Richfield's motion for summary judgment, concluding that Bulzan could not bring an independent private action after pursuing administrative remedies and could proceed only under section 211. The Temporary Emergency Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion, with the private section 210 action allowed to proceed subject to appropriate procedures for addressing possible conflict with the FEA remedial order.

CASES CITED

- In re Atlantic Richfield Co., 1976-1977 CCH Energy Management Transfer Binder ¶ 85,023
- Evanson v. Union Oil Co. of California, 5 CCH Energy Management ¶ 26,056 (D. Minn. 1976)
- Ashland Oil Co. of California v. Union Oil Co. of California, 567 F.2d 984, 990 n.11 (Em.App. 1977), cert. denied, 435 U.S. 994, 98 S.Ct. 1644, 56 L.Ed.2d 83 (1978)
- Air Products & Chemicals, Inc. v. United Gas Pipeline Co., 503 F.2d 1060 (Em.App. 1974)
- Orange & Rockland Utilities, Inc. v. Howard Oil Co., 416 F. Supp. 460, 465 (S.D.N.Y. 1976)
- Brennan Petroleum P. Co., Inc. v. Pasco Petroleum Co., Inc., 373 F. Supp. 1312, 1315 (D. Ariz. 1974)
- Dyke v. Gulf Oil Corp., 601 F.2d 557 (Em.App. 1979)
- Terrell Oil Corp. v. Atlantic Richfield Co., 468 F. Supp. 860 (E.D. Tenn. 1978)
- Pasco, Inc. v. FEA, 525 F.2d 1391, 1400-1401 (Em.App. 1975)
- Far East Conference v. United States, 342 U.S. 570, 574-575, 72 S.Ct. 492, 494, 96 L.Ed. 576 (1952)

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