

SUPREME COURT OF CALIFORNIA

Turner v. Victoria

No. S271054, Supreme Court of California

SUMMARY

A director of a nonprofit public benefit corporation who brings a lawsuit under Corporations Code sections 5142 (breach of charitable trust), 5233 (self-dealing transactions), and 5223 (removal of directors for malfeasance) does not lose standing to maintain the action if the director subsequently loses that position. The California Supreme Court held that these statutes require only that the plaintiff be a director at the time the action is commenced; there is no continuous directorship requirement. The court rejected analogies to shareholder derivative actions under section 800, emphasized the legislative intent to expand standing and prevent gamesmanship by accused directors, and concluded that former directors may continue litigating even after removal or failure to be reelected.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Guerrero, C. J.; Corrigan, J.; Liu, J.; Kruger, J.; Groban, J.; Jenkins, J.; Evans, J.
JURISDICTION	California
DOCKET	S271054
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from the Superior Court of San Diego County. The Court of Appeal affirmed the trial court's order sustaining demurrers and dismissing the complaint. The Supreme Court granted review.
STANDARD OF REVIEW	De novo review of questions of statutory construction.
PRECEDENTIAL VALUE	published
PARTIES	Debra Turner v. Laurie Anne Victoria, Joseph Gronotte, Gregory Rogers, Anthony Cortes, The Conrad Prebys Foundation

TOPICS

- standing
- statutory interpretation
- corporate law
- breach of fiduciary duty
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a director of a nonprofit public benefit corporation who loses that position after instituting a lawsuit under Corporations Code sections 5142, 5233, and 5223 loses standing to maintain the lawsuit.

HOLDINGS

1. A director of a nonprofit public benefit corporation who brings a lawsuit pursuant to Corporations Code sections 5142, 5233, and 5223 does not lose standing to continue litigating the suit if the director subsequently loses that position.

KEY QUOTATIONS

“the statutes do not impose a continuous directorship requirement that would require dismissal of a lawsuit brought under these statutes if the director-plaintiff fails to retain a director position.”

“We hold that a director of a nonprofit public benefit corporation who brings a lawsuit pursuant to Corporations Code sections 5142, 5233, and 5223 does not lose standing to continue litigating the suit if the director subsequently loses that position.”

FACTUAL BACKGROUND

Debra Turner was a director of the Conrad Prebys Foundation, a nonprofit public benefit corporation. After the death of founder Conrad Prebys, the board authorized a settlement with Prebys's son, who threatened to contest his disinheritance. Turner opposed the settlement. In May 2017, while still a director, Turner filed a petition against fellow directors alleging breach of charitable trust, self-dealing, and seeking removal. In November 2017, the board held an election; Turner was not nominated for reelection and lost her director position. She alleged this was retaliation for her lawsuit.

PROCEDURAL HISTORY

Plaintiff Debra Turner, a former director of the Conrad Prebys Foundation, filed a petition in probate court against fellow directors, alleging breach of charitable trust, self-dealing, and seeking removal. The probate court severed and transferred the claims to civil court. After Turner lost her director position in a board election, defendants demurred on standing grounds. The trial court sustained the demurrers and dismissed. The Court of Appeal affirmed, holding that a continuous directorship requirement applies. The Supreme Court granted review to resolve a conflict with *Summers v. Colette*.

DISPOSITION

reversed

REMAND INSTRUCTIONS

Remanded to the Court of Appeal for further proceedings consistent with this opinion.

CASES CITED

- Holt v. College of Osteopathic Physicians & Surgeons (1964) 61 Cal.2d 750
- Summers v. Colette (2019) 34 Cal.App.5th 361
- Grosset v. Wenaas (2008) 42 Cal.4th 1100
- Lee v. Hanley (2015) 61 Cal.4th 1225
- Kim v. Reins International California, Inc. (2020) 9 Cal.5th 73
- Tenney v. Rosenthal (N.Y. 1959) 160 N.E.2d 463
- Workman v. Verde Wellness Ctr., Inc. (Ariz.Ct.App. 2016) 382 P.3d 812
- United Supreme Council AASR SJ v. McWilliams (Tenn.Ct.App. 2019) 586 S.W.3d 373
- Pall v McKenzie Homeowners' Assn., Inc. (App.Div. 2014) 995 N.Y.S.2d 400
- Cal. S. R. R. Co. v. S. P. R. R. Co. (1884) 65 Cal. 394
- Mountain Air Enterprises, LLC v. Sundowner Towers, LLC (2017) 3 Cal.5th 744
- Curtis v. County of Los Angeles (1985) 172 Cal.App.3d 1243
- Californians for Disability Rights v. Mervyn's, LLC (2006) 39 Cal.4th 223
- Gollust v. Mendell (1991) 501 U.S. 115
- People ex rel. Lockyer v. R.J. Reynolds Tobacco Co. (2005) 37 Cal.4th 707