

SUPREME COURT OF ALASKA

West v. State, Board of Game

248 P.3d 689 (Alaska 2010) · No. Nos. S-13184, S-13343 · Decided August 6, 2010

SUMMARY

The Alaska Supreme Court considered challenges to the Alaska Board of Game's 2006 wolf and bear predator-control plans. The court held that both Alaska's constitutional sustained-yield clause and the sustained-yield principle in AS 16.05.255 apply to predator populations, while allowing preferences between predator and prey populations. The court upheld the plans because the appellants failed to show that they violated sustained-yield principles, and affirmed the denial of attorney's fees to West.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Christen, Justice; Carpeneti, Chief Justice; Fabe, Justice
JURISDICTION	Alaska
DECIDED	August 6, 2010
DOCKET	Nos. S-13184, S-13343
DISPOSITION	other
PROCEDURAL POSTURE	Appeals and cross-appeals from a superior court order granting summary judgment for the Alaska Board of Game and denying Ronald T. West attorney's fees.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Statutory and constitutional interpretation receive independent judgment. An agency's application of law to facts is reviewed for reasonableness, including whether it has a reasonable basis in law and fact, is not arbitrary or capricious, and considered important factors. Attorney-fee awards are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion of the Alaska Supreme Court
PARTIES	Ronald T. West, Alaska Wildlife Alliance, Defenders of Wildlife v. State of Alaska, Alaska Board of Game, McKie Campbell, Commissioner, Department of Fish and Game, Sierra Club, Tom Classen, Friends of Animals

TOPICS

environmental law

administrative law

judicial review of agency action

constitutional law

statutory interpretation

PRACTICE AREAS

administrative law

constitutional law

environmental and natural resources law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether article VIII, section 4 of the Alaska Constitution applies to predator populations, including wolves and bears.
2. Whether the constitutional sustained-yield clause permits the State to prefer prey populations over predator populations through predator control.
3. Whether AS 16.05.255's statutory sustained-yield requirement applies to the Board's management of predator populations.
4. Whether the challengers proved that the Board's 2006 predator control plans violated constitutional or statutory sustained-yield principles.
5. Whether West was entitled to attorney's fees as a prevailing party.

HOLDINGS

1. Article VIII, section 4 of the Alaska Constitution applies to all wildlife, including predator populations such as wolves and bears.
2. The sustained-yield clause permits the State to establish preferences among beneficial uses and therefore allows management choices favoring prey populations over predator populations, including predator control in appropriate circumstances.
3. The sustained-yield principle in AS 16.05.255 applies to predator populations, although the statute permits management choices that prefer prey populations over predator populations.
4. The challengers failed to prove that the Board's 2006 predator control plans violated either the constitutional or statutory sustained-yield requirements.
5. West was not entitled to attorney's fees because he did not prevail on the main issue of invalidating the predator control regulations.

KEY QUOTATIONS

"We find nothing in the plain language of the sustained yield clause suggesting that a distinction should be drawn between predator and prey populations for purposes of applying the sustained yield principle" (248 P.3d at 696)

"we hold that the principle of sustained yield set forth in Alaska's intensive management statute applies to predator populations but that the management of wildlife resources may include a selection between predator and prey populations." (248 P.3d at 698)

“It is the Board's constitutional and statutory duty to apply principles of sustained yield when it adopts predator control plans; this is not a policy question subject to Board discretion.” (248 P.3d at 701)

FACTUAL BACKGROUND

In 2006, the Alaska Board of Game adopted predator control plans authorizing reductions of wolf and bear populations in designated areas to increase moose and caribou populations and human harvest. The plans established population objectives, geographic boundaries, harvest objectives, monitoring requirements, suspension provisions, and sunset dates. Although the Board repealed prior regulations expressly requiring consideration of sustained-yield principles, the 2006 plans and administrative record addressed the maintenance, recovery, and long-term viability of predator populations. Conservation groups and West argued that the plans violated Alaska's constitutional and statutory sustained-yield requirements.

PROCEDURAL HISTORY

Defenders of Wildlife and the Alaska Wildlife Alliance challenged the Board's 2006 predator control plans, asserting constitutional, statutory, Administrative Procedure Act, and other substantive claims. West intervened and adopted the claims while adding constitutional claims. The superior court ruled that Alaska's constitutional sustained-yield clause applies to predators but upheld the plans, concluded that the statutory sustained-yield principle did not apply to predators, and denied West attorney's fees. The Alaska Supreme Court affirmed most rulings but reversed the statutory interpretation ruling.

DISPOSITION

other

CASES CITED

- Parson v. State, Dep't of Revenue, Alaska Hous. Fin. Corp., 189 P.3d 1032 (Alaska 2008)
- McCormick v. Reliance Ins. Co., 46 P.3d 1009 (Alaska 2002)
- Native Vill. of Elim v. State, 990 P.2d 1 (Alaska 1999)
- Koyukuk River Basin Moose Co-Mgmt. Team v. Bd. of Game, 76 P.3d 383 (Alaska 2003)
- Lakosh v. Alaska Dep't of Env'tl. Conservation, 49 P.3d 1111 (Alaska 2002)
- Rhodes v. Erion, 189 P.3d 1051 (Alaska 2008)
- Hammond v. Hoffbeck, 627 P.2d 1052 (Alaska 1981)
- Div. of Elections v. Johnstone, 669 P.2d 537 (Alaska 1983)
- Hickel v. Halford, 872 P.2d 171 (Alaska 1994)
- Glover v. State, Dep't of Transp., 175 P.3d 1240 (Alaska 2008)
- Alaskans for a Common Language, Inc. v. Kritz, 170 P.3d 183 (Alaska 2007)
- Trustees for Alaska v. State, Dep't of Natural Res., 795 P.2d 805 (Alaska 1990)
- Day v. Moore, 771 P.2d 436 (Alaska 1989)
- Friends of Animals v. State, Dep't of Fish & Game, 3AN-03-13489 CI (Alaska Super. Ct. Jan. 17, 2006)

