SUPREME COURT OF MISSOURI

State ex rel. Carol Russell Fischer, Director of Revenue v. Joe R. Brooks

150 S.W.3d 284 (Mo. banc 2004) · No. SC 85951 · Decided December 21, 2004

SUMMARY

The Missouri Supreme Court affirmed a judgment requiring Joe R. Brooks to pay estimated state income taxes for tax years 1992 through 1996. The court rejected Brooks's challenges based on personal jurisdiction and the Director of Revenue's failure to adopt regulations specifying where income tax returns must be filed. A dissent argued that the Supreme Court lacked subject-matter jurisdiction over the direct appeal and could not retain the case for reasons of judicial economy.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Charles B. Blackmar, Senior Judge; White, C.J.; Wolff, J.; Stith, J.; Teitelman, J.; Limbaugh, J.; Price, J.; Russell, J., not participating
JURISDICTION	Missouri
DECIDED	December 21, 2004
DOCKET	SC 85951
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Director of Revenue obtained a trial-court judgment collecting estimated Missouri income taxes for tax years 1992 through 1996. Brooks appealed directly to the Supreme Court of Missouri, asserting that the case involved construction of a state revenue law. The Attorney General requested transfer to the Missouri Court of Appeals, but the Supreme Court affirmed the judgment.
PRECEDENTIAL VALUE	Published Missouri Supreme Court opinion; precedential, with the express limitation that it should not be cited as authority on the jurisdictional issue.
PARTIES	Joe R. Brooks v. State ex rel. Carol Russell Fischer, Director of Revenue

TOPICS

income tax · tax collection · appellate jurisdiction · statutory interpretation · personal jurisdiction

PRACTICE AREAS

state income tax · tax collection · appellate jurisdiction · statutory interpretation · civil procedure

QUESTIONS PRESENTED

1. Whether Brooks's later appearances in the trial court waived his challenge to personal jurisdiction.
2. Whether the Director's alleged failure to adopt regulations specifying where income-tax returns or taxes were to be filed prevented collection of the delinquent taxes.
3. Whether the Supreme Court of Missouri could retain the direct appeal despite the Attorney General's argument that the court lacked appellate jurisdiction.

HOLDINGS

1. A party who appears in the trial court at later stages of the proceeding waives a challenge to personal jurisdiction.
2. The Director's alleged failure to adopt regulations under section 143.511, RSMo, specifying where returns were to be filed or taxes paid did not excuse Brooks's obligation to pay income taxes or prevent collection of delinquent taxes.

KEY QUOTATIONS

> *"Substantial authority demonstrates, however, that the use of "shall" in a statute does not inevitably render compliance mandatory, when the legislature has not prescribed a sanction for noncompliance."* (150 S.W.3d at 285)

> *"We perceive no error in substance or procedure. The judgment is affirmed."* (150 S.W.3d at 285)

> *"This Court simply does not have jurisdiction over this case. This Court may not obtain jurisdiction of the subject matter of [an] appeal by consent, waiver, or in the interest of judicial economy."* (150 S.W.3d at 286)

FACTUAL BACKGROUND

Brooks filed no Missouri income-tax returns for 1992, 1993, 1994, 1995, or 1996, so the Director of Revenue estimated the taxes under statutory authority. Brooks did not file the statutory protest available to challenge the assessments and did not appear to dispute their amounts. He instead challenged the Director's authority to collect the taxes and the trial court's personal jurisdiction.

PROCEDURAL HISTORY

The Director sued under section 143.611, RSMo, to collect unpaid income taxes after Brooks filed no returns for the relevant years and did not protest the assessments under section 143.631. The trial court entered judgment for the Director for each year. Brooks appealed directly to the Supreme Court of Missouri, which declined to transfer the case and affirmed, while stating that its discussion should not be cited as authority on the jurisdictional issue.

DISPOSITION

affirmed

CASES CITED

- State ex rel. Lohman v. Latimer, 4 S.W.3d 560 (Mo. App. 1999)
- Alumax Foils, Inc. v. City of St. Louis, 939 S.W.2d 907, 910 (Mo. 1997)
- State ex rel. White v. Marsh, 646 S.W.2d 357 (Mo. banc 1983)
- Farmers & Merchants Bank and Trust Company v. Director of Revenue, 896 S.W.2d 30, 32-33 (Mo. banc 1995)
- State ex rel. Lack v. Melton, 692 S.W.2d 302, 304 (Mo. banc 1985)
- Pace v. City of Hannibal, 680 S.W.2d 944, 946 (Mo. banc 1984)
- State v. Davis, 653 S.W.2d 167 (Mo. banc 1983)
- State v. Higgins, 592 S.W.2d 151 (Mo. banc 1979)
- Kuyper v. Stone County Commission, 838 S.W.2d 436, 438 (Mo. banc 1992)

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