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STATE COURT INVALIDATION OF A FEDERAL REGULATION:

Thomas v. North Carolina Department of Human Resources

Gary L. Cole*

I. INTRODUCTION

On April 20, 1993, in *Anderson v. North Carolina Department of Human Resources*¹ (“Anderson”), the Court of Appeals of North Carolina invalidated a federal regulation by holding that a United States Department of Agriculture (“USDA”) regulation impermissibly conflicted with a federal statute, the Food Stamp Act regarding the date of commencement of disqualification of a recipient found to be ineligible by reason of fraud.² The court held that the federal USDA regulation conflicted with the Food Stamp Act which stated that the disqualification period was to take effect *immediately* upon a determination of ineligibility and was to last for one year.³ The USDA regulation stated, in contrast that if “the individual is not eligible for the Program at the time the disqualification period is to begin, the period is to be postponed until the individual applies for and is determined eligible for the benefits.”⁴

The North Carolina Court of Appeals ruled that Anderson’s

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¹428 S.E.2d 267 (1993).

²*Id.*

³The relevant section of the Food Stamp Act reads as follows:

(b) Fraud and misrepresentation; disqualification penalties; ineligibility period; application procedure

(1) Any person who has been found by any State or Federal court or administrative agency to have intentionally (A) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (B) committed any act that constitutes a violation of this chapter, the regulations issued thereunder, or any State statute, for the purpose of using, presenting, transferring, acquiring, receiving, or possessing coupons or authorization cards shall, immediately upon the rendering of such determination, become ineligible for further participation in the program--

(I) for a period of 1 year upon the first occasion of any such determination.

... 7 U.S.C.A. §2015(b)(1) (1997).

⁴7 C.F.R. 273.16(e)(8)(iii) (1992).

disqualification period began on the date that she was first found to be in violation of the Food Stamp Act.⁵ The North Carolina Department of Human Resources (“NCDHR”), the state agency responsible for certifying food stamp recipients, thereafter applied the appellate court’s holding in *Anderson* only to plaintiff Edith Anderson.⁶ Anderson and other plaintiffs similarly situated filed a class action complaint in Guilford County Superior Court on January 7, 1994, seeking NCDHR’s compliance with the appellate court’s holding in *Anderson*.⁷ The trial court refused to certify the class and dismissed the plaintiff’s complaints.⁸

Anderson appealed and in *Thomas v. North Carolina Department of Human Resources* (“*Thomas*”), revisited the issue.⁹ By this time the NCDHR had voluntarily revised its regulations to comport with the revised federal USDA regulations which were now consistent with the *Anderson* holding. The NCDHR argued that the issue at controversy was now moot and sought dismissal.¹⁰ The plaintiffs, however, argued that absent a court ruling directly on the issue, the NCDHR would revert to its conduct prior to the *Anderson* decision.¹¹ Since significant concerns regarding NCDHR’s initial refusal to apply the appellate court’s ruling to the plaintiff and all persons similarly situated persisted, the North Carolina Court of Appeals declined to dismiss the suit and addressed the issues directly.

II. PROCEDURAL HISTORY

In August of 1989, the Guilford County Department of Social Services (“DSS”) found Edith Anderson guilty of failing to report a member of her household’s personal income on her February 1989 application for food stamps.¹² In January 1991, after waiting more than

⁵*Anderson* at 269.

⁶*Thomas v. North Carolina Department of Human Resources*, 478 S.E. 2d 816, 818 (1996).

⁷*Id.*

⁸*Id.*

⁹*Id.*

¹⁰*Id.* at 820.

¹¹*Id.* at 818.

¹²*Id.* at 817.

one year, Anderson reapplied to the DSS for food stamps.¹³ The DSS notified Anderson that pursuant to state and federal regulations¹⁴ she was ineligible for food stamps because her one year period of disqualification would not commence until she had reapplied for the benefits and then was found to be eligible.¹⁵ After exhausting possible administrative remedies with the DSS, Anderson filed suit in the Guilford County Superior Court.¹⁶ The suit alleged that the NCDHR had delayed her disqualification period in violation of the federal Food Stamp Act.¹⁷ The Food Stamp Act required that disqualification periods by reason of fraud begin *immediately* upon a finding of fraud.¹⁸ The NCDHR was required to notify the USDA upon notice of suit so that they might remove the case to federal court to adequately protect the interests of the government.¹⁹ The NCDHR failed to notify the USDA, however, and therefore became ineligible for any federal contributions for amounts awarded in State court actions.²⁰

Both plaintiff Anderson and the NCDHR moved for summary judgement and in January 1992 the Superior Court allowed NCDHR's motion and denied Anderson's.²¹ The North Carolina Court of Appeals on appeal reversed the decision of the trial court, holding that the USDA regulation and its corresponding state regulation allowing delay of the plaintiff's disqualification period were in conflict with the congressional intent of the Food Stamp Act which required that the disqualification period commence immediately upon a finding of ineligibility for fraud.²²

The NCDHR did not at that time further appeal the court of appeals' decision but instead applied the court's holding only to the plaintiff Anderson and not to all other food stamp recipients found ineligible for fraud.²³

¹³*Id.*

¹⁴*Id.*

¹⁵*Id.*

¹⁶*Thomas*, 478 S.E.2d 816, 817.

¹⁷*Id.*

¹⁸7 U.S.C.A. s 2015(b)(1) (1997).

¹⁹*Thomas*, 478 S.E.2d 816, 817.

²⁰*Id.*

²¹*Id.*

²²*Id.* at 817.

²³*Id.* at 818.

Anderson then filed an administrative petition with the NCDHR requesting that it adopt the Court of Appeals holding to all other persons similarly situated.²⁴ NCDHR denied this petition and Anderson subsequently filed a class action suit in January 1994 in the Superior Court, Guilford County, seeking judicial review of the administrative denial of the petition and an injunction compelling NCDHR to comply with the court of appeals decision.²⁵

The Secretary of Agriculture filed a motion to intervene in March 1994 which was granted in April 1994.²⁶ In April 1994, at the defendant Secretary's request, the case was removed to federal district court.²⁷ Defendant Sherry D. Thomas replaced Edith Anderson as the named defendant.²⁸ In May 1995, however, the federal court remanded the suit to the Superior Court, Guilford County, after deciding the state court had jurisdiction and should enforce its own court orders.²⁹ In September 1995, the defendant Secretary of Agriculture moved for summary judgement and the NCDHR moved to dismiss the suit.³⁰ The Court granted the defendant's motion for summary judgement and the dismissed the case in October 1995.³¹ Plaintiff Thomas appealed to the Court of Appeals of North Carolina.³²

III. THE COURT OF APPEALS OF NORTH CAROLINA

The North Carolina Court of Appeals in *Thomas* considered three issues: (1) the doctrine of mootness in state court³³; (2) the issue of separation of powers between state courts and legislature³⁴; (3) the state court of appeals' ability to invalidate a federal regulation.³⁵

²⁴*Id.*

²⁵*Id.*

²⁶*Id.*

²⁷*Id.*

²⁸ *Id.*

²⁹*Id.*

³⁰*Id.*

³¹*Id.*

³²*Id.*

³³*Id.* at 820.

³⁴*Id.* at 821.

³⁵*Id.* at 823.

A. *The Mootness Doctrine in State Court*

Defendant NCDHR contended that the case became moot when both it and USDA voluntarily revised their regulations following the *Anderson* decision.³⁶ NCDHR contended that since it had voluntarily ceased refusing to apply the court's ruling in *Anderson*, the issues of its prior conduct and therefore the case at bar were rendered moot.³⁷ Plaintiff Thomas, however, contended that the court should review the case under an exception to the mootness doctrine.³⁸

The court of appeals agreed with Thomas, noting that while both North Carolina state courts and federal courts had avoided addressing moot issues, significant exceptions applied when issues of "public interest"³⁹ and those "capable of repetition, yet evading review," were presented.⁴⁰ The court further noted that although the doctrine of mootness had different judicial foundations in state courts and federal courts, the limits of the doctrine were expressed in a similar fashion in both courts.⁴¹

The court laid the framework for its exceptions reasoning by citing the *City of Mesquite v. Aladdin's Castle, Inc.*,⁴² in which the U.S. Supreme Court held that "a defendant's voluntary cessation of a challenged practice does not deprive a court of its power to determine the legality of practice."⁴³ The court then cited *In re Jackson's*⁴⁴ holding that courts may review moot issues when the cases are "capable of repetition, yet evading review,"⁴⁵ and *Matthews v. Department of Transportation*,⁴⁶ when the "question involved is a matter of public interest."⁴⁷

³⁶*Id.* at 820.

³⁷*Id.*

³⁸*Id.*

³⁹*Id.* at 821.

⁴⁰*Id.* at 820.

⁴¹*Id.*

⁴²455 U.S. 283 (1982).

⁴³*Id.* at 289.

⁴⁴352 S.E.2d 449 (1987).

⁴⁵*Id.* at 452.

⁴⁶242 S.E.2d 653 (1978).

⁴⁷*Id.* at 654.

The Court of Appeals also applied *Quern v. Mandley*⁴⁸ which “provides for review of cases where a defendant voluntarily ceases its illegal conduct during the pendency of the appeal.”⁴⁹ The court reasoned that if NCDHR’s voluntary cessation of its challenged practice led to the abandonment of judicial review in this case, there would be no restraint on the NCDHR from renewing its activities and then ceasing them again just time to avoid judicial review.⁵⁰ This cycle could continue indefinitely so long as no court ruled directly on the issue. The Court therefore declined to dismiss the case as moot.⁵¹

B. Separation of Powers

The Court of Appeals of North Carolina viewed the actions of the NCDHR in disregarding the Court’s directives in *Anderson* as a violation of the separation of powers doctrine of the North Carolina Constitution.⁵² Article I, section 6 of the North Carolina Constitution provides that “the legislative, executive and supreme judicial powers of the State government shall be forever separate and distinct from each other.”⁵³

The court discussed the role of the separation of powers doctrine, reasoning that the ultimate purpose of the doctrine is to provide a system of checks and balances among the branches of state governments to prevent “the encroachment or aggrandizement of one branch at the expense of the other.”⁵⁴ In this way, the court concluded, “each branch, in its own way, is the people’s agent, its fiduciary for certain purposes.”⁵⁵

When NCDHR interpreted the USDA regulation and therefore the congressional intent of the Food Stamp Act and refused to apply the North Carolina Court of Appeals holding in *Anderson* to a class of similarly situated plaintiffs, it violated the separation of powers doctrine

⁴⁸436 U.S. 725 (1978).

⁴⁹*Thomas*, 478 S.E.2d 816, 821.

⁵⁰*Id.*

⁵¹*Id.*

⁵²*Id.*

⁵³*Id.*

⁵⁴*Id.* at 822.

⁵⁵*Id.*

by “attempting to arrogate to itself the distinct duties of the judiciary in having the final word in interpreting statutes.”⁵⁶ NCDHR was bound to follow the directives of the state court and refusal to do so was in violation of the separation of powers doctrine of the North Carolina constitution. The proper course of action for a state administrative agency contesting the decision of a state court with authority and jurisdiction over its action is to seek reversal through the courts of that state. The court of appeals held that the agency has “no right or authority to disregard such decisions.”⁵⁷

When a state court decides that a statute enacted by the legislature of that state is unconstitutional, the effect of that court’s holding is to “void the statute entirely as if it no longer existed.”⁵⁸ Once it has been declared unconstitutional, no agency of the state may act in furtherance of the provisions of the statute.⁵⁹ The court of appeals held that the same analysis applied to its decisions regarding the provision of a federal administrative regulation and NCDHR’s corresponding regulation.⁶⁰ Since it was the court’s purview to determine whether the language of the federal regulation and the subsequent action of the NCDHR conflicted with the language of the federal enabling legislation, action taken by the NCDHR in furtherance of the invalidated regulation constituted a violation of the separation of powers doctrine.⁶¹ The court concluded that “no action whatsoever by the administrative agency can breathe life into the invalidated regulation absent reversal of a modification of this court’s order by a higher court or absent legislative action sufficiently altering the enabling act.”⁶²

⁵⁶*Id.*

⁵⁷*Id.* at 823.

⁵⁸*Id.*

⁵⁹*Id.*

⁶⁰*Id.*

⁶¹*Id.*

⁶²*Id.*

*C. The State Court of Appeals Invalidation of
the Federal USDA Regulation*

The Court of Appeals of North Carolina next addressed NCDHR's allegation that court had authority over its actions inferior to that of the Secretary of Agriculture's regulations. NCDHR contended that the federal regulations empowered it to ignore the court of appeals' decision in *Anderson*.⁶³ The court interpreted NCDHR's argument as containing two separate issues: (1) whether the state court of appeals had the authority to interpret the Food Stamp Act as a matter of federalism; (2) whether the state court of appeals must give deference to the interpretation of the Food Stamp Act by a federal administrative agency or whether the court is free to interpret the federal statute on its own within its jurisdictional boundaries.⁶⁴

Regarding the issue of federalism, the court distinguished the issue as a matter of "division of powers" rather than as a matter of "separation of powers."⁶⁵ The court noted that under the federal system, the states and the Federal Government have concurrent sovereignty and are limited only by the Supremacy Clause of the United States Constitution. Absent congressional intent to the contrary, state courts have "inherent authority . . . to adjudicate claims arising under the laws of the United States . . . if exclusive jurisdiction is neither express or implied" ⁶⁶ Since there was no evidence of congressional removal of that jurisdiction, the court concluded that it was free to invalidate the USDA regulation within its jurisdictional boundaries.⁶⁷

The North Carolina Court of Appeals held that it was not required to give judicial deference to the USDA's interpretation the Food Stamp Act.⁶⁸ The court's holding in *Anderson* served to invalidate both the federal regulation and its corresponding state regulation by holding them to be impermissibly in conflict with the

⁶³*Id.*

⁶⁴*Id.*

⁶⁵*Id.*

⁶⁶*Id.* at 824.

⁶⁷*Id.*

⁶⁸*Id.*

“clear and unambiguous” language of the Food Stamp Act. While the court acknowledged that in some cases it would be obliged to give deference to the federal agency’s interpretation of the statute, it concluded that deference is not applicable where the federal regulation and its state counterpart “alters the clearly expressed intent of Congress.” The court therefore hinged its argument in invalidating the federal regulation on the conflict between the USDA’s interpretation of the relevant provisions of the Food Stamp Act and the “clearly expressed” intentions of the U.S. Congress.⁶⁹

IV. CONCLUSION

The decision of the North Carolina Court of Appeals invalidating a federal regulation is a significant precedent of a state court interpreting conflicts between federal statutes and federal regulations when those regulations are adopted by state regulatory agencies and are subject to judicial review by state courts. Whenever ambiguity exists between a federal statute and federal enabling legislation, state courts would be free to provide clarity to that ambiguity by interpreting the federal statute. The North Carolina Court of Appeals held that since dual sovereignty exists between states and federal governments, and unless exclusive jurisdiction is either expressed or implied, a state court is free to rule on matters within its jurisdiction.⁷⁰ As no divestment of that jurisdiction was evident, the court’s ruling in *Anderson* was proper.

The North Carolina Court of Appeals also declined to dismiss the suit in *Thomas* as moot when the NCDHR voluntarily began applying the court’s holding in *Anderson*.⁷¹ The court reasoned that as long as the case was “capable of repetition, yet evading review,” even though there was a “voluntary cessation of a challenged practice,” there was potential for future renewal of such activities by the state agency.⁷²

Moreover, state court decisions on mootness doctrine need not

⁶⁹*Id.*

⁷⁰*Id.*

⁷¹*Id.* At 820.

⁷²*Id.*

be identical to the federal mootness doctrine. In a recent case, *Arizonans for Official English v. Arizona*, the United States Supreme Court held that once the plaintiff, a state employee, left the employment of the defendant, the State of Arizona, the case became moot and vacated the judgement of the Ninth Circuit Court of Appeals.⁷³ The Supreme Court applied the constitutional jurisdictional underpinning of Article III of the United States Constitution to render the controversy moot.⁷⁴ The Court of Appeals of North Carolina, however, considered the issue of mootness to be one of “judicial restraint” and was free to decide whether to review the case when questions regarding the NCDHR’s future conduct were at issue.⁷⁵ Moreover, since Article III does not apply to state courts, they are not bound to apply the mootness doctrine in a fashion identical to that of The United States Supreme Court’s application of Article III.

⁷³117 S. Ct. 1055 (1997).

⁷⁴*Id.* at 1058.

⁷⁵*Thomas* 478 S.E. 2d at 820.