

Bond Case Briefs

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ENVIRONMENT - PENNSYLVANIA

Robinson Tp., Washington County v. Com.

Supreme Court of Pennsylvania - December 19, 2013 - A.3d - 2013 WL 6687290

Municipalities and individuals brought petition for review challenging constitutionality of act that set out statutory framework for regulation of oil and gas operations, preempted local regulation of such operations, and gave power of eminent domain to natural gas corporations. The Commonwealth Court found that the act was unconstitutional in part and enjoined application of certain provisions.

On cross-appeals, the Supreme Court of Pennsylvania held that:

- Municipalities' had standing to challenge act;
- Environmental association had standing to challenge act on behalf of members;
- Doctor had standing to challenge act;
- Provision preempting municipalities' obligation to plan for environmental concerns for oil and gas operations violated the Environmental Rights Amendment;
- Statutory requirement that municipal zoning ordinances be amended to include oil and gas operations in all zoning districts was in violation of Environmental Rights Amendment;
- Statutory well location restrictions that allowed Department of Environmental Protection (DEP) to grant waiver from setback requirements violated the Environmental Rights Amendment;
- Provision that precluded municipalities from seeking appellate review of DEP's decisions on restriction waivers violated the Environmental Rights Amendment;
- Commonwealth Court erred in failing to address individually the citizens' claims regarding the discrete provisions of act challenged as violating state constitution's provision prohibiting special laws; and
- Statute permitting public utilities commission to issue advisory opinions on proposed local ordinances did not violate separation of powers.