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MUNICIPAL ORDINANCE - TEXAS

City of Fort Worth v. Rylie

Supreme Court of Texas - May 8, 2020 - S.W.3d - 2020 WL 2311941 - 63 Tex. Sup. Ct. J. 1036

Operators of pubs with electronic gaming machines known as “eight-liners” brought action seeking to have city ordinances regulating gaming machines declared invalid.

City counterclaimed, seeking to have “fuzzy animal exception” to state prohibition against gambling declared unconstitutional.

The District Court, on parties’ cross-motions for summary judgment, declared that only conflicting portions of ordinances were preempted by state statute regulating skill or pleasure coin-operated machines, and that fuzzy-animal exclusion was constitutional. Parties cross-appealed. The Fort Worth Court of Appeals affirmed in part and reversed in part. Parties filed petitions for review.

The Supreme Court held that remand was warranted for Court of Appeals to decide in first instance whether “eight-liners” were unconstitutional or illegal.

Question of whether pub operators’ electronic gaming machines known as “eight-liners” were unconstitutional or illegal presented relevant and justiciable issue of first impression that Court of Appeals failed to address, on operators’ appeal from trial court’s determination that only conflicting portions of city ordinances regulating amusement redemption machines and associated game rooms within city were preempted by state statute regulating skill or pleasure coin-operated machines, and, thus, remand was warranted for Court of Appeals to decide issue in first instance after full briefing and argument by parties; statute only applied to constitutional and legal gaming machines, and it could only preempt ordinances if “eight-liners” were unconstitutional and illegal.