

Bond Case Briefs

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MONUMENTS - NORTH CAROLINA

United Daughters of the Confederacy v. City of Winston-Salem by and through Joines

Supreme Court of North Carolina - December 16, 2022 - S.E.2d - 2022 WL 17725422 - 2022-NCSC-143

Local chapter of women's heritage association brought declaratory judgment action against city and county to determine rights with respect to Confederate statue that association's predecessor organization had assertedly helped fund a century earlier, which was located on private property which was former site of county courthouse and which city planned to remove.

The Superior Court dismissed for lack of subject matter jurisdiction and failure to state a claim. Local chapter appealed. The Court of Appeals affirmed with one judge dissenting. Local chapter appealed.

The Supreme Court held that:

- Plan to remove and relocate statue was not a legal or factual injury that could support local chapter's standing;
- Local chapter lacked taxpayer standing;
- Even if statute setting out limitations on removal of certain monuments on public property created implied private right of action, local chapter was not within class of plaintiffs who could bring such an action;
- Erection of statue on county courthouse property did not render statue a fixture that would be part of county's real property;
- County's conveyance of courthouse property to third party while reserving easements for purpose of maintaining monuments and plaques on the property did not result in the real property beneath statue being excluded from the conveyance;
- Statue was not unclaimed "property" that could escheat to state; and
- Federal statute precluding destruction of veterans' memorials does not provide a private cause of action for enforcement of statute.