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APPROPRIATIONS - NEW YORK

Schulz v. State

Supreme Court, Appellate Division, Third Department, New York - May 11, 2023 - N.Y.S.3d - 2023 WL 3355650 - 2023 N.Y. Slip Op. 02575

Taxpayers brought hybrid Article 78 proceeding and declaratory judgment action, alleging that appropriations in Governor's budget bill, relating to agreement between State, county, and National Football League (NFL) franchise in which State would appropriate $600 million in funds to urban development corporation for services and expenses related to development of proposed football stadium in county, violated provisions of State Constitution prohibiting State and local governments from appropriating public funds in aid of private undertakings.

Government defendants filed motion to dismiss for failure to state cause of action. The Supreme Court dismissed taxpayers' petition and denied petitioners' motion to file surreply. Taxpayers filed separate appeals.

The Supreme Court, Appellate Division, held that:

- State's appropriations did not violate State Constitution, even though appropriations would aid private undertaking;
- Any funds provided by county would not violate State Constitution; and
- Declaratory judgment, rather than dismissal of petition, was appropriate remedy.

Appropriation of State funds, relating to agreement between State, county, and National Football League (NFL) franchise in which State would appropriate $600 million in funds to public development corporation for services and expenses pertaining to development of proposed sports stadium, did not violate State Constitution's prohibition on appropriations of public funds for private undertakings, even though appropriations would aid private undertaking; private benefit was merely incidental, appropriations for stadium rebuild were expressly authorized by statute, and Legislature recognized public purpose of sports stadiums in creating and retaining jobs, attracting business investment, and enhancing State's reputation.

Any funds appropriated by county, relating to development of sports stadium located in county, would not violate State Constitution's prohibition on appropriation of funds by local governments for private undertakings; if county appropriated funds to private benefit corporation, those funds would not be subject to constitutional prohibition on gifting money to private entities, and if county appropriated money directly to private parties for stadium project, appropriations would not be barred by constitutional prohibition given predominantly public purpose of stadium.

Issuance of declaratory judgment, rather than dismissal of petition, was proper remedy in taxpayers' hybrid Article 78 proceeding and declaratory judgment action challenging appropriations of State funds related to development of sports stadium, upon determination that appropriations by State and county would not violate State Constitution's prohibitions on appropriations of public funds for private undertakings, since there were no questions of fact.

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