

Bond Case Briefs

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CONSTITUTIONAL LAW - NORTH CAROLINA

Howell v. Cooper

Supreme Court of North Carolina - August 22, 2025 - S.E.2d - 2025 WL 2427597

Bar owners brought action against State, Governor, and other state officials, alleging that the Governor's executive orders issued in response to the COVID-19 pandemic, which closed bars or severely restricted their operations, violated their fundamental rights to earn a living under the "fruits of their labor" and "law of the land" clauses in state Constitution.

The Superior Court denied defendants' motion to dismiss. Defendants appealed. The Court of Appeals affirmed. Defendants' petition for discretionary review was granted.

The Supreme Court held that owners stated a colorable claim for violation of their fundamental right to earn a living under "fruits of their labor" and "law of the land" clauses in the Constitution.

Bar owners' allegations that Governor's executive orders in response to COVID-19 either overtly ordered them to close their facilities or so severely restricted their operations that owners found it no longer practicable to remain open stated a colorable claim against state and state officials for violating owners' fundamental right to earn a living under "fruits of their labor" and "law of the land" clauses in state Constitution; orders to remain closed, and then to not serve alcoholic beverages for onsite consumption and only allowing operation in outdoor seating areas, forced owners to keep doors shuttered either outright or in practice for nine months with no end then in sight.

Bar owners were not required to seek least intrusive remedy to avoid dismissal, based on sovereign immunity, of their claims alleging state and state officials abridged their fundamental right to earn a living under state Constitution's "fruits of their labor" and "law of the land" clauses, when Governor issued executive orders that shuttered their businesses during COVID-19 pandemic; since least intrusive remedy limitation was not incorporated into the test for pleading a valid claim that state action violated a state constitutional right, it could not be the basis for a viable motion to dismiss.