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Pittsburgh County Rural Water Dist. No. 7 v. City of McAlester, 358 F.3d 694 (10th Cir. 2004)

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remanded to the district court for re-sentencing.

Dara Lum

TENTH CIRCUIT

Pittsburgh County Rural Water Dist. No. 7 v. City of McAlester, 358 F.3d 694 (10th Cir. 2004) (holding that federal law preempts state or local statutes that deprive a water district of the right to provide water to customers within the district so long as the water district is indebted to the federal government under 7 U.S.C. § 1926 and provides water service to customers of the district).

Pittsburgh County Rural Water District No. 7 (“District”) sued the City of McAlester (“McAlester”), a competing water provider, and additional entities in the United States District Court for the Eastern District of Oklahoma. The District alleged that McAlester violated its rights under 42 U.S.C. § 1983 by restricting its ability to provide water to customers within a protected area designated by 7 U.S.C. § 1926 and that McAlester violated federal and state antitrust law by refusing to sell water to the District. The District requested a declaratory judgment regarding McAlester’s ability to market water in the District’s territory, and injunctions requiring McAlester to continue selling water to the District. The district court granted McAlester summary judgment on some of the District’s claims, dismissed the remaining claims under section 1926, and dismissed both the District’s federal and state antitrust claims. The United States Court of Appeals for the Tenth Circuit held section 1926 could protect the District’s rights, and remanded the case to the district court for determination. The court also held that section 1926 did not entitle the District to an injunction requiring McAlester to sell the District water, and dismissed the District’s claim that McAlester violated antitrust laws because the District failed to prove McAlester acted as a monopolist.

The District is an Oklahoma water association incorporated by the Pittsburgh County Commissioners to provide water for rural residents. An amendment to section 1926 authorized the Farmers Home Administration (“FMHA”) to loan money to water associations so that they could assist with water development, use and conservation allowed the District to finance its actions. Section 1926 prohibits outside entities from limiting the area serviced by indebted water districts either by inclusion of the serviced area within another provider’s service area, or by granting a franchise for service in the area served by the indebted district. The District borrowed money from FMHA in 1967 and remained indebted until 1989. The District again borrowed money from FMHA in 1994. The District serviced areas both within and outside the borders of McAlester.

Following the District’s first federal suit against McAlester, the

Pittsburgh County Board of Commissioners ("Board") ordered the District's deannexation, releasing lands served by the District within McAlester. In June 1998, the McAlester City Council terminated water sales to the District. The District appealed the deannexation decision to a state district court that dismissed the appeal on the grounds that the District had insufficiently served the Board. On appeal, the Oklahoma Court of Civil Appeals held that the state district court lacked jurisdiction to rule on the issue since the deannexation decision was a function of the legislature. On rehearing, the Court of Civil Appeals reversed its earlier decision, holding that the state district court properly exercised jurisdiction, and that the Board decision bound the District even if the Board erred in applying federal law.

In the federal action, the district court held that the District lost its protections under section 1926 when it paid off its debt. Thus, the only viable claims arose after the District borrowed money in 1994. The district court also held that the District lacked protection under section 1926 because the supply lines in place were insufficient to make service available to areas within the McAlester city limits. The court reversed, holding that payment of debt did not remove protections under section 1926 and that the district court improperly failed to consider the District's ability to rapidly improve service. The court remanded the case to a different judge for the Eastern District of Oklahoma.

The District filed an amended complaint, the subject of the instant case. On remand, the district court granted summary judgment for McAlester on the District's claims that McAlester violated section 1926, state and federal antitrust law. The statute of limitations barred all claims regarding customers served between July 1967 and February 1989. The District lacked rights to provide water to properties on which it began providing service prior to 1994 because the District paid off its federal loan. Because the District served the properties prior to obtaining its 1994 FMHA loan, it lacked protection under section 1926. The Rooker-Feldman doctrine and the district court's lack of subject matter jurisdiction barred the District's claims involving McAlester's sales to the deannexed area. Finally, the district court found section 1926 did not prohibit local governments from altering the borders of water districts.

On appeal, the court reversed the district court's finding that the Rooker-Feldman doctrine divested the federal court of jurisdiction. The Rooker-Feldman doctrine prevents a party from appealing a decision by a state supreme court to federal court, barring two claims: those actually decided by a state court, and those decisions intertwined with the decision of a state court. Because the District's claims and remedies resulted from McAlester's decision to sell water to the District's customers, McAlester's termination of its contract to sell water to the District, and deannexation, and because the decision by the state court did not cause the injury which the District sought relief for in the federal court action, the Rooker-Feldman doctrine did not bar the District's claims.

The court held that the district court possessed subject matter jurisdiction. Issue preclusion did not bar the federal court case because the state courts did not rule on section 1983 and federal antitrust law claims. Claim preclusion did not prevent the district court's exercise of jurisdiction because the Board could not decide all of the issues in the District's lawsuit due to the Board's limited jurisdiction and the narrow scope of the deannexation proceeding.

The court decided that under the Full Faith and Credit Act, the federal court on remand had to abide by the decision of the state court of appeals making the annexation decision binding. However, the Full Faith and Credit Act did not bar other claims for relief.

The court held that the statute of limitations barred all section 1983 claims arising before May 1995 because claims under section 1983 were personal injury claims. The court reversed the district court and held that the District had a right to serve water to customers even if McAlester began serving them prior to the loan date. The district court decision conflicted with prior case law requiring a district to meet a two-prong test for protection: proving it received a loan from the federal government, and provided water service.

The court then used the two-prong test to determine whether the District possessed rights under section 1926. For the District's rights claims after the 1994 loan, and prior to deannexation, the court found that under the first prong of the test, the District had been indebted to the federal government since 1994. However, under the second prong, the district court only looked at the District's current service capabilities and not at whether the District had sufficient capability to provide service in a reasonable amount of time following a request. Therefore, the court remanded the case to the district court to determine whether the District could make service available in a reasonable amount of time.

On the merits of the District's challenges under section 1926, the Tenth Circuit held that section 1926 allowed states to adjust the boundaries of water districts. However, the court adopted a broad construction of section 1926, resolving doubts in favor of indebted parties. Under this interpretation, federal law preempted any local or state policy that deprived a rural water association of territory protected under section 1926. If, on remand, the district court found that the District's territories were protected by section 1926, McAlester's sale of water to customers in the deannexed area would violate section 1926.

The court rejected McAlester's argument that such a broad construction would violate the spending clause of the United States Constitution. Oklahoma could make an informed choice about whether to accept or refuse the money because the money was a loan with clearly stated conditions. Further, because courts had construed it broadly, the state was on notice when it approved borrowing funds.

McAlester also alleged a taking from application of section 1926 protections to customers served by McAlester prior to the 1994 loan

date. The court rejected this argument because the federal government loaned Oklahoma money, negating an economic impact, and prior notification prevented loss of any economic expectations. Finally, the character of the government program that gave Oklahoma the ability to end section 1926 protections by paying off the loan did not resemble a taking.

The court also rejected McAlester's argument that preventing deannexation of section 1926 protected water associations encouraged monopolization. The court held that water districts were subject to competition because they could lose their section 1926 protection, and because a water district charging excessively high prices may not fulfill the statutory requirement to provide or make services available.

The court affirmed the district court's decision refusing to order McAlester to sell water to the District. No part of section 1926 required suppliers to deal with districts and refusing to sell water did not constitute interference with boundaries of the water district. The statute only prohibited encroachment by competition, not anti-competitive practices, and the District had a remedy for the anti-competitive practices under antitrust law.

As for the District's antitrust claim, the court held that it failed on the merits. The District claimed McAlester violated antitrust law under the essential facilities doctrine, requiring an entity or group of entities in control of "essential facilities" to allow competitors reasonable access to the facility. McAlester did not act as a monopolist because the District could access water supply alternatives, because water treatment plants other than the one run by McAlester existed in the county, and because the District could reproduce the facility run by McAlester.

Thus, the Tenth Circuit held that section 1926 protected the District's right to sell water to customers in the District's sale area, and remanded the case to the district court for determination of whether the District complied with its statutory obligation to make service available to customers in that area. The court also held that section 1926 did not entitle the District to an injunction requiring McAlester to sell water to the District, and dismissed the District's claim that McAlester violated antitrust laws, finding that McAlester had not acted as a monopolist.

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