

Suds N’ Duds v. United States

715 U.S. 212 (2015)

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JUSTICE JOHNSON DELIVERED THE OPINION OF THE COURT

When first looking at a case, it is important to consider at the standing of the case. Does the plaintiff sustain an injury from this case, and can there be redressability for this injury?

Lujan v. Defenders of Wildlife (1992) reminds us of the implications of standing. The plaintiffs could not prove that they were individually injured by the Endangered Species Act of 1973.

Justice Scalia stated that a “generally available grievance about government” that affected every citizen equally had no case or controversy and thus no place in the Supreme Court. *Suds N’ Duds* from Massachusetts does seem to have standing in respect to two sections of the Climate Stabilization Act. As a small company with only six employees it is directly impacted by sections one and two of the act. Not only will *Suds N’ Duds* be taxed, because it has more than five employees it will also be required to install certain technologies that will most likely be costly to such a small company.

Unfortunately, *Suds N’ Duds* does not have standing pertaining to half the second section and third section of the CSA. As noted from *Printz v. United States* (1997), a state employee who is directly impacted by having to enforce the regulation would have to bring a

separate case to the Court in order to have a plausible injury and redressability against the second half of the second provision of the CSA. Likewise a state, as in *New York v. United States* (1992), would need to bring suit against the United States to combat the constitutionality of the third section of the CSA because it places restrictions on the states themselves. While it would seem there is no perfect person or group to bring this suit to the Supreme Court to have standing regarding the Climate Stabilization Act in full, a suit by *Suds N Duds* covers a majority of the provisions.

While Congress claims to have passed the Climate Stabilization Act in order to protect the general welfare of the United States and the American economy, there is only so much power that has been given to the legislature to do so. The Commerce Clause does give Congress the power to “regulate Commerce... among the several States,” but in *Gibbons v. Ogden* (1824) the Supreme Court defined commerce as “traffic, buying and selling, the exchanging of commodities, as well as navigation.” (E&W) Global warming does not fit under the jurisdiction of this clause and there is no proof that interstate commerce is occurring. In 2006, the state of California attempted to create legislation to combat global warming. The Global Warming Solutions Act of 2006 gave California the power to force ships using the state’s ports to use cleaner fuels within a certain distance of the shore. In *Pacific Merchant Shipping Association v. Goldstene* (2011), the 9th Circuit Court felt the Commerce clause did not give California this power. The Supreme Court later refused to hear the case. Precedent has shown that the regulation of global warming cannot be justified under the Commerce Clause.

Even if global warming did fall under the regulations of the commerce clause, there is still an issue with the first section of the CSA. Congress has been given the power to “lay and collect taxes, duties, imposts, and excises” by the Constitution drafted by our fore fathers, but this act of legislation takes this tax too far. It is clearly expressed in the constitution that “all Duties, Imposts and Excises shall be uniform throughout the United States.” The CSA violates this in two ways. It allows a lesser tax for two states, and for businesses that manufacture or service textiles. This is quite the opposite of a uniform tax. There can be no confusion here that while the government does have the right to tax states for the general welfare of the country, it cannot single out states or groups for special treatment. Thus the exceptions to the tax are unconstitutional.

The second section of this act also has several issues with constitutionality. Once again there is an issue of the use of the commerce clause to justify the provision. There is no note of which type of commercial businesses are required to comply. Congress only has the right to regulate the businesses that conduct commerce with other states. Since the provision does not speak to this requirement, it would appear that the legislature does not have the power to enforce this rule on the people.

The act also requires local government workers to enforce federal laws. The Supreme Court spoke to this specific situation in the case of *Printz v. United States*. Judge Scalia delivered the opinion of the court, which stated that the federal government was not allowed to force local or state officers to “enact or administer a federal regulatory program.” He refers to the case *New York v. United States* which decided that the federal government was not allowed to

force states to enforce federal regulatory programs. Scalia looks back to the Constitution to see if it gives any powers to the federal government over state officers, but finds that it does not. This fact based with the precedent from *New York v. United States* leads to Scalia's decision that indeed the federal government has no power over state and local officers' enforcement of federal programs. The foundation that has been laid from *New York v. United States* and more recently *Printz v. United States* makes it clear that Congress has overstepped its bounds in the second section of the CSA.

The third and final section of the CSA is firmly within the rights of Congress to enact. *South Dakota v. Dole* speaks to the federal government's right to take away funding from the states for not complying with federal regulations. Justice Rehnquist emphasizes that this way of enacting a law acts as an encouragement to the states rather than forcing them to comply with a certain mandate. States are given the option to choose not create their own plan and miss out on highway funding. *New York v. United States* also speaks to this issue. The Supreme Court struck down the Low-Level Radioactive Waste Policy Act partly because it forced states to "take-title" for all the damages due to the radioactive waste. In the opinion of that case, Justice O'Connor said that the act used coercion rather than encouragement. In his opinion, Justice O'Connor states that in the spirit of cooperative federalism, Congress does have the power to "to offer States the choice of regulating that activity according to federal standards or having state law pre-empted by federal regulation." Congress also has the right to condition the granting of federal funds. The ruling of *South Dakota v. Dole* made a few conditions for legislation of this type. It required that the spending should benefit the general welfare, have unambiguous conditions, be germane, have no constitutional bar, and not be coercive. The CSA

clearly stays within these aforementioned lines. Reducing global warming will surely benefit Americans as whole. The CSA makes it clear how much greenhouse gas emissions must be reduced and by when. The spending limits, in this case the removal of federal funding for highways, makes sense in this case. Cars play a large role in carbon dioxide emissions which lead to global warming. By reducing highway funding, there will presumably be fewer roads for these cars to travel on. Based on the precedent from *South Dakota v. Dole and New York v. United States*, clearly there is no constitutional bar on this section of the law, and it is clearly not coercive. It is apparent that the third section of the CSA should hereby be deemed constitutional.

We hold that the first and second section of the Climate Stabilization Act are unconstitutional but the respondent lacks standing to bring action against the third section of the CSA and the cause is remanded for proceedings consistent with this opinion.

It is so ordered.

Ever since the Constitution was signed in 1787, there has been strong debate on what type of federalism the framers endorsed and its implications. The ruling of this case supports the idea of cooperative federalism rather than dual federalism. It allows for states to still have some power in deciding their own climate regulations, but still lets the federal government incentivize the states. As time wears on it seems that America is more comfortable with the idea that the people created and empowered the federal government rather than the states. There are several court decisions that have supported this idea of cooperative federalism, as have been mentioned above. This ruling will add further support to this doctrine in the future.

Based on the decision of *Suds N' Duds v. United States* (2015) a precedent is being set on further greenhouse gas regulations. The only part of the Climate Stabilization Act that was deemed constitutional was the third section. Therefore, future climate regulations will most likely be imposed with encouragement and incentives for states to develop their own programs rather than strict regulations from the federal government.

Works Cited

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