

Supreme Court Summaries

Opinions filed October 27, 2011

A.B.A.T.E. of Illinois, Inc. v. Quinn, 2011 IL 110611

Appellate citation: 401 Ill. App. 3d 326.

JUSTICE BURKE delivered the judgment of the court, with opinion.

Justices Freeman, Thomas, Garman, Karmeier, and Theis concurred in the judgment and opinion.

Chief Justice Kilbride dissented, with opinion.

Pursuant to 1982 legislation, portions of each motorcycle registration fee began to be set aside and placed in the state treasury to fund a motorcycle safety training program under the Cycle Rider Safety Training Act. Effective January 1, 1993, the amount set aside for this purpose was increased to be the total amount of each fee, and the monies were stated to be placed in a “trust fund outside of the State treasury.” This statute has not been substantially changed since its last amendment in December of 1992. However, without amending the Cycle Rider Safety Training Act, the legislature began, in 1992, to authorize the transfer of money from the motorcycle fund and numerous other funds into the General Revenue Fund, through budget implementation acts and amendments to the State Finance Act. Most recently, the latter was amended in 2004 to specifically authorize the Governor to transfer funds held by the state treasury to the General Revenue Fund. Governor Blagojevich made a number of such transfers, including from the motorcycle fund.

This Sangamon County class action was initiated in 2006 by A.B.A.T.E., a nonprofit corporation whose members are motorcycle enthusiasts and by Gene Beenenga, one of its members, challenging the transfers from the cycle fund. Ultimately, summary judgment was granted for the defense, and the appellate court affirmed. In this decision, the supreme court also affirmed.

The plaintiffs complained that money held in special funds should not be taken to meet the state’s budget emergencies and that, more specifically, the cycle funds were protected as held in a trust which was designated as outside of the state treasury. They also theorized that the cycle funds were private, and, thus, their transfer to the General Revenue Fund was an unconstitutional “taking.”

In rejecting these theories, the Illinois Supreme Court found no evidence in the record that the cycle fees are private. Also, the plaintiffs relied on trust-law principles in claiming that the trust was irrevocable because no power to revoke the trust was conferred by the legislation which created it. This theory was rejected here because one General Assembly cannot control the actions of a subsequent elected body. It has long been recognized that the legislature has the authority to order monies collected in one fund to be transferred to a different fund.

The supreme court concluded that the legislature cannot create an irrevocable trust with public money because this would place an unconstitutional restraint upon the legislature’s plenary power. The court, thus, found no impediment to the legislature’s withdrawals from the cycle fund.