

PUBLICATION

Tennessee Supreme Court Interprets Declaratory Judgment Act and Uniform Administrative Procedures Act

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This week the Tennessee Supreme Court released a decision of significant importance addressing the right to proceed directly in court to enjoin state agencies and state officers from enforcing a facially unconstitutional statute, despite mandates otherwise first requiring the exhaustion of administrative remedies under the Uniform Administrative Procedures Act (APA). *Colonial Pipeline Company v. John G. Morgan et al.*, No. M2006-00591-SC-R11-CV (September 9, 2008). This case not only gives important guidance on the role of the courts in adjudicating constitutional issues and the sovereign immunity protections afforded to state officials, but also addresses conflicting decisions on these two very important legal doctrines.

Colonial Pipeline Company (Colonial) filed this declaratory judgment action in Davidson County Chancery Court seeking injunctive relief against the State Board of Equalization (the Board), Comptroller John Morgan and several other state officials in their individual capacity. Separately, Colonial timely filed an exception to its 2004 assessment which is independent from the declaratory judgment action and which remains pending before the Board. This exception, filed before the Board, does not seek the declaratory relief at issue before the courts. Both the exception and the declaratory judgment actions would be considered tax cases, but only the exception before the Board concerns whether Colonial's property is incorrectly assessed. The declaratory judgment action, and not the exception, asks whether the applicable statutes, on their face, violate constitutional principles. The Davidson County Chancellor dismissed the declaratory judgment action for Colonial's failure to first exhaust administrative remedies under the APA before the Board with respect to the constitutional issues. The Chancellor did not reach the State's second defense that the Declaratory Judgment Act (the Act) does not authorize suits against state officials. The Court of Appeals reversed.

The Tennessee Supreme Court affirmed the Appeals Court, but analyzed differently the two principal issues raised on appeal: first, must Colonial have initially addressed the facial invalidity of the statute before the Board prior to proceeding to court; and, second, once in court, may Colonial seek to enjoin, individually, the state officials charged to enforce the statutes at issue. With respect to the first issue, the court identifies the gravamen of Colonial's complaint as a facial attack on the validity of the statute, because the relief Colonial seeks focuses on the language and effect of the tax statute itself. The Court then distinguishes between the interpretive role of the courts and that of the executive branch through its administrative agencies in construing the facial constitutionality of statutes versus issues of application or procedure related to those statutes. The Court finds that, where the issue concerns the facial constitutional validity of a statute, the doctrine of separation of powers requires that the justiciability of that issue must rest with the courts. As a result, exhaustion of administrative remedies under the APA would not first be required as a precondition to challenging a facially unconstitutional statute in court. Second, the Court addresses the equally important issue of whether a declaratory judgment action under the Act may be pursued against individual state officers, in the context of the claim asserted. Following longstanding case law, the Court finds that the authority of the state does not extend to acts under unconstitutional statutes. Accordingly, the doctrine of sovereign immunity does not attach to those actions. The Court carefully notes that this decision only extends to those actions seeking injunctive and not monetary relief. The Court recognizes that this analysis follows the federal rule enunciated in 1908 by the United States Supreme Court in *Ex Parte Young*.

From a procedural standpoint, this decision places centrally assessed taxpayers in a position similar to locally assessed taxpayers. Locally assessed taxpayers have long been authorized to proceed directly to Chancery Court on purely legal issues and, now, centrally assessed taxpayers have that same freedom at least with respect to controversies arising from the assertion of the facial invalidity of a statute. This decision also has implications beyond proceedings before the Board because its reasoning could apply to any state officer or any state agency subject to the provisions of the APA.