

Court decision may open door to expanded gambling in Texas

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In a 5-4 decision, the U.S. Supreme Court ruled two Texas Indian tribes—not the state government—have authority to regulate electronic bingo games on their lands.

Gambling opponents asserted the court's ruling potentially could open the door to expanded gambling in Texas.

The court ruled the Ysleta del Sur Pueblo tribe near El Paso—also known as the Tiguas—and the Alabama-Coushatta tribe in East Texas have the autonomy to regulate gambling activities on their lands if those games are not specifically prohibited in the state.

The federal government already grants the Kickapoo tribe in Eagle Pass the right to operate a casino that offers some forms of gambling—slot machines, poker and bingo, but not blackjack or roulette—under the Indian Gaming Regulatory Act of 1988.

Distinction between prohibition and regulation

Writing for the majority of the court in *Yesleta del Sur Pueblo v. Texas*, Justice Neil Gorsuch stated: "In this case, Texas contends that Congress expressly ordained that all of its gaming laws should be treated as surrogate federal law enforceable on the Ysleta del Sur Pueblo Reservation. In the end, however, we find no evidence Congress endowed state law with anything like that power Texas claims."

Based on precedent established by *California v. Cabazon Band of Mission Indians* in 1987, the court ruled the Indian Gaming Regulatory Act distinguishes between prohibition and regulation.

Gambling activities prohibited by state law also are prohibited as a matter of federal law. However, the statute does not grant the state regulatory jurisdiction over gaming on tribal lands.

Texas allows bingo “subject to fixed rules about the time, place and manner in which it may be conducted,” the court noted.

So, the court concluded, Texas laws “fall on the regulatory rather than prohibitory side of the line.”

The state argued attempts to distinguish between prohibition and regulation are “unworkable.” It noted courts might be called on to decide whether electronic bingo qualifies as bingo that is regulated by the state or whether it is an entirely different form of gambling banned in Texas.

“It is not our place to question whether Congress adopted the wisest or most workable policy, only to discern and apply the policy it did adopt,” Gorsuch wrote. “If Texas thinks good governance requires a different set of rules, its appeals are better directed to those who make the laws than those charged with following them.”

The case returns to the 5th U.S. Circuit Court of Appeals for further deliberation.

Opponents see ruling as ‘significant’

Rob Kohler, consultant with Texas Baptists’ Christian Life Commission, called the court’s opinion “a significant ruling” that potentially could lead to the expansion of gambling in Texas.

"There are two more players on the field now," noting the Tigua and Alabama-Coushatta tribes will join the Kickapoo tribe in likely pushing for electronic bingo in casinos on tribal lands. "The threat goes up."

Russ Coleman, a Dallas attorney and chairman-elect of Texans Against Gambling, likewise expressed concern about the potential for gambling expansion in the state.

"Rightly decided or wrongly decided, the decision is harmful for the same many reasons why gambling in Texas is illegal with very limited exceptions," Coleman said.

"Expect the two tribes to continue to push the envelope in labeling as 'bingo' addict-producing electronic gambling devices that are BINOs—bingo in name only."