Summary of SC99488, *Cedar County Commission, et al. v. Governor Michael Parson, et al.*
Appeal from the Cole County circuit court, Judge Daniel R. Green
Argued and submitted September 20, 2022; opinion issued March 21, 2023

Attorneys: The challengers were represented by Stephen G. Jeffery of Jeffery Law Group LLC in Chesterfield, (855) 915-9500. The state was represented by Justin D. Smith and Jason K. Lewis of the attorney general's office in Jefferson City, (573) 751-3321.

A number of organizations and individuals filed briefs as friends of the Court. The Missouri Pork Producers Association, Missouri Cattlemen's Association, Missouri Farm Bureau Federation, Missouri Corn Growers Association Inc., Missouri Soybean Association, Missouri Egg Council Inc., MFA Incorporated, Missouri Agribusiness Association, Missouri Livestock Marketing Association, Missouri Dairy, FCS Financial, ACA and Missouri Chamber of Commerce and Industry were represented by Robert J. Brundage of Brundage Environmental and Ag Law LLC in Jefferson City, (573) 606-6177. Cooper County farmers and ranchers were represented by Brent E. Haden and Kayden K. Guymon of Haden & Colbert LLC in Columbia, (573) 442-3535.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: Several challengers appeal from the grant of summary judgment (judgment on the court filings, without a trial) rejecting their challenge to legislation preventing county ordinances from imposing standards or requirements on controlled animal feeding operations ("CAFOs") that are inconsistent with, in addition to, different from, or more stringent than any state rules or regulations. In a unanimous decision written by Chief Justice Paul C. Wilson, the Supreme Court of Missouri affirms the circuit court's judgment. The legislation does not violate the constitutional right to farm or the clear title requirement of the state constitution. Additionally, the statute applies to all county ordinances in effect as of the date the amendments took effect, making any conflicting ordinances void.

Facts: In May 2016, the Cedar County commission adopted an ordinance regulating CAFOs pursuant to section 192.300, RSMo, which, at the time, allowed public health ordinances as long as they did not conflict with any state rules or regulations regarding CAFOs. In 2019, the legislature amended section 192.300 to prevent counties from enacting public health ordinances that impose on CAFOs standards or requirements that are inconsistent with or more stringent than any state rules or regulations. Before the amendment took effect, the Cooper County public health center enacted a regulation imposing air and water quality standards on CAFOs within the county. The Cedar County commission, the Cooper County public health center, and other concerned individuals and organizations (collectively, "the counties") sued the governor and several other commissions and associations (collectively, "the state") seeking injunctive relief. While the suit was pending, the legislature again amended section 192.300, this time preventing counties from enacting public health ordinances that impose on CAFOs standards or requirements that are inconsistent with, in addition to, different from, or more stringent than any state rules or regulations. The counties amended their petition, alleging section 192.300, as amended, is constitutionally invalid and seeking a permanent injunction against its enforcement.

Both sides moved for summary judgment. The circuit court sustained the state's motion, finding the statute was not unconstitutional. The counties appeal.

AFFIRMED.

Court en banc holds: (1) The counties failed to prove section 192.300 conflicts with the constitutional right to farm. Article VI, section 7 of the state constitution gives county commissions the power to manage all county business as prescribed by law. Accordingly, counties have no inherent powers but are confined to those expressly delegated by the sovereign and to those powers necessarily implied in the authority to carry out the delegated powers. By adopting the amendments to section 192.300, the legislature circumscribed that power, as it had every right to do. It cannot be said the amended section 192.300 violates the right-to-farm amendment by conflicting with the counties' article VI powers because those powers are only as broad or as narrow as the legislature wants them to be.

(2) The bill amending section 192.300 did not violate the Missouri Constitution's clear title requirement. The title of the bill is sufficiently clear to give people notice they may want to examine its contents and track its progress if they are interested in legislation that might limit local authority to regulate CAFOs.

(3) When the legislature amended section 192.300 to prohibit counties from imposing standards and requirements on local agricultural operations that were inconsistent with, in addition to, different from, or more stringent than existing state law, all ordinances then in effect or thereafter adopted were subject to this new limitation. Nothing in the amendment attempted to invalidate ordinances or limit their effect prior to the amendment's effective date. Instead, the effect of the amendment is limited to ordinances in effect on and adopted after the amendment's effective date. Any ordinance in conflict with the new limitation in section 192.300.1 is void from and after the amendment's effective date, regardless of when the ordinance was adopted.

(4) Several provisions of the Cooper County public health center's regulation are void in that they impose standards or requirements that are inconsistent with, in addition to, different from, or more stringent than state rules or regulations. In particular, the regulation imposes performance standards on the emissions of hydrogen sulfide, ammonia, and fine and coarse particulate matter. These performance standards are different from or in addition to state regulations. Similarly, the regulation imposes restrictions on the construction of subsurface manure containment structures and the land application of wastes in addition to those set by state law.