

A state wanted to prevent its only major league baseball team, which was privately owned and operated, from moving to a rival state. After a heated political debate in the legislature, the state enacted legislation providing for a one-time grant of \$10 million in state funds to the team to cover part of the projected income losses the team would suffer during the next five years if it remained in that state. The legislation required that the team remain in the state for at least ten years if it accepted the grant.

After accepting the grant, the team owners decided to build a new \$150 million stadium in the state. As plans for the construction of the new stadium proceeded, it became evident that all of the contractors and subcontractors would be white males, and that they had been chosen by the team owners without any public bids because these contractors and subcontractors had successfully built the only other new baseball stadium in the region.

Several contractors who were females or members of minority racial groups filed suit against the team owners in federal district court to compel public solicitation of bids for the construction of the team's new stadium on an equal opportunity basis, and to enjoin construction of the stadium until compliance was ensured. Their only claim was that the contracting practices of the team owners denied them the equal protection of the laws in violation of the Fourteenth Amendment.

In this suit, what will the court probably rule?

- A. In the absence of additional evidence of state involvement in the operations or decisions of the team owners, a one-time grant of state monies to them is insufficient to warrant treating their actions as subject to the limitations of the Fourteenth Amendment.
- B. The intense public preoccupation with the activities of major league baseball teams coupled with the fact that baseball is considered a national pastime is sufficient to justify application of the Fourteenth Amendment to the activities of major league teams.
- C. The issues presented by this case are nonjusticiable political questions because there is a lack of judicially manageable standards to resolve them and the court is likely to be deeply involved in partisan politics.
- D. The nexus between the actions of the team owners and the one-time grant of monies to them by the state is sufficiently substantial to subject their actions to the limitations of the Fourteenth Amendment.

Explanation:

State-action doctrine

Traditional government function

- Private actor performs traditional & exclusive government function (eg, running elections)

Significant government involvement

- Government & private actor have *mutually beneficial* relationship (eg, joint activity or venture)
- Government creates *nexus* by affirmatively facilitating or authorizing private action (eg, police officer acting under color of law)
- Government is *pervasively intertwined* in private entity's management or control

The Constitution generally limits government actors. But under the **state-action doctrine**, a **private actor** is **considered a government actor**—and similarly bound by the Constitution—when (1) the private actor performs a **traditional and exclusive government function** or (2) the **government is significantly involved** in the private actor's activities. Therefore, the contractors can only challenge the *private* baseball team owners' discriminatory contracting practices on [equal protection](#) grounds if the state-action doctrine applies.

Here, the team owners are not performing a traditional and exclusive government function by building a baseball stadium. And though they received a one-time grant of state funds, government funding—however substantial—is insufficient to convert private conduct into state action **(Choice D)**. Therefore, in the absence of additional evidence of significant state involvement in the team owners' operations or decisions, the court will probably rule that the team owners' actions are not subject to the Fourteenth Amendment.

(Choice B) Although major league baseball is a national pastime that intensely preoccupies the public, it is not a traditional government function that would trigger the state-action doctrine.

(Choice C) The political-question doctrine bars federal courts from hearing cases that present issues that (1) are reserved for the executive or legislative branches or (2) lack judicially manageable standards for resolution. But since courts often resolve equal protection claims involving discriminatory executive or legislative policies—without becoming involved in partisan politics—this doctrine does not apply.

Educational objective:

The Constitution generally applies to government actors—not private actors. But under the state-action doctrine, a private actor will be treated as a government actor when (1) the

private actor performs a traditional and exclusive government function or (2) the government is significantly involved in the private actor's activities.

References

- Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n, 531 U.S. 288, 296–98 (2001) (listing scenarios in which the state-action doctrine is applied).

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