



NEW JERSEY SENATE

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Dear Governor:

In November 2011, New Jersey voters agreed to amend the State Constitution to allow sports betting. The State promptly enacted legislation implementing the amendment. By virtue of the legislation passed in 2012, Atlantic City casinos and racetracks all over the state would be allowed to take bets on professional and college sports from customers 21 years of age or older.

The 2012 law was immediately attacked by the Leagues when they filed a complaint in federal court seeking to enjoin implementation of the law on the basis that it violated a federal law that “prohibits sports gambling conducted by, or authorized under the law of, any State or other governmental entity.” The Leagues were successful in the first round as the District Court held that the federal Professional Amateur Sports Protection Act (PASPA) preempted the 2012 State law. The District Court then issued an order permanently enjoining New Jersey from carrying out the will of its people.

The State appealed to the Third Circuit Court, but lost round two also. In ruling against the State by a two-to-one vote, the Circuit Court recognized the League’s assertion that state-authorized sports betting carried a “stigmatizing label” and the proliferation of betting on games would increase the negative perceptions some fans have regarding the integrity of the outcomes. NCAA v. Governor of NJ, 730 F.3d 208, 222 (3d Cir. 2013)(Christie I). The State filed a petition for a writ of certiorari following Christie I. The Supreme Court denied review.

Following the decision of the Court of Appeals in Christie I, the State enacted another law in 2014. This new legislation attempted to adhere to the strictures of the Circuit Court’s ruling by repealing all laws prohibiting sports betting at casinos and horseracing tracks in New Jersey, thereby leaving it to the operators of such facilities whether or not they wished to allow such wagering without any state authorization or regulation of sports betting. The State’s attempt to comply with the Circuit Court’s



apparent guidelines is incontrovertible. Indeed, the Governor's signing statement accompanying enactment of the 2014 law explained that the new law "closely adheres to controlling federal law" and "fully responds to the issues raised by the federal courts."

The Leagues immediately dragged the State back into federal district court and were once again successful in having an injunction issued against the State of New Jersey. Understandably, the State once again appealed but the Third Circuit three-judge panel affirmed the District Court's injunction. Interestingly, Judge Fuentes, who ironically wrote the first Circuit Court decision affirming the injunction, this time dissented. NCAA v. Governor of NJ, 799 F.3d 259, 271 (3d Cir. 2015). On October 14, 2015, a majority of the active Third Circuit Court of Appeals judges voted in favor of a rehearing, *en banc*, of the two-to-one split decision. On August 9, 2016 the entire Third Circuit Court ruled against the State by a nine-to-three vote, holding that PASPA is constitutional and that the State violated it. NCAA v. Governor of NJ, 832 F.3d 389 (3d Cir. 2016)(Christie II).

The State, for the second time, asked the Supreme Court to review the matter. This time the Court agreed to hear the case and granted the state's petition for a writ of certiorari. Monday, in a landmark 6-3 decision, the Supreme Court ruled that PASPA violates the anti-commandeering principles embodied in the 10th Amendment's balance of state v. federal power, allowing New Jersey and other states to permit sports betting. In reaching that clear conclusion, the Supreme Court explained that "a more direct affront to state sovereignty is not easy to imagine." Governor of NJ v. NCAA, et. al. (slip opinion) at page 18.

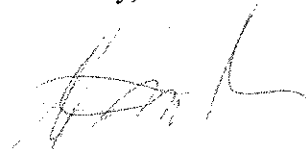
Thus, after the six years of being raked over the coals by the Leagues suffering loss after loss and spending over ten million dollars in legal fees and hundreds of millions of dollars in tax revenue, New Jersey is finally able to carry out the will of its people by permitting sports wagering by adults. It was an arduous battle with the Leagues fighting every step of the way. During this epic battle, the Leagues consistently touted the moral imperative to quash the proliferation of sports betting because it would negatively impact public perception of the integrity of sports contests. NFL Commissioner Paul Tagliabue stated that "[w]ith legalized sports gambling, our games ... will come to represent the fast buck, the quick fix, the desire to get something for nothing." (Emphasis added) Commissioner Roger Goodell shared this view, explaining that "the NFL cannot be compensated ... for the harm that sports gambling poses to the goodwill, character and integrity of NFL football, and to the fundamental bonds of loyalty and devotion between fans and teams that the leagues seek to maintain." Jeffrey Mishkin, Attorney for the Leagues said during his District Court Argument on December 18, 2012 that with increased gambling "there will be greater suspicion about all of the normal incidents of the game: every dropped pass, every missed free throw will now become an objective suspicion as to the integrity of the competition."

The Leagues fought with all of their resources to stop states from allowing their citizens to legally wager on sports. Now that their efforts have been ultimately unsuccessful they wish themselves to make "the fast buck" and to "get something for

nothing.” Essentially, the Leagues are asking to be paid to allow games to be played fairly. Ironically, they are calling this extortion attempt an “integrity fee,” even while fully aware that providing participants a stake in the volume of betting would amount to what could more accurately be called an “anti-integrity” fee. And their demand begs the question of what they would now start doing to preserve the integrity of their games that they have not been doing for years, as it has been widely known that billions of dollars are bet annually on the Leagues’ games in Nevada (the one state that PASPA allowed to have legal sports betting) and illegally. And, it is also widely known that neither Nevada nor any other state pays the Leagues to play sports. New Jersey, after all of the time and expense put into making sports wagering legal, will not make itself uncompetitive by being the only State to pay the League extortion.

The Leagues should not in any way profit from sports wagering that finally has been legalized notwithstanding their opposition in order to purportedly protect the integrity of the games and reduce the suspicion from fans when outcomes result in more betting. Taking the Leagues at their word, giving them a “piece of the action” would make suspicions grow whenever turning-point calls in close games go in favor of the more popular team - whose presence in the “big game” would drive ratings and betting. There will be increased skepticism when the New England Patriots defeat the Jacksonville Jaguars in a game in which they were being thoroughly outplayed and questionable calls are made at the end of the game. Eyebrows will be raised when the New York Knicks or Los Angeles Lakers make the NBA finals. Or when the Yankees play the Dodgers in the World Series, or America’s Team – the Dallas Cowboys – returns to the Super Bowl. Providing financial incentives for major sports leagues to make sure that big market teams with large fan bases win the big games, because it would increase the betting volume and income for the Leagues, would do the exact opposite of increasing the public’s perception of the integrity of sports contests. The State of New Jersey does not intend to be a part of that.

Sincerely,

A handwritten signature in black ink, appearing to read "S. M. Sweeney", written in a cursive style.

Stephen M. Sweeney  
Senate President