

10-224 NATIONAL MEAT ASSOCIATION V. HARRIS

DECISION BELOW: 599 F.3d 1093

LOWER COURT CASE NUMBER: 09-15483, 09-15486

QUESTION PRESENTED:

The Federal Meat Inspection Act ("FMIA"), as amended by the Wholesome Meat Act of 1967 and the Humane Methods of Slaughter Act, comprehensively regulates the "premises, facilities, and operations" of slaughterhouses where meat is prepared for human consumption. Since the passage of the Wholesome Meat Act, the FMIA has expressly preempted state regulations "in addition to, or different than" federal regulations. 21 U.S.C. § 678. Thus, for almost half a century, a uniform federal regulatory framework has safeguarded animal and human health and safety. In 2008, California passed a law -the provisions of which were later considered and expressly rejected by federal regulators -requiring federally-inspected slaughterhouses to "immediately euthanize" any non-ambulatory animal on its premises, thereby eliminat-ing important federally-required ante-mortem inspec-tion of possibly diseased animals.

The questions presented in this case are:

1. Did the Ninth Circuit err in holding that a "pre-sumption against preemption" requires a "narrow interpretation" of the FMIA's express preemption provision, in conflict with this Court's decision in *Jones v. Rath Packing Co.*, 430 U.S. 519, 540 (1977), that the provision must be given "a broad meaning"?
2. Where federal food safety and humane handling regulations specify that animals (here, swine) which are or become nonambulatory on federally-inspected premises are to be separated and held for observation and further disease inspection, did the Ninth Circuit err in holding that a state criminal law which re-quires that such animals not be held for observation and disease inspection, but instead be immediately euthanized, was not preempted by the FMIA?
3. Did the Ninth Circuit err in holding more gener-ally that a state criminal law which states that no slaughterhouse may buy, sell, receive, process, butch-er, or hold a nonambulatory animal is not a preempt-ed attempt to regulate the "premises, facilities, [or] operations" of federally-regulated slaughterhouses?

CERT. GRANTED 6/27/2011