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Sports Betting Legalization: How Did We Get Here and What's Next?

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August 13, 2018

What *was* PASPA?

- The United States has a long anti-gambling history
 - Most gambling that has been permitted is left to state discretion
- Sports betting – with the exception of pari-mutuel horse betting – has been a frequent target of federal and state law
 - The Federal Wire Act, 1961
 - Travel Act, 1961
 - Interstate Transportation of Paraphernalia, 1961
 - Illegal Gambling and Business Act, 1970
- Culminated with the Professional and Amateur Sports Protection Act in 1992



Murphy v. NCAA – A Tortured History

- 2011: New Jersey Voter Referendum
- 2012: New Jersey enacts the Sports Wagering Act
- August 2012: *Christie I* – Sports leagues – NBA, NFL, NHL, MLB, NCAA – challenged the Sports Wagering Act under PASPA
 - Third Circuit ruled in February 2013 that while the enactment of the Sports Wagering Act violates PASPA, the court did “not read PASPA to prohibit New Jersey from **repealing** its ban on sports wagering.”
- 2014: New Jersey repeals its ban on sports betting
 - *Christie II* – Leagues challenge it again – and win again
- New Jersey appeals to the Supreme Court



Sports Betting at the Supreme Court

“Congress can regulate sports gambling directly, but if it elects not to do so, each state is free to act on its own. Our job is to interpret the law Congress has enacted and decide whether it is consistent with the Constitution. PASPA is not.”

Murphy v. NCAA,
Slip Op. 16-476, at 31 (2018)
(Alito, J.)



What Now?

- This was a repeal of a federal ban
- States will have to act
 - Enacting legislation
 - Implementing regulation



Important Issues in State-by-State Legalization

- Power of incumbents
- Licensing fees and investigations
- Tax rates
- Impact on other forms of gaming
- Remaining federal laws





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