

SUPREME COURT OF TEXAS

Zachry Construction Corporation v. Texas A&M University

Zachry Construction Corp. v. Texas A&M Univ., 298 S.W.3d 617 (Tex. 2009) · No. No. 07-1050 · Decided November 20, 2009

SUMMARY

The Supreme Court of Texas withdrew its order granting review and denied the petitions for review as improvidently granted in litigation arising from the 1999 Texas A&M bonfire collapse. Because Texas A&M University had settled with the plaintiffs, it was a settling person whose proportionate responsibility could be submitted to the jury, making the responsible-third-party issue moot.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	November 20, 2009
DOCKET	No. 07-1050
DISPOSITION	dismissed
PROCEDURAL POSTURE	Zachry Construction Corporation and Scott-Macon, Ltd. petitioned for review of a court of appeals judgment reversing the trial court and rendering judgment dismissing all claims against Texas A&M University. While the petitions were pending, Texas A&M settled with the plaintiffs, making it a settling person whose responsibility was required to be submitted to the jury under Texas law. The Supreme Court of Texas withdrew its order granting review as improvidently granted and denied the petitions for review.
PRECEDENTIAL VALUE	Published precedential opinion, limited to the mootness-based disposition and statutory effect of settling-person status; the court did not decide the merits of the sovereign-immunity or responsible-third-party issue.
PARTIES	Zachry Construction Corporation, Scott-Macon, Ltd. v. Texas A&M University

TOPICS

- mootness
- appellate procedure
- civil procedure
- personal injury
- wrongful death

PRACTICE AREAS

civil procedure

appellate procedure

construction law

personal injury

wrongful death

QUESTIONS PRESENTED

1. Whether Texas A&M University's percentage of responsibility had to be submitted to the jury as a responsible third party despite its sovereign-immunity objections.
2. Whether the issue became moot after Texas A&M settled with the plaintiffs and became a settling person whose percentage of responsibility was required to be determined by the jury.

HOLDINGS

1. Because Texas A&M became a settling person, the issue of whether it should be submitted to the jury as a responsible third party was moot; the Supreme Court therefore withdrew its order granting review as improvidently granted and denied the petitions for review without reaching the merits of the court of appeals' decision.

KEY QUOTATIONS

"Accordingly, without reference to the merits of the court of appeals' decision, we withdraw our order granting the petitions as improvidently granted and deny the petitions for review." (298 S.W.3d at 618)

FACTUAL BACKGROUND

The case arose from the 1999 collapse of the Texas A&M bonfire structure, which injured several students and killed others. Injured students and family members of deceased students sued Texas A&M University and entities involved in planning and constructing the structure, including Zachry Construction Corporation and Scott-Macon, Ltd. The plaintiffs later settled with and dismissed their claims against Texas A&M, changing the University's status to that of a settling person under Texas proportionate-responsibility law.

PROCEDURAL HISTORY

The plaintiffs sued Texas A&M University and other entities following the 1999 bonfire collapse. After the plaintiffs nonsuited their claims against Texas A&M, Zachry and Scott-Macon sought to have the University designated as a responsible third party for allocation of responsibility. The trial court rejected Texas A&M's sovereign-immunity arguments, but the court of appeals reversed and rendered judgment dismissing all claims against the University. During review in the Supreme Court of Texas, Texas A&M entered into a master settlement agreement with the plaintiffs, rendering the responsible-third-party issue moot.

DISPOSITION

dismissed