FIRST COURT OF APPEALS OF TEXAS

Latter Day Deliverance Revival Church and Christian Fellowship Missionary Baptist Church v. the Houston Housing Authority

Latter Day Deliverance Revival Church · No. 01-15-00790-CV · Decided September 16, 2015

OPINION

PER CURIAM.

ACCEPTED 01-15-00790-CV FIRST COURT OF APPEALS HOUSTON, TEXAS Appellate Docket Number: 01-15-00790-CV 9/16/2015 2:11:50 PM CHRISTOPHER PRINE Appellate Case Style: Latter Day Deliverance Revival Church CLERK Vs. Houston Housing Authority Companion Case No.: FILED IN 1st COURT OF APPEALS HOUSTON, TEXAS 9/16/2015 2:11:50 PM Amended/corrected statement: DOCKETING STATEMENT (Civil) CHRISTOPHER A. PRINE Clerk Appellate Court: 1st Court of Appeals (to be filed in the court of appeals upon perfection of appeal under TRAP 32) I. Appellant II.

Appellant Attorney(s) D Person fS] Organization (choose one) fS] Lead Attorney Organization Name: Latter Day Deliverance Revival Church First Name: Aaron First Name: Middle Name: Middle Name: Last Name: Streett Last Name: Suffix: Suffix: Law Firm Name: Baker Botts L.L.P. Pro Se: 0 Address l: 910 Louisiana Street Address 2: City: Houston State: Texas Zip+4: 77002-4995 Telephone: (713) 229-1855 ext.

Fax: (713) 229-7855 Emai I: aaron.streett@bakerbotts.com SBN: 24037561 I. Appellant II. Appellant Attorney(s) D Person fSl Organization (choose one) D Lead Attorney Organization Name: Latter Day Deliverance Revival Church First Name: Samuel First Name: Middle Name: Middle Name: Last Name: Burk Last Name: Suffix: Suffix: Law Firm Name: Baker Botts L.L.P. Pro Se: 0 Address 1: 910 Louisiana Street Address 2: Page 1 of 11 City: Houston State: Texas Zip+4: 77002-4995 Telephone: (713) 229-2129 ext.

Fax: (713) 229-7829 Email: sam.burk@bakerbotts.com SBN: 24064974 I. Appellant II. Appellant Attorney(s) D Person cg] Organization (choose one) D Lead Attorney Organization Name: Latter Day Deliverance Revival Church First Name: Hiram First Name: Middle Name: Middle Name: Last Name: Sasser Last Name: Suffix: III. Suffix: Law Firm Name: Liberty Institute Pro Se: 0 Address I: 200 I W. Plano Parkway Address 2: Suite 1600 City: Plano State: Texas Zip+4: 75075 Telephone: (972) 941-4444 ext.

Fax: (972) 941-4457 Email: hsasser@libertyinstitute.org SBN: 24039157 1. Appellant II. Appellant Attorney(s) D Person cg] Organization (choose one) D Lead Attorney Organization Name: Latter Day Deliverance Revival Church First Name: Shane First Name: Middle Name:

Middle Name: Last Name: Pennington Last Name: Suffix: Suffix: Law Firm Name: Baker Botts L.L.P.

Pro Se: 0 Address I: 910 Louisiana Street Address 2: City: Houston State: Texas Zip+4: 77002 Telephone: (713) 229-1340 ext. Fax: (713) 229-2840 Email: shane.pennington@bakerbotts.com SBN: 24080720 Page 2of11 I. Appellant II. Appellant Attorney(s) D Person ~ Organization (choose one) D Lead Attorney Organization Name: Latter Day Deliverance Revival Church First Name: Jonathan First Name: Middle Name: Middle Name: Last Name: Havens Last Name: Suffix: Suffix: Law Firm Name: Baker Botts L.L.P.

Pro Se: Q Address I: 910 Louisiana Street Address 2: City: Houston State: Texas Zip+4: 77002 Telephone: (713) 229- 1332 ext. Fax: (713)229-7932 Emai 1: jonathan.havens@bakerbotts.com SBN: 24087686 I. Appellant II. Appellant Attorney(s) D Person ~ Organization (choose one) D Lead Attorney Organization Name: Latter Day Deliverance Revival Church First Name: Justin First Name: Middle Name: Middle Name: Last Name: Butterfield Last Name: Suffix: Suffix: Law Firm Name: Liberty Institute Pro Se: Q Address I: 200 l W. Plano Parkway Address 2: Suite 1600 City: Plano State: Texas Zip+4: 75075 Telephone: (972) 941-4444 ext.

Fax: (972) 941-4457 Emai 1: jbutterfield@libertyinstitute.org SBN: 24062642 I. Appellant II. Appellant Attorney(s) D Person D Organization (choose one) D Lead Attorney First Name: First Name: Middle Name: Middle Name: Last Name: Last Name: Suffix: Suffix: Law Firm Name: Pro Se: 0 Address I: Address 2: Page 3of11 City: State: Texas Zip+4: Telephone: ext. Fax: Email: SBN: III.

Appellee IV. Appellee Attorney(s) D Person IXJOrganization (choose one) IXJ Lead Attorney Organization Name: Houston Housing Authority First Name: Kevin First Name: Middle Name: Middle Name: Last Name: Maguire Last Name: Suffix: Suffix: Law Firm Name: Strasburger & Price Pro Se: 0 Address I: 901 Main Street Address 2: Suite 4400 City: Dallas State: Texas Zip+4: 75202 Telephone: 214-651-4696 ext.

Fax: 214-659-4056 Email: kevin.maguire@strasburger.com SBN: 12827900 III. Appellee IV. Appellee Attorney(s) D Person IXJOrganization (choose one) D Lead Attorney Organization Name: Houston Housing Authority First Name: Gregory First Name: Middle Name: Middle Name: J Last Name: Clark Last Name: Suffix: Suffix: Law Firm Name: Coats Rose Pro Se: 0 Address l: 9 Greenway Plaza Address 2: Suite 1100 City: Houston State: Texas Zip+4: 77046 Telephone: 713-653-7302 ext.

Fax: 713-890-3915 Email: gclark@coatsrosse.com SBN: 04282350 Page 4of11 V. Perfection Of Appeal And Jurisdiction Nature of Case (Subject matter or type of case): Injunction Date order or judgment signed: September 1, 2015 Type of judgment: Interlocutory Order Date notice of appeal filed in trial court: September 4, 2015 If mailed to the trial court clerk, also give the date mailed:

Interlocutory appeal of appealable order: IZJ Yes D No If yes, please specify statutory or other basis on which interlocutory order is appealable (See TRAP 28): The denial of the temporary injunction is an appealable interlocutory order pursuant to CPRC §51.014(a)(4).

Accelerated appeal (See TRAP 28): IZJ Yes D No If yes, please specify statutory or other basis on which appeal is accelerated: This in an appeal from an interlocutory order denying a temporary injunction and must be accelerated pursuant to TRAP 28.1 (a). Parental Termination or Child Protection? (See TRAP 28.4): 0Yes ~No Permissive? (See TRAP 28.3): D Yes IZJ No If yes, please specify statutory or other basis for such status: Agreed?

(See TRAP 28.2): D Yes IZJ No If yes, please specify statutory or other basis for such status: Appeal should receive precedence, preference, or priority under statute or rule: IZJ Yes D No If yes, please specify statutory or other basis for such status: Accelerate appeals have precedence over other appeals. TRAP 40.1 (b) Does this case involve an amount under $100,000?

IZJ Yes D No Judgment or order disposes of all parties and issues: D Yes IZ]No Appeal from final judgment: D Yes IZJ No Does the appeal involve the constitutionality or the validity of a statute, rule, or ordinance? D Yes IZ]No VI. Actions Extending Time To Perfect Appeal Motion for New Trial: 0Yes IZJ No If yes, date filed: Motion to Modify Judgment: 0Yes IZJ No If yes, date filed: Request for Findings of Fact 0Yes IZJ No If yes, date filed: and Conclusions of Law: 0Yes IZ] No If yes, date filed: Motion to Reinstate: Motion under TRCP 306a: D Yes IZJ No If yes, date filed: Other: 0Yes IZJ No If other, please specify: VII.

Indigency Of Party: (Attach file-stamped copy of affidavit, and extension motion if filed.) Affidavit filed in trial court: D Yes IZJ No If yes, date filed: Contest filed in trial court: 0Yes D No If yes, date filed: Date ruling on contest due: Ruling on contest: D Sustained D Overruled Date of ruling: Page 5of11 VIII. Bankruptcy Has any party to the court's judgment filed for protection in bankruptcy which might affect this appeal?

0Yes ~No If yes, please attach a copy of the petition. Date bankruptcy filed: Bankruptcy Case Number: IX. Trial Court And Record Court: 190th Judicial District Court Clerk's Record: County: Harris County Trial Court Clerk: ~ District D County Trial Court Docket Number (Cause No.): 2015-45093 Was clerk's record requested? ~Yes D No If yes, date requested: September 8, 2015 Trial Judge (who tried or disposed of case): If no, date it will be requested: First Name: Judge Patricia Were payment arrangements made with clerk?

Middle Name: ~Yes 0No 0Indigent Last Name: Kerrigan (Note: No request required under TRAP 34.S(a),(b)) Suffix: Address l: 201 Caroline Street Address 2: 12th Floor City: Houston State: Texas Zip+ 4: 77002 Telephone: (713) 368-6310 ext. Fax: Email: Reporter's or Recorder's Record: Is there a reporter's record? ~Yes D No Was reporter's record requested? ~Yes 0No Was there a reporter's record electronically recorded?

D Yes D No If yes, date requested: September 4, 2015 If no, date it will be requested: Were payment arrangements made with the comt reporter/court recorder? ~Yes D No Oindigent Page 6of11 [:gj Court Reporter D Court Recorder [:gj Official D Substitute First Name: My Thuy Middle Name: Last Name: Cieslar Suffix: Address I: 190th District Court Address 2: 201 Caroline, Suite 1204 City: Houston State: Texas Zip+ 4: 77002 Telephone: 713368-6326 ext.

Fax: Email: mytlmy_ cieslar@justex.net X. Supersedeas Bond Supersedeas bond filed:0Yes [:gj No If yes, date filed: Will file: D Yes [:g] No XI. Extraordinary Relief Will you request extraordinary relief (e.g. temporary or ancillary relief) from this Court? D Yes [:gj No If yes, briefly state the basis for your request: XU. Alternative Dispute Resolution/Mediation (Complete section if filing in the 1st, 2nd, 4th, 5th, 6th, 8th, 9th, 10th, 11th, 12th, 13th, I or 14th Court of Appeal) · I Should this appeal be referred to mediation?

D Yes [:gj No If no, please specify:Given the constitutional law and TRFRA claims, an appellate court hearing is likely most efficient Has the case been through an ADR procedure? 0Yes [:gj No If yes, who was the mediator? What type of ADR procedure? At what stage did the case go through ADR? D Pre-Trial D Post-Trial D Other If other, please specify: Type of case?

Injunction Give a brief description of the issue to be raised on appeal, the relief sought, and the applicable standard for review, if known (without prejudice to the right to raise additional issues or request additional relief): Whether appellant has the right to injunctive relief because the imminent actions ofthe appellee will substantially burden its free exercise of religion How was the case disposed of?

Summary of relief granted, including amount of money judgment, and if any, damages awarded. If money judgment, what was the amount? Actual damages: Punitive (or similar) damages: Page 7 of 11 Attorney's fees (trial): Attorney's fees (appellate): Other: If other, please specify: Will you challenge this Cou1t's jurisdiction? 0Yes ~No Does judgment have language that one or more parties "take nothing"?

D Yes ~ No Does judgment have a Mother Hubbard clause? 0Yes ~ No Other basis for finality? Interlocutory order Rate the complexity of the case (use 1 for least and 5 for most complex): D 1 D2 ~ D 4 D5 3 Please make my answer to the preceding questions known to other parties in this case. ~Yes D No Can the paities agree on an appellate mediator? D Yes D No If yes, please give name, address, telephone, fax and email address: Name Address Telephone Fax Email Languages other than English in which the mediator should be proficient: Name of person filing out mediation section of docketing statement: XIII.

Related Matters List any pending or past related appeals before this or any other Texas appellate court by court, docket number, and style. Docket Number: Trial Court: Style: Vs. Page 8 of 11 XIV. Pro Bono Program: (Complete section if filing in the 1st, 3rd, 5th, or 14th Courts of Appeals)

The Courts of Appeals listed above, in conjunction with the State Bar of Texas Appellate Section Pro Bono Committee and local Bar Associations, are conducting a program to place a limited number of civil appeals with appellate counsel who will represent the appellant in the appeal before this Court.

The Pro Bono Committee is solely responsible for screening and selecting the civil cases for inclusion in the Program based upon a number of discretionary criteria, including the financial means of the appellant or appellee. Tf a case is selected by the Committee, and can be matched with appellate counsel, that counsel will take over representation of the appellant or appellee without charging legal fees.

More information regarding this program can be found in the Pro Bono Program Pamphlet available in paper form at the Clerk's Office or on the Internet at www.tex-app.org. If your case is selected and matched with a volunteer lawyer, you will receive a letter from the Pro Bono Committee within thirty (30) to forty-five (45) days after submitting this Docketing Statement.

Note: there is no guarantee that if you submit your case for possible inclusion in the Pro Bono Program, the Pro Bono Committee will select your case and that pro bono counsel can be found to represent you. Accordingly, you should not forego seeking other counsel to represent you in this proceeding. By signing your name below, you are authorizing the Pro Bono committee to transmit publicly available facts and information about your case, including parties and background, through selected Internet sites and Listserv to its pool of volunteer appellate attorneys.

Do you want this case to be considered for inclusion in the Pro Bono Program? D Yes~ No Do you authorize the Pro Bono Committee to contact your trial counsel of record in this matter to answer questions the committee may have regarding the appeal? DYes No D Please note that any such conversations would be maintained as confidential by the Pro Bono Committee and the information used solely for the purposes of considering the case for inclusion in the Pro Bono Program.

If you have not previously filed an affidavit oflndigency and attached a file-stamped copy of that affidavit, does your income exceed 200% of the U.S. Department of Health and Human Services Federal Poverty Guidelines? D Yes D No These guidelines can be found in the Pro Bono Program Pamphlet as well as on the internet at hni;i.;LLi!flP~Jlh;;...g_Qy/pQ.YG.rt)'i_Q6pQY_Gity.sJHml.

Are you willing to disclose your financial circumstances to the Pro Bono Committee? 0Yes D No If yes, please attach an Affidavit oflndigency completed and executed by the appellant or appellee. Sample forms may be found in the Clerk's Office or on the internet at http://www.tex-app.org. Your participation in the Pro Bono Program may be conditioned upon your execution of an affidavit under oath as to your financial circumstances.

Give a brief description of the issues to be raised on appeal, the relief sought, and the applicable standard of review, if known (without prejudice to the right to raise additional issues or request additional relief; use a separate attachment, if necessary). XV. Signature Signature of counsel (or pro se party) Date: September 16, 2015 Printed Name: Jonathan Havens State Bar No.: 24087686 Electronic Signature: /s/ Jonathan Havens (Optional) Page 9 of 11 XVI.

Certificate of Service The undersigned counsel certifies that this docketing statement has been served on the following lead counsel for all parties to the trial court's order or judgment as follows on September 16, 2015 Signature of counsel (or pro se party) Electronic Signature: /s/ Jonathan Havens (Optional) State Bar No.: 24087686 Person Served Certificate of Service Requirements (TRAP 9.5(e)): A certificate of service must be signed by the person who made the service and must state: (I) the date and manner of service; (2) the name and address of each person served, and (3) if the person served is a party's attorney, the name of the party represented by that attorney Please enter the following for each person served: Date Served: September 16, 2015 Manner Served: eServed First Name: Kevin Middle Name: Last Name: Maguire Suffix: Law Firm Name: Strasburger & Price Address I: 901 Main Street Address 2: Suite 4400 City: Dallas State Texas Zip+4: 75202 Telephone: 214-651-4696 ext.

Fax: 214-659-4056 Email: kevin.maguire@strasburger.com If Attorney, Representing Party's Name: Houston Housing Authority Please enter the following for each person served: 1· L---------- Page 10of11 Date Served: September 16, 2015 Manner Served: eServed First Name: Gregory Middle Name: Last Name: Clark Suffix: Law Firm Name: Coats Rose Address I: 9 Greenway Plaza Address 2: Suite 1100 City: Houston State Texas Zip+4: 77046 Telephone: 713-653-7302 ext.

Fax: 713-890-3915 Email: gclark@coatsrose.com If Attorney, Representing Party's Name: Houston Housing Authority Page 11 of 11