

SUPREME COURT OF TEXAS

Eric D. Hillman v. Nueces County, Texas and Nueces County District Attorney's Office

579 S.W.3d 354 (Tex. 2019) · No. No. 17-0588 · Decided March 15, 2019

SUMMARY

The Supreme Court of Texas held that governmental immunity barred Eric Hillman’s wrongful-termination suit against Nueces County and the Nueces County District Attorney’s Office. The court concluded that neither the Sabine Pilot common-law exception for termination for refusing to perform an illegal act nor the Michael Morton Act waived the County’s immunity. The court affirmed dismissal for lack of subject-matter jurisdiction and declined to address a potential ultra vires claim.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Jeffrey S. Boyd
JURISDICTION	Texas
DECIDED	March 15, 2019
DOCKET	No. 17-0588
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a court-of-appeals judgment affirming the trial court's dismissal of Hillman's wrongful-termination suit for lack of subject-matter jurisdiction based on governmental immunity.
STANDARD OF REVIEW	The court liberally construes the plaintiff's pleadings, accepts pleaded facts as true for purposes of the jurisdictional challenge, and determines whether the pleadings and record conclusively negate jurisdiction. A plea to the jurisdiction is reviewed de novo.
PRECEDENTIAL VALUE	Published Texas Supreme Court opinion; binding precedent in Texas.
PARTIES	Eric D. Hillman v. Nueces County, Texas, Nueces County District Attorney's Office

TOPICS

wrongful termination

employment at-will

municipal liability

subject matter jurisdiction

statutory interpretation

PRACTICE AREAS

employment law

municipal law

civil procedure

statutory interpretation

criminal procedure

QUESTIONS PRESENTED

1. Whether the common-law wrongful-termination exception recognized in *Sabine Pilot Service, Inc. v. Hauck* waives governmental immunity for a Sabine Pilot claim against a county employer.
2. Whether the Michael Morton Act, Texas Code of Criminal Procedure section 39.14, clearly and unambiguously waives governmental immunity for a wrongful-termination claim based on a prosecutor's refusal to withhold exculpatory evidence.
3. Whether the Supreme Court of Texas should judicially abolish or modify governmental immunity to permit Sabine Pilot claims against governmental entities.

HOLDINGS

1. Sabine Pilot establishes a common-law duty applicable to governmental employers, but it does not waive governmental immunity from suit. Because governmental immunity bars claims against governmental entities unless waived, Hillman's Sabine Pilot claim could not proceed absent legislative waiver.
2. The Michael Morton Act does not clearly and unambiguously waive Nueces County's governmental immunity from a Sabine Pilot wrongful-termination claim.
3. The court declined to judicially abolish or modify governmental immunity to permit Sabine Pilot claims against governmental entities, holding that any such waiver is a legislative policy decision.
4. The court declined to decide whether Hillman could pursue an ultra vires claim and expressed no opinion on the validity of such a claim under the circumstances.

KEY QUOTATIONS

“So although we can say that the common-law-tort duty we recognized in Sabine Pilot applies to all Texas employers, Hillman still cannot pursue this suit for the County’s alleged breach of that duty unless the legislature has waived the County’s governmental immunity.” (Opinion at 5)

“We hold that the Michael Morton Act does not waive the County’s governmental immunity from this suit.” (Opinion at 9)

“But to hold that governmental immunity does not apply to Sabine Pilot claims, we must trespass across the boundary between defining immunity’s scope (a judicial task) and waiving it (a legislative task).” (Opinion at 12-13)

“We hold that neither Sabine Pilot nor the Michael Morton Act waives the County’s governmental immunity from Hillman’s wrongful-termination claim, and we defer to the legislature to decide whether such a waiver

would be appropriate as a matter of public policy.” (Opinion at 14)

FACTUAL BACKGROUND

Eric Hillman was an assistant district attorney prosecuting a defendant charged with intoxicated assault and leaving the scene of an accident. Hillman discovered a witness who said the defendant was not intoxicated and believed he was legally required to disclose the information to the defense, despite his supervisor's instruction not to do so. After Hillman informed his supervisor that he would disclose the witness, the County fired him for failing to follow instructions. Hillman alleged that he was terminated solely for refusing to withhold exculpatory evidence and sought tort damages, including exemplary damages.

PROCEDURAL HISTORY

Hillman, a former assistant district attorney, sued Nueces County, the district attorney's office, and the district attorney in his official capacity, seeking damages for alleged wrongful termination. The trial court granted the County's plea to the jurisdiction and dismissed the suit. The Thirteenth Court of Appeals affirmed, and the Supreme Court of Texas granted review and affirmed.

DISPOSITION

affirmed

CASES CITED

- Harris County v. Annab, 547 S.W.3d 609 (Tex. 2018)
- Rusk State Hospital v. Black, 392 S.W.3d 88 (Tex. 2012)
- City of Houston v. Houston Municipal Employees Pension System, 549 S.W.3d 566 (Tex. 2018)
- Reata Construction Corp. v. City of Dallas, 197 S.W.3d 371 (Tex. 2006)
- State v. Lueck, 290 S.W.3d 876 (Tex. 2009)
- Sabine Pilot Service, Inc. v. Hauck, 687 S.W.2d 733 (Tex. 1985)
- Safeshred, Inc. v. Martinez, 365 S.W.3d 655 (Tex. 2012)
- In re Texas Department of Transportation, 218 S.W.3d 74 (Tex. 2007)
- City of Galveston v. State, 217 S.W.3d 466 (Tex. 2007)
- Tooke v. City of Mexia, 197 S.W.3d 325 (Tex. 2006)
- Harris County Hospital District v. Tomball Regional Hospital, 283 S.W.3d 838 (Tex. 2009)
- Ex parte Temple, No. WR-78,545-02, 2016 WL 6903758 (Tex. Crim. App. Nov. 23, 2016)
- Rodriguez v. United States, 480 U.S. 522 (1987)
- State ex rel. Best v. Harper, 562 S.W.3d 1 (Tex. 2018)
- Wasson Interests, Ltd. v. City of Jacksonville, 489 S.W.3d 427 (Tex. 2016)
- Brown & Gay Engineering, Inc. v. Olivares, 461 S.W.3d 117 (Tex. 2015)
- Federal Sign v. Texas Southern University, 951 S.W.2d 401 (Tex. 1997)
- Texas Adjutant General's Office v. Ngakoue, 408 S.W.3d 350 (Tex. 2013)

- Mission Consolidated Independent School District v. Garcia, 253 S.W.3d 653 (Tex. 2008)
- Prairie View A&M University v. Chatha, 381 S.W.3d 500 (Tex. 2012)
- University of Texas at El Paso v. Herrera, 322 S.W.3d 192 (Tex. 2010)
- Texas Department of Parks & Wildlife v. Miranda, 133 S.W.3d 217 (Tex. 2004)

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