

SUPREME COURT OF TEXAS

The City of Houston v. Steve Williams, et al.

353 S.W.3d 128 (Tex. 2011) · No. 09-0770 · Decided March 18, 2011

SUMMARY

The Supreme Court of Texas considers whether governmental immunity is waived under Texas Local Government Code section 271.152 in a suit by former Houston firefighters alleging underpayment of termination benefits. The Court holds that certain City ordinances and collective bargaining or meet-and-confer agreements may constitute qualifying written contracts, while Chapter 143 of the Local Government Code, standing alone, does not establish such a contract. The Court affirms in part, reverses in part, and remands for further proceedings.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Eva M. Guzman
JURISDICTION	Texas
DECIDED	March 18, 2011
DOCKET	09-0770
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The City sought interlocutory review of the denial of its plea to the jurisdiction in former Houston firefighters' breach-of-contract suit. The Supreme Court of Texas reviewed the court of appeals' judgment on petition for review and cross-petition.
STANDARD OF REVIEW	The court reviewed the jurisdictional issue de novo because whether a trial court possesses jurisdiction is a question of law. In reviewing a plea to the jurisdiction, the court considered the pleadings liberally in favor of the plaintiffs and looked to the pleader's intent.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The City of Houston v. Steve Williams, et al., 540 former Houston firefighters

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Houston ordinances collectively constituted a written unilateral employment contract satisfying Local Government Code section 271.151(2), thereby waiving governmental immunity under section 271.152.
2. Whether Local Government Code Chapter 143, as adopted by Houston, independently constituted a contract between the City and the firefighters.
3. Whether the firefighters had standing as third-party beneficiaries to enforce the meet-and-confer agreements and collective bargaining agreement.
4. Whether the firefighters were required to establish a breach of the union's duty of fair representation or exhaust grievance procedures before suing under the collective bargaining agreement.
5. Whether the Supreme Court had jurisdiction over the interlocutory appeal based on conflict between courts of appeals.

HOLDINGS

1. An ordinance or group of ordinances can, in appropriate circumstances, constitute a unilateral contract. The Houston ordinances at issue collectively formed a unilateral employment contract because they were written, stated essential terms, provided for services to the City, and were enacted by the City with intent to be bound.
2. Section 271.152 waived the City's immunity from suit for the firefighters' ordinance-based breach-of-contract claims.
3. Chapter 143, standing alone, did not constitute a contract between Houston and the firefighters and therefore was not a contract subject to section 271.152. A statute may be incorporated into a contract, but municipal adoption of Chapter 143 without a sufficient manifestation of contractual intent does not create a stand-alone municipal contract.
4. The firefighters had standing as intended third-party beneficiaries to enforce the meet-and-confer agreements and collective bargaining agreement. They were not required to prove a breach of the union's duty of fair representation because their claims were not hybrid federal labor-law claims, and they were not required to exhaust the CBA's grievance procedures because they were retirees whose claims accrued after retirement and who were outside the procedures' terms.

KEY QUOTATIONS

“To the extent the reasoning in Overton suggests an ordinance alone can never establish a unilateral contract, we disapprove it, and conclude that, in some circumstances, an ordinance or group of ordinances can constitute a unilateral contract.” (Section III.D)

“Finally, we hold Chapter 143 of the Local Government Code, as adopted by the City, does not, in itself, constitute a contract between the City and the Firefighters, and it therefore is not a contract within the scope

| *of section 271.152's waiver of immunity.*” (Section IV)

FACTUAL BACKGROUND

The plaintiffs were approximately 540 former Houston firefighters who alleged that the City underpaid lump-sum termination benefits. Their claims concerned deductions of previously paid overtime and exclusion of premium pay from termination-pay calculations. They relied on Houston ordinances, Local Government Code Chapter 143, two meet-and-confer agreements, and a collective bargaining agreement as written contracts supporting waiver of governmental immunity. The firefighters had retired before receiving the allegedly deficient termination payments.

PROCEDURAL HISTORY

The trial court denied the City's plea to the jurisdiction and partially upheld the firefighters' claims. The court of appeals initially affirmed, but the Supreme Court reversed that decision in *Williams I* and remanded for consideration of the Legislature's subsequent waiver of governmental immunity under Local Government Code section 271.152. On remand, the trial court and court of appeals held that certain Houston ordinances constituted a contract, while the court of appeals rejected the firefighters' arguments concerning Chapter 143 and their standing under the meet-and-confer agreements and collective bargaining agreement. The Supreme Court affirmed in part, reversed in part, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the trial court for further proceedings consistent with the opinion, including consideration of the merits of the firefighters' contract claims and whether relevant statutes were incorporated into the ordinance-based unilateral contract.

CASES CITED

- *City of Houston v. Williams*, 183 S.W.3d 409 (Tex. App.—Houston [14th Dist.] 2005), rev'd, 216 S.W.3d 827 (Tex. 2007)
- *City of Houston v. Williams*, 216 S.W.3d 827 (Tex. 2007)
- *Tooke v. City of Mexia*, 197 S.W.3d 325 (Tex. 2006)
- *Vanegas v. American Energy Services*, 302 S.W.3d 299 (Tex. 2009)
- *Overton v. City of Houston*, 564 S.W.2d 400 (Tex. Civ. App.—Houston [1st Dist.] 1978, writ ref'd n.r.e.)
- *City of San Antonio v. Frizzell*, 91 S.W.2d 1056 (Tex. 1936)
- *Byrd v. City of Dallas*, 6 S.W.2d 738 (Tex. 1928)
- *Southern Union Co. v. City of Edinburg*, 129 S.W.3d 74 (Tex. 2003)
- *City of Fort Worth Independent School District v. City of Fort Worth*, 22 S.W.3d 831 (Tex. 2000)
- *Kirby Lake Development, Ltd. v. Clear Lake City Water Authority*, 320 S.W.3d 829 (Tex. 2010)

- County of Dallas v. Wiland, 216 S.W.3d 344 (Tex. 2007)
- Stine v. Stewart, 80 S.W.3d 586 (Tex. 2002) (per curiam)
- MCI Telecommunications Corp. v. Texas Utilities Electric Co., 995 S.W.2d 647 (Tex. 1999)
- Allied Chemical & Alkali Workers, Local Union No. 1 v. Pittsburgh Plate Glass Co., 404 U.S. 157 (1971)
- Reed v. United Transportation Union, 488 U.S. 319 (1989)
- United Parcel Service, Inc. v. Mitchell, 451 U.S. 56 (1981)
- Stephen F. Austin State University v. Flynn, 228 S.W.3d 653 (Tex. 2007)
- Bland Independent School District v. Blue, 34 S.W.3d 547 (Tex. 2000)

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