

No. _____

In The
SUPREME COURT OF THE UNITED STATES

HARMON L. TAYLOR,
Respondent – Appellant – Petitioner – Petitioner,

v.

STATE OF TEXAS,
Plaintiff – Appellee – Respondent – Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS, FIFTH DISTRICT OF
TEXAS AT DALLAS

ORIGINAL PETITION FOR A WRIT OF CERTIORARI
WITH APPENDIX A

HARMON L. TAYLOR
H.L. TAYLOR FARMS
225 OLD PATTERSON ROAD
HOWE, TEXAS 75459

Questions Presented

This Court's Jurisdiction

1. Are the federal question (compelled consent) rulings "final?"

Appellate Jurisdiction – denial of access

2. Did the 5th Dist. CoA err by refusing to exercise "civil" jurisdiction?

Trial jurisdiction – compelled consent

3. Did the 5th Dist. CoA err by tacitly affirming the denial of Special Appearance(s)?
4. Did the 5th Dist. CoA err by tacitly affirming the denial of Plea(s) to the Jurisdiction?

Invalid state statute(s)

5. Is the TEX. TRANSP. CODE unconstitutional, as applied?

Petition for a Writ of Certiorari

Taylor petitions for a writ of certiorari to the Fifth District Court of Appeals as follows:

Citation(s) below

None. (2018 WL 3215905)

Jurisdiction

(i) Date of CoA's dismissal.

July 2, 2018. Nos. 05-18-00691 to -00695.

Each correctly *filed* as –CV, but errantly *ruled on* as –CR.

N.B. They cite Stevens as “no pet.” *But see* No.

16-0248 (Tex. June 24, 2016) (**Denied**, not

DWOJ). Westlaw shows “History (0)” – Hmm.

(That may be fixed by the time this gets filed.)

Perkins and Taylor WL Histories appear correct.

No subseq. hist. field at txcourt.gov (e.g., 3d CoA).

(ii) Extension(s).

Supreme Court of Texas, No. 18-0663.

Denied. Sep. 21, 2018. [+90: Dec. 20, 2018]

(iii) Rule 12.5. N/A

(iv) Statutes, Jurisdiction.

28 U.S.C. §§ 1257(a), 2101(c).

(v) Statutory challenges, Rule 29.4(c).

Texas is a party.

Oral Argument Available

Non-argument calendar mitigates damages, but if it'd be helpful, Taylor is available for oral argument.

Statement of the Case

Federal Questions

Jurisdiction here.

Per Texas procedure, this is an interlocutory appeal. However, for jurisdiction here, the trial level jurisdictional rulings compelling consent are “final.” *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975). At least two of the four paths are satisfied.

Controlling issue: compelled consent (to being a fiduciary). *Cf. Lozman v. Riviera Beach*, 568 U.S. 115 (2013).

I. Is the compelled consent issue determined conclusively? Yes. Special Appearance(s) denied. Plea(s) to the Jurisdiction denied. Trial date set. *See, e.g.,* R.0223.11 [trial case no. dot page no.]. No relief via appeal in state system.

II. Will the compelled consent issue survive, regardless? No. Should Taylor prevail at trial, survival depends on Texas’s appealing (unlikely).

III. Will the compelled consent issue become moot, regardless? No. Should Texas prevail, survival depends on Taylor’s appealing (**likely**).

IV. Federal question rulings “final,” further state court proceedings pending; Taylor could prevail on non-federal grounds [Walker County rulings (2007 case, 2017 rulings) *granted* Spec. Appear. *and* Plea to the Juris.; Texas did not appeal], rendering review unnecessary. Would reversal of state court pre-trial rulings be preclusive of any further litigation [e.g., confirm lack of jurisdiction]? Yes.

Denial of access.

The CoA declined to exercise jurisdiction. They characterize "transportation" matters as "criminal," despite the several S.Ct.Tex. rulings, *including Stevens*, confirming their "civil" nature.

The CoA dismissed the instant the Record on Appeal was complete, effectively denying briefing. To approximate briefing, among other reasons, Taylor petitioned S.Ct.Tex. for review.

Compelled consent.

Identically to *Lozman*, there is no evidence of (A) "transportation" activity or (B) consent to being regulated. Sep. 2016 – Taylor's Mom, the named "owner," terminated the "Certificate of Title" trust regarding the car (van). Jul. 2016 – Taylor terminated the last "Certificate of Title" trust in his name. Thus, as of June 18, 2017, the date of the stop (a tag dispute, No. -0223), there was no commercial nexus; hence, no "vehicle;" hence, *no* Probable Cause.

0223. What is the entire purpose of an *approved* tag? To broadcast "consent." Thus, Taylor, having terminated the commercial nexus, *can't* display a DMV-*approved* tag without risking "consenting." Non-consenters display either (A) *non*-approved taggage, as Taylor does, or (B) nothing at all, either of which broadcasts "*non*-consent."

0224. Only "vehicles" need to be "registered."

0225. Insurance isn't *available* for *non*-"vehicles."

0226. Only fiduciaries (to DMV) need "licenses."

0227. "Appearance" is "by agreement." Taylor appeared (in muni. court), in **July**, 2017, as "agreed" (per the ticket), via Spec. App. and Plea/Juris. There is no *instanter*-esque "agreement" per the Transp. Code. The muni. clerk(s) alleged "non-appearance" in

Oct., 2017. (Taylor's allergies rendered him sicker 'an a dog.) Unilateral Notice isn't an "agreement." The Record has no (there is no) "agreement" for Oct.

Invalid statute(s).

The TEX. TRANSP. CODE applies once it's agreed to and then only while it's still agreed to. By June, 2017, the van was no longer trust *res*, i.e., no longer a "vehicle," and Taylor was no longer a fiduciary. There being (A) no "transportation" activity and (B) neither a "vehicle" nor a fiduciary to regulate, the TRANSP. CODE is unconstitutional, as applied.

Argument

Trial courts proceeding without jurisdiction; CoA's refusing to exercise jurisdiction. Something's wrong where everything's backwards.

This Court's Jurisdiction

1. Are the federal question (compelled consent) rulings "final?"

Per *Cox Broadcasting*, paths I. and IV. are satisfied. The iffy nature of whether this issue will survive regardless, II., also supports jurisdiction.

Appellate Jurisdiction – denial of access

2. Did the 5th Dist. CoA err by refusing to exercise "civil" jurisdiction?

S.Ct.Tex. denied the petition, confirming, one more time, that "transportation" matters are "civil."

But, S.Ct.Tex. didn't remand. They sent this here. Enforcement abuse due to FBI/SPLC "sovereignty" indoctrination is of national concern.

Trial jurisdiction – compelled consent

There being neither (A) “transportation” activity nor (B) any “Certificate of Title” trust to enforce regarding the car or the party behind the wheel ...

3. Did the 5th Dist. CoA err by tacitly affirming the denial of Special Appearance(s)?

Lozman.

Taylor is not liable in the fiduciary capacity.

4. Did the 5th Dist. CoA err by tacitly affirming the denial of Plea(s) to the Jurisdiction?

Lozman.

No “vehicle?”—no “case or controversy.”

Scope of this appeal. TEX. CIV. PRAC. & REM. § 51.014(a)(7) specifically allows review of Special Appearance(s). Strict compliance limits review to personal jurisdiction. *Texas A & M Univ. System v. Koseoglu*, 233 S.W.3d 835, 841 (Tex. 2007) (quoting *Bally Total Fitness Corp. v. Jackson*, 53 S.W.3d 352, 355 (Tex. 2001)).

Taylor also appealed denial of Plea(s) to the Jurisdiction. S.Ct.Tex., in *Rusk State Hosp. v. Black*, 392 S.W.3d 88 (Tex. 2012), confirmed that subject matter jurisdiction is within the scope of interlocutory appeal, even if raised for the first time on appeal. One of the two “conflict” cases addressed by *Rusk Hosp.* is *Fort Bend Cnty. Toll Road Auth. v. Olivares*, 316 S.W.3d 114 (Tex. App.—Houston [14th Dist.] 2010, no pet.). *Fort Bend* also used broad “subject matter jurisdiction” language. Thus, *Rusk Hosp.* confirms that “immunity” isn’t the only subject matter jurisdiction issue possible to raise on

interlocutory appeal.

For this matter, S.Ct.Tex. didn't "deny in part; dismiss in part." Yet, if there's any question that the scope of this appeal includes subject matter jurisdiction, it'll be Ok to certify the Question.

Invalid state statute(s)

5. Is the TEX. TRANSP. CODE unconstitutional, as applied?

The Code justifies "agreement management," not compelling consent (to being a fiduciary). *Lozman*; *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012).

Relief Requested

Taylor requests as follows:

1. Grant this petition.
2. Vacate the 5th Dist. CoA's refusal to exercise "civil" jurisdiction and its implicit "affirmed,"
3. Render, by granting the Special Appearances and the Pleas to the Jurisdiction, and/or by declaring TEX. TRANSP. CODE unconstitutional, as applied, and dismissing;
4. Award costs; and
5. Grant all other relief applicable.

Respectfully submitted,

/s/ Harmon Taylor
HARMON L. TAYLOR