

22-5361

NO: _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

ERNEST BUSTOS,

Petitioner

v.

BEXAR APPRAISAL DISRICT at el,

Respondents

On Petition for Writ of Certiorari to
The Court Of Appeals Texas San Antonio

PETITION FOR WRIT OF CERTIORARI

Ernest Bustos
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Supreme Court, U.S.
FILED

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QUESTIONS PRESENTED

Whether the Court failed to view the Plea of Jurisdiction as a statutory Construction case.

Whether a Plea of Jurisdiction extends to Respondents' fraudulent scheme acting outside of their authority.

Whether the Court failed to consider this a case of first impression

IDENTYITY OF PARTIES

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TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	ii
IDENTITY OF PARTIES AND COUNSEL	iii
PETITION FOR WRIT OF CERTIORARI	1
OPINIONS BELOW.....	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS	1
STATEMENT OF THE CASE.....	2,3,4,5,6
CONCLUSION	6
REASONS FOR GRANTING THE WRIT	6
APPENDIX:	
Court of Appeals Texas San Antonio Opinion.....	App. 1
Court of Appeals Texas San Antonio Order denying rehearing	App. 2
Court of Appeals Texas San Antonio Order denying en banc Reconsideration	App. 3
Texas Supreme Court Petition for Review Denied	App. 4
Texas Supreme Court Motion for Rehearing Denied.....	App. 4
TABLE OF AUTHORITIES	
<i>Snyder v. Massachusetts</i> , 291 U.S. 97, 105 (1934)	2
<i>Goldberg v. Kelly</i> , 397 U.S. 254, 267 (1970).....	2
Dept. of Parks v. Miranda, 133 S.W.3d 217, 239-241 (Tex. 2004).....	2,4,5

TABLE OF AUTHORITIES CONTINUED

	Page
CASES	
United Say. Assn. of Tex. v Timbers of Inwood Forest Associates, Ltd., 484 US 365, 371, 98 L Ed 2d 740, 1085 Ct 626 (1988).....	4
[U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200, 220 (2001)]	4
United States v. Jewell	5
Codes	
Tex. Gov't Code § 311.304	3
Tex. Civ. Prac. & Rem. Code §§ 101.001 – 009.....	3
Statues and regulation:	
28 U.S.C. 1254(1).....	1
Other Authorities:	
Supreme Court Rule 13.1.....	1
Fourteenth Amendment rights to Equal Protection Clause.....	1,6
Article VIII Texas Constitution Section (1)(a) & (b)	1

PETITION FOR WRIT OF CERTIORARI

Ernest Bustos (Bustos) respectfully petitions for a writ of certiorari to review the Opinion of Court of Appeals Texas San Antonio.

OPINION BELOW

The Court of Appeals Texas San Antonio Affirmed the trial courts orders garneting the pleas to the jurisdiction filed by Bexar County, the Appraisal Review Board of Bexar Appraisal District, North East Independent School District, and the City of San Antonio in Petitioner's appeal No. 04-19-00781

JURISDICTION

The mandate of the court of appeals was entered on May 26, 2021. Petition for rehearing was denied on July 20, 2021. Motion for en banc reconsideration was denied on October 20, 2021. Supreme Court of Texas Petition for Review 21-0983 denied March 25, 2022 Motion for Rehearing dined May 13, 2022. The jurisdiction of this court is invoked under 28 U.S.C. 1254(1)

This Petition is timely under the Supreme Court Rule 13.1 because it is being filed within 90-days after the denial of the petition for rehearing.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourteenth Amendment rights to Equal Protection Clause, right to access the courts, Article VIII Texas Constitution Section (1)(a) & (b) Equality and Uniformity be taxed in proportion to its value whether owned by natural persons or corporations under section 1(a) of Article VIII of the Texas Constitution. Right of access to courts, Right to fair hearings, at a basic level, procedural due process is essentially based on the

concept of "fundamental fairness." *Snyder v. Massachusetts*, 291 U.S. 97, 105 (1934) As construed by the courts, it includes panel making the final decision over the proceedings be impartial in regards to the matter before them. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) If evidence creates a fact question regarding the jurisdictional issue, then the trial court cannot grant the plea to the jurisdiction, and the fact issue will be resolved by the fact finder." Id. at 227-28. *Dept. of Parks v. Miranda*, 133 S.W.3d 217, 239-241 (Tex. 2004)

STATEMENT OF THE CASE

I

WHETHER THE COURT FAILED TO VIEW THE PLEA OF JURISDICTION AS A STATUTORY CONSTRUCTION CASE

The Court of Appeals Texas San Antonio failure to review the Respondents' Plea of Jurisdiction as statutory construction issue violated the Petitioner's Constitutional Rights. A Plea of Jurisdiction advances a claim of immunity this is not supported by the acts and actions of Respondents. Immunity extends to Respondents when they are acting under the authority given to them while performing their duty. Immunity does not apply when they are acting outside of their authority. Simply stated immunity doesn't extend when Appellees are a willing part of a taxing scheme stealing hundreds of millions dollars from property owners and taxing the poor out their homes.

The Petitioner's allegations are well documented and have gone unconverted for more than ten years. The facts show that the Respondents are willing parties to an ongoing multi-billion dollar scheme that shifted over 40 billion dollars in property assessments during the last ten years on to the backs of other property taxpayers. These facts were

presented as support to Bustos' cause of action, to the Court of Appeals Texas San Antonio and the Texas Supreme forcing the Petitioner to petition for writ of certiorari for review. Petitioner asserts that Court of Appeals Texas San Antonio interprets statutory waivers of immunity narrowly and interprets Legislature's intent to waive immunity claiming is clear and unambiguous (citing Tex. Gov't Code § 311.304. Pointing to Tex. Civ. Prac. & Rem. Code §§ 101.001 – 009 does not waive immunity for a fraud trot claim. Reviewing the Code it list actions that Legislature waves immunity, however a list is not clear and is certainly is ambiguous. The Legislature's intent was not to allow anyone or agency to devise and implement a Multi-Billion dollar scheme to defraud its citizens. There is no case law that addresses facts presented in the appeal making the complaint a case of first impression. Court of Appeals Texas San Antonio did not address the issues brought forth on appeal in its May 26, 2021 decision.

Contrary to the Courts Opinion Legislature's intent to waive immunity is not clear and is ambiguous. Pleas to the jurisdiction have been part of Texas jurisprudence since shortly after Texas became a state after a long period of dormancy. The Appeal is over the seldom-used plea to the jurisdiction that has become the primary means of challenging a waiver of sovereign immunity. This has resulted in confusion over the procedure and standards to be employed in resolving a plea which was partially alleviated by the Texas Supreme Court's decision in Texas Department of Parks & Wildlife v. Miranda. However, as reflected in the number of recent Supreme Court and

courts of appeals opinions addressing the plea to the jurisdiction, the courts continue to struggle with the plea. (see Texas Supreme Court dissenting opinion in Dept. of Parks v. Miranda, 133 S.W.3d 217, 239-241 (Tex. 2004))

A 'plea to the jurisdiction [is] the white elephant of current Texas motion practice ... [and] has/ enjoyed a recent resurgence in the field of governmental immunity. ... we should put a stop to [it]... .' Justices Brister, O'Neil and Schreider Texas Supreme Court Tex. Dept. of Parks v. Miranda, 133 S.W.3d 217, 239-241 (Tex. 2004)(dissenting op.)

It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined. Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the Person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning.

United Say. Assn. of Tex. v Timbers of Inwood Forest Associates, Ltd., 484 US 365, 371, 98 L Ed 2d 740, 1085 Ct 626 (1988). [U.S. v. Cleveland Indians Baseball Co., 532 U.S. 200, 220 (2001)]

The Petitioner's Constitutional rights under Equal Protection Clause XIV protects him from unreasonable Restraint of access to the courts Due Process "No person shall be deprived of life, liberty, or property, without due process of law." When an individual believes that a state government has violated his guaranteed equal rights, that individual is able to bring a lawsuit against that governmental body for relief.

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II

WHETHER A PLEA OF JURISDICTION EXTENDS TO RESPONDENTS FRAUDULENT SCHEME ACTING OUTSIDE OF THEIR AUTHORITY

The Respondents the District and the Board acts are outside of the authority granted them by statute; agencies do not have power to enact rules in their own discretion, losing the protection of governmental immunity. The Respondents acted with deliberate indifference to Petitioner and 10's of 1000's of property owner's rights and is an abuse of governmental power. Respondents the Board, Bexar County, Northeast Independent School District and City of San Antonio acted with willful ignorance to the District's unlawful acts becoming co-conspirators. United States v. Jewell, the court held that proof of willful ignorance satisfied the requirement of knowledge making the Defendant's culpable and civilly liable. The Doctrine of sovereign/governmental official was never meant to cover up or to protect a scheme involving endemic fraud. The Petitioner's cause of action is well supported by evidence that created questions as to sovereign immunity which the court ignored.

Tex. Dept. of Parks & Wildlife v. Miranda, 133 S.W.3d 217, 226-27 (Tex. 2004)

When a plea to the jurisdiction challenges jurisdictional facts, we consider the evidence submitted by the parties to address the jurisdictional issues raised. *Miranda, 133 S.W.3d at 227*. "If evidence creates a fact question regarding the jurisdictional issue, then the trial court cannot grant the plea to the jurisdiction, and the fact issue will be resolved by the fact finder." *Id.* at 227-28.

III

WHETHER THE COURT FAILED TO CONSIDER THIS A OF FIRST IMPRESSION.

The Petitioner cause of action presented the court an issue of law that challenged Respondents' Plea to Jurisdiction, however the appellate court failed to review this

case as a First Impression even though it presented a legal issue or question that had not been decided. Instead in the Appellate court stated that nothing in the law fit the complaint even though the allegations are well documented and have gone unconverted for more than ten years. The facts show that the Respondents are willing parties to an ongoing multi-billion dollar scheme that shifted over 40 billion dollars in tax assessments during the last ten years. Petitioner has not found any case that has been decided that extends immunity when acts or actions are taken outside of the authority granted them by statute; they don't power to enact rules in their own discretion.

REASONS FOR GRANTING THE PETITION

Court of Appeals Texas San Antonio Opinion violates the Petitioners Fourteenth Amendment rights to equal protection of the law, right to access the courts and due process of law. The district court errored when it failed to review the fraudulent acts committed against the Petitioner which would have expose the Respondents' endemic fraud to light. Immunity *is not* absolute it is the white elephant in the room, the Texas Supreme Court is divided and the lower courts are confused when in dealing with a Plea of Jurisdiction agencies and individuals with power over others abuse them believing that all they have to do is invoke immunity and they become above the laws ignoring the Constitutional Rights of others this has certainly been the case here. Every great society has failed when those in power abuse those who they have power over are witnessing that today. Allowing the applications of Plea of Jurisdiction to continue to protect those who's scheme blatantly steal money from the elderly and

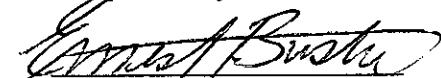
poor or taking the only asset that many have is unconscionable and must end this is the last Court that can change this because all the others have failed, some showing bias as was the case here.

Simply stated; Review is warranted of the important questions relating to immunity when agencies and individuals are allowed to devise a scheme to defraud millions of people then they claim immunity.

CONCLUSION

For the forgoing reasons, Petitioner request the United States Supreme Court grant the review of Court of Appeals Texas San Antonio asking for the Petition for Writ of Certiorari to be granted.

Respectfully submitted,



Ernest Bustos Petitioner
In Propria Persona
August 11, 2022