

Court Advisory

Fourth Court of Appeals
Cadena-Reeves Justice Center
300 Dolorosa, Suite 3200
San Antonio, Texas 78205-3037



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FOR IMMEDIATE RELEASE
December 2, 2011

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in one appeal on Tuesday, December 6, 2011, beginning at 2:00 p.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Karen Angelini, and Justice Rebecca Simmons.

The following case will be presented:

Ex parte Isabel Rodriguez - This appeal arises from Isabel Rodriguez's applications for writs of habeas corpus. In 1997, Ms. Rodriguez, who is not a United States citizen, pled guilty to two separate misdemeanors. In 2010, she filed applications for writs of habeas corpus and sought to withdraw her pleas. She asserted to the trial court that her court-appointed attorney did not advise her that she would be deported if she entered guilty pleas and she would not have entered the pleas if he had told her she would be deported. She also argued that a recent U.S. Supreme Court opinion, *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010), applies to her and makes her plea counsel's assistance constitutionally deficient; she further argues she was prejudiced by his assistance. The trial court denied Ms. Rodriguez's applications, and she appeals the trial court's judgments.

The Fourth Court of Appeals will hear oral arguments in one appeal on Wednesday, December 7, 2011, beginning at 9:00 a.m., before the following panel of justices: Justice Sandee Bryan Marion, Justice Phylis J. Speedlin, and Justice Marialyn Barnard.

The following case will be presented:

RCI Entertainment (San Antonio), Inc. d/b/a XTC Cabaret, and Players Club, LLC a/k/a Players Club a/k/a Paradise Gentlemen's Club v. City of San Antonio - This is an appeal from a permanent injunction and declaratory judgment adverse to the appellants. In 2005, the City of San Antonio ("the City") adopted an ordinance, which was later codified in the City's Code of Ordinances, that prohibits nudity and semi-nudity in public places and requires permits for "human display establishments." Appellants operate cabaret-type establishments that offer live nude entertainment. One evening in December 2009, the San

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Antonio Police Department appeared at the appellants’ businesses to conduct “inspections.” At both establishments, police arrested entertainers for appearing in a state of nudity in a public place and managers for allowing the entertainers to appear in a state of nudity in a human display establishment. In separate lawsuits, which were later consolidated, appellants sued the City seeking declaratory and injunctive relief on the grounds that the ordinance was preempted by the Texas Penal Code and the Texas Business and Commerce Code. Alternatively, appellants sought a declaration that the ordinance was unconstitutional on the grounds that the ordinance imposed an unreasonable and unnecessary limitation on expression and constitutionally-protected activities, thereby constituting a prior restraint and “chilling effect” on protected speech. The City counterclaimed, in both suits, seeking to permanently enjoin the appellants from further violations of subsections (a), (c), and (e) of section 21-205 of the ordinance. The trial court ruled in the City’s favor.

The oral arguments will be held in the Fourth Court’s Courtroom, Caden-Reeves Justice Center, Third Floor, 300 Dolorosa, San Antonio, Texas.