



## Case Summaries November 15, 2024

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### DECIDED CASES

#### CONSTITUTIONAL LAW

##### Separation of Powers

*In re Tex. House of Representatives*, \_\_\_ S.W.3d \_\_\_, 2024 WL \_\_\_ (Tex. Nov. 15, 2024) [[24-0884](#)]

The issue in this case is whether a subpoena issued by the Committee on Criminal Jurisprudence of the Texas House of Representatives required the Texas Department of Criminal Justice to cancel a scheduled execution because the date of the scheduled execution preceded the date on which the inmate was commanded to appear.

Robert Roberson was scheduled to be put to death on October 17, 2024. On October 16, the committee issued a subpoena requiring Roberson to appear before it to testify about his case and its implications for article 11.073 of the Code of Criminal Procedure. The committee then obtained a temporary restraining order from a district court preventing the department from executing Roberson. The department filed a mandamus petition in the Court of Criminal Appeals, which was granted. The committee then invoked the Supreme Court's original jurisdiction, seeking a writ of injunction and emergency relief. The Court temporarily enjoined the department from impairing Roberson's compliance with the subpoena and requested merits briefing.

The Court first confirmed its jurisdiction to resolve the dispute. It concluded that this case raised a justiciable and purely civil-law question concerning the separation of powers and the distribution of governmental authority. The Court explained that it may construe the committee's petition as one for mandamus, which the Court has authority to issue against the department.

As for the merits, the Court held that the committee's authority to compel testimony does not include the power to override the scheduled legal process leading to an execution. While the legislative-inquiry power is robust and essential to the functioning of our system of government, the committee had the opportunity to obtain any testimony relevant to its legislative task long before Roberson's scheduled execution. The committee's subpoena, moreover, intruded on authority vested in the other branches: the judiciary's authority to schedule a lawful execution, the executive's authority to determine whether clemency is proper, and the legislature's own authority, which created the legal framework for capital punishment. The committee thus lacked a judicially enforceable right to prevent the other branches from proceeding with the scheduled execution. That result, the Court said, accommodated the interests of all three branches of government. Accordingly, the Court denied the committee's petition, thereby superseding its temporary order.

## GRANTED CASES

### OIL AND GAS

#### Lease Termination

*Cromwell v. Anadarko E&P Onshore, LLC*, 676 S.W.3d 860 (Tex. App.—El Paso 2023), *pet. granted* (Nov. 15, 2024) [[23-0927](#)]

This case requires the interpretation of an oil-and-gas lease habendum clause.

David Cromwell and Anadarko are oil-and-gas co-tenants, both owning fractional shares of the working interest on the same acreage in Loving County. The habendum clauses of Cromwell’s leases maintained his interest for “as long thereafter as oil, gas or other minerals are produced from said land.” Cromwell submitted his leases to Anadarko, the operating tenant, and requested to participate in its production, but Anadarko never responded. After one well reached payout, Anadarko sent Cromwell monthly “Joint Interest Invoices” that allocated production revenues and expenses to Cromwell. Years after the expiration of the leases’ primary terms, Anadarko informed Cromwell that it believed his leases terminated at the end of their primary terms because he failed to enter a joint-operating agreement.

Cromwell sued Anadarko for declaratory relief, trespass to try title, and other claims. Both sides moved for summary judgment. After concluding that the leases had terminated, the trial court granted Anadarko’s motion and denied Cromwell’s. The court of appeals affirmed. Relying on its own precedent, the court held that Cromwell’s leases terminated because he did not cause the production of oil or gas on the land.

Cromwell petitioned the Supreme Court for review. He argues that the plain language of the habendum clauses is satisfied because, at all relevant times, production in paying quantities has occurred on the acreage; thus, the leases have not terminated. The Court granted the petition.

### ADMINISTRATIVE LAW

#### Administrative Procedure Act

*Carlson v. Tex. Comptroller of Pub. Accounts*, No. D-1-GN-23-004690 (53rd Dist. Ct., Travis County, Tex. May 16, 2024), *argument granted on pet. for writ of mandamus* (Nov. 15, 2024) [[24-0081](#)]

At issue in this case is whether the state Comptroller is required to issue a final order after the State Office of Administrative Hearings dismisses a case for lack of jurisdiction.

Thomas and Becky Carlson filed an administrative contested case against the Comptroller, alleging a takings claim. The Comptroller then referred the case to SOAH to conduct a contested case hearing. The Comptroller filed a motion to dismiss for lack of jurisdiction, which the administrative law judge granted. A SOAH official advised the Carlsons that the Comptroller needed to issue a final order before any further action could be taken in the case. The Carlsons requested that the Comptroller accept, reject, or modify the SOAH dismissal so that they could file a motion for rehearing, a prerequisite to seeking judicial review. The Comptroller refused, asserting that the SOAH dismissal was already a final, appealable order. By then, the deadline to file a motion for rehearing had passed.

The Carlsons sought mandamus relief in the trial court but nonsuited that action after the Comptroller filed a plea to the jurisdiction. The Carlsons then filed a petition for writ of mandamus in this Court, arguing that the Comptroller had a ministerial duty to issue a final order in their case under the Administrative Procedure Act. The Court granted argument on the petition for writ of mandamus.