



Case Summaries March 14, 2025

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DECIDED CASES

GEO Grp. v. Hegar, ___ S.W.3d ___, 2025 WL ___ (Tex. Mar. 14, 2025) [[23-0149](#)]

The primary issue in this case is whether private, for-profit business entities that detain federal and state inmates qualify as tax-exempt “agents” or “instrumentalities” of the government under the Tax Code and the Comptroller’s rules.

GEO owned and operated detention facilities in Texas, housing federal and state inmates in its facilities pursuant to contracts with federal, state, and county governments. When GEO failed to pay tax on purchases necessary to operate those facilities, the Comptroller assessed a sales and use tax deficiency against GEO. Following administrative proceedings challenging the deficiency, GEO paid the stipulated \$3,937,103.71 tax due and filed suit for a taxpayer refund.

The trial court concluded that GEO failed to demonstrate “by clear and convincing evidence” that it qualified as a government “agent” or “instrumentality” entitled to a tax exemption as required. GEO appealed, arguing that the court erred by applying a heightened standard of review. The court of appeals affirmed.

The Supreme Court affirmed. Although the Court noted that the Tax Code’s mandated trial de novo requires a preponderance of the evidence standard of proof instead of the heightened clear and convincing standard, application of the lesser standard did not alter the outcome of the case. The Court held that entities entitled to tax exemption as government “agents” or “instrumentalities” are of a specific, narrow character: only entities that the government has unequivocally declared an “agent” or “instrumentality” or those that could reasonably be viewed as an arm of the government are included. The Court held that GEO’s mere performance of a governmental function like inmate detention was not sufficient.

Bertucci v. Watkins, ___ S.W.3d ___, 2025 WL ___ (Tex. March 14, 2025) [[23-0329](#)]

This case concerns issues of briefing waiver, fiduciary duties between partners, and defenses to summary judgment.

Bertucci and Watkins developed low-income-housing projects. They created a series of limited partnerships with themselves as limited partners. In 2014, Bertucci claimed to discover that Watkins misappropriated funds. Bertucci sued individually and derivatively on behalf of the companies. The parties filed cross-motions for summary judgment, and the trial court granted summary judgment for Watkins on all

claims.

The court of appeals held that Bertucci failed to adequately brief issues regarding the derivative claims and thus affirmed the judgment in Watkins's favor on those claims. It reversed the judgment on Bertucci's individual breach-of-fiduciary-duty claims, concluding that fact issues existed as to those claims and on Watkins's defenses of limitations, waiver, and ratification. Both parties petitioned for review.

The Supreme Court affirmed in part and reversed in part. It held that Bertucci sufficiently asserted arguments in his appellate briefing on behalf of the companies so as to avoid waiver. It next held that summary judgment was proper on Bertucci's claim that Watkins owed fiduciary duties to Bertucci, individually. The court of appeals reversed on this issue on a ground that Bertucci raised for the first time in that court. Because the ground was not raised in the trial court, it could not form the basis for summary judgment. Finally, the Court held that fact issues precluded summary judgment in Watkins's favor based on limitations and that the court of appeals did not err by declining to address an expert's report or by holding that the Dead Man's Rule barred certain testimony.

The Court reinstated summary judgment on the breach-of-fiduciary-duty claims Bertucci asserted in his individual capacity and remanded the case to the court of appeals to address the derivative claims.

In re C.K.M., ___ S.W.3d ___, 2025 WL ___ (Tex. Mar. 14, 2025) (per curiam) [[24-0267](#)]

This case concerns whether a trial court's order dismissing a parental-termination suit was a "final" order.

In 2022, the Department of Family and Protective Services filed a petition for temporary orders requiring Mother and Father to participate in state-provided services and later filed a separate petition to terminate their parental rights and obtain conservatorship of the Child. Mother filed a motion to consolidate the suits. Mother and Father separately filed original answers, counter-petitions, and motions for sanctions in both suits. In response to the filings, the Department filed a motion to nonsuit all of its claims.

The trial court orally granted the motion to consolidate and signed the Department's proposed dismissal order, entitled "Order on Motion to Terminate Temporary Order for Required Participation in Services Pursuant to Texas Family Code § 264.203(t)." The order included language directing the court clerk to "remove this cause from the Court's docket and send notice to all parties that this cause is hereby dismissed." The court signed an order granting sanctions over a month later.

The Department appealed the Sanctions Order; the court of appeals dismissed the appeal and vacated the order as void, reasoning that the Dismissal Order was a final order triggering the running of the trial court's plenary power, which expired prior to the trial court's Sanctions Order.

The Supreme Court reversed the court of appeals and remanded the case to the trial court for further proceedings. The Court held that the Dismissal Order failed to state with unmistakable clarity that it was a final judgment. Because the Sanctions Order also did not include the necessary requirements for finality, the trial court had not entered a final judgment in the case.