

IN THE COURT OF APPEALS
FOR THE 14TH JUDICIAL DISTRICT OF TEXAS
HOUSTON, TEXAS

FILED IN
14th COURT OF APPEALS
HOUSTON, TEXAS
11/24/2015 11:41:05 AM
CHRISTOPHER A. PRINE
Clerk

No. 14-15-00396-CV

JARED WOODFILL AND F.N. WILLIAMS, SR.
Appellants,

v.

ANNISE D. PARKER, MAYOR; ANNA RUSSELL, CITY SECRETARY; AND
THE CITY OF HOUSTON, TEXAS.
Appellees.

On Appeal from the 152nd Judicial District Court of Harris County, Texas
Trial Court Cause No. 2014-44974

**PARTIALLY OPPOSED MOTION TO DISMISS APPEAL ON MOOTNESS
GROUND**

TO THE HONORABLE JUSTICES OF THIS COURT:

COME NOW, Jared Woodfill and F.N. Williams, Sr. (hereinafter
“Appellants”) in the above-referenced matter and file this Partially Opposed
Motion to Dismiss Appeal On Mootness Grounds and, as such, will show as
follows:

1. This appeal has now become moot for two basic reasons. First, the
Texas Supreme Court ruled on July 24, 2015 on a separate mandamus petition that
the Citizen Referendum Petition was valid and an election on the so-called

“HERO” must occur. *In re Woodfill*, __ S.W.3d __, __, 2015 WL 4498229 (Tex.2015). Second, because of the High Court’s ruling, an election was held on November 3, 2015, at which time the voters of Houston rejected passage of this ordinance by a percentage of 69% to 31% of those voting in the election.

2. Because the Appellants herein have already received all of the relief which the pending appeal, if successful, would have achieved, this appeal is now moot. Accordingly, Appellants ask the Court to enter an Order of Dismissal, based on mootness grounds. Appellees agree to this portion of Appellants’ request.

3. In addition, because this case is now moot, all previous orders and judgments in the trial court are likewise moot, should be set aside, and the entire cause dismissed. *Merrill Lynch, Pierce, Fenner, & Smith, Inc. v. Hughes*, 827 S.W.2d 859, 859 (Tex. 1981); *Freeman v. Burrows*, 171 S.W.2d 863, 863-64 (Tex. 1981). Accordingly, the Final Judgment entered by the Trial Court should expressly be set aside, by Order of this Court. Alternatively, this Court should Order the Trial Court to enter its own Order setting aside all previous orders and judgments entered below. Appellees do not agree with this portion of relief requested by Appellants.

4. Should this Court not agree that the case is moot, and denies Appellants’ Motion, then Appellants intend to proceed forward with the merits of the appeal.

PRAYER

Appellants respectfully request that the Court dismiss this appeal on mootness grounds, and enter an Order as specified above.

Respectfully Submitted,

ANDY TAYLOR & ASSOCIATES, P.C.

BY: /s/ Andy Taylor

Andy Taylor

State Bar No. 19727600

Amanda Peterson

State Bar No. 24032953

2668 Highway 36S, #288

Brenham, Texas 77833

713-222-1817 (telephone)

713-222-1855 (facsimile)

ataylor@andytaylorlaw.com

apeterson@andytaylorlaw.com

ATTORNEYS FOR JARED WOODFILL,
AND F.N. WILLIAMS, SR.

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with Lynne Liberato, counsel for Appellees, and she conveyed that Appellees are unopposed to this first part of this Motion, but are opposed to the second part.

/s/ Andy Taylor

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached document was served via the electronic filing system on the 24th day of October, 2015 to the following attorneys.

SUSMAN GODFREY L.L.P.

Geoffrey L. Harrison

gharrison@susmangodfrey.com

State Bar No. 00785947

Alex Kaplan

akaplan@susmangodfrey.com

State Bar No. 24046185

Kristen Schlemmer

kschlemmer@susmangodfrey.com

State Bar No. 24075029

1000 Louisiana Street, Suite 5100

Houston, Texas 77002-5096

Telephone: (713) 651-9366

Facsimile: (713) 654-6666

CITY OF HOUSTON LEGAL DEPARTMENT

Donna L. Edmonson

Judith L. Ramsey

James Martin Corbett

Patricia L. Casey

900 Bagby, 4th Floor

Houston, Texas 77002

Telephone: (832) 393-6412

Facsimile: (832) 393-6259

Donna.Edmundson@houstontx.gov

Jim.Corbett@houstontx.gov

Judith.Ramsey@houstontx.gov

Pat.Casey@houstontx.gov

Attorneys for Annise D. Parker, Mayor

HAYNES AND BOONE, LLP

Lynne Liberato

State Bar No. 00000075

Kent Rutter

State Bar No. 00797364

William Feldman

State Bar No. 24081715

Katie Dolan-Galaviz

State Bar No. 24069620

1221 McKinney, Suite 2100

Houston, Texas 77010-2007

Telephone: (713) 547-2000

Facsimile: (713) 547-2600

Lynne.Liberato@haynesboone.com

Kent.Rutter@haynesboone.com

william.feldman@haynesboone.com

katie.dolan-

galaviz@haynesboone.com

Appellate Attorneys for All

Defendants

FULBRIGHT & JAWORSKI LLP
Edward B. "Teddy" Adams, Jr.
State Bar No. 00790200
Andrew Price
State Bar No. 24002791
Seth Isgur
State Bar No. 24054498
Geraldine W. Young
State Bar No. 24084134
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
Telephone: (713) 651-5151
Facsimile: (713) 651-5246
Teddy.Adams@nortonrosefulbright.com
Andrew.Price@nortonrosefulbright.com
Seth.Isgur@nortonrosefulbright.com
Geraldine.Young@nortonrosefulbright.com
Attorneys for Anna Russell, City Secretary

/s/ Andy Taylor