

Supreme Court of Texas
June 12, 2015

Dacus v. Parker

No. 13-0047

Case Summary written by Allison Grayson, Online Edition Editor.

JUSTICE DEVINE delivered the opinion of the Court.

A majority of voters in Houston amended their city charter to create a fund for drainage and streets, requiring Houston to obtain funding for the project. Plans for charging beneficiaries of the drainage system for their use were published in a local newspaper. The ballot did not mention these charges.

After the vote, several voters “sought a declaration that the proposition was ‘illegal and invalid as a matter of law’ and a determination that the adoption of the amendment was invalid.” The trial court ruled in favor of the city, which the court of appeals affirmed.

ISSUE: “Whether a ballot proposition for a proposed city charter amendment meets the common law standard preserving the integrity of the ballot[?]”

In reversing the court of appeals decision, the Court explained that a proposition must contain sufficient language so as not to mislead voters. Further, the Court stated that “the ballot in this case should have mentioned the drainage charges required by the amendment.” Although the ballot does not serve to educate voters, the ballot must include sufficient information to allow voters to distinguish between various measures.

To accomplish this, the ballot must show the measure’s character and purpose to fulfill its requirements. A failing to meet the requirements “may affirmatively misrepresent the measure’s character and purpose or its chief features.” Additionally, it “may mislead the voters by omitting certain chief features that reflect its character and purpose.”

In this instance, the ballot misled voters by failing to identify the charges involved with the fund. Therefore, the Court remanded the case back to the trial court.

JUSTICE GUZMAN, joined by JUSTICE WILLET concurring.

Justice Guzman wrote separately to discuss the viability of the common-law standard discussed in the majority opinion. In discussing Texas's history of requiring precise language on ballots, the dissent urged that Houston's ballot construction was not sufficient to meet the required standards. The dissent further stated that "[p]roviding only enough information on a ballot to allow propositions to be distinguished from one another is necessary, but not necessarily sufficient."

Atkins N. Am., Inc. v. CCE, Inc.

No. 11-0481

Case Summary written by Allison Grayson, Online Edition Editor.

Per curiam.

The Texas Department of Transportation (TxDOT) hired a general contractor for a road construction project, which involved plans created by Atkins North America, Inc. After silt began escaping onto nearby property, TxDOT directed CCE to rid the property of the silt.

TxDOT later declared CCE in default of its direction when CCE failed to comply. Upon receipt of an order from TxDOT to stop work, "CCE hired a third party to complete the road project, then sued Atkins for the additional costs, alleging that Atkins's plans were faulty and led to the release of the silt." CCE's claims included negligence, negligent misrepresentation, breach of contract, and breach of warranty.

In response, Atkins moved for summary judgment under the notion that "the economic loss rule barred recovery of negligence damages[.]" Atkins refrained from making the same arguments in terms of its negligent misrepresentation claim. The trial court granted Atkins's motion for summary judgment. While the court of appeals affirmed part of the trial court's ruling, the court remanded the case for a closer look at CCE's negligent misrepresentation claim.

ISSUE: Whether the Supreme Court of Texas should grant Atkins's motion for rehearing?

In this instance, the Court refrained from rehearing the case. In explaining its decision, the Court stated that “the economic loss rule barred a general contractor from recovering delay damages from project architect with which it did not contract.”