

Bond Case Briefs

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BANKRUPTCY - TEXAS

Porretto v. City of Galveston Park Board of Trustees

United States Court of Appeals, Fifth Circuit - August 21, 2024 - F.4th - 2024 WL 3886181

After Chapter 7 trustee abandoned privately owned beachfront property along Texas coastline back to debtor, debtor filed adversary complaint against city, city's park board, the Texas General Land Office (GLO), and GLO's Commissioner, alleging, inter alia, that defendants' postpetition actions on and near her beach constituted takings without just compensation in violation of the Fifth Amendment.

Following sua sponte transfer of case from bankruptcy court, defendants filed renewed motions to dismiss, and debtor requested opportunity to amend complaint. The United States District Court for the Southern District of Texas granted defendants' motion to dismiss and denied debtor leave to amend and subsequently denied debtor's motion for recusal, as well as her motion for new trial. Debtor appealed.

The Court of Appeals, held that:

- Debtor lacked standing to sue GLO and its Commissioner;
- As a matter of apparent first impression for the Court, the District Court lacked exclusive in rem jurisdiction over the beach property after it was abandoned back to debtor;
- The District Court lacked "related to" jurisdiction over debtor's claims;
- Debtor unambiguously pleaded constitutional claims and, thus, her failure to invoke § 1983 in her complaint should not have prevented the District Court from exercising federal question jurisdiction over her claims against city defendants;
- The District Court did not abuse its discretion by refusing to grant debtor's "bare bones" request to amend her operative third amended adversary complaint;
- The District Court did not abuse its discretion in denying recusal based on the \$72,000 mechanic's lien that city council member's company had on judge's home; and
- Contributions of more than \$9,000 that defendants' counsel donated to judge's judicial campaigns when he served on the state bench did not warrant recusal.