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Graugnard v. Capital Area Transit System

**Court of Appeal of Louisiana, First Circuit - December 20, 2013 - So.3d - 2012-2025
(La.App. 1 Cir. 12/20/13)**

Capital Area Transit System (CATS) is authorized to impose a tax on any subject of taxation within the territorial area of East Baton Rouge Parish or any local governmental subdivision or subdivisions located wholly within any of the municipalities located wholly within the boundaries of East Baton Rouge Parish for any transit-related purpose whatsoever, provided that the proposed tax is approved by a majority of voters voting on the proposition within the affected local governmental subdivisions at an election held in accordance with the Louisiana Election Code. Accordingly, CATS is authorized to call a tax election parish wide or within the limits of any municipality that is wholly located within the boundaries of East Baton Rouge Parish.

On April 21, 2012, CATS exercised its statutory authority and held special elections in the cities of Baton Rouge, Baker, and Zachary to levy an ad valorem tax (the Tax) within those cities. At that time, it is undisputed that CATS provided transit services within these three cities as well as in the unincorporated areas of East Baton Rouge Parish. However, because CATS did not call a parish-wide election, the registered voters that reside within the unincorporated areas of East Baton Rouge Parish were unable to participate in the April 21, 2012 election. The cities of Baton Rouge and Baker passed the Tax.

Graugnard and Smith filed suit challenging the validity of the Tax on equal protection grounds under both the federal and state constitutions. According to the allegations of their petition, Graugnard lives within the municipal boundaries of Baton Rouge. Smith, who lives in the unincorporated area of East Baton Rouge Parish, owns taxable property within the city of Baton Rouge. The gist of plaintiffs' assertions is that individuals who reside outside of the cities of Baton Rouge and Baker, but own property inside those cities, were denied the right to vote in the Tax elections. Additionally, they maintain that individuals who pay the ad valorem taxes on property owned inside those cities suffer an equal protection violation because the proceeds of the Tax will be spent outside of the municipal limits for the benefit of individuals and businesses that do not have to pay the Tax. They aver their claim's' also set forth a cause of action under the 28 U.S.C. § 1983, which provides an enforcement action for federal constitutional and statutory rights. Plaintiffs requested a declaration that the Tax is invalid as a violation of their federal and state constitutional equal protection rights.

CATS filed several exceptions, including peremptory exceptions urging objections of prescription, peremption, no cause of action and no right of action. CATS claimed that because the parties stipulated that plaintiffs had not filed their suit within sixty days, CATS was entitled to a dismissal of the suit under La. R.S. 18:1294.

The fundamental question raised in this case is what period of limitation applies to a § 1983 federal constitutional equal protection claim challenging the validity of a state ad valorem tax and tax election brought in a Louisiana district court. The Court of Appeal concluded that the sixty-day period required by La. R.S. 18:1294 applied, dismissing plaintiff's suit.

