

Bond Case Briefs

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BONDS - TEXAS

Alejos v. State

Court of Appeals of Texas, Austin - April 2, 2014 - S.W.3d - 2014 WL 1349018

This case was an expedited appeal under chapter 1205 of the Government Code, which creates a special proceeding whereby “issuers” of “public securities” can obtain a declaratory judgment—also expedited—as to the legality or validity of such securities and related official acts.

George Alejos sought to appeal a final judgment validating the issuance of approximately \$33 million in sales tax revenue-backed bonds by VIA Metropolitan Transit Advanced Transportation District (the District). Mr. Alejos also appeals a subsequent order conditioning his continued participation in the litigation on his posting of a \$3.6 million bond, the amount the district court found to

Alejos’s asserted procedural irregularities – that the district court did not afford him the opportunity for notice and a hearing that subchapter E requires. This was a product of confusion regarding Alejos’s “party” status. Having concluded that Alejos was a “party” entitled to appeal and who was subject to subchapter E’s bond requirements to the same extent as “named parties,” the court was compelled to agree with Alejos that he was entitled to the notice and hearing procedures that subchapter E requires before setting a bond. As such, the Order Setting Bond was reversed was reversed and remanded for a new bond hearing.

“The District does not seriously dispute that the Order Setting Bond was, in these respects, procedurally flawed, but urges us to proceed to the merits of Alejos’s Judgment Appeal nonetheless and affirm the final judgment. We conclude we should not do so, as the Legislature has conditioned our jurisdiction to reach those merits on Alejos’s compliance with subchapter E’s bond requirement, and that issue has yet to be resolved. Unless and until our jurisdiction over the Judgment Appeal is firmly established, we should not “jump ahead” to the merits of that appeal—especially where the merits involve quite significant and complex questions regarding the District’s legal authority relative to its taxpayers—lest we exceed our proper role within the constitutional separation of powers.”