

Bond Case Briefs

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EMINENT DOMAIN - TEXAS

Stratta v. Roe

United States Court of Appeals, Fifth Circuit - May 29, 2020 - F.3d - 2020 WL 2781642

Two property owners brought § 1983 action against multi-county water conservation district, board of directors of water district, board members, and other officials alleging that district allowed city to drain groundwater from property without compensation in violation of the Takings Clause and the Equal Protection Clause, and that board prevented one property owner from speaking at public meeting in violation of his First Amendment rights.

The United States District Court dismissed the action. Property owners appealed.

The Court of Appeals held that:

- Multi-county water conservation district was not arm of the state entitled to Eleventh Amendment immunity;
Takings claim was ripe for adjudication;
- District Court abused its discretion in abstaining under *Burford*;
- Property owner stated plausible class-of-one equal protection claim against district; and
- First Amendment rights were not violated.

Multi-county water conservation district in Texas was not “arm of the state” of Texas, and thus, was not entitled to Eleventh Amendment immunity, in § 1983 action brought by property owners; district was political subdivision that stood upon same footing as counties, which were not granted sovereign immunity, state funds were not permitted to be used to indemnify or assume debts of water districts, districts were funded by locally-assessed taxes and fees, Texas law granted water districts broad authority to make and enforce rules governing groundwater usage within each district, district’s legal boundaries were coextensive with the counties, and district had authority to sue and be sued in its own right.

Texas property owner’s Fifth Amendment takings claim, alleging that multi-county water conservation district allowed city to drain groundwater from his property without compensation, was ripe for adjudication, where property owner fully pursued the administrative remedies available to him before filing this action.

District Court abused its discretion in abstaining under *Burford*, in property owners’ § 1983 action against multi-county water conservation district in Texas and district officials, alleging that district allowed city to drain groundwater from property without compensation in violation of the Takings Clause and the Equal Protection Clause; action involved federal constitutional law, case did not involve unsettled issues of state law, and although regulation of water resources was matter of great state concern in Texas, judgment in federal court would not interfere with coherence of state policy, and there was no special state forum in Texas for judicial review of claims against water districts.

Property owner stated plausible class-of-one equal protection claim against multi-county water conservation district based on district’s alleged conduct in treating city as exempt from district’s

well water usage and pumping limits, while rigorously enforcing those limits against property owner, without any rational basis for the differential treatment.

Texas Open Meetings Act (TOMA) notice requirement prohibited member of board of directors for multi-county water conservation district from requesting during board meeting's public comment period on non-agenda items that board address public's concerns about particular well usage, and thus, board member's First Amendment rights were not violated when he was barred as member of public from speaking about well usage.