Bond Case Briefs

Municipal Finance Law Since 1971

BOND ELECTION - TEXAS

Launius v. Flores

Court of Appeals of Texas, Dallas - February 1, 2022 - S.W.3d - 2022 WL 292265

A bond election for Dallas College that was held on May 4, 2019. The bond measure proposed the issuance of $1,102,000,000 in bonds and notes for the purpose of constructing, improving, renovating, and equipping school buildings for Dallas College. The measure passed.

Kirk Launius opposed the bond measure and was a poll watcher. In the underlying election contest, Launius alleged that election officers or persons officially involved in the administration and tabulation of the election counted illegal votes, failed to count legal votes, and "made mistakes and/or engaged in illegal conduct." [Sound familiar?]

After a bench trial, the trial court sustained the election results and rendered judgment for Dallas College. The trial court signed its final judgment on December 30, 2020. Launius filed a request for findings of fact and conclusions of law on January 19, 2021, and a notice of past due findings on February 18, 2021. The trial court issued findings of fact and conclusions of law on March 17, 2021. Launius filed his notice of appeal on March 29, 2021, which is eighty-nine days after the trial court signed the judgment.

The Court of Appeals held that appeals required by statute to be accelerated ***or expedited*** are accelerated appeals. TEX. R. APP. P. 28.1(a) . In an accelerated appeal, the notice of appeal must be filed within 20 days after the judgment or order is signed. TEX. R. APP. P. 26.1(b).

Dallas College argued in its motion to dismiss that Launius's notice of appeal was untimely because this is an accelerated appeal pursuant to Rule 28.1(a) with accelerated deadlines governed by Rule 26.1(b). Dallas College relied on section 231.009 of the election code, which provides that "[a]n election contest has precedence in the appellate courts and shall be disposed of ***as expeditiously*** as practicable." TEX. ELEC. CODE § 231.009. Dallas College contends that the plain language of section 231.009 requires appeals of judgments in an election contest on a measure to be expedited and, as such, they are accelerated appeals under Rule 28.1(a) and subject to the deadlines imposed by Rule 26.1(b).

Launius, in contrast, relied on section 232.015 of the election code to support his contention that the Rule 26.1(b) deadlines did not apply here and, as such, his appeal was timely filed within ninety days after the judgment was signed as required by Rule 26.1(a)(4). Section 232.015 provides that "[t]he trial or appellate court ***may accelerate*** the appeal in a contest of a general or special election in a manner consistent with the procedures prescribed by Section 232.014." TEX. ELEC. CODE § 232.015. Launius maintains that the election at issue was a special election and, as such, falls under section 232.015. He further argues that section 232.015 does not require appeals to be accelerated; rather, the statute gives an appellate court discretion to consider the appeal on an accelerated basis.

The Court of Appeal found that Launius's reliance on section 232.015 was misplaced because the election at issue was not subject to Chapter 232 of the election code. Chapter 232 applies only to "a contest of an election for nomination or election to a public office or an office of a political party."

TEX. ELEC. CODE § 232.001. The election at issue here was a bond election, not an election for nomination or election to office. A bond election is an "election on a measure" that is subject to Chapter 233 of the election code and is part of Title 14, Subchapter B of the election code. See id. § 233.001 ("This chapter applies to a contest of an election on a measure."); see also id. § 1.005(12) ("'Measure' means a question or proposal submitted in an election for an expression of the voters' will.").

"We conclude section 231.009 controls our determination of the motion to dismiss. We must, therefore, decide if disposing of an appeal in an election contest 'as expeditiously as practicable' means the appeal must 'be accelerated or expedited' as an accelerated appeal under Rule 28.1(a). Compare id. § 231.009 ('An election contest has precedence in the appellate courts and shall be disposed of as expeditiously as practicable.') with TEX. R. APP. P. 28.1(a) ('Appeals required by statute to be accelerated **or expedited**, … are accelerated appeals.')."

"No Texas court has addressed this question. Similar language in the Texas Citizens Participation Act (TCPA), however, is consistently construed as requiring an appeal to be accelerated under the appellate rules of procedure."

"Here, the requirement found in section 231.009 requiring appeals to 'be disposed of ***as expeditiously*** as practicable' constitutes a requirement that appeals be expedited under section 231.009." "Because section 231.009 creates an appeal that is statutorily-required to be expedited, such an appeal is accelerated under Rule 28.1(a) and subject to the accelerated appellate timetable of Rule 26.1(b). As such, the notice of appeal was due within twenty days after the date the judgment or order was signed or within thirty-five days if a motion to extend time was filed."

The Court of Appeals held that the notice of appeal was untimely, and the request for findings of fact and conclusions of law did not extend the time to perfect the appeal.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com