



Case Summaries February 3, 2023

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OPINIONS

GOVERNMENTAL IMMUNITY

Tim Cole Act

Brown v. City of Houston, ___ S.W.3d ___, 2023 WL ___ (Tex. Feb. 3, 2023) [[22-0256](#)]

At issue in this certified question is whether Tim Cole Act claimants may maintain a lawsuit after they have received compensation from the State.

Alfred Dewayne Brown was wrongfully imprisoned for capital murder. After his release, he applied for Tim Cole Act compensation, but the Comptroller denied his applications. Brown then sued the City of Houston, Harris County, and various city law-enforcement officials in federal court, alleging violations of his constitutional rights. While that suit was pending, and based on new information uncovered during that litigation, a state district court dismissed the charges against Brown on the ground that he was actually innocent. The Comptroller, however, denied Brown's renewed request for Tim Cole Act compensation. The Supreme Court granted Brown's petition for writ of mandamus and directed the Comptroller to compensate Brown.

The defendants in Brown's federal case then argued that his suit had to be dismissed under a provision in the Act that prohibits a person receiving compensation under the Act from "bring[ing] any action involving the same subject matter . . . against any governmental unit or an employee of any governmental unit." The district court agreed and granted the defendants' motion for summary judgment. Brown appealed, and the Fifth Circuit certified the following question to the Court: "Does Section 103.153(b) of the Tim Cole Act bar maintenance of a lawsuit involving the same subject matter against any governmental units or employees that was filed before the claimant received compensation under that statute?"

The Court answered the question *yes*. In so holding, the Court principally relied on the text and history of the Tim Cole Act, reasoning that the word "bring" in Section 103.153(b) entails not only filing suit but also maintaining one. The history of the Act, the Court explained, shows that the Legislature intended to funnel all claims for compensation through the administrative process, subject only to the potential for mandamus relief in the Supreme Court. The Court also observed that this understanding of the text is consistent with its precedent, which has broadly construed Section 103.153(b) to bar all claims once a claimant receives compensation. Finally, the Court noted, it would interpret the statute in a way that preserves immunity; the Legislature's willingness to waive sovereign immunity by providing compensation was

conditioned on that compensation being the last word in the dispute about the wrongful imprisonment.