



## Case Summaries August 23, 2024

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### DECIDED CASES

#### CONSTITUTIONAL LAW

##### Separation of Powers

*In re Dallas County*, \_\_\_ S.W.3d \_\_\_, 2024 WL \_\_\_ (Tex. Aug. 23, 2024) [[24-0426](#)]

At issue in this case is the constitutionality of S.B. 1045, the statute that creates the Fifteenth Court of Appeals.

Under S.B. 1045, the new Fifteenth Court comes into existence on September 1, 2024. The fourteen existing courts of appeals districts are all geographically limited, but the Fifteenth district includes all counties, and its justices will be chosen in statewide elections beginning in the November 2026 general election. Until then, the justices will be appointed by the Governor, subject to confirmation by the Senate. By statute, the Fifteenth Court will have exclusive intermediate appellate jurisdiction over various classifications of cases. S.B. 1045 requires any such cases pending in other courts of appeals (if filed after September 1, 2023) to be transferred to the Fifteenth Court by September 1, 2024.

This petition involves one of the pending appeals subject to transfer. Dallas County and its sheriff sued officials of the Texas Health and Human Services Commission regarding HHSC's alleged failure to transfer certain inmates from county jails to state hospitals. The trial court denied HHSC's plea to the jurisdiction, so HHSC appealed to the Third Court of Appeals, noting in its docketing statement that the case is one that must be transferred to the Fifteenth Court if still pending by September 1. Invoking this Court's original jurisdiction, the County then filed a Petition for Writ of Injunction. The County argues that, for several reasons, S.B. 1045's creation of the Fifteenth Court is unconstitutional. As relief, the County asks the Court to prevent the appeal from being transferred.

The Supreme Court denied relief. It first concluded that it had jurisdiction to consider the County's petition and construed it as one seeking mandamus relief.

On the merits, the Court rejected each of the County's three core arguments. First, it held that neither the text nor history of Article V, § 6(a) of the Texas Constitution prohibits the legislature from adding an additional court of appeals with statewide reach. It next held that the same constitutional provision expressly granted the Legislature sufficient authority to give the Fifteenth Court exclusive intermediate appellate jurisdiction over certain matters, as well as to decline to vest that court with criminal jurisdiction. Finally, the Court held that the Governor's initial appointments

to the Fifteenth Court do not violate Article V, § 28(a)'s requirement that vacancies on a court of appeals must be filled in the next general election. A vacancy must arise sufficiently before an election to be placed on the ballot; the Election Code determines that 74 days is needed, and the Court held that this rule, which allows ballots to be timely printed and distributed, adheres to the constitutional requirement. These vacancies arise on September 1, which is fewer than 74 days before the election. Filling the vacancies by appointment until the November 2026 general election, therefore, is lawful, not unconstitutionally void.