



Case Summaries March 28, 2025

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DECIDED CASES

Kensington Title-Nevada, LLC v. Tex. Dep't of State Health Servs., ___ S.W.3.d ___, 2025 WL ___ (Tex. Mar. 28, 2025) [[23-0644](#)]

This case addresses when a party can obtain a declaratory judgment regarding the applicability of an administrative rule under Section 2001.038(a) of the Administrative Procedure Act.

Kensington acquired real property in Denton, Texas, on which the prior owners had left behind radioactive personal property. Shortly thereafter, Kensington began implementing a plan approved by the Department of State Health Services to clean up the material, but Kensington ceased those activities when it was brought into an ongoing tax suit against the prior owners that subjected the radioactive personal property to a lien. The Department issued a notice that Kensington violated an administrative rule by possessing radioactive material without a license, and it sought a penalty. An administrative law judge found a violation and recommended a \$7,000 penalty, which the Department adopted.

In the pending tax dispute, Kensington amended its pleading to add a cause of action under Texas Government Code Section 2001.038(a) to declare the rule inapplicable, arguing that Kensington neither owned nor possessed the material. The Department filed a plea to the jurisdiction, arguing Kensington challenged the Department's application of the rule rather than the rule's applicability, and thus the Department's immunity from suit was not waived. The trial court denied the Department's plea, but the court of appeals reversed, holding that Kensington's Section 2001.038(a) challenge failed to allege a proper rule-applicability challenge.

The Supreme Court reversed. The Court first held that Kensington had standing to bring a Section 2001.038(a) challenge because Kensington alleged that the Department rule, if enforced, would interfere with Kensington's rights and the requested declaration would redress its injury. The Court then held that Kensington alleged a proper rule-applicability challenge, explaining that Kensington's request for a declaration of whether the Department's rules could apply to non-licensees like Kensington—who own real property on which radioactive material was abandoned—falls within the statute's scope. The Court remanded the case to the trial court to resolve the merits of the challenge.

In re J.J.T., ___ S.W.3d ___, 2025 WL ___ (Tex. Mar. 28, 2025) [[23-1028](#)]

Under Family Code section 54.02(j), a juvenile court may transfer an adult respondent to the criminal justice system if it finds that it was “impracticable” for the State to bring the case before the respondent’s eighteenth birthday “for a reason beyond the control of the state.” The issue in this case is whether the development of probable cause before a respondent turns eighteen necessarily prevents application of the transfer statute.

The State charged J.J.T. with capital murder, alleged to have been committed when he was sixteen years and eight months old. The State did not charge J.J.T. until eleven months after he turned eighteen. The State moved to transfer J.J.T. to the criminal justice system on the alternative grounds that it was not practicable for the State to proceed with the prosecution before J.J.T.’s birthday (1) “for a reason beyond the control of the state” or (2) because, despite the State’s diligence, probable cause did not develop until after his eighteenth birthday, and new evidence had been discovered. The juvenile court ordered the transfer, but it blended the two grounds for transfer, relying on the development of probable cause and omitting a diligence finding. The court of appeals reversed and dismissed the case for lack of jurisdiction, holding that, because probable cause had developed before J.J.T.’s eighteenth birthday, it was practicable for the State to proceed as a matter of law.

The Supreme Court reversed, holding that the timing of the development of probable cause is not conclusive as to whether proceeding in juvenile court is “impracticable.” Both the juvenile court and the court of appeals erred in merging the two statutory standards in examining whether the State established good cause. Because the State adduced some evidence of impracticability that a juvenile court could have credited even if probable cause had developed before J.J.T.’s eighteenth birthday, the Court remanded the case for a new transfer hearing.