Supreme Court of Texas

No. 24-1042

In re Steven Hotze M.D.,
Relator

On Petition for Writ of Mandamus

Statement of JUSTICE HAWKINS, in which Justice Devine and Justice Sullivan join, respecting the denial of the petition for writ of mandamus.

Relator Steven Hotze and Movant Mark Aguirre were indicted and charged with various crimes in Harris County in connection with an automobile collision. The State later dismissed the charges against Hotze, but the criminal proceedings against Aguirre remain pending. Separately, one of the individuals involved in the collision brought a civil suit against Hotze and Aguirre seeking recovery in connection with various tort claims. That civil suit remains pending in Harris County.

Hotze and Aguirre argue that they are entitled to a stay of the civil suit pending the resolution of the criminal dispute. They note that the U.S. Constitution's Fifth Amendment provides that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself." U.S. CONST. amend. V. In their view, they face a Hobson's choice: if they testify in the civil suit, their testimony might be used against Aguirre in

his criminal proceeding. But if they decline to testify in the civil suit in order to avoid collateral consequences in the criminal proceeding, the civil jury may make an adverse inference. *See* TEX. R. EVID. 513(c). They propose that we solve this dilemma by ordering the civil trial to be stayed until the criminal proceedings are resolved.

Other jurisdictions, including the United States, have developed frameworks to address when a stay of civil proceedings may be warranted in light of pending criminal proceedings. *See, e.g.*, *Sec. & Exch. Comm'n v. First Fin. Grp. of Tex., Inc.*, 659 F.2d 660, 668 (5th Cir. 1981) ("In 'special circumstances,' however, a district court should stay one of the proceedings pending completion of the other to prevent a party from suffering substantial and irreparable prejudice." (citation omitted)). At the same time, "[t]he simultaneous prosecution of civil and criminal actions is generally unobjectionable because the federal government is entitled to vindicate the different interests promoted by different regulatory provisions even though it attempts to vindicate several interests simultaneously in different forums." *Id.* at 667; *cf. Chavez v. Martinez*, 538 U.S. 760, 767 (2003) (Thomas, J.) (plurality op.) (explaining that the Self-Incrimination Clause protects a criminal "trial right" and any "constitutional violation occurs only at trial" (quoting *United States v. Verdugo-Urquidez*, 494 U.S. 259, 264 (1990))).

Our Court has never set out a particular standard a trial court must consider when deciding whether to stay a civil proceeding in light of a parallel criminal proceeding. Any such standard would need to account for several considerations, including prudential interests and constitutional demands. It may well be appropriate for our Court to take

up that question at some point. But as I see it, there are two primary impediments to doing so today in this case.

First, Hotze's position has changed since filing his mandamus petition in our Court. At the time he filed, he was a criminal defendant. That is no longer true: the indictment against him has been dismissed. Aguirre, by contrast, remains a criminal defendant, but he is not the relator. He has filed what he calls a "motion to join" Hotze's petition. However, the record does not show that Aguirre made a predicate request for action by the respondent—here, the district court—which the right to mandamus relief generally requires. *In re Coppola*, 535 S.W.3d 506, 510 (Tex. 2017) ("Due to the extraordinary nature of the remedy, the right to mandamus relief generally requires a predicate request for action by the respondent, and the respondent's erroneous refusal to act."). Moreover, Aguirre cites no rule or case authorizing this motion. At a minimum, this unusual dynamic would complicate our review.

Second, it appears that Aguirre's criminal proceeding will soon be underway. The parallel civil proceeding, by contrast, does not have a current trial setting, and it may continue to lag behind its criminal counterpart. As a result, it is far from clear that the dilemma that Hotze and Aguirre identify will come to pass. "Texas courts have no jurisdiction to render advisory opinions," *Bienati v. Cloister Holdings, LLC*, 691 S.W.3d 493, 497 (Tex. 2024), which is why we demand a concrete injury of reasonable certainty, not a hypothetical concern, before we exercise our jurisdiction.

Both the U.S. Constitution and Texas Constitution demand that criminal matters proceed speedily. U.S. CONST. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . . ."); TEX. CONST. art. I, § 10 ("In all criminal prosecutions the accused shall hav[e] a speedy public trial . . . ."). I am aware of no reason to doubt that the court overseeing Aguirre's criminal matter will act swiftly to bring those proceedings to a resolution. Should circumstances change, nothing stops Hotze and Aguirre from seeking appropriate relief.

Kyle D. Hawkins
Justice

OPINION FILED: June 26, 2026