

Westlake case takes high court stage

By Miles Moffeit
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Westlake residents taped copies of the U.S. Constitution to the walls, hoisted "Say No to Perot Town" signs and waved American flags in protest as their mayor was put on trial, accused of misconduct by four town aldermen acting as judge, witnesses and jury.

By the end of the clamorous two-hour hearing last year, Scott Bradley had been kicked out of office under an almost century-old state law. The aldermen later picked a new mayor, Dale White, and disannexed most of Westlake's land, including Ross Perot Jr.'s Circle T Ranch. Fort Worth claimed the ranch as part of its extraterritorial jurisdiction.

Now Bradley will have his day in the state's highest court.

The Texas Supreme Court will hear arguments tomorrow in Bradley's challenge to his ouster. Also at stake may be the mayorships in two other cities and the constitutionality of Texas law governing the removal of elected officials.

Beyond the legal issues, a Bradley win could negate Fort Worth's claim to the Circle T, which has blocked a deal to bring a Fidelity Investments corporate campus to Westlake.

"If they rule in Bradley's favor, the disannexations were illegal and would immediately be struck down," said Eldridge Goins, Bradley's attorney.

White's attorney Dee Kelly Jr., of Fort Worth-based Kelly, Hart & Hallman, has also said that the Supreme Court case could affect the disannexations.

The Supreme Court will convene at Baylor University Law School in Waco, the first time it has met outside Austin. Westlake residents and several classes of law school students are expected to pack the trial area and nearby rooms that will be wired with closed-circuit televisions. White's attorneys said their client and the four aldermen, who have left the board, will probably not attend.

Area lawyers say they are intrigued by the case.

"It's hard to determine ideologically where the justices fit in this case," said Fort Worth appellate attorney John Chalk, who noted that municipal issues make up a small percentage of the court's docket. "But I think it will be a very by-the-book analysis for them."

Also watching closely will be the former mayors of Parker and Seven Points, who were kicked out of office under the same law.

At the heart of the Supreme Court case is whether Bradley's rights to due process were violated when the aldermen removed him from office.

Other issues up for review include the law's vagueness, whether the statute violates open-meetings requirements, the Texas Constitution's separation-of-powers provision, and whether the 2nd Court of Appeals erred when it overrode state District Judge Bob McGrath's ruling that Bradley was illegally removed.

Goins and his team, including the Houston law firm Baker & Botts, are expected to argue that Carroll Huntress, Howard Dudley, Al Oien and Jerry Moore -- the aldermen who ousted Bradley -- could not legally sit as judge, prosecutor, jury and witnesses.

"The trial, in reality, was a sham proceeding," Goins stated in his brief.

White's attorneys have contended that Bradley's trial was a legislative action that falls outside rigid judicial standards. Kelly says that Bradley had due process under the law.

"It [the state statute] expressly provides for notice of a hearing and a hearing," he said. His written argument also states that Bradley was represented by counsel and was allowed to introduce evidence.

"The Legislature wrote the statute for a specific purpose, and it has withstood the test of time," he said.

White's attorneys dispute allegations in Bradley's brief that his trial was part of a larger plan to break up Westlake.

"It is ludicrous to suggest, as Bradley now does to this Court, that the removal hearing was carefully orchestrated to allow the aldermen to disannex a majority of the town," Kelly's brief states.

But Goins intends to emphasize that the result of Bradley's ouster was the town's dissolution, Bradley said.

"In almost a lightning strike, in just a period of a few days, these aldermen removed me as mayor to clear the way for them to dissolve our town," he said.

Bradley's ouster April 29, 1997, came after a series of events that shoved Westlake into the national spotlight.

They started months before when the Board of Aldermen voted to disannex the Stagecoach Hills subdivision, the home of a board candidate who had been critical of Perot's Circle T development plans. A no-holds-barred battle ensued as Bradley repeatedly vetoed the disannexation and the aldermen repeatedly revived it.

At the same time, the four aldermen -- who were opposed by fellow board member Fred Held -- began expressing support for the Circle T plans after they had assailed them for months.

They fired several town consultants and the town attorney, replacing some with Perot consultants, including Denton lawyer Bill Wood, who had been a legal adviser to Perot's development companies.

Citing a complaint by Dudley, the aldermen also announced that they would pursue Bradley's removal, saying that he had illegally tampered with meeting notices and minutes and had "caused a false boundary map to be prepared by the town engineer" in 1995, which brought Stagecoach Hills into the town.

At Bradley's trial, a town engineer testified that Bradley had privately instructed him to prepare the new map.

In Bradley's defense, ousted Town Attorney Paul Isham testified that the new map clearly identified the subdivision.

Huntress, presiding as judge, overruled every motion made by Bradley's attorneys. The vote to oust Bradley was 4-1, with Held dissenting.

Afterward, Wood said that the hearing obeyed all applicable rules as set by state statute. "I think it's been a fair hearing -- it's a statutory procedure," he said.

Westlake residents said they were in shock.

"All that was missing were the kangaroo suits," David Brown said.

Two hours later, Bradley obtained a court order from McGrath that temporarily voided the move, citing constitutional issues. But the 2nd Court of Appeals stayed McGrath's ruling later that day.

That evening, the aldermen posted an agenda for a special meeting that week to cede the Circle T Ranch, their own properties and a handful of others to Fort Worth and Roanoke.

After the disannexation meeting May 2, 1997, White said, "This is Perot Town now." Then he winked at the crowd.

The next morning, the Fort Worth City Council had an emergency meeting, at Perot's behest, to claim the ranch and the aldermen's properties. Fort Worth also struck a deal so that the aldermen could stay in its jurisdiction tax-free for 15 years.

Tomorrow's hearing takes on added significance because of bogged-down talks between Perot and Fort Worth to reverse the Circle T disannexation.

The past few months, Perot has worked feverishly to try to persuade Fort Worth to drop its claim to the land so that Fidelity Investments will agree to build its regional headquarters on the Circle T and on Bradley's Paigebrooke Farm. Fort Worth has refused and is pressing Perot for more incentives.

Fidelity officials said they hope a settlement in the Circle T dispute will be reached Tuesday when the Fort Worth council revisits the issue. They declined further comment about the Supreme Court hearing.

After Fort Worth voted down a settlement offer last week, some attorneys were bewildered, given the high stakes entering tomorrow's court hearing.

"I just don't understand why Fort Worth didn't settle along the lines proposed by Perot," Chalk said. "If I were the city of Fort Worth, I don't think I would want to risk losing everything before a decision comes down from the Supreme Court."

Bradley was reappointed as mayor by a new Board of Aldermen after the disannexations. If he loses the court case, he would not be able to hold office for two years. His attorneys are exploring whether he would have to step down if they appeal to the U.S. Supreme Court.

It is uncertain when the Texas Supreme Court might rule. It could take a year or longer, court observers say.

Paul Skelton, who was removed last year as mayor of Parker in Collin County, said the judge in his case has declined to hear it until after the Bradley case is decided.

Skelton said he hopes that the Bradley ruling will stop local officials who are "taking advantage of an antiquated law."

"In my case, the council told me before that they were going to throw me out," Skelton said. "That is wrong, and it needs to be changed."

George Staples, a Fort Worth attorney who acted as the prosecutor in the Bradley removal hearing, said he hasn't been closely following events leading to the high court.

"I did what I was hired to do, and it was a lovely job," Staples said. "But I ceased worrying about this a long time ago."

Staples said the Westlake saga has shown many behind-the-scenes powers at work.

Susan Gill Vardon contributed to this report.

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