

Austin, Texas 7/7/17:

Supreme Court of Texas Denies Petition for Review in Avery v. Guadalupe County Appraisal District (Rev. 2):

Just as Avery predicted, the Supreme Court "Denied" his Petition for Review. <http://sueit.org/avgcad-pet-for-review-disp-denied-filecopy.pdf>

Therefore the Memorandum Opinion of Chief Justice Sandee Marion of the Fourth Court of Appeals (COA) in San Antonio stands as the law in Texas regarding the lawfulness of the ad valorem property tax in Texas according to the Supreme Court of Texas. <http://sueit.org/avgcad-memo-opinion-4th-crt.pdf>

Avery has 15 days or until Monday July 24, 2017 to file a Motion for Rehearing in the Supreme Court of Texas.

What do we now know?

1. **Defendant's Motion to Partially Dismiss for Lack of Jurisdiction:** The COA found that the Defendant's Motion to Partially Dismiss for Lack of Jurisdiction is **irrelevant** as Avery did not appeal the value of his properties the GCAD determined in the first hearing and the GCAD did reopen and take evidence regarding the lawfulness and constitutionality of the ad valorem property tax in Texas and the United States in the second hearing from which Avery appealed within the allowed 60 days:

"Because Avery's brief on appeal raises no argument regarding the board's determinations on the value of his property—whether it was over market value or unequal compared to other properties—we need not address whether Avery is entitled to appeal those determinations. However, because the board heard the protest on the constitutionality or lawfulness of ad valorem taxes at the second hearing, we next address whether the trial court properly rendered summary judgment in favor of the District on the issue of whether Avery's property could be taxed in Texas."

But after the COA made the statement above they affirmed the Defendant's Motion to Partially Dismiss for Lack of Jurisdiction in its conclusion:

"For the reasons stated above, we affirm the trial court's Order on Defendant's Motion to Partially Dismiss for Lack of Jurisdiction and the trial court's Summary Judgment."

2. **Defendant's Motion for "No Evidence" Summary Judgment:** The COA mentioned and recognized Avery's evidence he submitted at the hearing and at the District Court in defense of a "No Evidence" Summary Judgment but weighed the evidence only in terms of the Texas Property Tax Code and constitutional provisions:

"Avery's "evidence" is not evidence of his entitlement to a tax exemption. His evidence" is merely a reassertion of his argument that Texas and its taxing units do not have the authority to impose ad valorem taxes. Therefore, we must

conclude the trial court did not err in granting the District's no-evidence summary judgment on whether Avery's properties were exempt from ad valorem taxes."

But Texas Property Tax Code Section 42.23(f) bars all "No Evidence" Summary Judgments when any party files any evidence in the State District Court that was submitted at the Appraisal Review Board (ARB) hearing. The weight or merit of the evidence is irrelevant:

"For purposes of a no-evidence motion for summary judgment filed by a party to an appeal under this chapter, the offer of evidence, including an **affidavit** or testimony, by any person, including the appraisal district, the property owner, or the owner's agent, that was presented at the hearing on the protest before the appraisal review board **constitutes sufficient evidence to deny the motion.**"
(bolding added)

There is no mention in the statute of the weight of evidence related to the motion but rather "the offer of evidence...presented at the hearing...before the appraisal review board." Avery filed an Affidavit in response to Defendant's No Evidence Motion for Summary Judgment in the District Court containing lengthy documents that had been submitted at both ARB hearings. The Avery case sets a precedent in contradiction to the Texas Property Tax Code Section 42.23(f).

However, Avery's evidence proved that the Texas Property Tax Code is not worth the paper it is written on as the individual citizens of Texas do not have authority in themselves to alien or take the property of others and therefore cannot delegate it to the state. For the same reason the provisions allowing ad valorem property tax in the Texas Constitution are also null and void. You've heard people say they believe in limited government. But few can tell you how this is determined. Government authority is limited because the individuals that authorize it are also limited in authority. People cannot lawfully authorize a government with unlimited authority or power.

3. **The Defendant's Motion for a "Traditional" Summary Judgment:** This was also affirmed by the COA and now the Supreme Court of Texas. The COA understood the argument made by Avery and correctly restated it in their Memorandum Opinion:

"Avery's contention that Texas lacks a lawful source of authority to levy ad valorem taxes is premised on his argument that "Texas citizens possess allodial title to their property and that their property cannot be lawfully alienated or alienated by any government" and "a democratic vote of the people or their representatives approving [a] property tax is null and void from its inception..." Avery concludes the State of Texas and its political subdivisions lack authority from any source to impose ad valorem property taxes on the citizens of Texas."

3.1. **The COA cited a circular argument to no source:**

"Because "'jurisdiction to tax' means the legitimate power to tax, [Tax Code] section 11.01, which defines the state's taxing jurisdiction over real and tangible personal property, also defines the limits of the legitimate power of the State of Texas and its political subdivisions to tax such property.'"

So where again is the source of the authority for the State of Texas to impose ad valorem property tax? It comes from the Tax Code Section 11.01:

"Sec. 11.01. REAL AND TANGIBLE PERSONAL PROPERTY. (a) All real and tangible personal property that this state has jurisdiction to tax is taxable unless exempt by law.

(b) This state has jurisdiction to tax real property if located in this state."

So all property located in this State is taxable if the property is in this state unless it is exempt by law. The COA claims the source of authority is its LOCATION! The location of your property determines the state's authority to alien it and make you a tenant on the state's property. That is absurd! The location of property within the boundaries of Texas cannot delegate authority to the State of Texas to alien your property. Only people authorize government and they do it by delegation of their own authority they possess. No one possesses authority to alien and encumber the property of others to delegate to the state. That citation of authority pales in comparison to the evidence and law presented by Avery showing that the founders understood the "law of delegated authority" which says that no one can delegate to another more authority than they hold in themselves. Avery quoted John Locke and Samuel Adams clearly stating in their own words and writings that all government authority comes from the limited authority in the people which have no authority to take the property of others and therefore cannot delegate such authority to government. This is also expressed in Article 1 Section 2 of the Texas Constitution.

3.2. The COA's cites the Common Law as a source of Constitutional authority to alien the property of the people for payment of taxes:

"“The Constitution was framed with reference to the common law, and in judging what the Constitution means we should keep in mind that it is not the beginning of the law of the state, but that it assumes the existence of a well - understood system, which was still to remain in force and be demonstrated, and that the constitutional definitions are in general drawn from the common law.”
Great S. Life Ins. Co. v. City of Austin, 112 Tex. 1, 243 S.W. 778, 780 (1922)"

Now Avery agreed with this concept of adoption of the existing common law that exists prior to a constitution and Article 16 Section 48 of the Texas Constitution acknowledges that fact:

"Sec. 48. EXISTING LAWS TO CONTINUE IN FORCE. All laws and parts of laws now in force in the State of Texas, which are not repugnant to the Constitution of the United States, or to this Constitution, shall continue and remain in force as the laws of this State, until they expire by their own limitation or shall be amended or repealed by the Legislature."

But Avery submitted, on all levels of appeal, superior unchallenged expert testimonial evidence from four of the major founders of the United States who spoke directly to the applicable common law that should be adopted by the federal and state constitutions:

Thomas Jefferson said in his *A Summary View of the Rights of British America*:

"Our Saxon ancestors held their lands, as they did their personal property, in absolute dominion, disencumbered with any superior, answering nearly to the nature of those possessions which the feudalists term allodial..

"Feudal holdings were therefore but exceptions out of the Saxon laws of possession, under which all lands were held in absolute right. These, therefore, still form the basis, or ground-work, of the **common law**, to prevail wheresoever the exceptions have not taken place. America was not conquered by William the Norman, nor its lands surrendered to him, or any of his successors. Possessions there are undoubtedly of the allodial nature." (bolding added)

John Adams said in his *Dissertation on the Canon and Feudal Law*:

"..till God in his benign providence raised up the champions who began and conducted the Reformation. From the time of the Reformation to the first settlement of America, knowledge gradually spread in Europe, but especially in England; and in proportion as that increased and spread among the people, ecclesiastical and civil tyranny, which I use as synonymous expressions for the canon and feudal laws, seem to have lost their strength and weight.

"It was this great struggle that peopled America. It was not religion alone, as is commonly supposed; but it was a love of universal liberty, and a hatred, a dread, a horror, of the infernal confederacy before described, that projected, conducted, and accomplished the settlement of America.

"After their arrival here, they began their settlement, and formed their plan, both of ecclesiastical and civil government, **in direct opposition to the canon and the feudal systems.**"

3.3. We now see how far the courts will go to protect tyranny when it is clearly shown to them. Rather than have a trial and a jury determine the facts as to what the applicable common law in America and every state of the Union the courts will cheat on every rule necessary to prevent the people from correcting their dissolved unlawful tyrannical government.

3.3.1. Avery filed evidence showing facts relating to the common law that should apply in Texas and every other state of the Union showing property tax to be repugnant to the Constitution of Texas. The Defendant offered factual evidence relating to the use of ad valorem property tax in the Constitution and Tax Code. This was a fact dispute that should have had a fact finder determine which set of facts from which to determine the law. Motions for Summary Judgment cannot be granted when there are fact issues to be determined by a fact finder. Avery requested a trial by jury not a judge.

3.3.2. Avery also filed superior unchallenged expert testimony from four major founders of the United States of America that spoke directly to the fact that the people in America own their property with an allodial unalienable title which cannot be aliened for the payment of property tax or anything else for any purpose. This means the law was not in favor of the Defendants. Motions for Summary Judgment cannot be granted or sustained

when the law does not favor the movant. But the COA and the Texas Supreme Court affirmed every motion of the Defendants to protect tyranny.

However, property taxation remains unlawful in every state of the Union according to the founders and this fact is disregarded by the Texas Judiciary and wicked feudalism is defended by them. This decision made by the Texas Judiciary in violation of the principles of property upon which all states of the Union are based according to Jefferson dissolves the state of Texas. All people of Texas are now free to make lawful government that will better protect their property consisting of life, liberty and possessions and to form a state that fits the purpose of the United States of America made known to us by the founders. Texas cannot be a state of the Union and impose ad valorem property taxation or civil tyranny.

Sincerely,

Ron Avery

<http://SueIT.org/avgcad.html>

see this summary online at: <http://SueIT.org/avgcad-sup-denies-pfr.pdf>

This does not deter Avery from being in Austin on 7/18/17 to Educate Congress and COLLECT HIS LAWFUL INHERITANCE!

Join Avery and his friends at the **Capitol** on opening day of the **Special Session on "Property Tax Reform"** in Austin on **Tuesday July 18, 2017** (all day long) and help pass out his brochure proving that ad valorem property taxes are repugnant to the applicable law of Texas. Avery will speak at several times during the day.

See his brochure at <http://SueIT.org/special-session.pdf>