

**No. 04-16-00572-CV
COURT OF APPEALS
FOURTH COURT OF APPEALS DISTRICT
SAN ANTONIO, TEXAS**

**Ronald F. Avery
APPELLANT**

VS.

**Guadalupe County Appraisal District
APPELLEES**

**ON APPEAL FROM THE 2ND 25TH
JUDICIAL DISTRICT COURT
GUADALUPE COUNTY, TEXAS
THE HONORABLE W. C. (BUD) KIRKENDALL, JUDGE
PRESIDING**

APPELLANT'S REPLY BRIEF

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SUMMARY OF THE ARGUMENT

The Appellant, Ronald F. Avery, protested his "ad valorem property taxes" according to the procedure set up to do so. He challenged the authority of the State and all of its subdivisions to impose an "ad valorem property tax" on his property or to confiscate his property without compensation and to charge him an eternal annual rent ~~in exchange for his right~~ to use it and occupy it.

The Appellees, Guadalupe County Appraisal District, had part of his protest dismissed for want of jurisdiction because all the orders were not made at the same time disposing of all the issues. The Appellees used their own failure to rule on all issues brought in one protest and heard in one hearing as a means to get rid of part of Avery's protest. They should not be able to deny Avery his due process because the Appellees did not do their job correctly.

The remainder of his protest appeal to the District Court was dismissed under a Motion for No-Evidence and Traditional Summary Judgment. The No-Evidence Summary Judgment should have been denied under the Texas Property Tax Code Section 42.23.(f). The Traditional Summary Judgment should have been denied for two reasons:

First, The Appellees failed to prove that there was no material facts to be found regarding the constitutional intent of the founders related to an imposition of "ad valorem property tax." Avery submitted superior expert evidence that the United States and the states thereof were constituted to prevent "ad valorem property tax" or the feudal system where government owns the property and rents it to the people.

Second, Even if there were no material fact issues to be found, the Appellees did not prove that the law was in their favor. Avery provided superior expert testimony and citation to documents known and used in the creation of the United States and states thereof that prove Texas does not have and cannot acquire [authority] by any means to impose an "ad valorem property tax." And that if Texas cannot do so none of its subdivisions may do so.

This case should be reversed and remanded to the Trial Court for further proceedings.

ARGUMENT

1. No appeal should [be] permitted until all issues brought in a single protest are ruled upon by the ARB.

Avery's case herein could conceivably have 15 separate appeals. A reasonable judge would combine them into one case for the purpose of appeal for the ease of all parties. The Appellee's attorney is making the assertion, after the event, that time runs not from the disposition of all issues brought under one protest but from the issue of each order on each issue under one protest. For their purpose of setting precedent herein this seems overly complicated. It also appears to be simply a trick in this particular case to get rid of an important part of this protest.

1.1. Admissions of Appellee should determine the matter of the District Court's jurisdiction:

The Appellees have admitted in their Brief that it was the decision of the Board to set another hearing instead of issuing further rulings on evidence already submitted, as requested by Avery. Avery had made it clear to Appellees that his intent was simply to get rulings on all issues in a timely manner so he could appeal them all within the original 60 day deadline.

Appellees further admit that the second hearing was to clarify its orders and fully provide him with due process:

"On August 26, 2015, the Board instead sent Mr. Avery notice that it had set another hearing. ***, the Board held its hearing on Mr. Avery's remaining issues on his three properties, presumable to clarify its Orders and fully provide him with due process."¹

This seems to be a fact issue as well. What was their real intention in granting a second hearing? Their attorney presumes it was for clarification of orders already issued and to provide further due process. If their attorney presumes correctly, then Avery's appeal was brought in a timely manner after further clarification was made of orders already issued and to provide further due process all decided by the Board. Surely the provision of further due process cannot mean the prevention of due process by delaying the second hearing past the appeal deadline of the first hearing.

Appellant can imagine reading the brochure on how to appeal a tax protest to the District Court where it will say that the Petitioner should file a protest within 60 days of each ruling on each issue the Board makes. This could open the door to almost a continual process for one protest.

¹ Appellee's Brief, p.4

1.2. Appellant's citation supports his position stated in the reverse.

Appellees assert that Avery's citation to Travis Central Appraisal District v. Marshall Ford Marina, Inc., No. 03-05-00784-CV (Tex. App. 9/9/2009) supports their position. This is false. They did not quote any language in the case. It is clear from the following quote that Travis Central could not appeal the orders issued in their hearing after the deadline because the orders of the ARB were dispositive of all issues not just some:

"The First ARB Orders were dispositive of all issues raised during the First Protest Hearings, including the issue that there was no omitted property from the appraisal roll." (Bolding added)

It is obvious that had there been issues that were not disposed of that were brought to the first hearing and a second hearing was held on them that the time would run from the second hearing not the first.

Avery agrees with the GCAD that to preserve a specific issue for review in the district court, the same issue must be raised at, and determined by, the appraisal review board. But Avery asserts that to allow the county appraisal districts to make orders on multiple issues in a single protest hearing at different times only adds to the confusion and burden of all parties to resolve a single protest.

2. The No-Evidence Summary Judgment has no merit by statute:

The no-evidence summary judgment must be reversed and remanded by statute alone without any other comments made about it. Regardless of the quality or weight of the evidence, as suggested by the Appellees, the no-evidence summary judgment is barred by statute if anyone offers any evidence by testimony or affidavit that was presented to the Appraisal Review Board hearing:

"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."²

Avery and the District offered evidence at the district court that was offered by both at the Appraisal Review Board hearing. That's the end of that! The statute does not specify a weight requirement of the evidence. The statute quoted above modifies Texas Rule of Civil Procedure 166a(i) in regard to appeals of Property Tax Protests.

² Texas Property Tax Code Section 42.23.(f)

3. Assertions of Appellees have not provided evidence or law that resolves the legal questions presented by Avery or authority to impose an "ad valorem property tax:"

3.1. The existence of property tax 6000 years ago does not establish authority for Texas to impose it:

This assertion by the Appellees is indeed shocking as it would justify the theft of the property of the people to charge them an eternal rent. The earth has known all kinds of wickedness from the beginning and some places still endure various forms of all kinds of wickedness. Slavery comes to mind here immediately. But when you check the reference provided by Appellees you find they are talking about a "land tax" which was based upon the produce of the land. A proportion of the produce was collected for tax. This was not an "ad valorem property tax." This was more like an income tax on the produce from the land. The person owed a percentage of what they produced. This was common in Europe even in 1776 but the only nation that had a tax on the value of every house instead of the rental income from the house was Holland:

"In Great Britain the rent of houses is supposed to be taxed in the same proportion as the rent of land, by what is called the annual land tax. The valuation, according to which each different parish and district is assessed to this tax, is always the same.***

In the province of Holland every house is taxed at two and a half per cent of its value, without any regard either to the

rent which it actually pays, or to the circumstances of its being tenanted or untenanted. There seems to be a hardship in obliging the proprietor to pay a tax for an untenanted house, from which he can derive no revenue, especially so very heavy a tax. In Holland, where the market rate of interest does not exceed three per cent, two and a half per cent upon the whole value of the house must, in most cases, amount to more than a third of the building-rent, perhaps of the whole rent"³

Holland was the only nation in all of Europe that imposed an ad valorem tax on all houses in 1776. This is why John Locke never addressed ad valorem property taxes in his *Second Treatise of Government* in 1689 - they did not exist in England and most of Europe. Different communities in England had different percentage rates of tax on rental income from land and houses but there was no tax on the value of all property regardless of the income from it. Personal homes that were not rented out had no tax imposed. Even the crown recognized who owned the property and honored it.

3.2. The existence of ad valorem property tax in the colonies does not establish authority for Texas to impose it:

It is astonishing that the Appellees would assert that the existence of ad valorem property taxation in the early colonies is a justification for this feudal slave system now in 2017. The Appellees know that the system was fully explained to be unjust and repugnant to the American

³ Smith, Adam 1727-1790, *Wealth of Nations* 1776 (Prometheus Books 59 John Glenn Drive, Amherst, New York 14228-2197 1991) 516

system of government by Thomas Jefferson and John Adams as Avery's court record shows. The mere existence of crime is not the justification for crime. Thomas Jefferson explained that the fraud of paying property taxes to the government in America was instituted by lawyers against poor farmers who didn't know any better or were not in a position to fight it. And as long as the tax was low enough to pay it with ease they would pay it rather than fight it. This is true regarding most crimes committed by government.

Avery provided the expert testimony of Thomas Jefferson to explain why Americans own their property with an allodial superior title that cannot be alienated by the State of Texas or any other government. The Appellees have not entered any expert testimony that equals the authority and strength of Thomas Jefferson.

Avery also provided the expert testimony of John Adams showing that America was created to protect religious freedom and to prevent the feudal system of paying fees and tax and money to government in order to retain ones own property. This is the law and the Appellees have not shown any law that is of equal expert weight to this date that would contradict it.

Avery has also shown that the "ad valorem property tax" is a violation of the principles of property upon which our nation and states were built upon and all lawful governments are built upon as shown by John Locke and amplified by Frederick Bastiat.

3.3. The shame of greedy merchants, crooked courts and tax collectors causing Shey's and Fries's Rebellions cannot be a source of authority for Texas to impose an ad valorem property tax:

Upon a mere surface investigation of these events it is apparent that the cause of these unpaid Revolutionary War veteran uprisings were a combination of merchants who were demanding payments on debts or loans to poor veterans coupled with the lack of currency to pay it with and crooked courts that were serving the merchants of the eastern coastal area and not farmers of the western interior. Most of the farmers had just returned from the Revolutionary war and were subsistence farmers that could not get their money owed them from the federal government for military service to pay their tax and commercial debts. The courts were taking their property and ignoring their true plight. These men were stuck between a federal government that would not pay its debts to their victorious soldiers and greedy merchants that would not wait for payments.

It also appears that George Washington and John Adams did not put these rebellions down but were stopped by local militias raised and paid by local government officials and merchants. John Adams actually pardoned all the participants in the Fries's rebellion including Fries himself. Only two men in both rebellions were hung and that was not for their "anti-tax" activity but other crimes they had committed during their activities. Now there is some real fertile soil to plant property confiscation and eternal rent upon and call it "ad valorem property tax."

3.4. The present source and quantity of revenue provided by the present "ad valorem property tax" does not establish authority for the State to impose it:

The Appellees assert that because the present "ad valorem property tax" is the largest source of revenue that this somehow justifies the crime of stealing the property from the people and making them pay the State eternally to use it. If 90% of Al Capone's income came from extorting "protection fees" from shop owners he threatened, does that make it legal? The Appellees cite Jerone H. and Walter Hellerstein, *State and Local Taxation, Cases and Materials*, 97 (8th ed. 2001) as if we needed these guys to tell us how much plunder is obtained by the "ad valorem property tax."

The Appellees also give us the actual amount raised by property taxes for two years: "Property taxes levied by taxing units statewide in Texas exceeded \$49 billion in 2014 and \$52 billion in 2015."⁴ How this develops an authority for the State to confiscate the property of the people and charge them an eternal rent for its use and evict them if they can't pay it is unknown. The same amount of revenue could be raised by another tax that is actually in conformity to the principles of lawful taxation. That principle is stated simply as any tax that does not harm, encumber, convert, alien or threaten to lien the property of the individual citizen. If the same amount of money was difficult to raise in a lawful manner, it might be time to consider what the true role of lawful government is and consider other things that might not be necessary to provide.

3.5. Oliver Wendell Holmes cannot establish an authority for the State or the Union to alien the property of its citizens:

The Appellees quote Oliver Wendell Holmes as saying: "Taxes are what we pay for a civilized society..." Avery agrees with that short statement. Avery is no anarchist and believes in taxation that conforms to the principles of lawful taxation which are defined herein. Avery is

⁴ Biennial Property Tax Report - Tax Years 2014 and 2015, <https://www.comptroller.texas.gov/taxes/property-tax/docs/96-1728.pdf>

not challenging *taxation* by the State or local subdivisions of the State but rather *unlawful taxation* that violate the very purpose of civilized society. A State that will not permit its citizens to own property with a superior allodial title is not a civilized society. The State that confiscates the property of the people and charges them an eternal rent to use their own property is an uncivilized barbaric state.

Oliver Wendell Holmes is a poor example to support civilized society as he also brought the adoption of the false doctrine of *sovereign immunity* of the federal government *over its own citizens* to harm them and their property without recourse unless waived by statute or congressional resolution.

"Nor can the Government, he says, be guilty of a fault or "tort" since it itself makes the law and is therefore not bound by it, a proposition to which Justice McKenna expressed vigorous dissent. The validity of this theory of Justice Holmes, which he founds upon the authority of Bodin, Hobbes and Austin, we shall have further occasion to examine."⁵ (Bolding added)

This concept ~~is~~ [is] not found in the federal Constitution or our State Constitution but it came through the judiciary to both and it has overthrown both Constitutions and the society it created.

⁵ Yale Law Journal *Government Liability in Tort* Edwin M. Borchard (34 Yale L J:1) p.40.

3.6. The People and their Constitutions are not a source of authority to impose "property tax" as they don't have it to delegate:

The Appellees assert that all the Texas Constitutions since 1845 have included a power to impose an ad valorem property tax on all property in Texas. This too is in contradiction to Article 1 Section 2 of the Texas Constitution which says:

"INHERENT POLITICAL POWER; REPUBLICAN FORM OF GOVERNMENT. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."

Avery has shown that the people are not unlimited in their authority and therefore it is impossible for them to create a government that is unlimited in authority. And this authority is limited to the authority to protect their own property. They cannot harm or alien anyone else's property. No one can alienate their neighbor's property to the government for security for failure to pay money to the government. The State of Texas must be limited to only that which any one individual citizen has in themselves.

The power of the government to alien someone's property for the sole purpose of securing the payment of money or a tax is not first in

any one person or all the people put together and therefore cannot be delegated to the state they create to protect their property and to keep their property in their own name.

Clearly, Article 1 Section 2 says that all authority (power) that government has must come from the inherent right or authority of any one person. We all, individually, have a right and authority to protect our own property and we can delegate that to our government to provide police protection of our property. But none of us can alien our neighbor's property without a judgment for some kind of harm done us. Therefore, we cannot delegate the authority to alien our neighbor's property for the payment of money to the state. The endless reciting of the "Texas Property Tax Code" or pirates' plunder management code and various ill conceived and contradictory Constitutional provisions do not alter this obvious long known and understood truth.

The ultimate source of Article 1 Section 2 is from the Second Treatise of Government:

"TO understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature,

without asking leave, or depending upon the will of any other man."⁶

The above quote is also the true definition of *ownership* of property. Then we see from here how and for what purpose all lawful governments are constructed and funded:

"Sec. 123. IF man in the state of nature be so free, as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? why will he give up this empire, and subject himself to the dominion and controul of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others: for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very unsecure. This makes him willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, property.

Sec. 124. The great and chief end, therefore, of men's uniting into commonwealths, and putting themselves under government, is the preservation of their property. To which in the state of nature there are many things wanting."⁷

⁶ Peter Laslett, *Locke, Two Treatises of Government*, (Cambridge University Press, 40TH West 20th Street, New York, NY 10011-4211, USA) 2nd Treatise chap. 2, p. 269

On line: <http://www.constitution.org/jl/2ndtreat.txt>

⁷ Ibid, 350, 351

From here we see that the sole purpose of lawful government is the preservation of ownership and the use of property unencumbered and independent of the will of government. There is no mention of men giving up or alienating their property to the state to secure and collateralize tax payments in the creation or support of government.

We will see that no lawful government can acquire a lien on anyone's property for security to pay government money as the people do not have that authority in themselves to delegate to government:

"First, It is not, nor can possibly be absolutely arbitrary over the lives and fortunes of the people: for it being but the joint power of every member of the society given up to that person, or assembly, which is legislator; **it can be no more than those persons had in a state of nature before they entered into society, and gave up to the community: for no body can transfer to another more power than he has in himself;** and no body has an absolute arbitrary power over himself, or over any other, to destroy his own life, **or take away the life or property of another.** A man, as has been proved, cannot subject himself to the arbitrary power of another; and having in the state of nature no arbitrary power over the life, liberty, or possession of another, but only so much as the law of nature gave him for the preservation of himself, and the rest of mankind; this is all he doth, or can give up to the common-wealth, and by it to the legislative power, **so that the legislative can have no more than this.** Their power, in the utmost bounds of it, is limited to the public good of the society. It is a power, that hath no other end but preservation, and therefore can never* have a right to destroy, enslave, or designedly to impoverish the subjects. The obligations of the law of nature cease not in society, but only in many cases are drawn closer, and have by human laws known penalties

annexed to them, to enforce their observation. Thus the law of nature stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men's actions, must, as well as their own and other men's actions, be conformable to the law of nature, i.e. to the will of God, of which that is a declaration, **and the fundamental law of nature being the preservation of mankind, no human sanction can be good, or valid against it.**"⁸ (bolding added)

Ignorant men make constitutions and constitutional provisions that are unlawful and without authority because they attempt to delegate what they do not possess and cannot possess. All of this was contemplated in Article 1 Section 2 of the Texas Constitution regardless of other provisions that contradict it.

3.7. The People cannot consent to enslave themselves or give up their property consisting of life, liberty and possessions:

The Appellees quote the Supreme Court in *Edgewood v. Kirby*: "The Texas Constitution derived its force from the people of Texas. This is fundamental law under which the people of this state have consented to be governed." Avery does not dispute that! Where the people have authority they can delegate it to government and it becomes fundamental law. But where the people do not have authority, they cannot delegate it to government even in the constitution of it.

⁸ Ibid, 357, 358

For the people to delegate something they have not to government in its creation is very *un-fundamental law* and is *unenforceable*.

The Appellees also quote the Trial Court Judge "the train [has] kind of left the station on the legality of the ad valorem tax." This is a humorous way to make a very uninspected conclusion. A more humorous and accurate statement after much inquiry into the lawfulness of "ad valorem property taxation" or *property confiscation* by the State is; *the train has kind of left the tracks on the legality of the ad valorem property tax*.

The notion that the Texas Constitution can alien or allow local subdivisions to alien the property of its people for the payment of public debts or any other thing is an absurdity and contradiction to the grand end and purpose of lawful society. Samuel Adams also understood the principle well and said:

"In short, it is the **greatest absurdity** to suppose it in the power of one, or any number of men, at the entering into society, to renounce their essential natural rights, or the means of preserving those rights; when the grand end of civil government, from the very nature of its institution, is for the support, protection, and defense of those very rights; the principal of which, as is before observed, are **Life, Liberty, and Property**. If men, through fear, fraud, or mistake, should in terms renounce or give up any essential natural right, **the eternal law of reason and the grand end of society would absolutely vacate such renunciation**. The right to freedom being the **gift of God**

Almighty, it is not in the power of man to alienate this gift and voluntarily become a slave."⁹ (bolding added)

So what have the people done? Have they been deceived? Thomas Jefferson said they had been deceived by lawyers from the very beginning in America. But what is the solution to this obvious problem. Samuel Adams gives it to us. We must VACATE the renunciation of our property because we do not have authority to give it up for ourselves or others and become slaves!

To constitute government for the preservation of our property and then give up our property to fund it is absurd. The end is destroyed by the means making the process an absurd futility.

4. Law that interprets equal and uniform as unequal and non-uniform is fake law:

The Appellees have said that the Supreme Court of Texas has recognized the *impossibility* of making "ad valorem property taxes" equal and uniform, as if that made it alright now. Avery agrees with the Supreme Court that the task of making "ad valorem property taxes" equal and uniform is totally impossible. Therefore Article 8 Section 1(a) alone is enough to show that "ad valorem property tax" is not a

⁹ Samuel Adams, *The Christian History of the Constitution of the United States of America - Christian Self-Government* ed., Verna M. Hall, (The Foundation for American Christian Education Box 27035, San Francisco, California 94127) 367

lawful tax in the State of Texas. But the Appellees would have us believe that all anyone needs is for the Supreme Court to declare white, black and lies, truth and non-uniform, uniform and unequal, equal. The Appellees cite *Dallas County v. Dallas National Bank*, 179 S.W.2d 288, 289 (Tex. 1944):

"[a] reasonable discrepancy between the actual value of the property and the value at which it is assessed for taxes is permissible to allow for differences in judgment"

Even this statement is totally ludicrous! How are we to determine what the real "actual value" of any property is? Who is going to determine that for us? Only the owner can determine the *actual value* of their own property. And the Appellees continue to say that Avery is the owner of the subject property and Avery says the value of his property is in-calculable to him or any other person.

Do we allow thieves to determine the value of things they steal from their victims? If the punishment is to fit the crime then the property they steal is deemed worthless and there is no punishment required. Why should anyone let the government, who stole their property rather than defend it, tell them what their own property is worth in order to determine the rent the victim will pay?

It is an indisputable and irrefutable fact that "ad valorem property taxation" cannot come into conformance with Article 1 Section 1(a): "Taxation shall be equal and uniform." The solution according to the Supreme Court is to create fake law that says; equal means unequal, and uniform means irregular and something kind of close to uniform is uniform and something kind of close to equal is equal. This is Orwellian 1984 "newspeak" of the authoritarian state.

Avery has a more reasonable, precise, fair and honest way to fix it: Simply declare "ad valorem property tax" to be the feudal system for which America was instituted to prevent. Then return the property of the people to them and make the charge and collection of "ad valorem property tax" equal to the crime of theft and extortion for which a minimum of 20 years in the State penitentiary is mandatory. Thus all taxation in Texas would become absolutely equal and uniform just like it says. Everyone will pay the same amount for taxes and everyone will own their own property and no one will rent their property from the State ever again. The feudal system will be stopped and the purpose of our nation and states realized according to its founders.

5. The State is any and all of its Subdivisions by law & what is forbidden to it is forbidden to all its subdivisions:

5.1. The Appellees contend that political subdivisions are not the State and therefore can constitutionally levy "ad valorem property taxes:"

The Appellees have admitted their perception of the construction of the State. Their perception is incorrect. They have admitted their erroneous perception on page 20 of their Brief:

"Guadalupe County, Seguin Independent School District, and Lateral Roads are Political subdivisions. They are not the State and can therefore constitutionally levy ad valorem taxes on Mr. Avery's property."

All parts or subdivisions of a State are the State. Subdividing a State cannot make the subdivisions anything other than the State. Avery pointed out this false perception at both the ARB hearings and at the District Court. The State is not constructed like the federal union. No sovereign units came together to form a Texas federation for limited purposes as the States did with the federal union. The States are not subdivisions of the United States. But Texas was not formed like the United States.

The State of Texas consists of political subdivisions of itself that are not sovereign alone but draw all their existence and authority from the State delegated to it. And this is expressed in the Texas Civil Practice and Remedy Code Section 101.001:

"(3) "Governmental unit" means:

(A) this state and all the several agencies of government that collectively constitute the government of this state, including other agencies bearing different designations, and all departments, bureaus, boards, commissions, offices, agencies, councils, and courts;

(B) a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority;"

Just because these subdivisions do not have statewide authority does not mean they are not the "State." However, the longer term "State government" is defined as any of its parts that have statewide authority. The Seguin Independent school district does not have statewide authority and is therefore not part of the "State government." But it is most certainly a "State Governmental Unit" and "subdivision of the State" and cannot have more authority than the State itself. If the State has been denied authority to do something it cannot delegate the same denied authority to its subdivisions.

To demonstrate this idea that the subdivisions are actually the State ¶ [Avery] quotes the Supreme Court's language in a citation by

Appellees regarding how unequal and non-uniform became equal and uniform:

"This suit was instituted by petitioner, the State of Texas, in behalf of itself, Yoakum County, and political subdivisions of the county, against respondents, J. A. Whittenburg, Jr., and others, for the collection of ad valorem taxes for the years 1942 to 1949 inclusive"¹⁰

So the State instituted the suit for collection of ad valorem property taxes in behalf of itself, a county and political subdivisions of a county. The State is itself and its subdivisions. The State is its subdivisions with local authority only and agencies and departments that have statewide authority. The language used in Article 8 Section 1-e is all encompassing:

"ABOLITION OF AD VALOREM PROPERTY TAXES. No State ad valorem taxes shall be levied upon any property within this State."

The provision does not say "State government" but "State." And the main title of the provision is also not limiting to the "State government" but is a global statement encompassing all the State in all its parts and subdivisions.

¹⁰ State v. Whittenburg, 265 S.W.2d 569, 572 (Tex. 1954).

6. The State continually deceives the people regarding ownership and tenancy.

The Appellees insist that Avery is the *owner* of the subject property but they don't act like he owns it. They act like they own it and they treat Avery like a tenant. Their arguments are contradictory and inconsistent in their desire to make him pay them eternal rent to use his property. The State is deceiving the people about what ownership is. They have convinced the people that ownership is limited to tenant privileges granted to them by the State in how to conduct a protest of their rents. Just read the Texas Property Taxpayer Bill of Rights and substitute the word *lease* for "property," and *rent* for "tax," throughout and it makes a lot more sense.¹¹ If Avery owned his property he would be telling the government what rights he may grant them from time to time if he wants to do so.

The people have been reduced to tenants and the state has been elevated to landlord in the feudal system. But it's all a lie based on fake law. The people of Texas actually own their property with an allodial superior title that cannot be alienated by the State of Texas and used to extort money from ~~the~~ them in fear of being evicted from it.

¹¹ <https://www.comptroller.texas.gov/taxes/property-tax/bill-of-rights.php>

People are not permitted to own their own property. All they can do is create it and maintain it and work it for the State. But it's all a lie.

PRAYER

Therefore Premises Considered, The Appellant, Ronald F. Avery, requests that the Trial Court's Order to Dismiss for want of jurisdiction, and the Trial Court's Judgment granting a "No Evidence" Summary Judgment, and a Traditional Summary Judgment on appeal herein, be reversed and his cause remanded for further proceedings, and that Avery be granted any other relief to which he may be entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 13, 2017, I served a copy of the foregoing on the Appellee's Attorney listed below by Certified Mail RRR 7016 0910 0001 2761 3952:

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CERTIFICATE OF COMPLIANCE

I hereby certify, Pursuant to Texas Rule of Appellate Procedure 9.4(i)(3), that the total word count of the Appellant's Brief is 6,666 words in the entire document including the front and back exemptions of a 7,500 word limit.

I also certify that the document is in 14 point double spaced with 12 point footnotes.

Ronald F. Avery, Pro Se