



CITY OF DALLAS

Memorandum

DATE February 13, 2014

TO The Honorable Chair and Members of the Charter Review Commission

SUBJECT ***Phyllis Lister Brown v. City of Dallas et al.*, Cause No. DC-11-14290-E in the 101st District Court of Dallas County, Texas**
***City of Dallas et al. v. Phyllis Lister Brown*, Cause No. 05-12-00116-CV in the Fifth District Court of Appeals**

At the February 4, 2014 meeting, the Charter Review Commission asked for background on this lawsuit.

Phyllis Lister Brown brought suit against the City of Dallas, the Mayor and all the members of the city council to prevent her removal as a municipal judge when she became a candidate for the 162nd Civil District Court. Brown alleged that the council did not have the authority to remove her from the position of judge of the municipal court because the charter provision calling for forfeiture¹ and the charter provision allowing for removal² did not apply to her.

After the Council removed her she sought an injunction to prevent the effects of the removal. The City filed a plea to the jurisdiction that the district court denied. The court entered a temporary restraining order preventing the effect of the removal and set a hearing on the temporary injunction. The City Parties filed an immediate appeal staying the court's injunction and preventing a hearing on the temporary injunction. The appellate court allowed the district court to hear Brown's application for a temporary injunction, and the issues in the City Parties' plea to the jurisdiction that the judge had declined to rule on. The district court denied the plea to the jurisdiction on the remaining separation of powers constitutional claim. The court then granted the temporary injunction allowing her to remain on the bench. These orders were appealed. The appeal stayed the temporary injunction so that it was no longer in effect.

Because she no longer had an injunction that allowed her to remain on the bench as if she had not been removed, Brown requested injunctive relief in the Court of Appeals. The City Attorney's Office opposed the request. The Court of Appeals denied Brown's request for temporary relief. The court did not require the City to maintain Brown as a municipal judge while the appeal proceeded. The removal ordinance was in effect. Brown then left the municipal judge position.

¹ Dallas City Charter Chapter III §17.

² Dallas City Charter Chapter VIII §4A.

The Court of Appeals issued an opinion in the appeal affirming the denial of the Council's and the City's plea to jurisdiction. The court concluded that the issue of the validity of the temporary injunction was moot. Without commenting on the merits of Brown's claims, the court remanded the case to the trial court for further proceedings.

Brown won the election and dismissed her lawsuit.


JOHN ROGERS
Assistant City Attorney