

FIFTH CIRCUIT COURT OF APPEALS PUTS AN END TO TEXAS FEDERAL BAIL LITIGATION

Court Makes Clear Controversial Harris County Case Should Never Have Been Brought to Federal Court

AUSTIN, TX, UNITED STATES, April 6, 2023 /EINPresswire.com/ -- The U.S. Fifth Circuit Court of Appeals handed down a much-anticipated second en banc opinion in the high-profile case of *Daves v. Dallas County* (case no. 18-11368), this past Friday (March 31).

The en banc majority opinion ruled that federal courts do not have jurisdiction to review pretrial bail practices. In the stinging opening statement to its ruling the court stated, "we conclude that this case, whose aim was to revise by federal decree the Texas state court procedures for felony and misdemeanor pretrial bail, should never have been brought in federal court." In recent years, reformers have come under criticism for attempting to create law through court decrees rather than through the legislature.

"We are extremely pleased by this definitive ruling by the Fifth Circuit," said Mike Byrd, President of the [Professional Bondsmen of Texas](#). "In declaring in no uncertain terms that cases such as *Daves* from Dallas County and *ODonnell* from Harris County, 'should never have been brought in federal court,' it sends a clear message that federal courts do not want to get into the business of the daily oversight of state criminal proceedings, including the setting of pretrial bonds. It represents an unequivocal defeat for activists who have sought to strong-arm and threaten counties to bend to their will or face expensive federal litigation."

The 2018 *Daves* case concerned the contention of a woman who was arrested on a misdemeanor charge and taken to Dallas County Jail where she was held for several hours before being brought to face a judge. Because she did not have the \$500 required to bail herself out, she wound up being detained in jail as she awaited trial. A coalition of civil rights groups subsequently filed a class-action lawsuit against Dallas County on behalf of *Daves* and other poor inmates, alleging that the county's use of a bail schedule to recommend bail amounts was improper. Additionally, the *Daves* litigation sought to expand a ruling in the earlier case of *ODonnell v. Harris County* (case no. 17-20333) against misdemeanor judges and apply it to district court judges as well.

Attorneys for the plaintiffs contended that the cash bail system employed by Dallas County was tantamount to "systemic wealth-based detention," allowing persons with money to walk free, while the poor were kept locked up. In so doing, it was alleged that the constitutional rights of

Daves and the other inmates were violated.

The heart of the new ruling holds that federal courts must abstain from exercising jurisdiction in these types of cases. The Fifth Circuit said that this concept is based upon a recognition that the United States is comprised of a union of separate state governments. It held that the federal government fares best when states and their institutions are allowed to perform their individual functions separately. The court reasoned that this type of litigation was an improper interference in state court criminal proceedings.

Last Friday's decision by the Fifth Circuit, its second on the matter, should be conclusive. The court's strongly-worded opinion made it clear that the very premise of both the Daves and ODonnell cases should never have been addressed by the federal court. This raises the question of the fate of other similar lawsuits that have been filed, including Russell v. Harris County (case no. H-19-226), currently pending in Houston's federal court, as well as Booth v. Galveston County (case no. 19-40395), which is before the Fifth Circuit on appeal.

It also calls into question the \$100 million settlement in the ODonnell case -- a settlement that now appears to have been unwarranted and has been reversed specifically on two occasions.

About the Professional Bondsmen of Texas

The Professional Bondsmen of Texas ("PBT") was established in 1970 as the Texas Association of Professional Sureties. Created to protect the Eight Amendment of the U.S. Constitution, the organization changed to its present name in 1978. Comprised of men and women in the bail bond business, PBT works to support and assist its membership in the advancement of their industry, while defending the constitutionally guaranteed right to bail for all. www.pbt.com

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