

177
F-11-

MICA ENGLAND,
Plaintiff

v.

THE STATE OF TEXAS, THE CITY OF
DALLAS, AND MACK VINES, CHIEF OF
POLICE OF THE CITY OF DALLAS,

Defendants.

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IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

200th JUDICIAL DISTRICT

ORDER AND FINAL JUDGMENT

On the 3rd day of February, 1992, came on before the Court Plaintiff Mica England's Motion for Partial Summary Judgment and Defendants City of Dallas and Mack Vines' Motion for Summary Judgment. The Court having heard the arguments of counsel enters the following order:

1. The Court finds that, although the Attorney General was properly served pursuant to Tex.Civ.Prac. and Rem. Code §37.006(b), the Court lacks jurisdiction over the defendant State of Texas and hereby grants the State's Plea to the Jurisdiction.

2. The Court declares that Texas Penal Code §21.06 is unconstitutional. Plaintiff is entitled to a permanent injunction enjoining the City and its police chief in his official capacity from enforcing that statute. The Court further finds that Plaintiff is entitled to a permanent injunction enjoining the City

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James R. ...
DISTRICT CLERK
TRAVIS COUNTY, TEXAS

and its police chief in his official capacity from denying employment to any individuals applying to the Dallas Police force based solely on the fact that an applicant admits violations of Texas Penal Code §21.06 or being, lesbian or homosexual.

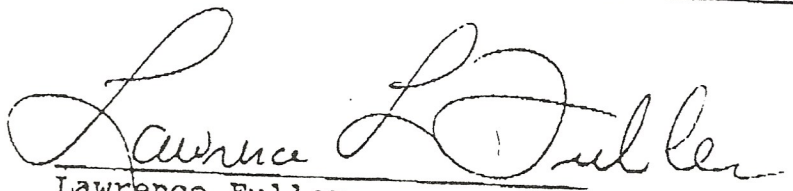
3. The Court finds that there is a fact issue with respect to the City of Dallas' and Mack Vines' liability for damages and, therefore, denies Defendants' Motion for Summary Judgment. In entering this Order the Court in no way rules on whether the City or Vines are, or are not, liable for damages, if any, for their refusal to hire Plaintiff in 1989, and if so, in what sum.

~~On motion of the~~ Plaintiff, the Court orders the Plaintiff's claims for declaratory and injunctive relief against Defendant State of Texas and Defendant City of Dallas to be severed from Plaintiff's claims for damages, if any, attorney's fees, and other relief. It is ordered that Plaintiff's claims for declaratory and injunctive relief against Defendant State of Texas and Defendant City of Dallas shall continue to bear cause number 484,697. It is further ordered that Plaintiff's claim for damages, attorney's fees, and other relief shall bear cause number 484,697A.

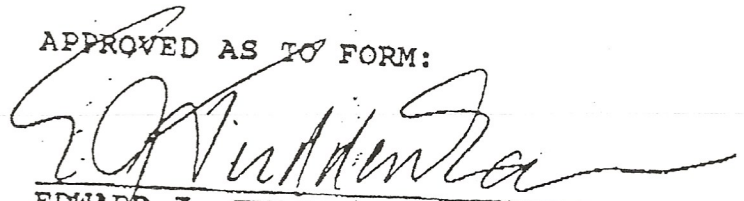
5. All other declaratory and injunctive relief sought by Plaintiff not expressly granted herein is denied. Accordingly this Order shall be a final judgment in cause number 484,697.

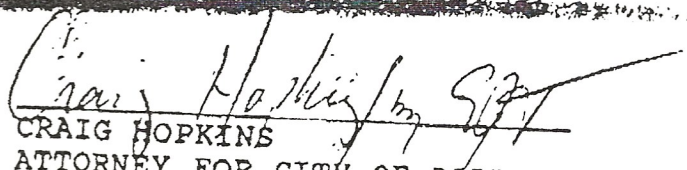
6. The City of Dallas' motion for a stay of this order pending appeal is hereby denied.

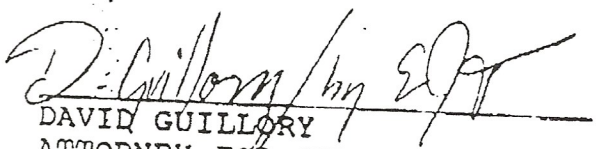
Done at Austin, Texas this 8th day of February, 1992.


Lawrence Fuller
Visiting District Court Judge

APPROVED AS TO FORM:


EDWARD J. TUDDENHAM
ATTORNEY FOR PLAINTIFF 479-5012


CRAIG HOPKINS
ATTORNEY FOR CITY OF DALLAS AND
MACK VINES


DAVID GUILLORY
ATTORNEY FOR STATE OF TEXAS

CITATION: 846 S.W.2d 957

Direct History

=> 1 **City of Dallas v. England**, 846 S.W.2d 957
(Tex.App.-Austin, Feb 10, 1993) (NO. 3-92-243-CV), dismissed
w.o.j. (May 05, 1993), rehearing of writ of error overruled
(Jun 09, 1993)

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Citation	Rank(R)	Page(P)	Database	Mode
846 S.W.2d 957	R 1 OF 1	P 1 OF 18	TX-CS	Term

(Cite as: 846 S.W.2d 957)

The CITY OF **DALLAS** and Mack Vines, Appellants,

v.

Mica **ENGLAND**, Appellee.

Mica **ENGLAND**, Appellant,

v.

The STATE of Texas, Appellee.

No. 3-92-243-CV.

Court of Appeals of Texas,

Austin.

Feb. 10, 1993.

Lesbian who had been denied processing of her application for employment by police department sued state, city and police chief challenging constitutionality of statute criminalizing private sexual relations between consenting adults of the same sex. The 200th Judicial District Court, Travis County, Lawrence L. Fuller, J., granted state's plea to jurisdiction but held statute unconstitutional and enjoined city and police chief from enforcing statute and from denying employment in police department to lesbians and gay men solely because they violate the statute. City, police chief and plaintiff appealed. The Court of Appeals, Bea Ann Smith, J., held that: (1) district court had jurisdiction to rule on constitutionality of the statute; (2)

THE SUPREME COURT OF TEXAS
P. O. Box 12248
Supreme Court Building
Austin, Texas 78711
John T. Adams, Clerk

May 5, 1993

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RE: Case No. D-3593

Style: THE CITY OF DALLAS, MACK VINES, Chief of Police, and THE STATE OF TEXAS
v. MICA ENGLAND

Dear Counsel:

Today, the Supreme Court of Texas dismissed for want of jurisdiction the application for writ of error, as amended, in the above referenced case with the following notation: "See Oil Field Haulers Ass'n v. R.R. Comm'n, 381 S.W.2d 183, 187 (Tex. 1964)".

Petitioners' motion to strike was overruled; respondent's motion to dismiss was overruled.

Respectfully yours,

JOHN T. ADAMS, CLERK


Peggy Littlefield,
Chief Deputy Clerk