

Miscellaneous Provisions Cases

Statutory Jeopardy

Ex parte Canady, Pennell, Mendez, and Hawkins, Nos. 14-03-005590CR, 14-03-00560-CR, 14-03-00561-CR, 14-03-00562-CR (Tex.App.—Houston [14th Dist.] July 1, 2004, no pet.)

This was a State appeal from the trial court's grant of habeas relief to these defendants. The indictments against the defendants were based upon conduct for which their employer, SeaTrax, Inc. and another corporation, Emmett Properties, Inc., were assessed administrative penalties and paid those penalties. The administrative penalties assessed and paid were for "the same acts and violations of law" that were alleged against each individual defendant. Section 7.068 of the Water Code prohibits the State from pursuing any additional civil or criminal prosecutions if an administrative penalty has been paid for the same violation. The trial court concluded that because SeaTrax and Emmitt Properties had already paid administrative penalties for violations that occurred on the same day, the State was prohibited from prosecuting these individual defendants.

The Court of Appeals held that payment of an administrative penalty by SeaTrax for its violation prohibits further prosecution only against SeaTrax and does not absolve the individuals from liability. Accordingly, the State is not barred from prosecuting the defendants individually for their actions because they are charged with separate violations under the Code for which no administrative penalty has been paid.