

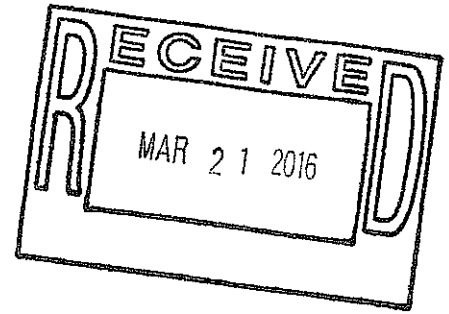


Ken Clark

County Commissioner, Precinct 4
County of Galveston

Galveston County Annex
174 Calder Road, League City, Texas 77573

March 17, 2016



Judge Cayetano Tijerina
1000 Houston St
Laredo, Texas 78040

Dear Judge Tijerina:

Please help us protect your constitutional authority over your county budget by voting to file an amicus brief with the Supreme Court of Texas in support of commissioners courts.

As you know, the Galveston County Commissioners Court is fighting back against District Judge Lonnie Cox's *sua sponte* judicial budget orders. Every schoolchild in Texas is taught the separation of powers. Courts decide cases. The legislative branch controls spending. In a 2-1 decision, a panel of the First Court of Appeals disregarded that basic principle and awarded Judge Cox and the judiciary the power to dictate commissioners courts' legislative spending decisions from the bench.⁴⁸³

Thank you for taking up this issue and passing a resolution supporting the separation of powers in county government while this important case was in the First Court of Appeals. The Supreme Court of Texas is now deciding whether to review the First Court of Appeals' erroneous decision.⁴⁸⁴ We need your voice to be heard in this process.

Judge Cox's claim boils down to a salary dispute. Judge Cox applied for an administrative position with a salary range of \$85,000-\$120,000. The Galveston County Commissioners Court approved a salary of \$63,695. Judge Cox sued and won a temporary injunction, setting a specific six-figure salary in line with Judge Cox's demand. The First Court of Appeals affirmed.

The First Court of Appeals' opinion is dangerous precedent. **It gives the judiciary new powers to compel funding from the legislative branch of government**, *sua sponte* without the need to file a lawsuit or hear evidence. The opinion enables any judge to override a commissioners court's budget determinations by decree from the bench, as long as the funds are "reasonably necessary for the court's efficient and effective operation." The holding ties judicial salary control to a position's *functions*, without regard to which elected official the position reports to. If a position affects the judiciary, this opinion empowers judges to set its salary unilaterally. The opinion has already been shipped to the publisher to be cited as authority.

⁴⁸³ The First Court of Appeals' opinion is styled *Henry v. Cox*, No. 01-15-00583-CV, 2015 WL 9412758 (Tex. App. – Houston [1st Dist.] Dec. 22, 2015, no pet. h.), and it is available on the First Court of Appeals' website at www.txcourts.gov/1stcoa.aspx.

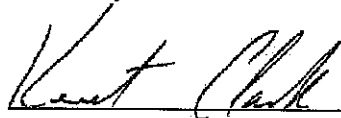
⁴⁸⁴ A petition for review has been filed with the Supreme Court of Texas, styled *Henry v. Cox*, No. 15-0993.

If this opinion stands, commissioners courts no longer control county budgets. Vast county resources might be described as "reasonably necessary for the court's efficient and effective operation," including Sheriff's deputies, the county jail, deputy clerks, prosecutors, IT and building maintenance in the courthouse. **All of those and more could be the subject of sua sponte judicial spending orders across the state.**

We cannot allow this happen. Please stand with us in support of the separation of powers as our fight moves to our state's highest court. Help us tell the Supreme Court of Texas that **spending from the bench IS legislating from the bench.**

If you are interested in filing a brief supporting the continued independence of commissioners courts and protecting the separation of powers, please contact us as soon as possible. We would be happy to answer any questions or provide further information. Attorney Paul Ready with the Galveston County Legal Department can be reached via phone at 409-770-5562 or via email at paul.ready@co.galveston.tx.us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ken Clark", is written over a horizontal line.

Commissioner Ken Clark
Galveston County Commissioner, Precinct 4