

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-05-00271-CV

State of Texas, Appellant

v.

**Barbara Oakley, as Guardian of the Estate and
Person of Richard Danziger, Appellee**

**FROM THE PROBATE COURT NO. 1 OF TRAVIS COUNTY
NO. 75107D, HONORABLE GUY S. HERMAN, JUDGE PRESIDING**

MEMORANDUM OPINION

The State appeals the trial court's denial of its plea to the jurisdiction in Richard Danziger's suit seeking statutory compensation for his wrongful imprisonment.¹ *See* Tex. Civ. Prac. & Rem. Code Ann. §§ 103.001-.154 (West Supp. 2005) (Compensation to Persons Wrongfully Imprisoned). The State contends that section 103.153 of the civil practice and remedies code is jurisdictional and bars additional compensation from the State when the wrongfully imprisoned

¹ This suit was brought on Danziger's behalf by his guardian Barbara Oakley after Danziger was declared incompetent and in need of a guardian because of a brain injury he sustained while he was wrongfully imprisoned. Danziger was wrongfully convicted and served over twelve years in prison for the 1988 rape and murder of Nancy DePriest. We have previously addressed Danziger's suit as assignee of Christopher Ochoa's right to compensation for wrongful imprisonment. *See State v. Oakley*, No. 03-05-007-CV, 2005 Tex. App. LEXIS 10453 (Tex. App.—Austin 2005, no pet. h.). In this suit, Danziger is claiming compensation for his own wrongful imprisonment.

person has already received compensation from a governmental unit. We have rejected this contention in our opinion affirming the denial of the State's plea to the jurisdiction in Danziger's suit as the assignee of Christopher Ochoa's rights under chapter 103. *See State v. Oakley*, No. 03-05-007-CV, 2005 Tex. App. LEXIS 10453, at *31 (Tex. App.—Austin 2005, no pet. h.).² In this case, the State has presented no compelling argument why we should reach a different result on this point. For the same reasons stated in our prior opinion's discussion of section 103.153, we affirm the trial court's order denying the State's plea to the jurisdiction.

Bea Ann Smith, Justice

Before Justices B. A. Smith, Patterson and Puryear

Affirmed

Filed: January 20, 2006

² Christopher Ochoa pleaded guilty to the rape and murder of DePriest and had falsely implicated Danziger in the crime. Danziger sued Ochoa after the two were exonerated. As part of a settlement agreement in that case, Ochoa assigned his statutory right to compensation to Danziger.