

UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 94-10769
Summary Calendar

TEXAS PEACE OFFICERS ASSOCIATION ET AL.,
Plaintiffs,
TEXAS PEACE OFFICERS ASSOCIATION, ET AL.,
Plaintiff-Appellant,
VERSUS
CITY OF DALLAS, TEXAS,
Defendants,
CITY OF DALLAS, TEXAS,
Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Texas
(3:90-CV-1785-P)

(May 31, 1995)
Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:¹

The Texas Peace Officers Association and its individual members (collectively "the TPOA") appeal the district court's judgment for Defendant City of Dallas entered after a jury trial. The TPOA brought a civil rights action under 42 U.S.C. § 1983 against the City for intentional interference with the officers'

¹ Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

First Amendment rights of freedom of speech and freedom of association. The TPOA appeals the adverse judgment on the ground that the trial court improperly excluded expert testimony, which, according to the court, stated an impermissible legal conclusion. We affirm.

BACKGROUND

At the trial, the TPOA offered portions of the videotaped deposition of Dr. Jimmy Bell, an expert on police behavior. The court excluded a dozen lines of the offered testimony on the basis that it stated a legal conclusion. The excluded testimony reads as follows:

My findings also indicate that the constitutional rights of the TPOA has -- have rather been severely violated and that this cumulative effect of differential treatment over the years may very well result in psychological stress, may very well result in I think that the individual officers as a result of -- of this compelling to deprive them of their constitutional rights simply psychological emasculates them. I mean, it -- it simply renders them helpless as -- as a police officer. I think that they devalue their own ability to -- to police in a community.

Joint Stipulation of Amended Trial Transcript at 2.

DISCUSSION

We review a district court's decision to exclude expert testimony for abuse of discretion. Edmonds v. Illinois Cent. Gulf R.R., 910 F.2d 1284, 1287 (5th Cir. 1990). Even if the court has abused its discretion, however, we will grant no relief unless the error substantially prejudices a party's rights. Id.

An expert may express an opinion that embraces the ultimate issue if the opinion is otherwise admissible. **Fed. R. Evid.** 704(a). Rule 704, however, permits an expert neither to give an

unhelpful opinion to the jury nor to state a legal conclusion. Owen v. Kerr-McGee Corp., 698 F.2d 236, 240 (5th Cir. 1983). An expert's legal conclusion "both invades the court's province and is irrelevant." Id.

The district court excluded Bell's statements because they stated a legal conclusion. We agree. The issue before the jury was whether the City had violated the TPOA's First Amendment rights. In his excluded testimony, Bell states that the constitutional rights of the TPOA have been violated. Bell is merely giving the jury his view of how its verdict should read. Bell's testimony states a legal conclusion and was properly excluded by the district court.

CONCLUSION

For the foregoing reasons, the district court's judgment is
AFFIRMED.