

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 96-40766
Summary Calendar

HALLCO TEXAS, Inc.,

Plaintiff-Appellant,

VERSUS

McMULLEN COUNTY, TEXAS,

Defendant-Appellees.

Appeal from the United States District Court
For the Southern District of Texas
(L-95-CV-22)

February 25, 1997

Before GARWOOD, JOLLY, and DENNIS, Circuit Judges.

PER CURIAM:*

In this case, appellant, Hallco Texas, Inc., purchased land with the intent of using it as a disposal site for non-hazardous waste in McMullen County. After Hallco's application for a solid waste permit was approved by the Texas Natural Resource Conversation Commission, the McMullen County Commissioner's Court adopted an ordinance prohibiting solid waste disposal within three miles of Choke Canyon Lake. Because Hallco's proposed site is

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

within this area, it brought this action for a declaration that the ordinance is unconstitutional and for money damages. Appellee McMullen County moved to dismiss the suit or alternatively stay the proceedings. Hallco based its equal protection claim on the contention that the ordinance created separate classifications for landfill facilities and treated Hallco's proposed facility differently than other McMullen County facilities. The district court held that the ordinance on its face is rationally related to the legitimate state objective of land zoning and does not violate the equal protection clause. Hallco appealed. For the reasons expressed more fully in the trial court's opinion, the district court's judgment is **AFFIRMED**.