

IN THE SUPREME COURT OF TEXAS

=====
No. 07-0642
=====

TEXAS DEPARTMENT OF HEALTH AND HUMAN SERVICES, PETITIONER,

v.

OLIVER OKOLI, RESPONDENT

=====
ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE FIRST DISTRICT OF TEXAS
=====

PER CURIAM

Oliver Okoli sued the Texas Department of Health and Human Services (TDHS) under the Texas Whistleblower Act, alleging that he was terminated for reporting to a program manager that his immediate supervisor “engaged the unit in falsifying dates and documents to avoid delinquencies in the handling of clients’ cases.” TDHS filed a plea to the jurisdiction based on immunity from suit, claiming that the trial court lacked subject-matter jurisdiction because Okoli failed to make a good faith report of a violation of law to an appropriate law enforcement authority. *See* TEX. GOV’T CODE § 554.002(a). The trial court denied the plea to the jurisdiction and TDHS appealed. *See* TEX. CIV. PRAC. & REM. CODE § 51.014(a)(8) (permitting appeal from an interlocutory order that denies a plea to the jurisdiction by a governmental unit). The court of appeals agreed with the trial court, holding that whether Okoli actually reported the alleged violation to an appropriate law enforcement

authority could not be considered a “jurisdictional prerequisite to suit,” though it dismissed the appeal on other grounds. 263 S.W.3d 275, 282–83; *see also* TEX. GOV’T CODE § 554.0035. However, in *State v. Lueck*, ___ S.W.3d ___, ___ (Tex. 2009), we held that “the elements of section 554.002(a) can be considered to determine both jurisdiction and liability.” Accordingly, whether Okoli’s report to a program manager was a good faith report of a violation of law to an appropriate law enforcement authority is a jurisdictional question. Therefore, without hearing oral argument, TEX. R. APP. P. 59.1, and for the reasons explained in *Lueck*, we reverse and remand to the court of appeals to determine whether Okoli has alleged a violation under the Act. *See* TEX. GOV’T CODE § 554.002(a).

OPINION DELIVERED: August 28, 2009