

Supreme Court of Texas

No. 24-0802

Conduent State Healthcare, LLC,

Petitioner,

v.

M&M Orthodontics, PA;

Diana Malone, DDS; and Scott Malone, DDS,

Respondents

On Petition for Review from the
Court of Appeals for the Third District of Texas

Argued September 15, 2026

JUSTICE SULLIVAN delivered the opinion of the Court.

“This Court has jurisdiction to determine whether a court of appeals correctly decided its jurisdiction over an interlocutory appeal.” *Qwest Commc’ns Corp. v. AT&T Corp.*, 24 S.W.3d 334, 335–36 (Tex. 2000) (per curiam). Indeed, we have a duty to do so. *See, e.g., Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 94–95 (1998). The court of appeals lacked jurisdiction to hear this interlocutory appeal, so we must vacate its opinion and judgment.

I

Were we to recount the entire “avalanche of legal proceedings” that brought us this case, *Nazari v. State*, 561 S.W.3d 495, 499 (Tex. 2018), the reader might fall asleep. Here’s “the short, short version.” *Spaceballs* (Metro-Goldwyn-Mayer Studios Inc. 1987).

Under the Medicaid program administered by the Texas Health and Human Services Commission, needy children can receive government-funded orthodontic services for which prior authorization has been granted. HHSC needed help with the bureaucratic grind of distinguishing medically necessary services that are covered by Medicaid from other services that aren’t. So the agency contracted with a private company that’s now known as Conduent State Healthcare, LLC, and used to be known as Xerox Corporation or ACS State Healthcare, LLC. Per that contract, Conduent spent almost a decade granting and denying prior-authorization requests based on the patient information provided by participating dentists. *See In re Xerox*, 555 S.W.3d 518, 520–21 & n.5 (Tex. 2018); *Nazari*, 561 S.W.3d at 497–98.

It didn’t go well, and everyone sued each other. The State of Texas sought civil penalties from Conduent under what was then called the Texas Medicaid Fraud Prevention Act, alleging that Conduent bilked the government out of millions of dollars by rubber-stamping dentists’ prior-authorization requests in violation of Medicaid policy. *See Xerox*, 555 S.W.3d at 521; *cf. Lab’y Corp. of Am. Holdings v. State*, 738 S.W.3d 482, 484 n.1 (Tex. 2026) (noting the Act’s circa-2023 name change). Conduent tried to rope in a number of dentists as responsible third parties, but we rejected that procedural effort to shift the blame.

See Xerox, 555 S.W.3d at 521–22, 539. According to the briefs before us, Conduent eventually settled the case by paying the State \$236 million.

In a separate case, the State pressed similar Medicaid-fraud claims against dentists and dental practices that allegedly submitted false requests for prior authorization and payment. *See Nazari*, 561 S.W.3d at 497–99. Those defendants unsuccessfully asserted counterclaims against the State, along with third-party claims against Conduent. We held that sovereign immunity barred their counterclaims against the State, *id.* at 500–10, and that jurisdiction was lacking for their interlocutory appeal from the dismissal of their third-party claims, *id.* at 510. Three of those defendants—Dr. Diana Malone, Dr. Scott Malone, and M&M Orthodontics, PA—paid \$2 million to settle the State’s Medicaid-fraud claims against them.

The Malones, as we’ll call them, filed a suit of their own against Conduent and the State. That’s the case now at hand—one of many like it involving defendant-turned-plaintiff dentists. In their live petition, the Malones allege that Conduent injured them by approving their prior-authorization requests without rigorously reviewing for the medical necessity that Medicaid policy requires. They seek damages based on a variety of tort claims, including fraud and negligence.

The district court promptly granted the State’s plea to the jurisdiction on sovereign-immunity grounds. Conduent wasn’t so lucky. The district court denied Conduent’s plea to the jurisdiction, which had invoked the State’s sovereign immunity and the election-of-remedies provision in the Tort Claims Act. *See, e.g., Nettles v. GTECH Corp.*, 606 S.W.3d 726, 738–39 (Tex. 2020) (holding that derivative sovereign

immunity protects a state agency’s private contractor if the plaintiff’s claims would “override the substance of the [state agency’s] underlying decisions”); Tex. Civ. Prac. & Rem. Code § 101.106(a), (c) (dictating that suits against an “employee of [a] governmental unit” are “immediately and forever bar[red]” when the plaintiff sues that “governmental unit”). Conduent filed a notice of appeal from this interlocutory order.

A divided court of appeals affirmed. 733 S.W.3d 43 (Tex. App.—Austin 2024). The dissenting justice contended that the interlocutory appeal should’ve been dismissed for want of jurisdiction. *Id.* at 53–54 (Theofanis, J., dissenting). Without responding to the dissent’s concerns about the lack of appellate jurisdiction, the majority reached the merits of Conduent’s sovereign-immunity and election-of-remedies arguments, rejecting both. *See id.* at 46–53 (majority op.).

We granted Conduent’s petition for review and called for supplemental briefing on the jurisdictional question.

II

Like our federal counterpart, this Court “has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review, even though the parties are prepared to concede it.” *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986) (internal quotation marks omitted); *see also City of Houston v. Rhule*, 417 S.W.3d 440, 442 (Tex. 2013) (per curiam). A court can’t exercise jurisdiction where it doesn’t exist, “even if everyone—judges, parties, members of the public—wants the dispute resolved.” *Cross-Sound Ferry Servs., Inc. v. ICC*, 934 F.2d 327, 339 (D.C. Cir. 1991) (Thomas, J., concurring in part).

Statutes authorizing interlocutory appeals are an exception to the general rule that courts of appeals have appellate jurisdiction only over final judgments. *See, e.g., Rush Truck Ctrs. of Tex., L.P. v. Sayre*, 718 S.W.3d 233, 237 (Tex. 2025). So where, exactly, did the Legislature green-light this interlocutory appeal? Conduent directs our attention to Section 51.014(a)(8) of the Civil Practice and Remedies Code, which provides as follows:

A person may appeal from an interlocutory order of a district court . . . that . . . grants or denies a plea to the jurisdiction by a governmental unit as that term is defined in Section 101.001

Tex. Civ. Prac. & Rem. Code § 51.014(a)(8).

This isn't a promising jurisdictional hook. After all, the plea to the jurisdiction that the district court denied was filed by Conduent, which is a private company. Unless Conduent somehow qualifies as a "governmental unit" within the meaning of Section 51.014(a)(8), the statute doesn't confer appellate jurisdiction. That brings us to the cross-referenced definition of the term "governmental unit":

- (A) this state and all the several agencies of government that collectively constitute the government of this state, including other agencies bearing different designations, and all departments, bureaus, boards, commissions, offices, agencies, councils, and courts;
- (B) a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority;

- (C) an emergency service organization; and
- (D) any other institution, agency, or organ of government the status and authority of which are derived from the Constitution of Texas or from laws passed by the legislature under the constitution.

Id. § 101.001(3).

Conduent’s only hope is to fit into Subdivision (D)’s catch-all language, as three other private entities have done. In *LTTS Charter School, Inc. v. C2 Construction, Inc.*, 342 S.W.3d 73, 76 (Tex. 2011), we treated an open-enrollment charter school as a “governmental unit” that could take an interlocutory appeal under Section 51.014(a)(8). We did the same thing for a private university operating a campus police department in *University of the Incarnate Word v. Redus*, 518 S.W.3d 905, 909–11 (Tex. 2017), and for ERCOT, the independent system operator of Texas’s power grid, in *CPS Energy v. Electric Reliability Council of Texas, Inc.*, 671 S.W.3d 605, 614–17 (Tex. 2023).¹

In each of those cases, we pointed to statutes that gave the private entity its “status and authority” as an “organ of government.” Tex. Civ. Prac. & Rem. Code § 101.001(3)(D). Open-enrollment charter schools, we said, are “statutorily (and categorically) declare[d] . . . to be ‘part of the public school system of this state.’” *LTTS*, 342 S.W.3d at 77 (quoting Tex. Educ. Code § 12.105). They “wield ‘the powers granted to [traditional public] schools,’” *id.* at 78 (quoting Tex. Educ. Code § 12.104(a)), subject to various

¹ We also held that a Type B economic development corporation can take an interlocutory appeal under Section 51.014(a)(8), but that was an especially easy case because another statute expressly defined such a municipally created entity as a “governmental unit.” See *Rosenberg Dev. Corp. v. Imperial Performing Arts, Inc.*, 571 S.W.3d 738, 747–48 (Tex. 2019) (citing Tex. Loc. Gov’t Code § 505.106(b)).

provisions of the Education Code and to “a host of statutes that govern governmental entities” for public-information requests, open-meetings requirements, procurements, and the like, *id.* (citing Tex. Educ. Code §§ 12.103(a), .104, .1051, .1052, .1053). Similarly, we noted that the Legislature gives private universities “the power to operate a police department like that of any city,” *Incarnate Word*, 518 S.W.3d at 910 (citing Tex. Educ. Code § 51.212(b)), empowers their state-licensed police officers to enforce state and local law, *id.* at 908–09 (citing Tex. Educ. Code § 51.212(f); Tex. Occ. Code § 1701.301), and treats their campus police departments as governmental entities for purposes of public-information requests, *id.* at 910 (citing Tex. Educ. Code § 51.212(f)). As for ERCOT, we explained that a statute requires the Public Utility Commission to certify an independent system operator, *CPS Energy*, 671 S.W.3d at 617 (citing Tex. Util. Code § 39.151(a)–(c)), and then gives that entity “authority to supervise the Texas power region’s transmission facilities and to coordinate its market transactions, transmissions planning, and network reliability,” *id.* (citing Tex. Util. Code §§ 31.002(9), 39.151).

Turning again to the statute books, as we did in the prior cases, we see that the Legislature hasn’t granted Conduent comparable “status and authority.” The best Conduent can do is note that it’s a “fiscal agent” under the Texas Health Care Program Fraud Prevention Act, insofar as it’s “a person who, through a contractual relationship with a state agency, receives, processes, and pays a claim under a health care program.” Tex. Hum. Res. Code § 36.001(3)(A); *cf.* Tex. Gov’t Code §§ 525.0101, 526.0054, 532.0051 (empowering HHSC, the state agency

that administers Medicaid, to enter into contracts). But that’s just a definitional provision of the Act. It doesn’t confer any sort of power upon a government contractor like Conduent. Nor does it treat Conduent like the government for purposes of, say, public-information requests. In fact, the term “fiscal agent” appears just four times in the Act, and every instance is found within that same definitional provision. Tex. Hum. Res. Code § 36.001(1-a)(A), (3), (4-b), (9)(B).

Conduent is a government contractor, not a “governmental unit.” Recall that Subdivision (D) sweeps into that defined term an “organ of government the status and authority of which are *derived . . . from laws* passed by the legislature under the constitution.” Tex. Civ. Prac. & Rem. Code § 101.001(3)(D) (emphasis added). Conduent’s “status and authority,” to the extent it even has any, are derived from the terms of its contract with HHSC rather than from a statute. We hold, therefore, that Conduent can’t use Section 51.014(a)(8) to take an interlocutory appeal.

In arguing to the contrary, Conduent pushes all its chips onto *Texas A&M University System v. Koseoglu*, 233 S.W.3d 835 (Tex. 2007). There, we allowed a government official sued in his official capacity to take an interlocutory appeal under Section 51.014(a)(8), reasoning that such “a suit against a state official is merely ‘another way of pleading an action against the entity of which [the official] is an agent.’” *Id.* at 844 (quoting *Kentucky v. Graham*, 473 U.S. 159, 165 (1985) (quoting *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 690 (1978))). On Conduent’s

aggressive reading of *Koseoglu*, any party that claims immunity in a plea to the jurisdiction is free to invoke Section 51.014(a)(8).²

Our precedent forecloses that argument. In the aforementioned cases involving private entities, immunity was asserted by the open-enrollment charter school, by the university with a campus police department, and by ERCOT. *See LTTS*, 342 S.W.3d at 75; *Incarnate Word*, 518 S.W.3d at 906; *CPS Energy*, 671 S.W.3d at 613. Yet the doors to the court of appeals didn’t swing open based on that fact alone. In each case, we held that Section 51.014(a)(8) confers appellate jurisdiction only after assuring ourselves that a “governmental unit” was involved, as the statutory text demands. *See LTTS*, 342 S.W.3d at 75–82; *Incarnate Word*, 518 S.W.3d at 906–11; *CPS Energy*, 671 S.W.3d at 614–17. Those opinions would’ve been shorter if *Koseoglu* meant what Conduent says it does—two of them wouldn’t even exist. *See LTTS*, 342 S.W.3d at 75 (“We granted [the] petition for review to address whether the court of appeals properly dismissed the interlocutory

² Conduent also cites *City of Beverly Hills v. Guevara*, 904 S.W.2d 655 (Tex. 1995) (per curiam), and *Texas Department of Criminal Justice v. Simons*, 140 S.W.3d 338 (Tex. 2004). *Guevara* was a case about Section 51.014(a)(5), which we’ll address in Part III, *infra*. And *Simons* kicks as hard as it shoots. For one thing, we held there that appellate jurisdiction was lacking under Section 51.014(a)(8). *See Simons*, 140 S.W.3d at 348–49. For another, *Simons* could’ve been deployed to make *Koseoglu* a much easier case. *Compare id.* at 349 (holding that Section 51.014(a)(8)’s “reference to ‘plea to the jurisdiction’ is not to a particular procedural vehicle but to the substance of the issue raised” (quoting Tex. Civ. Prac. & Rem. Code § 51.014(a)(8))), *with Koseoglu*, 233 S.W.3d at 841 (“Had [the government employee] filed a motion for summary judgment based on an assertion of official immunity, he clearly would be permitted under Section 51.014(a)(5) to appeal an interlocutory denial of his motion for summary judgment. But [he] did not file such a motion in the trial court and instead asserts a right under Section 51.014(a)(8) to appeal the trial court’s interlocutory denial of his plea to the jurisdiction.”).

appeal.”); *Incarnate Word*, 518 S.W.3d at 911 (“The issue we decide is one of appellate jurisdiction only: Did the court of appeals have jurisdiction to consider [the] interlocutory appeal?”). Unlike the private entities in those cases, Conduent isn’t a “governmental unit,” so appellate jurisdiction doesn’t obtain under Section 51.014(a)(8).

III

Conduent fares no better with its backup argument, which is based on the following statutory text:

A person may appeal from an interlocutory order of a district court . . . that . . . denies a motion for summary judgment that is based on an assertion of immunity by an individual who is an officer or employee of the state or a political subdivision of the state

Tex. Civ. Prac. & Rem. Code § 51.014(a)(5). According to Conduent, it can take an interlocutory appeal under Section 51.014(a)(5) because, as HHSC’s contractor, it’s an “employee of the state.” This argument fails to account for the word “individual,” which appears in the same sentence as the word “person.”

“[W]e generally presume the Legislature uses the same word consistently throughout a statute and uses different words to convey different meanings.” *Malouf v. State ex rels. Ellis*, 694 S.W.3d 712, 727 (Tex. 2024). The difference between “person” and “individual” is one of breadth, the latter being the narrower term. *See, e.g., Colorado County v. Staff*, 510 S.W.3d 435, 449 & n.59 (Tex. 2017). That’s why various statutes include “individual” within some broader definition of “person.” *See, e.g.,* Tex. Bus. Orgs. Code § 1.002(69-b); Tex. Civ. Prac. & Rem. Code § 37.001; Tex. Gov’t Code § 2001.003(5).

The Legislature typically uses “person” to “denote[] not only natural persons (human beings) but also artificial persons such as corporations, partnerships, associations, and both public and private organizations.” Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 273 (2012); *see, e.g.*, Tex. Gov’t Code § 311.005(2) (providing such a definition in the Code Construction Act). The term “individual,” on the other hand, usually refers solely to a natural person. *See, e.g., Mohamad v. Palestinian Authority*, 566 U.S. 449, 454–56 (2012) (construing “‘individual’ to encompass solely natural persons”); *Hegar v. Health Care Serv. Corp.*, 652 S.W.3d 39, 51 (Tex. 2022) (Blacklock, J., dissenting) (“‘Individual’ typically refers to a natural person, not a business entity.”). Dictionaries confirm as much. *See, e.g., Webster’s New International Dictionary* 1267 (2d ed. 1948); *Random House Dictionary of the English Language* 974 (2d ed. 1987); *7 Oxford English Dictionary* 880 (2d ed. 1989). So, too, do the many other statutes in which “individual” is expressly defined as “a natural person.” Tex. Bus. & Com. Code § 510.001(9); Tex. Bus. Orgs. Code § 1.002(38); Tex. Fin. Code § 180.002(9); Tex. Ins. Code §§ 4001.003(5), 6003.001(3); Tex. Tax Code § 111.0023; *see also* Tex. Penal Code §§ 1.07(a)(26), 20.01(5) (defining “individual” as “a human being”). And although the Legislature certainly *could* define “individual” as including artificial persons, it didn’t do so in Section 51.014(a)(5).

Likewise, the Legislature could’ve written Section 51.014(a)(5) without using the word “individual” at all. The statute would still make sense if it referenced “an assertion of immunity by ~~an individual who is~~ an officer or employee,” or perhaps “an assertion of immunity by ~~an~~

~~individual~~ a person who is an officer or employee.” But “individual” is right there in the enacted text, and “[w]e presume the Legislature selected language in a statute with care and that every word or phrase was used with a purpose in mind.” *Tex. Lottery Comm’n v. First State Bank of DeQueen*, 325 S.W.3d 628, 635 (Tex. 2010).

The inclusion of the word “individual” has a narrowing effect on Section 51.014(a)(5)’s jurisdictional grant. Conduent can’t take an interlocutory appeal just because it’s a putative “employee of the state,” a hotly contested issue on which we needn’t opine. Appellate jurisdiction depends instead on the existence of an order that “denie[d] a motion for summary judgment that is based on an assertion of immunity by an *individual* who is an officer or employee of the state.” Tex. Civ. Prac. & Rem. Code § 51.014(a)(5) (emphasis added).³

Although Conduent is a “person” within the meaning of the statute, it isn’t an “individual.” The assertion of immunity was made by a company now known as Conduent State Healthcare, LLC, a subsidiary of Conduent Incorporated. That’s not a natural person (as the name makes clear), which means Conduent can’t take an interlocutory appeal

³ To be clear, Section 51.014(a)(5) doesn’t insist that the appellant itself be an “individual.” See Tex. Civ. Prac. & Rem. Code § 51.014(a)(5) (“A *person* may appeal . . .”) (emphasis added). Thus, we allowed a city to take an interlocutory appeal where its “motion for summary judgment was clearly ‘based on’ official immunity,” explaining that “a city can rely on the official immunity of its employees and agents.” *Guevara*, 904 S.W.2d at 656 (quoting Section 51.014(a)(5)’s predecessor); see also *William Marsh Rice Univ. v. Refaey*, 459 S.W.3d 590, 595 (Tex. 2015) (per curiam) (“[*Guevara*] held that an employer may rely on its employee’s assertion of immunity for purposes of invoking interlocutory appellate jurisdiction under [S]ection 51.014(a)(5).”). Conduent’s plea to the jurisdiction invoked only derivative sovereign immunity, rather than official immunity of the kind asserted by an individual who works for the government. As a result, *Guevara* is no help to Conduent.

under Section 51.014(a)(5), either. To hold otherwise would be to read the word “individual” right out of the statute, and we can’t do that. *See, e.g., Bexar Appraisal Dist. v. Johnson*, 691 S.W.3d 844, 856 (Tex. 2024); *State v. Shumake*, 199 S.W.3d 279, 287 (Tex. 2006).

* * *

“Jurisdiction always comes first.” *Rush Truck*, 718 S.W.3d at 237. Here, it marks both the beginning and the end of our analysis. Because the court of appeals lacked jurisdiction to hear this interlocutory appeal, we have no choice but to vacate its opinion and judgment, and remand the case to the district court for further proceedings. On remand, the district court may wish to allow a permissive interlocutory appeal concerning Conduent’s sovereign-immunity and election-of-remedies arguments. *See* Tex. Civ. Prac. & Rem. Code § 51.014(d); *see also id.* § 51.014(h) (“If the supreme court concludes that the requirements to permit an appeal under Subsection (d) are satisfied, the court may direct the court of appeals to accept the appeal.”).

James P. Sullivan
Justice

OPINION DELIVERED: October 9, 2026