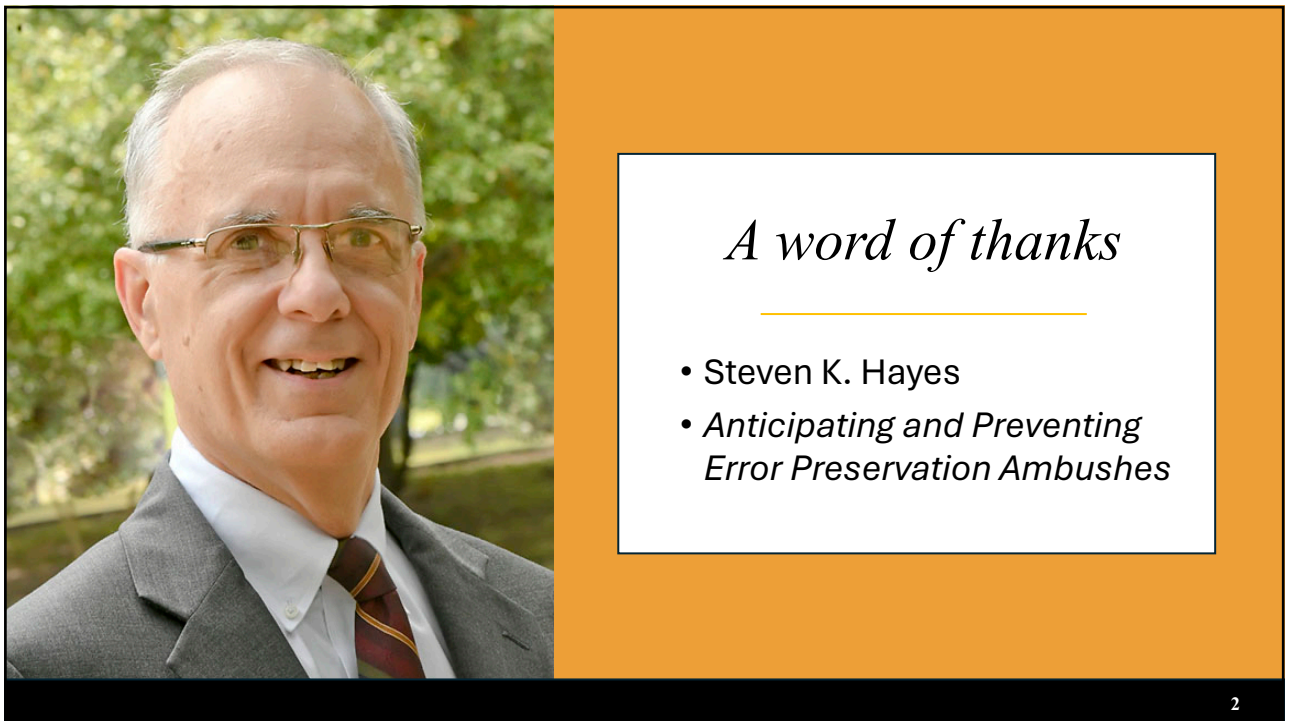




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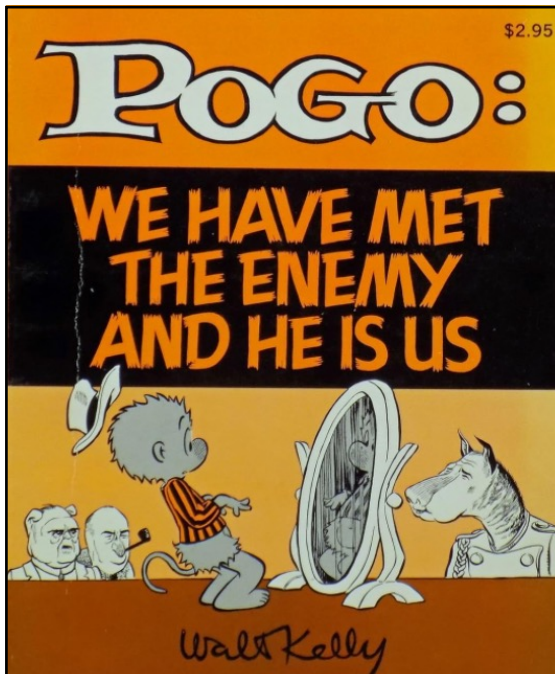


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What is the purpose of error preservation?

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Ambushes

“New” arguments

- *Government immunity*

“Other stuff”

4

4

Texas Department of Transportation v. Mark Self and Birgit Self

This last conclusion was error for two reasons. First, TxDOT's "paid service" argument was not waived and should have been considered. As subject-matter jurisdiction is never presumed and cannot be waived, *see Tex. Ass'n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 443-44 (Tex. 1993), the issue can "be raised for the first time on appeal by the parties or by the court,' [and] a court is *obliged* to ascertain that subject matter jurisdiction exists regardless of whether

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the parties have questioned it." *Univ. of Tex. Sw. Med. Ctr. at Dallas v. Loutzenhiser*, 140 S.W.3d 351, 358-59 (Tex. 2004) (citations omitted). Thus, an appellate court's review of a plea to the jurisdiction is not limited to the grounds set forth in the governmental unit's plea in the trial court. *Dallas Metrocare Servs. v. Juarez*, 420 S.W.3d 39, 41 (Tex. 2013) ("[A]n appellate court must consider all of a defendant's immunity arguments, whether the governmental entity raised other jurisdictional arguments in the trial court or none at all."); *see also Rusk State Hosp. v. Black*, 392 S.W.3d 88, 95-96 (Tex. 2012).

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