

NO. _____

In the Supreme Court of Texas

IN RE STEVEN HOTZE, M.D., HARRIS COUNTY REPUBLICAN PARTY,
HON. KEITH NIELSEN, WENDELL CHAMPION, SHARON HEMPHILL, AND
AL HARTMAN

Relators,

On Petition for Writ of Mandamus to the Harris County Clerk

PETITION FOR WRIT OF MANDAMUS

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Identity of Parties and Counsel

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The Harris County Republican Party is a political party established under the Texas Election Code.

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Hon. Keith Nielsen is its elected chairman.

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Sharon Hemphill is a registered voter in Harris County. Sharon Hemphill is the Republican nominee for judge of the Texas 80th District Court, Harris

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“App.” refers to the appendix to this petition.

Statement of the Case

Nature of the underlying proceeding: Pursuant to section 273.061 of the Texas Election Code [App. A], this is a petition for a writ of mandamus compelling Harris County Clerk Chris Hollins to perform his statutory duties to administer early voting in person consistent with Texas Election Code §85.001(a) which requires “early voting by personal appearance [to] begin[] on the 17th day before election day and continue[] through the fourth day before election day....” [App. B]. This petition for writ of mandamus also seeks to compel Respondent Hollins to perform his statutory duties under Texas Election Code §86.006(a-1) and allow a voter to deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day. The Petition for Writ of Mandamus request that the “voting clerk’s office” be limited to the central location and not be expanded to eleven (11) annexes in violation of Texas Election Code 86.006(a-1).

Respondent: Harris County Clerk Chris Hollins

Respondent’s challenged actions: Respondent intends to move early voting up by a week, October 13, 2020, despite the Texas Election Code mandate that “early voting by personal appearance begins on the 17th day before election day and continues through the fourth day before election day....”, October 19, 2020. Tex. Elect. Code § 85.001(a). Additionally, for the November 3rd, 2020 general election, Respondent intends to violate Texas Election Code §86.006 (a-1) by allowing “a

voter to deliver a marked ballot [by mail] in person to the early voting clerk's office prior to and including election day," beginning Monday, September 28, 2020 at 8:00 a.m. [App. C].

Finally, Respondent Hollins has identified eleven (11) annexes where individuals can deliver marked ballots in person beginning September 28, 2020 at 8:00 a.m.

Texas Election Code §86.006(a-1) states, "The voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day." Thus, Respondents' actions are unlawful in that she is administering the November 3, 2020 election in a manner contrary to the Texas Election Code. Because statewide voting is fast approaching, mandamus relief is necessary.

Statement of Jurisdiction

Texas Election Code §273.061 gives the Court original jurisdiction to issue a writ of mandamus "to compel the performance of any duty imposed by law in connection with the holding of an election." The Relators have a compelling reason to request mandamus from this Court in the first instance. *See* Tex. R. App. P. 52.3. The November 3rd, 2020 general election is quickly approaching and Respondent intends to move early voting up by a week, October 13, 2020, despite the Texas Election Code mandate that "early voting by personal appearance begins on the 17th day before election day and continues through the fourth day before election

day....”, October 19, 2020. Tex. Elec. Code § 85.001(a). Additionally, for the November 3rd, 2020 general election, Respondent intends to violate Texas Election Code §86.006 (a-1) by allowing “a voter to deliver a marked ballot [by mail] in person to the early voting clerk’s office prior to and including election day.” [App. C]. Hollins will begin receiving delivery of marked ballots at eleven (11) different annexes throughout Harris County beginning Monday, September 28, 2020 at 8:00 a.m. [App. D]. Texas Election Code §86.006(a-1) states, “The voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day.”

This Court has stated "that an election in this state is not a single event, but a *process*, and that the entire *process* is subject to contest." *Dickson v. Strickland*, 265 S.W. 1012, 1018 (Tex. 1924). This case involves the enforcement by mandamus of duties involved with the "holding of an election," an election being the *entire process* including the date early voting begins and when a voter can deliver a marked ballot by mail in person to the early voting clerk’s office. *Grant v. Ammerman*, 437 S.W.2d 547, 548-49 (Tex. 1969). Mandamus will lie to enforce ministerial duties arising in connection with an election. *Id.*

In this Petition for Writ of Mandamus, Relators are challenging the *process* of the election, i.e., the Respondents authority to implement and enforce changes to the Texas Election Code that have not been made by the Texas Legislature. Relators

include a candidate on the November 3, 2020 ballot in Harris County, Texas, the Harris County Republican Party and its Chairman, and a voter/activist.

Relators ask the Court to use the power granted by the Election Code “to compel the performance of any duty imposed by law in connection with the holding of an election.” Tex. Elec. Code § 273.061.

When time is of the essence, this Court has not hesitated to exercise its mandamus authority. *See, e.g., In re Woodfill*, 470 S.W.3d 473, 481 (Tex. 2015) (per curiam); *In re Carlisle*, 209 S.W.3d 93, 95-96 (Tex. 2006) (per curiam); *In re Tex. Senate*, 36 S.W.3d 119, 121 (Tex. 2000); *Sears v. Bayoud*, 786 S.W.2d 248, 250 & n.1 (Tex. 1990). The Court should exercise its original mandamus authority again in that Hollins illegal actions will begin on Monday, September 24, 2020.

Issues Presented

1. Whether Respondent is violating Texas Election Code § 85.001(a) by moving the early voting date from Tuesday, October 19, 2020 to Tuesday, October 13, 2020.
2. Whether Respondent is violating Texas Election Code §86.006(a-1) by allowing “a voter to deliver a marked ballot [by mail] in person to the early voting clerk’s office prior to and including election day” beginning Monday, September 28, 2020 at 8:00 a.m. and continuing through 7:00 p.m. on November 3, 2020?
3. Whether Respondent is violating Texas Election Code §86.001(a-1) by allowing a voter to deliver a marked ballot in person to any of the County Clerk’s eleven (11) annexes in Harris County?

Statement of Facts

“The Texas Constitution is not a document of convenient consultation. It is a steadfast, uninterrupted charter of governmental structure. Once this structure erodes, so does the promise of liberty.” *In re Hotze*, 2020 Tex. LEXIS 680) (Devine, J., concurring).

I. Ballot Harvesting Operation Identified in Harris County

As a result of Governor Abbott suspending Texas Election laws that were intended to prevent voter fraud, ballot harvesting is likely occurring in Harris County. [App. C]. Respondent Hollins is unlawfully allowing in person marked ballots to be received on September 28, 2020 at eleven (11) different locations, and has unlawfully moved in person early voting back to October 13, 2020. [App. D].

II. On July 27, 2020, Governor Abbott Unilaterally Suspended the Texas Election Code

On July 27, 2020, Governor Abbott issued an order suspending the Texas Election Code. [App. E]. Section 85.001(a) of the Texas Election Code provides that the period for early voting by personal appearance begins 17 days before election day. Section 86.006(a-1) of the Texas Election Code states that a voter may deliver a marked mail ballot in person to the early voting clerk’s office while the polls are open on election day. In his July 27, 2020 Proclamation/Order, Abbott and Respondent concluded, “[I]t has become apparent that for the November 3, 2020 elections, strict compliance with the statutory requirements in Sections 85.001(a)

and 86.006(a-1) of the Texas Election Code would prevent, hinder, or delay necessary action in coping with the COVID-19 disaster, and that providing additional time for early voting will provide Texans greater safety while voting in person....” [App. E].

In his July 27, 2020 Proclamation, Abbott ordered, “ NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and laws of the State of Texas, do hereby suspend Section 85.001(a) of the Texas Election Code to the extent necessary to require that, for any election ordered or authorized to occur on November 3, 2020, early voting by personal appearance shall begin on Tuesday, October 13, 2020, and shall continue through the fourth day before election day. I further suspend Section 86.006(a-1) of the Texas Election Code, for any election ordered or authorized to occur on November 3, 2020, to the extent necessary to allow a voter to deliver a marked mail ballot in person to the early voting clerk’s office prior to and including on election day.” [App. E]

III. Article I §28 of the Texas Constitution Prohibits Abbott and Respondent from Suspending Laws

The Texas Bill of Rights, article I of the Texas Constitution, unequivocally addresses Governor Abbott’s and Respondent Hollins’ attempt to suspend the Texas Election Code. Specifically, article I, §28 of the Texas Constitution states, “No power of suspending laws in this State shall be exercised except by the Legislature.”

a. **Abbott Responds to Harris County Clerk’s Request by Amending Code**

On July 22, 2020, Harris County Clerk Chris Hollins asked Governor Abbott to extend the early voting period for the November 2020 general election. [App. C]. Specifically, Clerk Hollins asked Abbott to “please increase Early Voting by at least one week, to begin not later than Tuesday, October 13, 2020.” [App. C]. Soon thereafter, July 27, 2020, Governor Abbott unilaterally amended the Texas Election Code to extend early voting by six (6) days, October 13, 2020, and allowing a voter to deliver a marked mail ballot in person to the early voting clerk’s office prior to and including on election day. [App. E].

b. **Respondent Hollins is Implementing Abbott’s Unlawful Order**

Respondent Hollins is prepared to begin receiving marked ballots in person at eleven (11) annexes on Monday, September 28, 2020 at 8:00 am until Tuesday, November 3, 2020 at 7:00 p.m. [App. D]. Additionally, Hollins is opening over 120 in person early voting locations on October 13, 2020. [App. D]. Hollins’ conduct violates the clear language of the Texas Election Code.

Argument and Authorities

I. **Hollins’ violations of the Texas Election Code are Promoting a Ballot Harvesting Program in Harris County**

Ballot harvesting is the gathering and submitting of completed absentee or mail in voter ballots by third-party individuals, volunteers or workers, rather than

submission by the voters themselves directly to ballot collection sites. Gomez, Luis, “What is Ballot Harvesting and How Was it Used in California Elections,” sandiegouniontribune.com (December 4, 2018). Voting by mail and the applications related thereto, lack the protections that voting in person provides. Among other things, the application to vote by mail can be completed and returned by others, sometimes with false information. Ballots, when they arrive in the mail, can be intercepted by political operatives or delivered in person to annexes where there are no safeguards to guarantee that the person turning in the application is the voter. And, in some cases, large scale fraud can take place where voter intimidation, deception, or a paid ballot harvester can substitute his or her vote for the voter’s and turn in the ballot.

In 2017 the Texas Legislature passed Senate Bill 5. The law, in effect for the 2018 election cycle, tightened mail-in ballot rules and increased criminal penalties for ballot fraud. But just because a law was passed in Texas does not mean the practice of illegal ballot harvesting has ended or has even been curtailed. Hollins’ illegal early application to vote by mail plan provides an opportunity for ballot harvesting to thrive.

a. Ballot Harvesting is Occurring in Harris County

Licensed Private Investigators, former Houston Police Officers, and an investigator formerly trained and employed by the Federal Bureau of Investigation

as an Investigative Specialist conducting undercover work on Espionage and Terrorist targets, have been investigation ballot harvesting in Harris County for many months. [App. F and App. G]. Working with Relators, these investigators have uncovered an illegal ballot harvesting operation in Harris County. [App. F and App. G]. The investigation has identified witnesses and documents corroborating an illegal ballot harvesting operation in Harris County, Texas. [App. F and App. G]. The organization and operation of the illegal harvesting program is being used to commit fraud in the November 3, 2020 election. The programs employed by Respondent Hollins are facilitating the vote harvesting operation.

According to the investigators, witnesses have identified Harris County Commissioner Rodney Ellis, Precinct (1), and Texas State Senator, District 13, Borris Miles as leading the organization tasked with harvesting ballots. [App. F and App. G]. The investigators further state that witnesses have identified Houston businessman Gerald Womack and political consultant Dallas Jones as lieutenants working directly under Commissioner Ellis and Senator Miles. [App. F and App. G]. Participants in the Harris County ballot harvesting election fraud have investigators how the ballot harvesters take absentee ballots from the elderly in nursing homes, from the homeless, and from unsuspecting residences' mailboxes and cast the respective votes. [App. F and App. G]. According to the investigators, ballot harvesters then sign and then fill out the ballots according to harvesters' preferred

candidate. [App. F and App. G]. Two witnesses have stated to investigators that there are two individuals employed at Harris County Clerk Hollins' office who receive the illegal ballots and help facilitate the voting and then mask the processing of the ballots into the legal stream of ballots. [App. F and App. G]. Participants in the ballot harvesting operation have informed investigators that Commissioner Ellis has moved forward with the mass mail out plan to expand the illegal ballot harvesting scam. [App. F and App. G]. One witness told investigators that an employee of Commissioner Rodney Ellis, Tyler James, was caught bragging that he could guarantee that the illegal ballot harvesting operation, with the help of mass mail-in ballots, could harvest 700,000 thousand illegal ballots. [App. F and App. G]. According to investigators, law enforcement agencies are currently investigating the allegations of ballot harvesting in Harris County. [App. F and App. G].

b. Ballot Harvesting Under Hollins' Watch Could Impact the Presidential Election

In the November 3, 2020 presidential election, as Texas goes so too will the rest of the country. If President Trump loses Texas, it would be difficult, if not impossible, for him to be reelected. As Harris County goes, so too will Texas. Accordingly, investigators have linked the ballot harvesting scheme to the Biden/Harris campaign. "Based on interviews, review of documents, and other information, [investigator Captain Mark Aguirre has] identified the individuals in charge of the ballot harvesting scheme. These individuals include political

consultant Dallas Jones who was recently hired by the Joe Biden for President campaign to oversee their Harris County initiative, District 13 Texas State Senator Borris Miles, who is the handler of Mr. Jones, political consultant Gerald Womack, and Precinct 1 Harris County Commissioner Rodney Ellis. One of the companies these individuals are using as a front for this operation is AB Canvassing, although there are others that have been identified that we are investigating.” [App. F and App. G].

If this Court fails to timely act, there may be implications for the national election. Accordingly, Realtors request immediate relief in their Emergency Motion for Temporary Relief file concurrently with this motion.

c. Ballot Harvesting Schemes Are Being Exposed Across Texas

Attorney General Ken Paxton recently announced that authorities arrested Gregg County Commissioner Shannon Brown, Marlana Jackson, Charlie Burns, and DeWayne Ward on charges in connection with an organized vote harvesting scheme during the 2018 Democratic primary election. [App. H]. To increase the pool of ballots needed to swing the race in Brown’s favor, the group targeted young, able-bodied voters to cast ballots by mail by fraudulently claiming the voters were “disabled,” in most cases without the voters’ knowledge or consent. [App. H]. Under Texas election law, mail ballots based on disability are specifically reserved for those who are physically ill and cannot vote in-person as a result.

In total, the state filed 134 felony charges against the four defendants, including engaging in organized election fraud, illegal voting, fraudulent use of an application for a mail-in ballot, unlawful possession of a mail-in ballot, tampering with a governmental record, and election fraud. [App. H]. Penalties for these offenses range from six months in state jail to 99 years in prison. It appears that similar conduct is occurring in Harris County.

Attorney General Paxton's indictments demonstrate that elections can be stolen outright by mail ballot fraud. Election fraud, particularly an organized mail ballot fraud scheme orchestrated by elected officials and political operatives, compromise the integrity of the voting process and disenfranchises voters who lawfully cast their ballot.

As the Attorney General has stated, "Mail ballots are vulnerable to diversion, coercion, and influence by organized vote harvesting schemes." [App. H]. Attorney General Paxton has further stated that he is committed to ensure Texas has the most secure elections in the country. [App. H]. To achieve this goal, it is incumbent upon this Court to order Hollins to follow the Texas Election Code. Those who try to manipulate the outcome of elections in Texas must be held accountable. Unfortunately, Respondent and Governor Abbott have created an environment that is contrary to this goal.

II. Harris County Clerk Hollins is Violating the Texas Election Code

Respondent Chris Hollins is responsible for administering elections in Harris County. On July 27, 2020, Governor Abbott issued a Proclamation suspending Texas Election Code sections 85.001(a) and 86.006(a-1) for the November 3rd, 2020 general election.

a. Texas Election Code Sets Early Voting Dates

Texas Election Code Sec. 41.001(a)(3) provides uniform election dates:

UNIFORM ELECTION DATES.

(a) Except as otherwise provided by this subchapter, each general or special election in this state shall be held on one of the following dates:

(3) the first Tuesday after the first Monday in November.

The general election is set for November 3, 2020.

The Texas Election Code §85.001 identifies dates for early voting:

Sec. 85.001. EARLY VOTING PERIOD.

(a) The period for early voting by personal appearance begins on the 17th day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

The Texas Election Code contains a provision specifically addressing the situation where it is not possible for early voting to begin on the prescribed date, stating, “If because of the date for which an election is ordered it is not possible to

begin early voting by personal appearance on the prescribed date, the early voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.” Texas Elect. Code § 85.001(d). Unlike Governor Abbott’s July 27, 2020 Order, the Texas Election Code does not move the date back, instead it sets the new date to begin early voting after the prescribed date. Here, Governor Abbott is unilaterally taking the opposite approach, extending the early voting period by almost a week.

b. The Texas Election Code Establishes When A Voter Can Deliver A Marked Ballot By Mail In Person To The Early Voting Clerk’s Office.

The Texas Election Code §86.006(a-1) states: “The voter may deliver a marked ballot in person to the early voting clerk's office only while the polls are open on election day. A voter who delivers a marked ballot in person must present an acceptable form of identification described by Section 63.0101.” The provision limits the in person delivery of a marked ballot to the early voting clerk’s office to election day. *Id.* Texas Election Code § 86.006(a-1) does not allow Respondent Collins to amend the Texas Election Code to extend the time a voter can deliver a marked ballot to the early voting clerk’s office.

c. The plain language of Texas Election Code §85.001(a) prohibits Respondent from moving the beginning of early voting up to October 13, 2020. The plain language of Texas Election Code §86.006(a-1) prohibits Respondent from extending the time a voter can deliver a marked ballot to the early voting clerk’s office.

Texas statutes are to be interpreted based on their plain language. *See Leland v. Brandal*, 257 S.W.3d 204, 206 (Tex. 2008). The Court presumes the Legislature included each word for a purpose and that words not included were purposefully omitted. *In re M.N.*, 262 S.W.3d 799, 802 (Tex. 2008). It also presumes the Legislature understood and followed the rules of English grammar. Tex. Gov't Code § 311.011; *See also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 140 (2012) (describing the presumption as “unshakeable”).

The plain language of Texas Election Code §85.001(a) makes it clear that early voting can begin no earlier than the 17th day before election day. *Id.* Texas Election Code § 85.001 does not allow Respondent Collins to move early voting beyond the 17th day before the election.

If the Legislature had wanted to give the Respondent the discretion to move the start of early voting, they could have done so. Instead, the Legislature limited the start of early voting by personal appearance to the 17th day before election day.

The plain language of Texas Election Code §86.006(a-1) limits the in person delivery of a marked ballot to the early voting clerk's office to election day. *Id.* Texas Election Code § 86.006(a-1) does not allow Respondent Collins to amend the Texas Election Code to extend the time a voter can deliver a marked ballot to the early voting clerk's office.

If the Legislature had wanted to give the Respondent the discretion to allow a voter to deliver a marked ballot by mail in person to the early voting clerk's office prior to election day, they could have done so. Instead, the Legislature limited the in person delivery of a marked ballot to the early voting clerk's office to election day.

d. The plain language of Texas Election Code §86.006(a-1) does not allow Hollins to have eleven (11) different locations to deliver a marked ballot.

The plain and clear language of Texas Election Code §86.006(a-1) only allows the voter to “deliver a marked ballot in person to the early voting clerk's office.” The term office is singular and does not include annexes or satellite offices. If the Legislature had intended to expand the definition of “clerk's office” they could have done so. Instead, they chose to limit the drop-off venue to one identifiable location, the “voting clerk's office.” By allowing eleven (11) different drop-off locations, Hollins' violates the Texas Election Code and opens up additional opportunities for voter fraud.

e. Due to the early date delivery of marked in person ballots begins, and the large number of locations Hollins has created for dropping off marked in person ballots, it will not be possible for poll watchers to be present to view the drop-off process and the security related to the ballots.

Under Hollins' scheme, early voting does not begin until October 13, 2020, but in-person marked ballots can be delivered beginning Monday, September 28,

2020. [App. D]. From September 28, 2020 until October 13, 2020, Hollins allows ballots can be delivered to eleven (11) different locations throughout Harris County; however, during the same period, the law does not allow candidates or parties to assign poll watchers to these locations. Tex. Elec. Code § 33.007. Additionally, even after early voting begins, many of the eleven (11) drop-off locations are not voting locations and, therefore, a poll-watcher, election judge, and alternate election judge will not be present. This scenario creates an opportunity ripe for fraud and is inconsistent with Texas law regarding ballots by mail and the safe-guards built into the process to protect the integrity of the ballot box.

III. Respondent Hollins’ Conduct and the July 27, 2020 Order Suspending the Texas Election Code are Unconstitutional

a. Respondent Hollins’ Conduct Violates Article I, Section 28 of the Texas Constitution

“The Constitution is not suspended when the government declares a state of disaster.” *In re Abbott*, No. 20-0291, 2020 WL 1943226, at *1 (Tex. Apr. 23, 2020). During a pandemic “the judiciary, the other branches of government, and our fellow citizens—must insist that every action our governments take complies with the Constitution, especially now. If we tolerate unconstitutional government orders during an emergency, whether out of expediency or fear, we abandon the Constitution at the moment we need it most.” *Id.* “When properly called upon, the judicial branch must not shrink from its duty to require the government’s anti-virus

orders to comply with the Constitution and the law, no matter the circumstances.”

Id.

Government power cannot be exercised in conflict with the constitution, even in a pandemic. *In re Abbott*, 2020 WL 1943226 at *1 (Tex. Apr. 23, 2020). Texas law does not and cannot empower a Governor to unilaterally suspend the laws of the State of Texas. Article I, § 28 of the Texas Constitution states, “No power of suspending laws in this State shall be exercised except by the Legislature.” The Texas Supreme Court has long held that the Legislature cannot delegate “to anyone else the authority to suspend a statute law of the state.” *Brown Cracker & Candy Co. v. City of Dallas*, 104 Tex. 290, 294-95 (1911); *Arroyo v. State*, 69 S.W. 503, 504 (Tex. Crim. App. 1902) (“Under the constitution, the legislature ha[s] no right to delegate its authority . . . to set aside, vacate, suspend, or repeal the general laws of this state.”).

“[P]rior to 1874 this section was as follows: ‘No power of suspending laws in this state shall be exercised, except by the legislature, *or its authority*’” (emphasis added). *Arroyo*, 69 S.W. at 504. This constitutional provision was then specifically amended to remove the provision allowing the Legislature to delegate its suspension power by “its authority.” *Id.* This was expressly done to remedy “the history of the oppressions which grew out of the suspension of laws by reason of such delegation of legislative authority and the declaration of martial law.” *Id.*

Article I, § 28 was created in part in response to then-Governor F.J. Davis “declar[ing] . . . counties under martial law” and depriving of liberty “offenders by

court martial in Houston,” George D. Braden, *The Constitution of the State of Texas: An Annotated and Comparative Analysis* 84 (1977). Texas Government Code §418 is therefore unconstitutional on its face because it purports to delegate legislative power to suspend laws to the Governor in contravention of Texas Constitution, Art. I, §28 and Art. II, §1.

As Abbott’s July 27, 2020 Order suspends several provisions of the Texas Election Code, and on its face admits that Abbott and Respondent are suspending laws in accordance with Texas Gov’t Code Chapter 418, the Order itself is an unconstitutional suspension of the laws and, therefore, violate Article I, §28 of the Texas Constitution and are “null and void.” See *Arroyo*, 69 S.W. at 504. Additionally, to the extent the Texas Disaster Act allows for the suspension of laws by the Governor, it is unconstitutional and void.

The Texas Constitution limits Abbott’s and Respondent Hollins’ authority even in times of crisis or “extraordinary occasions.” See Tex. Const. art IV, §8 (stating on “extraordinary occasions” Governor may convene the Texas Legislature). If not limited, and if Constitutional rights may be suspended or infringed unilaterally and for unlimited duration whenever a Governor “declares” an emergency, then such rights are wholly illusory. Governor Abbott’s July 27, 2020 Order and Respondent Hollins’ enforcement of same, violates the Texas Constitution and therefore should be declared void and unenforceable.

b. Hollins' Conduct Violates Texas Government Code, Chapter 418

Assuming, arguendo, the Texas Disaster Act is constitutional, Hollins' conduct and the July 27, 2020 Order violate the Texas Government Code § 418 et seq., the Texas Disaster Act. Specifically, the Disaster Act limits Governor Abbott's power to those provisions expressly described in the statute. The Disaster Act does not contain any language expressly allowing Governor Abbott to amend the Texas Election Code in the manner he has chosen to do so.

c. Texas Government Code, Chapter 418, Violates the Texas Constitution

Texas Government Code Chapter 418 is unconstitutional on its face and as applied. Texas Government Code Chapter 418 is unconstitutional on its face because it is an improper delegation of legislative authority expressly prohibited by Texas Constitution, Art. II, §1. Abbott's July 27, 2020 Order is facially unconstitutional because Defendant issued the Order pursuant to Chapter 418 (an unconstitutional statute) and because they purport to exercise the power to suspend laws which authority is reserved exclusively to the legislature. Tex. Const. art. I, §28. As such, Texas Government Code Chapter 418, and all orders issued pursuant thereto, should be declared unconstitutional and rendered null and void.

d. Abbott's July 27, 2020 Order Violates the Separation of Powers Doctrine

The July 27, 2020 Order Respondent Hollins is tasked with implementing/enforcing, violates the separation of powers provision of the Texas Constitution because it suspends laws. Article II, §1 of the Texas Constitution provides that “The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.” Tex. Const. art. II, §1. The Texas Constitution vests the Legislature with “legislative power, *i.e.*, the law-making power of the people.” Tex. Const. art. 3, § 1.

Only the Legislature can exercise law-making power, subject to restrictions imposed by the constitution. Tex. Const. art. II, § 1. Because of the Texas Constitution’s “explicit prohibition against one government branch exercising a power attached to another,” *Perry v. Del Rio*, 67 S.W.3d 85, 91 (Tex. 2001), exceptions to the constitutionally-mandated separation of powers may “never be implied in the least; they must be ‘expressly permitted’ by the Constitution itself.” *Fin. Comm'n of Texas v. Norwood*, 418 S.W.3d 566, 570 (Tex. 2013). These restrictions must be expressed or clearly implied. *Jones v. State*, 803 S.W.2d 712,

716 (Tex. Crim. App. 1991)(citing *Gov't Servs. Ins. Underwriters v. Jones*, 368 S.W.2d 560, 563 (Tex. 1963)).

The Legislature may delegate some of its powers to another branch, but only if those powers are not more properly attached to the legislature by Constitutional mandate. For example, Legislative power cannot be delegated to the executive branch, either directly or to an executive agency. *State v. Rhine*, 297 S.W.3d 301, 306 (Tex. Crim. App. 2009). The issue becomes a question of the point at which delegation becomes unconstitutional. *Id.* The Texas Supreme Court has described the problem: "the debate over unconstitutional delegation becomes a debate not over a point of principle but over a question of degree." *Tex. Boll Weevil Eradication Found., Inc.*, 952 S.W.2d 454, 466 (Tex. 1997).

The Texas Court of Criminal Appeals in *Ex parte Granviel*, 561 S.W.2d 503 (Tex. Crim. App. 1978), stated that sufficient standards are necessary to keep the degree of delegated discretion below the level of legislating. The existence of an area for exercise of discretion by the executive branch requires that standards are formulated for guidance and there is limited discretion. *Ex parte Granviel*, 561 S.W.2d at 514. The statute must be sufficiently complete to accomplish the regulation of the particular matters falling within the legislature's jurisdiction, the matters of detail that are reasonably necessary for the ultimate application, operation and enforcement of the law may be expressly delegated to the authority charged with

the administration of the statute. *Ex parte Granviel*, 561 S.W.2d at 514. Therefore, if the Legislature has not provided sufficient standards to guide the executive's discretion and the delegated power is legislative, that executive has been granted a power that is more properly attached to the legislature and the delegation is an unconstitutional violation of separation of powers. *State v. Rhine*, 297 S.W.3d 306 (Tex. Crim. App. 2019).

Texas Government Code Chapter 418 not only does not provide robust, specific standards related to delegation of legislative authority, it provides **NO** standards to guide Defendant's discretion when identifying penalties, including fines and incarceration.

Prayer

For the reasons detailed above, Relators respectfully request this Court issue a writ of mandamus ordering Respondent Chris Hollins to perform his duties in accordance with the law, and not deviate from the express provisions in the Texas Election Code. Relators request this Court order Respondent not to receive in-person deliver of marked ballots until election day, November 3, 2020 and only at the early voting clerk's office at 201 Caroline St., Houston, Texas 77002. Relators further request this Court issue a writ of mandamus to require the first date of early voting by personal appearance to begin on the 17th day before election day and

declare Texas Government Code §418 unconstitutional to the extent it allows the Governor or a local official to suspend laws.

Respectfully submitted,

/s/ Jared R. Woodfill

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CERTIFICATE OF SERVICE

By affixing my signature above, I , Jared Woodfill, hereby certify that a true and correct copy of the above Original Petition for Writ of Mandamus has been delivered via electronic mail to the parties below on the 27th day of September, 2020.

/s/Jared Woodfill
Jared Woodfill

TRAP 52.3(J) CERTIFICATION

Pursuant to TRAP 52.3(j), the undersigned certifies that he has reviewed the above Petition for Writ of Mandamus and concluded that every factual statement in the petition is supported by competent evidence included in the appendix and or the record.

/s/ Jared Woodfill

Jared Woodfill

CERTIFICATE OF COMPLIANCE

I, Jared Woodfill, Counsel for Relators certify that this document was generated by a computer using Microsoft Word which indicates that the word count of this document is 4,464. The typeset is Times New Roman 14 pt for text.

/s/ Jared Woodfill

Jared Woodfill

APPENDIX

APP. A



User Name: Wukoson David

Date and Time: Tuesday, September 22, 2020 10:02:00 PM CDT

Job Number: 126014426

Document (1)

1. [Tex. Elec. Code § 273.061](#)

Client/Matter: -None-

Search Terms: tex. elec. code 273.061

Search Type: Natural Language

[Tex. Elec. Code § 273.061](#)

This document is current through the 2019 Regular Session, 86th Legislature, and 2019 election results.

Texas Statutes & Codes Annotated by LexisNexis® > Election Code > Title 16 Miscellaneous Provisions (Chs. 271 — 279) > Chapter 273 Criminal Investigation and Other Enforcement Proceedings (Subchs. A — E) > Subchapter D Mandamus By Appellate Court (§§ 273.061 — 273.080)

Sec. 273.061. Jurisdiction.

The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer.

History

Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986.

Annotations

LexisNexis® Notes

Notes

STATUTORY NOTES

Revisor's Notes.

The revised law clarifies the persons against whom a writ of mandamus may be issued by the appellate courts to compel performance of a duty regarding the holding of elections or party conventions.

Case Notes

Administrative Law: Judicial Review: Remedies: Mandamus

Civil Procedure: Justiciability: Mootness

Civil Procedure: Justiciability: Standing: General Overview

Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: Jurisdiction Over Actions

Civil Procedure: Remedies: Writs: General Overview

Civil Procedure: Remedies: Writs: Common Law Writs: Mandamus

Civil Procedure: Remedies: Writs: Common Law Writs: Quo Warranto

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

Education Law: Administration & Operation: Boards of Elementary & Secondary Schools: General Overview

Governments: Courts: Authority to Adjudicate

Governments: Courts: Judges

Governments: Legislation: Initiative & Referendum

Governments: Local Governments: Boundaries

Governments: Local Governments: Elections

Governments: Local Governments: Employees & Officials

Governments: Local Governments: Ordinances & Regulations

Governments: State & Territorial Governments: Elections

Governments: State & Territorial Governments: Employees & Officials

Real Property Law: Zoning & Land Use: Initiative & Referendum

Administrative Law: Judicial Review: Remedies: Mandamus

Record did not show that relator demanded that the city clerk declare real party in interest ineligible for a city council position and that the city clerk refused to comply. Based on the record before it, the appellate court could not conclude that relator was entitled to mandamus relief. [*In re Osborn, No. 03-13-00272-CV, 2013 Tex. App. LEXIS 5370 \(Tex. App. Austin Apr. 30, 2013\).*](#)

Civil Procedure: Justiciability: Mootness

District court judge election contest was moot, and an appellate court thus lacked subject-matter jurisdiction to grant the relief sought, where appellants intentionally delayed filing their appeal and failed to request expedited relief, and a ruling on the merits of the appeal would interfere with the orderly process of the election despite the appellate court's effort to expedite its decision by ordering an expedited briefing schedule; the printing of the ballots for the general election had begun and the mailing of ballots to overseas and military absentee voters was imminent. [*Lee v. Dallas Cty. Democratic Party, No. 05-18-00715-CV, 2018 Tex. App. LEXIS 7736 \(Tex. App. Dallas Sept. 20, 2018\).*](#)

Civil Procedure: Justiciability: Standing: General Overview

Although relator asked the appellate court to compel the city clerk to declare relator's opponent ineligible to serve on the city council due to the opponent's residency ineligibility, any standing relator had to challenge the candidacy of his opponent ceased to exist once the opponent could no longer be removed from the ballot. At that point, relator's interest in having the opponent declared ineligible was simply the same as that shared by the general public. [*In re Osborn, No. 03-13-00314-CV, 2013 Tex. App. LEXIS 5916 \(Tex. App. Austin May 15, 2013\).*](#)

Political activist lacked standing to seek to compel a political party county chair under Tex. Elec. Code Ann. §§ [161.009, 273.061](#) to remove a candidate from the ballot because no direct injury was shown by his statement under *Tex. R. App. P. 52.3(e)* that he was involved in party activities and financially supported another candidate; Tex. Elec. Code Ann. § [273.081](#) did not confer standing on the basis of being a voter, and the candidate he supported was of a different political party. [*In re Baker, 404 S.W.3d 575, 2010 Tex. App. LEXIS 1426 \(Tex. App. Houston 1st Dist. Feb. 25, 2010, no pet.\)*](#).

Supporters of an amendment to a city charter had standing to seek mandamus relief to compel the mayor to certify the amendment to the Texas Secretary of State and to compel the city council to enter an order in the city's records declaring that the amendment had been adopted; the supporters had a particular interest in seeking to have a proposition that they sponsored enacted as law once it was adopted by the citizens of the city in a referendum election. [*In re Robinson, 175 S.W.3d 824, 2005 Tex. App. LEXIS 2900 \(Tex. App. Houston 1st Dist. Apr. 14, 2005, no pet.\)*](#).

Civil Procedure: Jurisdiction: Subject Matter Jurisdiction: Jurisdiction Over Actions

Trial court did not have subject matter jurisdiction over appellant's mandamus claim because the Legislature conferred subject matter jurisdiction to the state supreme court and courts of appeals. [*Nelson v. Head, No. 13-18-00484-CV, 2019 Tex. App. LEXIS 10197 \(Tex. App. Corpus Christi Nov. 26, 2019\)*](#).

Civil Procedure: Remedies: Writs: General Overview

Mandamus relief was appropriate to compel a mayor to certify to the Texas Secretary of State three amendments approved by the voters of the municipality and to compel the city council to enter an order in the city's records declaring that the amendments had been adopted; the duty to certify and make effective laws that have been validly adopted by the voters is a necessary component of the election process. [*In re Robinson, 175 S.W.3d 824, 2005 Tex. App. LEXIS 2900 \(Tex. App. Houston 1st Dist. Apr. 14, 2005, no pet.\)*](#).

Supporters of an amendment to a city charter had standing to seek mandamus relief to compel the mayor to certify the amendment to the Texas Secretary of State and to compel the city council to enter an order in the city's records declaring that the amendment had been adopted; the supporters had a particular interest in seeking to have a proposition that they sponsored enacted as law once it was adopted by the citizens of the city in a referendum election. [*In re Robinson, 175 S.W.3d 824, 2005 Tex. App. LEXIS 2900 \(Tex. App. Houston 1st Dist. Apr. 14, 2005, no pet.\)*](#).

When a petition for a proposed charter amendment was presented, the city secretary, based on the plain language of Tex. Loc. Gov't Code Ann. § [9.004](#), had a ministerial duty to verify that a sufficient number of qualified voters signed the petition; § 9.004 does not give her the discretion of determining whether the petition violates a city charter, the laws of Texas, or the Texas Constitution. Thus, the citizens were entitled to mandamus relief compelling the city secretary to certify the petition to the governing body of the city upon such verification. [*In re Roof, 130 S.W.3d 414, 2004 Tex. App. LEXIS 2179 \(Tex. App. Houston 14th Dist. Mar. 5, 2004, no pet.\)*](#).

Balch Springs, Tex., City Charter art. VI, 6.06 clearly did not allow the city council to reconsider recall petitions that were declared sufficient by the city secretary; therefore, the council violated a ministerial duty under the city charter to call a recall election as to four of its members, and relators, who were residents and registered voters of Balch

Springs, were entitled to a writ of mandamus directing the council members to carry out their duties. [In re Porter, 126 S.W.3d 708, 2004 Tex. App. LEXIS 1189 \(Tex. App. Dallas Feb. 9, 2004, no pet.\)](#).

District court had no authority to appoint a visiting judge to conduct a hearing on the validity of an election contestant's application for a place on the ballot; thus, the appellate court refused the contestant's writ petition and refused to issue a mandamus to compel the judge to conduct an expedited hearing because the appellate court could only compel performance of a duty imposed by law. [Bejarano v. Moody, 901 S.W.2d 570, 1995 Tex. App. LEXIS 810 \(Tex. App. El Paso Apr. 13, 1995, no writ\)](#).

Supreme court may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election regardless of whether the person responsible for performing the duty is a public officer pursuant to Tex. Elec. Code Ann. § [273.061](#). [Wallis v. McDonald, 889 S.W.2d 236, 1994 Tex. LEXIS 35 \(Tex. 1994\)](#).

In a case where relator party precinct chairman asked leave under Tex. R. Civ. P. 383 to file a writ of mandamus pursuant to former Tex. Rev. Civ. Stat. Ann. art. 1735a to compel respondent county party chairman to call a meeting of the county party executive committee to obtain approval of the committee for monies spent from the primary fund and other funds, the court denied leave to file because it lacked jurisdiction under former art. 1735a; the payment and the amount of expenditures necessary for holding a primary election were within the authority of the secretary of state, thus, the county party chairman had no duty to obtain a vote of 51 percent of the executive committee to approve the expenditures. [Slagle v. Kessler, 566 S.W.2d 330, 1978 Tex. App. LEXIS 3204 \(Tex. Civ. App. Dallas Apr. 25, 1978, no writ\)](#).

Clear language of former Tex. Rev. Civ. Stat. Ann. art. 1735a (now Tex. Elec. Code Ann. §§ [273.061](#)) and [273.062](#) and Tex. Gov't Code Ann. § [22.221](#) dictates a writ of mandamus will issue only upon a showing that an election officer has failed to discharge a duty imposed by statute. [Nelson v. Welch, 499 S.W.2d 927, 1973 Tex. App. LEXIS 2616 \(Tex. Civ. App. Houston 14th Dist. Sept. 19, 1973, no writ\)](#).

The appellate court did not have authority under former Tex. Rev. Civ. Stat. Ann. art. 1735a (now Tex. Elec. Code Ann. §§ [273.061](#) and [273.062](#), and Tex. Gov't Code Ann. § [22.221](#)) to grant a writ of mandamus to compel election officials to perform a duty not in accordance with the laws of the state; respondents did perform their duties in accordance with former Tex. Elect. Code art. 13.09(b), despite relators' claim that certain portions of the statute violated their constitutional rights and should have been held unconstitutional and void. [Lydick v. Chairman of Dallas County Republican Executive Committee, 456 S.W.2d 740, 1970 Tex. App. LEXIS 2036 \(Tex. Civ. App. Dallas June 5, 1970, no writ\)](#).

The appellate court did not have authority under former Tex. Rev. Civ. Stat. Ann. art. 1735a (recodified in part at Tex. Educ. Code Ann. § [273.061](#)) to grant a writ of mandamus to compel election officials to perform a duty not in accordance with the laws of the state since respondents did perform their duties in accordance with former Tex. Elect. Code § 13.09(b) (now recodified in part at Tex. Elect. Code Ann. § [52.068](#)), despite relators' claim that certain portions of the statute violated their constitutional rights and should have been held unconstitutional and void. [Lydick v. Chairman of Dallas County Republican Executive Committee, 456 S.W.2d 740, 1970 Tex. App. LEXIS 2036 \(Tex. Civ. App. Dallas June 5, 1970, no writ\)](#).

Civil Procedure: Remedies: Writs: Common Law Writs: Mandamus

Requirements for the Office of President did not exclude felons, but felony convictions were a relevant qualification for Texas state elective offices; consequently, there was no justiciable controversy between the Secretary of State and the candidate with regard to the proper form whose promulgation the candidate sought through mandamus. [In re Judd, No. 03-15-00595-CV, 2015 Tex. App. LEXIS 10808 \(Tex. App. Austin Oct. 21, 2015\)](#).

Tex. Elec. Code § 273.061

Mandamus relief was not granted in a case where a prospective candidate sought certification as a write-in candidate in a general election after a judge denied such due to residency issues because the mandamus petition ignored important aspects of the statutorily-prescribed election schedule; by waiting until September 22 to seek relief, the candidate allowed a number of election deadlines to pass. Moreover, the petition required the appellate court to engage in improper fact-finding. [*In re Garza, No. 07-14-00347-CV, 2014 Tex. App. LEXIS 11370 \(Tex. App. Amarillo Oct. 14, 2014\).*](#)

Mandamus relief was warranted in an election dispute because the Hearne, Tex., Home Rule Charter permitted a city council only to order and hold a recall election on November 4, 2014; the election should not have been further delayed by holding it in May 2015. The pendency of a declaratory-judgment counterclaim had no bearing on the city council's ministerial duty under the city charter to order the recall election and to fix a date for holding it. [*In re Johnson, No. 10-14-00341-CV, 2015 Tex. App. LEXIS 944 \(Tex. App. Waco Feb. 2, 2015\).*](#)

City Secretary did not have discretion under a city charter to refuse to certify a petition for a recall election based on insufficiency of the grounds for recall alleged in the petition; because the number of signatures on the recall petition was sufficient, mandamus was appropriate to compel the City Secretary to certify the petition. [*In re Lee, 412 S.W.3d 23, 2013 Tex. App. LEXIS 2044 \(Tex. App. Austin Feb. 28, 2013, no pet.\).*](#)

If the public record established that an applicant was ineligible for office for purposes of Tex. Elec. Code Ann. § [145.003\(f\)](#) and Tex. Const. art. V, § [7](#), the chairman had a duty to declare such ineligibility, and mandamus relief was proper under Tex. Elec. Code Ann. § [273.061](#). [*In re Sanchez, 366 S.W.3d 255, 2012 Tex. App. LEXIS 1940 \(Tex. App. San Antonio Mar. 9, 2012, no pet.\).*](#)

Certified and sworn letter from the Texas Supreme Court clerk stated that the applicant was ineligible to practice law from November 21, 2008 until November 5, 2009 when she lifted the non-practicing attorney exemption from mandatory continuing legal education requirements, and it was not disputed that the exemption was not lifted until at least November 3, 2009, such that her ineligibility was established conclusively, for purposes of Tex. Elec. Code Ann. § [145.003\(f\)](#) and Tex. Const. art. V, § [7](#); the documents she provided from the State Bar did not rebut the Supreme Court public record, and thus the court granted conditional mandamus relief under Tex. Elec. Code Ann. § [273.061](#). [*In re Sanchez, 366 S.W.3d 255, 2012 Tex. App. LEXIS 1940 \(Tex. App. San Antonio Mar. 9, 2012, no pet.\).*](#)

Because a change from at-large districts to single-member districts did not affect a city's recall procedures, the mayor and council members had a ministerial duty under the charter, enforceable by mandamus, to call and hold recall elections for three council members after valid petitions were presented. [*In re Stewart, No. 09-11-00467-CV, 2011 Tex. App. LEXIS 7060 \(Tex. App. Beaumont Aug. 29, 2011\).*](#)

Mandamus relief was unavailable under Tex. Elec. Code Ann. § [273.061](#), Tex. Const. art. V, and Tex. Gov't Code Ann. § [22.221](#) to remove a Texas Senate candidate from the ballot because there was no evidence that documents purporting to show his nonresident status under Tex. Const. art. III, § [6](#) and Tex. Elec. Code Ann. § [1.015\(a\)](#) had been presented under Tex. Elec. Code Ann. § [145.003\(g\)](#) to the appropriate authority. [*In re Cullar, 320 S.W.3d 560, 2010 Tex. App. LEXIS 6725 \(Tex. App. Dallas Aug. 19, 2010, no pet.\).*](#)

Proponents of a local initiative measure who sought to incorporate an area within the city's extraterritorial jurisdiction were not entitled to mandamus relief under Tex. Elec. Code Ann. § [273.061](#) when the city refused to certify their petition because Tex. Loc. Gov't Code Ann. § [42.041](#) has withdrawn incorporation from the field in which the initiatory process is operative. [*In re Bouse, 324 S.W.3d 240, 2010 Tex. App. LEXIS 6775 \(Tex. App. Waco Aug. 17, 2010, no pet.\).*](#)

Because a city had no right under Tex. Loc. Gov't Code Ann. § [212.003\(a\)\(1\)](#) to legislate land use in its extraterritorial jurisdiction, an agreement pursuant to Tex. Loc. Gov't Code Ann. § [212.172\(b\)\(8\)](#) as to the use of land in the city's extraterritorial jurisdiction was not legislative and was not subject to the referendum process; thus, mandamus relief was not available under Tex. Elec. Code Ann. § [273.061](#) to compel the city council to submit the

matter to the voters. [*In re Hollis, No. 03-09-00589-CV, 2009 Tex. App. LEXIS 9888 \(Tex. App. Austin Nov. 19, 2009\).*](#)

Claimant was not entitled to mandamus relief, because the claimant did not have standing under Tex. Elec. Code Ann. § [273.061](#) necessary to maintain the instant original proceeding, when the relief the claimant sought, the implementation and enforcement of proposition 2, went beyond the election process, as the claimant sought to compel respondents to perform duties that were not in connection with the holding of an election. [*In re Hotze, No. 14-08-00421-CV, 2008 Tex. App. LEXIS 9897 \(Tex. App. Houston 14th Dist. July 10, 2008\).*](#)

Appellate court had jurisdiction to hear a mandamus proceeding relating to a delegate's request to compel a county chair to produce copies of precinct minutes under Tex. Elec. Code Ann. § [273.061](#), Tex. Elec. Code Ann. § [161.009](#); however, the scope of the appellate court's jurisdiction was limited because the judiciary had no power to control the electoral process or matters referable to the internal issues of political parties. [*In re Cahill, 267 S.W.3d 104, 2008 Tex. App. LEXIS 4097 \(Tex. App. Corpus Christi June 3, 2008, no pet.\).*](#)

Petition for a writ of mandamus was denied because an objector had no standing to bring a challenge to a city council's annexation in a quo warranto proceeding under Tex. Civ. Prac. & Rem. Code Ann. § [66.002\(c\)](#); further, a city council did not fail in any duties since annexation ordinances were not subject to the referendum process in El Campo, Tex., City Charter § 7.03. [*In re Ryan, No. 13-08-00179-CV, 2008 Tex. App. LEXIS 2956 \(Tex. App. Corpus Christi Apr. 18, 2008\).*](#)

Writ of mandamus was conditionally granted, under Tex. Elec. Code Ann. § [161.009](#) and Tex. Elec. Code Ann. § [273.061](#), and a county party chair was directed to certify an applicant as a candidate for state representative, and take all necessary steps to include her name on the Democratic Party primary ballot, because the court could not locate, and the chair did not identify, any Texas Election Code provision that authorized a party chair to refuse to certify a candidate's name for placement on the ballot on the basis of the candidate's failure to designate a campaign treasurer with the Texas Ethics Commission, and the Election Code did not authorize a party chair to insert additional certification requirements beyond those prescribed in the Election Code. [*In re Torry, 244 S.W.3d 849, 2008 Tex. LEXIS 67 \(Tex. 2008\).*](#)

Applicant was not entitled to mandamus relief under Tex. Elec. Code Ann. § [273.061](#) from a party chairperson's rejection of his application and petition for a place on a county's general primary election ballot because no ministerial duty was violated; the application did not comply with Tex. Elec. Code Ann. § [141.031](#) because it misidentified the precinct, its rejection was mandatory under Tex. Elec. Code Ann. § [141.032\(e\)](#), and the timeliness of its review was a fact issue that could not be adjudicated in a mandamus proceeding. [*In re Armendariz, 245 S.W.3d 92, 2008 Tex. App. LEXIS 526 \(Tex. App. El Paso Jan. 24, 2008, no pet.\).*](#)

Candidate for the office of El Paso County Commissioner is required to both reside within and be a registered voter in the corresponding precinct in order to satisfy the statutory eligibility requirements; the phrase "in the territory from which the office is elected" necessarily refers to Precinct 3, rather than all of El Paso County, in the context of a county commissioner from Precinct 3. Therefore, mandamus relief was conditionally granted because a second candidate for the office of county commissioner was not eligible; he was not a registered voter in the precinct at issue on the filing date since his registration was not effective until the 30th day after he submitted his address change. [*In re Perez, 508 S.W.3d 500, 2016 Tex. App. LEXIS 208 \(Tex. App. El Paso Jan. 11, 2016, no pet.\).*](#)

In an election dispute by opposing political parties with respect to a particular candidate's applications for a place on both parties' primary ballots, relief other than mandamus that was requested by the parties lacked merit because the prevention of a future action related to candidacy was not within the court's mandamus jurisdiction. [*In re Meyer, No. 05-16-00063-CV, 2016 Tex. App. LEXIS 1008 \(Tex. App. Dallas Feb. 1, 2016\).*](#)

Opposing political parties were not entitled to writs of mandamus under Tex. [*Elec. Code Ann. § 273.061*](#) (2010), wherein each sought to preclude a particular candidate's applications for a place on the other party's primary

ballots, as the requests were moot because the balloting materials for voting by mail were already printed and mailed. [In re Meyer, No. 05-16-00063-CV, 2016 Tex. App. LEXIS 1008 \(Tex. App. Dallas Feb. 1, 2016\).](#)

Political party's petition for writ of mandamus directing the trial court to vacate a temporary injunction was granted as a final decision could not be reviewed by an appellate court in advance of statutory election deadlines signaling the start of the election process. [In re Dallas Cty. Republican Party, No. 05-18-00979-CV, 2018 Tex. App. LEXIS 6986 \(Tex. App. Dallas Aug. 29, 2018\).](#)

Mandamus relief was appropriate, because the party co-chairs had a statutory duty to declare the real parties in interest ineligible, the party co-chairs refused to perform their statutory duty, and realtors lacked an adequate remedy at law due to the deadline for removing ineligible candidates from the November 2020 ballot. [In re Davis, No. 03-20-00414-CV, 2020 Tex. App. LEXIS 6663 \(Tex. App. Austin Aug. 19, 2020\), vacated, No. 20-0708, 2020 Tex. LEXIS 838 \(Tex. Sept. 15, 2020\).](#)

Civil Procedure: Remedies: Writs: Common Law Writs: Quo Warranto

Petition for a writ of mandamus was denied because an objector had no standing to bring a challenge to a city council's annexation in a quo warranto proceeding under Tex. Civ. Prac. & Rem. Code Ann. § [66.002\(c\)](#); further, a city council did not fail in any duties since annexation ordinances were not subject to the referendum process in El Campo, Tex., City Charter § 7.03. [In re Ryan, No. 13-08-00179-CV, 2008 Tex. App. LEXIS 2956 \(Tex. App. Corpus Christi Apr. 18, 2008\).](#)

Civil Procedure: Appeals: Appellate Jurisdiction: General Overview

Appellate court had jurisdiction to hear a mandamus proceeding relating to a delegate's request to compel a county chair to produce copies of precinct minutes under Tex. Elec. Code Ann. § [273.061](#), Tex. Elec. Code Ann. § [161.009](#); however, the scope of the appellate court's jurisdiction was limited because the judiciary had no power to control the electoral process or matters referable to the internal issues of political parties. [In re Cahill, 267 S.W.3d 104, 2008 Tex. App. LEXIS 4097 \(Tex. App. Corpus Christi June 3, 2008, no pet.\).](#)

Education Law: Administration & Operation: Boards of Elementary & Secondary Schools: General Overview

Where a member of a school board did not receive compensation for her services in accordance with Tex. Educ. Code Ann. § [11.061\(d\)](#) and did not hold a lucrative office within the meaning of Tex. Const. art. III, § [19](#), she was entitled to a writ of mandamus pursuant to Tex. Elec. Code Ann. § [273.061](#) to require party officials to certify her as a state legislative candidate in a primary election. [In re Carlisle, 209 S.W.3d 93, 2006 Tex. LEXIS 94 \(Tex. 2006\).](#)

Governments: Courts: Authority to Adjudicate

The trial court exceeded its statutory subject-matter jurisdiction by granting non-injunctive relief in favor of the Democratic party candidate that required a particular Republican party candidate to be certified as ineligible for the county judge election, because pursuant to Tex. Elec. Code Ann. § [273.061](#), exclusive jurisdiction was vested in the courts of appeals and the supreme court. [Pollard v. Mosier, No. 01-98-00173-CV, 1998 Tex. App. LEXIS 1162 \(Tex. App. Houston 1st Dist. Feb. 18, 1998\).](#)

Governments: Courts: Judges

Tex. Elec. Code § 273.061

Candidate's petition supporting her application to be on the ballot for a justice of the peace election primary, although initially accepted pursuant to Tex. Elec. Code Ann. § [141.032\(a\)](#), was properly rejected after further review under Tex. Elec. Code Ann. §§ [141.032\(d\)](#), [141.065\(b\)](#), because the candidate failed to provide at least 250 signatures of registered voters within her precinct as required by Tex. Elec. Code Ann. § [172.021\(e\)](#). *In re Wilson*, 421 S.W.3d 686, 2014 Tex. App. LEXIS 441 (Tex. App. Fort Worth Jan. 15, 2014, no pet.).

Supreme court may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election regardless of whether the person responsible for performing the duty is a public officer pursuant to Tex. Elec. Code Ann. § [273.061](#). *Wallis v. McDonald*, 889 S.W.2d 236, 1994 Tex. LEXIS 35 (Tex. 1994).

Judicial candidate was not entitled to a writ of mandamus challenging the placement of his opponent on the ballot pursuant to a petition under Tex. Elec. Code Ann. §§ [141.062](#), [172.021\(e\)](#), because the petition's circulator verified the signatories' registration status, and the party director was entitled to treat the signatures as valid. *In re Piki*, No. 06-18-00003-CV, 2018 Tex. App. LEXIS 392 (Tex. App. Texarkana Jan. 12, 2018).

Governments: Legislation: Initiative & Referendum

Although a referendum vote can be held on a municipality's initial adoption of zoning regulations, voters cannot repeal individual zoning ordinances; the general definition of zoning regulations as including amendments does not apply in this context. Thus, mandamus relief was not available to compel the application of a city charter's referendum provisions to a proposed repeal of zoning amendments passed by the city council. *In re Arnold*, 2014 Tex. App. LEXIS 8172 (July 29, 2014).

Proponents of a local initiative measure who sought to incorporate an area within the city's extraterritorial jurisdiction were not entitled to mandamus relief under Tex. Elec. Code Ann. § [273.061](#) when the city refused to certify their petition because Tex. Loc. Gov't Code Ann. § [42.041](#) has withdrawn incorporation from the field in which the initiatory process is operative. *In re Bouse*, 324 S.W.3d 240, 2010 Tex. App. LEXIS 6775 (Tex. App. Waco Aug. 17, 2010, no pet.).

When a petition for a proposed charter amendment was presented, the city secretary, based on the plain language of Tex. Loc. Gov't Code Ann. § [9.004](#), had a ministerial duty to verify that a sufficient number of qualified voters signed the petition; § 9.004 does not give her the discretion of determining whether the petition violates a city charter, the laws of Texas, or the Texas Constitution. Thus, the citizens were entitled to mandamus relief compelling the city secretary to certify the petition to the governing body of the city upon such verification. *In re Roof*, 130 S.W.3d 414, 2004 Tex. App. LEXIS 2179 (Tex. App. Houston 14th Dist. Mar. 5, 2004, no pet.).

City's ballot language for a proposition to adopt a citizen-initiated ordinance was misleading because it suggested that the ordinance necessitated additional election costs, which it did not, and because it omitted the ordinance's emphasis on prioritization of hotel tax revenue funds towards cultural arts, historic preservation, and tourism. *In re Linder*, No. 03-19-00553-CV, 2019 Tex. App. LEXIS 7584 (Tex. App. Austin Aug. 22, 2019).

Governments: Local Governments: Boundaries

County judge had to order an incorporation election where there was proof that the area contained between 201 and 4,999 inhabitants, and as long as the area was not part of another city or town, boundary questions were not for the county judge. The court granted a writ of mandamus and ordered the county judge to call the incorporation election. *In re Fitzgerald*, 140 S.W.3d 380, 2004 Tex. LEXIS 698 (Tex. 2004).

Governments: Local Governments: Elections

District court judge election contest was moot, and an appellate court thus lacked subject-matter jurisdiction to grant the relief sought, where appellants intentionally delayed filing their appeal and failed to request expedited relief, and a ruling on the merits of the appeal would interfere with the orderly process of the election despite the appellate court's effort to expedite its decision by ordering an expedited briefing schedule; the printing of the ballots for the general election had begun and the mailing of ballots to overseas and military absentee voters was imminent. [Lee v. Dallas Cty. Democratic Party, No. 05-18-00715-CV, 2018 Tex. App. LEXIS 7736 \(Tex. App. Dallas Sept. 20, 2018\).](#)

Trial court did not have subject matter jurisdiction over appellant's mandamus claim because the Legislature conferred subject matter jurisdiction to the state supreme court and courts of appeals. [Nelson v. Head, No. 13-18-00484-CV, 2019 Tex. App. LEXIS 10197 \(Tex. App. Corpus Christi Nov. 26, 2019\).](#)

Mandamus relief was not granted in a case where a prospective candidate sought certification as a write-in candidate in a general election after a judge denied such due to residency issues because the mandamus petition ignored important aspects of the statutorily-prescribed election schedule; by waiting until September 22 to seek relief, the candidate allowed a number of election deadlines to pass. Moreover, the petition required the appellate court to engage in improper fact-finding. [In re Garza, No. 07-14-00347-CV, 2014 Tex. App. LEXIS 11370 \(Tex. App. Amarillo Oct. 14, 2014\).](#)

Mandamus relief was warranted in an election dispute because the Hearne, Tex., Home Rule Charter permitted a city council only to order and hold a recall election on November 4, 2014; the election should not have been further delayed by holding it in May 2015. The pendency of a declaratory-judgment counterclaim had no bearing on the city council's ministerial duty under the city charter to order the recall election and to fix a date for holding it. [In re Johnson, No. 10-14-00341-CV, 2015 Tex. App. LEXIS 944 \(Tex. App. Waco Feb. 2, 2015\).](#)

Candidate for the office of El Paso County Commissioner is required to both reside within and be a registered voter in the corresponding precinct in order to satisfy the statutory eligibility requirements; the phrase "in the territory from which the office is elected" necessarily refers to Precinct 3, rather than all of El Paso County, in the context of a county commissioner from Precinct 3. Therefore, mandamus relief was conditionally granted because a second candidate for the office of county commissioner was not eligible; he was not a registered voter in the precinct at issue on the filing date since his registration was not effective until the 30th day after he submitted his address change. [In re Perez, 508 S.W.3d 500, 2016 Tex. App. LEXIS 208 \(Tex. App. El Paso Jan. 11, 2016, no pet.\).](#)

In an election dispute by opposing political parties with respect to a particular candidate's applications for a place on both parties' primary ballots, relief other than mandamus that was requested by the parties lacked merit because the prevention of a future action related to candidacy was not within the court's mandamus jurisdiction. [In re Meyer, No. 05-16-00063-CV, 2016 Tex. App. LEXIS 1008 \(Tex. App. Dallas Feb. 1, 2016\).](#)

Opposing political parties were not entitled to writs of mandamus under Tex. [Elec. Code Ann. § 273.061](#) (2010), wherein each sought to preclude a particular candidate's applications for a place on the other party's primary ballots, as the requests were moot because the balloting materials for voting by mail were already printed and mailed. [In re Meyer, No. 05-16-00063-CV, 2016 Tex. App. LEXIS 1008 \(Tex. App. Dallas Feb. 1, 2016\).](#)

City's ballot language for a proposition to adopt a citizen-initiated ordinance was misleading because it suggested that the ordinance necessitated additional election costs, which it did not, and because it omitted the ordinance's emphasis on prioritization of hotel tax revenue funds towards cultural arts, historic preservation, and tourism. [In re Linder, No. 03-19-00553-CV, 2019 Tex. App. LEXIS 7584 \(Tex. App. Austin Aug. 22, 2019\).](#)

Tex. Elec. Code § 273.061

Although a referendum vote can be held on a municipality's initial adoption of zoning regulations, voters cannot repeal individual zoning ordinances; the general definition of zoning regulations as including amendments does not apply in this context. Thus, mandamus relief was not available to compel the application of a city charter's referendum provisions to a proposed repeal of zoning amendments passed by the city council. [*In re Arnold*, 2014 Tex. App. LEXIS 8172 \(July 29, 2014\)](#).

Candidate's petition supporting her application to be on the ballot for a justice of the peace election primary, although initially accepted pursuant to Tex. Elec. Code Ann. § [141.032\(a\)](#), was properly rejected after further review under Tex. Elec. Code Ann. §§ [141.032\(d\)](#), [141.065\(b\)](#), because the candidate failed to provide at least 250 signatures of registered voters within her precinct as required by Tex. Elec. Code Ann. § [172.021\(e\)](#). [*In re Wilson*, 421 S.W.3d 686, 2014 Tex. App. LEXIS 441 \(Tex. App. Fort Worth Jan. 15, 2014, no pet.\)](#).

City Secretary did not have discretion under a city charter to refuse to certify a petition for a recall election based on insufficiency of the grounds for recall alleged in the petition; because the number of signatures on the recall petition was sufficient, mandamus was appropriate to compel the City Secretary to certify the petition. [*In re Lee*, 412 S.W.3d 23, 2013 Tex. App. LEXIS 2044 \(Tex. App. Austin Feb. 28, 2013, no pet.\)](#).

Because a change from at-large districts to single-member districts did not affect a city's recall procedures, the mayor and council members had a ministerial duty under the charter, enforceable by mandamus, to call and hold recall elections for three council members after valid petitions were presented. [*In re Stewart*, No. 09-11-00467-CV, 2011 Tex. App. LEXIS 7060 \(Tex. App. Beaumont Aug. 29, 2011\)](#).

Political activist lacked standing to seek to compel a political party county chair under Tex. Elec. Code Ann. §§ [161.009](#), [273.061](#) to remove a candidate from the ballot because no direct injury was shown by his statement under *Tex. R. App. P.* 52.3(e) that he was involved in party activities and financially supported another candidate; Tex. Elec. Code Ann. § [273.081](#) did not confer standing on the basis of being a voter, and the candidate he supported was of a different political party. [*In re Baker*, 404 S.W.3d 575, 2010 Tex. App. LEXIS 1426 \(Tex. App. Houston 1st Dist. Feb. 25, 2010, no pet.\)](#).

Claimant was not entitled to mandamus relief, because the claimant did not have standing under Tex. Elec. Code Ann. § [273.061](#) necessary to maintain the instant original proceeding, when the relief the claimant sought, the implementation and enforcement of proposition 2, went beyond the election process, as the claimant sought to compel respondents to perform duties that were not in connection with the holding of an election. [*In re Hotze*, No. 14-08-00421-CV, 2008 Tex. App. LEXIS 9897 \(Tex. App. Houston 14th Dist. July 10, 2008\)](#).

Applicant was not entitled to mandamus relief under Tex. Elec. Code Ann. § [273.061](#) from a party chairperson's rejection of his application and petition for a place on a county's general primary election ballot because no ministerial duty was violated; the application did not comply with Tex. Elec. Code Ann. § [141.031](#) because it misidentified the precinct, its rejection was mandatory under Tex. Elec. Code Ann. § [141.032\(e\)](#), and the timeliness of its review was a fact issue that could not be adjudicated in a mandamus proceeding. [*In re Armendariz*, 245 S.W.3d 92, 2008 Tex. App. LEXIS 526 \(Tex. App. El Paso Jan. 24, 2008, no pet.\)](#).

Court conditionally granted a writ ordering a mayor and city council members to call a general municipal election for certain city council seats where the voters had amended the city charter to provide for two-year terms and the council seats at issue had been filled after the amendment and were thus no longer three-year terms. [*In re Quintanilla*, No. 05-06-00297-CV, 2006 Tex. App. LEXIS 2281 \(Tex. App. Dallas Mar. 24, 2006\)](#).

Mandamus relief was appropriate to compel a mayor to certify to the Texas Secretary of State three amendments approved by the voters of the municipality and to compel the city council to enter an order in the city's records declaring that the amendments had been adopted; the duty to certify and make effective laws that have been validly adopted by the voters is a necessary component of the election process. [*In re Robinson*, 175 S.W.3d 824, 2005 Tex. App. LEXIS 2900 \(Tex. App. Houston 1st Dist. Apr. 14, 2005, no pet.\)](#).

Supporters of an amendment to a city charter had standing to seek mandamus relief to compel the mayor to certify the amendment to the Texas Secretary of State and to compel the city council to enter an order in the city's records declaring that the amendment had been adopted; the supporters had a particular interest in seeking to have a proposition that they sponsored enacted as law once it was adopted by the citizens of the city in a referendum election. [In re Robinson, 175 S.W.3d 824, 2005 Tex. App. LEXIS 2900 \(Tex. App. Houston 1st Dist. Apr. 14, 2005, no pet.\)](#).

Chairperson of a county's Republican Party had a mandatory duty to certify a judicial candidacy in accordance with the will of the majority of precinct chairs who were present at a meeting; therefore, the court conditionally granted a petition for writ of mandamus to require the chairperson to certify the candidate's name for placement on the general election ballot. [In re Dupont, 142 S.W.3d 528, 2004 Tex. App. LEXIS 6947 \(Tex. App. Fort Worth July 26, 2004, no pet.\)](#).

Balch Springs, Tex., City Charter art. VI, 6.06 clearly did not allow the city council to reconsider recall petitions that were declared sufficient by the city secretary; therefore, the council violated a ministerial duty under the city charter to call a recall election as to four of its members, and relators, who were residents and registered voters of Balch Springs, were entitled to a writ of mandamus directing the council members to carry out their duties. [In re Porter, 126 S.W.3d 708, 2004 Tex. App. LEXIS 1189 \(Tex. App. Dallas Feb. 9, 2004, no pet.\)](#).

City charter did not assign anyone the responsibility for verifying signatures on a recall petition; therefore, a city secretary who had disqualified signatures was directed to submit all petitions requesting a recall election, with all signatures, to the city commission, and the court directed that if the secretary did not comply promptly, a writ of mandate would issue. [In re Suson, 120 S.W.3d 477, 2003 Tex. App. LEXIS 9120 \(Tex. App. Corpus Christi Oct. 28, 2003, no pet.\)](#).

Where candidate for office sought a writ of mandamus to submit her name as a duly certified candidate, the writ was granted; the fact that the candidate cast a ballot in another city did not conclusively establish that she was ineligible for office. [In re Jackson, 14 S.W.3d 843, 2000 Tex. App. LEXIS 2297 \(Tex. App. Waco Apr. 4, 2000, no pet.\)](#).

Where candidate's petition in lieu of filing fee was insufficient as a matter of law, the city clerk was required to reject it; failure to perform her duty subjected the clerk to mandamus, pursuant to Tex. Elec. Code Ann. § [273.061, Bejarano v. Hunter, 899 S.W.2d 346, 1995 Tex. App. LEXIS 897 \(Tex. App. El Paso Apr. 27, 1995, no writ\)](#).

Conditional writ of mandamus was issued where officials in a Texas town refused to hold a recall election though a recall petition and other local procedures required for a recall vote as to council members had been met. [Duffy v. Branch, 828 S.W.2d 211, 1992 Tex. App. LEXIS 1177 \(Tex. App. Dallas Mar. 20, 1992, no writ\)](#).

Governments: Local Governments: Employees & Officials

Conditional writ of mandamus was issued where officials in a Texas town refused to hold a recall election though a recall petition and other local procedures required for a recall vote as to council members had been met. [Duffy v. Branch, 828 S.W.2d 211, 1992 Tex. App. LEXIS 1177 \(Tex. App. Dallas Mar. 20, 1992, no writ\)](#).

Governments: Local Governments: Ordinances & Regulations

Conditional writ of mandamus was issued where officials in a Texas town refused to hold a recall election though a recall petition and other local procedures required for a recall vote as to council members had been met. [Duffy v. Branch, 828 S.W.2d 211, 1992 Tex. App. LEXIS 1177 \(Tex. App. Dallas Mar. 20, 1992, no writ\)](#).

Governments: State & Territorial Governments: Elections

Requirements for the Office of President did not exclude felons, but felony convictions were a relevant qualification for Texas state elective offices; consequently, there was no justiciable controversy between the Secretary of State and the candidate with regard to the proper form whose promulgation the candidate sought through mandamus. [In re Judd, No. 03-15-00595-CV, 2015 Tex. App. LEXIS 10808 \(Tex. App. Austin Oct. 21, 2015\).](#)

Political party's petition for writ of mandamus directing the trial court to vacate a temporary injunction was granted as a final decision could not be reviewed by an appellate court in advance of statutory election deadlines signaling the start of the election process. [In re Dallas Cty. Republican Party, No. 05-18-00979-CV, 2018 Tex. App. LEXIS 6986 \(Tex. App. Dallas Aug. 29, 2018\).](#)

Judicial candidate was not entitled to a writ of mandamus challenging the placement of his opponent on the ballot pursuant to a petition under Tex. [Elec. Code Ann. §§ 141.062, 172.021\(e\)](#), because the petition's circulator verified the signatories' registration status, and the party director was entitled to treat the signatures as valid. [In re Piki, No. 06-18-00003-CV, 2018 Tex. App. LEXIS 392 \(Tex. App. Texarkana Jan. 12, 2018\).](#)

If the public record established that an applicant was ineligible for office for purposes of Tex. Elec. Code Ann. § [145.003\(f\)](#) and Tex. Const. art. V, § [7](#), the chairman had a duty to declare such ineligibility, and mandamus relief was proper under Tex. Elec. Code Ann. § [273.061](#). [In re Sanchez, 366 S.W.3d 255, 2012 Tex. App. LEXIS 1940 \(Tex. App. San Antonio Mar. 9, 2012, no pet.\).](#)

Certified and sworn letter from the Texas Supreme Court clerk stated that the applicant was ineligible to practice law from November 21, 2008 until November 5, 2009 when she lifted the non-practicing attorney exemption from mandatory continuing legal education requirements, and it was not disputed that the exemption was not lifted until at least November 3, 2009, such that her ineligibility was established conclusively, for purposes of Tex. Elec. Code Ann. § [145.003\(f\)](#) and Tex. Const. art. V, § [7](#); the documents she provided from the State Bar did not rebut the Supreme Court public record, and thus the court granted conditional mandamus relief under Tex. Elec. Code Ann. § [273.061](#). [In re Sanchez, 366 S.W.3d 255, 2012 Tex. App. LEXIS 1940 \(Tex. App. San Antonio Mar. 9, 2012, no pet.\).](#)

Mandamus relief was unavailable under Tex. Elec. Code Ann. § [273.061](#), Tex. Const. art. V, and Tex. Gov't Code Ann. § [22.221](#) to remove a Texas Senate candidate from the ballot because there was no evidence that documents purporting to show his nonresident status under Tex. Const. art. III, § [6](#) and Tex. Elec. Code Ann. § [1.015\(a\)](#) had been presented under Tex. Elec. Code Ann. § [145.003\(g\)](#) to the appropriate authority. [In re Cullar, 320 S.W.3d 560, 2010 Tex. App. LEXIS 6725 \(Tex. App. Dallas Aug. 19, 2010, no pet.\).](#)

Writ of mandamus was conditionally granted, under Tex. Elec. Code Ann. § [161.009](#) and Tex. Elec. Code Ann. § [273.061](#), and a county party chair was directed to certify an applicant as a candidate for state representative, and take all necessary steps to include her name on the Democratic Party primary ballot, because the court could not locate, and the chair did not identify, any Texas Election Code provision that authorized a party chair to refuse to certify a candidate's name for placement on the ballot on the basis of the candidate's failure to designate a campaign treasurer with the Texas Ethics Commission, and the Election Code did not authorize a party chair to insert additional certification requirements beyond those prescribed in the Election Code. [In re Torry, 244 S.W.3d 849, 2008 Tex. LEXIS 67 \(Tex. 2008\).](#)

Where a member of a school board did not receive compensation for her services in accordance with Tex. Educ. Code Ann. § [11.061\(d\)](#) and did not hold a lucrative office within the meaning of Tex. Const. art. III, § [19](#), she was entitled to a writ of mandamus pursuant to Tex. Elec. Code Ann. § [273.061](#) to require party officials to certify her as a state legislative candidate in a primary election. [In re Carlisle, 209 S.W.3d 93, 2006 Tex. LEXIS 94 \(Tex. 2006\).](#)

Tex. Elec. Code § 273.061

The trial court exceeded its statutory subject-matter jurisdiction by granting non-injunctive relief in favor of the Democratic party candidate that required a particular Republican party candidate to be certified as ineligible for the county judge election, because pursuant to Tex. Elec. Code Ann. § [273.061](#), exclusive jurisdiction was vested in the courts of appeals and the supreme court. [Pollard v. Mosier, No. 01-98-00173-CV, 1998 Tex. App. LEXIS 1162 \(Tex. App. Houston 1st Dist. Feb. 18, 1998\)](#).

District court had no authority to appoint a visiting judge to conduct a hearing on the validity of an election contestant's application for a place on the ballot; thus, the appellate court refused the contestant's writ petition and refused to issue a mandamus to compel the judge to conduct an expedited hearing because the appellate court could only compel performance of a duty imposed by law. [Bejarano v. Moody, 901 S.W.2d 570, 1995 Tex. App. LEXIS 810 \(Tex. App. El Paso Apr. 13, 1995, no writ\)](#).

Supreme court may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election regardless of whether the person responsible for performing the duty is a public officer pursuant to Tex. Elec. Code Ann. § [273.061](#). [Wallis v. McDonald, 889 S.W.2d 236, 1994 Tex. LEXIS 35 \(Tex. 1994\)](#).

Mandamus will lie to compel the party chairman and executive committee to place relator's name on the ballot in a primary election if relator is entitled to be placed on the ballot, under former Tex. Rev. Civ. Stat. Ann. art. 1735a. [Painter v. Shaner, 667 S.W.2d 123, 1984 Tex. LEXIS 332 \(Tex. 1984\)](#).

Clear language of former Tex. Rev. Civ. Stat. Ann. art. 1735a (now Tex. Elec. Code Ann. §§ [273.061](#)) and 273.062 and Tex. Gov't Code Ann. § [22.221](#)) dictates a writ of mandamus will issue only upon a showing that an election officer has failed to discharge a duty imposed by statute. [Nelson v. Welch, 499 S.W.2d 927, 1973 Tex. App. LEXIS 2616 \(Tex. Civ. App. Houston 14th Dist. Sept. 19, 1973, no writ\)](#).

The appellate court did not have authority under former Tex. Rev. Civ. Stat. Ann. art. 1735a (now Tex. Elec. Code Ann. §§ [273.061](#) and [273.062](#), and Tex. Gov't Code Ann. § [22.221](#)) to grant a writ of mandamus to compel election officials to perform a duty not in accordance with the laws of the state; respondents did perform their duties in accordance with former Tex. Elect. Code art. 13.09(b), despite relators' claim that certain portions of the statute violated their constitutional rights and should have been held unconstitutional and void. [Lydick v. Chairman of Dallas County Republican Executive Committee, 456 S.W.2d 740, 1970 Tex. App. LEXIS 2036 \(Tex. Civ. App. Dallas June 5, 1970, no writ\)](#).

Challenger did not show that the registration records were conclusive or even reliable to the point that would compel a removal of the candidate from the ballot; none of the records submitted by the challenger established that the candidate was not registered to vote in Van Zandt County prior to the November 29, 2017 transfer, and the challenger did not conclusively establish the candidate's ineligibility. [In re Martin, No. 05-18-00542-CV, 2018 Tex. App. LEXIS 3345 \(Tex. App. Dallas May 10, 2018\)](#).

Governments: State & Territorial Governments: Employees & Officials

Clear language of former Tex. Rev. Civ. Stat. Ann. art. 1735a (now Tex. Elec. Code Ann. §§ [273.061](#)) and 273.062 and Tex. Gov't Code Ann. § [22.221](#)) dictates a writ of mandamus will issue only upon a showing that an election officer has failed to discharge a duty imposed by statute. [Nelson v. Welch, 499 S.W.2d 927, 1973 Tex. App. LEXIS 2616 \(Tex. Civ. App. Houston 14th Dist. Sept. 19, 1973, no writ\)](#).

Real Property Law: Zoning & Land Use: Initiative & Referendum

Because a city had no right under Tex. Loc. Gov't Code Ann. § [212.003\(a\)\(1\)](#) to legislate land use in its extraterritorial jurisdiction, an agreement pursuant to Tex. Loc. Gov't Code Ann. § [212.172\(b\)\(8\)](#) as to the use of

land in the city's extraterritorial jurisdiction was not legislative and was not subject to the referendum process; thus, mandamus relief was not available under Tex. Elec. Code Ann. § [273.061](#) to compel the city council to submit the matter to the voters. [In re Hollis, No. 03-09-00589-CV, 2009 Tex. App. LEXIS 9888 \(Tex. App. Austin Nov. 19, 2009\)](#).

Research References & Practice Aids

LAW REVIEWS

[49 Baylor L. Rev. 867](#).

TREATISES & ANALYTICAL MATERIALS

1-2 Dorsaneo, Texas Litigation Guide § [2.01](#), Pretrial Practice (Chs. 1-114), Prelitigation Planning (Chs. 1-4), Civil Courts, Dorsaneo, Texas Litigation Guide.

10-152 Dorsaneo, Texas Litigation Guide § [152.02](#), Appellate Practice (Chs. 140-154), Appellate Procedure (Chs. 145-154), Jurisdiction Over Original Proceedings, Dorsaneo, Texas Litigation Guide.

10-152 Dorsaneo, Texas Litigation Guide § [152.03](#), Appellate Practice (Chs. 140-154), Appellate Procedure (Chs. 145-154), Types of Original Proceedings, Dorsaneo, Texas Litigation Guide.

10-152 Dorsaneo, Texas Litigation Guide § [152.50](#), Appellate Practice (Chs. 140-154), Appellate Procedure (Chs. 145-154), Preliminary Determinations, Dorsaneo, Texas Litigation Guide.

10-152 Dorsaneo, Texas Litigation Guide § [152.100](#), Appellate Practice (Chs. 140-154), Appellate Procedure (Chs. 145-154), Petition in Original Proceeding, Dorsaneo, Texas Litigation Guide.

10-152 Dorsaneo, Texas Litigation Guide § [152.201](#), Appellate Practice (Chs. 140-154), Appellate Procedure (Chs. 145-154), Statutes and Rules, Dorsaneo, Texas Litigation Guide.

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End of Document

APP. B



User Name: Wukoson David

Date and Time: Sunday, September 27, 2020 10:17:00 PM CDT

Job Number: 126351615

Document (1)

1. [Tex. Elec. Code § 85.001](#)

Client/Matter: -None-

Search Terms: tex. elec. code §85.001(a)

Search Type: Natural Language

Tex. Elec. Code § 85.001

This document is current through the most recent legislation which is the 2019 Regular Session, 86th Legislature, and the 2019 election results.

Texas Statutes & Codes Annotated by LexisNexis® > Election Code > Title 7 Early Voting (Subts. A — C) > Subtitle A Early Voting (Chs. 81 — 88) > Chapter 85 Conduct of Voting By Personal Appearance (Subchs. A — C) > Subchapter A Time and Place for Voting; Election Officers (§§ 85.001 — 85.030)

Sec. 85.001. Early Voting Period.

(a) The period for early voting by personal appearance begins on the 17th day before election day and continues through the fourth day before election day, except as otherwise provided by this section.

(b) For a special runoff election for the office of state senator or state representative or for a runoff primary election, the period begins on the 10th day before election day.

(c) If the date prescribed by Subsection (a) or (b) for beginning the period is a Saturday, Sunday, or legal state holiday, the early voting period begins on the next regular business day.

(d) If because of the date for which an election is ordered it is not possible to begin early voting by personal appearance on the prescribed date, the early voting period shall begin on the earliest date practicable after the prescribed date as set by the authority ordering the election.

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

History

Enacted by Acts 1985, 69th Leg., ch. 211 (S.B. 616), § 1, effective January 1, 1986; am. Acts 1991, 72nd Leg., ch. 203 (S.B. 1234), § [2.09](#), effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 554 (S.B. 1186), § [1](#), effective September 1, 1991; am. Acts 1997, 75th Leg., ch. 115 (S.B. 292), § [1](#), effective September 1, 1997; am. Acts 2003, 78th Leg., ch. 1316 (H.B. 1695), § [22](#), effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 471 (H.B. 57), § [8](#), effective October 1, 2005; am. Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § [8](#), effective September 1, 2009.

Annotations

LexisNexis® Notes

Notes

STATUTORY NOTES

Revisor's Notes.

The revised law requires the authority ordering an election to set the earliest practicable date for beginning absentee voting by personal appearance if the voting cannot begin on the date otherwise prescribed.

Amendment Notes

2005 amendment, added (e).

2009 amendment, added “and any resulting runoff election” in (e).

Applicability.

Acts 2009, 81st Leg., ch. 1235 (S.B. 1970), § 28 provides: “The changes in law made by this Act apply only to an election ordered on or after September 1, 2009.”

Case Notes

Civil Procedure: Justiciability: Mootness**Governments: Local Governments: Elections****Civil Procedure: Justiciability: Mootness**

Candidate's appeal challenging the validity of a primary runoff election that he lost by 10 votes and seeking a new runoff election was dismissed as moot because there was insufficient time to conduct a new primary runoff election without interfering with the ordinary processes and deadlines of the general election. [Maldonado v. Johnson, No. 04-18-00599-CV, 2018 Tex. App. LEXIS 7742 \(Tex. App. San Antonio Sept. 21, 2018\)](#).

Governments: Local Governments: Elections

Candidate's appeal challenging the validity of a primary runoff election that he lost by 10 votes and seeking a new runoff election was dismissed as moot because there was insufficient time to conduct a new primary runoff election without interfering with the ordinary processes and deadlines of the general election. [Maldonado v. Johnson, No. 04-18-00599-CV, 2018 Tex. App. LEXIS 7742 \(Tex. App. San Antonio Sept. 21, 2018\)](#).

APP. C

[REDACTED]

From: Winn, Michael (CCO) <Michael.Winn@cco.hctx.net>

Sent: Thursday, September 24, 2020 5:59 PM

To: Alan Vera <alanv@tqba.com>; Obakozuwa, Rachele (CCO) <Rachele.Obakozuwa@cco.hctx.net>

Cc: Keith Nielsen <keith@keithnielsen.com>; Donna Stanart <donnastanart1@gmail.com>; Pam Joyce <pj.joyce@icloud.com>

Subject: RE: 2 Follow Up Questions

Mr. Vera,

Let me see where the vendor is on question one. Get back to you as soon as I get a response from him. Question 2 we will begin accepting mail ballots as soon as they hit voters mailboxes. I anticipate Monday that will happen, annexes will accept mail ballots from 8:00 am until 4:30 pm until early voting starts and then they will be open and accepting ballots from 7:00 am until 7:00 pm. We will keep all posted if those hours should change and follow proper posting to the public.

Michael

From: Alan Vera <alanv@tqba.com>

Sent: Thursday, September 24, 2020 5:37 PM

To: Winn, Michael (CCO) <Michael.Winn@cco.hctx.net>; Obakozuwa, Rachele (CCO) <Rachele.Obakozuwa@cco.hctx.net>

Cc: Keith Nielsen <keith@keithnielsen.com>; Donna Stanart <donnastanart1@gmail.com>; Pam Joyce <pj.joyce@icloud.com>

Subject: 2 Follow Up Questions

Mr. Winn, since we're not having a Stakeholder Meeting next week, we need to ask 2 follow-up questions on previously discussed items.

1. In the July Primary Runoff, we reported problems with the voter check-in equipment reading the newer Texas Drivers Licenses, especially those with the red cannon on the back. You said you'd have the vendor update the software to avoid that problem in November. Can you tell us if that issue has been resolved?
2. About what date do you expect the county clerk annexes will begin receiving completed mail ballots from voters delivering their ballots in person? Is there a date before which the annex offices will NOT accept mail ballots? Are they accepting them now?

Thanks for whatever information you can provide about the above.

Regards,

Alan D. Vera
Chairman, HCRP Ballot Security Committee
President/CEO
Quest Business Agency, Inc
18130 Cadbury Dr.
Houston, TX 77084
alanv@tgba.com
713-253-6569

APP. D



CHRIS HOLLINS

COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote



Who can Vote by Mail?

You are [eligible to Vote by Mail](#) in Texas if:

- (1) You are age 65 or older by Election Day, November 3, 2020;
- (2) You will be outside of Harris County for all of the Early Voting period (October 13th - October 30th) and on Election Day (November 3rd);
- (3) You are confined in jail but otherwise eligible to vote; or
- (4) You have a disability.

What qualifies as having a disability, and what does that mean in the age of coronavirus (COVID-19)?

Under Texas law, you qualify as having a disability if you are sick, pregnant, or if voting in person will create a likelihood of injury to your health.

The Texas Supreme Court has ruled that lack of immunity to COVID-19 can be considered as a factor in your decision as to whether voting in person will create a likelihood of injury to your health, but it cannot be the only factor. **You do not qualify to vote by mail as “disabled” if you have a fear of contracting COVID-19 but are otherwise healthy. To qualify, you must have an accompanying physical condition.** If you do not qualify as “disabled,” you may still qualify in one of the other categories (1-3 above).

When can I apply to Vote by Mail? Is there a deadline?

You can [apply to Vote by Mail](#) at any time, but our office must receive (not just postmarked) your application by October 23 in order to send you a mail ballot for the November General Election. You can also drop off your application in-person to any of our [County Clerk office locations](#) across Harris County.

Due to potential delays with the postal service, **PLEASE DO NOT WAIT** - [APPLY NOW!](#)

ADVISORY:



CHRIS HOLLINS

COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote



Mail delivery in Texas is currently experiencing delays. Please take this into consideration when planning to send your Vote by Mail application or ballot so that it arrives in time to be processed and counted.

Where can I get an application to Vote by Mail?

[Registered voters](#) may obtain an application by:

- Downloading it from [HarrisVotes.com/VoteByMail](https://www.harrisvotes.com/votebymail)
- Calling 713.755.6965, or
- Sending an email to bbm@cco.hctx.net

What if I'm not registered to vote?

You can check your voting status at [Vote411.org](https://www.vote411.org).

To register to vote, there are currently two Texas organizations that will assist you with your registration remotely, [Register2Vote.org](https://www.register2vote.org) and [The League of Women Voters - Houston](https://www.theleagueofwomen.org). Both of these organizations will supply you with a no contact, postage-paid voter registration card.

Do I have to apply to Vote by Mail for each election?

If you are 65 years of age or older, or have a disability, you can apply for an annual ballot – this means that your Vote by Mail option will be registered for that entire calendar year. For example, if you apply now your option will be registered for the November 2020 Election and any additional election through December 31, 2020. You will need to [reapply each calendar year](#) for an annual Vote by Mail ballot.

Can I receive assistance with filling out the Vote by Mail application?

Yes, [you may receive assistance](#) in completing and submitting your application from a friend or a relative. Your assistant MUST carefully review the instructions and complete the additional WITNESS/ASSISTANT section of the application.

ADVISORY:

Mail delivery in Texas is currently experiencing delays. Please take this into consideration when planning to send your Vote by Mail application or ballot so that it arrives in time to be processed and counted.



CHRIS HOLLINS

COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote



How do I submit my application to Vote by Mail?

An application to Vote by Mail can be submitted in any of the following manners:

- (5) Regular residential mail via United States Postal Service;
- (6) In-person drop off at any of the [Harris County Clerk Annex locations](#) during regular business hours through October 12, 2020;
- (7) Common or contract carrier (e.g., personal courier, FedEx, UPS, or other contracted mail service); or
- (8) Fax machine or e-mail. **If you choose this option, the Harris County Clerk's office MUST receive your original, completed paper application by one of the above methods (1-3) within four (4) business days of your email or fax.**

When will I get my Vote by Mail ballot?

Domestic ballots will begin to be mailed out in mid-September for those who have submitted applications by that time. If you submit an application after mid-September, your ballot will be mailed out within seven (7) days of your application being received.

Voters outside the United States: Your ballots will be mailed on or before September 26 (the 45th day before Election Day), or within seven (7) days of your application being received.

How do I return my completed ballot to the Election office? Is there a deadline?

A completed mail ballot MUST be returned to the Harris County Clerk's Office in the Official Carrier Envelope provided to you. It may be returned in any of the following manners:

- (1) Regular residential mail via United States Postal Service;
 - a. Ballot must be postmarked by 7:00 p.m. on Election Day and must be received by 5:00 p.m. on November 4 (the day after Election Day)
- (2) In-person drop off at any of the [Harris County Clerk Annex locations](#) and NRG (NRG Arena – Hall D, NRG Pkwy, Houston, TX 77054)
 - a. During regular business hours,
 - b. During Early Voting period: Mondays through Saturdays from 7 am - 7 pm, and Sundays from 12 pm – 7pm, or
 - c. On Election Day (November 3, 2020) from 7 am – 7 pm
 - d. You must present an acceptable form of [photo identification](#)



CHRIS HOLLINS

COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote



- e. If a voter does not possess and cannot reasonably obtain an acceptable form of photo identification, the voter [may show a List B identification](#) and complete a reasonable impediment declaration (RID)
 - f. Only the voter may deliver their ballot in person
- (3) Common or contract carrier; such as personal courier, or FedEx or UPS, or other contracted mail service
- a. Ballot must be received by 7:00 p.m. on Election Day
 - b. If the carrier provides receipt mark indicating a time before 7:00 p.m. on Election Day, it may be received by 5:00 p.m. on November 4 (the day after Election Day)

Are there different deadlines if I am overseas or serving in the military?

All ballots being **returned in person** must be received by 7:00 p.m. on Election Day. If you are **overseas** and returning your ballot through the mail or a common or contract carrier, our office must receive it by 5 P.M. on November 8 (five days after Election Day). If you are **serving in the military** and returning your ballot through the mail or a common or contract carrier, our office must receive it by 5 P.M. on November 9 (six days after Election Day).

ADVISORY:

Mail delivery in Texas is currently experiencing delays. Please take this into consideration when planning to send your Vote by Mail application or ballot so that it arrives in time to be processed and counted.

Will my Vote by Mail ballot count if I choose not to vote on certain issues or candidates?

Yes. All the votes you cast will be counted. You have the right to skip any measure or contest.

How does the Harris County Clerk's Office process my Vote by Mail ballot securely?

When your completed Vote by Mail ballot is received at our office, it goes through a rigorous validation system.



CHRIS HOLLINS

COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote



The Carrier Envelope is verified for signature authentication, logged, and securely stored. Your Vote by Mail ballot is not counted until voting centers close at 7:00 p.m. on Election Day. At that time, all Vote by Mail ballots will be tabulated and submitted into the official record.

How is my signature verified?

The voter's signature on the Vote by Mail ballot return envelope is compared to the signature from your Vote by Mail application and/or your voter registration application to maintain voter integrity.

When is my Vote by Mail ballot counted?

Your Vote by Mail ballot is counted when voting centers close at 7:00 p.m. on Election Day. At that time, all Vote by Mail ballots will be tabulated and submitted into the official record. The total number of votes cast by mail are included in the final tally.

ADVISORY:

Mail delivery in Texas is currently experiencing delays. Please take this into consideration when planning to send your Vote by Mail application or ballot so that it arrives in time to be processed and counted.

Can I vote in person if I received a Vote by Mail ballot? What about if I submitted a Vote by Mail application and never received a ballot?

You may vote in person even if you applied for a Vote by Mail ballot, but you can only vote once. To vote in person, take your Vote by Mail ballot to a voting center to surrender it and receive a regular ballot. If you do not have the mail ballot with you, you may still vote in person using a provisional ballot.

Can I change my vote after I Vote by Mail?

If you have returned your completed Vote by Mail Ballot, you cannot vote in person to change your vote.

Does my Vote by Mail ballot need stamps?



CHRIS HOLLINS

COUNTY CLERK

Recording the Major Events of Your Life and Protecting Your Right to Vote



Yes, you will need two standard stamps when mailing your ballot (\$1.10 total postage). If you do not have stamps, you may place your ballot in the mail without postage, and it will still be delivered to our office and counted.

How can I check to see if my Vote by Mail ballot has been mailed or received?

Please call our Election Help Line at 713.755.6965 in order to check the status of your application or ballot.

ADVISORY:

Mail delivery in Texas is currently experiencing delays. Please take this into consideration when planning to send your Vote by Mail application or ballot so that it arrives in time to be processed and counted.

The Harris County Clerk's Office and its Annexes are currently following state and local safety guidelines found at <https://www.readyharris.org/>. Although our offices are closed to the public, we are offering limited services during the Coronavirus (COVID-19) health emergency. As we work to continue to expand our services, we encourage you to use our online services available on this website.

HARRIS COUNTY CLERK'S OFFICE

FIND AN OFFICE

The Harris County Clerk's main office and annex locations are open for Assumed Names/DBA, Birth/Death Certificate, and Marriage License appointments. We remain closed to the general public.

During **2020 November Elections** these locations will accept in-person delivery of ballot by mail applications and completed ballots. See **HarrisVotes** for more information.

Office Hours for all Locations: Monday – Friday 8:00 AM – 4:30 PM

① **Downtown**

201 Caroline St., 3rd Floor
Houston, TX 77002
(713) 274-8600

② **Baytown Annex**

701 W. Baker Rd.
Baytown, TX 77521
(713) 274-2248

③ **Chimney Rock Annex**

6000 Chimney Rock Rd.
Houston, TX 77081
(713) 660-7902

④ **Clay Road Annex**

16715 Clay Rd.
Houston, TX 77084
(832) 927-7230

⑤ Clear Lake Annex

16603 Buccaneer Ln.
Houston, TX 77062
(281) 486-7250

⑥ Cypresswood Annex

6831 Cypresswood Dr.
Spring, TX 77379
(832) 927-7290

⑦ Humble Annex

7900 Will Clayton Pkwy.
Humble, TX 77338
(281) 540-1173

⑧ North Shepherd Annex

7300 N. Shepherd Dr.
Houston, TX 77091
(713) 697-5193

⑨ Pasadena Annex

101 S. Richey St.
Pasadena, TX 77506
(713) 274-6230

⑩ South Belt Annex

10851 Scarsdale Blvd.
Houston, TX 77089
(713) 274-6918

⑪ Wallisville Annex

14350 Wallisville Road, Suite 111
Houston, TX 77049
(713) 274-6925

HARRIS COUNTY CLERK'S OFFICE

DEPARTMENT DIRECTORY

HARRIS COUNTY CLERK'S ADMINISTRATION OFFICE

Harris County Civil Courthouse
201 Caroline St, 4th Floor, Suite 460
Houston, TX 77002
Phone: 713-274-8600

COUNTY CIVIL COURTS AT LAW DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 3rd Floor, Suite 300
Houston, TX 77002
Phone: 713-274-1330

COMMISSIONERS COURT DEPARTMENT

Harris County Administration Building
1001 Preston St, 6th Floor, Suite 610
Houston, TX 77002
Phone: 713-274-1300

REAL PROPERTY DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 3rd Floor, Suite 320
Houston, TX 77002
Phone: 713-274-8680

PERSONAL RECORDS DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 3rd Floor, Suite 320
Houston, TX 77002
Phone: 713-274-8686

PROBATE DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 8th Floor, Suite 800
Houston, TX 77002
Phone: 713-274-8585

INFORMATION / PUBLIC RECORDS DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 3rd Floor, Suite 310
Houston, TX 77002
Phone: 713-274-6390

RECORDS ARCHIVE DEPARTMENT

11525 Todd Street, Suite 300
Houston, TX 77055
Phone: 713-274-9691

HUMAN RESOURCES DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 4th Floor, Suite 460

Houston, TX 77002
Phone: 713-274-8600

ELECTIONS DEPARTMENT

Harris County Administration Building
1001 Preston St, 4th Floor, Suite 439
Houston, TX 77002
Phone: 713-755-5792

BALLOT BY MAIL DEPARTMENT

Harris County Administration Building
1001 Preston St, 4th Floor, Suite 440
Houston, TX 77002
Phone: 713-755-3150

VOTER OUTREACH DEPARTMENT

Harris County Civil Courthouse
201 Caroline St, 6th Floor, Suite 640
Houston, TX 77002
Phone: 713-274-9550

Email:

ccinfo@hccountyclerk.com

webcomments@hccountyclerk.com

Mailing Address:

Chris Hollins, Harris County Clerk

P.O. Box 1525

Houston, Texas 77251-1525

HARRIS COUNTY CLERK'S OFFICE

ANNEX SERVICES

The following services are available at any of our 9 annexes.

Any services not listed below are available at our Downtown office.



MARRIAGE LICENSE

A [Marriage License Certificate](#) is a government issued document declaring to the world that two people have been authorized by the law of the State to enter the 'Rites of Matrimony'. Marriage licenses have been around since the Middle Ages and are often required for filing taxes, buying a home and other important life events.



ASSUMED NAMES

An [Assumed Name](#) or Doing Business As (DBA) is the registering or securing of a company or business name, owner(s) name, and address in which the company or business entity will be located and conducting business. Any individual doing business in Harris County is required to file an Assumed Name reflecting his/her business name and the ownership of the business pursuant to [Business and Commerce Code 71.001](#) . The Harris County Clerk's Office files unincorporated, incorporated and withdrawals of Assumed Names.



RELEASE OF LIENS

The Release of Liens can be filed in person or by mail in the Real Property Department. The nine annex offices can accept the Release of Liens for filing, however it may take 5 – 7 business days for the recording to be completed based upon delivery of work to the downtown office.



VITAL RECORDS

[Vital Records](#) (birth and death certificates) are not public records. The requests for these documents can be made by immediate family members (self, parents, grandparents, legal spouse, sibling or children - all with valid identification). For additional help contact the Vital Statistics desk at 713-274-8690.



MILITARY DISCHARGE

[DD-214](#) or Military Discharge Paper is a document that is given to a person that has completed their service in the Armed Forces of the United States. This document contains pertinent information pertaining to their service and discharge from the military.

The DD-214's can be filed in person or by mail in the Personal Records Department. The nine annex offices can accept them for filing, however it may take 5 – 7 business days to be filed based upon delivery of work to the downtown office.

PUBLIC RECORDS

The annexes are able to assist customers with obtaining public records from the Harris County Clerk's Office such as Real Property (land records), County Civil, Probate, Marriage Licenses, Informal Marriage Licenses, Assumed Names, and other Miscellaneous Personal Records. The annexes are limited to only obtaining the records listed in our computer database. Depending on the date that the record was filed will determine if there is a waiting time for the copy. Any filing that is not on our computer database will have to be obtained through the Public Information Service Department.

CERTIFIED COPIES

Certified Paper Copy- \$5.00 certification fee per document & \$1.00 per page.

NON-CERTIFIED COPIES

Non-certified Paper Copy - \$1.00 per page.

CONTACT US



Harris County Clerk

Harris County Civil Courthouse

201 Caroline, Suite 310
Houston, TX 77002

(713) 274-6390



Hours Of Operation

Monday – Friday

8:00 AM – 4:30 PM



Email

ccinfo@hccountyclerk.com

Technical Support

webcomments@hccountyclerk.com



Mailing Address

P.O. Box 1525

Houston, TX 77251-1525

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APP. E




GOVERNOR GREG ABBOTT

July 27, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

2:00pm O'CLOCK

JUL 27 2020


Secretary of State

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation suspending certain statutes concerning elections on November 3, 2020.

The original of this proclamation is attached to this letter of transmittal.

Respectfully submitted,



Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

PROCLAMATION
BY THE
Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, the Commissioner of the Texas Department of State Health Services, Dr. John Hellerstedt, has determined that COVID-19 continues to represent a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, pursuant to legislative authorization under Chapter 418 of the Texas Government Code, I have issued executive orders, proclamations, and suspensions of Texas laws in response to the COVID-19 disaster, aimed at using the least restrictive means available to protect the health and safety of Texans and ensure an effective response to this disaster; and

WHEREAS, Section 41.001(a) of the Texas Election Code provides that a general or special election in this state shall be held on a uniform election date, and the next uniform election date is occurring on November 3, 2020; and

WHEREAS, I issued a proclamation on March 18, 2020, suspending Sections 41.0052(a) and (b) of the Texas Election Code and Section 49.103 of the Texas Water Code to the extent necessary to allow political subdivisions that would otherwise have held elections on May 2, 2020, to move their general and special elections for 2020 only to the November 3, 2020 uniform election date; and

WHEREAS, Texas law provides that eligible voters have a right to cast a vote in person; and

WHEREAS, as counties across Texas prepare for the upcoming elections on November 3, 2020, and establish procedures for eligible voters to exercise their right to vote in person, it is necessary that election officials implement health protocols to conduct elections safely and to protect election workers and voters; and

WHEREAS, in order to ensure that elections proceed efficiently and safely when Texans go to the polls to cast a vote in person during early voting or on election day for the November 3, 2020 elections, it is necessary to increase the number of days in which polling locations will be open during the early voting period, such that election officials can implement appropriate social distancing and safe hygiene practices; and

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:00 PM O'CLOCK

JUL 27 2020

WHEREAS, Section 85.001(a) of the Texas Election Code provides that the period for early voting by personal appearance begins 17 days before election day; and

WHEREAS, Section 86.006(a-1) of the Texas Election Code provides that a voter may deliver a marked mail ballot in person to the early voting clerk's office while the polls are open on election day; and

WHEREAS, in consultation with the Texas Secretary of State, it has become apparent that for the November 3, 2020 elections, strict compliance with the statutory requirements in Sections 85.001(a) and 86.006(a-1) of the Texas Election Code would prevent, hinder, or delay necessary action in coping with the COVID-19 disaster, and that providing additional time for early voting will provide Texans greater safety while voting in person; and

WHEREAS, pursuant to Section 418.016 of the Texas Government Code, the legislature has expressly authorized the Governor to suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster;

NOW, THEREFORE, I, GREG ABBOTT, Governor of Texas, under the authority vested in me by the Constitution and laws of the State of Texas, do hereby suspend Section 85.001(a) of the Texas Election Code to the extent necessary to require that, for any election ordered or authorized to occur on November 3, 2020, early voting by personal appearance shall begin on Tuesday, October 13, 2020, and shall continue through the fourth day before election day. I further suspend Section 86.006(a-1) of the Texas Election Code, for any election ordered or authorized to occur on November 3, 2020, to the extent necessary to allow a voter to deliver a marked mail ballot in person to the early voting clerk's office prior to and including on election day.

The Secretary of State shall take notice of this proclamation and shall transmit a copy of this order immediately to every County Judge of this state and all appropriate writs will be issued and all proper proceedings will be followed to the end that said elections may be held and their results proclaimed in accordance with law.



IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 27th day of July, 2020.

Handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor of Texas

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2:00 PM O'CLOCK

JUL 27 2020

ATTESTED BY:



RUTH R. HUGHS
Secretary of State

APP. F

AFFIDAVIT OF CHARLES F. MARLER

Charles F. Marler, appeared in person before me today and stated under oath:

“My name is Charles F. Marler. I am above the age of eighteen years and am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.”

“I formerly worked for the Federal Bureau of Investigations where I was an Investigative Specialist conducting undercover operations on espionage and terrorist targets. I am now a private investigator.”

“In December of 2019, I was approached by two individuals who witnessed activity from an illegal ballot harvesting operation in Harris County. Since that date, I have been investigating the illegal ballot harvesting operation.”

“During my investigation, a core group of names continued to surface regarding the organization and operation of the voter fraud scheme. Witnesses have stated to me that Precinct 1 Harris County Commissioner Rodney Ellis and District 13 Texas State Senator Borris Miles are leading the illegal ballot harvesting operation in Harris County, Texas. Their chief lieutenants are Houston businessman Gerald Womack and political consultant Dallas Jones who work directly under them in executing the ballot harvesting operation in Harris County, Texas.”

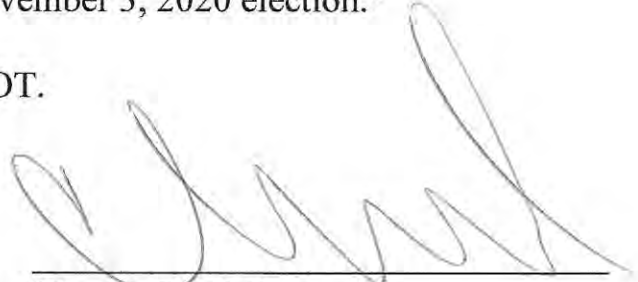
“Witnesses have shown me and described to me how the ballot harvesters take absentee ballots from the elderly in nursing homes, from the homeless, and from

unsuspecting residences' mailboxes. The ballot harvesters then complete the ballots for their preferred candidate and forge the signature of the "voter". Two witnesses stated to me that there are two individuals employed at the Harris County Clerk's Office who are aware of the illegal ballots and help facilitate and mask the processing of the ballots into the legal stream of ballots."

"I have been made aware of a law enforcement investigation in the Spring of 2020 regarding illegal ballot harvesting. Several interviews of individuals were conducted. After the interviews became public, former Harris County Clerk Diane Troutman, resigned alleging health concerns due to COVID-19. However, witnesses have told me that Ms. Troutman was arguing with Commission Rodney Ellis about the legality of the mass purchasing and mailing of mail-in ballots and that Troutman was concerned she would be included in the eventual arrest pertaining to illegal ballot harvesting. Instead of coming forward and exposing the scheme, Ms. Troutman abruptly resigned. Witnesses have stated that Commissioner Ellis was not deterred and continued to move forward with the plan to mass mail ballots and expand the illegal ballot harvesting scam. Another witness stated to me that an employee of Commission Ellis, Tyler James, has bragged that he could guarantee that the illegal ballot harvesting operation, with the help of mass mail-in ballots, could harvest 700,000 illegal ballots."

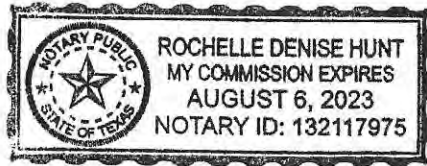
“It appears that law enforcement agencies are currently investigating these alleged crimes and I will provide them with the evidence that I have already collected and am continuing to collect. Sadly, these law enforcement agencies will be working to prosecute these crimes well after the November 3, 2020 election.”

FURTHER AFFIANT SAYETH NOT.



Charles F. Marler

SIGNED under oath before m on September 27, 2020.



Notary Public, State of Texas

APP. G

AFFIDAVIT OF MARK A. AGUIRRE

Mark A. Aguirre, appeared in person before me today and stated under oath:

“My name is Mark A. Aguirre. I am above the age of eighteen years and am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

“I am a retired captain with the Houston Police Department. I am now a private investigator.

“I am currently involved in an investigation related to a wide-ranging and fraudulent ballot harvesting scheme in Harris County intended to rig the elections in the Houston/Harris County area. This scheme involves voter fraud on a massive scale.

“Based on interviews, review of documents, and other information, I have identified the individuals in charge of the ballot harvesting scheme. These individuals includes political consultant Dallas Jones who was recently hired by the Joe Biden for President campaign to oversee their Harris County initiative, District 13 Texas State Senator Borris Miles, who is the handler of Mr. Jones, political consultant Gerald Womack, and Precinct 1 Harris County Commissioner Rodney Ellis. One of the companies these individuals are using as a front for this operation is AB Canvassing, although there are others that have been identified that we are investigating.

“I have in my possession video-taped interviews of witnesses attesting to the aforementioned people having groups of people completing thousands of absentee and mail-in ballots, including completing ballots for deceased individuals; illegally going into nursing homes, with the complicity of the nursing home staff, and filling out and forging the signatures of nursing home residents; signing up homeless individuals to vote using the ballot harvester’s address then completing the ballot and forging the homeless individual’s signature.

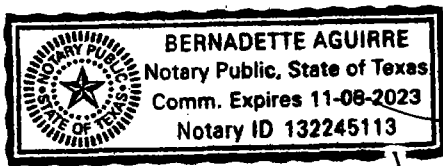
“This entire operation is being run by the elite politicians of the Democrat Party in Houston/Harris County.

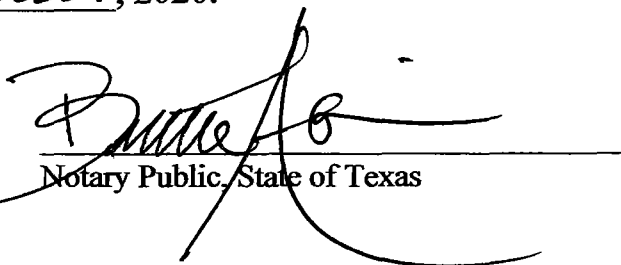
FURTHER AFFIANT SAYETH NOT.



Mark Aguirre

SIGNED under oath before me on SEPTEMBER 27, 2020.





Notary Public, State of Texas

APP. H



[HOME \(/\)](#) > [NEWS \(/NEWS\)](#) > [NEWS RELEASES \(/NEWS/RELEASES\)](#) >

[AG PAXTON ANNOUNCES JOINT PROSECUTION OF GREGG COUNTY ORGANIZED ELECTION FRAUD IN MAIL IN BALLOTING SCHEME](#)

September 24, 2020 | Press Release | [Election Integrity \(/news/categories/election-integrity\)](#)

AG Paxton Announces Joint Prosecution of Gregg County Organized Election Fraud in Mail-In Balloting Scheme

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Attorney General Ken Paxton today announced that authorities arrested Gregg County Commissioner Shannon Brown, Marlena Jackson, Charlie Burns, and DeWayne Ward on charges in connection with an organized vote harvesting scheme during the 2018 Democratic primary election. To increase the pool of ballots needed to swing the race in Brown’s favor, the group targeted young, able-bodied voters to cast ballots by mail by fraudulently claiming the voters were “disabled,” in most cases without the voters’ knowledge or consent. Under Texas election law, mail ballots based on disability are specifically reserved for those who are physically ill and cannot vote in-person as a result.

In total, the state filed 134 felony charges against the four defendants, including engaging in organized election fraud, illegal voting, fraudulent use of an application for a mail-in ballot, unlawful possession of a mail-in ballot, tampering with a governmental record, and election fraud. Penalties for these offenses range from six months in state jail to 99 years in prison.

“It is an unfortunate reality that elections can be stolen outright by mail ballot fraud. Election fraud, particularly an organized mail ballot fraud scheme orchestrated by political operatives, is an affront to democracy and results in voter disenfranchisement and corruption at the highest level,” said Attorney General Paxton. “Mail ballots are vulnerable to diversion, coercion, and influence by organized vote harvesting schemes. This case demonstrates my commitment to ensuring Texas has the most secure elections in the country, and I thank the Gregg County Sheriff and District Attorney for their continued partnership. Those who try to manipulate the outcome of elections in Texas must be held accountable.”

A grand jury returned indictments on 23 felony counts against Commissioner Brown, 97 felony counts against Marlena Jackson, eight felony counts against Charlie Burns, and six felony counts against DeWayne Ward. The Office of the Attorney General was assisted by The Gregg County Sheriff’s Office during the investigation. The Texas Attorney General will prosecute this case alongside the Gregg County District Attorney.

Read [copies of the indictments here](#)

[\(https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Indictments.pdf\)](https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Indictments.pdf)

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Related News

[AG Paxton: Texas Supreme Court Stops Harris County Clerk from Sending Millions of Unsolicited Mail-In Ballot Applications \(/news/releases/ag_paxton-texas-supreme-court-stops-harris-county-clerk-sending-millions-unsolicited-mail-ballot\)](#)

September 15, 2020 | Press Release

[AG Paxton Urges Texas Supreme Court to Stop Harris County Clerk from Sending Millions of Unsolicited Mail-In Ballot Applications \(/news/releases/ag_paxton-urges-texas-supreme-court-stop-harris-county-clerk-sending-millions-unsolicited-mail\)](#)

September 15, 2020 | Press Release

AG Paxton Files Appeal to Stop Harris County Clerk from Unlawfully Sending Millions of Unsolicited Mail-In Ballot Applications (/news/releases/ag-paxton-files-appeal-stop-harris-county-clerk-unlawfully-sending-millions-unsolicited-mail-ballot)

Attorney General Ken Paxton filed an appeal with the 14th Court of Appeals in Houston, urging the court to prevent Harris County Clerk Chris Hollins from sending over two million unsolicited mail-in ballot applications to registered voters in Harris County, many of whom do not qualify to vote by mail.

September 12, 2020 | Press Release

[See all News \(/news\)](#)

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