

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

TEXAS STATE LULAC; §
VOTO LATINO, §
Plaintiffs, §

v. §

Civil Action No: 1:21-cv-00546-LY

BRUCE ELFANT, in his official capacity as §
the Travis County Tax Assessor-Collector; §
JACQUELYN CALLANEN, in her official §
capacity as the Bexar County Elections §
Administrator; ISABEL LONGORIA, in her §
official capacity as the Harris County §
Elections Administrator; YVONNE §
RAMON, in her official capacity as the §
Hidalgo County Elections Administrator; §
MICHAEL SCARPELLO, in his official §
capacity as the Dallas County Elections §
Administrator; and LISA WISE, in her §
official capacity as El Paso County Elections §
Administrator, §

Defendants, §

and §

KEN PAXTON, in his official capacity as the §
Attorney General of Texas, LUPE C. §
TORRES, in his official capacity as Medina §
County Elections Administrator, and §
TERRIE PENDLEY, in her official capacity §
as Real County Tax Assessor-Collector, §

Intervenor-Defendants. §

**DEFENDANTS EL PASO COUNTY ELECTIONS ADMINISTRATOR LISA WISE AND
HARRIS COUNTY INTERIM ELECTIONS ADMINISTRATOR BETH STEVEN'S
OPPOSITION TO INTERVENOR-DEFENDANTS KEN PAXTON, LUPE C. TORRES,
AND TERRIE PENDLEY'S OPPOSED MOTION FOR STAY, OR IN THE
ALTERNATIVE, FOR ADMINISTRATIVE STAY, PENDING APPEAL**

I. INTRODUCTION

Defendant El Paso County Elections Administrator Lisa Wise and Defendant Harris County Interim Elections Administrator Beth Stevens oppose Intervenor-Defendants Ken Paxton, Lupe C. Torres, and Terrie Pendley’s Opposed Motion for Stay, or, in the Alternative, for Administrative Stay, Pending Appeal (“Motion for Stay”) (ECF No. 174). In their Motion for Stay, Intervenor-Defendants argue that a stay is warranted because otherwise this Court’s decision will “disrupt[] election procedures in Defendants’ and Interveners’ counties and cause[] confusion in other Texas counties and among voters.” Motion for Stay at 2. To the contrary, the Court’s summary judgment order promotes clarity and orderly election procedure, and a stay would be disruptive. Accordingly, the Motion for Stay should be denied.

II. ARGUMENT AND AUTHORITIES

As this Court has now held, and as multiple Defendants have now recognized, the enjoined provisions of S.B. 1111 *themselves* cause significant confusion, impair the orderly administration of elections, and infringe on voters’ constitutional rights. Specifically, in enjoining Texas Election Code Sections 1.015(b) (“Residence Provision”) and 10.05(c)-(d) (“Temporary-Relocation Provision”), this Court recognized that these provisions are unconstitutionally vague and disenfranchise Texas voters. *See* ECF No. 171 at 29 (“The Residence Provision is unconstitutionally vague and overbroad, barring conduct that is squarely protected by the First Amendment.”); *id.* at 31 (explaining that “[t]he court is likewise unable to discern where college students should register as the Temporary-Relocation Provision is written” and holding that “Provision does not overcome any degree of constitutional scrutiny”).

The County Defendants—including Defendant Wise—repeatedly confirmed these points through testimony and other submissions, including regarding the widespread confusion about the meaning of these provisions and how to advise voters seeking to conform their conduct to the law. *See, e.g.*, Wise Tr. 122:6-21 (Pls. App. 201 (ECF No. 141)) (testifying she did not feel prepared to respond to voters’ questions because S.B. 1111’s “definitions . . . are vague” and “mean different things to different people”); ECF No. 153 at 2 (the “lack of clarity about the meaning and sweep of the Residence [Provision] hinders Ms. Wise’s

ability to advise voters in her county and in turn hinders those same voters from exercising their constitutional rights to vote and to freedom of speech”); Callanen Tr. 83:1-5 (Pls. App. 206 (ECF No. 141)) (testifying she “wouldn’t know” how to answer questions about the meaning of the Residence Provision); Scarpello Tr. 57:20-58:4 (Pls. App. 171 (ECF No. 141)) (inability to answer questions regarding Temporary-Relocation Provision creates “a sense of frustration from the voter and sometimes confusion”); Longoria Tr. 82:13-91:2 (Pls. App. 150-159 (ECF No. 141)) (similar); *see also* Ingram Tr. 207:11-17 (Pls. App. 259 (ECF No. 141)) (admitting he was unable to explain need for voter identification requirement for voters who no longer claim to use a PO Box).

In light of this evidence, the Intervenor-Defendants’ assertion that a stay will *ameliorate* confusion among county election officials and voters is specious. The provisions of S.B. 1111 themselves have caused widespread confusion.

III. CONCLUSION

For these reasons, Defendants Wise and Stevens respectfully submit that the Court should deny Intervenor-Defendants Motion for a Stay.

Dated: August 11, 2022

Respectfully submitted,

/s/ Kathleen Hartnett

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2022, Defendant El Paso County Elections Administrator Lisa Wise's Opposition to Intervenor-Defendants Ken Paxton, Lupe C. Torres, and Terrie Pendley's Opposed Motion for Stay, Or In the Alternative, For Administrative Stay, Pending Appeal was served through the Court's CM/ECF Document Filing System upon each attorney of record.

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