

December 23, 2021

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BY E-MAIL

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Re: Cameron County's Non-Compliance with Section 8 of the National Voter Registration Act

Dear Secretary Scott, Mr. Garza:

We write to you on behalf of Voto Latino to notify you that Texas Secretary of State John B. Scott and Cameron County Department of Elections & Voter Registration Elections Administrator Remi Garza, acting in their official capacities, are improperly conducting systematic programs to remove voters within 90 days of a Federal election in violation of Section 8 of the National Voter Registration Act ("NVRA"), 52 U.S.C. § 20507 ("Section 8"). These activities must be immediately suspended in order to safeguard the legally protected rights and interests of Cameron County voters.

On November 15, 2021, Elections Administrator Remi Garza sent letters titled "Notice to Registered Voter for Proof of Citizenship" ("the Notice") to a group of registered voters in Cameron County. The Notice alleges that Cameron County received information from the Texas Secretary of State that certain registered voters in the county might not be United States citizens. These claims are based on Texas Department of Public Safety records which indicated that the contacted individuals had noted their non-citizenship status on forms to obtain Driver Licenses or Personal Identification Cards. The letter proceeds to warn that to maintain active registration status, the voter must provide proof of U.S. citizenship to the Election Administrator's office within 30 days of the date of the letter. If proof of citizenship is not timely provided, the voter's registration will be canceled. According to statements made by Mr. Garza to The Brownsville Herald, notices of this kind were sent on September 27, 2021 and November 15, 2021, and a total of 245 letters have been sent so far to voters in Cameron County.<sup>1</sup>

Mr. Garza, relying on information provided by the Secretary of State, is improperly challenging and threatening to cancel electors registered to vote in Cameron County in violation of the NVRA's

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<sup>1</sup> Laura B. Martinez, *Cameron County Asks Some Voters to Verify Eligibility*, Brownsville Herald (Dec. 6, 2021), <https://myrgv.com/local-news/2021/12/06/cameron-county-asks-some-voters-to-verify-eligibility/>.

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specific prohibition against voter removal close to an election. Section 8(c)(2)(A) of the NVRA expressly provides that “[a] State shall complete, not later than **90 days prior to the date of a primary . . . election for Federal office**, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.” 52 U.S.C. § 20507(c)(2)(A) (emphasis added). Texas is holding primary elections on Tuesday, March 1, 2022, and yet Cameron County plans to cancel the registration of hundreds of voters less than 90 days before the state’s primary election day.

Under Section 8(c)(2)(A) of the NVRA, such ongoing removal programs are clearly prohibited. In *Arcia v. Florida Secretary of State*, 772 F.3d 1335 (11th Cir. 2014), the 11th Circuit found that virtually identical efforts to remove suspected non-citizens from the voter rolls constituted a systematic program to remove ineligible voters. *Id.* at 1345-46. Because, under the NVRA, such programs are prohibited within 90 days of a Federal election, the 11th Circuit found that the Florida Secretary of State’s removal of non-citizen voters in the days leading up to Florida’s primary election violated federal law. *Id.* at 1339.

Not only is this ongoing, systematic voter removal program in clear violation of the NVRA, but it also wrongfully threatens to call into question the lawful status of hundreds of U.S. citizens who are properly registered to vote. Citizens of the United States share many common names. The process that the Texas Secretary of State has taken to identify voters for removal will result in registration cancellations of voters who simply happen to share a name or other identifying information with persons in the Texas Department of Public Safety records.

For these reasons, we call on Secretary Scott and Mr. Garza to immediately halt the implementation of this illegal voter removal program. We respectfully request that Mr. Garza promptly restore all electors who have had their voter registrations canceled for failing to provide proof of citizenship to Cameron County. And we demand that Secretary Scott and Mr. Garza immediately cease and desist from canceling registered electors from the voter registration list in violation of Section 8 of the NVRA. By failing to rectify the violations described above, Secretary Scott and Mr. Garza will continue to engage in an illegal effort to strip electors of their right to vote in violation of federal law.

This letter serves as a written notice under 52 U.S.C. § 20510(b). To avoid costly and unnecessary litigation, please advise us promptly of the steps that will be taken to remedy the above-described violations of the NVRA. Should Secretary Scott and Mr. Garza fail to remedy these violations within **20 days** of the date of this letter, Voto Latino may bring a civil action in an appropriate district court. *See* 52 U.S.C. § 20510(b)(2).

Thank you for your attention to this matter.

Very truly yours,



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