

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

DR. GEORGE RICHARDSON, ROSALIE §
WEISFELD, AUSTIN JUSTICE §
COALITION, COALITION OF TEXANS §
WITH DISABILITIES, MOVE TEXAS §
CIVIC FUND, LEAGUE OF WOMEN §
VOTERS OF TEXAS, §

Plaintiffs §

v. §

Civil Case No. 5:19-cv-00963

TEXAS SECRETARY OF STATE, TRUDY §
HANCOCK, in her official capacity as §
BRAZOS COUNTY ELECTIONS §
ADMINISTRATOR, and PERLA LARA in §
her official capacity as CITY OF MCALLEN, §
TEXAS SECRETARY, §

Defendants. §

PARTIES' JOINT ADVISORY

Pursuant to this Court's March 27, 2023 Order (Dkt. 127), Plaintiffs, Defendant Texas Secretary of State, Defendant City of McAllen Secretary, and Defendant Brazos County Elections Administrator provide the following positions:

DEFENDANT TEXAS SECRETARY OF STATE'S POSITION

Defendant Texas Secretary of State holds the position that while all the claims are technically still live, the Fifth Circuit's opinion would require the trial court to dismiss all claims against the Secretary.

PLAINTIFFS' POSITION

Plaintiffs list below the claims that remain to be resolved and the relief being sought in this case:

The following claims remain to be resolved: (1) Plaintiffs' constitutional claims against the

Brazos County Elections Administrator and the City of McAllen Secretary, and (2) Plaintiff Coalition of Texans with Disabilities' Americans with Disabilities Act of 1990 ("ADA") and Rehabilitation Act of 1973 ("RA") claims against all Defendants.

Because Plaintiffs hold the position that Texas Senate Bill 1 provides either an impracticable or discretionary notice and opportunity to cure process for mail-in ballots flagged for rejection, Plaintiffs believe their claims are not moot. Tex. Elec. Code §§ 87.0271(b)–(c), 87.0411(b)–(c); *see* Rule 28(j) Letter, *Richardson v. Tex. Sec'y of State*, No. 20-50774 (5th Cir. Feb. 22, 2022), ECF No. 203.

The relief sought by Plaintiffs is for:

1. The Court to enter declaratory judgment that the State of Texas' statutory scheme requiring the rejection of mail-in ballots with alleged signature mismatches is unconstitutional and violates the ADA and the RA.
2. The Court to permanently enjoin the Brazos County Elections Administrator and the City of McAllen Secretary from rejecting any mail-in ballot for signature mismatch reasons, or, in the alternative, require the Brazos County Elections Administrator or the City of McAllen Secretary to (a) provide **all** voters meaningful notice prior to the rejection of a mail-in ballot based on an alleged signature mismatch and (b) offer **all** voters the opportunity to cure a mail-in ballot questioned for an alleged signature mismatch.
3. The Court permanently enjoin the State of Texas, the Texas Secretary of State, the Brazos County Elections Administrator, the City of McAllen Secretary, the 254 county agencies administering elections, and all other political subdivisions administering elections from rejecting any mail-in ballot cast by a **voter with disabilities** for

signature mismatch reasons, or, in the alternative, require the State of Texas, the Texas Secretary of State, the Brazos County Elections Administrator, the City of McAllen Secretary, the 254 county agencies administering elections, and all other political subdivisions administering elections to (a) provide **all voters with disabilities** meaningful notice prior to the rejection of a mail-in ballot based on an alleged signature mismatch and (b) offer **all voters with disabilities** the opportunity to cure a mail-in ballot questioned for an alleged signature mismatch.

See Dkt. 1.

Thus, with regard to the notice and opportunity to cure process sought as relief, Plaintiffs request this Court to require the local Defendants to provide a practicable and mandatory notice and opportunity to cure process (whatever process that may be) to all mail-in voters with a ballot flagged for signature mismatch, and the Texas Secretary of State to do the same for all mail-in voters with disabilities with a ballot flagged for signature mismatch.

**DEFENDANT CITY OF McALLEN SECRETARY'S AND DEFENDANT BRAZOS
COUNTY ELECTIONS ADMINISTRATOR'S POSITION**

It is the City of McAllen Secretary's and the Brazos County Elections Administrator's position that all claims are moot both in law and fact.

CONCLUSION

The parties jointly file this advisory providing their differing positions pursuant to the Court's order.

Dated: April 10, 2023

Respectfully submitted,

/s/ Hani Mirza

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of April 2023, a true and correct copy of the foregoing *Parties' Joint Advisory* was served upon counsel of record via email and the Court's ECF system.

/s/ Hani Mirza