

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.

PLAINTIFFS’ RESPONSE TO ORDER TO SHOW CAUSE (DOC. 131)

Plaintiffs hereby respond to the Court’s Order to Show Cause, dated July 20, 2023 (Doc. 131), which ordered Plaintiffs to show cause as to why this case should not be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute or for failure to comply with a court order. In support of Plaintiffs’ response, Plaintiffs respectfully submit the Declarations of Hani Mirza and Zachary Dolling, each dated August 3, 2023 (together, “the Declarations”).

Plaintiffs respectfully request the Court to rule that Plaintiffs have shown cause that this case should not be dismissed. Plaintiffs further request this Court reinstate its June 30, 2023 docket-entry order allowing Plaintiffs to file an amended complaint, and set the deadline for that filing to a date after Defendants are required to implement the newly-adopted Senate Bill 1599 (“SB 1599”). As good cause for these requests, Plaintiffs state as follows:

1. As explained in the attached Declarations, Plaintiffs’ counsel, both the Texas Civil

Rights Project and Willkie Farr & Gallagher LLP, did not receive an ECF notification via email when the Court ordered, on June 20, 2023, that Plaintiffs may file an amended complaint, within twenty days of the order containing only the claims that remain to be resolved. Plaintiffs' counsel also did not receive an ECF notification via email when the Court entered its Order to Show Cause on July 20, 2023. Plaintiffs' counsel had been signed up to receive ECF docket alerts via email and had during the course of this litigation received ECF docket alerts for docket entries prior to the June 20, 2023 docket-entry order.

2. As set forth in the Declarations, Plaintiffs were not aware of the June 20, 2023 and July 20, 2023 docket entries until an associate attorney at Willkie Farr & Gallagher LLP, who is no longer an associate attorney at Willkie Farr & Gallagher LLP, conducted a manual docket check on July 25, 2023. The associate attorney manually checked the docket in anticipation of filing a motion to withdraw as counsel of record from the above-captioned case due to the associate attorney's planned departure from Willkie Farr & Gallagher LLP on July 28, 2023.

3. On July 26, 2023, Plaintiffs received for the first time an ECF docket notification via email of the Court's Order to Show Cause (Doc. 131) after Plaintiffs' counsel Hani Mirza alerted courtroom deputy, Sylvia Fernandez, to the issue.

4. As to the future progress of this action, the Texas legislature enacted a new law, SB 1599, that goes into effect on September 1, 2023, which amends multiple provisions of the Texas Election Code regarding the mail-in ballot process and the notice and cure process for carrier envelopes flagged for rejection by election officials. Defendant Texas Secretary of State is in the process of training local election officials on SB 1599 and its implementation, and defense counsel for the Secretary of State has informed Plaintiffs' counsel that the Secretary of State plans to issue guidance in the next few weeks regarding the implementation of SB 1599.

For these reasons, Plaintiffs respectfully request that the court rule that Plaintiffs have

shown cause that this case should not be dismissed for failure to prosecute or for failure to follow a court order. Plaintiffs further request that the Court enter a new deadline for Plaintiffs to file an amended complaint, and that the deadline for the amended complaint is set to a date after Defendants are required to implement SB 1599 on September 1, 2023, so that Plaintiffs are able to properly assess the impact of SB 1599 on their remaining claims.

Dated: August 3, 2023

Respectfully submitted,

/s/ Richard Mancino

TEXAS CIVIL RIGHTS PROJECT

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COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August 2023, a true and correct copy of the foregoing *Plaintiffs' Response to Order to Show Cause* was served upon counsel of record via email and the Court's ECF system.

/s/ Richard Mancino

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