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SUPREME COURT OF TEXAS
BLAKE A. HAWTHORNE, CLERK

Filed on Docket in Case No. 22-0997

April 7, 2023

Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Re: Status Report in *In re the State of Texas*, case No. 22-0997.

To the Justices of the Texas Supreme Court:

On March 8, 2023, the Court asked for a status report in the above-captioned matter. This matter is a petition for a writ of mandamus filed by the State of Texas on November 8, 2022. Petitioner asked this Court to “vacate or reverse” a temporary restraining order entered by the Honorable Dawn Rogers of the 334th District Court, Harris County¹, extending polling hours in Harris County by one hour (from 7 p.m. to 8 p.m.). Pet. at 3. Petitioner named Clifford Tatum, the Harris County Elections Administrator, as a respondent. Oddly, Petitioner also named as respondents Harris County Judge Lina Hidalgo and the Harris County Commissioners Court, who have no role in the opening or closing of polling locations in Harris County. Petitioner argued that the trial court erred when it extended polling hours because the Texas Election Code requires that polls must closed at 7 p.m. Pet. at 2. (citing Tex. Elec. Code § 41.031). Petitioner also filed a Motion for Temporary Relief on the same grounds. That day, this Court issued an order stating that “[t]he district court’s temporary restraining order issued today in Cause No. 2022-73765, Texas Organizing Project v. Harris County, et al., is stayed. Voting should occur only as permitted by Texas Election Code Section 41.032. Later cast votes should be segregated.” Respondent Clifford Tatum complied with this order and issued a communication to the polling locations that any remaining voting activity should cease.

¹ Judge Rogers served as the ancillary judge for Harris County district courts that day, hearing applications for temporary restraining orders. However, the application for a temporary restraining order was filed in the 295th District Court. *See Tex. Organizing Project v. Harris County, Tex., et al.*, Cause No. 2022-73765 (295th Dist. Ct., Harris Cnty.).

Respondents Clifford Tatum, Lina Hidalgo, and the Harris County Commissioners Court (“County Respondents”) now provide the following status report:

There has been no further activity in this matter since November 22, 2022. The temporary restraining order in the underlying case expired by its own terms on November 22, 2022. *See* Temporary Restraining Order dated November 8, 2022, *Tex. Organizing Project v. Harris Cnty., Tex. et al.*, Cause No. 2022-73765 (295th Dist. Ct. Harris Cnty.) (attached to the petition for writ of mandamus in this matter). While the underlying case is still pending for reasons unknown to County Respondents, there has been no activity in that case since November 2022.

There is no temporary restraining order in place regarding the polling locations in Harris County in the November 2022 election to “vacate or reverse.” Because Petitioners’ requested relief can no longer be granted, this matter should be dismissed as moot. *Elec. Reliability Council of Tex., Inc. v. Panda Power Gen. Infr. Fund, LLC*, 619 S.W.3d 628, 640 (Tex. 2021) (“Our mandamus power does not authorize us to decide moot cases or issues any more than our power of appellate review.”). In addition, Petitioner brought this original petition in this Court pursuant to Texas Government Code Section 22.002(a), which allows this Court to issue writs of mandamus against district judges. Respondent Judge Dawn Rogers is not the district judge presiding in the underlying case. Accordingly, to the extent petition still seeks mandamus relief against Judge Rogers, it must be dismissed.

Respectfully submitted,



Jonathan G.C. Fombonne
First Assistant Harris County Attorney

cc: Christopher Hilton, Office of the Texas Attorney General (Counsel for Petitioner)
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Associated Case Party: The State of Texas

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