

Nos. 22-0997, 22-1044

In the Supreme Court of Texas

In re STATE OF TEXAS,
Relator

On Petition for Writ of Mandamus
to the 334th Judicial District Court, Harris County

In re STATE OF TEXAS,
Relator

On Petition for Writ of Mandamus to the Harris County Commissioners Court,
Judge Lina Hidalgo, in her official capacity as Harris County Judge, and Clifford
Tatum, in his official capacity as Harris County Elections Administrator

STATUS REPORT

TO THE HONORABLE SUPREME COURT OF TEXAS:

In accordance with the Court's order of March 8, 2023, the State respectfully submits the following status report.

On election night, the Texas Organizing Project filed an emergency application in a Harris County district court seeking a TRO that would extend the hours of operation for polling stations in the entire county by one hour. MR.2-20.* Without notice to the State, the trial court granted the TRO and ordered that "any voters who arrive at Harris County polling locations after 7:00 p.m. and are in line at or before 8:00 p.m. are permitted to cast a provisional ballot." MR.24-27. The State

* Citations to *MR.*__ reference the mandamus record in Case No. 22-1044.

intervened, MR.21-23, and asked this Court to stay the TRO. The Court granted that request, *In re State of Texas* No. 22-0997 (Tex. Nov. 8, 2022), and ordered that: (1) “[v]oting should occur only as permitted by Texas Election Code Section 41.032” and (2) “[l]ater cast votes should be segregated.” *Id.*

Subsequently, on November 21, 2022, the State filed a petition for a writ of mandamus concerning Harris County’s canvass of the election, which would include votes cast by voters who arrived at polling places after 7:00 p.m., MR.3036, in contravention of section 41.032 of the Election Code and this Court’s November 8 order. The next day, this Court entered an order, *In re State of Texas* No. 22-1044 (Tex. Nov. 22, 2022), which required respondents to “provide the Court with a copy of the canvas results, including the separately tabulated ‘later cast votes,’ as soon as they are available.” Accordingly, on November 22, counsel for the Harris County respondents transmitted to this Court a copy of the canvassed election returns for Harris County’s November 8, 2022, general election, including the separately tabulated “later cast votes.” Respondents also concurrently filed responses to the State’s petition for a writ of mandamus. Four candidates have since filed election contests disputing, among other matters, the validity of the later-cast votes.

In the State’s view, Nos. 22-0997 and 22-1004 are moot. The underlying question—whether a district court may order polls to remain open beyond the mandatory closing provisions provided in section 41.032—remains live in these other election contests and important to the orderly conduct of elections going forward. But relief in these cases will not affect the legal rights or obligations of the State or the parties

to Nos. 22-0997 and 22-1004—and thus those cases are moot. *See Heckman v. Williamson Cty.*, 369 S.W.3d 137, 162 (Tex. 2012).

Respectfully submitted.

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CERTIFICATE OF SERVICE

On April 7, 2023, this document was served on (1) Jonathan G.C. Fombonne, lead counsel for the Harris County respondents, via Jonathan.Fombonne@harriscountytexas.gov; and (2) Hani Mirza, lead counsel for Texas Organizing Project respondents, via hani@texascivilrightsproject.org.

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CERTIFICATE OF COMPLIANCE

Microsoft Word reports that this document contains 431 words, excluding exempted text.

/s/ Judd E. Stone II
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