

CAUSE NO. 2022-79328

ERIN ELIZABETH
 LUNCEFORD

Contestant,

v.

TAMIKA "TAMI" CRAFT

Contestee.

§
 § IN THE DISTRICT COURT
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 § 164th JUDICIAL DISTRICT
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 §
 §
 § HARRIS COUNTY, TEXAS
 §
 §

**CONTESTANT ERIN ELIZABETH LUNCEFORD'S OPPOSED
 MOTION TO PERMIT INSPECTION OF UNREDACTED ELECTION
 RECORDS**

TO THE HONORABLE JUDGE OF THIS COURT:

Contestant, Erin Elizabeth Lunceford, hereby files this Opposed Motion to Permit Inspection of Unredacted Election Records, and, in support hereof, would show as follows:

BACKGROUND FACTS

1. In order to prove her case in chief, Contestant needs access to the election records for the November 8, 2022 General Election conducted in Harris County, Texas.
2. Non-party Harris County is the custodian of records for these documents.
3. Harris County is unwilling to produce these documents to either the Contestant or her two attorneys in an unredacted native format. To the contrary,

Harris County is insisting on going thru all of the election records to redact certain information prior to production.

4. In addition, because Harris County is a non-party, this governmental body is trying to shift the cost and expense of inspection and redaction on Contestant.

5. As will be shown at trial, Harris County botched this election in a variety of ways. Had they done their job properly, there would not have been any need for Contestant to file an election contest.

6. It is patently unfair to try to shift the blame and cost of production from the government to an innocent candidate, but that is precisely what Harris County is trying to accomplish.

7. In order to avoid any unfair exposure to discovery expenses, Contestant has volunteered to do the inspection and redaction work herself, along with the help of her two attorneys. If permitted to inspect the election records in their native and unredacted format, then Contestant will be able to perform the work necessary to prove her case in chief without any further delay.

8. Accordingly, Contestant moves the Court to grant this Motion and permit such inspection.

9. Both Harris County and Contestee oppose the relief sought herein.

ARGUMENT AND AUTHORITIES

10. Under Texas Rules of Civil Procedure, Rule 192.6, the Parties to this litigation have entered into a Protective Order regarding documents produced by the Harris County Election Administration Office. This Protective Order requires the Parties to limit the access to the documents according to its terms.

11. There are multiple categories of documents sought by the Contestee, but the three (3) most time sensitive categories of documents sought are: (i) Statement of Residence Forms; (ii) Provisional Ballot Affidavits; and (iii) Ballot by Mail Carrier Envelopes.

12. Non-party Harris County is correct in its assertion that each of these types of categories of documents likely contain confidential information. Under Texas Election Code Section 13.004(c), some information found on the voter registration applications are confidential (e.g, social security numbers, Texas driver's license numbers, and the number on the personal identification cards issued by the Texas Department of Public). This information is also included on the Statement of Residence and is subject to Section 13.004 (c). *See* TEX. ELEC. CODE § 63.0011. The same information on the Provisional Affidavit is considered confidential under the Texas Election Code Section 65.060. Confidential personal identification information is also included on the Ballot by Mail Carrier Envelope. *See* TEX. ELEC. CODE § 86.002.

13. In addition to the confidential information, some registered voters are able to secure confidential status, such as judges, law enforcement, victims of family violence, or victims of sexual assault which makes the address and telephone numbers of these registered voters confidential as well. TEX. ELEC. CODE § 13.004 (c).

14. Currently, the Harris County Election Administration's Office is preparing to produce all of the requested documents in a redacted format to obscure all confidential information from the Contestant. But redaction prior to production is unnecessary. The Parties have entered into a Confidentiality Order to protect the documents and not release any confidential information. There is nothing in the statutes that require Harris County to remove all confidential information prior to production when there is a protective order in place.

15. The documents that are under protective order have already been handled by multitudes of people. The Harris County Early Voting Ballot Board reviews all of the Ballot by Mail Carrier Envelopes and the Provisional Ballots. *See* TEX. ELEC. CODE §§ 65.051, 87.028, 87.041. The Presiding and/or Alternate Judge or clerks at the polling locations--many of who are members of the Harris County Republican Party—have already seen all of the information on the unredacted Statement of Residence and the Provisional Ballot Affidavits. *See* TEX. ELEC. CODE §§ 63.011, 63.0011. In the execution of their duties, the majority of the Election Administration

full-time and part-time staff have access to the voter registration files. All of the polling location clerks have access to the voters' identification information for identification purposes as they accept the voters for voting. Literally thousands of people have already had access to this confidential information. Each and every one is sworn to keep the information confidential, just as the Parties to this litigation are required to maintain confidentiality of the confidential information. In a report generated by the Harris County Election Administration's Office, the County noted that 5,498 people worked the Election Day polls for the November 8, 2022 General and Special Elections. This number does not include the personnel that worked the 99 early voting polls, the hundreds of permanent and temporary staff or the Signature Verification Committee, or the Early Voting Ballot Board. *See Harris County Election Administration, November 2022 Post Election Assessment, p.10.*

16. The documents requested by Contestant are voluminous; however, the Contestant is expecting that a small portion of the documents will be used for the purposes of this litigation. It is a huge waste of time and effort for the Harris County Election Administration's Office to redact all of the documents when only a small portion of the documents will be ultimately used.

17. In order to be efficient, expeditious with time, and conservative of resources, the Contestant requests the Court to require the Harris County Election Administrator's Office to provide the documents without redaction and allow the

Contestant and her two lawyers to review all of the documents and redact only those documents that the Contestant plans to use as evidence in this case.

WHEREFORE, PREMISES CONSIDERED, Contestant requests the Court grant this Motion and provide the relief requested herein.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Texas Rule of Civil Procedure 21a, a true and correct copy of the foregoing instrument was forwarded to all counsel of record and/or parties on January 4, 2023.

/s/ Andy Taylor
Andy Taylor

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