



County Elections Administrator; Desi Roberts (“Roberts”), in his official capacity as Bell County Elections Administrator, and Andrea Wilson (“Wilson”), in her official capacity as Llano County Elections Administrator’s (collectively, “Defendants”) Joint Motion for Summary Judgment on Mootness (Dkt. # 85); and (2) Plaintiffs Laura Pressley (“Pressley”), Robert Bagwell (“Bagwell”), Teresa Soll (“Soll”), Thomas Korkmas (“Korkmas”), and Madelon Highsmith’s (“Highsmith”) (collectively, “Plaintiffs”) Objections to Magistrate Judge’s Orders (Dkts. ## 96, 98). The Court finds a hearing on these matters is not necessary. After careful consideration of the memoranda in support of and in opposition to the motion and the objections, the Court, for the reasons that follow, **GRANTS** the motion for summary judgment, and **OVERRULES** the objections.

### BACKGROUND

Plaintiffs are registered Texas voters who challenge the in-person electronic voting systems used in Williamson, Bell, and Llano Counties (the “Counties”). (Dkt. # 32 at 10.) Plaintiffs allege that they have been required to use ballots that do not contain pre-printed consecutive numbers that preserve the secrecy and security of their ballots. (Id.) They also make allegations concerning allegedly illegal and uncertified voting system software and printer hardware that prints illegal randomly assigned unique identifier/ballot tracking numbers onto their ballots. (Id.) As a result, Plaintiffs allege the secrecy of their ballots has been

breached and their constitutional voting rights and rights to equal protection and due process have been violated. (Id. at 62.) Plaintiffs seek a declaration that Defendants’ actions in certifying and using illegal electronic pollbooks for in-person voters violate the First Amendment and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution. (Id. at 72.)

On December 4, 2024, the Court held a status conference in this case, noting that the case was potentially moot in light of at least two of the counties named in the suit having changed their in-person voting procedures. (Dkt. # 82.) The Court thereafter invited the parties to resolve this issue in a motion for summary judgment. (Dkt. # 83.) On April 24, 2025, Defendants filed a joint motion for summary judgment on the issue of mootness (Dkt. # 85). On May 8, 2025, Plaintiffs filed their response in opposition (Dkt. # 88). On May 15, 2025, Defendants filed their reply (Dkt. # 89).

#### LEGAL STANDARD

“Summary judgment is appropriate only if ‘there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.’” Vann v. City of Southaven, 884 F.3d 307, 309 (5th Cir. 2018) (citations omitted); see also Fed. R. Civ. P. 56(a). “A genuine dispute of material fact exists when the ‘evidence is such that a reasonable jury could return a verdict for the nonmoving

party.” Bennett v. Hartford Ins. Co. of Midwest, 890 F.3d 597, 604 (5th Cir. 2018) (quoting Anderson v. Liberty Lobby, 477 U.S. 242, 248 (1986)). “The moving party ‘bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of [the record] which it believes demonstrate the absence of a genuine issue of material fact.’” Nola Spice Designs, LLC v. Haydel Enter., Inc., 783 F.3d 527, 536 (5th Cir. 2015) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)).

“Where the non-movant bears the burden of proof at trial, ‘the movant may merely point to the absence of evidence and thereby shift to the non-movant the burden of demonstrating . . . that there is an issue of material fact warranting trial.’” Kim v. Hospira, Inc., 709 F. App’x 287, 288 (5th Cir. 2018) (quoting Nola Spice Designs, 783 F.3d at 536). While the movant must demonstrate the absence of a genuine issue of material fact, it does not need to negate the elements of the nonmovant’s case. Austin v. Kroger Tex., L.P., 864 F.3d 326, 335 (5th Cir. 2017) (quoting Little v. Liquid Air Corp., 37 F.3d 1069, 1076 n.16 (5th Cir. 1994)). A fact is material if it “might affect the outcome of the suit.” Thomas v. Tregre, 913 F.3d 458, 462 (5th Cir. 2019) (citing Anderson, 477 U.S. at 248).

“When the moving party has met its Rule 56(c) burden, the nonmoving party cannot survive a summary judgment motion by resting on the mere allegations of its pleadings.” Jones v. Anderson, 721 F. App’x 333, 335 (5th

Cir. 2018) (quoting Duffie v. United States, 600 F.3d 362, 371 (5th Cir. 2010)). The nonmovant must identify specific evidence in the record and articulate how that evidence supports that party's claim. Infante v. Law Office of Joseph Onwuteaka, P.C., 735 F. App'x 839, 843 (5th Cir. 2018) (quoting Willis v. Cleco Corp., 749 F.3d 314, 317 (5th Cir. 2014)). "This burden will not be satisfied by 'some metaphysical doubt as to the material facts, by conclusory allegations, by unsubstantiated assertions, or by only a scintilla of evidence.'" McCarty v. Hillstone Rest. Grp., Inc., 864 F.3d 354, 357 (5th Cir. 2017) (quoting Boudreaux v. Swift Transp. Co., 402 F.3d 536, 540 (5th Cir. 2005)). In deciding a summary judgment motion, the court draws all reasonable inferences in the light most favorable to the nonmoving party. Wease v. Ocwen Loan Servicing, LLC, 915 F.3d 987, 992 (5th Cir. 2019).

Additionally, at the summary judgment stage, evidence need not be authenticated or otherwise presented in an admissible form. See Fed. R. Civ. P. 56(c); Lee v. Offshore Logistical & Transp., LLC, 859 F.3d 353, 355 (5th Cir. 2017). However, "[u]nsubstantiated assertions, improbable inferences, and unsupported speculation are not sufficient to defeat a motion for summary judgment." United States v. Renda Marine, Inc., 667 F.3d 651, 655 (5th Cir. 2012) (quoting Brown v. City of Houston, 337 F.3d 539, 541 (5th Cir. 2003)).

## ANALYSIS

Defendants move for summary judgment on the issue of mootness in this case. (Dkt. # 85.) They argue that after Plaintiffs filed suit, the Texas Secretary of State issued Election Advisory No. 2024-21 (“Election Advisory”) in June 2024, which prohibits any county, including Williamson, Bell and Llano, from generating ballot numbers using electronic pollbook systems or using peripheral devices that directly connect to electronic pollbook systems. (Id. at 2.) Defendants assert that both Williamson and Bell counties have thus altered their in-person voting procedures in light of the Election Advisory and no longer use electronic pollbooks to randomly generate numbers on ballots. (Id.) Accordingly, Defendants assert that Plaintiff’s claims against these counties are now moot. (Id.)

Regarding Llano County, Defendants contend that it never generated ballot numbers using electronic pollbook systems or peripheral devices that directly connect to electronic pollbook systems. (Dkt. # 85 at 2.) Additionally, there is no information printed on the ballot that can be connected back to the voter and no reports that can be generated identifying any particular voter to any unique identifier. (Id. at 2–3.) Therefore, because Llano County already complied with the Election Advisory before its issuance, Defendants argue that Plaintiff’s claims are also moot against this County. (Id. at 3.) Additionally, Defendants maintain

that any claims against the Secretary of State Defendants are also moot because the claims are moot against the Counties. (Id.)

A. Texas Election Advisory No. 2024-21

On June 24, 2024, the Texas Secretary of State issued Election Advisory No. 2024-21, which makes changes to counties' in-person voting ballot marking device ballot numbering policy, including: (1) prohibiting generating "ballot numbers using electronic pollbooks"; and (2) requiring the use of "ballot numbering methods that do not involve the use of the electronic pollbook system." Tex. Sec'y of State, Election Advisory No. 2024-21 (June 24, 2024). Specifically, the Election Advisory states:

In light of recent events that have highlighted how publicly available records may be used to impact a voter's right to a secret ballot, our office has revised the standards for certification of an electronic pollbook system. Those revised standards prohibit the generation of ballot numbers using electronic pollbook systems or using peripheral devices that directly connect to electronic pollbook systems. Jurisdictions using those systems are now required to use ballot numbering methods that do not involve the use of the electronic pollbook system or peripherals that are directly connected to those systems.

Id. The reader of the Election Advisory is then directed to the revised documents on the Secretary's website. Id.

Related, Texas Election Code § 31.003 imposes a duty on the Secretary of State to "obtain and maintain uniformity in the application, operation, and interpretation" of Texas's election laws. And, "[i]n performing this duty, the

secretary shall prepare detailed and comprehensive written directives and instructions relating to and based on this code and the election laws outside this code.” Id. “The secretary shall distribute these materials to the appropriate state and local authorities having duties in the administration of these laws.”

B. Mootness Doctrine

For a federal court to exercise jurisdiction under Article III of the Constitution, a plaintiff’s interests at stake in a lawsuit must remain through the duration of the litigation. See Deutsch v. Travis Cnty. Shree Hosp., Inc., 721 F. App’x 336, 339 (5th Cir. 2018) (citing Ctr. for Individual Freedom v. Carmouche, 449 F.3d 655, 661 (5th Cir. 2006)). Generally, any occurrence that eliminates the plaintiff’s interest during the litigation renders the action moot and deprives a federal court of subject-matter jurisdiction. See Kucinich v. Tex. Democratic Party, 563 F.3d 161, 164 (5th Cir. 2009).

“Many claims that implicate election laws . . . fall within an exception to the mootness doctrine for the class of controversies capable of repetition, yet evading review.” Id. (cleaned up). Under this exception, a claim is not moot if “(1) the challenged action was in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there was a reasonable expectation that the same complaining party would be subjected to the same action again.” Id. (quoting Weinstein v. Bradford, 423 U.S. 147, 149 (1975)). Plaintiffs bear the burden of

proving both prongs. Libertarian Party v. Dardenne, 595 F.3d 215, 217 (5th Cir. 2010). And a “‘mere physical or theoretical possibility’ is not sufficient to satisfy [the second] prong of the exception.” Id. (quoting Murphy v. Hunt, 455 U.S. 478, 482 (1982)).

However, it is an exception to mootness that “a defendant’s voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.” Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc., 528 U.S. 167, 189 (2000) (quoting City of Mesquite v. Aladdin’s Castle, Inc., 455 U.S. 283, 289 (1982)). In general, a defendant’s voluntary conduct moots a case only if “it is absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.” Sossamon v. Texas, 560 F.3d 316, 325 (5th Cir. 2009), affirmed, 563 U.S. 277 (2011). But governmental entities bear a “‘lighter burden’ . . . in proving that the challenged conduct will not recur once the suit is dismissed as moot.” Stauffer v. Gearhart, 741 F.3d 574, 582 (5th Cir. 2014) (quoting Sossamon, 560 F.3d at 325). That is so because we presume that state actors, as public representatives, act in good faith. See, e.g., Amawi v. Paxton, 956 F.3d 816, 821 (5th Cir. 2020) (citing Fantasy Ranch, 459 F.3d at 564; Sossamon, 560 F.3d at 325). For this reason, and “[w]ithout evidence to the contrary, we assume that formally announced changes to official governmental policy are not mere litigation posturing.” Sossamon,

560 F.3d at 325. Among other things, the government’s ability to reimplement the statute or regulation at issue is insufficient to prove the voluntary-cessation exception. See, e.g., Fantasy Ranch, 459 F.3d at 564 (explaining that a case is moot “even if the legislature possesses the power to reenact the statute after the lawsuit is dismissed”); accord National Black Police Ass’n v. District of Columbia, 108 F.3d 346, 349 (D.C. Cir. 1997) (“[T]he mere power to reenact a challenged law is not a sufficient basis on which a court can conclude that a reasonable expectation of recurrence exists.”).

C. Williamson and Bell Counties

Plaintiffs contend their claims against Williamson and Bell Counties are not moot because the Election Advisory does not permanently prohibit these Counties from printing computer-generated random unique identifier numbers on in-person ballots. (Dkt. # 88.) Thus, Plaintiffs maintain they are not permanently protected from First and Fourteenth Amendment harms related to ballot secrecy, unequal protection of in-person ballots, and due process violations. (Id. at 10.) Plaintiffs also argue the voluntary cessation doctrine applies to these Counties, and it is capable that they will again place randomly numbered unique identifiers on in-person ballots using a computerized system, thus repeating the constitutional harms. (Id.)

Upon careful review of the record in this case, the Court finds the claims against Escobedo and Roberts to be moot. Here, Plaintiffs' asserted injuries were tied to the existence of Williamson and Bell Counties' prior use of computer-generated unique identifier numbers via electronic voting system software or hardware. However, it is undisputed that neither County now uses this method of in-person voting. Instead, the evidence in this case indicates that the Counties have complied with the Election Advisory and utilize consecutively numbered paper ballots not tied to an electronic system or pollbook. (See Dkts. ## 85-1, 85-2.) Plaintiffs' injuries asserted in their claims parallel their requested relief—Plaintiffs request declaratory and injunctive relief related to the Counties' prior use of computerized random unique identifier ballot numbers. (Dkt. # 32 at 75–76); see Freedom From Religion Found., Inc. v. Abbott, 58 F.4th 824, 832 (5th Cir. 2023). But neither County still uses this method and thus Plaintiffs' claims concerning this in-person voting method are now moot.<sup>1</sup>

The Court further finds Plaintiffs' claims that the Election Advisory does not permanently prohibit Williamson and Bell Counties prior use of

---

<sup>1</sup> Plaintiffs contend their First and Fourteenth Amendment claims related to Williamson and Bell Counties' collecting and storing voter ballot secrecy, as well as their arguments against Attorney General Opinion KP-0463 are not moot. (Dkt. # 88 at 16, 17.) The Court disagrees—these arguments are tied into their requested relief pertaining to the Counties' prior use of “permitting and using computerized random unique identifier ballot numbers,” (see Dkt. # 32 at 75) which the Counties no longer utilize.

computerized random unique identifier ballot numbers to be without merit. First, the record demonstrates that local election officials view the Secretary’s advisories as binding instructions. (See Dkt. # 84 at 3–4, Dkt. # 85-1; Dkt. # 85-2.) “In addition, [this argument] presupposes that local election officials would choose to *knowingly* violate voters’ constitutional rights and, in doing so, risk litigation, termination and/or other consequences.” Richardson v. Tex. Sec’y of State, 485 F. Supp. 3d 744, 809 (W.D. Tex. 2020) (emphasis in original), reversed on other grounds, 28 F.4th 649 (5th Cir. 2022). “It also ignores that the Secretary may order compliance and seek an enforcement action from the Attorney General in the event local officials are violating voters’ constitutional rights.” Id. (citing Tex. Elec. Code § 31.005). For these reasons, the Court does not find this case meets the second prong of the exception to mootness—that there is a reasonable expectation that the same complaining party would be subjected to the same action again.<sup>2</sup>

---

<sup>2</sup> For these same reasons, the Court also finds Plaintiffs’ argument concerning the Secretary’s Election Advisory 2019-23 to be without merit. (See Dkt. # 88 at 11.) This Advisory was issued five years prior to the June 2024 Election Advisory at issue in this case, when a county was not prohibited from using randomly generated ballot numbers from electronic systems. Plaintiffs have not provided sufficient evidence in this case that either Williamson or Bell County would return to following this outdated guidance especially in light of the new guidance issued in 2024.

Nor does the Court conclude the voluntary cessation doctrine applies in this case. As discussed, nothing in the record suggests that either Williamson or Bell Counties will reimplement printing computer-generated random unique identifier numbers on in-person ballots. Additionally, the Court must presume that state actors, as public representatives, act in good faith. See, e.g., Amawi v. Paxton, 956 F.3d 816, 821 (5th Cir. 2020). Williamson and Bell Counties did not change their in-person voting ballot numbers in a “sudden change of heart,” but in direct response to the Secretary’s Election Advisory. As such, there are fewer concerns their voluntary cessation may be “a sham for continuing possibly unlawful conduct” or avoiding litigation. Sossamon, 560 F.3d at 325; cf. Speech First, Inc. v. McCall, 138 F.4th 219, 223 (5th Cir. 2025) (finding voluntary cessation doctrine exception to mootness applied where University changed its policy only in response to district court’s pressure to do so and where University continued to defend the legality of its original policy). And the record does not evince signs of gamesmanship, litigation posturing, or bad faith by these Counties. Cf. U.S. Navy Seals 1–26 v. Biden, 72 F.4th 666, 674–75, 675 n.8 (5th Cir. 2023). As a result, under these facts, the Court concludes that Escobedo and Roberts are government actors entitled to a presumption of good faith in the voluntary-cessation analysis.

Accordingly, on the record before the Court, the Court finds that Plaintiffs' claims against Escobedo and Roberts, in their official capacities as County Election Administrators for Williamson and Bell Counties are moot and will be dismissed without prejudice.

D. Llano County

Plaintiffs assert that there is no evidence that Llano County has made a permanent policy change to moot Plaintiffs' claims. (Dkt. # 88 at 19.) Additionally, Plaintiffs argue that there is a fact issue as to whether Llano County's pollbooks reveal how voters vote. (Id. at 20.)

In arguing that the claims against Llano County are moot, Defendants present evidence that the County does not utilize an election process that generates ballot numbers using electronic pollbook systems nor uses peripheral devices that directly connect to electronic pollbook systems. The evidence indicates that in Llano County, "there are three (3) separate and independent processes taking place at the polling location – (1) verification that the voter is qualified at the poll pad; (2) the voter has been provided with the correct ballot style and the ability to mark their correct ballot style; and (3) the voter casts their ballot." (Dkt. # 85-3 at 5; Dkt. # 85-4 at 2–4.) Using this method, the Knowink Poll Pad verifies that the voter is qualified to vote and a barcode with no identifying information to the voter is printed only for the purpose of providing a correct ballot style for the voter. (Id.)

The Hart Verity Controller (“Controller”) verifies the ballot style only and confirms that it matches the ballot style provided to the voter during the verification process. (Id.) The Controller is separate and independent and is in no way tied to the Knowink Poll Pad and does not contain any identifying information of the voter. (Id.) Upon confirmation of the ballot style, “an access code is printed for the voter to utilize at the voting booth at the Hart Verity Duo (“Duo”), also known as a ballot marking device. The Controller and Duo are linked with the various ballot styles and are not linked to the voter’s information from the Poll Pad.” (Id.) Following marking their selections, the voter will print their ballot – “no data regarding their selections is saved on the Duo once the ballot has been printed and cannot be reprinted or duplicated anywhere.” (Id.) The ballot is then scanned into the Hart Verity Scanner, which accepts the ballot and deposits it into the ballot bag. (Id.) “No information printed on the ballot can be connected back to the voter as no information is saved on the Controller and Duo and no reports can be generated identifying any particular voter or unique identifier.” (Id.)

In response, Plaintiffs contend that there is a fact issue on whether or not information on Llano County’s pollbooks and Duo files reveal how voters vote. (Dkt. # 88 at 20.) For support, Plaintiffs cite the testimony of Duo’s Director of Government Affairs, Samuel Derheimer, who testified before the Texas House of

Representatives Election Committee on June 12, 2024. Testimony of Samuel Derheimer, Hart InterCivic Director of Government Affairs at the Texas House of Representatives Elections Committee, June 12, 2024 at <https://house.texas.gov/videos/20586>. Plaintiffs argue Derheimer’s testimony contradicts Defendants’ evidence that no information printed on the ballot can be connected back to a voter. (Dkt. # 88 at 20.) Plaintiffs refer the Court to Derheimer’s testimony that “there may be instances where it could be appropriate to redact the unique identifier number” that is printed on voters’ ballots by the Duo ballot marking device. Testimony of Samuel Derheimer at <https://house.texas.gov/videos/20586> (1:59:13 - 2:00:11). Derheimer testified that “when combined with other information from the election itself ... that [unique identifier] could be one data point that is combined with others that could ultimately help triangulate down to one individual voter.” Id. Plaintiffs argue that Derheimer’s testimony indicates that it is possible to reveal how voters vote in Llano County. (Dkt. # 88 at 20.)

The Court has reviewed Derheimer’s full testimony and finds that it does not support the claims as listed in Plaintiff’s live pleading. Regarding Llano County, Plaintiffs allege the following:

51. For voters in counties that use Hart InterCivic hybrid ballot marking device electronic voting systems, such as Llano County, in-person voters are forced to accept a pre-assigned unique ballot number printed on their ballot by the ballot-marking device *after* making their voting choices, and *before* it is cast into the ballot scanner.

52. Llano County uses wireless KnowInk electronic pollbooks that communicate wirelessly in real time across the county and to offsite servers and is believed to be loaded with Hart InterCivic voting system software that generates a ticket with a specifically formatted barcode that is compatible with the Hart InterCivic voting equipment. In-person voters initially check in to that pollbook.

...

55. In-person voters in Llano County are therefore forced to cast their votes on a ballot that includes a computerized unique ballot number tracking system originally generated by the electronic pollbook.<sup>12</sup> See description of the process as shown below:

RETRIEVED FROM DEMOCRACYDOCKET.COM



(Dkt. # 32 at 19–20.) Additionally, Plaintiffs assert that

107. As a result, every single *in-person* ballot cast in Williamson, Bell and Llano counties at the polls physically contains a randomly generated unique ballot number assigned to their ballot by the electronic pollbook loaded with and connected to illegal and uncertified voting system software and hardware.

(Id. at 44.) However, in contrast to Plaintiffs’ allegations, Derheimer specifically

states that:

Voter Information, that is the any personally identifiable information about the voter themselves who’s casting a ballot, ***is not shared with, captured, or stored on any component of the Hart Intercivic voting system.*** As detailed earlier from Ms. Atkins, you heard that the Secretary of State’s Office did issue a new advisory just last week. There may be limited instances where election information such as the specific date, the precinct, the polling location and the voting method may be collected and combined to identify an individual voter’s ballot through the process of elimination. So that method, of using public

records to analyze recorded information about when and how a uniquely solitary ballot is cast, and then, cross referencing that data with voter history information to narrow down to an individual voter's ballot is wholly distinct and unrelated to a County's voting system. ***In Hart's system, the information contained on the ballot itself and specifically as you guys heard earlier, on our state approved unique identifier number, has no link to the voter.*** These unique identifiers serve essential purposes, primarily they prevent fraud and maintain the integrity of the election by ensuring that a ballot cannot be cast more than one time while meeting Texas requirements for randomized ballot numbering and preserving the privacy and anonymity of the voter. And I wanna drive that point home because I think that's why you have me here, in front of you today. In Hart's voting system, ***no personally identifiable information about a voter is contained within the unique identifier number.*** Adding to the sense of integrity of the systems we deploy across the state, ***our voting systems are not capable of connecting to the Internet. Nor are Hart voting systems capable of connecting to the electronic pollbooks used to verify the eligibility and identity of the voters during the voting check-in process.*** Our devices are ***completely air gapped from the County's electronic pollbooks,*** ensuring that ***our machines are not connected to the Internet,*** in any way. Additionally, ***our voting systems and our ballots are never printed directly from electronic pollbooks -- there is no connection between an electronic pollbook and any Hart Intercivic voting system.*** **Any accusation, that Hart's voting system software is tied to or loaded on or networked or whatever phrase you wanna use to a County's electronic pollbooks is false.** In Hart's voting systems, the voting ... the voters' identities are severed from the ballot's they cast.

See <https://house.texas.gov/videos/20586> (1:52:28 - 1:55:00).

Given Derheimer's testimony that no ballots are ever connected to the internet and that the ballots are not printed from electronic pollbooks, Plaintiffs claims as alleged above must fail. Plaintiffs above citation to Derheimer's testimony occurred before he had pronounced that the machines are not connected to the internet and that its voting software was not connected to a

network. Derheimer’s testimony as cited by Plaintiffs instead concerned his answer to a question regarding whether in certain low turnout precincts triangulation information can be used from publicly available reports to determine how a voter voted, but unrelated to Llano County’s voting system. See <https://house.texas.gov/videos/20586> (1:59:13 - 2:00:11). Furthermore, Derheimer’s testimony is consistent with Defendant’s evidence regarding Llano County—that “[n]o information printed on the ballot can be connected back to the voter as no information is saved on the Controller and Duo and no reports can be generated identifying any particular voter or unique identifier.” (Dkt. # 85-3 at 5.)

Additionally, Texas Attorney General Opinion No. KP-0463 provides that “[a]ny personally identifiable information contained in election records that could tie a voter’s identity to their specific voting selections must be redacted for purposes of disclosure to protect the constitutional right to a secret ballot in Texas.” Tex. Att’y Gen. Op. No. KP-0463. Likewise, Secretary of State Election Advisory No. 2024-20 entitled “Emergency Guidance of Voter Privacy” dated June 6, 2024, provides that “[t]he purpose of this advisory is to address concerns regarding the constitutional right to a secret ballot.” Tex. Sec’y State Elec. Adv. No. 2024-20. “If an election official receives a public information request for specific election records and/or ballot images and the county election official determines that producing the records in their original form could compromise a

voter's right to a secret ballot, the official should consider additional redactions in consultation with their county or district attorney and public information coordinator." On this record, the Court finds that Plaintiffs' concerns in its live pleading regarding voter privacy in Llano County are without merit.

Upon careful review of the issues alleged in Plaintiffs' complaint, the Court finds the claims against Llano County fail to allege a live controversy. As discussed, Plaintiffs' claims rest on a theory that Llano County permits and uses computerized unique identifier ballot tracking numbering which ultimately reveals how voters vote. However, Plaintiffs have not met their burden of demonstrating that information from Llano County's pollbooks and voting systems discloses how voters cast their ballots, especially where the evidence indicates the system is not connected to the internet and no identifiable information is contained with the ballot number. Consequently, the Court will dismiss the claims against Wilson without prejudice.

E. Secretary of State Defendants

Defendants contend that because the claims against the Counties are either moot or fail to allege a live controversy, then Plaintiffs claims against Nelson and Adkins, the Secretary of State Defendants, must also be dismissed because Plaintiffs lack any legally cognizable interest in the outcome of any changes at the state level that would impact other counties in which Plaintiffs do

not reside. (Dkt. # 85 at 8.) The Court agrees. The record in this case demonstrates that on the facts alleged in Plaintiffs' complaint, no plaintiff has been injured by the *current* in-person voting systems in Williamson, Bell, and Llano Counties. Since they have not suffered any injuries themselves, Plaintiffs cannot claim to represent injuries experienced by others in counties where they do not reside or against the State if they have not been harmed there. See Lewis v. Casey, 518 U.S. 343, 356–59 (1996) (“[E]ven named plaintiffs who represent a class ‘must allege and show that they personally have been injured, not that injury has been suffered by other, unidentified members of the class to which they belong and which they purport to represent.’”) (quoting Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 40, n. 20 (1976)).

Furthermore, Plaintiffs' complaint mainly alleges claims against the State Defendants that rest on factual allegations which occurred prior to the Secretary's issuance of the June 2024 Election Advisory, and which are now moot in light of that guidance. The State Defendants no longer permit generating “ballot numbers using electronic pollbooks,” but instead require “ballot numbering methods that do not involve the use of the electronic pollbook system.” Tex. Sec'y of State, Election Advisory No. 2024-21. Therefore, Plaintiffs claims against the State Defendants which revolve around the use of ballot tracking software and

hardware, as well as electronic pollbooks, are now moot as discussed above.<sup>3</sup>

Accordingly, the Court will also dismiss the claims against the State Defendants without prejudice.

F. Objections

On the allegations contained in Plaintiffs' live pleading, the Court finds that any further discovery in this case is not warranted. Plaintiffs' complaint and attached exhibits rely on factual assertions as they existed prior to the Secretary's issuance of the June 2024 Election Advisory. (See Dkt. # 32; Dkts. ## 32-1–32-62.) The Court has determined, however, that Plaintiffs' claims resting on these allegations are either moot or fail to allege a live controversy. Accordingly, Plaintiffs' objections to the Magistrate Judge's orders denying additional discovery or for in camera review, or for a protective order are overruled. (Dkts. ## 96, 98.)

---

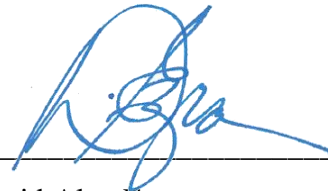
<sup>3</sup> Likewise, Plaintiffs' arguments that the State Defendants "erroneous and unconstitutional interpretation of Section 52.075" are also moot because Plaintiffs' allegations rely on the Secretary's use of "a computerized randomly and uniquely assigned ballot numbering system and tracking through voting system software that has been proven to assign, print, store, and reveal how voters []vote." (Dkt. # 32 at 64.) Again, the Secretary's Election Advisory indicates that the Secretary no longer relies on this method.

CONCLUSION

In considering the issues raised in this case, the Court will deny without prejudice Plaintiffs' claims. In doing so, the Court observes that Plaintiffs may continue to pursue similar claims regarding ballot secrecy, but not based on the facts as alleged in this case. Accordingly, the Court will **GRANT** Defendants' Joint Motion for Summary Judgment on Mootness (Dkt. # 85) and **OVERRULE** Plaintiffs' Objections to Magistrate Judge's Orders (Dkts. ## 96, 98). It is **ORDERED** that Plaintiffs' claims in case this be **DISMISSED WITHOUT PREJUDICE**. The Clerk's Office is **INSTRUCTED** to **ENTER JUDGMENT** and **CLOSE THE CASE**.

**IT IS SO ORDERED.**

**DATED:** Austin, Texas, January 20, 2026.



---

David Alan Ezra  
Senior United States District Judge