

Order entered January 20, 2018



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-18-00068-CV

IN RE STACI WILLIAMS, Relator

**Original Proceeding from the 44th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-18-00641**

ORDER

Before Justices Francis, Evans, and Schenck

Before the Court is relator's January 19, 2018 petition for writ of mandamus and request for emergency relief. Relator is a candidate in the Democratic primary election for the office of Judge of the 101st Judicial District Court of Dallas County, Texas. On January 16, 2018, relator's challenger in the general election, Michael G. Lee (together with an official of the Dallas County Republican Party as well as the party itself) filed an application for a Temporary Restraining Order asking that relator be removed from the ballot for the March 2018 Democratic Primary election. The trial court granted a temporary restraining order requiring relator's name be removed from the primary ballot. In this original proceeding, Relator seeks emergency relief and seeks a writ directing the trial court to vacate the temporary restraining order so relator's name will appear on the primary ballot.

Early voting by mail begins for the March 6, 2018 primary election on January 20, 2018. TEX. ELEC. CODE ANN. § 86.004 (West 2010). The Texas Secretary of State's 2018 election calendar sets January 20, 2018 as the deadline to mail early voting ballots for the March 6, 2018 primary election.¹ On January 5, 2018, Director of Elections Keith Ingram issued Election Advisory No. 2018-03 and recommended that all county election officers mail military and overseas ballots on Friday, January 19, 2018 to ensure compliance with the federal Military and Overseas Voter Empowerment Act.² Once absentee balloting begins, issues regarding the validity or invalidity of a candidate's application become moot and are no longer justiciable because any judgment by the reviewing court on those issues would not be rendered in time for election officials to print absentee ballots and make the ballots available to voters by the statutory deadline. *Smith v. Crawford*, 747 S.W.2d 938, 939-40 (Tex. App.—Dallas 1988, orig. proceeding) (challenge filed one day prior to beginning of absentee voting is moot; any order entered would interfere with orderly process of election); *Law v. Johnson*, 826 S.W.2d 794, 796-97 (Tex. App.—Houston [14th Dist.] 1992, orig. proceeding) (contest to candidacy is moot when contest cannot be tried and final decree issued in time for it to be complied with by election officials); *McGee v. McKaskle*, 499 S.W.2d 755, 756 (Tex. Civ. App.—Houston [1st Dist.] 1973, no writ) (dismissing temporary injunction as moot where there was insufficient time for conducting a final trial and for the unsuccessful party to exhaust appellate rights before the deadline for printing ballots).

In light of the impending deadline for the mailing of absentee ballots and the prior authority from this Court and other courts, we **GRANT** relator's request for emergency relief,

¹ <http://www.sos.state.tx.us/elections/forms/march-primary-election-calendar-2018.pdf> (last visited January 19, 2018).

² <https://www.sos.state.tx.us/elections/laws/advisory2018-03.shtml> (last visited January 19, 2018).

STAY the trial court's temporary injunction, and **ORDER** the real parties in interest to file any response to the petition for writ of mandamus by 5:00 p.m. on Monday January 22, 2018.

Nothing in this order stays or delays the Dallas County Elections Administrator from timely complying with Texas election law. This order relieves the Dallas County Elections Administrator from complying with the trial court order we have stayed.

/s/ MOLLY FRANCIS
JUSTICE

Order entered January 19, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00065-CV

IN RE RAQUEL C. JONES, Relator

Original Proceeding from the 160th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-18-00482

AMENDED ORDER

Before Justices Francis, Evans, and Schenck

Before the Court is relator's January 19, 2018 petition for writ of mandamus and request for emergency relief. Relator is a candidate in the Democratic primary election for the office of judge of the 203rd Judicial District Court of Dallas County, Texas. Relator successfully challenged her opponent Teresa Hawthorne's application for a place on the Democratic Party General Primary Ballot. That challenge resulted in Carol Donovan, Chair of the Democratic Party of Dallas County, not certifying Hawthorne's name for placement on the March 6, 2018 primary ballot. Hawthorne sought a temporary restraining order in the district court to order the Democratic Party to certify Hawthorne's name for placement on the March 6, 2018 primary ballot. The trial court verbally granted the temporary restraining order on January 19, 2018. In this original proceeding, relator seeks emergency relief and seeks a writ directing the trial court

to vacate the temporary restraining order so that Hawthorne's name will not appear on the primary ballot.

Early voting by mail begins for the March 6, 2018 primary election on January 20, 2018. TEX. ELEC. CODE ANN. § 86.004 (West 2010). The Texas Secretary of State's 2018 election calendar sets January 20, 2018 as the deadline to mail early voting ballots for the March 6, 2018 primary election.¹ On January 5, 2018, Director of Elections Keith Ingram issued Election Advisory No. 2018-03 and recommended that all county election officers mail military and overseas ballots on Friday, January 19, 2018 to ensure compliance with the federal Military and Overseas Voter Empowerment Act.² Once absentee balloting begins, issues regarding the validity or invalidity of a candidate's application become moot and are no longer justiciable because any judgment by the reviewing court on those issues would not be rendered in time for election officials to print absentee ballots and make the ballots available to voters by the statutory deadline. *Smith v. Crawford*, 747 S.W.2d 938, 939-40 (Tex. App.—Dallas 1988, orig. proceeding) (challenge filed one day prior to beginning of absentee voting is moot; any order entered would interfere with orderly process of election); *Law v. Johnson*, 826 S.W.2d 794, 796-97 (Tex. App.—Houston [14th Dist.] 1992, orig. proceeding) (contest to candidacy is moot when contest cannot be tried and final decree issued in time for it to be complied with by election officials); *McGee v. McKaskle*, 499 S.W.2d 755, 756 (Tex. Civ. App.—Houston [1st Dist.] 1973, no writ) (dismissing temporary injunction as moot where there was insufficient time for conducting a final trial and for the unsuccessful party to exhaust appellate rights before the deadline for printing ballots).

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² <https://www.sos.state.tx.us/elections/laws/advisory2018-03.shtml> (last visited January 19, 2018).

In light of the impending deadline for the mailing of absentee ballots and the prior authority from this Court and other courts, we **GRANT** relator's request for emergency relief, **STAY** the trial court's temporary restraining order, and **ORDER** the real parties in interest to file a response to the petition for writ of mandamus by 5:00 p.m. on Monday January 22, 2018.

Nothing in this order stays or delays the Dallas County Elections Administrator from timely complying with Texas election law. This order relieves the Dallas County Elections Administrator from complying with the trial court order we have stayed.

/s/ DAVID J. SCHENCK
 JUSTICE

Order entered January 19, 2018



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-18-00067-CV

IN RE ANTHONY EILAND, Relator

Original Proceeding from the 14th Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-18-00131

ORDER

Before Justices Francis, Evans, and Schenck

Before the Court is relator's January 19, 2018 petition for writ of mandamus and request for emergency relief. Relator is a candidate in the Democratic primary election for the office of Justice of the Peace Precinct 2 Place 1 of Dallas County, Texas. Relator had his application and signatures challenged with a lawsuit filed on January 4, 2018. The hearing was not set until 10:00 a.m. on January 19, 2018. At 4:15 p.m. on January 19, 2018, the Presiding Judge delivered an order granting a temporary injunction ordering relator's name be removed from the primary ballot of the March 6, 2018 Democratic Primary. In this original proceeding, Relator seeks emergency relief and seeks a writ directing the trial court to vacate the temporary injunction so Relator's name will appear on the primary ballot.

Early voting by mail begins for the March 6, 2018 primary election on January 20, 2018. TEX. ELEC. CODE ANN. § 86.004 (West 2010). The Texas Secretary of State's 2018 election

calendar sets January 20, 2018 as the deadline to mail early voting ballots for the March 6, 2018 primary election.¹ On January 5, 2018, Director of Elections Keith Ingram issued Election Advisory No. 2018-03 and recommended that all county election officers mail military and overseas ballots on Friday, January 19, 2018 to ensure compliance with the federal Military and Overseas Voter Empowerment Act.² Once absentee balloting begins, issues regarding the validity or invalidity of a candidate's application become moot and are no longer justiciable because any judgment by the reviewing court on those issues would not be rendered in time for election officials to print absentee ballots and make the ballots available to voters by the statutory deadline. *Smith v. Crawford*, 747 S.W.2d 938, 939-40 (Tex. App.—Dallas 1988, orig. proceeding) (challenge filed one day prior to beginning of absentee voting is moot; any order entered would interfere with orderly process of election); *Law v. Johnson*, 826 S.W.2d 794, 796-97 (Tex. App.—Houston [14th Dist.] 1992, orig. proceeding) (contest to candidacy is moot when contest cannot be tried and final decree issued in time for it to be complied with by election officials); *McGee v. McKaskle*, 499 S.W.2d 755, 756 (Tex. Civ. App.—Houston [1st Dist.] 1973, no writ) (dismissing temporary injunction as moot where there was insufficient time for conducting a final trial and for the unsuccessful party to exhaust appellate rights before the deadline for printing ballots).

In light of the impending deadline for the mailing of absentee ballots and the prior authority from this Court and other courts, we **GRANT** relator's request for emergency relief, **STAY** the trial court's temporary injunction, and **ORDER** the real parties in interest to file any response to the petition for writ of mandamus by 5:00 p.m. on Monday January 22, 2018.

¹ <http://www.sos.state.tx.us/elections/forms/march-primary-election-calendar-2018.pdf> (last visited January 19, 2018).

² <https://www.sos.state.tx.us/elections/laws/advisory2018-03.shtml> (last visited January 19, 2018).

Nothing in this order stays or delays the Dallas County Elections Administrator from timely complying with Texas election law. This order relieves the Dallas County Elections Administrator from complying with the trial court order we have stayed.

/s/ DAVID EVANS
 JUSTICE