

CAUSE NO. C-2483-10-B

JOEL QUINTANILLA

vs.

RENE A. RAMIREZ, HIDALGO COUNTY
JUDGE; YVONNE RAMON, ELECTION
ADMINISTRATOR

§ IN THE DISTRICT COURT
§
§ 93rd JUDICIAL DISTRICT
§
§
§
§ HIDALGO COUNTY, TEXAS

TEMPORARY INJUNCTION ORDER

After considering Plaintiffs Joel Quintanilla's application for temporary injunction order, the pleadings, the affidavits, evidence and arguments of counsel, the court finds that Plaintiff will probably prevail on the merits at trial of this cause and that Plaintiff will probably prevail at trial in establishing each and all of the following:

a. That Defendant RENE RAMIREZ, Hidalgo County Judge, does not have the authority to order that at a special election for the position of Hidalgo County Commissioner, Precinct 1 be held on November 2, 2010 allowing any duly qualified resident of Hidalgo County, Texas to place his or her name on the ballot, even though said person has not been qualified as a candidate pursuant to Chapter 202 of the Texas Election Code or Chapter 146 of the Texas Election Code.

b. That Defendant YVONNE RAMON, Hidalgo County Elections Administrator, does not have the authority to conduct the election for the position of Hidalgo County Commissioner, Precinct 1 where such election would be held as a special election on November 2, 2010 allowing any duly qualified resident of Hidalgo County, Texas to place his or her name on the ballot, even though said person has not been qualified as a candidate pursuant to Chapter 202 of the Texas Election Code or Chapter 146 of the Texas Election Code.

c. That Defendant YVONNE RAMON, Hidalgo County Elections Administrator, does not have the authority to place upon the ballot for the position of Hidalgo County Commissioner,

Precinct 1, the names of anyone other than the names of the candidates duly and legally nominated by the four recognized political parties in the State of Texas under Chapter 202 of the Texas Election Code to the position of Hidalgo County Commissioner, Precinct 1 and who have duly notified Defendant YVONNE RAMON of said election of a nominee for their respective party, except that voters may write in the name of a another candidate if said individual has qualified as a write-in candidate pursuant to Chapter 146 of the Texas Elections Code.

d. That pursuant to Chapter 202 and Section 3.004 of the Texas Election Code Defendant RENE RAMIREZ, Hidalgo County Judge, is required to order a general election on November 2, 2010 for the position of Hidalgo County Commissioner Precinct 1.

The Court further finds that harm to Plaintiff is imminent, and if the court does not issue the temporary restraining order, Plaintiff will be irreparably injured because: Defendants have ordered a special election to take place on November 2, 2010 which is contrary to the Texas Election Code; There is no basis in law for Defendant Rene A. Ramirez to have ordered a special election on November 2, 2010 for the position of Hidalgo County Commissioner Precinct 1; persons who are not authorized by Texas law are currently being allowed to submit their candidacy for Hidalgo County Commissioner, Precinct 1; Defendant Rene A. Ramirez is required to order a general election on November 2, 2010 for the position of Hidalgo County Commissioner Precinct 1 pursuant to Texas Election Code Chapter 202 and Section 3.004; and Plaintiff's rights to run in a general election on November 2, 2010 for the position of Hidalgo County Commissioner Precinct 1 are being prejudiced by Defendants' acts and omissions since Defendant Rene A. Ramirez has not ordered a general election on November 2, 2010 for the position of Hidalgo County Commissioner Precinct 1 pursuant to Texas Election Code Chapter 202 and Section 3.004 and has ordered a special election on November 2, 2010 for the position

of Hidalgo County Commissioner Precinct 1. The Court finds that the deadline for submitting a person's candidacy as an independent candidate for Hidalgo County Commissioner, Precinct 1 in the November 2, 2010 general election was on May 13, 2010 pursuant to Texas Election Code Section 202.007.

Without a temporary injunction order, Plaintiff Joel Quintanilla's rights will be immediately and irreparably harmed since: holding a special election on November 2, 2010 for Hidalgo County Commissioner, Precinct 1 would be against the law, Defendant Rene A. Ramirez has failed to order a general election on November 2, 2010 for the position of Hidalgo County Commissioner Precinct 1 pursuant to Texas Election Code Section 3.004 and Joel Quintanilla would be forced to compete against candidates who are not entitled to be named upon the ballot for the November 2, 2010 general election. The Court further finds that Plaintiff Joel Quintanilla's rights would be immediately and irreparably harmed since if a special election were held, the result of said special election would be declared null and void preventing anyone, including Plaintiff Joel Quintanilla, from filling said vacancy except A.C. Cuellar. The Court finds that Plaintiff has no adequate remedy at law. The court finds that the injury and harm to Plaintiff Joel Quintanilla, absent this temporary injunction order, will be immediate and irreparable.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant Rene Ramirez in his official capacity as the Hidalgo County Judge, and Yvonne Ramon in her official capacity as Hidalgo County Elections Administrator are hereby prohibited from:

(1) allowing persons who have not complied with the requirements of Chapter 202 of the Texas Election Code from entering their candidacy for the position of Hidalgo County Commissioner, Precinct 1;

(2) holding or conducting a special election on November 2, 2010 for the position of Hidalgo County Commissioner, Precinct 1 in violation of the Texas Elections Code; and

(3) not including Hidalgo County Commissioner Precinct One (1) on the ballot in the general election to be held on November 2, 2010.

IT IS FURTHER ORDERED that Defendant Rene Ramirez in his official capacity as the Hidalgo County Judge, and Yvonne Ramon in her official capacity as Hidalgo County Elections Administrator do all things necessary to comply with the prohibitions set out in this temporary injunction order.

IT IS FURTHER ORDERED that that trial on the merits of this cause is set for October 18, 2010 at 8:30 am/pm.

IT IS FURTHER ORDERED that Plaintiff post bond in the amount of \$ 100-00.

IT IS FURTHER ORDERED that the District Clerk shall forthwith on the filing by Plaintiff of the bond stated herein, issue a temporary injunction in conformity with the law and the terms of this order. This order shall not be effective unless and until Plaintiff executes and files with the District Clerk a bond in conformity with the law in the above stated amount.

SIGNED on this the 12 day of August, 2010.

DATE 8/12/10
By [Signature] Deputy
A true copy / certifi
LAURA HINO / DSA
District Clerk / Hidalgo County, Texas

[Signature]
PRESIDING JUDGE

Cause No: C2483-10-B
Findings of Fact

Sylvia Handy was elected Hidalgo County Commissioner Precinct One (1) in the general election of November 2008. The election for said office is statutorily mandated for the election cycle of 2012 (both primary and general elections). Sylvia Handy's County Commissioner Precinct One (1) seat expires on December 31, 2012.

While in office, Commissioner Handy was indicted by a Federal Grand Jury for alleged Federal crimes. Meanwhile, she continued in Office, as she had not been found guilty, and proceeded to act in her capacity as Precinct One Commissioner.

During November 2009, Hidalgo County Judge J. D. Salinas accepted a position with the Federal Government and therefore resigned from office as Hidalgo County Judge. Rene Ramirez was appointed by a majority of Commissioners Court to fill the vacancy left by the departure of J. D. Salinas from County Government. This appointment is for the unexpired term, which ends December 31, 2010.

On March 2, 2010, the State of Texas and Hidalgo County held the Statutorily mandated primary elections and the mandated run off elections. The Precinct One Commissioner position was not on the ballot as that position was not up for election. The position was not on any primary ballot of any qualified political party conducting an election.

Under Federal Indictment, Sylvia Handy pled guilty in the United States District Court for the Southern District of Texas, McAllen Division. Ms. Handy resigned as Hidalgo County Commissioner for Precinct One on March 9, 2010. County Judge Rene Ramirez accepted Ms. Handy's resignation on March 12, 2010.

The elective position of County Commissioner was vacated on March 12, 2010. Four days later, on March 16, 2010, Hidalgo County Judge Rene Ramirez, acting alone as authorized by Law, appointed Mr. A.C. Cuellar as Commissioner to fill the vacancy created by Ms. Handy's resignation. Said appointment to be until the next general election as per Section 87.042 of the Texas Local Government Code.

On May 20, 2010, the Hidalgo County Democratic Party lead by Party Chairperson Dolly Elizondo, convened a meeting of the Democratic Precinct Chairs for Commissioners Precinct One of Hidalgo County. Said meeting was for the specific purpose of nominating a candidate to be on the ballot as Democratic Party Nominee for the November 2010 General Election. The meeting was set and convened in accordance with the rules set out in the Election Code of the State of Texas. The procedure for this meeting was obtained from the Secretary of State. A majority of the duly elected Precinct Chairs nominated the Plaintiff, Joel Quintanilla as the Party nominee for Commissioner of Precinct One.

There have not been any allegations or evidence that the procedure utilized by the Democratic Party Chairperson, Dolly Elizondo, were improper, illegal, or tainted in any

manner. Further, there is no allegation or evidence that the advise of the Secretary of State was not followed as per the election laws of the State of Texas. The Court finds therefore, that the process of nomination utilized by the Democratic Party of Hidalgo County for placement of a candidate for Commissioner for Precinct One of Hidalgo County was open to all residents of Precinct One. Further, that the process utilized was in conformity with State Law.

On Thursday July 29, 2010, Hidalgo County Elections Administrator, Yvonne Ramon already knew that Criminal District Attorney, Rene Guerra was requesting a Special Election to fill the vacancy for Precinct One Commissioner, notwithstanding the fact that the Democratic Party Executive Committee already had a Candidate for the November General Election. Mrs. Ramon contacted the Secretary of State to express concerns that she had with respect to Mr. Guerra's pending request before Commissioners Court. Specifically, the request concerned the legality of holding a Special Election in these circumstances. The Secretary of State responded emphatically that such an election would be illegal!

On August 3, 2010, against the advise of Counsel Steve Crain with the Law Firm of Atlas and Hall of McAllen Texas and contrary to the opinion of the Secretary of State, County Judge Rene Ramirez ordered a Special Election to fill the vacancy for Commissioner for Precinct One of Hidalgo County. Judge Ramirez did this with advise of District Attorney Rene Guerra who ousted attorney Steve Crain as Counsel for the County with respect to these proceedings. Mrs. Yvonne Ramon was given the order to proceed with the special election notwithstanding that Secretary of State Hope Andrade had already advised Mrs. Ramon that such action would be illegal.

On August 4, 2010 Criminal District Attorney Rene Guerra wrote a letter to Mrs. Yvonne Ramon, Elections Administrator for Hidalgo County. Mr. Guerra reminds Mrs. Ramon that a Special Election has been called and that the County Judge had made careful consideration of all interested parties, though Mr. Guerra does not specify whom they might be. Mr. Guerra advises Mrs. Ramon that neither he nor Mrs. Ramon have ever experienced this before as it has never been done, and "it has to raise doubts and concerns in your mine (sic) as to how to proceed." (Plaintiff's exhibit #11) Mr. Guerra goes on to state the following in his letter. "If you proceed under the Judge's directives and my opinion, you are clear of any criticism should we make a mistake. I know that the Secretary of State gives you a lot of guidance; I really appreciate this, because it reduces my load. On our special situation, I need for you to follow my advice once I have reduced it to writing. Please do not ask for Mr. Crain to also give you direction, because he is not authorized to do so, when it involves election law matters. He cannot give you an opinion."

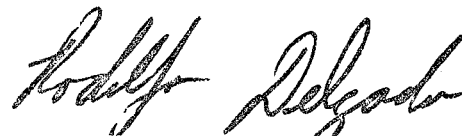
On August 4, 2010 Mrs. Ramon corresponded with Mr. Rene Guerra with reference to the Order to hold a Special Election that she had received from County Judge Rene Ramirez. Mrs. Ramon had a total of 10 questions, which she posed to Mr. Guerra as to how to proceed with the Special Election so ordered at his request. The questions are

contained in Plaintiff's exhibit #8. They all express concerns about complexities and legalities of the Special Election.

On August 5, 2010 Criminal District Attorney Rene Guerra wrote a letter to Mrs. Ramon, Elections Administrator (Plaintiff's exhibit 9) Mr. Rene Guerra states that he believes that the Order for the Special Election now voids the actions of the Democratic Party Executive Committee. Mrs. Ramon's remaining questions go essentially unanswered. Mr. Guerra does tell Mrs. Ramon to follow his advice and the Order issued by County Judge Rene Ramirez to hold a special election.

On August 5, 2010 Secretary of State Hope Andrade forwarded an opinion to the Attorney General of the State of Texas. The opinion on the Special Election issue was requested by the Attorney General to assist in the preparation of his opinion as requested by State Representative Aaron Pena, Vice Chairman of the House Election's Committee. Secretary Andrade states in pertinent part, "the unexpired term of office for the Hidalgo County Commissioner's Court seat at issue must appear on the November general election ballot in accordance with the appropriate provisions of the Code (found in Chapter 202 of Code). Any other process is contrary to state law and will result in unwarranted complexities."

The "unwarranted complexities" that Secretary of State Hope Andrade predicted have come to life in the form of this lawsuit for Injunctive Relief and Declaratory Judgment filed in the 93rd District Court of the State of Texas. Plaintiff, Joel Quintanilla has proven his Cause of Action for Injunctive relief. The Court finds that Plaintiff's application for a temporary injunction is granted. The Temporary Injunction Order incorporates the Courts Conclusions of Law.



Judge Rodolfo Delgado
93rd District Court