

No. 14-20-00627-CV

**IN THE COURT OF APPEALS
FOR THE FOURTEENTH JUDICIAL DISTRICT
HOUSTON, TEXAS**

FILED IN
14th COURT OF APPEALS
HOUSTON, TEXAS
9/13/2020 3:02:49 PM
CHRISTOPHER A. PRINE
Clerk

THE STATE OF TEXAS,
Appellant,

v.

CHRIS HOLLINS, IN HIS OFFICIAL CAPACITY AS HARRIS COUNTY CLERK,
Appellee.

On Appeal from the 127th Judicial District, Harris County

**APPELLEE CHRIS HOLLINS’S OPPOSITION TO THE STATE’S
EMERGENCY MOTION FOR RELIEF UNDER RULE 29.3
OR IN THE ALTERNATIVE FOR A WRIT OF INJUNCTION**

Appellee Christopher Hollins, in his official capacity as the Harris County Clerk, hereby opposes the State of Texas’s motion for relief under Rule 29.3 or in the alternative a writ of injunction preventing Hollins from sending vote-by-mail applications to registered voters under age 65 pending resolution of this appeal.

INTRODUCTION

This appeal presents the question of whether the Texas Election Code prohibits a county clerk, who is broadly authorized by statute to manage and conduct voting by mail, from sending vote-by-mail applications to registered voters under age 65 absent a request. The answer is clearly no.

The Texas Election Code broadly authorizes Chris Hollins, as the “early voting clerk” for Harris County, to manage and conduct early voting both in person

and by mail. Within this broad charge, the Election Code specifically requires Hollins to make “printed” vote-by-mail applications “readily and timely available,” but leaves to Hollins’s discretion how to carry out this mandate. Other provisions of the Election Code reinforce that vote-by-mail applications should be made freely and widely available, including a provision authorizing any individual or organization to distribute applications to voters, without limitation. Consistent with these provisions, a vote-by-mail application form is available on both the Harris County Clerk’s website and the Secretary of State’s website, where anyone with Internet access can download and print it in any quantity. The widespread distribution of vote-by-mail applications is consistent with the Election Code’s empowerment of Texas voters to decide for themselves whether they meet the eligibility criteria to vote by mail and, if so, whether to exercise that option.

With the County Clerk’s Office largely closed to the public and other restrictions due to the pandemic, Hollins recently announced that he will send vote-by-mail applications to all registered voters in Harris County, accompanied by detailed and accurate educational information about the eligibility criteria for voting by mail. By providing educational information and applications together, Hollins’s plan will enable each Harris County voter to make an informed decision of how to vote this November and will facilitate access to the franchise for voters who are entitled to vote by mail due to a disability or other qualifying reasons.

In response, the State of Texas brought this lawsuit seeking to block Hollins from sending vote-by-mail applications to all registered voters in Harris County. The State does not object to Hollins sending applications to voters age 65 and over. Nor does the State object to Hollins sending educational information to all voters. And the State admits that the information in Hollins's mailer is accurate and helpful to voters. But in the State's view, the Election Code prohibits Hollins from sending unsolicited applications to voters under age 65 because an unknown subset of those voters will determine that they do not meet the criteria to vote by mail.

After a full evidentiary hearing, the district court denied the State's motion for a temporary injunction, holding that the Election Code confers upon Hollins the authority and discretion as early voting clerk to send vote-by-mail applications to all registered voters in Harris County, including those under age 65. As the court found, the State cites no statute expressly prohibiting Hollins from doing so, and none exists. Instead, the State misconstrues a provision of the Election Code that requires Hollins to send an application to any voter who requests one. Under basic principles of statutory interpretation, Hollins's *duty* to send an application to a voter upon request in no way constitutes an implicit *prohibition* on sending applications to voters absent a request. The State's position would lead to absurd, nonsensical results. Under the State's theory, *any* private individual or organization can distribute vote-by-mail applications to voters, but the county

elections officer charged with managing and conducting the vote-by-mail process cannot. That makes no sense and finds no support in the Election Code.

This Court should deny the State’s motion for an injunction pending appeal. Not only has the State failed to establish any viable claim or harm, but the requested temporary injunction could moot this case. Given the various steps necessary to timely provide applications to voters, Hollins must begin work *immediately*. Printing, labeling, and sending a mailer of this size will take up to three-and-half weeks. And because the U.S. Postal Service has advised election officials to budget one week for first-class mail delivery, *see* Appellant’s Emergency Mot. for Relief (“Mot.”) 15-16 (citing Ltr. From Thomas J. Marshall to Ruth Hughs, July 30, 2020 (Opp. App. C)), Hollins should finish mailing applications by **October 6** to ensure sufficient time for (1) applications to be delivered to voters; (2) voters to complete and return the applications; (3) ballots to be delivered to voters who applied; and (4) voters to complete and return ballots. The State’s request for a temporary injunction and October 5 merits ruling would prevent Hollins from timely sending applications even if he prevails on the merits.

BACKGROUND

A. Voting By Mail

To vote by mail, a voter must first submit an application; a voter who does not submit an application cannot receive a mail ballot. Tex. Elec. Code

§ 84.001(a), (f). The Election Code permits voters to vote by mail if they meet one of several criteria. Those criteria include (1) if the voter is age 65 or older, or (2) if the voter is under age 65 and (a) will be out of the county throughout the election period, (b) is in jail but otherwise eligible to vote, or (c) has a “disability,” defined broadly as a “a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter’s health.” *Id.* §§ 82.001-82.004.

The Texas Supreme Court has held that “[t]he decision to apply to vote by mail based on a disability is the voter’s, subject to a correct understanding of the statutory definition of ‘disability.’” *In re State*, 602 S.W.3d 549, 550, 560-61 (Tex. 2020). On the definition of “disability,” the Court held that while “a voter’s lack of immunity to COVID-19, without more, is not a ‘disability’ as defined by the Election Code,” “a voter can take into consideration aspects of his health and his health history that are physical conditions in deciding whether, under the circumstances, to apply to vote by mail because of a disability.” *Id.* at 550, 561.

According to the Centers for Disease Control and Prevention, “people of any age” with certain medical conditions are at increased risk for severe illness from COVID-19. Opp. App. A (“JSOF”) ¶ 11.¹ Based on the Health of Houston

¹ Materials in the Appendix attached to the State’s motion are cited as “Mot. App.” Citations to the Appendix attached to this opposition are cited as “Opp. App.”

Survey, substantial numbers of Harris County residents ages 18 and 64 have one or more of these underlying medical conditions identified by the CDC. *Id.* ¶ 12.²

B. Hollins’s Plan to Send Vote-by-Mail Applications to Voters

As the Harris County Clerk, Hollins serves as Harris County’s “early voting clerk.” Tex. Elec. Code § 83.002(1). In this role, Hollins is broadly “in charge of and responsible for the management and conduct of” early voting in Harris County, which includes voting by mail. *Id.* § 32.071; *see also id.* §§ 83.001(a), 83.001(c), 83.002(1). Within this broad charge, the Election Code assigns Hollins certain specific duties related to voting by mail, including that Hollins “shall make printed [vote-by-mail applications] readily and timely available.” *Id.* § 1.010(a).

On August 25, 2020, Hollins announced that he would send vote-by-mail applications to all registered voters in Harris County. JSOF ¶ 2. Hollins’s proposed mailer contains detailed and accurate educational information about the eligibility criteria for voting by mail and an application. *Id.* ¶ 16. The mailer, which will be printed on 10.5” x 17” paper, is reproduced on the following page:

² The State’s motion asserts that only “6.4%” of Harris County residents under age 65 “ha[ve] a disability.” Mot. 6. But the 6.4% statistic is from federal census data that uses an entirely different—and much narrower—definition of “disability” than Texas Election Code § 82.002. *See* <https://tinyurl.com/vwvencf>. The Attorney General of Texas has long recognized that different definitions of “disability” in other contexts do not limit whether a Texas voter is entitled to vote by mail based on a “disability” under § 82.002. Op. of Att’y Gen., No. KP-0009 (Mar. 9, 2015).

Para recibir esta información o la Solicitud de Voto por Correo en Español, comuníquese con:

Để nhận được thông tin này hoặc Đơn Xin Bầu Cử Bằng Thư bằng Tiếng Việt, xin liên lạc:

要接收此信息或中英文的郵遞投票申請表格, 請聯繫:

QUESTIONS? CONTACT:
vbm@harrisvotes.com
713-755-6965



DO YOU QUALIFY TO VOTE BY MAIL?



READ THIS BEFORE APPLYING FOR A MAIL BALLOT
The Harris County Clerk's Office is sending you this application as a service to all registered voters.
However, NOT ALL VOTERS ARE ELIGIBLE TO VOTE BY MAIL.
READ THIS ADVISORY TO DETERMINE IF YOU ARE ELIGIBLE BEFORE APPLYING.



You are eligible to vote by mail if:

1. You are age 65 or older by Election Day, November 3, 2020;
2. You will be outside of Harris County for all of the Early Voting period (October 13th - October 30th) and on Election Day (November 3rd);
3. You are confined in jail but otherwise eligible to vote;
4. You have a disability. Under Texas law, you qualify as disabled if you are sick, pregnant, or if voting in person will create a likelihood of injury to your health.
 - The Texas Supreme Court has ruled that lack of immunity to COVID-19 can be considered as a factor in your decision as to whether voting in person will create a likelihood of injury to your health, but it cannot be the only factor. You can take into consideration aspects of your health and health history that are physical conditions in deciding whether, under the circumstances, voting in person will cause a likelihood of injury to your health.
 - **YOU DO NOT QUALIFY TO VOTE BY MAIL AS "DISABLED" JUST BECAUSE YOU FEAR CONTRACTING COVID-19. YOU MUST HAVE AN ACCOMPANYING PHYSICAL CONDITION. IF YOU DO NOT QUALIFY AS "DISABLED," YOU MAY STILL QUALIFY IN CATEGORIES 1 - 3 ABOVE.**
 - It's up to you to determine your health status—the Harris County Clerk's Office does not have the authority or ability to question your judgment. If you properly apply to vote by mail under any of the categories of eligibility, the Harris County Clerk's Office must send you a mail ballot.
 - To read guidance from the U.S. Centers for Disease Control and Prevention (CDC) on which medical conditions put people at increased risk of severe illness from COVID-19, please visit: www.HarrisVotes.com/CDC

If you have read this advisory and determined that you are eligible to vote by mail, please complete the attached application and return it to the Harris County Clerk's Office! Voting by mail is a secure way to vote, and it is also the safest and most convenient way to vote.

To receive CRITICAL ELECTION UPDATES, sign up at: www.harrisvotes.com/text

For Official Use Only: VUID #/County Election Pct #
1230000000/906

APPLICATION FOR BALLOT BY MAIL

CHRIS HOLLINS



- ☐ Fill in (or verify) your name and address
- ☒ Select your reason for using Ballot By Mail
- ☒ Select your Election(s)
- ☒ Sign your application, affix a stamp, and place in the mail

PROTECTING YOUR RIGHT TO VOTE

1 APPLICANT'S VOTER REGISTRATION:

Name/Address/City/State/Zip Code

JOHN Q. PUBLIC
123 MAIN STREET
HOUSTON, TEXAS 77078-0044

PHONE NUMBER:
(Optional)

PREFERRED MAILING ADDRESS
(REQUIRED FOR OUT OF COUNTY & IN JAIL):
Address/City/State/Zip Code



2 REASON FOR APPLYING FOR BALLOT BY MAIL:

- ☐ Age 65 or older
- ☐ Have a disability
- ☐ **Outside the county throughout Early Voting & Election Day (Oct. 13 - Oct. 30, 2020 & Nov. 3, 2020)
- ☐ Confined in jail

(**Dates You Will be Outside the County: / / - / / - / /)

3 ELECTIONS FOR WHICH YOU ARE APPLYING:

- ☐ ALL 2020 ELECTIONS
- ☐ November 3, 2020

SIGN YOUR APPLICATION: If you cannot sign, you must have a person witness your mark. If a person helped you fill out this application you must give the name of that person on the line immediately below your signature. In any single election, it is a Class A misdemeanor for any person to sign a ballot application as a witness for more than one applicant, unless the second and subsequent application are related to the witness as a parent, spouse, child, sibling, or grandparent. If you need additional information call the Texas Secretary of State at: 1-800-252-8683. COMMON CONTRACT CARRIER: You may submit via a common or contract carrier which is a bona fide, for-profit carrier.

4 I certify that the information given on this application is true, and I understand that giving false information on this application is a crime. SIGN HERE X

Signature of Applicant As Registered

5 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ASSISTED A VOTER WITH THIS FORM

☐ Check this box if acting as an ASSISTANT

X Signature of Assistant

PRINT FULL NAME of Assistant

Assistant's Address of Residence or Title of Elections Official

Assistant's Relationship to Applicant

6 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ARE A WITNESS FOR A VOTER WITH THIS FORM

☐ Check this box if acting as a WITNESS

X FOR WITNESS: Applicant, if unable to sign, shall make a mark in the presence of witness. If applicant is unable to make mark, the witness shall check here _____

X Signature of Witness

PRINT FULL NAME of Witness

Witness' Address of Residence or Title of Elections Official

Witness' Relationship to Applicant

In a letter dated August 27, Keith Ingram, the Secretary of State's Director of Elections, directed Hollins to "immediately halt any plan to send an application for ballot by mail to all registered voters." JSOF ¶ 3. The letter asserted that Hollins's plan to send applications to registered voters would "confuse voters about their ability to vote by mail," "may cause voters to provide false information on the form," and would "clog[] up the vote by mail infrastructure." *Id.*

On August 31, Hollins and Ingram discussed by phone Hollins's plan and Ingram's objections. JSOF ¶ 4. Ingram stated that the Secretary of State does not object to Hollins sending unsolicited vote-by-mail applications to all registered voters in Harris County age 65 and over. *Id.* ¶ 5. The Secretary of State also does not object to Hollins sending unsolicited educational information about the eligibility criteria for voting by mail to all registered voters, including those under age 65. *Id.* ¶ 7. And as both Ingram and the State's counsel have acknowledged, the educational information set forth in Hollins's mailer is accurate and would be helpful to Harris County voters in determining for themselves whether they are entitled to vote by mail this November. Mot. App. J ("Tr.") at 93:11-12. The Secretary of State objects *only* to Hollins sending unsolicited vote-by-mail applications to voters under age 65. JSOF ¶ 6.

C. Proceedings Below

The State filed this action on August 31, 2020, seeking a temporary injunction to block Hollins from sending unsolicited vote-by-mail applications to voters under age 65. The district court held an evidentiary hearing on September 9. Before the hearing, the parties submitted joint stipulated facts. Opp. App. B. Ingram and Hollins testified at the hearing.

On September 11, the district court denied the State’s motion for a temporary injunction. Mot. App. E (“Order”) at 3. The court rejected the State’s *ultra vires* claim, holding that Hollins has authority, as “early voting clerk,” to send vote-by-mail applications to all registered voters in Harris County. *Id.* The court explained that “the Election Code gives Mr. Hollins a broad grant of authority to conduct and manage mail-in voting, subject only to any express limitation on that power by the Legislature.” *Id.* And “[t]here is no code provision that limits an early voting clerk’s ability to send a vote by mail application to a registered voter.” *Id.* at 4. To the contrary, “there are a number of code provisions that demonstrate the Legislature’s desire for mail voting applications to be freely disseminated,” including § 1.010 which “mandates” that Hollins “make the applications ‘readily and timely available.’” *Id.* (quoting Tex. Elec. Code § 1.010).

The court rejected the State’s argument that § 84.012 prohibits Hollins’s plan, explaining that § 84.012 “contains no prohibitive language whatsoever” and

“does not preclude the clerk from providing an application absent a request.” *Id.* The State’s reading of § 84.012, the court concluded, “would read into the statute words that do not exist and would lead to the absurd result that any and every private individual or organization may without limit send unsolicited mail voting applications to registered voters, but that the early voting clerk, who possesses broad statutory authority to manage and conduct the election, cannot.” *Id.*

The court also rejected the State’s “invocation of section 31.005—a statute intended to *protect* Texans’ exercise of the right to vote.”³ Order at 5 (emphasis in original). In rejecting the State’s assertion that Hollins’s plan would “foster[] confusion over voter eligibility to vote by mail,” the court found that “[t]he State offered no evidence to support such a claim, and the document Mr. Hollins intends to send to voters ... accurately and thoroughly informs them of Texas law concerning mail-in voting.” *Id.* The district court further explained that under the Texas Supreme Court’s decision in *In re State*, “the decision to apply for a ballot to vote by mail is within the purview of the voter,” and “Harris County voters are capable of reviewing and understanding the document Mr. Hollins proposes to send and exercising their voting rights in compliance with Texas law.” *Id.* at 7.

³ While the State’s petition cited Texas Election Code § 31.005, the State has since abandoned any claim under § 31.005. *See* Mot. 8 n.2 (“Though the trial court also discussed a ‘Section 31.005 Claim,’ that was in error. The State has brought a single claim based on *ultra vires* action.”); Tr. 24:24-25:11 (State’s counsel stating that “we have not filed suit under 31.005” and “we’re not suing under 31.005”).

Lastly, the district court noted the “irony and inconsistency of the State’s position in this case”—in particular, that the State objects to Hollins sending vote-by-mail applications to registered voters under age 65, but not to registered voters age 65 and over. *Id.* As the court explained, “[t]he State offers no evidence or compelling explanation for its arbitrary and selective objection to the mailing of vote by mail applications to registered voters under the age of 65.” *Id.*

LEGAL STANDARDS

An injunction pending appeal is an extraordinary remedy. *See In re Patel*, 2013 WL 3422026, at *1 (Tex. App. – Houston [1st Dist.] July 2, 2013, no writ). Such relief should issue “only in situations involving manifest and urgent necessity” *Holloway v. Fifth Court of Appeals*, 767 S.W.2d 680, 684 (Tex. 1989). Petitions for a writ of injunction to the appellate court and requests for temporary relief under Rule 29.3 are governed by the same standards. *In re Lasik Plus of Texas P.A.*, 2013 WL 816674, *3 (Tex. App. – Houston [14th Dist.] March 5, 2013, no pet.). Neither form of relief will “lie in the court of appeals merely to preserve the status quo pending appeal.” *Id.* at *1. “Nor will [either form of relief] lie merely to protect a party from damage pending appeal.” *Id.*

An appellate court should not issue an injunction pending appeal absent “compelling circumstances which establish the necessity for the injunction to issue.” *Lamar Builders, Inc. v. Guardian Sav. & Loan Ass’n*, 786 S.W.2d 789, 790

(Tex. App. – Houston [1st Dist.] 1990, no writ) (addressing Rule 43(c), progenitor of Rule 29.3). Among other things, the movant also must “adduce all the facts necessary to establish a right to the relief sought.” *Id.*

To establish a right to relief here, the State must show that the district court abused its discretion in denying a temporary injunction. To obtain such temporary relief, the State needed to “prove: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.” *Tex. Black Iron, Inc. v. Arawak Energy Int’l Ltd.*, 527 S.W.3d 579, 584 (Tex. App. – Houston [14th Dist.] 2017, no pet.). “The applicant bears the burden of production to offer some evidence of each of these elements.” *Id.* “Whether to grant or deny a temporary injunction rests within the trial court’s sound discretion,” and “[o]nly if the trial court abused that discretion should [this Court] reverse an order on injunctive relief.” *Id.* at 584-85. This Court “cannot overrule the trial court’s decision unless the trial court acted unreasonably or in an arbitrary manner, without reference to guiding rules or principles.” *Ron v. Ron*, 604 S.W.3d 559 (Tex. App. – Houston [14th Dist.] 2020, no pet.).

It is particularly necessary that the State show a likelihood of success on the merits here because an injunction pending appeal could be conclusive of this matter. Given the extreme time exigencies of when vote-by-mail applications must be printed and mailed, it could be too late for Hollins to print and mail applications

by the time this appeal is resolved on the merits. Because an injunction pending appeal could irreparably harm Hollins and the voters of Harris County, the State's burden must be especially high to obtain such extraordinarily relief.

For the reasons set forth below, an injunction pending appeal is not warranted here, and such an injunction would hinder Hollins's positive efforts to ensure that voting is safe and accessible for all Harris County voters this year.

ARGUMENT

A. The District Court Correctly Determined That Hollins Has Authority and Discretion Under the Election Code to Send Applications to Voters

An injunction pending appeal is not warranted because the district court's decision rejecting the State's *ultra vires* claim is manifestly correct. A government official acts *ultra vires* only if the official "acted without legal authority or failed to perform a ministerial act." *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). In determining whether the official acted in such a manner, courts must consider the statute as a whole. *Union Carbide Corp. v. Synatzske*, 438 S.W.3d 39, 51 (Tex. 2014). Here, the district court correctly held that Hollins, as early voting clerk, may send vote-by-mail applications to all registered voters in Harris County.

1. Hollins Has Broad Authority as Early Voting Clerk to Manage and Conduct Voting by Mail and Must Make Printed Vote-by-Mail Applications "Readily and Timely Available" to Voters

In his role as Harris County's "early voting clerk," Hollins has the authority and duty to "conduct the early voting," which includes early voting in person and

by mail. Tex. Elec. Code §§ 83.001, 83.002. As early voting clerk, Hollins maintains “the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting.” *Id.* § 83.001(c). Thus, with respect to voting by mail, Hollins is “in charge of and responsible for the management and conduct of the election.” *Id.* § 32.071.

In empowering Hollins to “manage” and “conduct” early voting, the Texas Legislature has given Hollins broad authority and discretion to carry out the vote-by-mail process. The verb “conduct” broadly means “to direct or take part in the operation or management of,” and to “manage” means “[t]o exercise executive, administrative, and supervisory direction of.” Merriam-Webster’s Dictionary. Accordingly, as the district court explained, “the Election Code gives Mr. Hollins a broad grant of authority to conduct and manage mail-in voting, subject only to any express limitation on that power by the Legislature.” Order at 3.

Within his broad charge to manage and conduct early voting in Harris County, the Election Code assigns Hollins certain specific duties with respect to voting by mail. Key here, because vote-by-mail applications must be “submitted or filed” with the County Clerk’s Office, Hollins “shall make *printed* [vote-by-mail applications] *readily and timely available*.” Tex. Elec. Code § 1.010(a) (emphases added). Such printed vote-by-mail applications “shall be furnished without charge, except as otherwise provided by this code.” *Id.* § 1.010(c).

The Election Code does not specify how county clerks must make printed vote-by-mail applications “readily and timely available.” Rather, the Election Code leaves that determination to the discretion of each county clerk in exercising his or her broad statutory authority over the “management and conduct” of the vote-by-mail process. Tex. Elec. Code §§ 32.071, 83.001(a).

As Hollins testified below, the pandemic has inhibited various methods of making printed vote-by-mail applications “readily and timely available.” For instance, the Harris County Clerk’s Office building is largely closed to the public due to the pandemic. Tr. 127:13-128:9.

In this context, Hollins has chosen to make vote-by-mail applications “readily and timely available” pursuant to § 1.010(a) by sending applications to all registered voters, accompanied by detailed and accurate educational information about the eligibility criteria for voting by mail. This approach falls squarely within Hollins’s authority to manage and conduct early voting, including his discretion to determine how to make printed vote-by-mail applications “readily and timely available” to voters during the pandemic. The State’s motion remarkably ignores § 1.010(a) altogether, even though this provision was central to the district court’s decision. *See* Order at 4. The State’s silence speaks volumes.

The State’s motion also fails to address the fact that, like many other county clerks, Hollins makes the vote-by-mail application available on the County Clerk’s

Office official website, where it may be downloaded and printed in any quantity by anyone.⁴ Even though no provision of the Texas Election Code specifically deals with the posting of vote-by-mail applications on county clerk websites, the State of Texas has never objected to this routine practice. And the State offers no principled or textual distinction between this universally accepted practice, which makes the vote-by-mail application available to any Internet user, and Hollins’s plan to send applications to Harris County’s registered voters along with detailed educational information about the eligibility criteria for voting by mail.

Hollins’s plan also comports with both the letter and spirit of the Texas Supreme Court’s recent decision in *In re State*. There, the Supreme Court held that Texas law “place[s] in the hands of the voter the determination” of whether the voter is entitled to vote by mail “due to a physical condition,” *i.e.*, a “disability,” “subject to a correct understanding of the statutory definition.” 602 S.W.3d at 550, 561. The U.S. Court of Appeals for the Fifth Circuit recently confirmed that, “[a]lthough lack of immunity [to COVID-19] alone is not a Section 82.002 disability, *In re [State]* shows that voters with an underlying physical condition ... may apply to vote by mail under that section,” and thus “at-risk voters *of any age*

⁴ Harris County Clerk, Voting Information, Application for Ballot by Mail, <https://www.harrisvotes.com/Docs/VotingInfo/Ballot%20By%20Mail%20Application%20-%20English.pdf>; *see also, e.g.*, Carson County Clerk, Application for Ballot by Mail, <http://www.co.carson.tx.us/upload/page/1423/-APPLICATION%20FOR%20BALLOT%20BY%20MAIL%201.pdf>.

can utilize the Texas Election Code’s disability provision to mitigate the risk of COVID-19.” *Tex. Democratic Party v. Abbott*, No. 20-50407, 2020 WL 5433917, at *16 (5th Cir. Sept. 10, 2020) (emphasis added).

Hollins’s plan does precisely what the Texas Supreme Court held is appropriate—it “place[s] in the hands of the voter” detailed and accurate information that enables the voter to determine whether she is entitled to vote by mail along with the application to complete if the voter determines that she meets the eligibility criteria. In distributing such educational information and applications to voters in a single packet, Hollins is empowering Harris County voters to make their own determinations of whether they can and will apply to vote by mail, exactly as the Texas Supreme Court and the Legislature intended.

2. The Texas Election Code Permits Any Individual or Organization to Distribute Unsolicited Vote-by-Mail Applications to Voters

In addition to § 1.010’s mandate to make printed vote-by-mail applications “readily and timely available,” other provisions of the Texas Election Code further “demonstrate the Legislature’s desire for mail voting applications to be freely disseminated.” Order at 4. Notably, § 84.013 broadly authorizes *any* individual or organization to distribute vote-by-mail applications to voters, without limitation.

See id. Specifically, Section 84.013 provides:

The secretary of state shall maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in

reasonable quantities without charge to individuals or organizations requesting them for distribution to voters.

This provision expressly permits any “individuals or organizations” to “distribut[e]” vote-by-mail applications to “voters,” full stop. Section 84.013 in fact facilitates widespread distribution of vote-by-mail applications to voters by requiring the Secretary of State to make application forms available “without charge.” And neither § 84.013 nor any other provision of the Election Code restricts this “distribution” only to voters who are entitled to vote by mail, or only to voters who requested an application, or only to voters age 65 and over.

The Election Code does not define “individual” or “organization.” “When, as here, a statute does not define a term, we typically apply the term’s common, ordinary meaning, derived first from applicable dictionary definitions, unless a contrary meaning is apparent from the statute’s language.” *City of Fort Worth v. Rylie*, 602 S.W.3d 459, 466 (Tex. 2020). Hollins is an “individual” in any ordinary sense, and the County Clerk’s Office is an “organization.”

Even setting aside whether § 84.013 applies directly to Hollins or the County Clerk’s Office, the fact that the Election Code permits any private individual, political campaign, or other organization to send unsolicited vote-by-mail applications to voters under age 65 strongly undercuts the State’s position that the Code *prohibits* Hollins from doing so. Political organizations like the Republican Party of Texas have been broadly distributing vote-by-mail applications this

election cycle. Mot. App. A Ex. 5 (mailer attached to Hollins tweet). The Republican Party of Texas’s mailer instructs voters to “[m]ake a plan today to fill out one of the attached Absentee Ballot Request forms,” and contains no guidance or information for voters about the legal definition of “disability.” *See id.*

Numerous third-party organizations also participate in vote-by-mail application programs, with the encouragement of federal, state and local organizations such as non-profits or political campaigns. *See* Mot. App. A Ex. 10 (de Leon Decl.)

As the district court explained, the State’s position “would lead to the absurd result that any and every private individual or organization may without limit send unsolicited mail voting applications to registered voters, but that the early voting clerk, who possesses broad statutory authority to manage and conduct the election, cannot.” Order at 5. That would make no sense and cannot be correct. *See El Paso Educ. Initiative, Inc. v. Amex Properties, LLC*, 602 S.W.3d 521, 531 (Tex. 2020) (courts should avoid “absurd or nonsensical results”).

3. No Provision of Texas Law Forbids Hollins from Sending Unsolicited Vote-by-Mail Applications to Voters Under Age 65

As the district court correctly found, “[t]here is no code provision that limits an early voting clerk’s ability to send a vote by mail application to a registered voter.” Order at 4. Indeed, the State itself has admitted that no such provision exists. Tr. 80:24-81:4. Instead, the State contends that Texas Election Code § 84.012 *implicitly* prohibits Hollins from sending unsolicited applications to voters

under age 65. Section 84.012 provides: “The early voting clerk shall mail without charge an appropriate official application form for an early voting ballot to each applicant requesting the clerk to send the applicant an application form.”

The States badly misconstrues § 84.012. On its face, § 84.012 imposes a duty on Hollins to take an affirmative act—namely, if a voter requests a vote-by-mail application, Hollins “shall” mail them one. This interpretation is clear from both the plain text of § 84.012 and the Code Construction Act, which governs the meaning of terms in the Election Code. *See* Tex. Elec. Code § 1.003. Under the Code Construction Act, the word “[s]hall” imposes a duty.” Tex. Gov’t Code § 311.016(2). By using the word “shall” in § 84.012, the Legislature imposed a duty on Hollins to send an application to any voter who requests one. But that duty in no way constitutes an implicit prohibition on Hollins sending applications to voters who have not requested them. If the Legislature had wanted to impose such a prohibition, it could easily have done so, but did not. *See, e.g., id.* § 311.016(5) (“‘May not’ imposes a prohibition and is synonymous with ‘shall not.’”); Tex. Elec. Code § 13.046(c) (“A high school deputy registrar may distribute registration application forms to ... students and employees of the school only.”).

The State’s interpretation of “shall” in § 84.012 as imposing an implicit prohibition also would lead to bizarre results under other provisions of the Election Code. For instance, § 85.067 provides that, if a county clerk maintains a website,

the branch voting schedule “shall be posted on” the clerk’s website. This provision surely does not prohibit a county clerk from also posting public notice elsewhere, such as in newspapers. But under the State’s view that a duty also constitutes an implicit prohibition, § 85.067 would oddly bar county clerks from publicizing the branch voting schedule anywhere other than their websites. Additional examples abound. *See, e.g.*, Tex. Elec. Code §§ 86.001(c), 86.0015, 86.002, 86.006.

In sum, as the district court explained, “Section 84.012 contains no prohibitive language whatsoever, but rather, requires the early voting clerk to take affirmative action in the instance a voter does request an application to vote by mail.” Order at 4. “That the clerk must provide an application upon request does not preclude the clerk from providing an application absent a request.” *Id.* Contrary to settled principles of statutory interpretation, “the State’s interpretation of section 84.012 ... would read into the statute words that do not exist.” *Id.* at 5; *see ExxonMobil Pipeline Co. v. Coleman*, 512 S.W.3d 895, 899 (Tex. 2017) (“[W]ords not included were purposefully omitted.”)

Finally, the State’s interpretation of § 84.012 is undermined by its acquiescence to Hollins sending unsolicited vote-by-mail applications to voters age 65 and over. As the parties stipulated, “[t]he Secretary of State does not object to the sending of unsolicited vote-by-mail applications to voters aged 65.” JSOF ¶ 5. But the State does not explain how § 84.012 could prohibit sending unsolicited

vote-by-mail applications to voters under age 65 but not to voters age 65 and over. If § 84.012 prohibits Hollins from sending unsolicited applications to voters of any age, as the State’s *ultra vires* claim in this case suggests, then the Attorney General of Texas has openly consented to unlawful conduct by government officials. This selective enforcement of the State’s election laws with respect to different groups of voters simply cannot be. *See* Order at 7 (district court noting the “irony and inconsistency” of the State’s position in this case).

B. The State Cannot Demonstrate Compelling Circumstances or Imminent Harm as Would Be Necessary to Justify an Injunction Pending Appeal

The State’s request for an injunction pending appeal independently should be denied because the State cannot demonstrate “compelling circumstances” necessitating such extraordinary emergency relief. *Lamar Builders*, 786 S.W.2d at 790. The State has not established any irreparable harm that would result if Hollins sends vote-by-mail applications—along with detailed educational information on the eligibility criteria to vote by mail—to registered voters.

The State falsely asserts in its motion that, in the court below, “Hollins did not contest that if the State is right on the law, it will suffer an irreparable injury absent immediate relief.” Mot. 7. The issue of irreparable harm was hotly contested at the hearing. Tr. 185:9-187:20. And Hollins’s post-hearing submission included an entire section titled, “The State Has Not Established Probable, Imminent, and Irreparable Injury.” Opp. App. B (Def.’s Proposed

Findings of Fact and Conclusions of Law) at 9. Over five paragraphs, that section thoroughly explained why the State cannot show irreparable harm. *Id.* ¶¶ 19-24.

The State suggests that it suffers irreparable harm any time there is a violation of the Election Code. Mot. 9; Tr. 98:6-8 (State’s counsel: “the harm is to the law of Texas”). Hollins’s plan does not violate the Election Code for the reasons explained above, but regardless, this theory of harm conflicts with the State’s own stipulation that it does not object to Hollins sending unsolicited vote-by-mail applications to voters age 65 and over, which under the State’s theory would also violate the Election Code. The State does not explain why sending unsolicited application to voters under age 65 causes the State inherent harm but sending applications to voters age 65 and over does not. The State’s “arbitrary and selective objection” exposes the “irony and inconsistency” of its claim. Order at 7.

The State asserts that Hollins will cause “confusion” among voters by sending them vote-by-mail applications. Mot. 10. But the district court found that “[t]he State offered no evidence to support such a claim.” Order at 5. The State’s own witness candidly admitted that the State relies entirely on “speculation” that Hollins’s mailer will lead to confusion. Tr. 85:8. Such unsubstantiated speculation cannot suffice to meet the State’s burden in seeking an injunction pending appeal.

The content of Hollins’s mailer refutes the State’s concerns about confusion. As the district court found, “the document Mr. Hollins intends to send to voters ...

accurately and thoroughly informs them of Texas law concerning mail-in voting.”

Order at 5. The mailer has flashing red sirens and prominent warnings to “READ THIS BEFORE APPLYING FOR A MAIL BALLOT,” and that “NOT ALL VOTERS ARE ELIGIBLE TO VOTE BY MAIL.” Mot. App. A Ex 1. The mailer then sets forth extensive information on the eligibility criteria for voting by mail, including telling voters: “YOU DO NOT QUALIFY TO VOTE BY MAIL AS ‘DISABLED’ JUST BECAUSE YOU FEAR CONTRACTING COVID-19. YOU MUST HAVE AN ACCOMPANYING PHYSICAL CONDITION.” *Id.* The mailer thus will reduce, not cause, confusion among voters about voting by mail.

The State’s purported concerns about “confusion” and “voter fraud” are also undermined by the fact that private individuals and organizations can and do distribute unsolicited vote-by-mail applications to voters under age 65. The State offers no explanation as to why Hollins’s distribution of vote-by-mail applications will purportedly cause confusion or fraud, but the mass distribution of such applications by private individuals and organizations would not. The opposite is true: unlike political campaigns, *see* Mot. App. A Ex. 5, Hollins’s mailer includes a prominent and rigorous explanation of the eligibility criteria for voting by mail.

In fact, under the State’s theory, the Secretary of State’s own website would lead to far more “confusion” than Hollins’s mailer. A vote-by-mail application form is on the Secretary of State’s website for any member of the public to access

and download. Mot. App. A Ex. 4. The Secretary of State's website, however, provides no information about the meaning of "disability" for purposes of voting by mail. Thus, while the State contends that Hollins's mailer will have the "imprimatur" of a government official, the Secretary of State's website and form certainly has that imprimatur, Mot. 13, and Hollins's mailer is far less likely to sow confusion compared to the Secretary's distribution of applications via the Internet.

The State asserts that Hollins's mailer "will invite potential voter fraud." Mot. 13. That assertion follows numerous statements by the State and its witness at the hearing below suggesting that voters could and would commit felony voter fraud by indicating that they have a disability on the applications that Hollins mails to them. Tr. 52:7-22; 53:21-54:16; 69:1-2, 70:13-17; 158:1-159:10; 163:11-12; 167:21-168:17; 181:9-10. The State even suggested at the hearing that the State or others could obtain vote-by-mail applications of citizens to investigate whether they falsely claimed a disability. *Id.* at 70:3-21.

This naked attempt at voter intimidation flouts the Texas Supreme Court's decision and the plain text of the criminal statutes at issue. The Supreme Court held that "the decision to apply to vote by mail based on a disability is the voter's, subject to a correct understanding of the statutory definition of "disability." *In re State*, 602 S.W.3d at 559. And the criminal statute cited by the State applies only if a voter "*knowingly* provides false information on an application." Tex. Elec.

Code 84.0041(a)(1) (emphasis added). A voter could not possibly violate this prohibition by reviewing the educational information in Hollins's mailer and determining that he or she is entitled to vote by mail under the Texas Election Code as construed by the Texas Supreme Court. The State should stop threatening people and start cooperating with county elections officials to ensure that Texas voters can exercise their right to vote safely amidst the pandemic this November.

CONCLUSION

For the foregoing reasons, the State's motion should be denied.

Respectfully submitted,

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* *Pro hac vice* motion pending.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was served on all parties of record via eFiling on September 13, 2020.

*/s/ Susan Hays*_____

CERTIFICATE OF COMPLIANCE

Microsoft Word reports that this brief contains 5,930 words, excluding the portions of the brief exempted by Rule 9.4(i)(1).

*/s/ Susan Hays*_____

**IN THE COURT OF APPEALS
FOR THE FOURTEENTH JUDICIAL DISTRICT
HOUSTON, TEXAS**

THE STATE OF TEXAS,
Appellant,

v.

CHRIS HOLLINS, IN HIS OFFICIAL CAPACITY AS HARRIS COUNTY CLERK,
Appellee.

On Appeal from the 127th Judicial District, Harris County

APPELLEE’S APPENDIX

Tab

1. Joint Stipulation of Facts, filed September 8, 2020 A
2. Defendant Chris Hollins’s Proposed Findings of Fact and Conclusions
of Law, filed September 10, 2020 B
3. Letter to Secretary Hughs from Thomas J. Marshall, General Counsel of
U.S. Postal Service, dated July 30, 2020 C

**TAB A: JOINT STIPULATION OF FACTS,
FILED SEPTEMBER 8, 2020**

Cause No. 2020-52383

THE STATE OF TEXAS,	§	In the District Court of
<i>Plaintiff,</i>	§	
	§	
v.	§	Harris County, Texas
	§	
CHRIS HOLLINS, in his official capacity	§	
as Harris County Clerk	§	
<i>Defendant.</i>	§	127th Judicial District

Joint Stipulation of Facts

Plaintiff the State of Texas and Defendant Chris Hollins, in his official capacity as Harris County Clerk, hereby stipulate to the following:

1. Chris Hollins is Harris County Clerk. He is the county's chief elections officer and early voting clerk.
2. On August 25, 2020, Hollins announced that he would send vote-by-mail applications to all registered voters in Harris County.
3. In a letter dated August 27, 2020, Keith Ingram, the Secretary of State's Director of Elections, directed Hollins to "immediately halt any plan to send an application for ballot by mail to all registered voters."
4. On August 31, 2020, Hollins and Ingram spoke by phone and discussed Hollins's plan and Ingram's objections to it.
5. The Secretary of State does not object to the sending of unsolicited vote-by-mail applications to voters aged 65 and older in Harris County because these voters are eligible to vote by mail.
6. The Secretary of State objects to the sending of unsolicited vote-by-mail applications to voters under 65 in Harris County for the reasons stated in Ingram's August 27, 2020 letter to Hollins.
7. The Secretary of State does not object to Hollins's sending of unsolicited educational materials regarding the eligibility criteria for voting by mail to all registered voters in Harris County, including those under 65.
8. The Secretary of State maintains a PDF of the vote-by-mail application on her website.
9. Hollins maintains a PDF of the vote-by-mail application on his website.

10. Any person may download the application from either website.
11. According to the Centers for Disease Control and Prevention (CDC) people of any age with **certain underlying medical conditions** are at increased risk for severe illness from COVID-19. People of any age with the following conditions **are at increased risk** of severe illness from COVID-19:
 - Cancer
 - Chronic kidney disease
 - COPD (chronic obstructive pulmonary disease)
 - Immunocompromised state (weakened immune system) from solid organ transplant
 - Obesity (body mass index [BMI] of 30 or higher)
 - Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies
 - Sickle cell disease
 - Type 2 diabetes mellitus

COVID-19 is a new disease. Currently there are limited data and information about the impact of underlying medical conditions and whether they increase the risk for severe illness from COVID-19. Based on what we know at this time, people with the following conditions **might be at an increased risk** for severe illness from COVID-19:

- Asthma (moderate-to-severe)
- Cerebrovascular disease (affects blood vessels and blood supply to the brain)
- Cystic fibrosis
- Hypertension or high blood pressure
- Immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines
- Neurologic conditions, such as dementia
- Liver disease
- Pregnancy
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Smoking
- Thalassemia (a type of blood disorder)
- Type 1 diabetes mellitus

The list of underlying conditions is meant to inform clinicians to help them provide the best care possible for patients, and to inform individuals as to what their level of risk may be so they can make individual decisions about illness prevention. We are learning more about COVID-19 every day. This list is a living document that may be updated at any time, subject to potentially rapid change as the science evolves.

12. Based on the Health of Houston Survey, in Harris County among people aged 18-64:

- a. 4.2% or slightly more than one in twenty-four have had, or currently have, cancer;
 - b. 6.9% or slightly more than one in fifteen currently have asthma;
 - c. 32.4% or about one in three are obese (body mass index (“BMI”) of 30 or greater);
 - d. 24.0% or slightly more than one in four have high blood pressure;
 - e. 5.7% or slightly more than one in eighteen have cardiovascular disease, including heart attack, stroke, coronary heart disease, or angina;
 - f. 8.5% or slightly more than one in twelve have type 2 diabetes;
 - g. 2.2% or slightly more than one in forty-six have chronic obstructive pulmonary disease (“COPD”); and
 - h. 14.3% or slightly more than one in seven are smokers.
- 13. According to the United States Census, an estimated 6.7% of Harris County was disabled under the Census Bureau’s definition of that term as of July 1, 2019.
 - 14. The Secretary of State believes this measure of disability supports her belief that a large majority of voters under 65 are not eligible under the disability category.
 - 15. The election results for the primaries, primary run-offs, and general elections for 2016, 1-2018, and 2020 to date as provided on Joint Stipulated Defendant’s Exhibit 19.
 - 16. The mailer Hollins intends to send to all registered voters is reproduced on the following page and is Defendant’s Exhibit 1:

Para recibir esta información o la Solicitud de Voto por Correo en Español, comuníquese con:

Để nhận được thông tin này hoặc Đơn Xin Bầu Cử Bằng Thư bằng Tiếng Việt, xin liên lạc:

要接收此信息或中英文的郵遞投票申請表格，請聯繫：

QUESTIONS? CONTACT:
vbm@harrisvotes.com
713-755-6965



DO YOU QUALIFY TO VOTE BY MAIL?



READ THIS BEFORE APPLYING FOR A MAIL BALLOT
The Harris County Clerk's Office is sending you this application as a service to all registered voters.
However, NOT ALL VOTERS ARE ELIGIBLE TO VOTE BY MAIL.
READ THIS ADVISORY TO DETERMINE IF YOU ARE ELIGIBLE BEFORE APPLYING.



You are eligible to vote by mail if:

1. You are age 65 or older by Election Day, November 3, 2020;
2. You will be outside of Harris County for all of the Early Voting period (October 13th - October 30th) and on Election Day (November 3rd);
3. You are confined in jail but otherwise eligible to vote;
4. You have a disability. Under Texas law, you qualify as disabled if you are sick, pregnant, or if voting in person will create a likelihood of injury to your health.
 - o The Texas Supreme Court has ruled that lack of immunity to COVID-19 can be considered as a factor in your decision as to whether voting in person will create a likelihood of injury to your health, but it cannot be the only factor. You can take into consideration aspects of your health and health history that are physical conditions in deciding whether, under the circumstances, voting in person will cause a likelihood of injury to your health.
 - o **YOU DO NOT QUALIFY TO VOTE BY MAIL AS "DISABLED" JUST BECAUSE YOU FEAR CONTRACTING COVID-19. YOU MUST HAVE AN ACCOMPANYING PHYSICAL CONDITION. IF YOU DO NOT QUALIFY AS "DISABLED," YOU MAY STILL QUALIFY IN CATEGORIES 1 - 3 ABOVE.**
 - o It's up to you to determine your health status—the Harris County Clerk's Office does not have the authority or ability to question your judgment. If you properly apply to vote by mail under any of the categories of eligibility, the Harris County Clerk's Office must send you a mail ballot.
 - o To read guidance from the U.S. Centers for Disease Control and Prevention (CDC) on which medical conditions put people at increased risk of severe illness from COVID-19, please visit: www.HarrisVotes.com/CDC

If you have read this advisory and determined that you are eligible to vote by mail, please complete the attached application and return it to the Harris County Clerk's Office! Voting by mail is a secure way to vote, and it is also the safest and most convenient way to vote.

To receive CRITICAL ELECTION UPDATES, sign up at: www.harrisvotes.com/text

For Official Use Only: VABD (County Election Post #)
1230000000/906

APPLICATION FOR BALLOT BY MAIL

CHRIS HOLLINS



Fill in (or verify) your name and address



Select your reason for using Ballot By Mail



Select your Election(s)



Sign your application, affix a stamp, and place in the mail

PROTECTING YOUR RIGHT TO VOTE

1 APPLICANT'S VOTER REGISTRATION:

Name/Address/City/State/Zip Code
JOHN Q. PUBLIC
123 MAIN STREET
HOUSTON, TEXAS 77078-0044

PHONE NUMBER:
(Optional)

PREFERRED MAILING ADDRESS (REQUIRED FOR OUT OF COUNTY & IN JAIL):

Address/City/State/Zip Code



1230000000

2 REASON FOR APPLYING FOR BALLOT BY MAIL:

☐ Age 65 or older
☐ I have a disability
☐ **Outside the county throughout Early Voting & Election Day (Oct. 13 - Oct. 30, 2020 & Nov. 3, 2020)
☐ Confined in jail

(*Dates You Will be Outside the County: / / - / /)

3 ELECTIONS FOR WHICH YOU ARE APPLYING:

☒ ALL 2020 ELECTIONS
November 3, 2020

4 I certify that the information given on this application is true, and I understand that giving false information on this application is a crime. SIGN HERE X

5 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ASSISTED A VOTER WITH THIS FORM

Check this box if acting as an ASSISTANT

X
Signature of Assistant

PRINT FULL NAME of Assistant

Assistant's Address of Residence or Title of Election Official

Assistant's Relationship to Applicant

6 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ARE A WITNESS FOR A VOTER WITH THIS FORM

Check this box if acting as a WITNESS

X FOR WITNESS: Applicant, if unable to sign, shall make a mark in the presence of witness. If applicant is unable to make mark, the witness shall check here

X
Signature of Witness

Witness' Address of Residence or Title of Election Official

Witness' Relationship to Applicant

Respectfully submitted,

Vince Ryan
Harris County Attorney

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* *Pro hac vice* motions filed on this day.

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Special Litigation Counsel
State Bar No. 00793681

KATHLEEN T. HUNKER
Special Counsel

Counsel for the State of Texas

**TAB B: DEFENDANT CHRIS HOLLINS'S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW,
FILED SEPTEMBER 10, 2020**

Cause No. 2020-52383

THE STATE OF TEXAS,	§	In the District Court of
<i>Plaintiff,</i>	§	
	§	
v.	§	Harris County, Texas
	§	
CHRIS HOLLINS, in his official capacity	§	
as Harris County Clerk	§	
<i>Defendant.</i>	§	127th Judicial District

**DEFENDANT CHRIS HOLLINS'S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Defendant Christopher Hollins, in his official capacity as the Harris County Clerk,
respectfully submits the following proposed findings of fact and conclusions of law:

PROPOSED FINDINGS OF FACT

1. Defendant Chris Hollins is the Harris County Clerk. He serves as Harris County's chief elections officer and its "early voting clerk" under Texas Election Code § 83.002(1). *See* Joint Stip. of Facts ("JSOF") ¶ 1.

2. On August 25, 2020, Hollins announced that he would send vote-by-mail applications to all registered voters in Harris County. JSOF ¶ 2.

3. Hollins's proposed mailer, which will be printed on 10.5" x 17" paper, is reproduced in full on the following page, *see* JSOF ¶ 16:

Para recibir esta información o la Solicitud de Voto por Correo en Español, comuníquese con:

Để nhận được thông tin này hoặc Đơn Xin Bầu Cử Bằng Thư bằng Tiếng Việt, xin liên lạc:

要接收此信息或中英文的郵遞投票申請表格, 請聯繫:

QUESTIONS? CONTACT:
vbm@harrisvotes.com
713-755-6965



DO YOU QUALIFY TO VOTE BY MAIL?



READ THIS BEFORE APPLYING FOR A MAIL BALLOT
The Harris County Clerk's Office is sending you this application as a service to all registered voters.
However, NOT ALL VOTERS ARE ELIGIBLE TO VOTE BY MAIL.
READ THIS ADVISORY TO DETERMINE IF YOU ARE ELIGIBLE BEFORE APPLYING.



You are eligible to vote by mail if:

- You are age 65 or older by Election Day, November 3, 2020;
- You will be outside of Harris County for all of the Early Voting period (October 13th - October 30th) and on Election Day (November 3rd);
- You are confined in jail but otherwise eligible to vote;
- You have a disability. Under Texas law, you qualify as disabled if you are sick, pregnant, or if voting in person will create a likelihood of injury to your health.
 - The Texas Supreme Court has ruled that lack of immunity to COVID-19 can be considered as a factor in your decision as to whether voting in person will create a likelihood of injury to your health, but it cannot be the only factor. You can take into consideration aspects of your health and health history that are physical conditions in deciding whether, under the circumstances, voting in person will cause a likelihood of injury to your health.
 - YOU DO NOT QUALIFY TO VOTE BY MAIL AS "DISABLED" JUST BECAUSE YOU FEAR CONTRACTING COVID-19. YOU MUST HAVE AN ACCOMPANYING PHYSICAL CONDITION. IF YOU DO NOT QUALIFY AS "DISABLED," YOU MAY STILL QUALIFY IN CATEGORIES 1 - 3 ABOVE.**
 - It's up to you to determine your health status—the Harris County Clerk's Office does not have the authority or ability to question your judgment. If you properly apply to vote by mail under any of the categories of eligibility, the Harris County Clerk's Office must send you a mail ballot.
 - To read guidance from the U.S. Centers for Disease Control and Prevention (CDC) on which medical conditions put people at increased risk of severe illness from COVID-19, please visit: www.HarrisVotes.com/CDC

If you have read this advisory and determined that you are eligible to vote by mail, please complete the attached application and return it to the Harris County Clerk's Office! Voting by mail is a secure way to vote, and it is also the safest and most convenient way to vote.

To receive CRITICAL ELECTION UPDATES, sign up at: www.harrisvotes.com/text

For Official Use Only: WJD #/County Election Pct #
1230000000/906

APPLICATION FOR BALLOT BY MAIL

CHRIS HOLLINS



Fill in (or verify) your name and address



Select your reason for using Ballot By Mail



Select your Election(s)



Sign your application, affix a stamp, and place in the mail

PROTECTING YOUR RIGHT TO VOTE

1 APPLICANT'S VOTER REGISTRATION:

Name/Address/City/State/Zip Code
JOHN Q. PUBLIC
123 MAIN STREET
HOUSTON, TEXAS 77078-0044

PHONE NUMBER:
(optional)

PREFERRED MAILING ADDRESS (REQUIRED FOR OUT OF COUNTY & IN JAIL):

Address/City/State/Zip Code



2 REASON FOR APPLYING FOR BALLOT BY MAIL:

☐ Age 65 or older
☐ Have a disability
☐ *Outside the county throughout Early Voting & Election Day (Oct. 13 - Oct. 30, 2020 & Nov. 3, 2020)
☐ Confined in jail

(**Dates You Will be Outside the County: / / - / / - / /)

3 ELECTIONS FOR WHICH YOU ARE APPLYING:

☒ ALL 2020 ELECTIONS
November 3, 2020

SIGN YOUR APPLICATION: If you cannot sign, you must have a person witness your mark. If a person helped you fill out this application you must give the name of that person on the line immediately below your signature. In any single election, it is a Class A misdemeanor for any person to sign a ballot application as a witness for more than one applicant, unless the second and subsequent application are related to the witness as a parent, spouse, child, sibling, or grandparent. If you need additional information call the Texas Secretary of State at 1-800-252-8683. COMMON CONTRACT CARRIER: You may submit via a common or contract carrier which is a bona fide, for-profit carrier.

4 I certify that the information given on this application is true, and I understand that giving false information on this application is a crime. SIGN HERE X

Signature of Applicant As Registered

5 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ASSISTED A VOTER WITH THIS FORM

☐ Check this box if acting as an ASSISTANT

X Signature of Assistant

PRINT FULL NAME of Assistant

Assistant's Address of Residence or Title of Elections Official

Assistant's Relationship to Applicant

6 OPTIONAL - FILL OUT THIS SECTION ONLY IF YOU ARE A WITNESS FOR A VOTER WITH THIS FORM

☐ Check this box if acting as a WITNESS

X FOR WITNESS: Applicant, if unable to sign, shall make a mark in the presence of witness. If applicant is unable to make mark, the witness shall check here _____.

X Signature of Witness

PRINT FULL NAME of Witness

Witness' Address of Residence or Title of Elections Official

Witness' Relationship to Applicant

4. In a letter dated August 27, 2020, Keith Ingram, the Secretary of State's Director of Elections, directed Hollins to "immediately halt any plan to send an application for ballot by mail to all registered voters." JSOF ¶ 3. On August 31, 2020, Hollins and Ingram spoke by phone and discussed Hollins's plan and the Secretary of State's objection to it. *Id.* ¶ 4.

5. The Secretary of State does not object to Hollins sending unsolicited vote-by-mail applications to all registered voters in Harris County age 65 and over. JSOF ¶ 5.

6. The Secretary of State does not object to Hollins sending unsolicited educational information regarding the eligibility criteria for voting by mail to all registered voters in Harris County, including those under age 65. JSOF ¶ 7.

7. The educational information set forth in Hollins's proposed mailer concerning the eligibility criteria for voting by mail is accurate and would be helpful to Harris County voters in determining for themselves whether they are entitled to vote by mail this November. Both Ingram and the State's counsel acknowledged as much at the September 9 hearing.

8. The Secretary of State objects only to Hollins sending unsolicited vote-by-mail applications to voters under age 65. JSOF ¶ 6.

9. Both the Harris County Clerk's website and the Secretary of State's website maintain a PDF of the vote-by-mail application that any member of the public can access, download, and print. JSOF ¶¶ 8-10.

10. To vote by mail, an eligible voter must submit an application; a voter who has not submitted an application to vote by mail cannot receive a mail ballot. Tex. Elec. Code § 84.001(a), (f). The Texas Election Code permits eligible voters to vote by mail if they meet one of several criteria. Those criteria include (1) if the voter is age 65 or older, or (2) if the voter is under age 65 and (a) will be out of the county throughout the election period, (b) is in jail but otherwise eligible

to vote, or (c) has a “disability,” defined broadly as a “a sickness or physical condition that prevents the voter from appearing at the polling place on election day without a likelihood of needing personal assistance or of injuring the voter’s health.” *Id.* §§ 82.001-82.004.

11. On May 27, 2020, the Texas Supreme Court held that “[t]he decision to apply to vote by mail based on a disability is the voter’s, subject to a correct understanding of the statutory definition of ‘disability.’” *In re State*, 602 S.W.3d 549, 550, 560-61 (Tex. 2020). On the definition of “disability,” the Court held that while “a voter’s lack of immunity to COVID-19, without more, is not a ‘disability’ as defined by the Election Code,” “a voter can take into consideration aspects of his health and his health history that are physical conditions in deciding whether, under the circumstances, to apply to vote by mail because of a disability.” *Id.* at 550, 561.

12. According to the Centers for Disease Control and Prevention (CDC), “people of any age” with certain underlying medical conditions are at increased risk for severe illness from COVID-19. JSOF ¶ 11. These underlying medical conditions include obesity; high blood pressure; smoking; diabetes; asthma; cardiovascular disease; cancer; chronic obstructive pulmonary disease (COPD); and numerous other medical conditions. *Id.*

13. Based on the Health of Houston Survey, substantial numbers of Harris County residents between ages 18 and 64 have one or more of the medical conditions listed by the CDC as putting individuals at potentially increased health risks from COVID-19. JSOF ¶ 12.

14. Both Hollins and the State agree that the government should encourage voter participation in elections.

PROPOSED CONCLUSIONS OF LAW

Legal Standards

1. “A temporary injunction is an extraordinary remedy and does not issue as a matter of right.” *Tex. Black Iron, Inc. v. Arawak Energy Int’l Ltd.*, 527 S.W.3d 579, 584 (Tex. App. – Houston [14th Dist.] 2017, no pet.). “To obtain a temporary injunction, the applicant must plead and prove: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim.” *Id.* “The applicant bears the burden of production to offer some evidence of each of these elements.” *Id.*

2. To succeed on its *ultra vires* claim, the State bears the burden to “allege, and ultimately prove, that [Hollins] acted without legal authority or failed to perform a purely ministerial act.” *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009).¹

3. For the reasons set forth below, the State has not met its burden to establish that a temporary injunction is warranted here.

The State Has Not Established a Probable Right to the Relief Sought Because Hollins Has Authority and Discretion Under the Election Code to Send Applications to Voters

4. In his role as Harris County’s “early voting clerk” for the November 2020 elections, Hollins has the authority and duty to “conduct the early voting,” which includes voting by mail. *Id.* §§ 83.001(a), 83.002(1); *see id.* § 81.001. As early voting clerk, Hollins maintains “the same duties and authority with respect to early voting as a presiding election judge has with respect to regular voting.” *Id.* § 83.001(c). Thus, Hollins is broadly “in charge of and responsible for the management and conduct of” Harris County’s early voting, including voting by mail. *Id.* § 32.071.

¹ The State’s Petition appeared also to assert a claim under Texas Election Code § 31.005, but the State’s counsel represented at the September 9 hearing that the State is not pursuing any claim under § 31.005 and is only asserting an *ultra vires* claim.

5. By conferring authority upon Hollins for the “management and conduct” of all early voting in Harris County, the Legislature has afforded Hollins discretion to direct and control the administration of the vote-by-mail process. The verb “conduct” broadly means “to direct or take part in the operation or management of.” Merriam-Webster’s Dictionary. To “manage” means “[t]o exercise executive, administrative, and supervisory direction of.” *Id.*

6. Within his broad charge of and responsibility for the “management and conduct” of early voting in Harris County, the Election Code assigns Hollins certain specific duties with respect to voting by mail. Key here, because vote-by-mail applications must be “submitted or filed” with the County Clerk’s Office, Hollins “shall make printed [vote-by-mail applications] readily and timely available.” Tex. Elec. Code § 1.010(a). Such printed vote-by-mail applications “shall be furnished without charge, except as otherwise provided by this code.” *Id.* § 1.010(c).

7. The Election Code does not specify how county clerks must make printed vote-by-mail applications “readily and timely available.” Rather, the Election Code leaves that determination to the discretion of each county clerk in exercising his or her statutory authority over the “management and conduct” of the vote-by-mail process. Tex. Elec. Code §§ 32.071, 83.001(a).

8. As Hollins testified at the September 9 hearing, the pandemic has inhibited various methods of making printed vote-by-mail applications “readily and timely available.” For instance, the Harris County Clerk’s Office building is closed to the public due to the pandemic. Other government offices at which applications might otherwise be made available to voters are likewise closed to the public. In this context, Hollins has chosen to make vote-by-mail applications “readily and timely available” by sending such applications to all registered voters in the County, along with detailed and accurate educational information about the eligibility criteria for voting by mail.

9. The Court concludes that Hollins’s plan to distribute vote-by-mail applications to all registered voters in Harris County falls within his charge of and responsibility for the “management and conduct” of early voting in Harris County, including his determination of how to make applications “readily and timely available” to voters amidst the pandemic.

10. Moreover, Hollins’s plan comports with the letter and spirit of the Texas Supreme Court’s recent decision in *In re State*. Just as the Texas Supreme Court held was proper, Hollins’s plan “place[s] in the hands of the voter” the determination of whether each voter meets the criteria to vote by mail and, if so, whether to exercise that option. 602 S.W.3d at 550, 561. By distributing accurate educational information and applications to voters in a single document, Hollins is empowering Harris County voters to make their own informed determinations about whether they can and will apply to vote by mail, as the Texas Supreme Court and the Legislature intended.

11. The State admits that no provision of the Texas Election Code expressly prohibits Hollins from sending vote-by-mail applications to all registered voters in Harris County.

12. Instead, the State contends that Texas Election Code § 84.012 *implicitly* prohibits Hollins from sending unsolicited applications to voters under age 65. Section 84.012 provides: “The early voting clerk shall mail without charge an appropriate official application form for an early voting ballot to each applicant requesting the clerk to send the applicant an application form.”

13. The States misconstrues § 84.012. On its face, § 84.012 imposes a *duty* on Hollins to take an affirmative act—namely, if a voter requests a vote-by-mail application, Hollins “shall” mail them one. Nothing in § 84.012 *prohibits* Hollins from sending applications to other voters.

14. This interpretation is clear from both the plain text of § 84.012 and the Code Construction Act, which governs the meaning of terms in the Election Code. *See* Tex. Elec. Code § 1.003. Under the Code Construction Act, the word “[s]hall” imposes a duty.” Tex. Gov’t Code

§ 311.016(2). By using the word “shall” in § 84.012, the Legislature imposed a duty on Hollins to send an application to any voter who requests one. But that *duty* in no way constitutes an implicit *prohibition* on Hollins sending applications to voters who have not requested them. If the Legislature had wanted to impose such a prohibition, it could easily have done so, but did not. *See, e.g., id.* § 311.016(5) (“‘May not’ imposes a prohibition and is synonymous with ‘shall not.’”).

15. The State’s interpretation of “shall” in § 84.012 as imposing an implicit prohibition would lead to bizarre results under multiple other provisions of the Texas Election Code. For instance, Texas Election Code § 85.067 provides that, if a county clerk maintains a website, the branch voting schedule “shall be posted on” the clerk’s website. This provision surely does not prohibit a county clerk from also posting public notice elsewhere, such as in newspapers. But under the State’s view that a duty also constitutes an implicit prohibition, § 85.067 would oddly bar county clerks from publicizing the branch voting schedule anywhere other than their websites. Additional examples abound. *See, e.g.,* Tex. Elec. Code §§ 86.001(c), 86.0015, 86.002, 86.006.

16. The State’s interpretation of § 84.012 is also undermined by its acquiescence to Hollins sending unsolicited vote-by-mail applications to voters age 65 and over. As the parties stipulated, “[t]he Secretary of State does not object to the sending of unsolicited vote-by-mail applications to voters aged 65.” JSOF ¶ 5. But the State does not explain how § 84.012 could prohibit sending unsolicited vote-by-mail applications to voters under age 65 but not to voters age 65 and over. If § 84.012 prohibits Hollins from sending unsolicited applications to voters of any age, as the State’s *ultra vires* claim in this case suggests, then the Attorney General of Texas has openly consented to unlawful conduct by government officials. This selective enforcement of the State’s election laws with respect to different groups of voters simply cannot be.

17. The State’s position is also undercut by the fact that any private individual, political campaign, or other organization can send unsolicited vote-by-mail applications to voters under age 65. The Election Code in fact facilitates such distribution of vote-by-mail applications. Texas Election Code § 84.013 provides: “The secretary of state shall maintain a supply of the official application forms for ballots to be voted by mail and shall furnish the forms in reasonable quantities without charge to individuals or organizations requesting them for distribution to voters.”

18. It would be bizarre for the Legislature to allow private individuals and organizations to distribute unsolicited vote-by-mail applications while preventing county elections officers from doing the same. *See El Paso Educ. Initiative, Inc. v. Amex Properties, LLC*, 602 S.W.3d 521, 531 (Tex. 2020) (courts should avoid “absurd or nonsensical results”). It simply cannot be that everyone in this State—and, indeed, the entire United States of America—is authorized to send unsolicited vote-by-mail applications to registered Texas voters except for the county elections officers who are charged with managing and conducting the vote-by-mail process.

The State Has Not Established Probable, Imminent, and Irreparable Injury

19. A temporary injunction independently is not warranted because the State has not established probable, imminent, or irreparable injury.

20. The State claims irreparable harm any time there is a purported violation of the Texas Election Code. The Court concludes that Hollins’s plan does not violate the Election Code, but in any event, the State’s theory of harm conflicts with the State’s stipulation that it does not object to Hollins sending unsolicited vote-by-mail applications to voters age 65 and over, which the State contends would also violate the Election Code.

21. The State asserts as harm that voters will be “misled” or “confused” by receiving unsolicited vote-by-mail applications and might commit “voter fraud” because of Hollins’s mailer.

The State offered no evidence or other substantiation at all for these assertions at the September 9 hearing. Instead, the State relied solely on unsupported speculation, which does not suffice to meet the State's burden in seeking a temporary injunction.

22. The State's concerns about purported "confusion" and "voter fraud" are also undermined by the fact that private individuals and organizations can and do distribute unsolicited vote-by-mail applications to voters under age 65. And while Hollins intends to include a prominent and rigorous explanation of the criteria for being entitled to vote by mail, private distributors of vote-by-mail applications do not include explanations of the relevant eligibility criteria.

23. The Secretary of State also does not include any educational information about the eligibility criteria to vote by mail under the "disability" category with the application form it makes available online to the public, which of course includes voters under age 65. Thus, while the State contends that Hollins's mailer will have the "imprimatur" of a government official, the Secretary of State's website and form certainly has that imprimatur, and Hollins's mailer is far less likely to sow confusion compared to the Secretary's distribution of applications via the Internet.

24. Finally, at the September 9 hearing, Ingram and the State's counsel repeatedly suggested that people could be subject to criminal prosecution under Texas Election Code § 84.0041 in connection with Hollins's mailer. But a county clerk does not violate § 84.0041—which prohibits "intentionally caus[ing] false information to be provided on an application for ballot by mail"—by sending applications to voters along with detailed and accurate educational information about the eligibility criteria. And a voter would not violate § 84.0041—which prohibits "knowingly provid[ing] false information on an application"—by reviewing such educational information and determining in good faith that he or she is entitled to vote by mail under the Texas Election Code as construed by the Texas Supreme Court in *In re State*.

Vince Ryan
Harris County Attorney

Respectfully submitted,

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* *Pro hac vice* motions filed.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was served on all parties of record via eFiling on September 10, 2020.

/s/ Susan Hays

**TAB C: LETTER TO SECRETARY HUGHS FROM
THOMAS J. MARSHALL, GENERAL COUNSEL OF U.S.
POSTAL SERVICE, DATED JULY 30, 2020**



July 30, 2020

Honorable Ruth Hughs
Texas Secretary of State
P.O. Box 12887
Austin, TX 78711-2887

Dear Secretary Hughs:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Texas' election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. In states that allow mail-in ballots to be counted if they are *both* postmarked by Election Day *and* received by election officials by a specific date that is less than a week after Election Day, voters should mail their ballots at least one week before they must be received by election officials. So, for example, if state law requires a mail-in ballot to be postmarked by Tuesday, November 3, and received by Wednesday, November 4, voters should mail their ballot by Wednesday, October 28, to allow enough time for the ballots to be delivered by November 4. Voters must also be aware of the posted collection times on collection boxes and at the Postal Service's retail facilities and that ballots entered after the last posted collection time on a given day will not be postmarked until the following business day.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a voter may generally request a ballot as late as 11 days before the election, and that a completed ballot must be postmarked by Election Day and received by the day after the election to be counted. It also appears that law does not appear to require election officials to transmit a ballot by mail until seven days after receiving a ballot application. If a voter submits a request at or near the ballot-request deadline, and if the requested ballot is mailed to the voter 7 days after the request is received, there is a risk that the ballot will not reach the voter before Election Day, and accordingly that the voter will not be able to use the ballot to cast his or her vote. Even if the requested ballot reaches the voter by Election Day, there is a significant risk that, given the delivery standards for First-Class Mail, a completed ballot postmarked on or near Election Day will not be delivered in time to meet the state's receipt deadline of November 4. As noted above, voters who choose to mail their ballots should do so no later than Wednesday, October 28.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/politicelection-mail-coordinators.pdf>.

We hope the information contained in this letter is helpful, and please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Marshall". The signature is fluid and cursive, with the first name "Thomas" and last name "Marshall" clearly distinguishable. The signature is positioned above the printed name.

Thomas J. Marshall

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Susan Hays
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Status as of 9/14/2020 7:52 AM CST

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Associated Case Party: Chris Hollins, Harris County Clerk

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