

**D-1-GN-17-003451**

**TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN**

**NO. 03-17-00662-CV**

**In re Rolando Pablos, Secretary of State for the State of Texas, and  
Keith Ingram, Director, Texas Elections Division of the Secretary of State**

**ORIGINAL PROCEEDING FROM TRAVIS COUNTY**

**MEMORANDUM OPINION**

Relators Rolando Pablos, Secretary of State for the State of Texas, and Keith Ingram, Director, Texas Elections Division of the Secretary of State, filed a petition for writ of mandamus and motion for emergency relief, complaining of the trial court's refusal to timely rule on their plea to the jurisdiction.<sup>1</sup> *See* Tex. R. App. P. 52.

On July 20, 2017, the real parties in interest, the League of Women Voters of Texas, the Texas State Conference of the National Association for the Advancement of Colored People, and Ruthann Geer, filed an original petition seeking declaratory and injunctive relief barring relators from providing certain voter data in response to a request by the Presidential Advisory Commission on Election Integrity. On August 18, relators filed their original answer, in which they asserted sovereign immunity as an affirmative defense. On September 21, the real parties in interest filed an application for a temporary restraining order ("TRO") and temporary injunction, and relators filed

<sup>1</sup> We granted the motion for emergency relief and issued an order staying the underlying proceedings pending our decision on the petition for writ of mandamus. *See* Tex. R. App. P. 52.10.

Filed in The District Court  
of Travis County, Texas

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Velva L. Price, District Clerk

a plea to the jurisdiction on September 26. On September 29, the trial court held a hearing on the TRO application and relators' plea, and it issued a TRO on October 3, setting a hearing on the temporary injunction for October 16. On October 4, after relators asked the trial court to rule on their plea before the October 16 hearing, the trial court responded that it "has declined to rule on the plea to the jurisdiction without prejudice to consideration of the same at the time of the temporary injunction hearing (or at another time)." On October 10, relators filed this original proceeding.

Having reviewed the record, the petition, the response filed by the real parties in interest, and relators' reply, we hold that relators have not demonstrated an abuse of discretion in the trial court's declining to rule before holding the hearing originally set for October 16, less than three weeks after relators filed the plea. *See In re Smith*, No. 03-13-00519-CV, 2013 WL 5272847, at \*1 (Tex. App.—Austin Sept. 12, 2013, orig. proceeding) (mem. op.) (mandamus is "extraordinary remedy that issues only to correct a clear abuse of discretion," and relator complaining of trial court's failure to rule must show, inter alia, that court refused or failed to rule within reasonable time; "Whether a reasonable time for ruling has lapsed is dependent on the circumstances of each case."); *In re Blakeney*, 254 S.W.3d 659, 662-63 (Tex. App.—Texarkana 2008, orig. proceeding) (determination of "reasonable period of time depends on the circumstances of the case," and "no bright line separates a reasonable time period from an unreasonable one"). We therefore deny the petition for writ of mandamus and vacate our order staying the underlying proceedings.<sup>2</sup> *See* Tex. R. App. P. 62.3(a).

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<sup>2</sup> Further, we take judicial notice of the fact that the Presidential Advisory Commission on Election Integrity, the commission that submitted the request made the basis of this proceeding, was terminated on January 3, 2018. *See* Exec. Order No. 13820 (Jan. 3, 2018).

Cindy Olson Bourland, Justice

Before Justices Puryear, Field, and Bourland

Filed: February 2, 2018

Unofficial copy Travis Co. District Clerk Velda L. Price

**COURT OF APPEALS  
FOR THE  
THIRD DISTRICT OF TEXAS**  
P.O. BOX 12547, AUSTIN, TEXAS 78711-2547  
(512) 463-1733

Date: February 2, 2018

Appeal No.: 03-17-00662-CV  
Trial Court No.: D-1-GN-17-003451

Style: In re Rolando Pablos, Secretary of State for the State of Texas, and Keith  
Ingram, Director, Texas Elections Division of the Secretary of State

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The enclosed opinion was sent this date to the following persons:

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