

No. 24-0016

In the Texas Supreme Court

IN RE HON. BRIAN WALKER,
Relator

RELATOR'S MOTION FOR TEMPORARY EMERGENCY RELIEF

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EMERGENCY RELIEF REQUESTED

Relator, Justice Brian Walker, has pending before this Court an Emergency Petition for Writ of Mandamus to compel Respondent, Matt Rinaldi, Chairman of the Republican Party of Texas, to reject the application of Real Party in Interest, Justice John Devine, for a place on the 2024 Republican General Primary Ballot and withdraw Respondent's certification to the Secretary of State of Devine's name to appear on the ballot.

Under Texas Election Code § 86.004(b) mail ballots must begin to be mailed to voters 45 days before the primary election, which is January 20, 2024. The Election Administrators and County Clerks in each county will need some lead time before this date to print the ballots, and run logic/accuracy tests. This is estimated to be about ten days, or approximately January 10, 2024.

In order to avoid the underlying proceeding becoming moot, pursuant to Tex. R. App. P. 52.10, Relator moves that this Court grant Emergency Temporary Relief to minimize disruption to the election process and retain the jurisdiction of this Court. Specifically, Relator asks this Court to order Respondent to immediately notify each Republican County Chair and the Secretary of State of this proceeding and direct County Chairs, who are responsible for approving the ballot form in each county, and their contracted agents, election administrators, and/or county clerks to not print and mail ballots to voters pending resolution of Relator's Emergency Mandamus Petition by this Court. *See, e.g., Davis v. Taylor*, 930 S.W.2d 581, 582

(Tex. 1996) (orig. proceeding) (noting that in “response to Davis’s request for temporary relief, we issued an order on September 20th directing the Secretary of State to notify election officials within the tenth district not to print or mail ballots pending this Court’s” determination of whether he was entitled to be on the ballot). Failure to do so risks mootng this proceeding and divesting the Court of jurisdiction to hear Relator’s petition.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Relator, Hon. Brian Walker, prays that the Court grant his motion for Temporary Emergency Relief, consider his Emergency Petition for Writ of Mandamus on an expedited basis, and enter an order (1) requiring Respondent to immediately notify each Republican County Chair and the Secretary of State of this proceeding and (2) requiring respondent to direct County Chairs, who are responsible for approving the ballot form in each county, and their contracted agents, election administrators, and/or county clerks, to not print and mail ballots to voters pending resolution of Relator’s Emergency Mandamus Petition by this Court.

Respectfully submitted,

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By: 
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**Counsel for Relator,
Hon. Brian Walker**

CERTIFICATE OF CONFERENCE

Counsel for Relator conferred with opposing counsel and they are opposed to the relief sought herein.


Eric C. Opiela

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of this document was served as required Texas Rule of Appellate Procedure 9.5 to the parties to the proceeding, via-e-filing on this the 5th day of January, 2024.

Respondent:

Hon. Matthew Rinaldi
Chair, Republican Party of Texas

Represented by:

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Real Party in Interest:

Hon. John Devine, Candidate for Justice, Texas Supreme Court,
Place 4

Represented by:

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