Dismissed; and Opinion Filed February 1, 2016

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-16-00063-CV

IN RE HON. MORGAN MEYER, AND THE DALLAS COUNTY REPUBLICAN PARTY, Relators

Original Proceeding in the Court of Appeals Fifth District of Texas at Dallas

MEMORANDUM OPINION

Before Chief Justice Wright, Justice Lang-Miers, and Justice Evans
Opinion by Justice Evans

This mandamus proceeding arose from Joseph Henry Farkus filing three ballot applications for places on the 2016 Democratic and Republican primary ballots in this order: Democratic precinct 1017 chairman, Republican precinct 1017 chairman, then State Representative District 108. Relators[1] the Honorable Morgan Meyer, the incumbent Texas State Representative, District 108, and the Dallas County Republican Party request that the Court issue a writ of mandamus compelling Respondent, the Honorable Carol Donovan, Dallas County Democratic Chair to: (1) reject the application of Joseph Henry Farkus for a place on the 2016 Democratic primary ballot for State Representative District 108, (2) take any and all necessary steps to remove Farkus from the 2016 Democratic primary ballot, and (3) not certify Farkus or

[1] For ease of reference, we refer to relators jointly as "Meyer" in this opinion because their position is completely aligned.

any other person as a nominee of the Democratic Party for State Representative District 108.[2] By counter-petition conditioned on our granting the relief requested by Meyer, Donovan and the Dallas County Democratic Party seek a writ of mandamus compelling the Honorable Wade Emmert, in his capacity as chairman of the Dallas County Republican Party, to take any and all necessary steps to remove Farkus from the 2016 Republican primary ballot and prohibiting him from allowing Farkus as a candidate for precinct chair to the Republican Party. Donovan also moves for sanctions. We dismiss the petition and the counter-petition as to some relief because the balloting materials for voting by mail have already been printed and mailed and as to other relief because preventing a future action is not within our mandamus jurisdiction. Each reason is explained below. We deny the motion for sanctions.

Background

Meyer is the incumbent Texas State Representative for House District 108 and the sole Republican candidate for election to that office. Farkus is the only Democratic candidate for the same position. On November 5, 2015, Farkus applied for a place on the 2016 Democratic primary ballot for the office of precinct 1017 chairman.[3] On December 8, 2015, Farkus applied for a place on the 2016 Republican primary ballot for the office of precinct 1017 chairman.

At some time before December 14, 2015, Farkus orally notified someone associated with each political party that he wished to withdraw each of his precinct chairman applications.[4] He

[2] By order dated January 22, 2016, we requested a response to the petition from real party in interest Farkus and respondent Donovan. Only Donovan has responded.

[3] The application is dated October 2, 2015, but is marked as received by Donovan on November 5, 2015.

[4] Although the Dallas County Republican Committee Chair has no record of such an oral withdrawal of the application, for purposes of this mandamus proceeding, Meyer accepts that representation as true in order to avoid a factual dispute that precludes mandamus relief. *See Brady v. Fourteenth Court of Appeals*, 795 S.W.2d 712, 714 (Tex. 1990) (orig. proceeding) (court may not resolve disputed fact issues in an original proceeding).

did not do so in writing. On December 14, 2015,[5] before the filing deadline expired and before Donovan had certified Farkus's Democratic precinct chair application to the Texas Secretary of State, Farkus applied for a place on the 2016 Democratic primary ballot for the office of State Representative for House District 108.

By letter dated January 14, 2016, Meyer's counsel contacted Donovan and requested that Donovan reject Farkus's application for the house seat asserting Farkus's application for the seat was invalid because he had improperly applied for multiple positions on the ballot.[6] The letter further requested that Donovan take any and all necessary steps to remove Farkus from the 2016 Democratic primary ballot and not certify Farkus or any other person as a nominee of the Democratic Party for the house seat.

Donovan's counsel responded on "January 18, 2014" [sic] and agreed that "Farkus did not properly withdraw from any of the races" before the filing deadline and the applications filed subsequent to the Democratic precinct chair application were invalid. The letter advised that Donovan would declare Farkus ineligible for the house seat and the Democratic Party executive committee would nominate a replacement candidate to appear on the general election ballot. The letter further stated that there was no way to remove Farkus from the primary ballots and that "Dallas County Elections has already printed the ballots. They will not re-run them." Two days later, Donovan's counsel advised Meyer's counsel by letter that "Dallas County Democratic [sic] declines to remove Mr. Joe Farkus . . . from the March 2016 Democratic Ballot" because it had been determined that Farkus orally "withdrew" both the Republican and Democratic Party

[5] December 14, 2015 was the last day for filing an application for a place on the primary ballot. *See* TEX. ELEC. CODE ANN. § 172.023(a) (West Supp. 2015).

[6] At that time Meyer was aware only of the Republican precinct chair application and the house application. He was unaware that Farkus had also applied to be Democratic precinct chair.

precinct chair applications, which Donovan concluded complied with the requirements of the election code.

Jurisdiction to Grant Mandamus Relief

Mandamus is an "extraordinary" remedy that is "available only in limited circumstances."[7] The election code grants the Court jurisdiction to consider a petition for writ of mandamus to "compel the performance of any duty imposed by law in connection with the holding of an election ... regardless of whether the person responsible for performing the duty is a public officer."[8] When the failure to perform a ministerial duty is the basis for granting a petition for writ of mandamus, entitlement to mandamus relief generally requires the existence of a legal duty to perform a non-discretionary act; a demand for performance; and a refusal.[9] We may grant mandamus only if the relator has a clear legal right to performance of the act he seeks to compel, and the duty of the officer sought to be compelled is one clearly fixed and required by the law.[10] We may not grant mandamus relief ordering performance of a duty "not precisely identified as a duty by statute."[11]

In addition, mandamus relief is appropriate "only to correct a clear abuse of discretion or the violation of a duty imposed by law when there is no other adequate remedy by law."[12] This precept applies in election cases alleging a violation of a ministerial duty.[13] Both the supreme

[7] *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding).

[8] TEX. ELEC. CODE ANN. § 273.061 (West 2010).

[9] *In re Cercone*, 323 S.W.3d 293, 297 (Tex. App.—Dallas 2010, orig. proceeding).

[10] *Id.* at 295.

[11] *Id.* at 298 (citing *In re Cullar*, 320 S.W.3d 560, 566 (Tex. App.—Dallas 2010, orig. proceeding)).

[12] *Republican Party of Texas v. Dietz*, 940 S.W.2d 86, 88 (Tex. 1997) (orig. proceeding); *Johnson v. Fourth Court of Appeals*, 700 S.W.2d 916, 917 (Tex. 1985) (orig. proceeding).

[13] *See Duffy v. Branch*, 828 S.W.2d 211, 213 (Tex. App.—Dallas 1992, orig. proceeding) (concluding in mandamus proceeding under section 273.061 of election code "The adequacy of other legal remedies applies to violations of ministerial duties."); *see also In re Armendariz*, 245 S.W.3d 92, 94 (Tex. App.—El Paso 2008, orig.

court and this Court have granted mandamus relief in election cases when the relator could obtain no other effective remedy prior to the conclusion of an election process. For instance, as recently as this past term, in *In re Woodfill*,[14] the supreme court noted that when officials refuse to perform their ministerial duties in connection with an election and when there is no adequate remedy by appeal from the district court's injunction proceeding, mandamus may issue.[15] Courts, including this Court, have also denied mandamus relief when other adequate avenues for relief remained available to the party seeking mandamus. For instance, in *In re Parnell*,[16] we denied, based on the relator's failure to show he had no adequate remedy at law, a request for mandamus relief by an incumbent judge requesting that we order the respondent immediately to sign and deliver to his challenger a written declaration of ineligibility for the office.[17]

In a mandamus proceeding, we do not possess independent authority to pass on the qualifications of candidates or the validity of their applications for inclusion on the ballot.[18]

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proceeding); *In re Dupont*, 142 S.W.3d 528, 530 (Tex. App.—Fort Worth 2004, orig. proceeding); *Jaime v. Patlan*, 709 S.W.2d 334, 336 (Tex. App.—San Antonio 1986, orig. proceeding).

[14] 470 S.W.3d 473, 475, 478 (Tex. 2015) (orig. proceeding) (concluding relators lacked adequate remedy by appeal because appellate process would not resolve case in time for referendum to be placed on ballot).

[15] *See also In re Newton*, 146 S.W.3d 648, 652–53 (Tex. 2004) (orig. proceeding) (concluding political action committee lacked adequate appellate remedy to challenge temporary restraining order, granted on first day of early voting in general election, relating to PAC's solicitation, acceptance, and expenditure of corporate contributions); *In re Tolliver*, No. 05-02-00109-CV, 2002 WL 92919, at *1 (Tex. App.—Dallas Jan. 25, 2002, orig. proceeding) (mem. op., not designated for publication) (concluding relator had no other adequate remedy at law to compel party chair to withdraw declaration that relator was ineligible as a candidate for Democratic Party nomination).

[16] No. 05-02-01849-CV, 2002 WL 31742964, at *1 (Tex. App.—Dallas Dec. 9, 2002, orig. proceeding) (mem. op., not designated for publication).

[17] The relator subsequently filed a quo warranto action in the trial court in which he sought and obtained a judgment declaring his challenger ineligible for office and enjoining the challenger from being declared the winner. *Norville v. Parnell*, 118 S.W.3d 503, 504 (Tex. App.—Dallas 2003, pet. denied). We reversed concluding the defeated incumbent lacked standing to bring a quo warranto action. *Id*. at 506.

[18] *In re Cercone*, 323 S.W.3d at 298; s*ee also In re Cullar*, 320 S.W.3d at 566.("We find no applicable section of the election code that empowers us to simply declare [a candidate] ineligible and order respondents to do whatever is necessary to take [the candidate] off the ballot.").

Rather, our authority is limited to determining whether an identified official has performed his or her duty under the election code and ordering the official to do so if the official has not.[19]

The election code clearly distinguishes between the requirements for eligibility to hold public office and the requirements for the form, content and procedure for a valid application.[20] One of our sister courts has characterized the distinction between ineligibility and invalidity as one between "electoral apples and oranges."[21] They are "two parallel inquiries which connote differing responsibilities, differing Legislative grants of authority, and differing time tables, all of which emphasize that the declaration of ineligibility and the rejection of an application are two entirely separate procedures."[22] This is a clear indication that the legislature did not intend to equate defects in an application with ineligibility for office.[23]

[19] *See In re Cullar*, 320 S.W.3d at 566.

[20] *In re Cercone*, 323 S.W.3d at 297; *see also Escobar v. Sutherland*, 917 S.W.2d 399, 409 (Tex. App.—El Paso 1996, orig. proceeding) (challenge to requirements of form, content, and procedure for application is "distinctly different and completely separate" from challenge to candidate's eligibility for office). For instance, although the election code permits the appointment of a replacement if the candidate dies or is declared ineligible, TEX. ELEC. CODE ANN. § 172.058(a), (b) (West Supp. 2015), it does not provide an opportunity to appoint a replacement if a candidate's application is declared invalid. *In re Hamlin*, No. 05-02-01416-CV, 2002 WL 31018574, at *2 (Tex. App.—Dallas Sept. 11, 2002, orig. proceeding) (mem. op., not designated for publication) (conclusion that application of candidate for county district clerk was invalid did not afford same remedy of replacing candidate's name on the ballot as a declaration of candidate's ineligibility).

[21] *Escobar*, 917 S.W.2d at 409.

[22] *Id.* We note that the court in *Escobar* viewed section 172.029 as not requiring or permitting changes to the list of candidates after initial delivery of the list of candidates to the secretary of state. *See id.* at 410 ("[T]he County Chair loses both the individual responsibility and the individual authority to accept or reject a candidate for a position on the ballot once he or she delivers his or her list of candidates to the county clerk, the state chair, and the secretary of state.") The election code now specifically imposes the obligation to update the list that the El Paso court found lacking in *Escobar*. *See* TEX. ELEC. CODE ANN. § 172.029(d) (West Supp. 2015) ("The secretary of state shall be notified if a . . . candidate's application is determined not to comply with the applicable requirements.").

[23] *In re Hamlin*, 2002 WL 31018574, at *2.

Limitations on Court's Power to Grant Relief

We must first decide whether any of the relief requested in the petition or cross-petition can be granted.[24]

Mootness

Subject matter jurisdiction concerns a court's power to decide a case[25] and is essential to the authority of a court to decide a case.[26] The requirement that a court act only within its subject matter jurisdiction arises from the doctrine of separation of powers and "aims to keep the judiciary from encroaching on subjects properly belonging to another branch of government."[27] A court acting without subject matter jurisdiction commits fundamental error.[28] For that reason, all courts are obligated to determine whether or not they possess subject matter jurisdiction regardless of whether the parties have questioned it.[29]

The mootness doctrine implicates our subject matter jurisdiction.[30] A request for relief is moot when the court's action on the merits cannot affect the rights of the parties.[31] Appellate courts are prohibited from deciding moot controversies.[32] Therefore, when a controversy is

[24] We do not address standing—an aspect of subject matter jurisdiction—because we dismiss all relief based on other aspects of subject matter jurisdiction: mootness and our lack of jurisdiction in a mandamus proceeding to grant a writ of prohibition.

[25] *Reata Const. Corp. v. City of Dallas*, 197 S.W.3d 371, 379 (Tex. 2006).

[26] *Tex. Ass'n of Bus.*, 852 S.W.2d at 443.

[27] *Reata Const. Corp.*, 197 S.W.3d at 379.

[28] *City of Houston v. Rhule*, 417 S.W.3d 440, 442 (Tex. 2013).

[29] *Id. (*citing *In re United Servs. Auto. Ass'n*, 307 S.W.3d 299, 306 (Tex. 2010)).

[30] *Sepulveda v. Medrano*, 323 S.W.3d 620, 625 (Tex. App.—Dallas 2010, no pet.).

[31] *VE Corp. v. Ernst & Young*, 860 S.W.2d 83, 84 (Tex. 1993) (per curiam).

[32] *Nat'l Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999); *Trulock v. City of Duncanville*, 277 S.W.3d 920, 923 (Tex. App.—Dallas 2009, no pet.).

moot, we have no choice but to dismiss it "even though the contestant may have good cause or grounds for the contest."[33]

Meyer argues that this case is not moot because the election code provides that challenges to an application for a place on the ballot that pertain to form, content, and procedure may be brought until the day before the beginning of early voting by personal appearance.[34] He argues that a determination that the Court cannot grant the relief he requests due to mootness would undercut the plain language of Section 141.034 of the election code which allows a challenge to an application for a place on the ballot for compliance with matters of form, content, and procedure until the day before early voting by personal appearance begins. We disagree.

The deadlines applicable to party officials and private parties under the election code do not determine when mootness prevents this Court from acting.[35] The constraints on our action are determined by the election schedule. Based on separation of powers concerns, no order by this Court may interfere with the orderly process of the election.[36] For that reason, in the past,

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[33] *Smith v. Crawford*, 747 S.W.2d 938, 940 (Tex. App.—Dallas 1988, no writ) (citing *Cummins v. Democratic Exec. Comm.*, 97 S.W.2d 368, 369 (Tex. Civ. App.—Austin 1936, no writ)); *see Polk v. Davidson*, 196 S.W.2d 632, 633 (1946); *Moore v. Barr*, 718 S.W.2d 925, 927 (Tex. App.—Houston [14th Dist.] 1986, no writ).

[34] TEX. ELEC. CODE ANN. § 141.034 (West 2010).

[35] *See Sepulveda*, 323 S.W.3d at 624 (concluding period set out in section 145.003(b) of election code for administratively determining ineligibility for inclusion on ballot did not govern the date on which appeal became moot). *Escobar* is not to the contrary. Indeed *Escobar* implicitly acknowledged the jurisdictional pitfalls that might arise in resorting to a trial court to seek injunctive relief for determining the validity of an application to appear on the ballot "given the close time proximity in most elections between delivery of the list of candidates and the start of early voting," and noted "the statutes appear to provide no other avenue of relief." *Escobar*, 917 S.W.2d at 410. Further, the Court in *Escobar* refused to entertain a motion for rehearing, "[b]ecause of the proximity of the date for commencement of absentee balloting," thereby further acknowledging the limitation that the commencement of absentee balloting places on an appellate court's ability to grant relief in such a case.

[36] *See Smith*, 747 S.W.2d at 940; *see also In re Gamble*, 71 S.W.3d at 318 & n. 17 (only limitation on the trial court's authority to grant injunctive relief is the election schedule itself); *Blum v. Lanier*, 997 S.W.2d 259, 263 (Tex. 1999) (injunction that delays election is improper); *Risner v. Harris Cnty. Republican Party*, 444 S.W.3d 327, 337 (Tex. App.—Houston [1st Dist.] 2014, no pet.) (determination of a challenge to a candidate's application may be made after the primary election, so long as the determination does not interfere with the election schedule and the challenge was initiated prior to the statutory deadline for bringing such a challenge). "[I]f the matter is one that can be judicially resolved in time to correct deficiencies in the ballot *without delaying the election*, then injunctive relief may provide a remedy...." *Blum*, 997 S.W.2d at 263–64 (emphasis added); *see also Sterling v. Ferguson*, 53 S.W.2d 753, 763 (1932) ("To preserve the status quo the court would be compelled to enjoin the holding of the election until

both this Court and other courts have concluded that the beginning of early voting by mail is fatal to the ability to provide relief with respect to all types of voting in the same election.[37]

It has been the law for more than eighty years—since Miriam "Ma" Ferguson's second election as governor—that a challenge to the political candidacy of an office-seeker becomes moot "when any right which might be determined by the judicial tribunal could not be effectuated in the manner provided by law."[38] It is likewise settled law that an election commences when absentee[39] balloting begins.[40] "[V]oters . . . have a valuable right under the statutes of this state to have absentee ballots printed and available to them at the prescribed time . . . ."[41] Once it has become too late to print new absentee ballots in time for the beginning of the casting of those ballots, any judicial challenge that would require alteration of the ballot becomes moot.[42]

This does not leave relators without a remedy. A timely commenced challenge may provide the sort of relief relators seek with regard to the general election ballot, thus giving effect to the ability to challenge applications on matters of form, content and procedure between the

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the case was disposed of. This a court cannot do. A general election must be held on the statutory date, and neither that nor any duty with reference thereto prescribed by a valid law to bring about the election can be enjoined.").

[37] *See, e.g.*, *Polk*, 196 S.W.2d at 634 (reasoning case was moot because it would be "utterly impossible" to finally dispose of case on its merits soon enough to have ballot printed with the name of the nominee in time to start absentee balloting); *Ferguson*, 53 S.W.2d at 762 (finding case moot when entitlement to relief sought could not be determined by final judgment in time for certification to the county clerks to post challenger's name as a nominee before the ballots were ordered printed); *Price v. Dawson*, 608 S.W.2d 339, 340 (Tex. Civ. App.—Dallas 1980, no writ) (concluding appeal of election contest was moot because absentee balloting began during pendency of appeal).

[38] *Ferguson*, 53 S.W.2d at 761; *Smith*, 747 S.W.2d at 940.

[39] This is now called early voting by mail. *See generally* TEX. ELEC. CODE ANN. § 86.001–.014 (West 2010 & Supp. 2015).

[40] *Skelton v. Yates*, 131 Tex. 620, 621–22, 119 S.W.2d 91, 92 (1938) (orig. proceeding); *Moore*, 718 S.W.2d at 926.

[41] *Polk*, 196 S.W.2d at 634.

[42] *Ferguson*, 53 S.W.2d at 762; *Law v. Johnson*, 826 S.W.2d 794, 797 (Tex. App.—Houston [14th Dist.] 1992, no writ).

date the absentee ballots are mailed and the date early voting by personal appearance begins as permitted by section 141.034.

The time for removal of Farkus from the ballots in either the Democratic or Republican primaries has now passed in this case and we are not authorized to order either Donovan or Emmert to "take any and all necessary steps" to remove Farkus from either political party's primary ballot.[43] The deadline for the early voting clerk to mail absentee ballots to overseas voters from whom the clerk has already received applications for ballots by mail or federal postcard applications was January 16, 2016[44]—six days before this petition for writ of mandamus was filed.

Moreover, it would not affect the primary ballots for us now to grant a writ of mandamus requiring Donovan to comply with her statutory duties including rejecting the application of Farkus for a place on the 2016 Democratic Primary Ballot for State Representative District 108 or for us to order Emmert for the same reasons to reject Farkus's application to be Republican precinct chair. Farkus's applications were applications to appear on the primary ballots as candidate for the respective party's nomination for the various positions he sought. Because the primary ballots have already been distributed to voters who will vote by mail we cannot, within the constraints imposed on the judiciary in the context of an election, grant any meaningful relief.

Jurisdiction to Grant Other Forms of Requested Relief

We also conclude that we lack subject matter jurisdiction to order Donovan not to certify Farkus or any other person as a nominee of the Democratic Party for State Representative

[43] *In re Cercone*, 323 S.W.3d at 298; *In re Cullar*, 320 S.W.3d at 566.

[44] Balloting material for voters who are eligible to vote early by mail must be mailed on or before the later of the forty-fifth day before election day or the seventh calendar day after the date the clerk receives the application for a ballot to be voted by mail or the federal postcard application that the voter is eligible to vote early by mail. TEX. ELEC. CODE ANN. § 86.004(b) (West 2010).

District 108. A writ of mandamus "operates solely to nullify an act that has already been performed."[45] In contrast, Meyer's request that Donovan be prohibited from certifying Farkas or any other person as the Democratic nominee for House District 108 is in the nature of a writ of prohibition (injunctive relief) because it seeks to prevent the commission of a future act.[46] We may not award such relief in this proceeding because we do not have jurisdiction to grant any sort of writ other than a writ of mandamus in an original proceeding under the election code.[47]

A suit for injunctive relief in an appropriate trial court is the proper avenue for relief if a person is in danger of being harmed by a threatened violation of the election code.[48] In fact, in a case such as this, there is ample time for the filing and resolution of a suit properly expedited by the trial court should either party wish to pursue an attempt to remove a candidate for the

[45] *Shelvin v. Lykos*, 741 S.W.2d 178, 182 (Tex. App.—Houston [1st Dist.] 1987, orig. proceeding); *see also Faherty v. Knize*, 764 S.W.2d 922, 924 (Tex. App.—Waco 1989, orig. proceeding) (citing *State ex rel. Wade v. Mays*, 689 S.W.2d 893, 897 (Tex. Crim. App. 1985)).

[46] *Faherty*, 764 S.W.2d at 924; *Lykos*, 741 S.W.2d at 182; *see, e.g.*, *LaRouche v. Hannah*, 822 S.W.2d 632, 634 (Tex. 1992) (orig. proceeding) (refusing to grant prospective relief against secretary of state to order him to accept candidate's certification because party chair had not yet certified candidate to secretary of state).

[47] TEX. ELEC. CODE ANN. § 273.061; *see In re Sepulveda*, No. 05-10-01112-CV, 2010 WL 3476670, at *1 (Tex. App.—Dallas Sept. 7, 2010, orig. proceeding) (mem. op.) ("To the extent relator has filed a petition for writ of injunction, we conclude we do not have jurisdiction to enter such a writ in an election contest."). Indeed, our jurisdiction to issue any writ other than a writ of mandamus or habeas corpus, which is not relevant here, is limited to cases in which the Court has actual jurisdiction of a pending proceeding. TEX. GOV'T CODE ANN. § 22.221 (a), (b), (d) (West 2004); *see Bayoud v. N. Cent. Inv. Corp. ex rel. Bayoud*, 751 S.W.2d 525, 529 (Tex. App.—Dallas 1988, writ denied).

[48] TEX. ELEC. CODE ANN. § 273.081 (West 2010).

November general election.[49] We possess appellate jurisdiction in such proceedings by direct appeal and mandamus.[50]

Conclusion

Because we conclude that Texas law deprives us of the power to grant the relief requested in the petition for writ of mandamus and the counter-petition, we dismiss the petition for writ of mandamus and the counter-petition.

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/David Evans/
DAVID EVANS
JUSTICE

[49] *In re Risner*, No. 01-14-00497-CV, 2014 WL 3002178, at *2 (Tex. App.—Houston [1st Dist.] 2014, orig. proceeding) (mem. op.); *In re Angelini*, 186 S.W.3d 558, 561 (Tex. 2006) (orig. proceeding) (concluding that because rival candidates were unopposed in their respective primaries, "there should be ample time before the general election in November for a trial court to make its findings, and for any appellate review to be conducted first in the court of appeals"). An original proceeding, rather than an interlocutory appeal from such a proceeding, may be appropriate where time does not permit normal appellate review. *See In re Triantaphyllis*, 68 S.W.3d 861, 864 (Tex. App.—Houston [14th Dist.] 2002, orig. proceeding) (citing *Williams v. Huntress*, 153 Tex. 443, 272 S.W.2d 87, 89 (1954) (orig. proceeding)), *mand. denied sub nom.*, *In re Gamble*, 71 S.W.3d 313 (Tex. 2002) (orig. proceeding).

[50] TEX. GOV'T CODE ANN. § 22.220 (West Supp. 2015) ("Each court of appeals has appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the judgment rendered exceeds $250, exclusive of interest and costs."); TEX. ELEC. CODE ANN. § 231.009 (West 2010) ("An election contest has precedence in the appellate courts and shall be disposed of as expeditiously as practicable."); *see generally In re Woodfill*, 470 S.W.3d at 475, 478 (injunction in trial court reviewed by mandamus due to lack of time for regular appellate proceedings); *In re Hamlin*, 2002 WL 31018574 (same).