

**In The**  
***Court of Appeals***  
***Ninth District of Texas at Beaumont***

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**NO. 09-10-00505-CV**

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**IN RE DAVID VANN DE CORDOVA, JR. AND BEAUMONTER'S EMBRACING  
TRANSITION TOWARD ELECTION REFORM**

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**Original Proceeding**

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**MEMORANDUM OPINION**

Relators David Vann de Cordova, Jr. and Beaumonter's Embracing Transition Toward Election Reform ("B.E.T.T.E.R.") filed a petition for a writ of mandamus to compel the board of trustees for the Beaumont Independent School District to perform the ministerial duty of placing a redistricting proposition on the May 2011 ballot. *See* Tex. Elec. Code Ann. § 273.061 (West 2010). Because events occurring after the filing of the petition have rendered this proceeding moot, we dismiss the petition for writ of mandamus without addressing the merits of the petition.

On October 8, 2010, relators presented to the board of trustees a petition, signed by at least fifteen percent of the registered voters of the school district, requesting

submission to the voters of the proposition that trustees of the district be elected in five single-member districts and two at-large districts, rather than from seven single-member districts. *See* Tex. Educ. Code Ann § 11.052(e) (West 2006). The Education Code requires that the board “order that the appropriate proposition be placed on the ballot at the first regular election of trustees held after the 120th day after the date the petition is submitted to the board.” *Id.* To be valid, the petition signatures for a petition authorized outside of the Election Code must contain the signer’s printed name, date of birth, voter registration number, residence address, and date of signing, which date must be within 180 days of the date the petition is filed. *See* Tex. Elec. Code Ann. § 277.002(a), (e) (West 2010).

At the October 21, 2010 board meeting, a majority of the board approved a resolution to delegate the responsibility for verifying the signatures on the petition to the law firm retained by the board. Relators sought mandamus in this Court, asking that we order the board to place the proposition on the May 2011 ballot, “subject to seeking and obtaining ‘preclearance’ from the U.S. Justice Department pursuant to the Voting Rights Act.” Prior to oral argument in this proceeding, the school district conceded that B.E.T.T.E.R. had presented the requisite number of signatures and suggested that the mandamus proceeding was moot. On December 17, 2010, relators informed the Court that at its December 16, 2010 meeting, the board adopted a resolution to place the B.E.T.T.E.R. proposition on the May 2011 ballot. Relators contend that the mandamus

proceeding is not moot because the board intends to submit the matter for preclearance by the United States Department of Justice. Relators suggest that clearance would only be required after the election and only if the proposition passes. Because preclearance is not required, relators argue, a decision by the board to seek preclearance would place an additional burden on the school district's taxpayers for the cost of preparing a preclearance request.

Relators filed a mandamus petition to compel the performance of a non-discretionary duty imposed by law in connection with the holding of an election. *See* Tex. Elec. Code Ann. § 273.061; *see also* Tex. Educ. Code Ann. § 7.057 (a-1) (West Supp. 2010). The sole potential issue remaining in dispute is whether the school district should seek preclearance prior to the May 2011 election or seek clearance after the election if the proposition passes. That issue does not concern the performance of a non-discretionary duty imposed by law. Because the board has performed its ministerial duty by authorizing the placement of the proposition on the election ballot for May 2011, this proceeding is moot.

PETITION DISMISSED AS MOOT.

PER CURIAM

Submitted on December 9, 2010  
Opinion Delivered January 13, 2011  
Before McKeithen, C.J., Kreger and Horton, JJ.