

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

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**NO. 03-11-00197-CV**

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**Brad Livingston, in his Official Capacity as the Executive Director of the  
Texas Department of Criminal Justice, Appellant**

**v.**

**Leslie Arrington, for herself and on behalf of all of those similarly situated; Janet Lock, for  
herself and on behalf of all those similarly situated; Kathy Williams, for herself and on  
behalf of all those similarly situated, et al., Appellees**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 419TH JUDICIAL DISTRICT  
NO. D-1-GN-10-000515, HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING**

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**NO. 03-11-00266-CV**

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**Brad Livingston, in his Official Capacity as the Executive Director of the  
Texas Department of Criminal Justice, Appellant**

**v.**

**Leslie Arrington, for herself and on behalf of all of those similarly situated; Janet Lock, for  
herself and on behalf of all those similarly situated; Kathy Williams, for herself and on  
behalf of all those similarly situated, et al., Appellees**

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**FROM THE DISTRICT COURT OF TRAVIS COUNTY, 419TH JUDICIAL DISTRICT  
NO. D-1-GN-10-000515, HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING**

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## MEMORANDUM OPINION

Appellant Brad Livingston has filed a motion requesting the Court to consolidate the two above-referenced cause numbers for all purposes. In cause number 03-11-00197-CV, Livingston filed a notice of appeal from the trial court's oral ruling granting temporary injunctive relief. The trial court granted the relief during a hearing on March 25, 2011. In cause number 03-11-00266-CV, Livingston filed a notice of appeal from the trial court's corresponding written order. The Court grants the motion and consolidates the two above-referenced causes for all purposes. The issues, records, and documents filed in cause number 03-11-00197-CV are consolidated into cause number 03-11-00266-CV. The consolidated appeal shall proceed under cause number 03-11-00266-CV, and cause number 03-11-00197-CV is hereby dismissed. Appellate deadlines will run from the date that the record in cause number 03-11-00266-CV is complete. *See* Tex. R. App. P. 38.6.

Appellant Livingston also has filed a motion to stay trial court proceedings pending appeal, including staying enforcement of the temporary injunction orders. Appellees filed a response to the motion, attaching a copy of the written temporary injunction order. The order shows that the permanent injunction hearing is set for July 18, 2011. Among the injunctive relief granted in the order, Livingston was ordered immediately to make available to hearing impaired offenders the services of the Texas Relay Services in certain specified circumstances.

Appellant has failed to provide any authority to support staying the trial court proceedings pending appeal. Further, section 51.014(b) of the civil practice and remedies code expressly provides that an appeal from a temporary injunction order does not stay trial court proceedings pending resolution of the appeal. *See* Tex. Civ. Prac. & Rem. Code Ann. § 51.014(b)

(West 2008). Moreover, postponing trials on the merits while awaiting rulings on appeals of temporary injunction orders is discouraged. *See* Tex. R. Civ. P. 683 (“The appeal of a temporary injunction shall constitute no cause for delay of the trial.”); *Coalition of Cities for Affordable Utility Rates v. Third Court of Appeals*, 787 S.W.2d 946, 947 (Tex. 1990) (“For a court of appeals to stay proceedings in the trial court while it considers an interlocutory appeal increases delay and expense and should not be done absent compelling circumstances.”); *Brar v. Sedey*, 307 S.W.3d 916, 920 (Tex. App.—Dallas 2010, no pet.) (appeal from temporary injunction order dismissed; court disproved of litigant’s tactic to seek continuance of trial on merits and final disposition of case by way of interlocutory order). In this context, the Court denies Livingston’s motion to stay trial court proceedings pending appeal.

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Melissa Goodwin, Justice

Before Chief Justice Jones, Justices Henson and Goodwin

Dismissed

Filed: June 10, 2011