

TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-17-00871-CV

In re Danny Valdez

ORIGINAL PROCEEDING FROM TRAVIS COUNTY

MEMORANDUM OPINION

Relator Danny Valdez has filed a petition for writ of mandamus asking this Court to extend the statutory deadline for him to file his application and to compel the respondent, the Honorable Gilberto Hinojosa, the Texas Democratic Party Chair, to certify Valdez as a candidate for District 80 of the Texas House of Representatives in the Democratic Party primary election. *See* Tex. Gov't Code § 22.221; Tex. Elec. Code §§ 161.009, 273.061; *see also* Tex. R. App. P. 52.1.

Valdez mailed his application to an incorrect address, and he did not become aware that it had not reached the Texas Democratic Party Chair until after the filing deadline. He attempted to hand deliver the application after the filing deadline, but it was rejected as untimely. The address to which Valdez originally mailed the application was a former business address of the Texas Democratic Party. The Party moved to its new address in 2015. Valdez asserts that the former address continued to show up on the Bing Internet search engine until December 13, 2017, and that the Democratic Party Chair had a statutory duty to correct the address with Internet search engines.

We deny the petition for writ of mandamus. *See* Tex. R. App. P. 52.8; *see also* *In re Hopkins*, 181 S.W.3d 919, 924-28 (Tex. App.—Houston [14th Dist.] 2006, orig. proceeding)

(Guzman, J., concurring) (concluding no violation of express or implied statutory duty of election official and noting that “[t]he legislature has unambiguously placed the risk of untimely delivery or nondelivery on the candidate who mails his or her application and filing fee, and the facts presented neither justify nor authorize a departure from that allocation”).

Cindy Olson Bourland, Justice

Before Justices Puryear, Field, and Bourland

Filed: December 28, 2017