

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

LAURA PRESSLEY, ROBERT BAGWELL,
TERESA SOLL, THOMAS L. KORKMAS,
and MADELON HIGHSMITH,

Plaintiffs,

Civil Action No. 1:24-cv-00318

v.

JANE NELSON, in her official capacity as the
Texas Secretary of State, CHRISTINA ADKINS,
in her official capacity as Director of the Elections
Division of the Texas Secretary of State,
BRIDGETTE ESCOBEDO, in her official
capacity as Williamson County Elections
Administrator; DESI ROBERTS, in his official
capacity as Bell County Elections Administrator,
and ANDREA WILSON, in her official capacity
as Llano County Elections Administrator,

Defendants.

**PLAINTIFFS' VERIFIED EMERGENCY APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND TEMPORARY INJUNCTION**

Plaintiff Laura Pressley, Ph.D. (*pro se*), along with plaintiffs Robert Bagwell, Teresa Soll, Thomas L. Korkmas, and Madelon Highsmith, (by and through their undersigned counsel), file this Verified Emergency Application for Temporary Restraining Order and Temporary Injunction, pursuant to Fed. R. Civ. P. 65, and allege as follows:

NATURE OF THE ACTION AND FACTUAL BACKGROUND

1. Plaintiffs are registered voters in Williamson, Bell, and Llano counties who seek declaratory and permanent injunctive relief arising out of Defendants' actions in violation of state

and federal election laws, resulting in the deprivation of Plaintiffs' constitutional rights, specifically the denial of due process and equal protection of in-person voters.

2. Defendants are the Texas Secretary of State and the Director of the Elections Division of the Texas Secretary of State ("State Defendants") and the election administrators of Williamson, Bell, and Llano counties ("County Defendants"). **For purposes of this Application, County Defendants also encompasses all agents and representatives of said counties, including electronic pollbook, voting system, election software and hardware vendors and any outside records custodians.**

3. Central to the harm Plaintiffs are suffering is the use by County Defendants of random unique identifiers/ballot trackers on the in-person ballots utilized by Plaintiffs in their respective counties. While such computer-generated random identifiers are authorized and permitted by State Defendants, such authorization and use violate both state and federal law, as described in detail in Plaintiffs' Original Complaint [Doc. #1].

4. As the result of such wrongful authorization and use, the secrecy of the Williamson County Plaintiffs' ballots, as well as the ballots of all similarly situated in-person voters in Williamson County, have been breached, violating Plaintiffs' privacy interests. Because in-person ballots across the State of Texas are at risk of being revealed without the knowledge or consent of Texas voters, Plaintiffs request emergency injunctive relief, as described herein, to preserve the integrity of their and other voters' in-person ballots and protect them from disclosure.

5. Additionally, following issuance of a temporary restraining order, Plaintiffs seek a preliminary injunction as described herein.

6. This application is verified by the Declaration of Dr. Laura Pressley, attached hereto and incorporated herein by reference as Exhibit 1.

RELIEF REQUESTED

APPLICATION FOR TEMPORARY RESTRAINING ORDER

7. Plaintiffs reallege and incorporate by reference the Factual Background section of their Original Complaint [Doc. #1] as though fully set forth herein.

8. Plaintiffs also incorporate by reference the Declaration of Dr. Laura Pressley, attached hereto in redacted form. Dr. Pressley's unredacted declaration will be filed with a separate Motion to Seal and will be presented in camera if permitted by the Court.

9. Plaintiffs are in need of injunctive relief to protect the integrity and secrecy of their in-person ballots and, indeed, the in-person ballots of all Texas voters using the Secretary's wrongful authorization for ballot number tracking through voting system software provided by Tex. Sec. of State Election Advisory 2019-23, Section 13.

10. As described in the Declaration of Dr. Pressley, it is possible, using election records subject to the Public Information Act, to match the unique identifier/ballot tracker that Defendants' voting system equipment and software assign to each in-person ballot to the voter who casts that ballot. In other words, a person in possession of the relevant election records could easily uncover how each in-person voter has voted. This has been verified to be the case in multiple elections in Williamson County and, accordingly, should be true of any other county utilizing the same or similar electronic voting system and voting system software to assign unique ballot numbers to all in-person voters.

11. It is not appropriate for others to use, possess, or have access to information enabling them to breach ballot secrecy for in-person voters in Texas. Accordingly, Plaintiffs request the following injunctive relief, in the form of a Temporary Restraining Order:

- a) State Defendants to withdraw Section 13.1.b of the Secretary of State's Election Advisory No. 2019-23 and to be restrained and enjoined from advising or permitting Texas counties to number electronic ballots with a computerized random unique identifier/ballot tracker through the voting system software;
- b) County Defendants to be restrained and enjoined from numbering hybrid voting system ballots with a computerized random unique identifier/ballot tracker through the voting system software;
- c) All counties that utilize hybrid voting system ballots to be restrained and enjoined from numbering hybrid voting system ballots with a computerized random unique identifier/ballot tracker through the voting system software;
- d) County Defendant Escobedo to be restrained and enjoined from destroying, manipulating, updating, upgrading, re-formatting, or otherwise altering in any manner the pollbooks with the following Asset ID numbers: EPB0006, EPB 0007, EPB 0008, EPB0082, EPB0083, EPB0084;
- e) County Defendant Roberts to be restrained and enjoined from destroying, manipulating, updating, upgrading, re-formatting, or otherwise altering in any manner the pollbooks with the following Asset ID numbers: AAG, CAN, BAC, and KIB;
- f) County Defendant Wilson to be restrained and enjoined from destroying, manipulating, updating, upgrading, re-formatting, or otherwise altering two pollbooks used in the March 2024 Primary for early voting and two used on election day.

- g) County Defendants and their agents (including electronic pollbook and voting system vendors) to be restrained and enjoined from any internal or external release or use of voting data revealed by the breach of ballot secrecy (i.e., data matching individuals to their ballots);
- h) State Defendants to advise ALL Texas counties to re-sort the unique identifier/ballot tracker numbers in sequential order prior to releasing such numbers in response to a proper request under the Public Information Act.

12. The requested relief meets all of the equitable factors for granting injunctive relief.

See Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).

Irreparable injury

The harm Plaintiffs are suffering is actual, imminent, and cannot be prevented or fully rectified. Plaintiffs' privacy interests have been violated, and their private voting information is subject to discovery and disclosure as the result of Defendants' unconstitutional actions.

No adequate remedy at law

Because of the irreparable nature of Plaintiffs' injury, Plaintiffs do not have an adequate remedy at law. Neither declaratory relief (which Plaintiffs seek) nor monetary redress (which Plaintiffs do not seek, other than reimbursement of attorneys' fees and costs) will mitigate the damage caused to Plaintiffs' privacy interests and constitutional right to a secret ballot. Only injunctive relief to limit the exposure of Plaintiffs' existing voting information and to prevent the creation of similar future voting information will adequately redress the harm Plaintiffs have suffered.

Substantial likelihood of success

The evidence attached to the Original Complaint is clear – as a result of the Defendants’ actions, it is possible to determine how Plaintiffs and other in-person voters in Texas have voted. The evidence is also clear that the State Defendants are providing advice and guidance to Texas counties that violate both state and federal election law and results in constitutional violations vis a vis in-person voters in Texas, and that the County Defendants have wrongly chosen to follow this unconstitutional guidance. Plaintiffs assert that the facts and the law in this case are clear enough to support summary judgment, underlining the substantial likelihood that they will ultimately succeed on the merits.

Balance of hardships

Plaintiffs have worked diligently to craft proposed injunctive relief that results in as little hardship as possible. For example, although counties who currently utilize computerized random unique identifiers/ballot trackers through the voting system software will need to implement a different numbering system, there is evidence that some Texas counties, including Jefferson, Ellis, and Hood, have already utilized other numbering methods with their existing electronic voting systems (which are similar to those systems used by Defendants). Therefore, Plaintiffs’ requested relief will not require counties to significantly alter or change their electronic voting systems. They will simply need to disable the system feature that assigns and prints the computerized random unique identifiers/ballot tracking numbers on in-person ballots and implement a different numbering method consistent with Texas election law.

Additionally, Plaintiffs have requested that only six Williamson County, four Bell County, and four Llano County electronic pollbooks be preserved in their existing form for purposes of

discovery. This leaves County Defendants with sufficient remaining pollbooks to conduct future elections and does not require the County Defendants to obtain replacement equipment.

Further, rather than ask all Texas counties to be enjoined from producing election records in response to valid requests under the Public Information Act, Plaintiffs simply request that, when producing such records, counties do a simple re-sort of the unique identifier/ballot tracker data to ensure that such data cannot then be matched to the voter lists. This protects Plaintiffs', and other in-person voters', privacy interests, while not hamstringing counties in their responses to proper open records requests.

Finally, prohibiting the County Defendants (and their agents) from using or disclosing confidential voting data internally protects Texas voters' privacy interests while narrowly tailoring the relief to avoid hardship to the Defendants. It should not be a hardship to the counties and their agents to not touch data that should not exist and that they should not possess.

Effect on public interest

Plaintiffs' requested relief will not negatively impact the public interest. To the contrary, this litigation has been initiated for the very purpose of protecting the public interest, namely the public's interest in ballot secrecy and security and in its election officials following the law.

13. Plaintiffs are willing to post a bond. Given the public-interest nature of this litigation, Plaintiffs respectfully request that the Court set a bond in a nominal or de minimus amount.

APPLICATION FOR PRELIMINARY INJUNCTION

14. Plaintiffs reallege and incorporate by reference the foregoing paragraphs as if set forth in full.

15. Following entry of a temporary restraining order, as requested herein, Plaintiffs further request that the Court issue a Preliminary Injunction on all of the same grounds and authorities contained herein, with such Preliminary Injunction to continue in full force and effect until converted into a Permanent Injunction following trial on the merits.

PRAYER

For the foregoing reasons, Plaintiffs respectfully request that the Court grant their Emergency Motion for Temporary Restraining Order and, upon expiration of same, that the Court issue a Preliminary Injunction on the same grounds. Plaintiffs further request all such other and further relief to which they may be entitled.

Respectfully submitted:



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