
NO. 12-25-00337-CV

**IN RE TRAVIS EDWARDS,
RELATOR,**

IN THE

COURT OF APPEALS
TWELFTH DISTRICT OF TEXAS AT TYLER

ORIGINAL PROCEEDING ON A PETITION FOR A WRIT OF MANDAMUS
DIRECTING RESPONDENT, REPUBLICAN PARTY OF TEXAS CHAIRMAN, TO PLACE
A CANDIDATE ON THE BALLOT FOR THE MARCH 2026 REPUBLICAN PRIMARY
ELECTION

REAL PARTY IN INTEREST'S HON. LANCE GOODEN'S
RESPONSE TO RELATOR'S PETITION FOR A WRIT OF
MANDAMUS

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BRIEF

I. STATEMENT OF THE CASE

In this election dispute, this Court is being asked to consider whether the Respondent Republican Party of Texas (the “RPT”) wrongfully denied the Relator, Travis Edwards, a place on the Republican Primary Ballot for Congressional District 5 (“CD5” or “the District”), and in doing so, violated an explicit duty under the Election Code which would subject it to Mandamus. According to the scant facts presented in the Edwards’ Original Petition for a Writ of Mandamus, the RPT first notified Edwards that his application and petition were satisfactory, but later and after the deadline, subsequently notified him in writing that his application was being rejected because his petition did not contain the requisite number of signatures. In response to that denial, Relator Edwards filed this Petition for a Writ of Mandamus on Friday afternoon, December 12, 2025. On Monday, December 15th, the Court ordered that all Respondents and Real Parties in Interest file their response, if any, on or before Wednesday, December 17, 2025. The Hon. Lance Gooden, incumbent Congressman for CD5 and candidate on the Republican Primary Election ballot for CD5, now timely files this Response.

II. STATEMENT REGARDING ORAL ARGUMENT

Real Party in Interest Gooden does not believe oral argument is necessary to reach a decision in this matter, and as such is not requesting it. However, should the Court feel that argument would assist it in making its determination, Gooden's counsel of record will participate.

III. ISSUES PRESENTED

ISSUE 1: ARE THERE ANY CIRCUMSTANCES UNDER WHICH A CANDIDATE FOR OFFICE MAY BE ENTITLED TO A CURE PERIOD TO CORRECT, AMEND, OR SUPPLEMENT DEFICIENT APPLICATION AND PETITION AFTER THE DEADLINE, WHEN SUCH AMENDMENTS ARE CLEARLY REPUDIATED BY THE LEGISLATURE AND PROHIBITED BY THE ELECTION CODE?

IV. SUMMARY OF ARGUMENT

It is the intent of the legislature that the application of the Election Code¹ as well as the conduct of elections “be uniform and consistent throughout this state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of

¹ Commiserate with TEX. ELEC. CODE §1.001, Real Party in Interest Gooden will cite the TEX. ELEC. CODE as the Election Code.

the ballot, promote voter access, and ensure that all legally cast ballots are counted.”² The legislature has created a system to facilitate this by ensuring that (a) the code applies equally to all “to all general, special, and primary elections held in this state,”³ superseding any conflicting statute outside the Election Code;⁴ and (b) by legislating that all elected officials strictly construe its provisions.⁵ A strict application of the provisions of Chapter 141 of the Election Code prevent Relator from accessing the relief he requests. His application and petition are deficient, and he may cure neither past the deadline. And as such, this Court must deny his request for a writ of Mandamus.

V. ARGUMENT ONE: RELATOR IS NOT DUE RELIEF ON THE MERITS

A. A WRIT IS AN EXTRAORDINARY REMEDY

Relator Travis Edwards brought his Petition for an Original Mandamus proceeding before this Court under § 273.061 of the TEX. ELEC. CODE,⁶ which gives the Supreme Court of Texas or an appeals court “the authority to issue a writ

² TEX. ELEC. CODE §1.001.

³ TEX. ELEC. CODE §1.002(a).

⁴ TEX. ELEC. CODE §1.002(b).

⁵ TEX. ELEC. CODE §1.003(a-1).

⁶ TEX. ELEC. CODE § 273.061.

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.”⁷ Mandamus is an extraordinary remedy.⁸ Mandamus may not issue unless the things must be present to place a Petition for a Writ properly before this Court: (1) the duty Relator seeks to compel must be codified, and clearly fixed and required by law related to the administration of an election;⁹ (2) the person who is supposed to perform the duty must be the person the Relator seeks relief from; and (3) a demand to perform the duty must have been made to that specific person to perform that specific act.¹⁰ This Court may not resolve any disputed facts in an original proceeding for Mandamus.¹¹

Edwards’ Application for a Writ of Mandamus asks for the issuance of one of three (3) writs as relief, each pled in the alternative: that he be allowed either (1)

⁷ TEX. ELEC. CODE § 145.036(c); § 273.061.

⁸ *In re H.E.B. Grocery Co.*, 492 S.W.3d 300, 302 (Tex. 2016) (orig. proceeding).

⁹ See also *In re Cercone* 323 S.W.3d 293, 295 (Tex. App. - Dallas [5th Dist.] 2010) (citing *In re Link*, 45 S.W.3d 149, 151-52 (Tex.App. - Tyler [12th Dist.] 2000, orig. proceeding, *In re Ramirez*, No. 13-18-00031-CV (Tex. App. - Corpus Christi [13th Dist.] 2018, orig. proceeding).

¹⁰ *O'Connor v. First Court of Appeals*, 837 S.W.2d 94, 97 (Tex.1992) (citing *Doctors Hosp. Facilities v. Fifth Court of Appeals*, 750 S.W.2d 177, 178 (Tex.1988)). See also *Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 556 (Tex. 1990) (in order for mandamus to lie, respondent must have refused to act); *Bantuelle v. Renfro*, 620 S.W.2d 635, 639 (Tex.Civ.App. - Dallas [5th Dist.] 1981, no writ).

¹¹ See *Brady v. Fourteenth Court of Appeals*, 79 S.W.2d 712, 714 (Tex. 1990).

a cure period to supplement the signatures on his petition; (2) to pay the filing fee his defective petition was meant to replace; or (3) that his application be accepted as is. Edwards' Application for a Writ of Mandamus fails on all three counts.

B. EDWARDS IS NOT ENTITLED TO A WRIT

1. THERE IS NO PROOF EDWARDS MADE ANY WRITTEN DEMAND

The first major deficiency in Edwards' application for a writ, is that it fails to provide prima facie proof he ever made a specific demand of the RPT to comply with whatever duty he believes existed under the Code that would have allowed him to be put back on the ballot.

The Election Code provision invoked by Edwards can only be used to compel a duty related to the execution of an election.¹² Any violation to perform a duty must, by common sense, involve a request to perform that duty, and a denial.¹³ Therefore, a relator must make a demand of a respondent to perform a ministerial or non-discretionary act in writing, to be entitled to mandamus relief,¹⁴ and that demand must be specific. The Texas Supreme Court has held that to qualify as a satisfactory demand, there must be "evidence of a demand to [the Respondent] to

¹² TEX. ELEC. CODE § 273.061.

¹³ *O'Connor v. First Court of Appeals*, 837 S.W.2d 94, 97 (Tex.1992) (citing *Doctors Hosp. Facilities v. Fifth Court of Appeals*, 750 S.W.2d 177, 178 (Tex.1988)); see also *Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 556 (Tex. 1990) (in order for mandamus to lie, respondent must have refused to act); *Bantuelle v. Renfro*, 620 S.W.2d 635, 639 (Tex.Civ.App. - Dallas [5th Dist.] 1981, no writ).

¹⁴ See *In re Cullar*, 320 S.W.3d 560, 564 (Tex.App. - Dallas [5th Dist.] 2010, orig. proceeding).

perform the act [Relator] requests this Court to compel,” not some other act. ¹⁵

Without this demand there is no mandamus relief.¹⁶

2. EDWARDS CAN POINT TO NO EXPLICIT DUTY CODIFIED IN LAW
WHICH WOULD ENTITLE HIM TO THE RELIEF HE SEEKS

Edwards seeks from this Court three (3) types of relief each pled in the alternative: that he be allowed either (1) a cure period to supplement the signatures on his petition; (2) to pay the filing fee his defective petition was meant to replace; or (3) that his application be accepted as is. He can point to no explicit duty in the Election Code that would permit him to amend his application with new signatures, or supplement it with a filing fee after the deadline. Nor can he point to any duty that would require the RPT to accept his application regardless of his deficiencies. Without a duty explicitly recorded in law upon which mandamus can rely, he cannot have relief.

Candidates who want a place on a primary ballot must submit an application.¹⁷ In general, an application for a place on the ballot must be in writing, signed and sworn to, which includes all the information required by

¹⁵ *Id.*, at 297.

¹⁶ *Cercone*, 323 S.W.3d at 297 (citing *Cuellar*, 320 S.W.3d at 566-67).

¹⁷ TEX. ELEC. CODE §172.025.

§141.031.¹⁸ The application must be timely.¹⁹ The RPT had a duty to review the application for compliance as to “form, content, and procedure,”²⁰ within five days of the date the application is received.²¹ The petition that Edwards submitted in lieu of a filing fee is considered part of the application, and its review was to be completed “as soon as practicable,” and need only be facial in nature.²² The validity of a petition is governed by Tex. Elec. Code §141.062. To be valid, it must contain a valid number of signatures,²³ and must also be timely.²⁴

If RPT determines that Edwards’ application or petition was satisfactory upon that facial review, it must accept his application. But the code makes clear that a previous determination that an application and petition are satisfactory under a facial review “does not preclude a subsequent determination that the application does not comply.”²⁵ If the application or petition fails to satisfy the requirements, the duty of the RPT to reject that application is clearly elucidated in

¹⁸ TEX. ELEC. CODE §141.032.

¹⁹ TEX. ELEC. CODE §141.031(a)(3).

²⁰ TEX. ELEC. CODE §141.032(a).

²¹ TEX. ELEC. CODE §141.032(b).

²² TEX. ELEC. CODE §141.032(c).

²³ TEX. ELEC. CODE §141.062(a)(2).

²⁴ TEX. ELEC. CODE §141.062(a)(1).

²⁵ TEX. ELEC. CODE §141.032(d).

the Election Code, and is ministerial and non-optional.²⁶ And once the deadline for applications has passed, the Election Code provides that a candidate may *not* amend his application,²⁷ nor his petition.²⁸ Neither may the authority accept any amendment to the application²⁹ or petition.³⁰ And to make sure there is no confusion as to the deadline, TEX. ELEC. CODE §141.040 requires RPT to have provided notice to candidates of those deadlines, and there is no indication it did not do so.

So, if, at *any time*, RPT determines that Edwards application or petition is deficient, it has a duty to reject it, and immediately deliver to the candidate written notice of the reason for the rejection.³¹ There is nothing in the record to suggest that this initial review was not completed. In fact, there is at this time, no sworn record at all. Rather, in accordance with TEX. ELEC. CODE §141.032(d), the RPT

²⁶ See e.g., *Farrell v. Jordan*, 338 S.W.2d 269 (Tex. Civ.App., Houston 1960; wr. dismiss.); *Brandon v. Quisenberry*, 361 S.W.2d 616 (Tex.Civ.App., Amarillo [7th Dist.] 1962; n.w.h.); *McGee v. Grissom*, 360 S.W.2d 893 (Tex.Civ.App., Ft. Worth [2nd Dist.] 1962; n.w.h.); *Guerra v. Ramirez*, 351 S.W.2d 272 (Tex.Civ.App., San Antonio [4th Dist.] 1961; wr. dismiss.); *Atkinson v. Thomas*, 407 S.W.2d 243 (Tex.Civ.App., Austin [3rd] 1966; n.w.h.); *Fuentes v. Howard*, 423 S.W.2d 420 (Tex. Ct. App. - El Paso [8th Dist.] 1967)

²⁷ TEX. ELEC. CODE §141.032(g)(1).

²⁸ TEX. ELEC. CODE §141.062(c)(1).

²⁹ TEX. ELEC. CODE §141.032(g)(2).

³⁰ TEX. ELEC. CODE §141.062(c)(2).

³¹ TEX. ELEC. CODE §141.032(e).

made a subsequent determination that Edwards' application did not comply because his petition did not contain the requisite number of valid signatures. And now, Relator seeks relief requesting an opportunity to to cure that deficiency beyond the deadline by either collecting and submitting additional signatures, or being permitted to pay the filing fee. Both of these requests are requests to supplement or amend his original petition and application, something the Election Code affirmatively (1) states he is not permitted to do,³² and (2) prohibits the RPT from accepting.³³ And if the application is faulty, it would be an abrogation of its duty to comply with TEX. ELEC. CODE §141.032(e) to order RPT to accept it despite those insufficiencies.

In his petition, Edwards notes that cases such as *In re Francis*, and its progeny, allow him to access equitable relief that would permit him to cure his petition. Gooden is aware that *Francis* and its progeny make clear the Supreme Court's belief that it seemed draconian to deny someone a place on the ballot without giving them an opportunity to fix deficiencies,³⁴ particularly when it is no fault of

³² TEX. ELEC. CODE § 141.032(g)(1); § 141.062(c)(1).

³³ TEX. ELEC. CODE § 141.032(g)(2); § 141.062(c)(2).

³⁴ *In re Francis*, 186 S.W.3d at 541; *In re Sharp*, 186 S.W.3d 556, 557 (Tex. 2006); *In re Gamble*, 71 S.W.2d 581, 582 (Tex. 1996).

the candidate and the party who reviewed the application failed to perform their duty.³⁵ This seems to rely on precedent dating back to *Davis v. Taylor*, in 1996.³⁶

What this argument fails to take into account however, is that as recently as 2021, the Legislature has made clear that it intends the Election Code to foreclose access to the candidate to any and all cure periods after the deadline has passed,³⁷ as well as forbidding the authority in charge of the review from accepting any cures or amendments after that deadline passes.³⁸ It is clear that a strict reading of the Code indicates the Legislature's intent that no supplement or amendment to an application or petition be accepted after the deadline. It is also clear that the Legislature wishes for these provisions to be strictly complied with.³⁹ "The purpose of meticulous adherence to the law is not to deprive willing candidates from their place on the ballot; the purpose is to ensure equal treatment of all candidates, and to protect voters from fraud."⁴⁰ The Code clearly indicates that the authority in charge of administering the election must accept or Courts have found

³⁵ *In re Angelini*, 186 S.W.3d 558 (Tex. 2006).

³⁶ 930 S.W.2d 581, 583 (Tex. 1996).

³⁷ TEX. ELEC. CODE § 141.032(g)(1); § 141.062(c)(1).

³⁸ TEX. ELEC. CODE § 141.032(g)(2); § 141.062(c)(2).

³⁹ TEX. ELEC. CODE § 1.0015; § 1.003.

⁴⁰ *Bejarano v. Hunter*, 899 S.W.2d, 346, 350 (Tex. Ct. Appeals [8th Dist], 1995).

that election officials' compliance with code provisions help contribute to the public's faith in the process.⁴¹

3. EDWARDS HAS FAILED TO PROVIDE A RECORD IN SUPPORT OF ANY OF HIS CLAIMS UPON WHICH THIS COURT MAY RELY

Noticeably absent from Edwards' filing were even the most cursory documents that would be necessary for it to evaluate his application and petition for compliance with the Election Code. While TEX. R. APP. PRO. 52.3(k) required Edwards to submit, along with his application and appendix that must contain "a certified or sworn copy of any order complained of, or any other document showing the matter complained of,"⁴² as well as "unless voluminous or impracticable, the text of any rule, regulation, ordinance, statute, constitutional provision, or other law (excluding case law) on which the argument is based,"⁴³ and may contain "any other item pertinent to the issues or points presented for review,"⁴⁴ no such appendix was attached.

Without an application, Edwards has failed to include either a copy of his application or a copy of his petition for this Court to evaluate. The Election Code

⁴¹ *Alvarez v. Espinoza*, 844 S.W.2d 238, 247-48 (Tex.App.--San Antonio [4th Dist.] 1992, writ dismissed w.o.j.).

⁴² TEX. R. APP. PRO. 52.3(k)(1)(B).

⁴³ TEX. R. APP. PRO. 52.3(k)(1)(C).

⁴⁴ TEX. R. APP. PRO. 52.3(k)(2).

makes clear that the application and petition submitted by the Relator became a public record at the time of its submission.⁴⁵ The Respondent RPT must retain it for at least two (2) years,⁴⁶ and establish a policy for its inspection.⁴⁷ Nothing in the Election Code prohibited Relator from making his own copy before turning it in. But in the event that he failed to do so (which surely would seem to be a best practice), the record would have been open to his inspection, or his attorney's, at any time during RPT's normal business hours.⁴⁸ And again, because he failed to comply with the rule mandating he be responsible for providing a sworn appendix in lieu of a record, there is at this time, no available record to examine in order to make a determination that his application and petition met the requirements the Code has laid out. There is also nothing in the record to indicate that RPT refused to allow an inspection under TEX. ELEC. CODE §1.012, or that they refused to produce a copy in a timely fashion. And if RPT did indeed, in the view of Relator

⁴⁵ TEX. ELEC. CODE §141.035.

⁴⁶ TEX. ELEC. CODE §141.036.

⁴⁷ TEX. ELEC. CODE §1.012.

⁴⁸ *Id.*

Edwards to comply with this duty, his remedy would be an injunction under TEX. ELEC. CODE §273.081 compelling the production of that record.⁴⁹

VI. ARGUMENT TWO: THE ELECTION SCHEDULE AND THE FERGUSON

RULE HAVE RENDERED THE RELATOR’S PETITION FOR A WRIT MOOT

Gooden however, does not feel this Court needs to reach a decision on the merits, but instead should simply deny the writ because the issue has been mooted. “The mootness doctrine implicates subject-matter jurisdiction,”⁵⁰ which is an essential element of a court’s power to decide a case.⁵¹ If a court’s ruling on the merits can no longer the parties’ rights, then the action is moot.⁵² In such a circumstance, any opinion issued would essentially be an advisory one, deciding an “abstract question of law without binding the parties,”⁵³ which is prohibited by the

⁴⁹ Unless of course, both the Relator Edwards and Respondent RPT agreed on a joint set of facts relating to a request and denial of a copy of the record, in which case there would be no fact issues to resolve, leaving Edwards free to also seek relief in the form of a writ under TEX. ELEC. CODE §273.061, much like this proceeding.

⁵⁰ *In re Smith County*, 521 S.W.3d 447, 453 (Tex.App.—Tyler 2017, orig. proceeding).

⁵¹ *Garmon v. Tolbert*, 614 S.W.3d 190, 194 (Tex.App.—Tyler [12th Dist.] 2020) (citing *City of Houston v. Rhule*, 417 S.W.3d 440, 442 (Tex. 2013) (quoting *Bland Indep. Sch. Dist. v. Blue*, 34 S.W.3d 547, 553–54 (Tex. 2000)).

⁵² *Garmon*, 614 S.W.3d at 194 (citing *VE Corp. v. Ernst & Young*, 860 S.W.2d 83, 84 (Tex. 1993).

⁵³ *Tex. Ass’n of Bus. v. Tex. Air Control Bd.*, 852 S.W.2d 440, 444 (Tex. 1993).

Texas and United States Constitutions.⁵⁴ appellate courts may not decide moot controversies.⁵⁵ It is for this reason that the judicial branch has broad equitable powers to provide relief to an applicant under the §273 and §161 private rights of action in the election code, provided it does not run afoul of separation of powers by interfering with the election schedule.⁵⁶ As it relates to election litigation, the longstanding rule, established by *Sterling v. Ferguson*,⁵⁷ is that when an issue cannot be heard by a court, and the final decree entered with sufficient time for election officials to comply with pre-election obligations, then a court must dismiss the case as moot.⁵⁸ This is true, even when the petitioner has good cause to avail herself of the court's equitable powers.⁵⁹ If this matter cannot be heard, and a final decree adjudicating the validity or invalidity of Edwards' petition cannot be issued in time

⁵⁴ *Garmon*, 614 S.W.3d at 194. (citing *Nat'l Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999)).

⁵⁵ *Nat'l Collegiate Athletic Ass'n v. Jones*, 1 S.W.3d 83, 86 (Tex. 1999).

⁵⁶ *In Re Gamble* 71 S.W.3d 313, 317-19 (Tex. 2002) (citing *Law v. Johnson*, 826 S.W.2d 794, 797 (Tex. App.—Houston [14th Dist.] 1992, no pet.)). See also *In re Morgan Meyer*, No. 05-16-00063-CV, 2016 WL 375033, at *4 (Tex.App.—Dallas Feb. 1, 2016, orig. proceeding) (mem. op.).

⁵⁷ 53 S.W.2d 753 (1932).

⁵⁸ *Id.* At 760. See also *Taylor v. Nealon*, 120 S.W.2d 586, 588 (1938); *Garmon*, 614 S.W.3d at 194 (citing *Law v. Johnson*, 826 S.W.2d 794, 797 (Tex.App.—Houston [14th Dist.] 1992, no pet.)); and *Smith v. Crawford*, 747 S.W.2d 938, 940 (Tex. App.—Dallas 1988, no pet.)

⁵⁹ *Crawford*, 747 S.W.2d at 940 (citing *Cummins v. Democratic Executive Committee*, 97 S.W.2d 368, 369 (Tex.Civ.App.—Austin 1936, no writ.).

to print the absentee ballots in time for distribution when voting begins, the case is moot.⁶⁰

Under the Election Code, the balloting materials for voting by mail must be mailed to voters on or before the forty-fifth (45th) day before election day.⁶¹ Because Relator did not exercise the statutory option provided him under the Election Code to file directly in the Supreme Court, the appellate deadlines after this Court makes a decision cannot run and/or exhaust themselves on or before time to comply with that January 17, 2026, deadline. For that reason, this issue is mooted and the Court should deny the writ, and not entertain any motion for a rehearing.⁶²

VII. CONCLUSION & PRAYER

Wherefore, premises considered, Real Party in Interest Congressman Lance Gooden prays that the Court dismiss Edwards' Petition for a Writ of Mandamus as it has been mooted by the election schedule, and is therefore outside of this Court's jurisdiction. In the alternative, Gooden prays this Court would reject Edwards' request for a Writ on all three grounds as dictated by the Election Code, and order

⁶⁰ *Id.* (Citing *Ferguson*, 53 S.W. 2d at 761).

⁶¹ TEX. ELEC. CODE § 86.004(a).

⁶² *Crawford*, at 790 (citing *Polk v. Davidson*, 196 S.W.2d 632, 635 (1946)).

that Respondent Republican Party of Texas' decision to remove Edwards from the ballot in Texas Congressional District 5 for the March 2026 Republican Primary Election stands.

RESPECTFULLY SUBMITTED, THIS 16TH DAY OF DECEMBER, 2025,

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VERIFICATION & CERTIFICATION

This document complies with the typeface requirements of TEX. R. APP. PRO. 9.4(e) because it has been prepared in a conventional typeface no smaller than 14-point for text, and 12-point for footnotes. This document also complies with the word-count limitations of TEX. R. APP. PRO. 9.4(i), if applicable, because it contains [2,281] words, excluding any parts exempted by TEX. R. APP. PRO. 9.4(i)(1).

CERTIFICATE OF SERVICE

I certify that, on December 17, 2025, a true and correct copy of the foregoing document was served on counsel of all parties through the Court's CM/ECF system.

/s/Elizabeth Alvarez

Elizabeth Alvarez

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HON. LANCE GOODEN

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