No. 14-20-00627-CV

In the Court of Appeals for the Fourteenth Judicial District Houston, Texas

THE STATE OF TEXAS,

Appellant,

v.

CHRIS HOLLINS, IN HIS OFFICIAL CAPACITY AS HARRIS COUNTY CLERK,

Appellee.

On Appeal from the
127th Judicial District Court, Harris County

APPELLANT'S EMERGENCY MOTION FOR RELIEF UNDER RULE 29.3 OR IN THE ALTERNATIVE FOR A WRIT OF INJUNCTION

TO THE HONORABLE FOURTEENTH COURT OF APPEALS:

Pursuant to Rule 29.3, the State of Texas, by and through Attorney General Ken Paxton, respectfully requests an emergency order preserving the status quo and protecting this Court's appellate jurisdiction to resolve the lawfulness of Harris County's plan to distribute unsolicited vote by mail applications to over 2 million registered voters in Harris County, even though the vast majority of those voters are not eligible to vote by mail, and even though the Election Code does not authorize such action. Appellee Chris Hollins, the Harris County Clerk, has indicated his intention to distribute these applications as soon as five days from today—and

should that happen, this Court will lose jurisdiction over this appeal before it is able to decide the lawfulness of Hollins's actions. **Therefore, the State requests an order granting temporary relief as soon as possible, but in any event, no later than Monday, September 14, 2020, at 5:00 p.m.** The State further requests that such an order remain in effect for the duration of this important appeal.

On August 25, 2020, Appellee Hollins announced that he intends to send two million applications for mail-in ballots to registered voters in Harris County under the age of 65—regardless of whether any given voter qualifies to vote by mail or has requested such an application. Hollins's actions exceed his statutory authority under the Election Code. Moreover, they will sow confusion just weeks ahead of a major national election and facilitate voter fraud.

There is little time to stop Hollins's *ultra vires* efforts to circumvent the careful limits the Constitution places on county officials' authority. Hollins can take only such actions as are authorized by the Legislature, and the Legislature has granted him precise powers relating to mail-in ballots in this State. Within hours of Hollins's announcement, the Secretary of State asked Hollins to stop his illegal actions. Hollins refused. The State then filed this *ultra vires* suit and sought a preliminary injunction. The trial court rejected the request. County clerks across the State must distribute mail-in ballots to certain voters in only eight days on September 19. Tex. Elec. Code §§ 101.001, .004. Yet Hollins's *ultra vires* conduct threatens to flood the State's largest county with applications from voters who are likely ineligible. This will fundamentally undermine the Legislature's design.

As Hollins has acknowledged, the proper function of Texas's mail-in-ballot system depends on the honesty and good faith of Texas voters. Voters must decide in the first—and usually the last—instance whether they are eligible to vote by mail. App. A (Response) at 3. Requiring voters to affirmatively seek out an application is an important first step in that process. There has already been widespread confusion regarding who is and is not eligible to vote by mail during this election cycle. Sending applications to millions of ineligible voters—applications that will bear the imprimatur of the Harris County Clerk—will only exacerbate this situation.

This Court should issue an order preventing Hollins's planned distribution pending resolution of this appeal, which should be decided on an accelerated basis. Texas Rule of Appellate Procedure 29.3 permits this Court to issue "any temporary orders necessary to preserve the parties' rights" and this Court's own appellate jurisdiction. *See Lamar Builders, Inc. v. Guardian Savings & Loan Ass'n*, 786 S.W.2d 789, 791 (Tex. App.—Houston [1st Dist.] 1990, no writ). Such an order is necessary here because if Hollins consummates his plans while this appeal is pending, this Court will be unable to afford the State any effective remedy. Put simply, there is no way to unsend more than two million unsolicited vote-by-mail applications. At the same time, the State recognizes that the election is fast approaching. The Court should therefore grant immediate, temporary relief and set this case for briefing and resolution as expeditiously as possible, while preserving the status quo and appellate jurisdiction in the meantime.

Statement of Facts

I. Background

"The history of absentee voting legislation in Texas shows that the Legislature has been both engaged and cautious in allowing voting by mail." *In re State*, 602 S.W.3d 549, 558 (Tex. 2020). A qualified voter may vote by mail only (a) "if the voter expects to be absent from the county of the voter's residence on election day," Tex. Elec. Code § 82.001; (b) if the voter "has a sickness or physical condition" that prevents the voter from voting in person, *id.* § 82.002; (c) if the voter is at least 65 years of age on election day, *id.* § 82.003; or (d) if "at the time the voter's early voting ballot application is submitted, the voter is confined in jail," *id.* § 82.004. To receive a ballot to vote by mail, an eligible voter "must make an application for an early voting ballot to be voted by mail as provided by this title," *id.* § 84.001(a), and send it to the early-voting clerk in the voter's jurisdiction, *id.* § 84.001(d).

Appellee Chris Hollins is the early-voting clerk for Harris County. Because Harris County is a subdivision of the State of Texas, it—and by extension its agents—possess only those powers granted by the Legislature. *See, e.g.*, *Town of Lakewood v. Bizios*, 493 S.W.3d 527, 536 (Tex. 2016). The limits of this power are "strictly construe[d]." *Id.* "Any fair, reasonable, substantial doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied." *Foster v. City of Waco*, 255 S.W. 1104, 1106 (Tex. 1923).

As an early-voting clerk, Hollins "is an officer of the election in which [he] serves." Tex. Elec. Code § 83.001(b). He is to "conduct the early voting in each election" in accordance with the terms of the Election Code. *Id.* § 83.001(a).

Relevant here, Hollins is empowered (and required) to "mail without charge an appropriate official application form for an early voting ballot to each applicant requesting" such an application. *Id.* § 84.012. The Legislature has not, however, granted county early voting clerks the power to send out unsolicited applications for mail-in ballots. App. F (Joint Ex. 19) (indicating [x] total ballots cast under these categories in 2016).

Hollins has ignored these limitations on his power. On August 25, 2020, his office announced on Twitter that it "will be mailing every registered voter an application to vote by mail." Harris County Clerk, (@HarrisVotes), Twitter (Aug. 25, 2020), https://twitter.com/HarrisVotes/status/1298372637912072193. The tweet also stated "Check your mail! Every Harris County registered voter will be sent an application to vote by mail next month." *Id.* This is in addition to the "nearly 400,000 mail-in ballot applications [sent] to Harris County voters who are 65 and older" ahead of the July primary runoff. Shelley Childers, *Nearly 400K vote-by-mail applications sent to Harris Co. seniors ahead of election*, ABC, June 11, 2020, https://abc13.com/texas-mail-in-ballot-voting-coronavirus-during/6243587/.

Most of the individuals targeted by Hollins's latest proposed mass mailing are not eligible to vote by mail. Currently, there are approximately 2.4 million people registered to vote in Harris County. Harris County Clerk's Office, *Cumulative Report—Harris County, Texas—General and Special Elections*, Nov. 8, 2016, https://harrisvotes.com/HISTORY/20161108/cumulative/cumulative.pdf. As of July 1, 2019, only 10.9% of the Harris County population is 65 years old or older. U.S. Census Bureau, *Quick Facts: Harris County, Texas*, https://www.census.gov/

quickfacts/fact/table/harriscountytexas/PST045219. Only an estimated 6.4% of the remainder has a disability, and it is unclear how many of those disabilities prevent a voter from voting in person. *Id.* Finally, the number of eligible voters who are confined in jail or expect to be absent from the county is necessarily small.

On August 27, 2020, Keith Ingram, Director of Elections for the Texas Secretary of State, sent a letter asking Hollins to halt his unlawful mailing under Texas Election Code section 31.005. App. B (Petition) Ex. 1. Ingram's letter stated that the Secretary had concluded that Hollins's proposed mailing was an abuse of voters' rights. *Id.* Specifically, Ingram explained that "[a]n official application from [Hollins's] office will lead many voters to believe that they are allowed to vote by mail, when they do not qualify." *Id.* Moreover, sending applications to every registered voter would "impede the ability of persons who need to vote by mail to do so" by "[c]logging up the vote by mail infrastructure with potentially millions of applications from persons who do not qualify to vote by mail." *Id.*

The Secretary gave Hollins until noon on August 31, 2020 to cease his unlawful actions and to issue a retraction before she referred the case to the Attorney General for "appropriate steps." *Id.* He refused to comply with the deadline. *Cf.* App. B Ex. 2 at 2. The Secretary immediately referred the case to the Attorney General.

II. Procedural History

Following the Secretary's referral, the State acting by and through its Attorney General filed this suit seeking temporary and permanent injunctive relief against Hollins's *ultra vires* action. App. B. The Attorney General also sought a temporary restraining order to prevent Hollins from acting in advance of a hearing on the

State's requested relief. *Id.* at 10-11. The trial court never ruled on that request, however, because the parties reached a Rule 11 agreement that Hollins would not seek to mail the applications until five days after the trial court resolved the temporary injunction to allow for the non-prevailing party to seek relief on appeal. App. C (Rule 11 Agreement).[1]

In his response to the State's petition, Hollins defended his conduct on various grounds, asserting that (1) there is no statute prohibiting him from sending out these applications, App. A at 2; (2) the State did not sue him when he sent applications to voters over 65 (who are, by definition, eligible to vote by mail), *id.* at 15; (3) Texas Election Code section 84.013 requires the Secretary of State to maintain a supply of applications for potential distribution, *id.* at 5, 10; (4) the Secretary of State posts a copy of the application on her website for voters to download as an alternative to requesting an application from Hollins, *id.* at 6; and (5) private parties have periodically opted to distribute mail-in-ballot applications. But he pointed to no statute authorizing his actions. More importantly for the purpose of this motion, Hollins did not contest that if the State is right on the law, it will suffer an irreparable injury absent immediate relief.

The trial court held a hearing on the State's petition on September 9. After requesting additional briefing, the trial court denied the State's requested relief on September 11. App. E. It reasoned that the Election Code grants early voting clerks

[1] In an independent lawsuit, the Texas Supreme Court issued an order that stayed Hollins's action for a similar period. App. D (Hotze Order).

"broad powers," and that there is nothing in section 84.012 limiting that authority. *Id.* at 5.[2]

The State filed an immediate notice of interlocutory appeal under Civil Practice and Remedies Code section 51.014(a)(4). It now asks this Court to issue emergency interim relief under Texas Rule of Appellate Procedure 29.3 to prevent Hollins's *ultra vires* conduct pending resolution of its appeal.[3] Absent such relief, Hollins will undoubtedly follow through on his threat to mail out two million applications to vote by mail within a matter of days, depriving this Court of the ability to afford the State any effective relief or to resolve the merits of this appeal.

[2] Though the trial court also discussed a "Section 31.005 Claim," App. E at 5-7, that was in error. The State has brought a single claim based on *ultra vires* action.

[3] In the alternative, the State asks this Court to issue a writ of injunction to preserve its jurisdiction under Government Code section 22.221(a). *See In re Olson*, 252 S.W.3d 747, 747-48 (Tex. App.—Houston [14th Dist.] 2008, orig. proceeding) (When the court of appeals has appellate jurisdiction, it may issue a writ of injunction to "enforce or protect the appellate court's jurisdiction.").This Court has held that though these two avenues for relief vary in form, the standards for seeking them are similar. *Lamar Builders, Inc.*, 786 S.W.2d at 790. *But see Oryon Techs., Inc. v. Marcus*, 429 S.W.3d 762, 766 (Tex. App.—Dallas 2014, no pet.) (noting that some courts hold that the standards under Rule 29.3 "are not as stringent as the requirements of the Section 22.221 of the Texas Government Code"). The State asks for both in an abundance of caution.

ARGUMENT

I. To Preserve the Status Quo and Appellate Jurisdiction, the Court Should Order Hollins Not to Mail Unsolicited Mail-in Ballots Pending Resolution of this Appeal.

"When an appeal from an interlocutory order is perfected, the appellate court may make any temporary orders necessary to preserve the parties' rights until disposition of the appeal." Tex. R. App. P. 29.3; *see also In re Olson*, 252 S.W.3d at 747-48. To establish entitlement to that relief, movants must state the relief sought, the legal basis for the relief, and the facts necessary to establish a right to that relief. *See, e.g.*, *Lamar*, 786 S.W.2d at 791; *see also, e.g.*, *McNeeley v. Watertight Endeavors, Inc.*, No. 03-18-00166-CV, 2018 WL 157866, at *1 (Tex. App.—Austin Mar. 23, 2018, no pet.) (per curiam). Such relief is appropriate here.

A. The State is entitled to an order preventing Hollins from sending out unsolicited mail-in-ballot applications because it is the only way "to preserve the parties' rights" pending that appeal. *See* Tex. R. App. P. 29.3. "As a sovereign entity, the State has an intrinsic right to enact, interpret, and enforce its own laws." *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015). And the State "indisputably has a compelling interest in preserving the integrity of its election process." *Eu v. S.F. Cty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989).

That right will be irrevocably violated the moment that mail goes out—a proposition Hollins does not dispute. *See generally* App. A (focusing entirely on the merits of Plaintiff's claim). Put simply, there is no way to unsend two million unsolicited vote-by-mail applications. And there is no other way to make the State whole. The State's sovereign interest cannot be remedied with monetary damages.

State officers will be required to combat the confusion that will inevitably result from Hollins's action. Even if they were able to divert their full attention to that task, it likely will not repair the resulting damage. *See* App. J (Transcript) at 60-62, 64-65 (receiving testimony from Director of Elections that Hollins's action is likely to lead to (1) a depletion of the Secretary of State's resources, (2) voters making decisions without assistance and potentially opening themselves up to liability, and (3) decreased turnout).[4] Moreover, the time State officers spend on this issue will distract them from their other critical duties just weeks before a major election.

Courts routinely order Rule 29.3 relief under such circumstances.[5] Indeed, the Supreme Court has held that refusal to grant such relief where necessary to preserve

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[4] The transcript attached to this motion is a draft, which was received from the court reporter. It is being provided for the Court's use in considering this motion. A final copy will be provided when it is complete.

[5] *E.g.*, *Texas Gen. Land Office v. City of Houston*, No. 03-20-00376-CV, 2020 WL 4726695, at *2 (Tex. App.—Austin July 31, 2020, no pet.) (granting Rule 29.3 relief where "City face[d] a potentially irrevocable loss of its ability to provide aid to the residents of the City"); *WC 1st & Trinity, LP v. Roy F. & JoAnn Cole Mitte Found.*, No. 03-19-00905-CV, 2020 WL 544748, at *4 (Tex. App.—Austin Feb. 3, 2020, no pet.) ("leav[ing] in place the portions of our prior partial stay order prohibiting the alienation of the real property"); *Mulcahy v. Cielo Prop. Grp., LLC*, No. 03-19-00117-CV, 2019 WL 2384150, at *1 (Tex. App.—Austin June 6, 2019, no pet.) (ordering "appellant's counsel to obtain and maintain possession of the hard drive and all copies of appellee's confidential business information"); *accord In re Lasik Plus of Tex., P.A.*, No. 14-13-00036-CV, 2013 WL 816674, at *4 (Tex. App.—Houston [14th Dist.] Mar. 5, 2013, orig. proceeding) (refusing Rule 29.3 relief where "the subject matter of this appeal *will not be invaded* if the trial court's order stands") (emphasis added).

the court's jurisdiction is an abuse of discretion and subject to a petition for writ of mandamus. *See generally H & R Block, Inc. v. Haese*, 992 S.W.2d 437, 438 (Tex. 1999).

B. Though the merits are not at issue in a Rule 29.3 motion, the State is also likely to prevail on appeal. Counties in Texas are limited to exercising those powers that are specifically conferred on them by statute or the constitution. *Guynes v. Galveston County*, 861 S.W.2d 861, 863 (Tex. 1993). The County has no sovereign power of its own: It "is a subordinate and derivative branch of state government." *Avery v. Midland County*, 406 S.W.2d 422, 426 (Tex. 1966), *rev'd on other grounds*, 390 U.S. 474 (1968); *see also* Tex. Const. art. XI, § 1 ("The several counties of this State are hereby recognized as legal subdivisions of the State."). As a political subdivision, the County "represent[s] no sovereignty distinct from the state and possess[es] only such powers and privileges" as the State confers upon it. *Wasson Interests, Ltd. v. City of Jacksonville*, 489 S.W.3d 427, 430 (Tex. 2016) (quotation omitted); *accord Quincy Lee Co. v. Lodal & Bain Eng'rs, Inc.*, 602 S.W.2d 262, 264 (Tex. 1980). And when a county acts without legal authority, "[t]he 'inability [of the State] to enforce its duly enacted [laws] clearly inflicts irreparable harm on the State.'" *Tex. Ass'n of Bus. v. City of Austin*, 565 S.W.3d 425, 441 (Tex. App.—Austin 2018, pet. denied) (quoting *Abbott v. Perez*, 138 S. Ct. 2305, 2324 n.17 (2018)).

Hollins must send vote-by-mail applications only to voters who request them. Tex. Elec. Code § 84.012. But neither he nor the trial court pointed to any statute empowering him to send applications *without* such a request.

Hollins seeks to reverse this presumption and argue that he has "broad" power to send out applications because there is no statute that prohibits the activity. App.

A at 2.[6] But tellingly, the only case he can find to support this contention involved not whether a county had authority to act in the first place, but *which* county officer had authority to "employ and discharge the court house engineer, janitor, and elevator operators." *Anderson v. Wood*, 152 S.W.2d 1084, 1085 (Tex. 1941). In *Anderson*, the Court looked carefully at how the Texas Constitution and various statutes divided authority to enter contracts relating to the county jail between the Commissioners Court and the Sheriff. *Id.* The Court concluded that the specific contract at issue did not fall within the specific grant of authority to the Sherriff, and by default fell into the contracting authority of the Commissioners Court, which possesses general statutory authority to contract for a County. *Id.* at 209. But Hollins can point to no such general grant of authority. Put another way, he is the Sheriff in *Anderson*. Here, the Election Code spells out very specific authorities granted to the early-voting clerk, *see, e.g.*, Tex. Elec. Code §§ 84.012, 84.014, & 84.033, to the Commissioners Court, *see, e.g.*, *id.* §§ 32.002, 42.001, and to other public officials, *see, e.g.*, *id.* § 87.0431. Nowhere in the code is the early-voting clerk granted the authority Hollins claims.

The trial court erred by presuming that Hollins had powers unless they were explicitly denied. App. E at 3, 5. Harris County and Hollins have only such power as

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[6] *See also, e.g.*, App. J at 134 (receiving testimony from Hollins that his power is "really broad"); *id.* at 141 ("I think a lot of the [Election Code] . . . lays out generally what I'm allowed to do and then I can take from that and go above and beyond."); *id.* at 143 ("I would say that my authority to conduct and manage early voting gives me very broad authority"); *id.* at 171 (opining that the Election Code "lays out minimums" but that he is empowered "to go above and beyond").

explicitly granted or "*necessarily implied* to perform [their] duties." *City of San Antonio v. City of Boerne*, 111 S.W.3d 22, 29 (Tex. 2003) (emphasis added). It is not enough that Hollins views the additional powers as potentially helpful to carrying out a duty assigned to Hollins under the Election Code. The Supreme Court has repeatedly held that "a municipal power will be implied only when without its exercise the expressed authority would be nugatory." *State ex rel. City of Jasper v. Gulf State Utils. Co.*, 189 S.W.2d 693, 648 (Tex. 1945) (cleaned up) (quoting *Foster*, 255 S.W. at 1106); *see also, e.g.*, *Bizios*, 493 S.W.3d at 536 (county's implied powers are only those that are "*indispensable*" to carrying out the powers expressly granted).

Far from being necessary to perform his functions as an early-voting clerk, Hollins's actions actively undermine the proper function of the Election Code. For example, Keith Ingram, the Secretary of State's long-serving Director of Elections, testified that sending unsolicited vote-by-mail applications to every registered voter, bearing the imprimatur of Harris County, will needlessly confuse voters and will invite potential voter fraud by those who improperly maintain their own eligibility to vote by mail. *E.g.*, App. J (Transcript) at 60-62, 64-65. Indeed, this concern is fully supported by the content of the information put out by Hollins, which is incomplete at best, *see, e.g.*, App. G (Ex. 10) (agreeing with assessment that "A disability is something that YOU define for yourself"), and affirmatively misleading at worst, *compare, e.g.*, App. H (Ex. 21) (implying that drive-through voting is available for all voters), *with* Tex. Elec. Code § 64.009 (allowing curbside voting only for those "physically unable to enter the polling place"), *and* App. I (Ex. 2 at 2) (stating that a voter is disabled if she is pregnant), *with* Tex. Elec. Code § 83.002 (defining

disability to include "[e]xpected or likely confinement for childbirth on election day").

Moreover, Hollins's *ultra vires* actions harm the very voters that he claims to be trying to help. Specifically, due to Hollins's *ultra vires* actions, many Harris County residents who are eligible to vote by mail may be under the impression that they need not request an application. This confusion could lead a voter not to receive a ballot in a timely fashion and ultimately not to be able to vote. The Court should take action to preclude that outcome.

As a result, the State is likely to prevail in showing that Hollins's actions should have been enjoined as *ultra vires*.

II. The Court Should Expedite Its Consideration of Both this Motion and the Appeal.

Moreover, it is vital that the Court move quickly. At present, the only thing preventing Hollins from taking irrevocable action is a Rule 11 agreement—adopted by the Texas Supreme Court to address other litigation regarding Hollins's conduct—that will expire in mere days. App. C. Therefore, the State requests an order granting temporary relief as soon as possible, but in any event, no later than Monday, September 14, 2020, at 5:00 p.m.

If the Court concludes that is not enough time to fully consider the Rule 29.3 motion, it should at minimum order relief on an administrative basis and require Harris County to respond to this motion forthwith. Such a brief, administrative order is warranted when the Court reaches "the tentative opinion that [the moving party] is entitled to the relief sought" and "the facts show that [that party] will be

prejudiced in the absence of such relief." *Republican Party of Tex. v. Dietz*, 924 S.W.2d 932, 932 (Tex. 1996) (per curiam) (citing former Tex. R. App. P. 121). It allows the Court a "meaningful opportunity to consider" relevant issues "upon less hurried deliberation." *Del Valle ISD v. Dibrell*, 830 S.W.2d 87, 87-88 (Tex. 1992) (Cornyn, J., joined by Hecht, J., dissenting); *cf. June Medical Servs., L.L.C. v. Gee*, 139 S. Ct. 661 (2019) (ordering a temporary stay because "the Justices need[ed] time to review the[stay-related] filings").[7] Such an order would allow Hollins to respond to this motion without a lapse in the existing Rule 11 agreement.

The State also recognizes that this case should be resolved as expeditiously as possible. To that end, it requests the Court expedite its consideration of the appeal on the merits. Rule 38.6(d) allows this Court to "shorten the time for filing briefs and for submission of the case" in the interests of justice. Tex. R. App. P. 38.6(d). The State would suggest that such relief is appropriate here. By law, certain ballots must be mailed no later than September 19. *Cf.* Tex. Elec. Code §§ 101.001, .004. All voters who want to vote by mail must apply for an absentee ballot no later than October 23. *Id.* § 84.007(c). The United States Postal Service has warned that due to limitations on *its* capacity, those applications should be sent no later than October 19. Letter from Thomas J. Marshall to Ruth Hughs, July 30, 2020,

[7] The U.S. Supreme Court routinely enters temporary stays while considering important filings. *See, e.g.*, *Trump v. Mazars USA, LLP*, 140 S. Ct. 581 (2019) (temporary stay of seven days); *June Medical Servs.*, 139 S. Ct. 661 (six days); *In re Grand Jury Subpoena*, 139 S. Ct. 914 (2019) (16 days); *In re United States*, 139 S. Ct. 452, 453 (2018) (13 days); *In re Dep't of Commerce*, 139 S. Ct. 16 (2018) (13 days).

https://tinyurl.com/USPSTexasLetter. This Court—and potentially the Supreme Court—should resolve this dispute well ahead of that deadline.

The State therefore requests that this Court accelerate briefing in this action such that it may be resolved no later than October 5.

Prayer

To maintain the status quo and preserve its jurisdiction, the Court should grant relief under Rule 29.3 directing Appellee not to send (or cause to be sent) any unsolicited mail-in ballot applications pending resolution of this appeal. The Court should further grant expedited consideration of this appeal. The State respectfully requests an order granting relief as soon as possible, but in any event, no later than Monday, September 14, 2020, at 5:00 p.m.

Respectfully submitted.

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Certificate of Service

On September 11, 2020, this document was served electronically on Susan Hays, lead counsel for Chris Hollins, via hayslaw@me.com.

/s/ Kyle D. Hawkins
Kyle D. Hawkins

Certificate of Conference

On September 11, 2020, counsel for the State conferred with counsel for the Defendant regarding this motion. He was informed that Defendant is opposed to the relief sought.

/s/ Kyle D. Hawkins
Kyle D. Hawkins

Certificate of Compliance

Microsoft Word reports that this brief contains 4,374 words, excluding the portions of the brief exempted by Rule 9.4(i)(1).

/s/ Kyle D. Hawkins
Kyle D. Hawkins