No. ___

In the Supreme Court of Texas

IN RE STATE OF TEXAS,
Relator.

On Petition for Writ of Mandamus
to the Fourteenth Court of Appeals, Houston

PETITION FOR WRIT OF MANDAMUS AND FOR WRIT OF INJUNCTION

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The Honorable Fourteenth Court of Appeals, Houston

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"App." refers to the appendix to this petition and "MR" to the mandamus record.

Statement of the Case

Nature and Course of the Underlying Case:	Pursuant to Texas Government Code section 22.002, the State seeks a writ of mandamus to the Fourteenth Court of Appeals or a writ of injunction to the Harris County Clerk. Specifically, the State asks the Court to preserve its own jurisdiction by ordering that the Harris County Clerk may not send unsolicited vote-by-mail applications to approximately two million registered voters before the legality of such action is resolved. The State sought a temporary injunction to prevent this mass mailing, which exceeds the scope of the Clerk's authority under the Texas Election Code. MR.12. The district court denied that request. MR.495-501. The State filed an immediate appeal. MR.418-19. Because an existing agreement that the Clerk would not mail the applications pending resolution of the temporary injunction would expire in five days, MR.126, the State sought interim relief to prevent the mailing—and thus preserve the court of appeals' jurisdiction—pending the outcome of that appeal, MR.421-37.
Respondent:	The Honorable Fourteenth Court of Appeals, Houston Justices Spain, Hassan, and Poissant
Mandamus Real Party in Interest and Writ of Injunction Respondent:	Chris Hollins, Harris County Clerk
Respondent's Challenged Actions:	The court of appeals denied the State's request for relief under Rule 29.3 or a writ of injunction. MR.503-05. The interlocutory appeal remains pending.

Statement of Jurisdiction

The Court has jurisdiction under Texas Government Code section 22.002(a).

Issue Presented

The Texas Legislature has delegated specific, defined authority to County Clerks to facilitate early voting in statewide and nationwide elections. *See generally* Tex. Elec. Code ch. 84. The Harris County Clerk threatens to irrevocably undermine that system within a matter of days. The Fourteenth Court of Appeals nonetheless refused to enter a temporary order to preserve its ability to award the State effective relief during the pendency of an expedited interlocutory appeal.

The issue presented is whether the court of appeals' order, which effectively eliminates the State's right to appeal the denial of its requested injunction, is a clear abuse of discretion for which the State has no adequate remedy by appeal.

To the Honorable Supreme Court of Texas:

Chris Hollins, the Harris County Clerk, plans to distribute unsolicited vote-by-mail applications to over two 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. The State of Texas, by and through Attorney General Ken Paxton, petitions this Court for a writ of mandamus or injunction to preserve the status quo and protect the appellate court's jurisdiction to resolve the lawfulness of this action. The only things stopping Hollins's unlawful action is a Rule 11 agreement and the Court's stay order in a related case, both of which will expire on Wednesday night. **Therefore, the State requests an order granting temporary relief as soon as possible, and a writ of mandamus or writ of injunction no later than Wednesday, September 16.**

On August 25, 2020, Chris Hollins announced that, in his capacity as Harris County Clerk, he intends to send two million applications for mail-in ballots to registered voters in Harris County—regardless of whether any given voter qualifies to vote by mail or has requested such an application. 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 only certain powers relating to mail-in ballots in this State. Hollins is ignoring those limits. County clerks across the State must distribute mail-in ballots to certain voters in only four days, on September 19, Tex. Elec. Code §§ 101.001, .004, and to all voters in less than three weeks, *id.* § 86.004(a). 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 instance whether they are eligible to vote by mail. MR.27. Requiring voters to affirmatively request an application is an important first step in that process. There has already been widespread confusion regarding who is 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 exacerbate this situation.

Because Hollins's actions exceed his statutory authority under the Election Code, will sow confusion just weeks ahead of a major national election, and are likely to facilitate voter fraud, the Secretary of State directed 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. The State appealed that same day and asked the Fourteenth Court to both decide the appeal on an expedited basis and order Hollins not to send unsolicited applications before that appeal is resolved.

The court of appeals refused the State's request for temporary relief. MR.503-05. Instead, the court of appeals only ordered an expedited briefing schedule, which requires the State's reply to be filed the same evening the Rule 11 agreement expires. While that schedule will result in full briefing while the Rule 11 agreement still protects the State, it provides no protection unless the court of appeals both issues a favorable decision and does so between the hours of 5:00 and 11:59 p.m. on

September 16. Should the court of appeals issue an unfavorable decision—or no decision at all—that evening, Hollins will be free to begin mailing unsolicited applications immediately, giving the State no opportunity to seek relief in this Court before suffering irreparable harm. A decision late in the evening of September 16 will be effectively unreviewable by this Court.

Texas Rule of Appellate Procedure 29.3 permits an appellate court to issue "any temporary orders necessary to preserve the parties' rights" and its own jurisdiction. *See In re Geomet Recycling LLC*, 578 S.W.3d 82, 89-90 (Tex. 2019) (orig. proceeding). Such an order is necessary here because if Hollins consummates his plans while the State's appeal is pending, no court will be able to afford the State any effective remedy. Put simply, there is no way to unsend more than two million unsolicited vote-by-mail applications. Hollins has never disputed that reality. The court of appeals abused its discretion by refusing to prevent Hollins's planned distribution pending resolution of the State's appeal. Absent temporary relief—whether a writ of mandamus directed to the court of appeals or a writ of injunction directed to Hollins—this Court will lose jurisdiction as well.

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 if (a) "the voter expects to be absent from the county of the voter's residence on election day," Tex. Elec. Code § 82.001; (b) the voter "has a sickness or physical condition" that prevents the voter from voting in person, *id.* § 82.002; (c) the voter is at least 65

years of age on election day, *id.* § 82.003; or (d) "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).

Real Party in Interest 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—possesses 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 [county], 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; *accord id.* § 1.010(b) (empowering Hollins to "furnish [application] forms in a reasonable quantity to a person requesting them"). The Legislature has not, however, granted county early-voting clerks the power to send out unsolicited applications for mail-in ballots.

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." MR.326. The tweet also stated "Check your mail! Every Harris County registered voter will be sent an application to vote by mail next month." MR.326. 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. MR.337. As of July 1, 2019, only 10.9% of the Harris County population is 65 years old or older. MR.383. 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. MR.383. Finally, the number of eligible voters who are confined in jail or expect to be absent from the county is necessarily small. MR.323 (reflecting total ballots cast under these categories in 2016).

On August 27, 2020, Keith Ingram, Director of Elections for the Texas Secretary of State, sent a letter instructing Hollins to halt his unlawful mailing. MR.17. The letter explained that the Secretary had concluded Hollins's proposed mailing was an abuse of voters' rights. MR.17. Specifically, Ingram explained that "[a]n official application from [Hollins's] office will lead many voters to believe they are allowed to vote by mail, when they do not qualify." MR.17. 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." MR.17. Hollins refused to call off the mass mailing. *Cf.* MR.20

II. Procedural History

A. The State sought temporary and permanent injunctive relief against Hollins's *ultra vires* action. MR.1-21. 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. MR.11-12. The trial court never ruled on that request, however, because the parties reached a Rule 11 agreement: Hollins agreed not to mail any unsolicited applications until five days after the trial court resolved the temporary injunction to allow for the non-prevailing party to seek relief on appeal. MR.126. In an independent lawsuit, this Court issued an order that stayed Hollins's action for a similar period. App. H, *In re Hotze*, No. 20-0671.

In his response to the State's request for a temporary injunction, Hollins was unable to point to a single statute authorizing his actions. Instead, Hollins argued he is free to send out unsolicited applications because there is no statute prohibiting him from doing so. MR.26. Critically for the purpose of this petition, Hollins's opposition did not contest that if the State is right on the law, it will suffer an irreparable injury absent immediate relief. *See generally* MR.23-41.

The trial court held a hearing on the State's request for a temporary injunction on September 9. After requesting additional briefing, including about whether the

State will suffer irreparable harm, MR.407-15,[1] the trial court denied the State's requested relief on September 11. MR.495-501. It reasoned that the Election Code grants early voting clerks "broad powers" and that there is nothing in section 84.012 limiting that authority. MR.499.[2]

B. The State filed an immediate notice of interlocutory appeal under Civil Practice and Remedies Code section 51.014(a)(4). MR.418-19. Because the parties' Rule 11 agreement would expire in only five days, the State also asked the court of appeals 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. In the alternative, the State asked the Fourteenth Court to issue a writ of injunction directed at Hollins to preserve its jurisdiction under Government Code section 22.221(a). The State explained that absent such relief, Hollins will undoubtedly follow through on his threat to mail out two million applications to vote by mail, depriving the courts of the ability to afford the State any effective relief or to resolve the merits of the State's appeal. MR.421-37.

Due to the exigency of the situation, the State respectfully requested that the Court issue its ruling by 5:00 p.m. on September 14. MR.436. On September 14, the court of appeals constructively denied the State's request for interim relief. MR.503-04. Instead of ruling on the State's Rule 29.3 motion or its alternative request for a

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[1] Tellingly, Hollins did not provide any briefing or evidence on the point of the State's irreparable harm. MR.394-403.

[2] Though the trial court also discussed a "Section 31.005 Claim," MR.499-501, that was in error. The State has brought a single *ultra vires* claim. MR.7-11.

writ of injunction, the court set an expedited briefing schedule by which merits briefing will be completed at 5:00 p.m. on Wednesday, September 16—the day the Rule 11 agreement (and this Court's order) will expire. MR.130. But the appeals court did not guarantee that the court will rule or that the State will be able to seek review in this Court ahead of the deadline imposed by the Rule 11 agreement.

Standard of Review

"Mandamus relief is appropriate when a petitioner demonstrates a clear abuse of discretion and has no adequate remedy by appeal." *Geomet*, 578 S.W.3d at 91. A court of appeals "has no 'discretion' in determining what the law is or applying the law to the facts." *Walker v. Packer*, 827 S.W.2d 833, 840 (Tex. 1992) (orig. proceeding). And this Court has recognized that mandamus relief is appropriate when the court improperly grants, *Geomet*, 578 S.W.3d at 91, or denies interim relief necessary to preserve its jurisdiction, *H & R Block, Inc. v. Haese*, 992 S.W.2d 437, 438 (Tex. 1999) (per curiam). The Court has further held that where its mandamus jurisdiction has been properly invoked, it has authority to issue a writ of injunction to preserve that jurisdiction. *E.g.*, *In re Occidental Chem. Corp.*, 561 S.W.3d 146, 156 (Tex. 2018) (orig. proceeding).

Argument

I. The Court of Appeals Clearly Abused Its Discretion in Denying Temporary Relief Under Rule 29.3.

"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 747,

747-48 (Tex. App.—Houston [14th Dist.] 2008, orig. proceeding) (recognizing power to issue writ of injunction). 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 Builders, Inc. v. Guardian Savings & Loan Ass'n*, 786 S.W.2d 789, 791 (Tex. App.—Houston [1st Dist.] 1990, no writ); *see also, e.g.*, *McNeeley v. Watertight Endeavors, Inc.*, No. 03-18-00166-CV, 2018 WL 1576866, at *1 (Tex. App.—Austin Mar. 23, 2018, no pet.) (per curiam). The State established that such relief is appropriate—indeed mandated—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 appeal, including if necessary, any petition for review in this Court. *See* Tex. R. App. P. 29.3; Tex. Gov't Code § 22.002(a). "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); *see also Yett v. Cook*, 281 S.W. 837, 842 (Tex. 1926). 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); *see also, e.g.*, *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 808 (1995) (quoting *The Federalist* No. 52, 326 (Madison) (C. Rossiter ed. 1961)).

That right will be irrevocably violated the moment the mail goes out, as Hollins does not contest. *See generally* MR.23-41 (opposing temporary injunction based entirely on the merits of the State's claim and omitting reference to irreparable harm). Indeed, though he opposed the State's Rule 29.3 motion before the court of appeals, Hollins has not explained how once sent, he will be able to claw back two million

unsolicited vote-by-mail applications. And he cannot. 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, the Secretary of State's Director of Elections explained that Hollins's action will likely still lead to (1) a depletion of the Secretary's resources, (2) voters making decisions without assistance and potentially opening themselves up to liability, and (3) decreased turnout. *See* MR.187-89, 191-92. 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.[3] And this Court has held that a refusal to grant such relief where necessary to preserve the court's jurisdiction is a clear abuse of discretion and subject to a petition for writ of mandamus. *Haese*, 992 S.W.2d at 438 & n.2.

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[3] *E.g.*, *Tex. Gen. Land Office v. City of Houston*, No. 03-20-00376-CV, 2020 WL 4726695, at *2 (Tex. App.—Austin July 31, 2020, order) (per curiam); *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.) (per curiam) (mem. op.); *Mulcahy v. Cielo Prop. Grp., LLC*, No. 03-19-00117-CV, 2019 WL 2384150, at *1 (Tex. App.—Austin June 6, 2019, order) (per curiam); *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) (per curiam) (mem. op.) (refusing relief where the court's jurisdiction is not implicated).

B. Though the merits are not at issue in a Rule 29.3 motion, the Fourteenth Court's actions were particularly problematic because the State is 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); *see also Wills v. Potts*, 377 S.W.2d 622, 625 (Tex. 1964) (Counties "are created by the state for the purposes of government. . . . [T]he powers conferred upon them are rather duties imposed than privileges granted."). 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 or county official 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 may send vote-by-mail applications only to voters who request them. Tex. Elec. Code § 84.012; *see also id.* § 1.010. And 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 argues that he has "broad" power to send out applications because there is no statute that prohibits the activity. MR.26.[4] But tellingly, his only authority for that 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, janitors, 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, but instead fell into the contracting authority of the Commissioners Court, which possesses general statutory authority to contract for a county. *Id.* at 1088.

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, *e.g.*, Tex. Elec. Code §§ 84.012, 84.014, & 84.033, to the Commissioners Court, *e.g.*, *id.* §§ 32.002, 42.001, and to other public officials, *e.g.*, *id.* § 87.0431(c). Nowhere in the code is the early-voting clerk granted the authority Hollins claims.

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[4] *See also, e.g.*, MR.261 (receiving testimony from Hollins that his power is "really broad"); MR.268 (opining that he can "go above and beyond" what the Election Code permits); MR.270 ("I would say that my authority to conduct and manage early voting gives me very broad authority"); MR.298 (opining that the Election Code "lays out minimums" but that he is empowered "to go above and beyond").

The trial court erred by presuming that Hollins has powers unless they are explicitly denied. MR.497-99. Harris County and Hollins have only that power 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. This Court has repeatedly held that "a municipal power will be implied only when without its exercise the expressed authority would be rendered nugatory." *State ex rel. City of Jasper v. Gulf State Utils. Co.*, 189 S.W.2d 693, 698 (Tex. 1945) (cleaned up) (quoting *Foster*, 255 S.W. at 1106); *see also, e.g.*, *Bizios*, 493 S.W.3d at 536 (stating that county's implied powers include only those that are "*indispensable*" to exercising its express powers).

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.*, MR.187-89, 191-92. Indeed, this concern is fully supported by the content of the information put out by Hollins, which is incomplete at best, *see, e.g.*, MR.388 (agreeing with assessment that "A disability is something that YOU define for yourself"), and affirmatively misleading at worst, *compare, e.g.*, MR.391-92 (implying that drive-through voting is available for all voters), *with* Tex. Elec. Code § 64.009(a) (allowing curbside voting only for those "physically unable to enter the

polling place"), *and* MR.329 (stating that a voter is disabled if she is pregnant), *with* Tex. Elec. Code § 82.002 (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, 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 this Petition.

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 this Court through a stay order in *In re Hotze*, 20-0671—that will expire in less than 48 hours. *Cf.* MR.126; App. H. Therefore, the State requests an order granting this petition for writ of mandamus as soon as possible, but in any event, no later than Wednesday, September 16, 2020.

The State further requests that this Court issue a writ of injunction preventing Hollins from sending out the unsolicited vote-by-mail applications for the pendency of this mandamus petition and the State's appeal, including if necessary, through the filing and resolution of any petition for review in this Court. *See Geomet*, 578 S.W.3d at 90 (courts of appeals have original jurisdiction to issue writs of injunction to

preserve jurisdiction). As previously explained, once Hollins sends out more than two million unsolicited vote-by-mail applications, the issue will become moot and the courts would lose jurisdiction over this petition and the underlying case. Issuing a writ of injunction to Hollins for the remainder of this interlocutory appeal—including any petition for review—will allow the courts to resolve this issue more expeditiously and obviate the need to file repetitive motions for temporary relief in the meantime.

If the Court concludes that the window provided by the Rule 11 agreement is not enough time to fully consider this petition, it should at minimum order relief on an administrative basis and require Harris County to respond to the petition forthwith. *See* Tex. R. App. P. 52.10(a)-(b). 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 Med. Servs., L.L.C. v. Gee*, 139 S. Ct. 661 (2019) (ordering a temporary to allow "time to review the[stay-related] filings").[5] Such an order would allow Hollins to respond to this petition without a lapse in the Rule 11 agreement.

[5] The U.S. Supreme Court routinely enters temporary stays while considering important filings. *E.g.*, *Trump v. Mazars USA, LLP*, 140 S. Ct. 581 (2019); *In re Grand Jury Subpoena*, 139 S. Ct. 914 (2019); *In re United States*, 139 S. Ct. 452, 453 (2018);

Prayer

To maintain the status quo and preserve the jurisdiction of the appellate courts to resolve the legality of Hollins's actions, the Court should direct the court of appeals to grant immediate relief under Rule 29.3, order Hollins not to send (or cause to be sent) any unsolicited mail-in ballot applications pending disposition of the State's appeal and, if necessary, the preparation, filing, and this Court's resolution of any petition for review , and afford any other relief the Court deems appropriate. The State respectfully requests an order granting relief as soon as possible, but in any event, no later than **Wednesday, September 16, 2020**.

Respectfully submitted.

/s/ Kyle D. Hawkins

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In re Dep't of Commerce, 139 S. Ct. 16 (2018). This Court did the same in *In re State of Texas*, No. 20-0401, when the Fourteenth Court granted Rule 29.3 relief in a case raising the same merits issue to be argued a few days later in *In re State of Texas*, 602 S.W.3d 549 (Tex. 2020). App. I.

Mandamus Certification

Pursuant to Texas Rule of Appellate Procedure 52.3(j), I certify that I have reviewed this petition and that every factual statement in the petition is supported by competent evidence included in the appendix or record. Pursuant to Rule 52.3(k)(1)(A), I certify that every document contained in the appendix is a true and correct copy.

/s/ Kyle D. Hawkins
Kyle D. Hawkins

Certificate of Service

On September 15, 2020, this document was served electronically on Susan Hays, lead counsel for Chris Hollins, via hayslaw@me.com. Additionally, in compliance with Rule 52.10, the State has notified Hollins and his counsel that it is requesting temporary relief pending the resolution of the Court's consideration of the State's petition. *See* Tex. R. App. P. 52.10(a).

/s/ Kyle D. Hawkins
Kyle D. Hawkins

Certificate of Compliance

Microsoft Word reports that this document contains 4,484 words, excluding the portions of the document exempted by Rule.

/s/ Kyle D. Hawkins
Kyle D. Hawkins