

**WEBB COUNTY ATTORNEY'S OFFICE**

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LAREDO, TEXAS 78040

RQ-0257-KP

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NOV 27 2018

**OPINION COMMITTEE**



FILE # ML-48464-18

I.D. # 48464

**MARCO A. MONTEMAYOR**  
Webb County Attorney

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November 27, 2018

Via E-mail  
Office of the Attorney General  
Attention Opinion Committee  
P.O. Box 12548  
Austin, Texas 78711-2548  
opinion.committee@oag.texas.gov

RE: Request for Opinion Regarding Section 141.001 of the Election Code

Dear Attorney General Paxton:

I respectfully request an Attorney General opinion regarding whether individuals convicted of a felony are eligible to run for office in this state after completing their sentence and having their voting rights restored.

The Texas Election Code states a person is only eligible to run for office if he or she has not been "finally convicted" of a felony "from which the person has not been pardoned or otherwise released from the resulting disabilities." Tex. Elec. Code § 141.001.

In a 2004 memo from the Texas Secretary of State's office, Ann McGeehan, former Director of Elections, stated: "Absent a pardon, the candidate must have obtained a judicial release from his or her disabilities in order to run for any office to which this section (Section 141.001) applies."

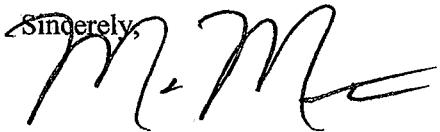
It is my understanding that there is no legal precedent defining what constitutes a judicial release from resulting disabilities. See *Rubio v. Campirano*, 13-08-00345-CV, 2011 WL 1745186, at \*5 (Tex. App.—Corpus Christi Mar. 17, 2011, pet. denied) (finding no authority for candidate's contention he was released from any resulting disabilities when he completed his sentence related to a foreign conviction); see also Op. Tex. Att'y Gen. No. KP-0138 (2017) (finding an Arkansas court's order stating that "Movant is exonerated of any criminal purpose, and Movant is hereby released from all penalties and disabilities resulting from this proceeding" was sufficient evidence the penalties and disabilities of this individual's offense had been removed).

At least one current candidate for public office, however, has alleged fulfilling his probation and having his voting rights restored counts as a judicial release from his disabilities. The City of Austin and the candidate's opponents declined to challenge this assertion in court.

Accordingly, I respectfully ask that you clarify what constitutes a judicial release from resulting disabilities, including whether a candidate is eligible to run for office after completing his sentence and having his voting rights restored. My constituents, eligible voters across the state, and candidates for office will benefit from your guidance regarding this matter.

Please advise if you require any clarification or additional information from my office in order to properly evaluate this request and issue your opinion. Thank you for your time and attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Montemayor', with a stylized flourish at the end.

Marco A. Montemayor  
County Attorney  
Webb County, Texas