

David Van Os & Associates P.C.

ATTORNEYS:

David Van Os

Firm President

Managing Attorney & Senior Litigator

dvo@vanoslaw.com

Matt Holder

Senior Litigation Associate

matt@vanoslaw.com

Kay Cee Cole-Cortez

Associate

kay@vanoslaw.com

CONTACT US:

8626 Tesoro Drive

Suite 510

San Antonio, TX 78217

Tel. (210) 824-2653

Fax (210) 824-3333

Rachel Barrios-Van Os

Firm Administrator

rachel@vanoslaw.com

May 11, 2020

VIA E-FILING

Christopher A. Prine, Clerk
Fourteenth Court of Appeals
301 Fannin, Room 245
Houston, Texas 77002

Re: *State of Texas v. Texas Democratic Party et al.*, No. 14-20-00358-CV;
Amicus on Motion for Emergency Relief

To the Clerk of the Court:

The Communications Workers of America, AFL-CIO ("CWA"), appearing by and through counsel, hereby submits this amicus letter in *State of Texas v. Texas Democratic Party et al.*, No. 14-20-00358-CV.

CWA is a labor organization that represents approximately 38,000 members in Texas. CWA's members work in a wide variety of jobs and include significant numbers of persons with underlying medical conditions making them more susceptible to serious injury and death from COVID-19 as well as a significant number of people of color who are likewise at an increased risk of significant injury and death should they contract the coronavirus and develop COVID-19.

This Court should issue an order to clarify that the declaratory judgment of the lower court, and the temporary injunction enforcing same, to the effect

that the Election Code's plain language definition of "disability" when applied to the context of a deadly pandemic allows those without immunity to the coronavirus to vote by mail, remain in effect pending appeal. *See* TEX. ELEC. CODE § 82.002. Voters are already requesting mail-in ballots for the July 14 primary run-off in which many CWA members wish to vote, and the deadline for requesting ballots, July 2, is a mere two weeks after this case is set for submission. CWA members wish to protect their health by avoiding unnecessary in-person contact and protect the health of their family members, co-workers, and the public by avoiding becoming asymptomatic carriers of the virus. Even with Texas "reopening" the daily new case count has not dropped and is unlikely to do so with increased in-person contact over the next few months.

To make this matter more urgent and necessary, the Texas Attorney General has seen fit to issue two "letter opinions" threatening felony prosecution to those who request mail ballots to avoid endangering their health and to those who advise others to do the same. This raises additional concerns for CWA. As an organization, CWA regularly encourages its members to vote and advises them on the mechanics of how to vote. The Attorney General's threats put the organization and its individual leaders and members at risk of prosecution, instilling in them a legitimate fear of prosecution, and seem designed to intimidate voters. This concern is not theoretical, given how aggressively the Attorney General has prosecuted "voter fraud" for even technical, inadvertent violations of the Election Code. Moreover, the Attorney General seems to focus on prosecuting people of color and women, and CWA's membership includes many of both categories of citizens. CWA and its members cannot exercise their First Amendment rights to free speech and their fundamental right to vote freely and without abridgment with a cloud of legal uncertainty hanging over the ongoing election.

No one should have to choose between protecting their health and exercising their right to vote. We ask the Court to grant the Plaintiff's and Intervenor-Plaintiffs' motion for emergency relief to protect the public health and liberty of voters and election workers alike.

Respectfully submitted,

/s/ David Van Os

David Van Os
Texas Bar No. 20450700
DAVID VAN OS & ASSOCIATES, P.C.
8626 Tesoro Drive, Suite 510
San Antonio, TX 78217
Tel. (210) 824-2653
dvo@vanoslaw.com

COUNSEL FOR COMMUNICATIONS
WORKERS OF AMERICA, AFL-CIO

Certificate of Service

This is to certify that the above and foregoing Amicus Letter on Motion for Emergency Relief was filed with the Clerk of Court on May 11, 2020, using the efile.TXcourts.gov electronic filing system and served on the counsel shown below in accordance with Texas Rule of Appellate Procedure 9.5. My email address is dvo@vanoslaw.com.

/s/ David Van Os
David Van Os
Texas Bar No. 20450700

Ken Paxton
ATTORNEY GENERAL OF TEXAS
Jeffrey C. Mateer
FIRST ASSISTANT ATTORNEY GENERAL
Darern L. McCarty
DEPUTY ATTORNEY GENERAL FOR CIVIL
LITIGATION
Thomas A. Albright
CHIEF FOR GENERAL LITIGATION DIVISION
Anne Marie Mackin
ASSISTANT ATTORNEY GENERAL
Michael R. Abrams
ASSISTANT ATTORNEY GENERAL
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548

Chad W. Dunn
BRAZIL & DUNN, LLP
4407 Bee Caves Road, Suite 111
Austin, Texas
chad@brazilanddunn.com

K. Scott Brazil
BRAZIL & DUNN, LLP
13231 Champions Forest Drive, Suite 406
Houston, Texas 77069
scott@brazilanddunn.com

Dicky Grigg
LAW OFFICE OF DICKY GRIGG, P.C.
4407 Bee Caves Road, Suite 111

Anna.mackin@oag.texas.gov
Michael.abrams@oag.texas.gov
*Attorneys for Intervenor-Defendant
State of Texas*

Joaquin Gonzalez
Joaquin@texascivilrightsproject.org
Mimi Marziani
mimi@texascivilrightsproject.org
Rebecca Harrison Stevens
beth@texascivilrightsproject.org
TEXAS CIVIL RIGHTS PROJECT
1405 Montopolis Drive
Austin, Texas 78741

Edgar Saldivar
Thomas Buser-Clancy
Andre Segura
ACLU FOUNDATION OF TEXAS, INC.
P.O. Box 8306
Houston, TX 77288
esaldivar@aclutx.org
tbuser-clancy@aclutx.org
asegura@aclutx.org

Sophia Lin Lakin
Dale E. Ho
AMERICAN CIVIL LIBERTIES UNION
125 Broad Street, 18th Floor
New York, NY 10004
slakin@aclu.org
dho@aclu.org
Attorneys for Intervenor Plaintiffs

Austin, Texas 78746
dicky@grigg-law.com

Martin Golando
THE LAW OFFICE OF MARTIN GOLANDO, PLLC
N. Saint Mary's, Suite 700
San Antonio, Texas 78205
(210) 892-8543
Martin.golando@gmail.com
Attorneys for Plaintiff