
IN THE
SUPREME COURT OF TEXAS

IN RE IRENE ARMANDARIZ-JACKSON and
DAVID D. VANDENBERG,

Relators.

Invoking the Supreme Court's Original Jurisdiction.

**RELATORS' EMERGENCY PETITION
FOR WRIT OF MANDAMUS**

ORAL ARGUMENT NOT REQUESTED

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ATTORNEYS FOR RELATORS,
Irene Armandariz-Jackson,
Republican Candidate for U.S. House
& David D. Vandenberg, Poll Watcher.

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IDENTITY OF PARTIES & COUNSEL

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RESPONDENTS

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El Paso County Northwest Annex Polling Place

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Debra Barlow, Deputy Supervisor

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INTRODUCTION

This is a case concerning the unlawful rejection and obstruction of a poll watcher during the performance of his duties in violation of the Texas Election Code.

STATEMENT OF THE CASE

Relator Candidate, Irene Armendariz-Jackson is the Republican candidate for U.S. Representative for Texas' 16th District. Relator Candidate appointed David Vandenberg as a poll watcher in the 2020 General Election.

Relator Poll Watcher went to the El Paso County Northwest Annex polling place in the performance of his duties. Election Judge Nicolas Banales unlawfully rejected Poll Watcher and obstructed him from the performance of his duties. Upon rejection, Poll Watcher contacted Supervisor Robert Pena, who arrived at the polling place. District Supervisor Debra Barlow also arrived at the polling place at about the same time as Pena. Supervisor explained the pertinent law to Election Judge and District Supervisor and requested Poll Watcher to be allowed re-entry. Election Judge and District Supervisor refused Poll Watcher's re-entry due to alleged obstruction of polling procedures.

A few days later, three poll watchers went to the polling place. Election Judge and District Supervisor again unlawfully denied Relator Poll Watcher entry, citing the prior denial of entry.

Relator Poll Watcher went to the polling place to review the Statement of Oaths each election judge is statutorily required to generate and maintain, since it is the record of identification of all election workers at the polling place. The day before Relator Poll Watcher's entry into the polling place, another poll watcher had identified an ineligible, non-citizen, Democrat-appointed election clerk, who had likely been illegally hired by Election Judge. Realtor Poll Watcher went to the polling place to confirm whether the non-citizen election clerk was still present at the polling place a second day. Realtor Poll Watcher was rejected after he requested the Statement of Oaths. Election Judge's unreasonable rejection of Relator Poll Watcher in the performance of his duties, including review of the Statement of Oaths.

STATEMENT OF JURISDICTION

The Court has jurisdiction to issue writs of mandamus to ensure compliance with Texas election laws. *See* TEX. ELEC. CODE ANN. § 273.061. The Court has additional jurisdiction under its general powers to issue extraordinary writs and orders. *See* TEX. CONST., art. V; TEX. GOV. CODE ANN. 22.221. Mandamus lies to compel election officers to comply with the provisions in the Texas Election Code relative to poll watchers. *Id.*

The events recorded in this matter are, upon information and belief, long-standing impediments to fair and impartial voting that are capable of repetition, yet evading review. *Roe v. Wade*, 410 U.S. 113, 125 (1973). In

other words, the periodicity of elections should not give rise to mootness of this action.

Relator Irene Armendariz-Jackson has standing to sue, because Respondents' rejection of Relator Poll Watcher was an injury suffered by Candidate. *See Bickham v. Dallas County*, No. 05-20-00560-CV, *13–14 (Tex. App.—Dallas October 23, 2020, no pet. h.). Poll watchers are the eyes and ears of the candidate and exercise their authority on behalf of the candidate.¹ *Id.* at 14. Poll Watchers act as the candidate's agent. *Id.* at 13.

ISSUE PRESENTED

Should the Court issue a writ of mandamus compelling Election Judge Nicolas Banales, District Supervisor Debra Barlow, Election Administrator Lisa Wise, and the El Paso County Department of Elections not to obstruct Poll Watcher David Vandenberg from entering and completing his duties in the polling places of El Paso County in the 2020 General Election, including Early Voting.

STATEMENT OF FACTS

Relator Poll Watcher was duly appointed for Early Voting in the General Election of 2020 by Irene Armandariz-Jackson, whose name appears on the ballot as a candidate for U.S. Representative in the Sixteenth District of Texas. Relator's appointment is in accordance with Section 32.002 of the

¹ The Dallas Court of Appeals made no ruling on whether candidates have standing to sue for election violations or irregularities relative to the role of their authorized poll watchers. *Bickham v. Dallas County*, No. 05-20-00560-CV, *13–14 (Tex. App.—Dallas October 23, 2020, no pet. h.). For this reason, Realtors believe this matter to be of first impression.

Texas Election Code. Relator was appointed to serve as a poll watcher at the El Paso County Northwest Annex Polling Station at 435 East Vinton Road, El Paso, TX 79821 in the County of El Paso.

Respondent Nicolas Banales is a Presiding Election Judge for Early Voting in the General Election of 2020, appointed pursuant to Section 32.001, *et seq.*, of the Texas Election Code and serving in such capacity at the El Paso County Northwest Annex Polling Station at 435 East Vinton Road, El Paso, TX 79821 in the County of El Paso.

Respondent Debra Barlow is a District Supervisor for Early Voting in the General Election of 2020, employed by the El Paso County Department of Elections. She is also a Permanent Deputy Early Voting Clerk and has the authority of an Early Voting Clerk, pursuant to Section 83.031 of the Election Code.

Respondent Lisa Wise is the Election Administrator for El Paso County. She has the authority of a Presiding Election Judge, pursuant to Section 83.001 of the Election Code.

In accordance with Poll Watcher's appointment, Poll Watcher presented his Certificate of Appointment to Respondent Nicolas Banales, the presiding election judge at the Northwest Annex Polling Station on October 23, 2020, at approximately 10:20 a.m. and commenced to serve as a poll watcher in accordance with the Texas Election Code and his Certificate of Appointment.

Election Judge Banales ordered Poll Watcher to sit in a chair in a remote corner of the polling place. Poll Watcher declined, stating his appointment allowed him to move freely around in performance of his duties. *See* TEX. ELEC. CODE ANN. § 33.056(a). In recognition of state and local orders relative to the COVID-19 pandemic, Poll Watcher complied with all mandatory orders, including social distancing where possible

During a lull in voting, when no voter was seeking the services of the Election Judge, Poll Watcher requested to review the polling place's Statement of Oaths; Election Judge refused to provide the Statement. *See id.* § 33.056(c). Upon information and belief, Poll Watcher had learned that a clerk working at the polling place was not a U.S. citizen and, therefore, not a qualified voter of El Paso County, Texas, as required by Sects. 32.051(c) and 83.032 of the Election Code. Poll Watcher again requested and stated he was entitled to review the Statement, Election Judge said he would need to get approval and it might take some time. Poll Watcher responded that, if the Statement were not produced by the time he left, he would note Election Judge's non-compliance with statutory requirements. *See id.* § 33.061.

Election Judge escalated pressure on Poll Watcher by demanding he stand or sit at locations in the polling place at Judge's direction. Poll Watcher again refused, since Election Judge's directions would obstruct Poll Watcher's ability to observe events occurring in the polling place. For instance, Poll Watcher observed a man from New Mexico attempting to vote.

Poll Watcher moved closer to the conversation between the Election Clerk and the New Mexican Man, but Election Judge kept demanding Poll Watcher move away from a vacant workstation. Poll Watcher observed that the New Mexican man was properly denied a ballot. Election Judge was unlawfully obstructing Poll Watcher from observing an activity he was entitled to observe.

As the New Mexican was leaving, Election Judge ordered Poll Watcher outside the polling place, which Poll Watcher complied with without objection. Once outside, Poll Watcher requested a reason for his rejection, which Election Judge refused to provide in violation of statute. Poll Watcher then departed the polling place.

Poll Watcher called his supervisor, Mr. Robert Pena, who met Poll Watcher at the polling place within a few minutes. Just a few minutes later, Ms. Debra Barlow, District Supervisor for the El Paso County Department of Elections also arrived and entered the polling place.

Mr. Pena requested that Poll Watcher be allowed re-entry to perform his duties, or the return of the Appointment Certificate properly completed, as required under the Election Code.

Ms. Barlow denied the request. She called on her cell phone and received instructions that the request would not be complied with. Mr. Pena then showed Ms. Barlow Section 33.051(e) of the Texas Election Code that requires the election judge to return the poll watcher's Appointment

Certificate with a written notation as to the reason for his rejection. Ms. Barlow then finally authorized Election Judge to return the form, properly completed.

Election Judge entered the polling place, then returned and asked Ms. Barlow what he should put on the Certificate as the reason for rejection. Without any personal knowledge of the events, Ms. Barlow instructed Election Judge to write “obstruction” on the form, which he did.

Poll Watcher then peaceably departed. El Paso County Deputies arrived and took the remaining parties’ statements.

Poll Watcher sent an e-mail to Lisa Wise, Elections Administrator for El Paso County, on Saturday, October 24, 2020, requesting re-entry to the polling place. The El Paso County Attorney responded on October 28, 2020, that Watcher needed to submit a narrowly defined open-records request, specifying the character of the requested documents.

On Monday, October 26, 2020, at about 11:30 a.m. Poll Watcher returned to the polling place with Poll Watchers Santokh S. Kalkat and Director Robert Pena of the Republican Alliance of El Paso, which is working with Republican candidates in El Paso County.

Poll Watcher Kalkat and Director Pena preceded Poll Watcher Vandenberg into the polling place. Upon entry into the polling place, Election Judge rejected Poll Watcher Vandenberg and called the Sheriff’s

Department. When Sheriff's Deputies arrived, Election Judge requested Poll Watcher Vandenberg leave the polling place, which Poll Watcher did.

Deputy Supervisor Barlow arrived and affirmed Poll Watcher's rejection. After the Deputies completed their investigation, Election Judge returned Poll Watcher's Certificate of Appointment with the notation that he was rejected, because he had been rejected twice before for "distrubiting [sic] the polling process." Once again, Poll Watcher peaceably departed. No criminal charges were filed by any party to the best of Poll Watcher's knowledge. It is unknwn why El Paso County Sheriff's Deputies were called to the scene, other than as a means to further intimidate Poll Watcher. No allegation of breach of the peace has ever been made in this matter.

SUMMARY OF THE ARGUMENT

The Texas Legislature provided a process for the conduct of elections in the Texas Election Code. The Election Code includes a subsection for the appointment, duties, privileges, and other matters relative to poll watchers. Watchers are appointed on behalf of candidates, or others, to observe the conduct of elections. In order to observe the conduct of elections, duly appointed poll watchers enjoy certain privileges that allow them to perform their duties, including observing any conduct occurring at a polling place, conditioned by certain restrictions. In particular, a poll watcher should not be rejected from service absent reasonable cause; otherwise, were an election judge to reject a poll watcher without reasonable cause, the judge would be

exercising arbitrary and capricious power over a political candidate's statutory authority to appoint poll watchers of her own choice.

Further, a poll watcher's observation of the conduct occurring in a polling place may not be unlawfully obstructed. Here, however, Election Judge unlawfully obstructed Poll Watcher in the performance of his duties by demanding he position himself in the polling place in locations of the Election Judge's choosing, which would have prohibited Poll Watcher from observing the interactions of the poll workers, thereby muting the ability of Poll Watcher to perform his duty.

ARGUMENT

I. RESPONDENTS UNLAWFULLY REJECTED POLL WATCHER.

When an election judge rejects a poll watcher for service, the election judge must return the poll watcher's Certificate of Appointment with a signed notation as to the reason for the rejection. *See id.* § 33.051(e). Implied in the rejection is that the rejection must be reasonable.

Here, Respondents rejected Poll Watcher in the performance of his duties for alleged "obstruction" or "distrubiting [sic] the polling process." Respondents' allegation is belied by the Republican election officials present in the polling place, who attest to Poll Watcher's civility while in the performance of his duties. Respondents' rejection of Poll Watcher was not due to his conduct; rather, the rejection occurred because Poll Watcher was present to further investigate the founded complaint the day before of the

presence of a Democrat-appointed non-citizen, and therefore ineligible, election clerk. *See id.* § 32.051(c) (election clerk must be qualified voter).

Only after Poll Watcher duly requested to review the polling place's Statement of Oaths with the names of the election workers hired in order to identify them and their eligibility did Election Judge reject Poll Watcher. Allegations of Poll Watcher's "obstruction" were pre-textual and made solely in order to shield documents Poll Watcher was entitled to review. *See id.* § 33.056(c).

II. RESPONDENT ELECTION JUDGE UNLAWFULLY OBSTRUCTED POLL WATCHER FROM THE PERFORMANCE OF HIS DUTIES.

A person unlawfully obstructs a poll watcher, serving in the performance of his duties, if the obstructing person serves in his official capacity at a location where the presence of poll watchers is authorized and knowingly prevents a watcher from observing an activity the watcher is entitled to observe. *See id.* § 33.061(a). Such an offense is a Class A misdemeanor. *See id.* § 33.061(b).

Here, Election Judge obstructed Poll Watcher by unlawfully rejecting Watcher from the performance of his duties. Poll Watcher was present to review the Statement of Oaths of the election workers the day after the presence of an ineligible Democratic election clerk had been discovered. Election Judge was preventing Poll Watcher from determining the identity of the election workers to determine whether the ineligible, non-citizen, Democrat-appointed election clerk was present that day. Poll Worker was

entitled to review the Statement of Oaths, and, indeed, most documentation of the conduct of the polling place. *See id.* § 33.056(c).

Further, Election Judge's demands that Poll Watcher sit in a chair in a distant corner of the polling place, or stand on Xs marked on the floor and not move from the location also obstructed Watcher's duty to observe all activity in the polling place. *See id.* §§ 33.056 & 33.061(a). While Poll Watcher was observing the rejection of a New Mexican man from voting, Election Judge continually demanded Watcher move farther away from the attempted voter's and the election clerk's interaction, obstructing Watcher's hearing and vision.

III. RELATORS ARE ENTITLED TO MANDAMUS RELIEF.

The Supreme Court of Texas has jurisdiction to issue a writ of mandamus to compel performance of any duty imposed in law in connection with the holding of an election. *See id.* § 273.061.

To be entitled to mandamus relief, a relator must (1) establish that the respondent has a legal duty to perform a ministerial act, (2) demand performance from a respondent, and (3) the respondent must refuse to act. *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 Boston v. Garrison*, 256 S.W.2d 67, 70 (Tex. 1953) (mandamus is to set in motion to compel action).

Respondents have a mandatory and non-discretionary duty to allow entry into the polling place for poll watchers absent reasonable cause. *See* TEX. ELEC. CODE ANN. § 33.051(e). Respondents have a mandatory and non-discretionary duty not to obstruct a poll watcher in the performance of his duties. *See id.* §33.061(a). Respondents obstructed Poll Watcher by unlawfully denying entry and by ordering Watcher to remain in distant parts of the polling place, where he could not observe activity, nor walk around and observe.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Relators pray the Court grant their Emergency Petition for Writ of Mandamus and issue a writ compelling Respondents to allow Poll Watcher entry to the polling place and not further obstruct his lawful service.

In particular, Relators pray the Court to order Respondents to provide election workers' Voter Unique Identifier numbers (VUID) that the El Paso County Department of Elections uses as employee identification numbers, so that Relators can verify the eligibility of each election worker's appointment beyond doubt.

Given the necessity of prompt decision in this matter to preserve Relators' rights, since we are close to election day and the end of Early Voting, Relators additionally ask the Court to issue a temporary order directing Respondents to immediately comply with this Court's decision.

Relators lastly pray for all other relief, at law or in equity, to which they are justly entitled.

Respectfully submitted,

s/ Bill D. Hicks

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s/ David D. Vandenberg

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ATTORNEYS FOR RELATORS,
Irene Armendariz-Jackson,
Republican Candidate for U.S. House
& David D. Vandenberg, Poll Watcher.

CERTIFICATION

I hereby certify that I have reviewed the above Emergency Petition for Writ of Mandamus and have concluded that every factual statement in the said petition is supported by competent evidence, a true or correct copy is included in the appendix.

s/ David D. Vandenberg

CERTIFICATE OF WORD COUNT

I certify that this document complies with Rule of Appellate Procedure 9.4. Excluding the portions listed in Rule 9.4(i)(1) and according to the work count of the computer program used, this document contains 2,704 words.

s/ David D. Vandenberg

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of this document was served as required by Texas Rule of Appellate Procedure 9.5 to Respondents on this 29th day of October 2020.

VERIFICATION

STATE OF TEXAS

§

EL PASO COUNTY

§

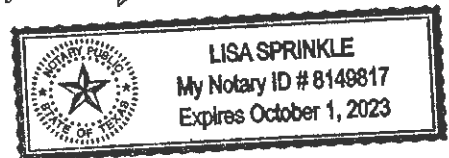
§

BEFORE ME, a Notary Public in and for the State of Texas, on this day personally appeared David D. Vandenberg, to me well known to be a credible person of lawful age and qualified in all respects to make this affidavit, who being first duly sworn, on oath says that he has read the foregoing Relators' Emergency Petition for Writ of Mandamus, he has personal knowledge of all the facts contained in such Petition, ^{or in attached affidavits,} and that such Petition and every statement and allegation thereof are true and correct.

David D Vandenberg
Affiant

SUBSCRIBED and SWORN TO BEFORE ME by *David D Vandenberg* on October 26, 2020, to certify which witness my hand and seal of office.

Lisa Sprinkle
Notary Public, State of Texas



EL PASO COUNTY §

STATE OF TEXAS §

AFFIDAVIT OF ALTERNATE JUDGE

Before me, the undersigned notary, on this day did personally appear MR. BROOKS CLINE, affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

"My name is Mr. Brooks Cline. I am of sound mind and capable of making this affidavit. The facts stated within it are within my personal knowledge and are true and correct.

"I was appointed to serve as an alternate judge for the El Paso County Northwest Annex Polling Station at 435 East Vinton Road, El Paso, TX 79821 in the County of El Paso for Early Voting in the 2020 General Election.

"I was present on the morning of Friday, October 23, 2020, when Poll Watcher David Vandenberg entered the polling place and until he left. While I could not see Mr. Vandenberg the entire time he was in the polling place, I could hear him and Mr. Nicolas Banales at all times. The polling place was nearly empty of voters when Mr. Vandenberg was present.

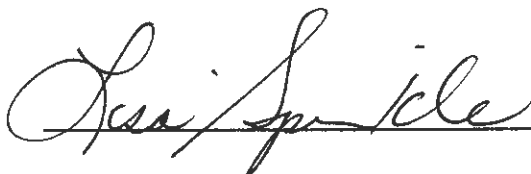
"From my observations, Mr. Vandenberg comported himself with civility and decorum at all times he was in the polling place. I heard Mr. Vandenberg ask Mr. Banales not to approach him to maintain social distancing on more than one occasion.

"I did not observe Mr. Vandenberg to obstruct or disrupt the polling place at any time."



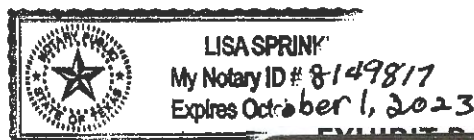
Mr. Brooks Cline

SWORN TO and SUBSCRIBED before me by Mr. Brooks Cline on October 25, 2020.



Notary Public in and for

The State of Texas



AFFIDAVIT OF REPUBLICAN ALLIANCE DIRECTOR

Before me, the undersigned notary, on this day did personally appear Mr. Robert Peña, affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

"My name is Mr. Robert Peña. I am of sound mind and capable of making this affidavit. The facts stated within it are within my personal knowledge and are true and correct.

"I am a Director of the Republican Alliance of El Paso, 6400 Suncrest, Building C-4, El Paso, Tex. 79912, a Poll Watcher's supporting association.

"On Oct. 22, 2020, we filed a complaint on the Election Judge at the El Paso County N.W. Annex for continuing, with knowledge, to have an ineligible person, not an eligible, voter nor a citizen, as his Early Voting Clerk. Therefore, to verify that said Clerk was no longer working, we asked Mr. David Vandenberg to serve as poll watcher at that location.

"On the morning of Friday, October 23, 2020, Poll Watcher David Vandenberg called me to report he had been ejected from the polling station at the El Paso County Northwest Annex Polling Place at 436 East Vinton Road, El Paso, TX 79821 in the County of El Paso.

"I met Mr. Vandenberg at the polling place. Just a few minutes after I arrived, Ms. Debra Barlow, District Supervisor for the El Paso County Department of Elections also arrived at the polling place.

"I also requested the re-entry of Mr. Vandenberg, or the return of his Appointment Certificate properly completed, as required under the Election Code.

"Ms. Barlow denied my request. She called her office on her cell phone and again told me that my request would not be complied with. I then showed Ms. Barlow Section 33.061(e) of the Texas Election Code that required the Election Judge to return the Poll Watcher's Appointment Certificate with a written notation as to the reason for his ejection. Ms. Barlow again called her superiors and then finally authorized the Election Judge to return the form, properly completed.

"The Election Judge returned a second time to ask Ms. Barlow what he should put on the Appointment Certificate, as for the reason of Mr. Vandenberg's ejection. Without any personal knowledge of the events, Ms. Barlow instructed Mr. Bañales to write "obstruction" on the form, which he did.

"Mr. Vandenberg then peaceably departed. El Paso County Deputies arrived and took the remaining parties' statements.

"I then entered the polling place and presented my credentials. It was evident that Mr. Bañales then knew he had violated the statutes as he immediately brought me the Oath Statement without me asking for them."

"On October 26, 2020 I entered the early voting station at the El Paso County N.W. Annex to serve as a poll watcher. The Presiding Judge took my Appointment of Poll Watcher and before accepting said authorization he called from a cell phone to get authorization to allow me to poll watch. I did not watch or speak to anyone for a few minutes. I then asked the Presiding Judge to provide me with a name tag which he did. I did not speak to anyone else. A second poll watcher came in and I observed the judge again call for authorization."




“A short time later Mr. David Vandenberg entered to also be a poll watcher. I approached the reception table and the Judge asked me what I was doing. I replied “observing”. He instructed Mr. Vandenberg to wait and I followed the judge to another part of the Poll. He was on the telephone and told me to not follow him. The judge then returned to the table and told Mr. Vandenberg he could not serve. I started to follow him and he told me to not follow him. He objected to me following them to the front door and told me to leave. I asked him why and he said, “You’re harassing me”. The deputies arrived and took statements from all of us and at about 2PM returned the appointment form to Mr. Vandenberg. I asked the deputy for my form stating the reason for my rejection. He entered and returned to tell me that I could now go back inside and serve. I returned inside to tell the Supervisor I had been readmitted but due to the hour, I was leaving. I then promptly left the voting location.”

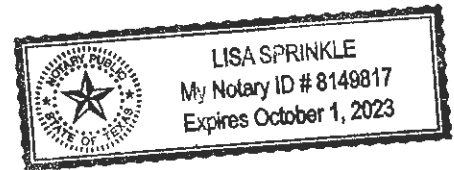


Mr. Robert Pena

SWORN TO and SUBSCRIBED before me by Mr. Robert Pena on October 26, 2020.



Notary Public
in and for The
State of Texas



APPOINTMENT OF POLL WATCHER BY CANDIDATE ON THE BALLOT OR DECLARED WRITE-IN CANDIDATE

To the Presiding Judge:

The following person has been appointed to serve as a poll watcher on my behalf.

Name of Poll Watcher <i>David D. Vandenberg</i>	Name of Candidate <i>Gene Arrendorff - Jackson</i>
Residence Address of Poll Watcher [REDACTED]	Name and Date of Election <i>November General Election 2020</i>
Voter Registration VUID Number of Poll Watcher [REDACTED]	Precinct or other location Poll Watcher is to serve <i>City Courthouse</i>

NW
Annex

[Signature]
Signature of Candidate or Other Approving Authority

U.S. Representative, District 16
Title of Approving Authority

David D. Vandenberg
Signature of the Watcher

AFFIDAVIT OF POLL WATCHER

I, *David D. Vandenberg*, a poll watcher for the above appointing authority, do hereby swear or affirm that I do not have in my possession any type of mechanical or electronic means of recording images or sound while serving as a watcher at this precinct or I will disable or deactivate the device while serving as a watcher.

David D. Vandenberg
Signature of Poll Watcher

Sworn to and subscribed before me this the _____ day of _____, _____.

Signature of Election Judge

Printed Name of Election Judge

INSTRUCTIONS

The following persons have the authority to appoint a poll watcher on behalf of a candidate whose name appears on the ballot.

- a. In an election for an office of the state government that is filled by voters of more than one county, by the candidate's campaign treasurer.
- b. In an election for an office of the federal government that is filled by voters of more than one county, by the chair or treasurer of the candidate's principal campaign committee or by a designated agent of the chair or treasurer.



10/23/2020

Poll watcher David was escorted
out of Northwest Annex Early Voting
because of ^{obstruction} ~~Distribution~~ with the
Election Process.

Nicolas Banakas
Election Judge



APPOINTMENT OF POLL WATCHER BY CANDIDATE ON THE BALLOT OR DECLARED WRITE-IN CANDIDATE

To the Presiding Judge:

The following person has been appointed to serve as a poll watcher on my behalf.

Name of Poll Watcher <i>David D. Vandenberg</i>	Name of Candidate <i>Frank Arrendorff - Jackson</i>
Residence Address of Poll Watcher [REDACTED]	Name and Date of Election <i>November General Election 2020</i>
Voter Registration VUID Number of Poll Watcher [REDACTED]	Precinct or other location Poll Watcher is to serve <i>EP City HW Annex</i>

[Signature]
Signature of Candidate or Other Approving Authority

U.S. Representative, District 16
Title of Approving Authority

Signature of the Watcher

AFFIDAVIT OF POLL WATCHER

I, *David D. Vandenberg*, a poll watcher for the above appointing authority, do hereby swear or affirm that I do not have in my possession any type of mechanical or electronic means of recording images or sound while serving as a watcher at this precinct or I will disable or deactivate the device while serving as a watcher.

Signature of Poll Watcher

Sworn to and subscribed before me this the _____ day of _____, _____.

Signature of Election Judge

Printed Name of Election Judge

INSTRUCTIONS

The following persons have the authority to appoint a poll watcher on behalf of a candidate whose name appears on the ballot.

- a. In an election for an office of the state government that is filled by voters of more than one county, by the candidate's campaign treasurer.
- b. In an election for an office of the federal government that is filled by voters of more than one county, by the chair or treasurer of the candidate's principal campaign committee or by a designated agent of the chair or treasurer.



10/26/2020

I, Nicolas Banales, am refusing David Vandenberg from entering the polling site as a poll watcher because Mr. Vandenberg has already been asked to not be in the polling facility twice because Vandenberg was distributing the election process.

Nicolas Banales
Election Judge





David D Vandenberg <davidvandenberg@utexas.edu>

Request for Poll Watcher Acceptance

Republican Alliance of El Paso <repallel Paso@gmail.com>

Sat, Oct 24, 2020 at 9:09 PM

To: "Lisa R. Wise" <LWise@epcounty.com>

Cc: Eric Opiela <eopiela@ericopiela.com>, Bill Hicks <billhicks@billhickslaw.com>, Sonya Aston <saston@texasgop.org> ,

Lisa Hendrickson <lhendrickson@texasgop.org>

Bcc: davidvandenberg@utexas.edu

Dear Lisa Wise:

We are writing to you to address a very serious issue. Currently, an Elections Judge and one of your own staff members are guilty of committing a Class A misdemeanor which subjects them to jail for up to one year and a fine of up to \$4,000 each. We will pursue the criminal charges, if this situation is not immediately remedied. Please understand that now that you are being made aware of the issue, if you do not take action to remedy the situation, we believe you will also be guilty of committing the criminal action as a party to the offense.

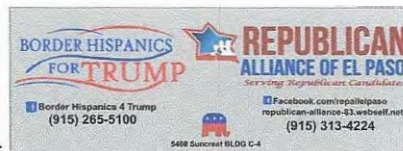
In short: On Friday October 23, 2020, David Vandenberg, a poll watcher, was forced out of the polls because he was asking to see documents that he was entitled by law to see. The Presiding Judge, Mr. Nicholas Bañales, refused to comply with the statutes and return the Appointment Affidavit" to Mr Vandenberg. This was further complicated when the District Supervisor of the El Paso County Elections Dept., Mrs. Debra Barlow, one of your employees, instructed Judge Banales to keep the Affidavit of Appointment as well. Please contact the Judge immediately to allow this poll watcher to return to the polling location tomorrow and provide the documents that the poll watcher requests to view.

Sincerely,

David D. Vandenberg



(915) 249-6050



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JO ANNE BERNAL
EL PASO COUNTY ATTORNEY
500 EAST SAN ANTONIO
ROOM 503, COUNTY COURTHOUSE
EL PASO, TEXAS 79901

(915) 546-2050
FAX: (915) 546-2133

October 28, 2020

David D. Vandenberg

SENT VIA ELECTRONIC MAIL


repallelpasso@gmail.com

RE: Public Information Request to the El Paso County Elections Department Concerning Information Related to Records for Documents; Our File No. OP-20-1359

Dear Mr. Vandenberg:

On October 26, 2020 the El Paso County Elections Department received your request regarding records for documents.

In accordance with §552.222 of the Texas Government Code, we are sending this letter to request that you clarify or narrow the above described request. Your request is unclear and overly broad, which potentially will be very costly or could increase the time required to respond.

Please specify on exactly what types of documents are being requested.

If you do not respond in writing within 61 days after the date this letter was sent, then we will consider your request withdrawn.

Sincerely,

Christina L. Ford
Assistant County Attorney

cc: Lisa R. Wise, Elections Administrator, Elections Department



Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

David Vandenberg on behalf of David Vandenberg
Bar No. 24107948
DavidVandenberg@utexas.edu
Envelope ID: 47655247
Status as of 10/29/2020 3:51 PM CST

Associated Case Party: Nicolas Banales

Name	BarNumber	Email	TimestampSubmitted	Status
Jo Anne Bernal		isela.lozano@epcounty.com	10/29/2020 3:49:08 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Republican Alliance of El Paso		repallelpasso@gmail.com	10/29/2020 3:49:08 PM	SENT
Bill D.Hicks		billhicks@billhicksllaw.com	10/29/2020 3:49:08 PM	SENT

Associated Case Party: Debra Barlow

Name	BarNumber	Email	TimestampSubmitted	Status
Jo Anne Bernal		isela.lozano@epcounty.com	10/29/2020 3:49:08 PM	SENT

Associated Case Party: Lisa Wise

Name	BarNumber	Email	TimestampSubmitted	Status
Jo Anne Bernal		isela.lozano@epcounty.com	10/29/2020 3:49:08 PM	SENT

Associated Case Party: David Vandenberg

Name	BarNumber	Email	TimestampSubmitted	Status
David Vandenberg		DavidVandenberg@utexas.edu	10/29/2020 3:49:08 PM	SENT

Associated Case Party: Irene Armendariz-Jackson

Name	BarNumber	Email	TimestampSubmitted	Status
Bill Hicks		billhicks@billhicksllaw.com	10/29/2020 3:49:08 PM	SENT