

CAUSE NO. _____

HEIDER GARCIA,	§	IN THE DISTRICT COURT
DALLAS COUNTY	§	
ELECTIONS ADMINISTRATOR	§	_____ JUDICIAL DISTRICT
	§	
PETITIONER	§	DALLAS COUNTY, TEXAS

**EMERGENCY PETITION TO OPEN LOCKED BALLOT BOXES TO
RE-TABULATE BALLOTS AT THE CENTRAL COUNT STATION FOR
THREE DALLAS COUNTY VOTE CENTERS**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Heider Garcia, duly appointed Elections Administrator for Dallas County, Texas and files this *Emergency Petition to open locked Ballot Boxes to Re-Tabulate Ballots at the Central Count Station for Three Vote Centers* and would show the Court the following:

**I.
BACKGROUND**

1. Heider Garcia, Dallas County Elections Administrator, requests emergency relief to re-tabulate ballots at three early voting vote centers (“early voting centers”) for the general election for state and county officers held on November 5, 2024 in Dallas County, Texas (“November 5th election”).
2. The Elections Administrator conducted the November 5th election.
3. During the process of complying with Section 127.156, it was determined that the tapes produced by the automatic tabulating equipment from three early voting centers showed significantly more ballots recorded than the numbers of ballots tabulated at the central counting station for those same early voting centers. *See Exhibit A, Affidavit of Dallas County Election Administrator, Heider Garcia.* These differences may have been

caused by human error in handling ballots during tabulation at the central counting station.

Id. The following are the three early voting centers:

- a. Vote Center #E0030, Northway Christian Church
- b. Vote Center #E3605, Disciple Central Community Church
- c. Vote Center #E0043, Ministerios Charisma

Id.

4. In the assessment of the Election Administrator, the most accurate records are the paper ballots from those vote centers. *Id.* However, pursuant to the Texas Election Code, the ballot boxes have been sealed and may not be opened without a court order. Specifically, Section 66.058(b-1) of the Texas Election Code provides that “Except as permitted by this code, a ballot box or other secure container containing voted ballots may not be opened during the preservation period.”

5. The emergency conditions are the discrepancies between the number of ballots recorded on the tapes from the automatic tabulating equipment at the early vote centers and the number of voters recorded by the electronic poll books at the three said

early voting centers. *See* Exhibit A. The sealed ballot boxes from the three said early voting centers need to be opened so that those ballots can be tabulated again. *Id.*

6. The Elections Administrator spoke with the Christina Adkins, the director of the Election Division for the Texas Secretary of State, who agrees with this course of action. *Id.*

II. VENUE

7. Venue is mandatory in Dallas County under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1) because Dallas County, Texas is the county in which all of the events or omissions giving rise to this action occurred.

III. ARGUMENT

8. Paragraphs 1 through 7, are incorporated herein by reference.

9. On November 5, 2024, the general election for state and county officers was held in Dallas County, Texas.

10. The Dallas County Commissioners Court is required to canvas the election by November 19, 2024. Tex. Elec. Code §§67.002 and 67.003(c).

11. A central counting station was established for the November 5th election in accordance with Tex. Elec. Code § 127.001.

12. Unofficial election results were announced after the polls closed on November 5, 2024 and updated throughout the night in compliance with Tex. Elec. Code § 127.1311.

13. While processing the early voting results, it was identified that, for three early voting centers, there was a discrepancy between the number of ballots recorded on the tapes from the automatic tabulating equipment and the number of voters recorded by the electronic poll books. *See* Exhibit A.

14. Pursuant to Section 127.156 of the Election code, if there is a discrepancy of three or more between the ballot and seal certificate and the tape containing the ballot tabulation, then the actual physical paper ballots must be tabulated at the central counting station. *Id.*

15. The process to count the physical paper ballots at the central counting station was performed. However, after the count was completed, and the ballots had been sealed in the ballot box, it was noted that the final numbers of cast ballots from the count performed at the central counting station from the three early voting centers below was notably different from the numbers produced by the ballot tabulators at those three early voting centers. *Id.* This discrepancy suggests a human error in the tabulation of ballots at the central counting station. The difference in the number of ballots cast and recorded on

the early voting center tabulators and those tabulated at the central counting station for each of these three early voting centers are as follows:

Early Voting Center	Tabulator Tape	Central Count Tabulator	Difference
E0030 Northway Christian Church	18,007	17,678	329
E3605 Disciple Central Community Church	17,815	17,671	144
E0043 Ministerios Charisma	12,378	12,263	115

Id.

16. It is a fundamental concept to our representative democracy that every vote is counted.

17. Pursuant to Texas Election Code Section 31.004(a), the Secretary of State shall assist and advise all election authorities with regard to the application, operation, and interpretation of the Election Code and any election laws outside of the Election Code. As such, the Elections Administrator consulted with the Director of Elections as the Texas Secretary of State and the Director of Elections agreed that a re-tabulation of the paper ballots was the appropriate remedy and that a court order would be necessary to open sealed ballot boxes. *See* Exhibit A.

18. Due to these emergency conditions, the Election Administrator seeks a court order to open the sealed ballot boxes for the three locations listed herein, so the ballots can be re-tabulated.

19. This is an emergency Motion because the Central Counting Station reconvenes on November 14, 2024, and the election must be canvassed by November 19,

2024. Further, seventy-two hours' notice of the canvassing of the election must be posted, which posting must be received by the County Clerk by noon on November 15, 2024.

CONCLUSION AND PRAYER

WHEREFORE PREMISES CONSIDERED, Petitioner Heider Garcia, Dallas County Elections Administrator, prays that the Court grant the relief in this petition and any other relief in law or equity to which the Petitioner is entitled.

Respectfully submitted,

JOHN CREUZOT
CRIMINAL DISTRICT ATTORNEY
DALLAS COUNTY, TEXAS

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ATTORNEYS FOR PETITIONER
HEIDER GARCIA
ELECTIONS ADMINISTRATOR
DALLAS COUNTY, TEXAS

CERTIFICATE OF SERVICE

Pursuant to Rule 21 of the Texas Rules of Civil Procedure, I certify that a true and correct copy of foregoing document was served in compliance with Rule 21a of the Texas Rules of Civil Procedure to the following in the manner indicated below:

*Via email and e-service @ abw.diver@gmail.com
and caw@dallasgop.org*

Allen West (GOP Chair)
Dallas County Republican Party
11617 N. Central Expressway
Suite 240, Dallas, Texas 75243
Dallas County Republican Party

Via email and e-service @ chair@dallasdemocrats.org

Kardal Coleman (Democrat Chair)
Dallas County Democratic Party Headquarters
1414 N. Washington Ave
Dallas, TX 75204
Dallas County Democratic Party

*Via email and e-service: elections@sos.texas.gov
and CAdkins@sos.texas.gov*

Director of Elections Division
Texas Secretary of State
Service od Process Unit
P.O. Box 12079
Austin, TX 78711-2079

DATED: November 11, 2024

BY: /s/ Ben S. Stool

STATE OF TEXAS

§

COUNTY OF DALLAS

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AFFIDAVIT OF HEIDER GARCIA

Before me, the undersigned notary, on this day personally appeared Heider Garcia, the affiant, a person whose identity is known to me. After I administered an oath, affiant testified as follows:

1. “My name is Heider Garcia. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. I am the Elections Administrator of Dallas County, Texas.
3. I am the general custodian of election records of the general election for state and county officers held on November 5, 2024, including the voted ballots that are preserved securely in a locked room in locked ballot boxes, as required by Section 66.058 of the Texas Election Code.
4. When the early voting period ended on November 1, 2024, the electronic poll books, ballot tabulators, ballot and seal certificates for the ballot tabulators, and voted ballots from all of the early voting countywide vote centers (“early voting centers”) were delivered to the central counting station.
5. Section 127.156 of the Texas Election Code states that, “If a discrepancy of more than three exists between the number of ballots recorded on the ballot and seal certificate and the number of ballots cast on the tape containing the ballot tabulation that is produced by the automatic tabulating equipment, the official tabulation of those ballots shall be conducted at a central counting station.”
6. During the process of complying with Section 127.156, it was determined that the tapes produced by the automatic tabulating equipment from three early voting centers showed significantly more ballots recorded than the numbers of ballots tabulated at the central counting station for those same early voting centers. These differences may have been caused by human error in handling ballots during tabulation at the central counting station.
7. The three early voting centers were: Vote Center #E0030, Northway Christian Church (329 difference); Vote Center #E3605, Disciple Central Community Church (144 difference); and Vote Center #E0043, Ministerios Charisma (115 difference).

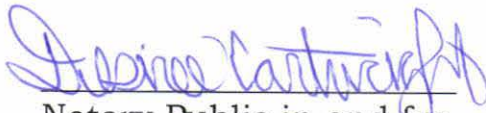
8. To proceed with due diligence for the canvass of the general election for state and county officers held on November 5, 2024, I will need to tabulate the ballots from those three early voting centers again at the central counting station, in order to reduce the potential for human error being reflected in the vote totals.
9. On November 8, 2024, I spoke by telephone with Christina Adkins, the Director of Elections for the Texas Secretary of State, about the ballot counts described above. I told Ms. Adkins that I wanted to tabulate again the paper ballots from the three early voting centers that had the differences listed above. Ms. Adkins agreed that was the proper course of action, but that a court order would be required to open the relevant ballot boxes to tabulate those ballots again.”

Further, affiant sayeth naught.



Heider Garcia

SWORN TO and SUBSCRIBED before me by Heider Garcia on November 11, 2024.



Notary Public in and for the State of Texas

