

Supreme Court of Texas

No. 26-0916

In re the Honorable Derreck Rose, Wilma Green, and Diane
Merchant,

Relators

On Petition for Writ of Mandamus

PER CURIAM

Justice Hawkins did not participate in the decision.

Like other Texas counties, Galveston County is divided into four geographic precincts, each of which elects a member of the commissioners court. The County also has four justice-of-the-peace precincts. Texas law authorizes the commissioners court to redraw these precinct lines “from time to time.” TEX. CONST. art. V, § 18(a)-(b).

Galveston County’s commissioners court exercised its redistricting power after the 2026 primary election but before the 2026 general election. Rather than implement its new precinct maps beginning with the next full election cycle in 2028, the County intends to make the 2026 map effective in the middle of the current, ongoing election. If the County’s plan goes forward, the precinct lines applicable to the upcoming November general election, for both county

commissioners and justices of the peace, would be different from the lines used for the March primary election.

The relators in this mandamus proceeding are voters who adequately allege the concrete injury required to establish standing and who have vigorously and expeditiously prosecuted this time-sensitive matter in the courts. No disputed fact issues complicate the picture. The legal question of the County's authority to implement the new map is therefore properly before this Court.

On that question, the County has failed to identify valid legal authority for implementing this extraordinary mid-election change in its precinct lines. Neither the Texas Constitution nor any statute authorizes the County to take the unusual and perhaps unprecedented step of choosing to conduct a general election using precinct lines that differ from those used in the corresponding primary election absent an overriding state or federal law obligating it to do so. Although it is also true that no source of law explicitly prohibits this choice, that is of little consequence for at least two reasons. First, Texas counties must find authorization for their actions in the Constitution or a statute; they have no inherent or residual authority from which exceptions must be carved. Second, the implicit claim that a governmental authority may unsettle the electoral map during an ongoing election for any reason (or none at all) implicates serious constitutional concerns.

We conclude that a commissioners court's general power to redraw precinct lines "from time to time" does not include the power to change the lines applicable to an election after the election has begun. A primary election and the corresponding general election are one

election for purposes of this principle, which we consider to be foundational to the electoral structure prescribed by our Election Code. The petition for writ of mandamus is conditionally granted, and the County is directed to conduct the 2026 general election using the precinct lines used for the 2026 primary election.

I

In March of this year, Galveston County held its primary election for county commissioner in precincts 2 and 4 and for justice of the peace in precincts 1, 2, and 3. For the primary, the precinct boundaries were based on maps the County commissioners court adopted for those offices in 2021 and 2013, respectively.

On June 29, 2026—almost four months after the primary election—the commissioners court adopted a comprehensive precinct map establishing new precinct boundaries for the offices of county commissioners and justices of the peace within Galveston County. The adopting order made the 2026 map “effect[ive] immediately,” and the County has indicated in no uncertain terms that it intends to use the new map for the general election in November.

Relators—Wilma Green, Diane Merchant, and the Honorable Derreck Rose, all registered voters in Galveston County—seek mandamus relief to prevent Galveston County from implementing the 2026 map for the general election. They seek to require the County to use the same precinct maps in the 2026 general election that were used in the corresponding primary election earlier this year.

Relators contend, among other arguments, that redistricting between the primary and general election violates the Election Code

because various statutory provisions are implicitly premised on boundaries for county-level offices remaining unchanged between the two phases of the election. The County responds that its constitutional and statutory power to redraw precinct lines “from time to time” includes an essentially unfettered power to decide when to do so. In the County’s view, it may change precinct lines at any time for any reason, including between the primary and the general election.

II

A writ of mandamus may issue “to compel the performance of any duty imposed by law in connection with the holding of an election,” TEX. ELEC. CODE § 273.061(a), or “to correct a clear abuse of discretion by a public official,” *In re Williams*, 470 S.W.3d 819, 821 (Tex. 2015) (quoting *Anderson v. City of Seven Points*, 806 S.W.2d 791, 793 (Tex. 1991)).

For the “people [to] decide who their leaders will be,” *In re Morris*, 683 S.W.3d 396, 397 (Tex. 2024), “there must be an orderly process for elections, whether the primary or general, to present to the people the qualifying candidates for each relevant office,” *In re Smith*, 727 S.W.3d 497, 499 (Tex. 2025). That orderly process is governed by the Election Code, which makes residency within consistent geographic boundaries of both voters and candidates a central feature of the electoral process. A person’s residence determines the offices for which he or she is eligible to cast a vote. TEX. ELEC. CODE § 11.001(a)(2) (requiring an eligible voter to “be a resident of the territory covered by the election for the office or measure on which the person desires to vote”). A candidate must be a resident of the relevant territory to be eligible to run for office. *Id.* § 141.001(a)(5) (requiring candidates for elected office to reside “in

the territory from which the office is elected for six months” before the filing deadline for placement on the primary ballot). And after party candidates are selected through a primary election for a given office by the eligible voters within the relevant territory, they become the candidates for the very same office in the general election. *Id.* §§ 172.001 (requiring certain political parties’ general-election nominees to “be nominated by primary election”), .117(a) (requiring county chairs to “certify by posting on the secretary of state’s website a notation next to” the name of each primary candidate “who is nominated for a county or precinct office for placement on the general election ballot”), .117(a-3) (requiring the authority preparing the official general-election ballot to “use the list of candidates named on the secretary of state’s website as the nominees for general election in preparing the general election ballot”).

Galveston County’s decision to use its new precinct map for the general election, despite having used different maps for the primary election, cannot be reconciled with the orderly election system envisioned by the Election Code. A “primary election” and a “general election” are not, as the County would have it, wholly distinct and unrelated elections. They operate together to facilitate *one election for each precinct*. The County’s plan, by contrast, would unmoor the general election from its corresponding primary. The very purpose of the primary election is to identify the candidates for a specific position representing a specific constituency, one of whom will be chosen in the general election. Decoupling the two changes the nature of both. The result would affect both candidates, who suddenly would be running in

a different race than the one they started, and voters, who would be presented with candidates on their general-election ballot for whom they had no opportunity to vote in the primary. Indeed, some voters could be presented with no candidates for certain offices at all despite participating in the primary.

These irregularities cannot be regarded as consistent with the Legislature's general instruction that "the conduct of elections be uniform and consistent throughout this state." TEX. ELEC. CODE § 1.0015. The consistency of precinct lines across the entire election is an integral aspect of the "uniform and consistent" structure of elections. The premise of the Election Code is that precinct boundaries for an office become fixed at the time of the primary election. A potential caveat, not implicated here, is the remote possibility that some overriding obligation of state or federal law requires a different result. The law provides for how to respond to such a scenario. *See, e.g., id.* §§ 42.031-.033 (providing procedures for boundary changes to election precincts). A judgment requiring a different district pursuant to federal law, for example, might be such a rare and extraordinary development, but the law contemplates it. *See id.* § 42.033(c) (authorizing changes to election-precinct boundaries to take effect between the primary and general election if the change is necessary after a boundary change to a commissioners or justice precinct or to comply with a court order). We need not demarcate with precision the kind of supervening legal obligations that could require such an unwelcome action as changing the boundaries of a district in the midst of an election. It is enough to say that a

commissioners court's mere preference does not qualify and that the County identifies no other obligation here.

To justify changing the lines mid-election, Galveston County points to a constitutional provision authorizing a county to redistrict justice-of-the-peace precincts "from time to time, for the convenience of the people." TEX. CONST. art. V, § 18(a). The County also relies on our precedent stating that redistricting of county precincts may occur "at any time." *Williams v. Castleman*, 247 S.W. 263, 266 (Tex. 1922). Neither the Constitution nor our case law, however, suggests that the exercise of redistricting discretion can occur in the midst of an ongoing election, at least absent some legal mandate. In other words, our holding today does not address a commissioners court's authority to revise precinct lines *before* a primary election or *after* a general election. The point of *Williams* was that precinct boundaries can be changed "at any time," *not just in response to each decennial census*, thus allowing a new justice-of-the-peace precinct to respond to population growth within the county. *See id.* at 266-67. Recognizing that commissioners courts may make such changes more often than every ten years to "meet the changing needs of the people," *id.* at 267, does not broadly empower commissioners courts to take redistricting actions contrary to the "uniform and consistent" statutory structure of elections, TEX. ELEC. CODE § 1.0015. Once an election has started and the primary has been conducted, new lines are incapable of being implemented consistently with the Election Code until the following election cycle.

Galveston County also observes that the Election Code does not expressly prohibit a county from voluntarily redrawing its precinct

boundaries in the middle of an election. But even if the foregoing problems could be eliminated, the relevant question is whether the Election Code authorizes such a change, not whether the Code prohibits it. The County has identified no historical precedent for a Texas county taking such action, and it has not identified any valid source of legal authority for its action. Nothing in the Election Code authorizes what occurred here: a voluntary alteration of precinct lines implemented between the primary and general election.

III

For the foregoing reasons, without hearing oral argument, *see* TEX. R. APP. P. 52.8(c), we conditionally grant the petition for writ of mandamus. Galveston County is directed to use the precinct maps from the March 2026 primary election in the forthcoming November general election and to conduct a general election only for offices for which a primary election was held. We are confident the County will comply, and the writ will issue only if it does not.

OPINION DELIVERED: September 11, 2026