

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

HILDA GONZALEZ-GARZA and
ROSBELL BARRERA

Plaintiffs,

v.

STARR COUNTY, *et al.*,

Defendants.

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CIVIL ACTION NO.

DECLARATION OF ROSBELL BARRERA
IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER

1. My name is Rosbell “Ross” Barrera, and I am a resident of and registered voter in Starr County. I am over the age of 18 and fully competent to make this declaration. I have personal knowledge of each of the matters stated in this declaration.
2. I serve as the chairman of the Starr County Republican Party.
3. I also consider it part of my responsibility, as an American, to be civically engaged.
4. For years, during voting periods, I have engaged in electioneering. For example, I might wear a t-shirt supporting a candidate, put a bumper sticker on my car, hold up political signs, or distribute campaign brochures.
5. My goal is to support the best candidates, inform my neighbors about those candidates, be available to answer any questions from voters before they head into the polls, and provide voters with information about the candidates and the Republican Party.

Especially during early voting, some residents still have not made up their minds about local candidates and they will come up to talk with me at the polls. When I’m at the polls,

I make sure to stand outside of the 100-foot marker outside of the polling place when I talk to voters or hand out materials.

6. I became aware that the Starr County Commissioners' Court adopted a resolution prohibiting electioneering on county property beyond the normal 100-foot marker outside of the polling place. I fear that I will be arrested for doing my normal election-season activities outside the polling place such as putting up candidates' signs and handing out material on the Republican Party and specific Republican candidates.
7. I understand the County's electioneering ban to mean that a sheriff's deputy can arrest me for conducting these activities and that I can be prosecuted for criminal trespass, an offense punishable by jail time.
8. On February 1, 2018, seeking clarification from the County, I sent a letter to the Starr County District Attorney Omar Escobedo, with copies to County Judge Eloy Vera and the four County Commissioners. A copy of my letter is attached as Exhibit 1 to this declaration. In the letter, I informed county officials that I intended to hand out material and put up signs in support of various Republican candidates running for statewide office in the parking lot of the Starr County Courthouse during voting. I explained that I would not enter the 100-foot perimeter outside the door of the courthouse, but I that I would nevertheless be on Starr County property. I asked the District Attorney to advise me whether my intended electioneering is permitted by the County's new resolution.
9. As of today, no County official has responded to my letter, either in writing or otherwise.
10. On February 15, 2018, I read a story published by the *The Monitor* stating that the Texas Secretary of State's office said the County's electioneering ban seems to conflict with

state law. The same article also indicated that the County nevertheless planned on enforcing its ban. A copy of the article is attached as Exhibit 2 to this declaration.

11. On February 16, 2018, I saw a post from District Attorney Escobar, on his official 229th Judicial District Facebook page. A copy of the Facebook post is attached as Exhibit 3 to this declaration. The Facebook post stated that “electioneering is prohibited in [parking] areas” but did not address the County’s electioneering ban on all county property outside the 100-foot marker.
12. For years, I have seen candidates, staff and volunteers with different parties and campaigns in Starr County offer food and drinks for volunteers and voters under tents in the parking lots of different polling sites around town. They have stayed behind the 100-foot marker.
13. I have never witnessed voter intimidation as a result of electioneering activities in Starr County. I also do not know of any instance where electioneering has disrupted the daily function of county government or blocked the traffic of law enforcement or emergency vehicles.
14. I noticed that in its resolution the County tried to justify the electioneering ban by stating that the ban would protect the health and safety of Starr County residents. I have no idea what that refers to because I have never seen the health or safety of Starr County residents affected by electioneering activities.

I declare under penalty of perjury pursuant to 28 USC § 1746 that the foregoing is true and correct. Executed in Starr County, Texas on the 18th day of February, 2018.



Rosbell Barrera

EXHIBIT D-1

February 1, 2018
Sent via facsimile

The Honorable Omar Escobar, Jr.
District Attorney
Starr County
401 N. Britton Ave.
Rio Grande City, Texas
78582

Dear Mr. Escobar:

The purpose of this letter is to inquire whether my intended electioneering efforts during early voting and on Election Day in the upcoming primary election are permissible under Starr County's recently passed resolution related to electioneering. I ask because I intend to hand out material and put up signs in support of various Republican candidates running for statewide office in the parking lot of the Starr County Courthouse on Primary Election Day and on the first day of early voting (February 20, 2018). I will not cross within 100 feet of the outside door of the courthouse, but I will nevertheless be on Starr County property.

Please let me know in writing as soon as possible, and before February 20, 2018, whether my intended electioneering is permitted by the County's new resolution. Thank you in advance for your prompt attention to my inquiry.

Respectfully,



Rosbell "Ross" Barrera
Chair, Starr County Republican Party
(956) 735-4790
Txross1984@gmail.com

CC: County Judge Eloy Vera via facsimile at (956) ~~487-8709~~ 352-6573
Commissioner Jaime Alvarez via facsimile at (956) 849-4328
Commissioner Raul Pena III via facsimile at (956) 849-3532
Commissioner Eloy Garza via facsimile at (956) 488-9242
Commissioner Ruben Saenz via facsimile at (956) 487-3694

EXHIBIT D-2

http://www.themonitor.com/news/local/article_194d977c-12cf-11e8-9fc9-dbf64ffc2c4b.html

Starr County ban on electioneering may violate election code

BERENICE GARCIA | STAFF WRITER

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Feb 15, 2018



RIO GRANDE CITY, TX - 22 MAY 12 Political signs hang near the polling place at La Rosita during early voting May 22, 2012 in Rio Grande City. photo by joel martinez/jmartinez@themonitor.com

JOEL MARTINEZ

RIO GRANDE CITY — The county's ban on electioneering on its property may not be in accordance with state law, according to the Texas Secretary of State's office.

Electioneering, or campaigning, by state law, is not allowed within 100 feet of the outside door to a polling site. At the county courthouse, the law would limit electioneering to one side of the parking lot.

But the county ordinance, adopted in early January, completely bans the practice on their property.

"The election code is very clear that they may not ban or prohibit at any time electioneering on the building's premises outside of that 100-foot mark," said Sam Taylor, communications director for the Secretary of State's office, referring to Chapter 61 of the Texas Election Code.

"If (the county property) is within 100 feet and they're banning it within 100 feet of that door, then obviously that's perfectly legal," he said, "but anything outside of that 100-foot mark, banning electioneering outside of that 100-foot is not in accordance with the election code."

The election code states that the owner of a public building being used as a polling site "may not, at any time during the voting period, prohibit electioneering on the building's premises" outside of the aforementioned 100 feet.

The law, however, does allow for "reasonable regulations concerning the time, place, and manner of electioneering."

In enacting the ban, the county ordinance cites an advisory issued by the secretary of state's office, Advisory No. 2017-14, which states that "only a court can determine what is reasonable in term of time, place and manner."

"However," the advisory states, "an example of a reasonable regulation may include prohibiting electioneering on sidewalks or driveways to keep them clear for pedestrian traffic."

District Attorney Omar Escobar said that advisory alone contradicts Taylor's view.

"If you can't prohibit electioneering outside of the 100 feet, then why do they have in the (advisory) that a reasonable regulation is to prohibit electioneering on sidewalks or driveways?" Escobar said by phone Thursday. "In the end, only a court can determine whether or not those are reasonable."

Escobar also pointed out that there are zones outside of the 100 feet, but on county property, where people can electioneer as long they have a permit.

"I really don't see that anybody's rights are being violated," he said. "(The candidates) have had months to be able to electioneer all over the county, visiting people house by house in some cases."

The district attorney said he saw the issue as either being for the candidates or for the voters.

"I'm going to side with the voters on this and not with the candidates or politicians," he said. "I think they should be free to vote how they want without being pressured or harassed."

bereniceg@themonitor.com

Berenice Garcia

EXHIBIT D-3

**229th Judicial District Attorney**

February 16 at 11:46am · 🌐

From the 229th District Attorney's Office:

On February 12, 2018, the Starr County Commissioners' Court passed a comprehensive county building and property use policy. The policy sets out rules and regulations by which members of the general public may request access and use of government facilities. A person may request access or a permit to use areas and buildings belonging to Starr County. The requested use **MUST** first be approved by the Starr County Commissioners' Court. For example, a person requesting the use of any Starr County Community Center must request a permit, and the permit must first be approved by the Starr County Commissioner's Court. The Court retains the authority to accept or deny any requested use of county property. The County Judge's Office may also grant access or a permit in an emergency situation where time does not allow submission to the Starr County Commissioners' Court.

Furthermore, the policy specifically states and identifies all parking zones. Candidates and the public should know that parking areas and parking zones are specifically limited to parking vehicles for members of the public who have business in government buildings. Loitering and electioneering is prohibited in those areas. Parking zones will not be available for tents, bbq pits, chairs or similar items. Electioneering continues to be prohibited in all designated county parking zones. Once again, persons may request a permit to use non-parking areas for any allowed purpose. As of yet, neither the Starr County Commissioners' Court nor the Starr County Judge's Office have granted and they are not required to grant a permit to anyone requesting use of public property. Voters and members of the public should rest assured that there will be no tents, bbq pits or persons crowding county parking zones at polling locations.