

DISMISS IN PART AND DENY IN PART and Opinion Filed May 3, 2024



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-24-00524-CV

IN RE BARRY WERNICK, Relator

Original Proceeding from Dallas County, Texas

MEMORANDUM OPINION

Before Justices Reichek, Goldstein, and Kennedy
Opinion by Justice Goldstein

Before the Court is relator's May 3, 2024 Emergency Petition for Writ of Mandamus and Injunction. Relator seeks mandamus and injunctive relief against Matt Rinaldi, in his official capacity as Chair, Texas Republican Party and Recount Coordinator, HD 108; Jennifer Stoddard-Hajdu, in her official capacity as Chair, Dallas County Republican Party, Recount Supervisor and Presiding Officer; and Heider Garcia, in his official capacity as Elections Administrator, Dallas County.

We do not have jurisdiction to grant any sort of writ other than a writ of mandamus in an original proceeding under the election code. *See* TEX. GOV'T CODE ANN. § 22.221(a); *In re Meyer*, No. 05-16-00063-CV, 2016 WL 375033, at *5–*6 (Tex. App.—Dallas Feb. 1, 2016, orig. proceeding) (mem. op.) (“A suit for injunctive relief in an appropriate trial court is the proper avenue for relief if a person

is in danger of being harmed by a threatened violation of the election code.”). Thus, to the extent relator seeks a writ of injunction, we dismiss the petition for want of jurisdiction.

The Texas elections code grants this Court limited jurisdiction to consider a petition for writ of mandamus to “compel the performance of any duty imposed by law in connection with the holding of an election . . . regardless of whether the person responsible for performing the duty is a public officer.” TEX. ELEC. CODE ANN. § 273.061(a); *see also In re Claire*, No. 05-22-00018-CV, 2022 WL 71868, at *1 (Tex. App.—Dallas Jan. 7, 2022, orig. proceeding) (mem. op.). To the extent relator requests mandamus relief, we conclude that relator failed to show his entitlement to the relief requested and thus deny the petition for writ of mandamus.

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/Bonnie Lee Goldstein//

BONNIE LEE GOLDSTEIN
JUSTICE