

Motion Granted; Order and Dissent to Order filed July 17, 2025.



**In The
Fifteenth Court of Appeals**

NO. 15-25-00116-CV

**KEN PAXTON, IN HIS OFFICIAL CAPACITY AS ATTORNEY
GENERAL FOR THE STATE OF TEXAS AND THE OFFICE OF
THE ATTORNEY GENERAL FOR THE STATE OF TEXAS,
Appellants**

V.

**DELIA GARZA, IN HER OFFICIAL CAPACITY AS TRAVIS COUNTY
ATTORNEY, ET AL.; JOHN CREUZOT, IN HIS OFFICIAL
CAPACITY AS DALLAS COUNTY CRIMINAL DISTRICT
ATTORNEY, ET AL.; AND BRIAN MIDDLETON, IN HIS
OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF FORT BEND
COUNTY (268TH JUDICIAL DISTRICT), ET AL., Appellees**

**On Appeal from the 459th District Court
Travis County, Texas
Trial Court Cause No. D-1-GN-25-003445**

DISSENT TO ORDER GRANTING TEMPORARY STAY

The stay that the majority issues today under Texas Rule of Appellate Procedure 29.3 is a “kind of injunction.” *In re State*, 711 S.W.3d 641, 645 (Tex. 2024) (“A stay pending appeal is, of course, a kind of injunction[.]”). The Texas Supreme Court has held that although we are permitted to consider various “case-specific” factors in determining whether to grant such relief, it is “essential” that we consider “the merits of the parties’ legal positions.” *Id.* “The relevance of the merits to requests for injunctive relief does not vanish when courts must rule expeditiously. To the contrary, trial courts asked to issue temporary injunctions or temporary restraining orders commonly must consider the likely merits of the parties’ positions.” *Id.*

Here, the majority orders a stay of enforcement of the reporting requirements of Chapter 56 in Title 1 of the Texas Administrative Code against Appellees pending resolution of the Attorney General’s appeal of the trial court’s order granting temporary injunctive relief enjoining enforcement of those administrative rules. Yet it does so without any legal analysis of the merits of the parties’ positions. The majority states that the case presents “a close question of statutory construction and many other issues that are mixed questions of fact and law and are hotly contested,” and that the case raises “serious questions of statutory construction on whether the Attorney General had express authority to promulgate the rules at issue and whether that authority may be implied.” The majority, however, stops short of conducting a legal analysis on any of these issues or finding whether Appellees have demonstrated a likelihood of success on the merits.

Appellees acknowledge that “generally,” there “must be *some* likelihood of success on the merits for a movant to obtain temporary relief,” although “success need not be certain.” Without such a finding and the requisite preliminary legal

analysis of the issues to support it, I cannot join in the order granting temporary relief.

/s/ April Farris
April Farris
Justice

Panel consists of Chief Justice Brister and Justices Field and Farris.