

Code section 141.063. Respondents provided no further explanation for rejecting Bell’s application.

Bell sought mandamus relief from the court of appeals concerning respondents’ action, which the court summarily denied. Bell now seeks mandamus relief from this Court. *See* TEX. ELEC. CODE § 273.061. We ordered respondents to allow Bell to participate in the drawing for ballot position in the primary election, pending our decision on whether ~~B~~ell’s name should be placed on the ballot.

For a place on the ballot, Bell needs 250 valid signatures on his petition, *see* TEX. ELEC. CODE §§ 141.062(a)(2), 172.021(e), assuming he satisfies all other Election Code requirements. Bell contends that respondents rejected his application because fifteen individuals who signed his petition omitted the city from their addresses, and another forty-three individuals omitted their city and zip code. Respondents do not dispute that they rejected Bell’s application for this reason.

Without these disputed signatures, Bell concedes that his petition does not contain the required 250 signatures. Moreover, respondents do not dispute that Bell meets the requisite number if these disputed signatures are counted. Thus, we must decide whether the disputed signatures are invalid under the Election Code, because some signers failed to identify their city of residence or their city of residence and zip code when providing their addresses.

III

Texas Election Code section 141.063(a), most recently amended in 1997, provides that a signature on a petition is valid if: “the signer, at the time of signing, is a registered voter of the territory from which the office sought is elected. . . .” TEX. ELEC. CODE § 141.063(a)(1). Section 141.063(a)(2) further states that a signature is valid if the petition includes the following information with respect to each signer: “(A)

the signer's residence address; (B) the signer's date of birth and the signer's voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration; (C) the date of signing; and (D) the signer's printed name." *Id.* § 141.063(a)(2)(A)-(D). The Election Code defines "residence address" as "the street address and any apartment number, or the address at which mail is received if the residence has no address, and the city, state, and zip code that correspond to a person's residence." *Id.* § 1.005(17).

Section 1.003(a), which was added to the Election Code in 1985, states that "[t]he Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision in this code." *Id.* § 1.003(a); Act of May 9, 1985, 69th Leg., R.S., ch. 211, § 1, 1985 Tex. Gen. Laws 802, 805 (codified at TEX. ELEC. CODE § 1.003). The Code Construction Act states that the Legislature is presumed to have intended a "just and reasonable result" in enacting statutes. TEX. GOV'T CODE § 311.021(3). It also makes clear that courts may consider the "legislative history" and the "object sought to be attained" in construing statutes. *Id.* § 311.023(1), (3). The legislative history to the 1997 Election Code amendments indicates that the Legislature was concerned with, among other things, preventing election fraud. *See* SENATE COMM. ON STATE AFFAIRS, BILL ANALYSIS, Tex. H.B. 331, 75th Leg., R.S. (1997); HOUSE COMM. ON ELECTIONS, BILL ANALYSIS, Tex. H.B. 331, 75th Leg., R.S. (1997). Thus, in assessing whether the contested signatures are invalid under section 141.063, this statutory purpose serves as a guide.

Some courts of appeals have considered the effect of omitting the city or city and zip code from a signer's address under earlier versions of the Election Code and concluded that such omissions invalidate

the signature. *See, e.g., Pierce v. Peters*, 599 S.W.2d 849, 851 (Tex. Civ. App. — San Antonio 1980, orig. proceeding); *Shields v. Upham*, 597 S.W.2d 502, 504 (Tex. Civ. App. — El Paso 1980, orig. proceeding); *Gray v. Vance*, 567 S.W.2d 16, 17 (Tex. Civ. App. — Fort Worth 1978, orig. proceeding). However, these cases were decided under a prior version of the Election Code that did not specifically incorporate the Code Construction Act. Nor did these decisions consider the issue in light of the Election Code’s purpose or “object sought to be attained” by the petition signature requirement. We also note that these cases were decided under an earlier statutory provision that affirmatively stated, “[t]he petition *must show* the following information with respect to each signer: His address (including his street address if residing in a city, and his rural route address if not residing in a city). . . .” (emphasis added). Act of May 22, 1975, 64th Leg., R.S., ch. 675, § 1, 1975 Tex. Gen. Laws 2046, 2048 (repealed 1985) (current version at TEX. ELEC. CODE § 141.063). That mandatory language no longer appears in the section defining a signature’s validity. *See* TEX. ELEC. CODE § 141.063.

A few cases decided after the Code Construction Act was incorporated into the Election Code appeared to follow these earlier decisions. *See, e.g., Shipley v. Harris County Democratic Executive Comm.*, 795 S.W.2d 766, 768 (Tex. App. — Houston [1st Dist.] 1990, orig. proceeding), *overruled sub nom. and subsequently vacated as moot Correa v. First Court of Appeals*, 795 S.W.2d 704 (Tex. 1990) (orig. proceeding); *Atkinson v. Carter*, 785 S.W.2d 449, 451-52 (Tex. App. — Houston [14th Dist.] 1990, orig. proceeding), *overruled sub nom. Carter v. Fourteenth Court of Appeals*, 789 S.W.2d 260 (Tex. 1990) (orig. proceeding); *Dunn v. Slagle*, 783 S.W.2d 953, 955-56 (Tex. App. — Houston [14th Dist.] 1990, orig. proceeding), *overruled sub nom. Brady v. Fourteenth Court of*

Appeals, 795 S.W.2d 712 (Tex. 1990) (orig. proceeding). However, these cases did not consider the alleged signature defects in relation to the objects “sought to be attained” by the Election Code, one such object being to prevent election fraud. Moreover, we directed the courts of appeals to withdraw their writs in each of these cases, although not on this particular issue which we did not consider. Thus, their precedential value is questionable.

The more recent decisions to discuss the issue under section 141.063 recognize that the statutory purpose in requiring each signer to list his or her “residence address” is to provide a basis for verifying the voter’s eligibility (*i.e.* county residency, qualified voter, etc.) to participate in a particular election. *See, e.g., Strachan v. Lanier*, 867 S.W.2d 52, 53 (Tex. App.—Houston [1st Dist.] 1993, orig. proceeding); *Reese v. Commissioners’ Court of Cherokee County*, 861 S.W.2d 281, 283 (Tex. App.—Tyler 1993, orig. proceeding); *Love v. Veselka*, 764 S.W.2d 564, 565 (Tex. App.—Houston [1st Dist.] 1988, orig. proceeding); *Bacon v. Harris County Republican Executive Comm.*, 743 S.W.2d 369, 371 (Tex. App.—Houston [14th Dist.] 1988, orig. proceeding). These courts concluded that, if this purpose is served, petition signatures are not invalid even though they omit certain information contained in the Election Code’s definition of “residence address.”

In *Reese*, for example, the court held that “the failure to include the zip code will not invalidate an otherwise valid petition signature” where “inclusion of the zip code will not help verify the eligibility of those who signed the petition.” *Reese*, 861 S.W.2d at 284. Similarly, in *Bacon*, the court held that failing to include the state in an address does not invalidate a petition signature under the Election Code. *Bacon*, 743 S.W.2d at 371. The *Bacon* court relied on *Love v. Veselka*, which reasoned that including the word

“Texas” in the “residence address” was superfluous where the petition signer designated a valid Texas voter registration number and the state was not essential for verification purposes. *Love*, 764 S.W.2d at 565. In *Strachan*, the court looked to the purpose behind requiring each signer to list his or her address and voter registration number and concluded that “the absence of a city and zip code designation, alone, does not invalidate a signature on a petition.” *Strachan*, 867 S.W.2d at 53. In reaching this conclusion, the court stated “[w]e are to take into consideration the entire petition when determining whether the residence address information for a signer is sufficient.” *Id.* at 53 (citing *Fitch v. Fourteenth Court of Appeals*, 834 S.W.2d 335, 337-38 (Tex. 1992)(orig. proceeding)).

We believe that these most recent decisions apply a rationale that furthers one of the principal purposes behind the Election Code — the prevention of election fraud — and produces a “just and reasonable result.” *See* TEX. GOV. CODE § 311.021(3). That rationale does not invalidate a petition signature if the signer provides enough information to allow verification of the signer’s voting eligibility for a particular election.

The Election Code itself recognizes that omitting certain information in the definition of “residence address” will not necessarily invalidate a signature. For example, section 141.063(d) states that the “omission of the state from the signer’s residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state.” Likewise, the “omission of the zip code from the address does not invalidate a signature.” TEX. ELEC. CODE § 141.063(d). In addition, section 141.063(c) states that the “use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.” Thus, if the information omitted will not

aid in determining the signer's voting eligibility for a particular election, invalidating the signatures is not a "just and reasonable result" in light of the object "sought to be attained" by the statute.

IV

Section 141.063(d) states that omitting a zip code will not invalidate a signature. Therefore, the disputed signatures here are not invalid because they omit that information from the "residence address." Accordingly, we must determine whether the disputed signatures are invalid because they omit the signer's city from the "residence address." Under the Election Code, individuals signing Bell's petition must be registered voters of "the territory from which the office sought is elected." TEX. ELEC. CODE § 141.063(a)(1). Bell is running for office in Precinct 4, Harris County. Thus, each person signing Bell's petition must be, at the time of signing, a registered voter residing in Precinct 4, Harris County. *See* TEX. ELEC. CODE § 11.003.

Bell's petition is a form the Secretary of State promulgated and is used in a variety of elections. The petition has spaces for the following information with respect to each signer: (1) the date of signing; (2) printed name; (3) signature; (4) address (city, state, zip code); (5) county of residence; (6) voter registration number; and (7) date of birth. The only information missing from the disputed signatures is the signers' city and, in some cases, their city and zip code. The disputed signatures contain all other information. For example, all individuals signing Bell's petition indicated that they resided in Harris County. They also provided their printed names, street names and numbers, voter registration numbers, and dates of birth. *See* TEX. ELEC. CODE § 141.063(a)(2)(A)-(D).

Bell's petition contains a statement that he is running for Precinct 4. That statement must be read

to each individual before they sign the petition. *See* TEX. ELEC. CODE § 141.065. Significantly, Bell’s petition contains no place for an individual to indicate in which precinct he or she resides. Precinct 4 encompasses parts of more than just one city. Accordingly, a person indicating that he or she resides in Houston, for example, may or may not reside within Precinct 4. Therefore, a signer’s city of residence will not aid in verifying that individual’s eligibility to vote in this particular election. The signer’s residence in the proper precinct is the relevant inquiry.

The way to verify that a signer truly resides in Precinct 4 is to examine the voter registration records maintained in the Harris County Tax Assessor-Collector’s office. The information provided by each person with a disputed signature — birth date, street name and number, county, and voter registration number — is sufficient to allow verification of the signer’s voting eligibility for this particular election from the Tax Assessor-Collector’s records. Respondents do not contend otherwise. Nor do respondents contend that any verification efforts would be impeded because certain signers did not provide their city of residence.

We therefore conclude that omitting the signers’ city of residence from Bell’s petition does not undermine the purpose behind the Election Code’s “residence address” requirement, because there is enough other information to allow voting-eligibility verification for this particular election. Respondents do not contend that the individuals who omitted the city from their “residence address” do not reside within Precinct 4, which is readily verifiable based upon the information provided. Thus, we conclude that the disputed signatures must be counted, and that Bell’s petition is sufficient to entitle him to a place on the ballot. Because of this holding, we need not consider Bell’s constitutional arguments.

Accordingly, without hearing oral argument, we conditionally grant the writ and order respondents to certify Bell as a candidate for the upcoming Republican primary election and to place his name on the primary ballot. *See* TEX. R. APP. P. 52.8. The writ will not issue unless respondents do not comply with this opinion.

Harriet O'Neill
Justice

OPINION DELIVERED: January 22, 2002