

2013 69238

Candidate Rogelio Morales, Jr.

In the District Court of

aka Roy Morales

Harris County, Texas

v.

157 Judicial District

Candidate Felix Michael Kubosh, et al

FILED
Chris Daniel
District Clerk

NOV 18 2013

By: _____
Title: _____
Harris County, Texas
Clerk

PLAINTIFF'S ORIGINAL PETITION, APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND PERMANENT INJUNCTION

Comes now, Rogelio Morales, Jr. aka Roy Morales hereinafter referred to as Morales with this his Original Petition, Application for Temporary Restraining Order and Permanent Injunction complaining of Felix Michael Kubosh, Annise Parker in her capacity as Mayor of Houston and the members of the Houston City Council in their official capacity and would show unto the court the following:

I.

The Plaintiff, Morales is a resident of the City of Houston and a candidate for AT-LARGE POSITION 3 of the Houston City Council. He is in the runoff for the AT-LARGE POSITION 3, City Council at large of the Houston City Council as a result of the city election of November 5, 2013. The Defendant, Michael Kubosh is a resident of Cypress, Harris County, Texas where he may be served at 13503 Greenwood Manor Drive, 77429-4839. Mr. Kubosh is also a candidate for AT-LARGE POSITION 3 of the Houston City Council. The Defendant, Annise Parker and the members of the Houston

CONFIRMED FILE DATE: 11/18/2013

In addition, the Defendant Kubosh registered a Chrysler convertible at 13503 Greenwood Manor Drive in Cypress up until December 1, 2012 as shown by the attached Exhibit C. The Defendant also registered a Kia as of April 5, 2011 at the same Cypress address as shown by Exhibit D. Exhibits A through D are all true and correct copies of the original records on file with the appropriate authorities in Harris County.

III.

Plaintiff would show that the election has now been canvassed by the Harris County Clerk as required by section 67.003 of the Texas Election Code. And the election results have now been certified by the Houston City Council as required by law. This case may now proceed. See Maddox v. Commissioners Court of Palo Pinto County, 222 SW 2d 475 (Tex.Civ.App. – Eastland 1949, no writ). This court has jurisdiction pursuant to section 221.002 of the Texas Election Code.

IV.

Plaintiff seeks declaratory judgment of his rights under Article 5, section 4 of the Municipal Code of the City of Houston which restricts candidates for the Houston City Council to those that have lived in the city of Houston for at least twelve (12) months before the election of November 5, 2013. Plaintiff further seeks attorney fees from the Defendant Kubosh pursuant to section 37.009 of the Texas Civil Practices and Remedies Code. Plaintiff seeks attorney fees for preparation for trial, and for each step of the appellate process.

V.

Plaintiff seeks a temporary restraining order, a temporary injunction as well as a permanent injunction against the mayor and city council of Houston enjoining them from placing the name of Defendant Kubosh on the runoff ballot for the runoff election set to occur on December 14, 2013. The Plaintiff would show that time is of the essence as the ballots will be printed in the very near future and the defendant Kubosh is ineligible because he has not met the residency requirements to be on the city council for the City of Houston. After the runoff occurs, the Plaintiff will no longer have standing to contest the election, provided the Defendant wins the runoff. At that point only the State of Texas can remove the Defendant Kubosh pursuant to the Texas Election Code. Plaintiff requests that the Defendant Kubosh be declared ineligible to be in the runoff ballot in accordance with section 232.045(a) of the Texas Election Code.

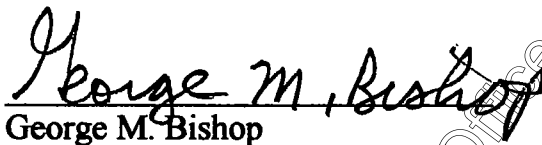
The Plaintiff has standing to contest the eligibility of the Defendant Kubosh, as Plaintiff has been certified to be in the runoff with the Defendant Kubosh for the same office by the Harris County Clerk's office. See *Briner v. Maxwell*, 265 SW 3d 926, 928 (Tex.App. – Dallas 2008, no pet.); *In re Jones*, 978 S.W. 2d 648,651 (Tex. App.-Amarillo 1998, Orig. Proceeding).

CONCLUSION

The Plaintiff would request that citation be issued and served on the Defendant Kubosh at his home in Cypress, Texas and on the Mayor of Houston and members of the Houston City Council through the City Secretary, Anna Russell. The Plaintiff requests that the court issue a temporary restraining order, and upon hearing both a temporary and

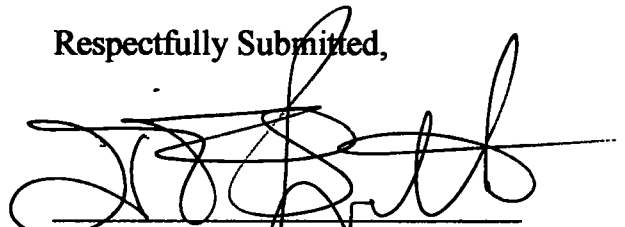
permanent injunction enjoin the Mayor of Houston and members of the Houston City Council from printing the ballots for At-Large Position 3 as the Defendant Kubosh has not met the residency requirements to be on the Houston City Council. Plaintiff also requests attorney fees as pleaded for herein.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays for all relief prayed for herein as well as for general relief, attorney fees from the Defendant Kubosh and costs of court.

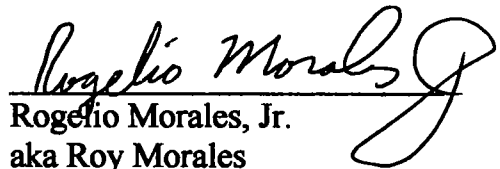


George M. Bishop
4191 F.M. 1155 South
Chappell Hill, Texas 77429
Telephone: (713) 305-5510

Respectfully Submitted,



Frank Svetlik
One Riverway, Suite 1700
Houston, Texas 77056
TBA No.: 19542500
Telephone: (713) 840-8888
Telecopier: (713) 893-4811

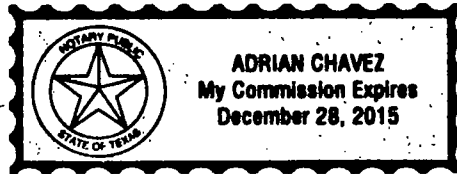


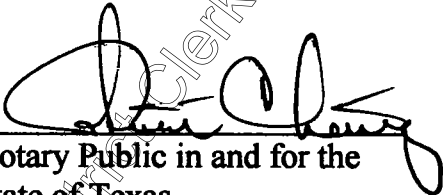
Rogelio Morales, Jr.
aka Roy Morales

State of Texas

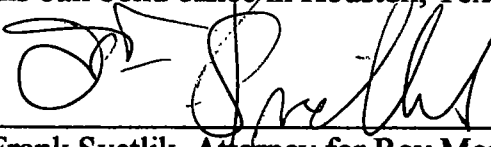
County of Harris

BEFORE ME, on this the 18th date of November, 2013 appeared a person known to me as Rogelio Morales, Jr. also known as Roy Morales who stated to me on his oath that he was personally familiar with the facts as stated in the attached petition and that they were true and correct.




Notary Public in and for the
State of Texas

I certify that I caused to be delivered true and correct copies of this petition to David Feldman, City Attorney for the City of Houston and to the offices of Michael Kubosh at his bail bond office in Houston, Texas.


Frank Svetlik, Attorney for Roy Morales

Unofficial Copy Office of Chris Daniel District Clerk