

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

City of El Cenizo, Texas, Mayor Raul L. :
Reyes of City of El Cenizo, Maverick :
County, Maverick County Sheriff :
Tom Schmerber, Maverick County Constable :
Pct.3-1 Mario A. Hernandez, and League of :
United Latin American Citizens, :

Plaintiffs, :

v. :

Civil Action No. 5:17-cv-404-OLG

State of Texas, Governor Greg Abbott (In :
His Official Capacity), and Texas Attorney :
General Ken Paxton (In His Official :
Capacity) :

Defendants. :

DECLARATION OF MARIO ALBERTO HERNANDEZ

1. My name is Mario Alberto Hernandez, and I am currently a Constable of Maverick County, Texas, Precinct 3AB. I was first appointed in November of 2015 by the Maverick County Commissioners Court and then elected on November 1, 2016.
2. In May of 2003, I graduated from the Southwest Texas Jr. College Police Academy, where I served as Vice-President of my graduating class.
3. Prior to my appointment as Constable, I was the Eagle Pass Independent School District Police Officer, having served in that role since June of 2003. As a Police Officer for the District, I patrolled the schools in our district and engaged in routine law enforcement activities to ensure the safety of the District's staff and

student body. I was also a member of the Juvenile Task Force with the Texas Department of Public Safety, where I worked to curtail drug activity. I was also a Reserve Deputy with the Maverick County Sheriff's Office, a position I first held in 2007.

4. I am a native of Eagle Pass, Texas—the county seat of Maverick County.
5. Maverick County covers an area of 1,292 square miles. As of the 2010 census, Maverick County had a population of approximately 54,000. 100% of the population identifies as Hispanic or Latino.
6. Constables are constitutionally authorized peace officers. Constables have the same arrest powers as police officers in Texas. In fact, we share the same radio frequency with the Maverick County Sheriff's Office to monitor criminal activity, and we run the same databases as other agencies to review criminal background records and identify criminal justice information, including the National Crime Information Center (NCIC) and the Texas Crime Information Center (TCIC).
7. I am one of three full time deputies who have supervisory authority over 36 reserve deputy constable in Maverick County.
8. As a Maverick County Constable, my main duties involve delivering and executing criminal and civil warrants, subpoenas, and temporary restraining orders, serving as a bailiff, patrolling the various neighborhoods in my precinct, and conducting various law enforcement activities, like traffic stops and arrests.
9. I have read pertinent portions of Texas Senate Bill 4 (“SB4”), and based on my experience in law enforcement, I have several concerns with the law.

10. I am concerned that SB4 will subject me to removal from office and will subject me and my employees to civil penalties for endorsing policies that prohibit or limit immigration enforcement. As an elected official, I must be able to speak openly about my opinions regarding SB4 and immigration enforcement and how it impacts my community. For example, I do not know whether my participation in this lawsuit—critical of SB4 and seeking to block its enforcement—would be considered an endorsement of limitations on immigration enforcement that could subject me to fines or removal from office. And I do not know whether any further criticisms I have of SB 4 and of its attitude towards local law enforcement and immigration enforcement will subject me to removal or other sanctions.

11. SB4 includes provisions that are unclear and do not provide clear guidance on how to ensure that my deputies and I comply with all of its requirements. I do not understand what is prohibited by SB4. For example, I do not understand what actions or decisions would “materially limit” immigration enforcement or what is considered to be an informal policy or “pattern and practice” that limits immigration enforcement. I also do not understand what SB4 prohibits regarding limitations on “assisting or cooperating with a federal immigration officer as reasonable or necessary.”

12. Given the vagueness of SB4’s provisions, I do not know whether the following actions will subject me to civil penalties or even removal from office. Under SB4, I am not certain whether in the course of my duties as Constable, I will be required to investigate the immigration status of all individuals I encounter or of individuals

who I suspect may be presented without lawful status. It is also not clear whether I am required to arrest individuals who I suspect are present without lawful status or if I must report them immigration authorities.

13. I am also not certain whether I will need to assist with all requests from immigration authorities to help execute immigration enforcement actions, such as in arrests or immigration raids. I do not know when I will be required to forgo my own job responsibilities to engage in immigration enforcement. SB4 also does not specify whether I will need to comply with all requests, including informal verbal requests, by immigration authorities to detain or continue detaining an individual.

14. I do not have the training or experience to enforce immigration law or to determine an individual's status. As a result, I do not believe I can engage in the actions required by SB4 without risking making wrongful determinations. SB4 provides neither the guidance nor training to ensure compliance with its provisions.


15. In the course of my job, I regularly deliver and execute warrants and summons.

This is a basic function of county government and the orderly administration of justice. But SB 4 will interfere and create uncertainties in even this part of my job. If I were to even briefly detain someone in the course of these duties, SB 4 may require me, or others in my position, to inquire into or investigate immigration status, and then report this information. This will obviously interfere with the main purpose of my job. Based on my training and my experience, I believe this will also lead people to not comply with or otherwise avoid

interaction with me for fear that they will be subject to immigration enforcement. This will create problems for the way that our justice system works and for the ability of my constituents and my community to access justice, and to my ability to enforce the laws as necessary.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed June 2, 2017 in Eagle Pass, Texas.



Mario Alberto Hernandez
Maverick County Constable Precinct
3AB