

# PETITION

No. \_\_\_\_\_

---

In the Supreme Court of the State of Texas

---

Clifford F. William,  
*Petitioner, Pro Se*

vs.

Hon. Thomas R. Philips,

and

Gwyn Shea, Texas Secretary of State,

and

David DeLamar, Chair, Libertarian Party of Texas  
*Respondents*

---

## Petition for Review

---

Clifford F. William, J.D.  
8915 Sangamon  
Houston, Texas 77074  
Telephone: (713)988-7196  
Email: law@hal-pc.org  
*Petitioner, Pro Se*

**EXPEDITE WITHOUT ORAL ARGUMENT**

---

---

**IDENTITY OF PARTIES AND COUNSEL**

---

Clifford F. William, J.D.  
8915 Sangamon  
Houston, Texas 77074  
Telephone: (713)988-7196  
Email: law@hal-pc.org  
*Petitioner, Pro Se*

Hon. Thomas R. Phillips  
Chief Justice  
Supreme Court of Texas  
P.O. Box 12248  
Austin, Texas 78711-2248  
Telephone: (512)470-6009  
*Respondent*

Alan D. Rosenthal  
ROSENTHAL & OSHA L.L.P.  
One Houston Center, Suite 2800  
1221 McKinney Street  
Houston, Texas 77010  
Telephone: (713)228-8600  
*Attorney for Respondent,  
Hon. Thomas R. Phillips*

Mr. David DeLamar  
Chair  
Libertarian Party of Texas  
P.O. Box 98131  
Lubbock, Texas 79499-8131  
Telephone: (806)795-6961  
*Respondent*

John B. Hawley  
State Bar No. 09251800  
P.O. Box 224083  
Dallas, Texas 75222  
Telephone: (214)330-1735  
E-mail: lawhawley@aol.com  
*Attorney for Respondent,  
Mr. David DeLamar, Chair  
Libertarian Party of Texas*

Ms. Gwyn Shea  
Texas Secretary of State  
c/o Ms. Ann McGreehan  
Director of Elections  
Elections Division  
Office of the Texas Secretary of State  
P.O. Box 12060  
Austin, Texas 78711-2060  
Telephone: (800)252-8683  
*Respondent*

Philip A. Lionberger  
Deputy Solicitor General  
Office of the Attorney General  
P.O. Box 12548 (MC 059)  
Austin, Texas 78711-2548  
*Counsel for Respondent,  
Gwyn Shea, Texas Secretary of State*

---

**TABLE OF CONTENTS**

---

Identity of Parties and Counsel..... 1

Table of Contents.....2

Index of Authorities.....5

Statement of the Case.....7

Statement of Jurisdiction.....9

Issues Presented.....10

Statement of Facts..... 12

Summary of Argument..... 13

Argument..... 14

    I.    This case involves the construction and validity of a statute. .... 14

        A.    State Bar Act creating the mandatory Texas Bar Association was passed illegally by members of the State Bar of Texas in the legislature. .... 14

        B.    Article V, § 2(b) of the Texas Constitution is unconstitutionally vague, conflicts with other parts of the Texas Constitution, and was also passed illegally as an Amendment by the Legislature ..... 16

    II.   This Case involves constitutional issues. .... 20

        A.    Constitutional Amendment mandating membership in Texas Bar Association violates constitutional rights guaranteed to “never be changed” by Federal mandate. .... 20

        B.    William has right to run for constitutional public office when Texas citizens elect him as their candidate without State Bar approval. .... 21

        C.    Public has the right to elect someone to curtail the power of the Bar via the Supreme Court of Texas when the Sunset Commission and Legislature are controlled by the Bar. .... 22

III.	The Texas Court of Appeals, Third District has committed an error of law of such importance to the state’s jurisprudence that it should be corrected. ....	22
A.	The Texas Court of Appeals, Third District has ignored that William was not given effective notice to the petition filed in the The Texas Court of Appeals, Third District. Moreover, The Texas Court of Appeals, Third District even ignored William’s request for a fax copy of Hon. Thomas R. Phillips’ petition. William has not been served with a copy of Phillips’ Texas Court of Appeals, Third District pleadings. ....	22
B.	The Texas Court of Appeals, Third District has denied William effective notice and Hon. Thomas R. Phillips’ pleadings in the Texas Supreme Court covered the same issues as addressed by the Original Proceeding in the Texas Court of Appeals, Third District. Assuming the pleading are the same, Exhibit “D” used in Texas Supreme Court is an illegal ex parte injunction order intended to defame William before the Court. ....	23
C.	The Texas Court of Appeals, Third District ignored the currently pending lawsuit in federal court questioning the constitutionality of the statutes and constitutional amendments brought forward by Hon. Thomas R. Phillips. ....	23
D.	The Texas Court of Appeals, Third District ordered the opinion published in violation of TRAP 52.8(d). ....	24
E.	Because the Texas Court of Appeals, Third District has denied William effective notice, many issues of fact have not been granted opportunity to be presented. ....	24
IV.	The Texas Court of Appeals, Third District has decided an important question of state law that should be resolved by a higher court. ....	26
A.	The Texas Court of Appeals, Third District did not have jurisdiction to hear petition. ....	26
B.	Texas Supreme Court had already deemed Phillip’s Emergency Petition for Writ of Mandamus as “Moot”, however the Texas Court of Appeals, Third District granted the same or a similar petition without effective notice (see TRAP 56.2). ....	27
C.	The Election code statutes were interpreted to force an unauthorized official in Libertarian Party to declare William ineligible. ....	27

Prayer. ....	39
Appendix. ....	40
Verification.....	41
Certificate of Service.....	42

---

## INDEX OF AUTHORITIES

---

<u>AUTHORITY</u>	<u>PAGE(S)</u>
Mitchell and William v. Shea, et al., No H-02-2167 (S.D. Tex.) (currently pending) .....	10, 12, 14, 15, 17, 20, 21, 23, 24, 33
Sears v. Bayoud, 786 S.W. 2d 248 (Tex. 1990) .....	37
Unauthorized Practice of Law Committee for the Supreme Court of Texas vs. Clifford F. William 270 <sup>th</sup> State District Court (currently pending) .....	12, 25, 26
TRAP 9.5(a) .....	10, 23
TRAP 52.8(d).....	3, 24
TRAP 53.1 .....	9
TRAP 56.2 .....	3, 25, 27
TRAP 61.1 .....	38
TRCP 681 .....	26
Tex. Const. Art. I, Section 2 .....	16
Tex. Const. Art. I, Section 3 .....	16
Tex. Const. Art. I, Section 8 .....	21
Tex. Const. Art. I, Section 26 .....	16
Tex. Const. Art. II .....	20
Tex. Const. Art. III, Section 22 .....	15, 19, 20
Tex. Const. Art. V, Section 2 .....	2, 16, 17, 20, 35
Tex. Const. Art. V, Section 11 .....	26
Tex. Const. Art. XVII, Section 1(a) .....	21
1869 Constitution of the State of Texas .....	17, 18,
Texas Disciplinary Rules of Professional Conduct V. Law Firms and Organizations, 5.05 .....	15, 17
State Bar Act, § 81.101 .....	36
1939 State Bar Act .....	18
Texas Election Code, § 67.010 .....	30

Texas Election Code, § 145.003 .....	27, 28, 29, 30, 31, 32, 33, 34
Texas Election Code, § 145.004 .....	30, 31
Texas Election Code, § 163.007 .....	34
Texas Election Code, § 181.068 .....	28, 32
Texas Election Code, § 273.061 .....	9
Texas Government Code §§ 22.022 (a) and 161.009. ....	9
SJR 36 of the 66 <sup>th</sup> Legislature (1979) .....	19
March 30, 1870 Act to readmit the State of Texas to Representation in Congress of The United States .....	17, 18, 20
42 USC, 1983 .....	22
Fourteenth Amendment to the U.S. Constitution .....	18, 22
Black’s Law Dictionary, Fifth Edition, at 1091 (1979) .....	37
Open Record Act Request Response from the Supreme Court of Texas .....	38

---

## STATEMENT OF THE CASE

---

1. In re Thomas R. Phillips is an Original Proceeding, case No. 03-02-00526-CV, before the Texas Court of Appeals, Third District wherein Hon. Thomas R. Phillips sought and was granted an election mandamus for relief.
2. Justices Kidd, Yeakel, and Puryear signed the judgment to issue mandamus on August 30, 2002 and publish. Writ of Mandamus was issued 08/30/02 by Diane O'Neal, Clerk.
3. There was no trial court in this matter, however both Hon. Thomas R. Phillips and R. Lance Flores have filed the same or similar pleadings and evidence before the Texas Supreme Court prior to Hon. Thomas R. Phillips filing the instant case with the Texas Court of Appeals, Third District.
4. There was no trial court in this matter, however the pleadings of both Hon. Thomas R. Phillips and R. Lance Flores were denied by the Texas Supreme Court prior to Hon. Thomas R. Phillips filing the instant case with the Texas Court of Appeals, Third District.
5. Based on documents actually served on Clifford F. William, the parties in this emergency petition for review are the same as the parties listed in the Texas Court of Appeals, Third District. Moreover, the respective counsel for each party is the same counsel listed in this Emergency Petition for Review. Based on this information, the Parties and Counsel in the Texas Court of Appeals, Third District are as follows:  
  
Hon. Thomas R. Phillips, Chief Justice, Supreme Court of Texas, *Relator*  
Alan D. Rosenthal, *Attorney for Relator, Hon. Thomas R. Phillips*  
Clifford F. William, *Respondent*  
David DeLamar, the Texas Libertarian Party Chair, *Respondent*  
John B. Hawley, *Attorney for Respondent, David DeLamar*  
Ms. Gwyn Shea, Texas Secretary of State, *Respondent*  
Philip A. Lionberger, *Counsel for Respondent, Gwyn Shea*
6. This case, arises from case No. 03-02-00526-CV, in the Texas Court of Appeals, Third District, at Austin.
7. Justices Kidd, Yeakel, and Puryear signed the Per Curiam Opinion and order to issue mandamus on August 30, 2002 and publish.
8. Citation for the Texas Court of Appeals, Third District' opinion is In re Thomas R. Phillips. The opinion is published on the internet by the Texas Court of Appeals, Third District at:  
<http://www.3rdcoa.courts.state.tx.us/opinions/HTMLOpinion.asp?OpinionID=11116>

9. The disposition of the case according to the Texas Court of Appeals, Third District website states that the Petition for Writ of Mandamus was Conditionally Granted.

---

## STATEMENT OF JURISDICTION

---

The Texas Supreme Court has jurisdiction pursuant to TRAP 53.1, Method of Review. This Court has jurisdiction over this cause of action and to issue writs of mandamus pursuant to Texas Election Code § 273.061. Jurisdiction also exists pursuant to Texas Government Code §§ 22.022 (a) and 161.009.

---

## ISSUES PRESENTED

---

1. Even though technically William was a party to the mandamus proceedings, he did not have a reasonable opportunity to raise his constitutional claims during that proceeding.
2. After the clerk of the Texas Court of Appeals, Third District informed William at 3:45 p.m. that he had until 12:00 P.M. the next day to file a response to Hon. Thomas R. Phillips' petition, which William had not received, William did respond with a Request to Deny Mandamus, **See Appendix Exhibit #2**.
3. William had not been served in accordance with TRAP 9.5(a) to this day William has not been served a copy.
4. Matters put under consideration by the Texas Court of Appeals, Third District were **already under consideration** in the United States District Court for the Southern District of Texas, Houston Division, case number H-02-2167, Royce Mitchell and Clifford William v. Gwyn Shea, et al.
5. The matters under consideration by the Texas Court of Appeals, Third District were already dismissed as "moot" by the Texas Supreme Court.
7. The Texas Court of Appeals, Third District ignored William's request for a fax copy of Hon. Thomas R. Phillips' petition.
8. Hon. Thomas R. Phillips has used an illegal ex parte injunction to defame Clifford F. William before the Court.

9. There is no statutory authority to force The Libertarian Party Chair to declare Clifford F. William ineligible then there was to force the Secretary of State to do the same.
10. Many constitutional issues and statute construction issues arise in this case.

---

## STATEMENT OF FACTS

---

The Texas Court of Appeals, Third District correctly stated the nature of the case, except the following particulars pointed out:

1. The Texas Court of Appeals, Third District has denied William effective notice, Hon. Thomas R. Phillips' pleadings in the Texas Supreme Court covered the same issues as addressed by the Original Proceeding in the Texas Court of Appeals, Third District. However, Hon. Thomas R. Phillips has never served a copy of his original pleadings before the Texas Court of Appeals, Third District to Clifford F. William. Assuming the pleadings in both Courts are the same, Exhibit "D" used in Texas Supreme Court is an illegal ex parte injunction order intended to defame William before the Court. See **Appendix Exhibit #4 and #5**. February 1, 2002 ex parte injunction order and Affidavit of Patrick Mahon, Process Server regarding February 9, 2002 Service of Citation to William for the pending case, No. 2002-01066 in the 270<sup>th</sup> District Court before Hon. Brent Gamble.
2. The Texas Court of Appeals, Third District has denied William effective notice and even ignored William's request for a fax copy of Hon. Thomas R. Phillips' pleadings. Therefore, numerous constitutional issues that are a part of Mitchell v. Gwyn Shea, et al, case number H-02-2167 in the United States District Court for the Southern District of Texas, Houston Division have not been granted opportunity to be raised. Moreover, the Texas Court of Appeals, Third District has a limited view of the scope of Mitchell v. Gwyn Shea, et al when it describes "William is a party to a lawsuit in federal court to establish that a non-attorney may run for Chief Justice of the Supreme Court of Texas." See **Appendix Exhibit #6** footnote page 2, Per Curiam, In re Thomas R. Phillips, Texas Court of Appeals, Third District, at Austin.

---

## SUMMARY OF ARGUMENT

---

Clifford F. William, Petitioner Pro Se, in this case, has shown that the Texas Court of Appeals, Third District, has probably prevented the Petitioner Pro Se from properly presenting his case to the appellate courts by denying him effective notice. Moreover, Clifford F. William, Petitioner Pro Se, has shown that the Texas Court of Appeals, Third District, has probably caused the rendition of an improper judgment due to the lack of effective notice in this case. The Texas Court of Appeals, Third District Per Curiam concludes that Clifford F. William is ineligible to be a candidate for Chief Justice of the Supreme Court of Texas based upon the record cited in the Per Curiam, but without effective notice Clifford F. William has not been granted opportunity to add to that record. Moreover, the Texas Court of Appeals, Third District, did not have jurisdiction to grant the Hon. Thomas R. Phillips petition; that there has been no proper service; that the issues under consideration herein are properly before the United States District Court; and, that the action requested by the petition for writ of mandamus are not provided for by any statute.

---

## ARGUMENT

---

**I. This case involves the construction and validity of a statute.**

**A.**

1. The State Bar Act creating the mandatory Texas Bar Association, is unconstitutionally vague, conflicts with the Texas Constitution, and was passed illegally in the Legislature by Bar Association members with an interest in the legislation. Clifford F. William cited that “this matter concerns issues presently under consideration in the United States District Court for the Southern District of Texas...” Both Clifford F. William and the Honorable Thomas R. Phillips are parties to *Mitchell v. Gwyn Shea, et al*, case number H-02-2167 in the United States District Court for the Southern District of Texas. See **Appendix Exhibit #2, Clifford F. William Request to deny Mandamus.**

2. The Texas Court of Appeals, Third District has denied William effective notice and even ignored William’s request for a fax copy of the Honorable Thomas R. Phillips’ pleadings. Therefore, numerous issues involving the construction and validity of statutes that are a part of *Mitchell v. Gwyn Shea, et al*, case number H-02-2167 in the United States District Court for the Southern District of Texas, Houston Division have not been granted opportunity to be raised.

3. One of the Federal Questions raised by *Mitchell v. Gwyn Shea* is “Whether the Supreme Court of Texas has constitutional authority to prosecute an alleged violation of a statute promulgated by their own licensed agents, said agents being both the Judicial and Legislative

branches of government simultaneously.” Additionally, an argument being made in Mitchell v. Gwyn Shea is a review of those who voted on the State Bar act “shows that the members of the Legislature who voted on the State Bar Act were attorneys who hold membership in the Bar Association.” Moreover, another argument being made by Mitchell v. Gwyn Shea is Texas Constitution, Article 3 – Legislative Department, Section 22- Disclosure of Private Interest in Measure or Bill; Not to Vote, “A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.” Moreover, many more arguments are being made in the pending case.

4. Without effective notice, Clifford F. William has not been granted opportunity to raise other issues regarding or involving the construction and validity of the statutes cited in this case. One such issue would be the definitions of words used in said statutes. An example of a vague definition would be the State Bar’s own definition for the practice of law. See the Texas Disciplinary Rules of Professional Conduct:

*Texas Disciplinary Rules of Professional Conduct*  
*(Tex. Disciplinary R. Prof. Conduct, (1989) reprinted in Tex. Govt Code Ann., tit. 2, subtit. G, app. (Vernon Supp. 1995)(State Bar Rules art X [[section]]9))*

*V LAW FIRMS AND ASSOCIATIONS*  
*5.05 Unauthorized Practice of Law*

*Comment:*

*2. Neither statutory nor judicial definitions offer clear guidelines as to what constitutes the practice of law or the unauthorized practice of law. **All too frequently, the definitions are so broad as to be meaningless and amount to little more than the statement that the practice of law is merely whatever lawyers do or are traditionally understood to do. ...***

5. Had Clifford F. William been granted effective notice, many more issues would have been raised regarding the construction and validity of the statutes related to this case. For example, the State Bar Act is in direct violation of:

### **The Texas Constitution**

#### Article 1 – Bill of rights

##### Section 2 – Inherent Political Power; Republican form of Government

All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the **preservation of a republican form of government**, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

##### Section 3 – Equal rights

All free men, when they form a social compact, have equal rights, and no man, or **set of men, is entitled to exclusive separate public emoluments, or privileges**, but in consideration of public services.

##### Section 26 – Perpetuities and Monopolies; Primogeniture or Entailments

Perpetuities and **monopolies are contrary to the genius of a free government, and shall never be allowed**, nor shall the law of primogeniture or entailments ever be in force in this State.

### **B.**

6. Article V, § 2(b) of the Texas Constitution is unconstitutionally vague, conflicts with other parts of the Texas Constitution, and was also passed illegally as an Amendment by the Legislature.

7. The Texas Court of Appeals, Third District cited that Article V, § 2(b) of the Texas Constitution required that Clifford F. William be a “practicing lawyer” at least 10 years, and he has practiced for more than 10 years via Pro Hac Vice in this State, however the terms used by

Article V, § 2(b) of the Texas Constitution are vague. See the Texas Disciplinary Rules of Professional Conduct comments on the practice of law, section 5.05:

*“Comment:*

*2. Neither statutory nor judicial definitions offer clear guidelines as to what constitutes the practice of law or the unauthorized practice of law. All too frequently, the definitions are so broad as to be meaningless and amount to little more than the statement that the practice of law is merely whatever lawyers do or are traditionally understood to do. ...”*

8. Clifford F. William cited that “this matter concerns issues presently under consideration in the United States District Court for the Southern District of Texas...” See **Appendix Exhibit #2, Clifford F. William Request to deny Mandamus**. In *Mitchell v. Gwyn Shea, et al*, Clifford F. William raised the issue of the construction and validity of Article V, § 2(b) of the Texas Constitution as follows:

“One of the prerequisites for the acceptance of the State of Texas to be readmitted into the union after the War for Southern Independence, also known as the Civil War, was the enactment of its new constitution. That constitution affirmed as the Supreme Law of Texas the following:

***“SECTION I. The Constitution of the United States, and the laws and treaties made, and to be made, in pursuance thereof, are acknowledged to be the supreme law; that this Constitution is framed in harmony with, and in subordination thereto; and that the fundamental principles embodied herein can only be changed, subject to the national authority.”***

The Act to readmit the State of Texas to Representation in the Congress of the United States. *March 30, 1870*, stated the following requirements for admission of Texas, beyond the requirement not to change its constitution without national authority:

***“And provided further, That the State of Texas is admitted to representation in Congress as one of the States of the Union upon the following fundamental conditions:***

***First. That the constitution of Texas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by***

*the constitution herein recognized, except as punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: Provided, That any alteration of said constitution, prospective in its effects, may be made in regard to the time and place of residence of voters.*

*Second. That it shall never be lawful for the said State to deprive any citizen of the United States on account of his race, color, or previous condition of servitude, of the right to hold office under the constitution and laws of said State, or upon any such ground to require of him any other qualifications for office than such as are required of all other citizens.*

*Third. That the constitution of Texas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the school rights and privileges secured by the constitution of said State.”*

To date, no permission has ever been granted in any Act of Congress for the State of Texas to amend its Constitution to allow any of the rights guaranteed to the citizens in the Constitution of 1869 to be limited or removed. If one could be a Texas Supreme Court Justice in 1920, without membership in the State Bar Association, then he can be one now.

Texas was readmitted to the United States by virtue of the passage of its new Constitution and the Fourteenth and Fifteenth Amendments to the United States Constitution, and the passage of the Act to admit Texas to Representation in the Congress of the United States, on March 30, 1870. At that time, there was no State Bar of Texas and the practice of law was open to anyone as a fundamental right under the Constitution by virtue of the fact that said right was not specifically outlawed in the 1869 Constitution. Moreover, nomination to all Constitutionally created offices, such as Supreme Court Justices, was open to all citizens without membership in some self made, self serving organization know as the State Bar Association of Texas created in 1939.

On April 19, 1939, the State Bar Act was signed into law by Governor W. Lee O’Daniel, thereby outlawing the practice of law by anyone except those admitted to the State Bar of Texas. This action violated the agreement under which the State of Texas was readmitted to the United States, paragraph 23, and it violated the Constitution of the State of Texas, Section 1, *supra*, approved by the people of Texas in November 1869. A review of those who voted on this legislation shows

that the following members of the legislature who voted on the State Bar Act were attorneys and members of the Bar Association:

In 1979, the Texas Legislature passed an amendment that mandated all who are elected to the Supreme Court of Texas must be a member of the private club known as the State Bar of Texas. This enactment also violated the Act readmitting the State of Texas, paragraph 23, and the original Constitution of the State of Texas, *supra*. A review of those who voted on this legislation shows that the following members of the legislature, who voted on the amendment to the Constitution restricting citizens from voting for their choice of Justice, and restricting citizens from running and being elected for the position of Justice of the Supreme Court, were attorneys. In other words; we the Bar and its Members will decide who you Texans can vote for, not you Texans, and that some one will be under the control of the Bar:

The forgoing statutes were passed by the Legislature which has in place in the most powerful positions attorneys, who voted on this legislation despite the following provision of the Texas Constitution:

***“Article 3 - LEGISLATIVE DEPARTMENT  
Section 22 - DISCLOSURE OF PRIVATE INTEREST IN  
MEASURE OR BILL; NOT TO VOTE***

***A member who has a personal or private interest in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and shall not vote thereon.”***

**In fact, all of the measures related to the State Bar of Texas were voted upon by lawyers or attorneys who did not follow or comply with the forgoing Art. 3 requirement and because of such, all legislation related to the State Bar of Texas is null, having been created in violation of the Constitution of the State of Texas.** All legislation related to the State Bar of Texas is null and void having been created in violation of plaintiffs’ unalienable right to run for constitutional office which was not restricted in the Constitution under which the State of Texas was readmitted into the United States, the citizens’ right to vote for the candidate of their choice which was not restricted in the Constitution under which the State of Texas was readmitted into the United States and in violation of the Act to readmit Texas to representation in Congress.

**II. This Case involves constitutional issues.**

**A.**

**9.** Both the State Bar Act and Constitutional Amendment mandating membership in Texas Bar Association in order to run for constitutional office violates constitutional rights guaranteed to “never be changed” by Federal mandate and violates many of the most basic fundamental constitutional rights guaranteed by the US and Texas Constitutions. Both are in violation of the Act to Readmit Texas to Representation in Congress (1870) cited in Mitchell v. Gwyn Shea, et al, case number H-02-2167 in the United States District Court for the Southern District of Texas.

**10.** Both the State Bar Act and Article V, § 2(b) of the Texas Constitution are in violation of the Texas Constitution, Art. II which states:

“The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.”;

**11.** Moreover, both the State Bar Act and Article V, § 2(b) of the Texas Constitution are in violation of Texas Constitution, **Art. III, Sec. 22**, which states:

“A member who has a **personal** or **private interest** in any measure or bill, proposed, or pending before the Legislature, shall disclose the fact to the House, of which he is a member, and **shall not vote thereon.**”;

**12.** Moreover, both the State Bar Act and Article V, § 2(b) of the Texas Constitution are in violation of **Art. XVII, Sec. 1(a)**, which states:

“The Legislature, at any regular session, or at any special session when the matter is included within the purposes for which the session is convened, may propose amendments revising the Constitution, to be voted upon by the qualified voters for statewide offices and propositions, as defined in the Constitution and statutes of this State. The date of the elections shall be specified by the Legislature. The proposal for submission must be approved by a **vote of two-thirds of all** the members elected to each House, entered by yeas and nays on the journals.”

**13.** Moreover the State Bar Act violates the Texas Constitution, Article 1 – Bill of Rights, Section 8 – Freedom of speech and Press; Libel, which states:

“**Every person** shall be at liberty to speak, write or publish his opinions on **any subject**, being responsible for the abuse of that privilege; and no law shall ever be passed curtailing the liberty of speech or of the press. In prosecutions for the publication of papers, investigating the conduct of officers, or men in public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.”

## **B.**

**14.** William has right to run for constitutional public office when Texas citizens elect him as their candidate without State Bar approval. In *Mitchell v. Gwyn Shea, et al*, case number H-02-2167 in the United States District Court for the Southern District of Texas, Clifford F. William raised the following issues:

“... changes in the Texas Constitution, which prohibit plaintiffs and all other Texas Citizens from holding the aforementioned Judicial Offices, impacts

directly on the elective process and has the effect of interfering with the freedom of elections and, as such, is manifestly unconstitutional in violation of the Fourteenth Amendment to the United States Constitution and of 42 U.S.C. 1983.”

“The State Bar of Texas, Secretary of the State of Texas and the named Defendant’s, operating through the Texas Elections Commission, once again, under color of and in violation of this States Constitution and law, to deprive Plaintiff’s of their Rights to run for public office as a candidate for the Texas Supreme Court, and once again, the State Bar Association will continue their irregularities in this and other States of the Union in the free election process where any American can run for a public office without any prerequisites, which will deprive Plaintiff’s of their Rights as candidate’s and will favor the election of the State Bar Organization’s candidate’s only....”

### C.

15. Public has the right to elect someone to curtail the power of the Bar via the Supreme Court of Texas when the Sunset Commission and Legislature are controlled by the Bar. The State Bar of Texas has undue influence over the sunset commission and the legislature. Clifford F. William reported these findings to the sunset commission in 2001. The freedom of elections is essential for the Public to determine these issues and is guaranteed by the Fourteenth Amendment to the United States Constitution.

### III.

**The Texas Court of Appeals, Third District has committed errors of law of such importance to the state’s jurisprudence that it should be corrected.**

### A.

16. The Texas Court of Appeals, Third District has ignored that William was not given effective notice to the writ filed in the Texas Court of Appeals, Third District.

17. After the clerk of the Texas Court of Appeals, Third District called at 3:45 p.m. to inform William that he had until 12:00 P.M. the next day, to formulate a response, and deliver the response some 165 miles from Williams' location, to the Hon. Thomas R. Phillips' petition, which William had not received; William did respond timely with a Request to Deny Mandamus, **See Appendix Exhibit #2.**

18. William had not been served in accordance with TRAP 9.5(a) and William has still not been served to this day.

19. William did not know what petitioner demanded or presented as evidence to support the petition. One reason for that was that the Texas Court of Appeals, Third District ignored William's request for a fax copy of Hon. Thomas R. Phillips' petition.

#### **B.**

20. The Texas Court of Appeals, Third District has denied William effective notice and Hon. Thomas R. Phillips' pleadings in the Texas Supreme Court covered the same issues as addressed by the Original Proceeding in the Texas Court of Appeals, Third District. Assuming the pleadings are the same, Exhibit "D" used in Texas Supreme Court is an illegal ex parte injunction order intended to defame William before the Court. See Appendix Exhibits #4 and #5.

#### **C.**

21. The Texas Court of Appeals, Third District ignored the currently pending lawsuit in federal court contesting the very statutes and constitutional amendments under which Hon.

Thomas R. Phillips sought to have his petition for writ of mandamus approved. Matters put under consideration by the Texas Court of Appeals, Third District were **already under consideration** in the United States District Court for the Southern District of Texas, Houston Division, case number H-02-2167, Royce Mitchell and Clifford William v. Gwyn Shea, et al., filed on June 7<sup>th</sup>, 2002. Moreover, Hon. Thomas R. Phillips, the relator in the Texas Court of Appeals, Third District **was aware** of the U.S. District Court case because it was served via his counsel, Heather Horton, on August 22, 2002.

**D.**

**22.** The Texas Court of Appeals, Third District ordered the opinion published in violation of TRAP 52.8(d) after the Supreme Court of Texas had acted on the Honorable Thomas R. Phillips' petition addressing the same issues.

**E.**

**23.** Because the Texas Court of Appeals, Third District has denied William effective notice, many issues of fact have not been granted opportunity to be presented to a court for consideration.

**24.** Because the Texas Court of Appeals, Third District did not provide William with the time and notice protections, mandated by law, to allow William an opportunity to defend an attack against his right to be on the ballot as selected by the Libertarian Party, William did not have a reasonable opportunity to present his claims. William was not afforded any discovery of any kind prior to the Texas Court of Appeals, Third District issuing the Writ of Mandamus. In fact, there was no due process of law of any kind afforded William. William was not even aware of any action of any kind until called by the clerk of the Texas Court of Appeals, Third District to

find out if William intended to respond to the application for writ of mandamus. That event happened at approximately 3:45 P.M. the day before the “hearing.” William was instructed that he had until 12:00 P.M. the next day to formulate an answer to the application for writ of mandamus, which William had not even seen. To this date, William has not been served a copy of Hon. Thomas R. Phillips’ pleadings before the Texas Court of Appeals, Third District. William did file a hastily-constructed response to the application for writ of mandamus but is certain that the response was inadequate due to the facts that William had approximately 12 hours to research the application and law, create an answer and then have it served over 165 miles away in Austin, Texas. Thus, even though technically William was a party to the mandamus proceedings, he did not have a reasonable opportunity to raise his constitutional claims during that proceeding. TRAP 53.2(f) states “...**If** the matter complained of originated in the **trial court**, it should have been preserved for appellate review.” This matter has not originated in a trial court and as such, there has been no opportunity to preserve issues to be presented in review.

25. One issue that Clifford F. William would have preserved is that; Timothy J. Clyne, Bar Card number 90001939, of Clyne & Associates, PLLC, is the lawyer who represents the Unauthorized Practice of Law Committee **for** the Supreme Court of Texas in the case cited by Hon. Thomas R. Phillips. The Unauthorized Practice of Law Committee acts with the alleged authority of the Supreme Court of Texas and even uses the Texas Supreme Court’s official envelopes and letterhead. As an attorney, Timothy J. Clyne has the authority to bind his Client in all things and Phillips is quick to use the illegal ex parte injunction order obtained by his agent Clyne in the 270<sup>th</sup> State District Court to defame William before the Court. This ex parte

injunction order is in violation of TRCP 681, signed without jurisdiction, and is akin to a police officer acting to shoot a defendant in his home 9 days before the defendant might break a law.

26. Another issue is that; Hon. Thomas R. Phillips is responsible for the actions of his agent Timothy J. Clyne who assisted R. Lance Flores, **a non-bar member**, to file a petition before the Texas Supreme Court where Flores represented the *Libertarian Post* **as an attorney**. Phillips admits that his pleadings before the Texas Supreme Court are essentially the same as Flores' pleadings with much of the same evidence including but not limited to the ex parte Temporary Injunction Order issued by the 270<sup>th</sup> Judicial District Court of Houston, Harris County, Texas.

27. Another issue is that; Hon. Thomas R. Phillips, through his agent Timothy J. Clyne, has worked to bring suit against William and others close to William in other jurisdictions in order to dilute William's available resources because William is working to uncover the illegal passage of the State Bar Act and to uncover the illegal and unlawful creation and enactment of amendments to the Constitution of the State of Texas. The legal actions in these other jurisdictions have been marked by numerous due process violations in an attempt to waste time and resources of Petitioner.

#### **IV.**

**The Texas Court of Appeals, Third District has decided an important question of state law that should be resolved by a higher court.**

#### **A.**

28. The Texas Court of Appeals, Third District did not have jurisdiction to hear said petition. The Texas Constitution, Art. V, Sec. 11 states as follows:

“No judge shall sit in any case wherein the judge may be interested, or where either of the parties may be connected with the judge, either by affinity or consanguinity, within such a degree as may be prescribed by law, or when the judge shall have been counsel in the case. When the Supreme Court, the Court of Criminal Appeals, the Court of Appeals, or any member of any of those courts shall be thus disqualified to hear and determine any case or cases in said court, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law for the trial and determination of such cause or causes.”

**B.**

**29.** Texas Supreme Court had already deemed Phillip’s Emergency Petition for Writ of Mandamus as “Moot”, however the Texas Court of Appeals, Third District granted the same or a similar petition without effective notice (see TRAP 56.2). also **See Appendix Exhibit #3**, a Miscellaneous Order denying Petition for Writ of Mandamus by the Supreme Court of Texas, case number 02-0772, dated August 28, 2002.

**C.**

**30.** The Election code statutes were interpreted to force an unauthorized official in Libertarian Party to declare William ineligible. The Texas Election Code, § 145.003, Administrative Declaration of Ineligibility, states in pertinent part:

“(a) Except for a judicial action in which a candidate’s eligibility is in issue, a candidate may be declared ineligible only as provided by this section....

(g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate’s eligibility, the **appropriate authority** shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.”

31. Hon. Thomas R. Phillips cites the above Election Code statute as evidence that David DeLamar is or was required to declare William ineligible. The “appropriate authority” to whom the application was submitted last year was the Libertarian Party State Chairman, Mr. Geoff Neale. There can be no presumption of “promptness” on this matter since the entire party, including then-State Chair Neale, were advised at the Libertarian Party State Convention in June of 2001 that William intended to run for the Supreme Court and that he was not licensed to practice law in the State of Texas.

32. David DeLamar did not become the Libertarian Party State Chairman until after the Libertarian Party State Convention on June 8, 2002. He was **never presented** with an application from William for candidacy for any office. The party official responsible for certifying William’s name to the Secretary of State was the **Convention Chair** of the State Convention, not the State Chairman, an entirely different entity. Respondent, David DeLamar is not the Convention Chair of the Libertarian Party 2002 State Convention.

33. Hon. Thomas R. Phillips conveniently left out the following Election Code section, §145.003, from his argument:

“(b) A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

(1) the **party officer responsible for certifying the candidate’s name for placement on the general election ballot**, in the case of a candidate who is a political party’s nominee;...”

34. The party officer responsible for certifying a candidate’s name to the Secretary of State is **set by statute**, in the Texas Election Code, § 181.068. Party’s Certification of Nominees, which states, in pertinent part:

**“(a) The presiding officer of each convention held under this chapter shall certify in writing for placement on the general election ballot the name and address of each candidate nominated by the convention.”**

35. The Convention Chair did in fact certify William’s selection by the Libertarian Party as the party’s candidate for Chief Justice of the Texas Supreme Court. Moreover, David DeLamar has no lawful authority to issue an administrative notice of ineligibility to anyone selected by the state convention and certified to the Secretary of State of the State of Texas. Therefore, the presumed requested action of the petition is a request for David DeLamar to do that which is not within his authority to do.”

36. David DeLamar, the Libertarian Party Chair, claimed he had no authority to declare William ineligible. Secretary of State, Gwyn Shea also claimed no authority to declare William ineligible, however Gwyn Shea was not ordered to declare William ineligible by the Texas Court of Appeals, Third District.

37. A political party declares a candidate “ineligible” in a very specific manner. Texas Election Code is very specific and limiting in documenting the manner in which a candidate may be declared ineligible. The following is the Texas Election Code; Chapter 145, Withdrawal, Death And Ineligibility Of Candidate; Subchapter A, General Provisions; Section 3, Administrative Declaration of Ineligibility in its entirety:

**§ 145.003. Administrative Declaration of Ineligibility**

(a) Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

- (b) A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:
- (1) the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee; or
  - (2) the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate.
- (c) A candidate in an election other than the general election for state and county officers may be declared ineligible before the beginning of early voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.
- (d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and, except as provided by Subsection (e), before a certificate of election is issued.
- (e) In the case of a candidate for governor or lieutenant governor, a declaration of ineligibility by the final canvassing authority's presiding officer may not be made after the final canvass for that office is completed.
- (f) A candidate may be declared ineligible only if:
- (1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or
  - (2) facts indicating that the candidate is ineligible are conclusively established by another public record.
- (g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.
- (h) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority for the election.
- (i) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate.
- Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986.  
Amended by Acts 1991, 72nd Leg., ch. 203, § 2.58; Acts 1991, 72nd Leg., ch. 554, § 29, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 728, § 56, eff. Sept. 1, 1993.

#### **§ 145.004. Final Judgment Required for Adjudication of Ineligibility**

A candidate's entitlement to a place on the ballot or to a certificate of election is not affected by a judicial determination that the candidate is ineligible until a judgment declaring the candidate to be ineligible becomes final.

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986.

#### **§ 67.010. County Returns Canvassed by Governor**

(a) The county election returns for an election for a statewide office other than governor or lieutenant governor, a statewide measure, a district office, or president and vice-president of the United States shall be canvassed by the governor.

(b) When this code refers to the presiding officer of the final canvassing authority, the secretary of state is considered to be the presiding officer when the final canvassing authority is the governor.

(c) The canvass of county returns shall be conducted in accordance with this chapter except as otherwise provided by this code.

Acts 1985, 69th Leg., ch. 211, § 1, eff. Jan. 1, 1986.

Amended by Acts 1987, 70th Leg., ch. 54, § 18(a), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 163, § 1, eff. Sept. 1, 1989.

**38.** The Libertarian Party of Texas or the Secretary of State can not declare a candidate ineligible when a judicial action is taking place in which a candidate's eligibility is an issue.

Because of "a judicial action in which a candidate's eligibility is in issue", the administrative declaration of ineligibility is not possible. This Texas Election Code subsection **145.003 (a)** creates an exception, which must be considered ahead of any other issue.

**§ 145.003 (a)** Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

**39.** From § 145.004, we learn that a candidate's entitlement to a place on the ballot cannot be altered by administrative declaration of ineligibility and that the candidate's name must remain on the ballot until a judgment declaring the candidate to be ineligible becomes final.

**§ 145.004** A candidate's entitlement to a place on the ballot or to a certificate of election is not affected by a judicial determination that the candidate is ineligible until a judgment declaring the candidate to be ineligible becomes final.

40. Section **145.003 (a)** limits who, if anyone, in the Libertarian Party of Texas, is authorized to declare a candidate ineligible.

§ **145.003 (a)** Except for a judicial action in which a candidate's eligibility is in issue, a candidate may be declared ineligible only as provided by this section.

41. The methods for declaring a candidate ineligible under subsection (b) have force when acted on “before the 30<sup>th</sup> day preceding election” which is Sunday October 6<sup>th</sup>, moreover subsection (b)(1) defines who has that authority:

§ **145.003 (b)** A candidate in the general election for state and county officers may be declared ineligible before the 30th day preceding election day by:

§ **145.003 (b) (1)** the party officer responsible for certifying the candidate's name for placement on the general election ballot, in the case of a candidate who is a political party's nominee;

42. Section **181.068 (a)** defines who is “the party officer responsible for certifying the candidate's name for placement on the general election ballot”

§ **181.068 (a)** “The presiding officer of each convention held under this chapter shall certify in writing for placement on the general election ballot the name and address of each candidate nominated by the convention.”

43. The party officer responsible for certifying the candidate’s name for placement on the general election ballot is the chair of the 2002 convention of the Libertarian Party of Texas, Mr. Geoffery Neale.

44. Subsection **145.003 (b) (2)** applies only in the case of “an independent candidate”:

§ **145.003 (b) (2)** the authority with whom the candidate's application for a place on the ballot is required to be filed, in the case of an independent candidate.

45. From the above citations of code, we learn that the only officer of the Libertarian Party of Texas authorized to declare a candidate ineligible is the convention chair, who certifies the names of candidates on the general ballot. The state chair is NOT authorized to declare a candidate ineligible. Neither the past state chair, who was also Geoffrey Neale, nor the current state chair, David DeLamar, have any authorization to declare a candidate ineligible.

46. The past state chair and executive committee did act appropriately regarding the eligibility of Clifford F. William. The executive committee acted appropriately when it instructed the state chair NOT to declare the candidate, Clifford F. William, ineligible. Neither the state chair nor the executive committee has authority under Texas Election Code § 145.003 (b) to declare a candidate ineligible. And, as is plain from the citation above, that § 145.003 is the “only” provision of law for declaring a candidate ineligible.

47. The convention chair also could not have declared Clifford F. William ineligible because it has already been established that “a judicial action in which a candidate's eligibility is in issue” Mitchell v. Gwyn Shea, et al, case number H-02-2167 in the United States District Court for the Southern District of Texas, Houston Division precludes any administrative declaration of ineligibility.

48. Even if there had been no “judicial action in which a candidate’s eligibility is an issue”, the convention chair could still not have declared Clifford F. William ineligible because Clifford F. William provided the information on the application and no information on the application indicated that the candidate was ineligible for the office and no public record “conclusively” established the ineligibility of the candidate. See:

§ 145.003 (f) A candidate may be declared ineligible only if:

§ 145.003 (f) (1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office;

§ 145.003 (f) (2) facts indicating that the candidate is ineligible are conclusively established by another public record.

49. The only party officer who may determine whether or not the facts, established by another public record, indicate “conclusively” that candidate is ineligible is the same party officer responsible for certifying the candidate's name for placement on the general election ballot, the convention chair,

§ 145.003 (g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.

50. Public records presented to the convention chair established the fact that the clerk of the Supreme Court could “find no record of a person under the name of CLIFFORD F. WILLIAM licensed to practice as an attorney and counselor at law in the STATE of TEXAS”. Note the use of the word “shall” in § 145.003 (g). The convention chair is obligated under § 145.003 (g) to take action and failure to do so is “enforceable by a writ of mandamus” (see § 163.007). However, note the use of the word “if” which creates a condition in which “the authority” must make a determination. If the convention chair, Geoffrey Neale, promptly reviewed the records allegedly establishing the ineligibility of the candidate, Clifford F. William, and did not find that the facts to be conclusive, he would be under no obligation to declare the candidate ineligible.

51. Several facts exist to indicate that Clifford F. William is eligible to be a candidate for the office of Chief Justice of the Supreme Court of Texas. Section 141 and its subsections generally regulate candidacy and eligibility for public office. Eligibility for the office of Chief Justice of the Supreme Court of Texas is specifically established in **The Texas Constitution; Article 5, Judicial Department; Section 2, Supreme Court; Justice; Sections; Eligibility; Election; Vacancies.** The citation follows:

(a) The Supreme Court shall consist of the Chief Justice and eight Justices, any five of whom shall constitute a quorum, and the concurrence of five shall be necessary to a decision of a case; provided, that when the business of the court may require, the court may sit in sections as designated by the court to hear argument of causes and to consider applications for writs of error or other preliminary matters.

(b) No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless the person is licensed to practice law in this state and is, at the time of election, a citizen of the United States and of this state, and has attained the age of thirty-five years, and has been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years.

(c) Said Justices shall be elected (three of them each two years) by the qualified voters of the state at a general election; shall hold their offices six years; and shall each receive such compensation as shall be provided by law.  
(Amended Aug. 11, 1891, Aug. 25, 1945, Nov. 4, 1980, and Nov. 6, 2001.)

52. Article 5 Section 2 (b) establishes “No person shall be eligible to serve in the office of Chief Justice or Justice of the Supreme Court unless:

- a. the person is licensed to practice law in this state and
- b. is, at the time of election, a citizen of the United States and of this state, and
- c. has attained the age of thirty-five years, and
- d. has been a practicing lawyer, or a lawyer and judge of a court of record together at least ten years.

53. Clifford F. William is NOT licensed to practice law in this state, a fact that has been established by another public record. Clifford F. William is a citizen of the United States and of the State of Texas. Clifford F. William has attained the age of thirty-five years. Clifford F. William has been a practicing lawyer at least ten years. However, the citizenship and age of Clifford F. William are not in question here.

53. It can be demonstrated that Clifford F. William has been a practicing lawyer at least ten years, however it must first be determined what “a practicing lawyer” is. The definition of “**practice of law**” is found in The State Bar Act, Subchapter G, Unauthorized Practice of Law, which follows:

**§ 81.101. Definition**

(a) In this chapter the "**practice of law**" means the preparation of a pleading or other document incident to an action or special proceeding or the management of the action or proceeding on behalf of a client before a judge in court as well as a service rendered out of court, including the giving of advice or the rendering of any service requiring the use of legal skill or knowledge, such as preparing a will, contract, or other instrument, the legal effect of which under the facts and conclusions involved must be carefully determined.

(b) The definition in this section is not exclusive and does not deprive the judicial branch of the power and authority under both this chapter and the adjudicated cases to determine whether other services and acts not enumerated may constitute the practice of law.

(c) In this chapter, the "practice of law" does not include the design, creation, publication, distribution, display, or sale, including publication, distribution, display, or sale by means of an Internet web site, of written materials, books, forms, computer software, or similar products if the products clearly and conspicuously state that the products are not a substitute for the advice of an attorney. This subsection does not authorize the use of the products or similar media in violation of Chapter 83 and does not affect the applicability or enforceability of that chapter.

Added by Acts 1987, 70th Leg., ch. 148, § 3.01, eff. Sept. 1, 1987.

Amended by Acts 1999, 76th Leg., ch. 799, § 1, eff. June 18, 1999.

**54.** It is important to note that the definition of “**practice of law**” is very broad. In early 1980, Clifford F. William, “proceeding on behalf of a client” appeared before Justice of the Peace, Lawrence Wayne, “a judge in a court” and has been before various judges, in various courts on behalf of various clients ever since via Pro Hac Vice.

**55.** Clifford F. William is a member of the International Bar Association as demonstrated by certificate. To be eligible for membership, applicants must be “members of the legal profession, including attorneys, counselors, solicitors, barristers, advocates, members of the judiciary [or] professors of law”.

**56.** The United States Court of Appeals certified “that Clifford F. William, of Houston, Texas, being duly qualified was admitted as an Attorney and Counselor of the United States Court of Appeals for the Fifth Circuit”.

**57.** What Clifford F. William does now, and has done for at least ten years, is practice law; and he does so Pro Hac Vice. The legal definition of pro hac vice is "for the particular occasion." Blacks Law Dictionary, Fifth Edition, at 1091 (1979).

**58.** This is an election mandamus issue. The case cited by the Hon. Thomas R. Phillips in *Sears v. Bayoud*, 786 S.W. 2d 248 (Tex. 1990), was an issue of whether the requirement in article V, section 2 of the Texas Constitution that a candidate for the Supreme Court be a lawyer for at least ten years must be satisfied by the day of the general election or by the time service in office begins. This case is not about a license to practice law, but for how long one has practiced law in this State. Moreover, Petitioner suggests that a license is something issued by the government to some one to do something that would otherwise be illegal to do. Blacks Law

Dictionary states that “License, A personal privilege to do some particular act or series of acts....” The question here would be who issues a license to practice law in this State and whether a court of this State may issue a Pro Hac Vice, or on the other hand, can a court in this State deny a member of the State Bar of Texas the privilege of practicing before a particular court. Clearly, the licensing authority of particular judges who control their own courtrooms has been overlooked by the Texas Court of Appeals, Third District. Furthermore, the Supreme Court of Texas has already stated on its own letter head, issued under the Texas Open Records Act date September 9<sup>th</sup>, 1999; when asked for any Documents that are in their possession or under their control, or within their system of records any document defining the difference between, or relationship between the terms; “admission to practice” and “law license” and “license to practice law” or such documents demonstrating themselves to be a current “law license” for a member of the State Bar of Texas to practice law in this State; the response was **“Not a judicial record”**

**59.** Petitioner can not help but wonder if one were to write a letter requesting a copy of some ones Texas Drivers License, whether or not the Texas Department of Public Safety would state in their letter that it is **“Not a D.P.S. record.”**

---

**PRAYER**

---

For these reasons, Clifford F. William asks the court to reverse The Texas Court of Appeals, Third District's Writ of Mandamus dated August 30, 2002 pursuant to TRAP 61.1 and restore Clifford F. William name to the States ballot and order David DeLamar to resend his letter to the Secretary of State declaring Clifford F. William ineligible.

Respectfully submitted,

Clifford F. William, J.D.,  
Petitioner, Pro Se

---

## APPENDIX

---

- Exhibit #1.** Writ of Mandamus, dated August 30, 2002, from In re Thomas R. Phillips
- Exhibit #2.** Clifford F. William Request to Deny Mandamus, August 30, 2002 11:11am
- Exhibit #3.** Miscellaneous (Order) from The Supreme Court of Texas, August 28, 2002
- Exhibit #4.** Temporary Injunction from the 270<sup>th</sup> State District Court, dated Feb. 1, 2002
- Exhibit #5.** Affidavit of Patrick Mahon, Process Server, Regarding Feb. 9, 2002 Service
- Exhibit #6.** Per Curiam, In re Thomas R. Phillips, from the Texas Court of Appeals, Third District dated August 30, 2002.

---

**VERIFICATION**

---

I have read this Petition and the exhibits in the associated Appendix. I attest that the facts stated in the Petition are within my personal knowledge and that they are true and correct. I also attest to the authenticity of the documents in the Appendix and certify that they are within my personal knowledge and true and correct copies of the original documents.

Dated this 14<sup>th</sup>, day of October, 2002

\_\_\_\_\_

State of Texas §

County of Harris §

SWORN AND SUBSCRIBED before me on this 14<sup>th</sup>, day of October, 2002.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_

---

**CERTIFICATE OF SERVICE**


---

This is to certify that on October 14, 2002 a true and correct copy of the above and foregoing document was served on the following persons by the means stated:

**Thomas R. Phillips**, at the Supreme Court Building, P. O. Box 12248, Austin, Texas 78711, by and through his attorney of record Mr. Alan D. Rosenthal, One Houston Center, Suite 2800, 1221 McKinney Street, Houston, Texas 77010 by certified mail, return receipt requested. CMRRR Number 7002 0860 0007 4637 5203

**David DeLamar**, at P.O. Box 98131, Lubbock, Texas 79499-8131, by and through his attorney of record Mr. John B. Hawley, State Bar No. 09251800, P.O. Box 224083 Dallas, Texas 75222 by certified mail, return receipt requested. CMRRR Number 7000 1670 0007 0408 9034.

**Ms. Gwyn Shea**, at c/o Ms. Ann McGreehan, Director of Elections, Elections Division Office of the Texas Secretary of State, P.O. Box 12060, Austin, Texas 78711-2060 through her attorney of record, Mr. Philip A. Lionberger, Deputy Solicitor General, Office of the Attorney General, P.O. Box 12548 (MC 059), Austin, Texas 78711-2548 by certified mail, return receipt requested. CMRRR Number 7000 1670 0007 0408 9027.



Clifford F. William  
Petitioner, pro se