

**R U I Z**

J. EDGAR RUIZ  
HIDALGO COUNTY JUDGE

NOTICE

NOTICE is hereby given in accordance with Chapter 551, Texas Government Code, that an EMERGENCY MEETING of the Commissioners' Court will be held on THURSDAY, SEPTEMBER 22, 1994 at 9:30 A.M. in the Commissioners' Courtroom of the Administration Building, Edinburg, Hidalgo County, Texas, discussion and possible action relating to the following business will be transacted:

1. Executive Session:

Commissioners' Court may go into Executive Session pursuant to Chapter 551, Texas Government Code, Sections 551.071 & 551.074 to discuss the following matter:

A. Litigation

B. Review of applications for the position of Sheriff

2. Open Session:

A. Litigation

B. Review of applications for the position of Sheriff

Dated this 20th day of September, 1994.

THE STATE OF TEXAS :  
COUNTY OF HIDALGO :

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BE IT REMEMBERED that on the 22ND day of SEPTEMBER, 1994, after due notice having been given, there was begun and holden, a EMERGENCY MEETING of the Commissioners' Court and the Drainage District, in the Commissioners' Courtroom of the Administration Building in the City of Edinburg, Hidalgo County, Texas with the following members of said Court present and participating:

Hon. J. Edgar Ruiz  
County Judge

Hon. Samuel Sanchez  
County Commissioner, Precinct #1

Hon. Lalo Arcaute  
County Commissioner, Precinct #2

Hon. Juan Rosel  
County Commissioner, Precinct #3

Hon. Leonard Camarillo  
County Commissioner, Precinct #4

WHEREUPON, the following proceedings

were had, to-wit:

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The Honorable J. Edgar Ruiz, County Judge, called the Commissioners' Court meeting to order where upon the following proceedings were had, to-wit:

ITEM 1. EXECUTIVE SESSION: (PART I)

A. Commissioners' Court may go into Executive Session pursuant to Chapter 551, Texas Government Code, Section 551.071 to discuss the following matter:

1. Litigation

JUDGE RUIZ

I hereby call this meeting to order, this Court is now in session, Commissioners, good morning, ladies and gentlemen, good morning.

COMMS. ARCAUTE  
& ROSEL

Morning.

COMM. SANCHEZ

Morning, sir

JUDGE RUIZ

We have an emergency meeting, it is now, according to that, ah, seventeen minutes till ten o'clock. It has been posted for 9:30. Our first item on the agenda is the Executive Session, Commissioners' Court may go into Executive Session pursuant to Chapter 551, Texas Government Code, Section 551.071 and 551.074 to discuss the following matters. Item number one is litigation, item number two is review of applications for the position of Sheriff. So, Commissioners, I will, ah, ah, call for the Executive Session and ask that the, ah, ah, bear with us, we'll be right back. I'm going to invite Travis Heister, Mr. Rene Guerra. Ah, Rene, is anyone, anybody from your office going with you? Mr. Hake? Ted.

RENE GUERRA

And Carlos, ah, Gomez.

JUDGE RUIZ

Carlos, also, okay, thank you. I'll be back, we'll be right back, ladies and gentlemen.

ITEM 2. OPEN SESSION: (PART I)

1. Litigation

JUDGE RUIZ

I hereby call this meeting back to Open Session, ah, at this point, ladies and gentlemen, I want to announce that we have only, under Executive Session, only discussed Item A, which is litigation. We have not gone through Item B; after we finish Item A, we, we'll go, Commissioners' Court will go back into Executive Session to review the applications. I would like for, for, for the record, ah, to, to verbalize the request of Mr. Rene Guerra, to this Court. Please Mr. Guerra and ask for him to do so.

RENE GUERRA

Judge, ah, I'd like to advise the Court, in Open, ah, Session that there is a lawsuit pending in the 93rd District Court, that has a hearing coming up, ah, tomorrow morning and one hearing on Monday, ah, at 8:30 AM, wherein the Judge of the 93rd District Court is being asked to declare the Office of Sheriff vacant, based on the, ah, jury finding of guilty of Brig Marmolejo, on July the 27th in Federal Court in Laredo. Now, as the District Attorney for this County, ah, my, ah, concern has been that the, ah, Commissioners' Court should be, ah, made a necessary party to that litigation, because if on Monday, the Judge were to declare the Office of Sheriff vacant, then all the official acts of the Sheriff, ah, would be questioned, ah, and your interest would not be, ah, represented in Court. Now, there's a, some legal concerns about the authority, ah, that the, ah, parties have, ah, are requesting the Judge to do. They're asking that the Sheriff be, ah, Office be vacant, going back to the jury verdict in Federal Court, which would mean that all the actions of the deputies and the Sheriff, since then, ah, are defacto. That they would have no official act, but through the State law of Texas, that their acts would be given legal credibility. Now, if on, ah, Monday, ah, Judge Mancias orders that the County Clerk put the position of Sheriff Office on the ballot, and other interests are not foreclosed, down the road if the Sheriff if elected, on the November ballot, then anybody can question the lawful acts of the elected Sheriff, if Judge Mancias' rulings go uncontested; ah, and go as I anticipate them, that he will declare the Office vacant. Now, I am concerned for the County, ah, as far as what happens, ah, January 1, if that position were to go, ah, on the ballot and nobody made sure that Judge Mancias, one District

Court in Hidalgo County, had the right to declare that Office vacant. I believe that down the road this County would pay dearly, through all the contested actions, that we would be facing just alone on the criminal cases that the Sheriff would arrest or would investigate; where that person would be challenged as far as getting the lawfully elected person, to represent, ah, the County as the Chief Law Enforcement Officer, with a badge.

JUDGE RUIZ

Mr. Guerra, I want to, now I've heard it, twice, but basically, I think what you, what you're telling this Court is that the request for us to join as a, as a government body representative of the people of Hidalgo County, that we should join because the interests of the people are involved; in the sense that if all the legal issues are not thoroughly reviewed and acted upon by this particular Court, in this case, Fernando Mancias, that it gives, it leaves us susceptible that when there is a, a criminal case being prosecuted by you at a later date, that those actions of the Sheriff, may come in question because of the actions being uncontested by the, at, at the Court now.

RENE GUERRA

That is correct, Judge.

JUDGE RUIZ

Is that correct?

RENE GUERRA

And not only that, ah, the, the lawful right to hold prisoners, would certainly be questioned, I would say immediately.

COMM. SANCHEZ

You're saying then...

JUDGE RUIZ

Go ahead, Sam.

COMM. SANCHEZ

...the election, should it be processed, would then give the citizens of Hidalgo County, a Sheriff, that would not be or could be, ah, questioned, or the actions of the Sheriff would be questioned and consequently cause us situations in the long run that, that could prove costly, in terms of dollars and cents, of taxpayers.

RENE GUERRA

Yes sir.

JUDGE RUIZ

You know, Commissioners, ladies and gentlemen, I was, I was briefed by parties, ah, when they

began their process, of, of selecting a nominee. Even back then, ah, I think that the parties were doing, were, in my opinion, taking the correct steps, ah, because they felt that there was a possibility that, at that point, that Sheriff Marmolejo may resign before the September 4th, deadline. So consequently, I truly, as an individual member of this community agreed that both parties should begin the process so that if that would happen that both parties would be ready, ah, to place a name on the ballot, ah, and, and that was, I think, the beginning of this particular issue. Since then, I think now, it becomes a process possibly to, to circumvent many things. I think that the, that the way that I personally see it, the lawsuit that has been filed is an effort to circumvent due process, ah, we know that the, that, that the date for placing people on the ballot has passed, so now they're asking the Court to circumvent the Election Code; and I'm not simplifying the issue, there are many laws that come about because of due process and the Election Code. So, I think, it goes back to what Mr. Guerra is saying, that in trying to circumvent all the laws in those two particular procedures, may fault us and may haunt us in the long run, when some trial lawyer in this County questions the legality of that particular Sheriff to arrest a person or incarcerate them; and at that point in time, it began, it becomes an issue between the County of Hidalgo and the trial lawyers, no longer the Democratic and Republican Parties; and the County of Hidalgo and its people will pay legal fees and other things to continue this process and possibly, the, the, the, ah, release of a person, that may be guilty.

COMM. SANCHEZ

I think, we need some clarification, when you say us, we should state that, you know, I, I feel that it's not so much us five, but rather us the County of Hidalgo.

JUDGE RUIZ

Us the people.

COMM. SANCHEZ

Us the people.

RENE GUERRA

I, I'm concerned about the County of Hidalgo, as a political subdivision of the State, okay; because all of us, as elected officials have our own responsibilities to the office. I am

concerned about Hidalgo County, lawfully arresting people, incarcerating people through the authority that is given to the Sheriff. If that is suspect, then these Courts will be flooded with unnecessary litigation, if the interests of the County are not protected in what the Republicans and the Democrats are trying to do in Court; and I believe that Judge Mancias, Mancias' ruling whatever it might be, will be challenged to Corpus and eventually to the Supreme Court. The case law, right now, is clear, there is no vacancy, because no judgment has been signed in Federal Court, but they are not satisfied with that. No, it, it is possible that the Supreme Court could change the rules on us and down the road declare that the Office became vacant, when the Sheriff was convicted in Federal Court, by a jury. I find no case to that point right now, but Courts have changed the law where people before relied on one case decision, then later on they gave us a different interpretation or a different ruling. I believe that we will win, as far as our legal position, the County's legal position, and my Office's legal position. I, I have that, that belief that the Courts will uphold our position. As far as, I'm concerned, until the Sheriff is sentenced, there is no conviction of record that he can appeal or that anybody can rely on because he has not been held accountable for his actions; and there is a possibility although I, I don't think it's a probability that the Judge, the Federal Judge could grant a new trial, within thirty days from signing the judgment, that he will sign when he sentences, ah, Sheriff Marmolejo, okay.

JUDGE RUIZ

I have asked...

RENE GUERRA

And that is under Federal Law.

JUDGE RUIZ

I have asked this Commissioners' Court that our decisions, in terms of the, of the Sheriff have to be kept under the administrative role. Ahm, because that is our function and our responsibility given to us by the voters of this County. Ah, it is not a political decision; and I know that a lot of people have tried to make it a political decision and since we are elected it's very easy to fall in that particular trap. I don't think that, that, that, that what I'm going to, to recommend is in any way, should be construed as me trying to deny the rights of the

Hidalgo County people to elect a new Sheriff; that is not the case. Please, let me assure you that I personally do not relish the thought of appointing a new Sheriff, that is not easy. That will not be easy amongst five people, after all the discussions, as said. So, it is not a question of, denying the right of the people, it's not a question of relishing the point to actually appoint a Sheriff, it is not a question of supporting Rene Guerra, in his, so-called political, ah, side, ah, nor is it a reflection, should be a reflection to the, both Democratic and Republican nominees, that the, the convention process has, has appointed. I don't think that's in question either, I think that the fact that the integrity of the Office of the Sheriff and the Detention Facility, can be questioned legally in the future, should be the only issue that Commissioners' Court should have in their mind and if you do have that particular mindset, there is no question that because of the ongoing litigations, there is a strong possibility that the acts of the Sheriff could be questioned in the future, therefore litigation will continue. In that mode, I think that this Commissioners' Court should make a motion and a second to join this lawsuit, express our concerns through the authority of the County Attorney, Mr. Rene Guerra and Commissioners' Court attorney, Mr. Travis Heister, in representa., representing not only this Commissioners' Court, but the people of Hidalgo County, so that once and for all through the Court process we can define this particular issue and that all issues be placed on the table so that if we are going to have an election, now or in the future or we are in the authority to appoint, that that particular action be truly legal and that the integrity of the Office will no longer be questioned.

COMM. ROSEL

I think you're right, Judge, and I wanna, I wanna say that I agree with you totally in reference to the comments and also Commissioner Sanchez, and I think that I'd like to bring up the fact that Commissioner Sanchez has said that there are five of us here that are representing every person that's walking the streets of Hidalgo County, ah, residents, taxpayers, voters, etc., everyone that is walking in the streets of Hidalgo County; and I think it is absolutely necessary for us, to, to protect our citizenry out there and I think that, ah, in recommending,

in your recommendation and in our motion, I think what, and in our agreeing, I think that what we will do is we will protect the rights of all of our citizens out there, because that is, that is our de., that is our intention and that's what, I think, that we should do and I think that the District Attorney at this particular point is not, ah, protecting his vested interest, but rather the County's vested interest and I agree with the, with the District Attorney, I think that, ah, we should join in and make sure that we protect everyone that is involved, because there is a due process and I think that, if I, as I've stated before, we are not an exception to the law, but an example of the law and we should follow the due process as it is. I truly agree with you, Judge and I will make a motion that we do join, ahm, ah, this lawsuit to clarify matters, it is a motion.

COMM. ARCAUTE

Second.

JUDGE RUIZ

Any other discussion, after the motion and second. Commissioner Camarillo?

COMM. CAMARILLO

Judge, all I have to say is that I totally concur with your statements, as well as, ah, as Rene, and I certainly would like to emphasize the fact that, ah, Mr. Guerra will be representing, not only his office, not only this Commissioners' Court, but the entire population of Hidalgo County, in the best interest of the law and order of this County.

JUDGE RUIZ

Commissioner Sanchez any other comments.

COMM SANCHEZ

Ah, yes Judge, if I may. I have reserved my opinion on this situation, from the very beginning, because I felt that there was a lot of legalities that needed to be looked at and I will admit that when I came here this morning, Counselor, my posture was that I believed more in the peoples' right to elect, ah, before I believed in the Commissioners' right to appoint. However, after listening and, and looking at the situation, during our session, whereby many points that I feel that the people of this County have not really considered and looked at, and I'll admit, I was one of them; after considering those points and after understanding fully the situation and the consequences that, that our people face, that the County

faces down the road, ah, I concur with the fact that we need to protect the integrity of the Office and avoid the possibility of consequences, legal and otherwise for the taxpayers of this County down the road; but, again, I would like nothing better if, if everything would be legal and correct then to hold an election and allow the people the right to elect; but, the circumstances extenuating as they are, ah, do allow, at this point, that, that I do that. So, in, in doing my, my duty and meeting my responsibility to the office, I, I concur.

RENE GUERRA

Commissioner, I have nev., I have never wanted to foreclose the right of the people to elect their government.

COMM. SANCHEZ

Oh, this is not a question of the guilt of the Sheriff, either way, it is not a question of, of what you as a D.A., ah, want, it is not a question of what this Commissioners' Court or the County Judge of this County wants. Ah, I think that we have finally been able to look at, at the situation totally and completely and it is simply a question of protecting the integrity of the Sheriff's Office down the road.

COMM. ARCAUTE

I call for the question, Judge.

COMM. SANCHEZ

Question.

JUDGE RUIZ

There is a motion and a second to authorize the, ah, ah, joining of this particular lawsuit and Fernando Mancias, in the issue of the vacancy of, or the potential vacancy of the Sheriff's Office and appoint Mr. Rene Guerra, as, as, ah, counsel for this Commissioners' Court, or for the County of Hidalgo and, and Mr. Travis Heister, as counsel for this Commissioners' Court, ah, to represent Hidalgo County, ah, in this particular lawsuit. All in favor, signify by saying aye.

COMMISSIONERS

Aye.

JUDGE RUIZ

All opposed same sign. Motion carries. Thank you, Mr. Guerra.

RENE GUERRA

Thank you, Your Honor.

COMM. ROSEL

Thank you.

RENE GUERRA May we be excused?

JUDGE RUIZ Yes, you may. Ah...

COMM. ROSEL You voted in favor, of it, Judge? You voted in favor of it?

JUDGE RUIZ I will vote in favor, please, please record my, my, ah, my vote in favor for that. Make it unanimous.

ITEM 1. EXECUTIVE SESSION: (PART II)

- A. Commissioners' Court may go into Executive Session pursuant to Chapter 551, Texas Government Code, Section 551.074 to discuss the following matter:
  2. Review of applications for the position of Sheriff

JUDGE RUIZ Ladies and gentlemen, ah, I, would like to call on Executive Session, again. Commissioners' Court may go into Executive Session pursuant to Chapter 551, of the Texas Government Code Section 551.071 and 74 to discuss the following matter. So, at this point in time we will review applications for the position of Sheriff. So we will be back in a few minutes.

ITEM 2. OPEN SESSION: (PART II)

2. Review of applications for the position of Sheriff

JUDGE RUIZ I hereby call this meeting back, back to Open Session and to order, Commissioners, ah, basically as a, as a real quick review, a, a very small announcement. As you well know I will restate that we are in the process of, of, ah, preparing ourselves for a potential appointment, if an when, ah, there is a vacancy whereby legally Commissioners' Court has the authority to appoint. Ah, this is a preventative measure for Commissioners' Court and not necessarily a proactive measure, at this point in time. We are solely preparing in case, there is an appointment. Ah, since that time, ah, there were nineteen people who actually picked up applications; ah, again, there were, one person who did not

respond to the applicant and three people that since that time, since they submitted the application, ah, withdrew their applications. So, that leaves us with fifteen applicants. This morning and this afternoon, we have gone through, in essence the first review of the fifteen applications. There has been no decision to, to shorten the list, ah, there has been no decision on background check, there has been no decision. It has been solely the first review of fifteen applicants. In that light I recommend NO ACTION, on this particular issue.

There being no further business to come before the Court, a motion was made by Commissioner Rosel and seconded by Commissioner Arcaute, that said meeting of Commissioners' Court, be hereby adjourned.

MOTION CARRIED.

THERE BEING NO FURTHER BUSINESS TO COME  
BEFORE SAID COURT, the meetings of the Commissioners' Court and  
the Drainage District were hereby adjourned.

J. Edgar Ruiz \_\_\_\_\_  
County Judge

Samuel Sanchez \_\_\_\_\_  
County Commissioner, Precinct #1

Lalo Arcaute \_\_\_\_\_  
County Commissioner, Precinct #2

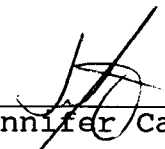
Juan Rosel \_\_\_\_\_  
County Commissioner, Precinct #3

Leonard Camarillo \_\_\_\_\_  
County Commissioner, Precinct #4

Dated this 22ND day of SEPTEMBER, 1994.

ATTEST:

WILLIAM R. LEO, County Clerk  
Hidalgo County, Texas

By:  \_\_\_\_\_  
Jennifer Castillo, Deputy



Commissioners' Court - September 22, 1994

1) Co. Judge, Commissioners, Travis Heister, Rene Guerra, Carlos Gomez.

2a) Rene Guerra (for the record)

1b) Co. Judge + Commissioners

2b)