

Prosecution Memorandum for Mark Hajdu and Jennifer Stoddard Hajdu

I. STATEMENT OF FACTS

On December 13, 2021, Mark Anthony Hajdu, the Republican Precinct Chair for Precinct 1049, applied for a place on the Republican Party general primary ballot for Texas State House District 114 (SH 114). Hajdu claimed on the application that his length of continuous residence, as of the date of the application, in the district that he was seeking office was nineteen years. The address stated on the application is 6805 Sedgwick Drive, Dallas, Texas 75231, which is the correct address for Hajdu. However, with redistricting announced in October of 2021, Hajdu's district changed to SH 108 before the date that the application was filled out, signed, and approved, meaning that Hajdu no longer lived in SH 114 when he signed the application.

Also on December 13, 2021, the application was notarized by Lori LaPray, the paralegal of Hajdu's wife, and given to the chair for approval. The Chair of the Dallas County Republican Party is Jennifer Stoddard Hajdu, Hajdu's wife, who is also an attorney in the Dallas area. On the same day the application was filled out and notarized, Jennifer Stoddard Hajdu signed that she received and accepted the application and checked the box that says "Voter Registration Status Verified." However, a voter registration search would reveal that Hajdu lives in SH 108 for the 2022 primary election—the election he applied for. Further, the last day to file for the primary was December 13, 2021, at 6:00 pm.

Prior to the December filing date, there had not been a republican on the ballot for SH 114 since October 2021. The previous candidate, Luisa del Rosal, had announced in July of 2021 that she was running for SH 114 and began campaigning. However, in October of 2021, she dropped out of the race because redistricting drew her residence out of SH 114. Mark, Jennifer,

and Lori LaPray were aware of del Rosal's candidacy based on a Facebook post from Rosal's campaign page—that Mark Hajdu shared and that Jennifer and LaPray both liked—posted on August 25, 2021. Further, at the time that Rosal was running, the Hajdu's were still in SH 114 and both a part of the Republican Party, Mark as Precinct 1049 Chair and Jennifer as the Chair of Dallas County Republican Party.

Following Mark Hajdu's application for SH 114 he was placed on the ballot for the primary but had no challenger, leaving him as the Republican candidate for the November 2022 race. However, he, nor his wife, never posted on Facebook or any other social media about his candidacy, no campaign website was started, and there were no reported contributions or expenditures besides the original filing fee. On March 1, 2022, Mark Hajdu shared an ad on Facebook for Antonio Swad, a candidate for U.S. Congressional District 32, saying "Don't forget to vote today!" Based on redistricting, Hajdu now resides in U.S. Congressional District 32 for 2022 elections, though he was previously in U.S. Congressional District 5.

As of the date this memorandum was written, July 11, 2022, Mark Hajdu has been declared ineligible on the Texas Secretary of State website. It is not clear who declared him ineligible, just that he was declared ineligible for the general election in November of 2022. There has been possible discussion that another candidate, Sarah Lamb, stated that she will be nominated by the Republican County Executive Committee for SH 114, but as of now, no announcement has been made.

II. ANALYSIS FOR MARK HAJDU

Mark Hajdu is in violation of the Texas Election Code because he is an ineligible candidate for SH 114 based on the fact that he has lived in SH 108 since October 2021. Under

the Texas Election Code, for a candidate whose name is to appear on a general primary election ballot to be eligible they must have “been a resident of this State two years next preceding his election, the last year thereof a resident of the district for which he shall be chosen.” Tex. Const. art. III, § 7. If a candidate is found to be ineligible, they “may be declared ineligible before the 30th day preceding election day by 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.” Tex. Elec. Code. Ann. § 14.003(b). However, a candidate may only be found ineligible if: “(1) the information on the candidate’s application on the ballot indicates that the candidate is ineligible for the office; or (2) facts indicating the candidate is ineligible are conclusively established by another public record.” Tex. Elec. Code Ann. § 14.003(f).

In addition to the eligibility violation, if Mark Hajdu withdraws, he cannot be replaced on the ballot. The only way he could be replaced by a committee-voted candidate now is if he is found ineligible. According to the Texas Election Code, a candidate can get their name off the ballot if they withdraw, die, or are declared ineligible “on or before the 74th day before election day.” Tex. Elec. Code Ann. § 145.035. Generally, if their name is off the ballot, “the political party’s state, district, county, or precinct executive committee . . . may nominate a replacement candidate to fill the vacancy in the nomination.” Tex. Elec. Code Ann. § 145.036. However, if the other political party has a nominee for office, a nomination following a withdrawal can only happen if the candidate “(A) withdraws because of a catastrophic illness that was diagnosed after the first day after the date of the regular filing deadline for the general primary election and the illness would permanently and continuously incapacitate the candidate and prevent the candidate from performing the duties of the office sought; and (B) files the withdrawal request a certificate describing the illness and signed by at least two licensed physicians.” *Id.*

Based on the election code violation, Mark Hajdu committed the offense of tampering with a governmental record because he knowingly made a false entry in a governmental record by stating he lived in SH 114 for nineteen years. Under the Texas Penal Code, tampering with a governmental record is illegal and a person can commit the offense in multiple ways, one being if he “knowingly makes a false entry in, or false alteration of, a governmental record.” Tex. Pen. Code Ann. § 37.10(a)(1). A governmental record means “an official ballot or other election record.” Tex. Pen. Code Ann. § 37.01(2)(E). Further, “an offense under this section is a Class A misdemeanor unless the actor’s intent is to defraud or harm another, in which event the offense is a state jail felony.” Tex. Pen. Code Ann. § 37.10(c)(1).

In a case most similar to this case, the defendant falsely stated her length of continuous residence in the county for which she applied to be on the Republican general primary ballot in 2012. *Siegel v. State*, No. 09-13-00536-CR, 2015 WL 3897860, at *1 (Tex. App.—Beaumont June 24, 2015, pet. ref’d) (not designated for publication). The defendant was convicted under Texas Penal Code § 37.10(a)(1) and appealed based on the fact that the document was not a government document at the time that she made the false entry. *Id.* The court found that at the time the entry was made the defendant’s application was not a governmental record, and cited to *Pokladnik v. State*, 876 S.W.2d 525 (Tex. App.—Dallas 1994, no pet.) (finding that the document was not a government document when the false entries were made).

While this case seems to give a definitive answer that a false entry in a ballot application does not fall under tampering with a governmental record, Texas Penal Code § 37.10(c)(5) was updated in 2021 to state: “An offense under this section is a Class B misdemeanor if the governmental record is an application for a place on the ballot under Section 141.031, Election Code, and the actor knowingly provides false information under Section (a)(4)(G) of that

section.” This addition to the section includes an application for a place on the ballot as a governmental record, which renders the argument made in the *Siegel* case moot. *See* 2015 WL 3897860 at *1. With the change, the defendant in *Siegel* would have made a false entry in a governmental record at the time she filled out and signed the ballot application—mirroring the exact situation in this case. Therefore, it is clear that Mark Hajdu made a false entry in a governmental document when he filled out and signed the ballot application stating his residence in the district as nineteen years.

III. ANALYSIS FOR JENNIFER STODDARD HAJDU

Jennifer Stoddard Hajdu also committed the offense of tampering with a governmental record because she knowingly and intentionally aided Mark Hajdu in making a false entry in a governmental record by stating he lived in SH 114 for nineteen years. *See* Tex. Pen. Code Ann. § 37.10. This is based on Texas Penal Code § 7.02 that states “a person is criminally responsible for an offense committed by the conduct of another” when they act “with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.” The law of parties states that “a person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or both” and that “each part to an offense may be charged with commission of the offense.” Tex. Pen. Code Ann. § 7.01.

In one case, the defendant claimed “that she did not commit an offense under section 37.10 because she did not make a false entry herself and the statute does not mention the act of causing another to make a false entry.” *McMillan v. State*, 696 S.W.2d 584, 585 (Tex. App.—Dallas 1984, no pet.). However, the court found that her indictment tracked the language from sections 7.01 and 7.02, which only require that she was a party and include the language of aiding a

person in conduct prohibited by section 37.10. *See id.* Therefore, while the defendant did not make the false entry herself, she is still criminally responsible for the conduct under Texas Penal Code § 37.10. *Id.*

In this case, Jennifer Stoddard Hajdu is criminally responsible as a party to the offense of knowingly making a false entry in a governmental record because she aided Mark Hajdu in making a false entry by signing off on his ballot application and approving the primary ballot despite having knowledge that he was ineligible. As the county chair, Jennifer is required to “review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate’s name to be placed on the general primary election ballot” and “submit the format for the official ballot to the primary committee for its review and approval.” Tex. Elec. Code Ann. §§ 172.0222 and 172.083. She did both of these things in order for Mark Hajdu’s name to appear on the primary election ballot in March 2022.

Additionally, Jennifer knew that Mark had not lived in SH 114 for nineteen years because as county chair she is aware of redistricting and lives at the same residence listed on the application. Further, Jennifer was aware of the previous SH 114 candidate because she liked a Facebook post that Mark shared from Luisa del Rosal’s candidate Facebook page and was specifically tagged in del Rosal’s post. She would have seen Mark’s name on the ballot before she approved it, and when she voted in the primary election she would have seen that his name was not on her ballot because she resides in SH 108. Even if somehow she had missed all of this, she is the Chair of the Dallas County Republican Party, and there is no way that she was not aware of the candidates for every position on the ballot when she reviewed it. She knew when she signed off on Mark’s application that it was a false entry in a government document, and she aided in the offense by

approving the document and putting Mark's name on the ballot for SH 114. Therefore, it is clear that Jennifer Stoddard Hajdu aided Mark Hajdu in knowingly making a false entry on a government document.

IV. CONCLUSION

Mark Hajdu and Jennifer Stoddard Hajdu should be charged under Section 37.10 Tampering with Governmental Record because he knowingly made a false entry in a governmental record when he stated that he has lived in the district for nineteen years and she aided him in doing so. Further, it should be found that their intent was to defraud or harm another because they had knowledge of Mark's residency being in SH 108 and not SH 114 and both intended to defraud and harm John Bryant, the Democratic candidate, by applying anyway and continuing with Mark on the ballot through the primary. The intent is shown by the fact that there was no way they did not know his district changed as Mark is involved in the Republican Party in Dallas, Jennifer is the Chair of the Dallas County Republican Party, they both knew of the previous candidate for SH 114 who withdrew, they knew that his congressional district changed, and Mark's name did not appear on their primary ballot when they voted.

It is clear that the only reason Mark applied for the election, and Jennifer approved, was because there was no Republican nominee to challenge the eventual Democrat nominee, and when he was eventually declared ineligible, the Dallas County Republican Party would still be able to replace him. Now that Mark Hajdu has been declared ineligible, this will only become more apparent with the nomination of another candidate, which Sarah Lamb claims will be her. Therefore, Mark Hajdu and Jennifer Stoddard Hajdu should be charged under Texas Penal Code §§ 37.10(a)(1) and 37.10(c)(1) for a state jail felony for knowingly making a false entry in a governmental record.