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**FEDERAL JUDGE DISMISSES LAWSUIT THAT CHALLENGED  
CONSTITUTIONALITY OF THE COUNTY'S ETHICS LEGISLATION**

El Paso County Attorney Jo Anne Bernal today announced that a Federal District Judge has dismissed a legal challenge filed by a local civil rights activist against the El Paso County's Ethics Legislation approved by the Texas Legislature last year.

On September 28, 2009, El Paso activist Carl Starr sued the County of El Paso and Texas Attorney General Greg Abbott (case EP-09-CV-353-KC) alleging that the implementation of the County Ethics Legislation, which regulates the creation of the County's Ethics Commission, was unconstitutional.

In his lawsuit Mr. Starr particularly objected to a provision of the ethics legislation that penalizes with fines and jail time individuals who file ethics complaints which the County deems to be frivolous or filed in bad faith. The plaintiff argued that the provision infringed on his First and Fourteenth Amendment rights and has a chilling effect on his freedom of expression.

In an order issued late yesterday, United States District Judge Kathleen Cardone dismissed any cause of action against Texas Attorney General Greg Abbott ruling that the 11<sup>th</sup> Amendment gives the States sovereign immunity and that the federal courts do not have jurisdiction over cases where a state is made party to a suit without its consent.

U.S. District Judge Cardone also dismissed the lawsuit against the County of El Paso ruling that it was premature for Mr. Starr to bring a lawsuit forward challenging the constitutionality of the Ethics legislation.

In her ruling, Judge Cardone stated:

*Although the County Ethics Commission is empowered with the authority to penalize individuals who file frivolous complaints or disseminate confidential materials, the facts indicate that no such rules are yet in effect. As the alleged County ordinances do not appear to have been adopted or enacted, and the existing state code, which is merely enabling legislation, cannot function to penalize Starr should he file an ethics complaint, any alleged penalties Starr would face appear to be only speculative. As such, Starr has failed to meet his burden of showing that his claim gives rise to a sufficiently ripe controversy.*

El Paso County Attorney Jo Anne Bernal today expressed her satisfaction with the court's decision:

“Judge Cardone very carefully avoided ruling on any issue that is not yet fully presented to her for decision,” Bernal said.

“Her ruling correctly notes that the El Paso County Ethics Commission has not yet completed its task of drafting a new County Ethics Code. Therefore, Starr's complaint that the Ethics Code is unconstitutional is not yet ready for judicial review,” Bernal concluded.

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