

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

PAUL BURTON,
individually and on behalf of
all those similarly situated,

Plaintiffs,

v.

Cause No. 1:26-cv-00440

Colonel FREEMAN F. MARTIN, in his
official capacity as Director of Texas
Department of Public Safety;
AARON P. PIERCE, in his official capacity
as Chair of the Council on Sex Offender
Treatment and LISA PEERS in her official
capacity as Executive Director of the Council
on Sex Offender Treatment

Defendants.

CIVIL RIGHTS COMPLAINT

INJUNCTIVE AND DECLARATORY RELIEF REQUESTED

Plaintiff brings this civil rights action pursuant to 42 U.S.C. § 1983 seeking declaratory and injunctive relief against state officials in their official capacities. Defendants have misinterpreted and enforced Article 62.404 of the Texas Code of Criminal Procedure in a manner that denies individuals convicted in federal court access to the deregistration process established by Texas law. Plaintiff seeks declaratory relief under 28 U.S.C. §§ 2201–2202 establishing that Article 62.404’s filing directive is a venue provision, not a jurisdictional bar, and requiring its proper construction. To the extent Defendants continue to enforce the statute as an absolute bar,

Plaintiff also seeks declaratory and injunctive relief to remedy ongoing violations of the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment. Plaintiff alleges as follows:

NATURE OF THE CASE

1. This is a civil rights action challenging the constitutionality and enforcement of Article 62.404 of the Texas Code of Criminal Procedure as applied to individuals convicted in federal court.
2. Article 62.404 purports to provide a mechanism for early termination of sex-offender registration by allowing eligible registrants to file a motion for relief after completion of a minimum registration period and an individualized risk assessment conducted by the Texas Council on Sex Offender Treatment (“CSOT”). The statute further provides that an eligible person may file a motion for early termination with the trial court that sentenced the person.
3. For individuals convicted in federal court, that directive has been interpreted to create a legal impossibility. No Texas state court sentenced them, and CSOT has taken the position that Article 62.404 provides no forum for such motions.
4. As a result, individuals convicted in federal court are categorically denied access to the deregistration process made available to all other similarly situated registrants, despite being subject to identical registration obligations under Chapter 62 of the Texas Code of Criminal Procedure.
5. This statutory scheme, as interpreted and enforced by Defendants, creates an arbitrary classification based solely on the sovereign of conviction and denies federally convicted registrants any meaningful opportunity to seek individualized relief.

6. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 to obtain declaratory and injunctive relief correcting Defendants' unlawful construction of Article 62.404 and, to the extent Defendants continue to enforce the statute as a categorical bar, to vindicate Plaintiff's rights under the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment.

JURISDICTION AND VENUE

7. This action arises under the Constitution and laws of the United States, including the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.
8. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).
9. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and Fed. R. Civ. P. 65.
10. Plaintiff seeks prospective declaratory and injunctive relief against state officials in their official capacities for ongoing violations of federal law, and this action is therefore proper under *Ex parte Young*, 209 U.S. 123 (1908).
11. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1) because Defendants are officers of the State of Texas who, in their respective official capacities, administer, interpret, and enforce Article 62.404 from offices located within this district.
12. Defendants' policies, interpretations, and enforcement practices challenged in this action are statewide in scope and have been implemented and maintained, in substantial part, within this district.

CLASS ALLEGATIONS

13. Pursuant to Federal Rule of Civil Procedure 23(b)(2), Plaintiff brings this action on behalf of himself, and all others similarly situated.
14. The proposed class is defined as:

All persons required to register under Chapter 62 of the Texas Code of Criminal Procedure whose registration obligation arises from a federal conviction and who are denied access to the early termination process under Article 62.404 because no State of Texas “sentencing court” exists.

15. The members of the proposed class are so numerous that joinder of all members is impracticable. Federally convicted registrants subject to Chapter 62 reside throughout Texas and are uniformly excluded from the deregistration process.

16. There are questions of law and fact common to the class, including:

- Whether Article 62.404, as interpreted and enforced, denies federally convicted registrants access to any judicial forum;
- Whether the exclusion of federal registrants from the deregistration process violates the Equal Protection Clause;
- Whether the statutory scheme creates an illusory remedy in violation of the Due Process Clause; and
- Whether declaratory and injunctive relief is appropriate on a class-wide basis.

17. Plaintiff’s claims are typical of the claims of the class.

18. Plaintiff will fairly and adequately protect the interests of the class.

19. Defendants have acted or refused to act on grounds generally applicable to the class, making final declaratory and injunctive relief appropriate with respect to the class as a whole.

FACTUAL AND STATUTORY BACKGROUND

20. Plaintiff Paul Burton is a resident of Texas who is required to register under Chapter 62 of the Texas Code of Criminal Procedure based on a federal conviction that Texas has deemed substantially similar to a Texas reportable offense.
21. Mr. Burton has lived in Texas for years, has fully complied with all registration requirements, and meets the substantive statutory criteria to pursue early termination of registration. He is prevented from initiating that process solely because Defendants interpret Article 62.404 to exclude federally convicted registrants from any available forum. Accordingly, any remaining procedural prerequisites, including the required risk assessment, cannot be meaningfully pursued for purposes of early termination absent access to a court willing to accept his motion.
22. As relevant here, Chapter 62 establishes a comprehensive registration regime that applies equally to individuals convicted in Texas state courts and those convicted under federal law or the Uniform Code of Military Justice. Article 62.001 expressly includes federal and military convictions within the definition of a “reportable conviction or adjudication,” while other provisions of Chapter 62 specify express exemptions and nonapplicability where intended.
23. Chapter 62 elsewhere contains express exemptions, limitations, and nonapplicability provisions specifying when registration requirements or related statutory provisions do not apply. No provision of Chapter 62 expressly excludes individuals whose registration obligation arises from a federal conviction from eligibility to seek early termination under Article 62.404.

24. Article 62.404 provides a mechanism for early termination of registration. Under that provision, an eligible registrant may seek relief after completing the minimum required registration period and undergoing an individualized risk assessment conducted by CSOT. If approved, the court may relieve the individual of further registration obligations.
25. Article 62.404 provides that an eligible person “may file with the trial court that sentenced the person” a motion for early termination of the person’s obligation to register.
26. Plaintiff was convicted in federal court. No Texas state trial court “sentenced” him. As a result, he is unable to identify any court that Defendants recognize as authorized to hear his motion.
27. CSOT interprets Article 62.404 to bar motions filed by federally convicted registrants, taking the position that no state court of conviction exists to hear such motions.
28. CSOT also excludes federal registrants from the administrative deregistration process. In published guidance, CSOT states that it may consider only convictions issued by Texas state courts when evaluating eligibility for deregistration.
29. Consistent with CSOT’s interpretation, no Texas trial court has recognized itself as authorized to hear a motion filed by a federally convicted registrant.
30. As a result, Plaintiff is categorically denied access to the only statutory mechanism for relief from lifetime registration, despite satisfying all substantive eligibility requirements.

STATUTORY FRAMEWORK: ARTICLE 62.404

31. Texas law has long recognized a fundamental distinction between jurisdiction, which concerns a court’s power to hear a case, and venue, which governs the proper location for filing an action.

32. Defendants' interpretation converts this permissive filing language into an exclusive jurisdictional requirement. The text of Article 62.404 contains no such limitation. It does not state that filing must occur only in the sentencing court, nor does it contain any sovereign-based exclusion or jurisdictional restriction.
33. The asserted jurisdictional bar arises not from any express limitation in the statute, but from the structural incompatibility between Article 62.404's filing directive and the limits of state authority over federal courts. Because a state legislature cannot require a federal court to exercise jurisdiction over a state deregistration motion, Defendants treat that incompatibility as dispositive. Nothing in the text of Article 62.404 indicates that the Legislature intended that incompatibility to operate as a categorical exclusion.
34. Reading the filing language as jurisdictional therefore invents a limitation the Legislature did not express and transforms a permissive venue provision into a bar that eliminates relief for a subset of otherwise eligible persons. Such a construction also runs counter to the Legislature's evident purpose in creating a structured mechanism for relief within the registration framework, rather than silently withdrawing that relief through procedural incompatibility.

LEGISLATIVE STRUCTURE AND INTENT

35. The structure of Chapter 62 reflects a deliberate legislative choice to define both the scope of registration obligations and the availability of relief through detailed inclusion and carveout provisions.
36. Article 62.001 expressly includes convictions and adjudications arising under federal law, the Uniform Code of Military Justice, and the laws of other jurisdictions when

substantially similar to Texas offenses, thereby bringing federally convicted individuals within the registration scheme.

37. At the same time, Chapter 62 contains multiple express limitations and carveouts specifying when its requirements or related consequences do not apply, including exclusions within the definition of “reportable conviction or adjudication,” juvenile exemptions, and provisions declaring certain persons or circumstances outside the statute’s reach.
38. The subchapter governing early termination likewise contains an express non-applicability provision identifying specific categories of persons to whom that relief does not apply. The Legislature therefore demonstrated, within the very subchapter at issue, that it knew how to exclude defined classes when it intended to do so.
39. If relief under Article 62.404 were meant to apply only to persons convicted in Texas state courts, that limitation would have appeared in the eligibility language or in the subchapter’s non-applicability provision.
40. The agency’s interpretation instead derives exclusion from procedural incompatibility, not from text. Texas law does not presume that the Legislature creates categorical exclusions through silence when it has expressly identified exclusions elsewhere in the same statutory framework.
41. Nothing in Chapter 62 expressly excludes individuals whose registration obligation arises from a federal conviction from eligibility for early termination under Article 62.404 or from access to a judicial forum to seek such relief.
42. Defendants’ interpretation undermines the Legislature’s design by excluding federally sentenced registrants from the only statutory mechanism created to provide relief. That

construction is not grounded in any express limitation within Article 62.404 or elsewhere in Chapter 62. It arises solely from transforming a permissive filing directive into an exclusive jurisdictional bar.

CLAIMS FOR RELIEF

Count I – Violation of the Equal Protection Clause (42 U.S.C. § 1983)

43. Plaintiff realleges and incorporates the preceding paragraphs.
44. Texas imposes identical registration obligations on individuals convicted of qualifying offenses, regardless of whether the conviction occurred in state or federal court.
45. Texas requires Plaintiff to register only after determining that his federal conviction is “substantially similar” to a Texas reportable offense and treating it as the functional equivalent of a Texas conviction under Chapter 62 for purposes of imposing identical registration obligations.
46. Yet only individuals convicted in state court are permitted to file a motion for early termination of registration under Article 62.404. Individuals convicted in federal court are excluded not based on offense conduct, risk level, or public-safety considerations, but solely because of the sovereign that entered the conviction.
47. This distinction creates an arbitrary and irrational classification by treating federally convicted registrants as equivalent to state-court registrants when imposing registration burdens, while treating them as categorically different when seeking access to the statutory mechanism for relief, thereby denying federally convicted registrants equal protection of the laws.

48. The categorical exclusion undermines the State's asserted interest in public safety by preventing individualized risk assessment and foreclosing relief for an entire class of registrants without regard to actual risk.

49. Article 62.404, as interpreted and enforced, therefore violates the Equal Protection Clause of the Fourteenth Amendment.

Count II – Violation of the Due Process Clause (42 U.S.C. § 1983)

50. Plaintiff realleges and incorporates the preceding paragraphs.

51. Article 62.404 creates a liberty-affecting process by which eligible individuals may seek relief from the significant burdens imposed by sex-offender registration through individualized assessment and judicial review.

52. For federally convicted registrants, that process is wholly inaccessible. No court is recognized as authorized to hear their motions, and no mechanism exists to initiate judicial review.

53. The statutory scheme thus creates a phantom remedy, a process promised by statute but rendered unavailable by Defendants' interpretation.

54. This scheme violates procedural due process by denying Plaintiff and the class any opportunity to be heard.

55. It also violates substantive due process by arbitrarily extinguishing the possibility of individualized relief for a defined class of registrants.

Count III – Declaratory Judgment That Article 62.404 Is a Venue Provision, Not a Jurisdictional Bar (28 U.S.C. §§ 2201–2202)

56. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

57. Article 62.404 provides that an eligible person “may file with the trial court that sentenced the person” a motion for early termination of the person’s obligation to register.
58. As set forth in the preceding statutory framework, Texas law draws a settled distinction between jurisdiction and venue. Article 62.404 does not state that a person “shall file only” in a particular court. It provides that a person “may file” with the sentencing court.
59. Under ordinary rules of construction, “may” denotes permission rather than a mandatory condition. That filing language identifies a preferred forum and does not create a jurisdictional prerequisite or strip courts of subject-matter jurisdiction.
60. Consistent with that framework, Article 62.404’s filing directive functions as a procedural instruction intended to channel motions to an appropriate forum, not as a jurisdictional restriction on judicial authority.
61. Nevertheless, Defendants have construed Article 62.404’s filing language as jurisdictional when applied to individuals convicted in federal court, concluding that no court may hear such motions because no Texas state trial court sentenced them.
62. That construction converts a venue directive into an absolute jurisdictional bar and renders Article 62.404 wholly unavailable to federally convicted registrants who otherwise can satisfy all substantive eligibility requirements for early termination of registration.
63. Properly construed under Texas law, Article 62.404 allows for venue substitution or alternative filing when the designated court cannot act, thereby preserving the statute’s remedial function and avoiding the denial of access to judicial review imposed by Defendants’ interpretation.

64. Defendants' construction creates the very constitutional concerns raised in this action, including the denial of due process and the unequal treatment of registrants whom the State has already determined to be substantially similar for registration purposes. It withdraws access to relief not by statutory command, but by procedural incompatibility. Proper construction of Article 62.404 avoids those constitutional infirmities and gives full effect to the Legislature's remedial design.
65. Plaintiff therefore seeks a declaratory judgment that Article 62.404's "court that sentenced the person" language constitutes a venue directive, not a jurisdictional limitation, and that individuals convicted in federal court may file a motion for early termination of registration in a court of competent jurisdiction.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Declare that Article 62.404's directive that individuals "may file with the trial court that sentenced the person" is a venue provision, not a jurisdictional limitation, and does not divest Texas courts of authority to consider motions for early termination of registration when no sentencing court exists;
- B. Declare that, properly construed, Article 62.404 allows for venue substitution or alternative filing for individuals whose registration obligation arises from a federal conviction, in order to preserve access to the statutory deregistration process;
- C. Permanently enjoin Defendants from treating Article 62.404's filing directive as a jurisdictional bar to motions filed by federally convicted registrants;
- D. Declare that, to the extent Defendants continue to interpret or enforce Article 62.404 as categorically barring federally convicted registrants from accessing any judicial

forum, such interpretation and enforcement violate the Equal Protection Clause of the Fourteenth Amendment;

- E. Declare that Defendants' interpretation and enforcement of Article 62.404 violate the Due Process Clause of the Fourteenth Amendment by creating a statutory remedy that is illusory and denying federally convicted registrants any meaningful opportunity to be heard;
- F. Award reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and
- G. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Larwence King
Larwence King, NYBA #5182944
Staff Attorney
NARSOL
P.O. Box 25423
Raleigh, NC 27611
919-480-2551, Ext. 702
attorney@narsol.org

/s/ Courtney A. Vincent
Courtney A. Vincent
Vincent Law, PLLC
P.O. Box 940129
Houston, TX 77094
713-223-9300
info@vincentlawpllc.com

DATE: FEBRUARY 25, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February, 2026, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel of record who are registered participants.

~~—/s/ Courtney A. Vincent—~~