



*Serving the counties of District 2: Fannin, Delta, Hunt, Hopkins, Rains, Rockwall, Kaufman, Van Zandt, and part of Dallas County*

### ***It's Past Time to Open Texas.***

Shelley Luther, a hair stylist in Dallas is serving a week in jail in Dallas County rather than continue to submit to the county's order to shut down her salon. When told by a judge that her actions were selfish and wrong, and that she should follow the law, she responded, "I have to disagree with you, sir, when you say that I'm selfish, because feeding my kids is not selfish."

Jailing a mother for wanting to feed her children is particularly outrageous in light of the Dallas County Policy of not jailing actual criminals so long as what they steal is valued at less than \$750.

As I stated in my letter of 7 April 2020 to Governor Abbott, any business that can conduct business with a reasonable social distancing policy should be allowed to do so. Since government sanctioned social distancing have been defined and the attorney general has expressed his concern for this judicial overreach. Even Governor Abbott has publicly stated that the Judge was way out of line jailing Ms. Luther.

Patience with recent government decisions that about 90 percent of small businesses are not essential has come to an end. Every business is essential to someone. And, with roughly 20 percent of the state's population filing for unemployment, we should be grateful for those who recognize their ability to be safely self-sufficient. In the case in Dallas, the stylist and her customers all wore masks and had temperature checks upon entering the salon. For that, Dallas County put her in jail.

If there is any glimmer of hope on the horizon, it is found in the Supreme Court Order 20-0340 in response to a petition for a writ of mandamus for the stylist. Though the Court ruled that they did not have the jurisdiction to rule in her favor, the decision did state:

"The Constitution is not suspended when the government declares a state of disaster." All government power in this country, no matter how well-intentioned, derives only from the state and federal constitutions. Government power cannot be exercised in conflict with these constitutions, even in a pandemic.

The decision went on to say:

When the present crisis began, perhaps not enough was known about the virus to second-guess projections motivating the lockdowns. As more becomes known about the threat and about the less restrictive, more targeted ways to respond to it, continued burdens on constitutional liberties may not survive judicial scrutiny.

It is easy for government bureaucrats to declare a local business as non-essential and require social isolation. It is not like their government paycheck is going to be any less whether they dictate from home or the office. But government is not now, nor has it ever been the economic engine of the State of Texas.

According to the Texas Economic Development page on the Governor's website:

- Texas small businesses employed 4.7 million people, or 45.1% of the private workforce, in 2016.
- Firms with fewer than 100 employees have the largest share of small business employment.
- Small businesses created 93,022 net jobs in 2016. Firms employing fewer than 20 employees experienced the largest gains, adding 94,600 net jobs.



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***It's Past Time to Open Texas.*** *(continued)*

What a far cry our current policies are from the “Texas is wide open for business “ promise made by Governor Abbott in his 2015 campaign to recruit businesses from other states.

Texas and Texans have always been known for their ability to put on their boots and step up to the plate to deal with any crisis that comes their way. We are a state known for its neighborliness and caring for each other whether the disaster is a drought, fire, flood or hurricane. Why does anybody in government assume they know better how to take care of the financial and safety needs of our citizens better than the people themselves?

It is past time to let Texas be Texas. Acknowledge that the market takes care of non-essential businesses. Allow all the others to open. Shelley Luther should be immediately released from jail and thanked for the reality check her story brings to this situation. If Judge Eric V. Moyer does not publicly apologize for his bad behavior, he should be sanctioned. If there are isolated instances of irresponsible individuals endangering the health of those around them, address each case on its own merit only, if in fact there is a legitimate law that is broken.

It's time for Texas to be wide open for business.

