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Sr. Norma Pimentel greets migrants in front of the Catholic Charities Rio Grande Valley Humanitarian Respite Center in McAllen on April 22, 2021. (Jason Garza/The Texas Tribune)

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Austin, Texas — February 14, 2025

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A Texas appeals court panel on Wednesday appeared skeptical of the procedure used by Attorney General [Ken Paxton](#)'s office as it sought to question under oath the leader of one of the state's largest migrant aid organizations.

The issue landed in the appeal court after a trial court's ruling last summer that state investigators [could not depose](#) the executive director of Catholic Charities of the Rio Grande Valley before filing a lawsuit against the group. Paxton's office said it was investigating whether the charity had violated state laws against human trafficking and harboring undocumented immigrants; it has not filed a lawsuit against Catholic Charities.

In a University of Texas at Austin School of Law courtroom Wednesday morning, three justices of the 15th Court of Appeals — [all Republicans appointed](#) by Gov. [Greg Abbott](#) — questioned why the state had used what's called a Rule 202 petition when it had other avenues to try to seek the testimony of Catholic Charities' leader during its investigation.

One justice also questioned the purpose of trying to compel the nun in charge of the charity to testify since she could invoke her 5th Amendment right to not incriminate herself; another noted that other courts have ruled that the tool was not intended for routine use.

Most states allow lawyers to depose someone before a lawsuit is filed, typically in situations where a person may die before the lawsuit can be filed. In Texas, lawyers can also question someone under oath for an investigation before a lawsuit is filed, but they need a judge's approval to do so — and in this case the lower court denied that request from Paxton's office.

Should courts allow the use of the rule, Paxton's office could wield it to compel testimony under oath from people it is investigating before formally accusing them of wrongdoing in a court.

Justice Scott K. Field said other laws give the AG's office the ability to depose someone without filing a lawsuit, "then why do you need Rule 202?" The other mechanisms include letters that the attorney general's office can send to demand information or testimony, as well a state statute called "request to examine," which Paxton's office relied on in similar investigations until a [federal judge in October found it unconstitutional](#). That finding was appealed to the federal 5th Circuit.

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"We have a belt and suspenders, as the idiom goes," said Johnathan Stone, who oversees the attorney general's consumer protection division.

Stone said the lower court's ruling was wrong and should be reversed because the benefit of the deposition would outweigh the burden on the charity.

"We made multiple efforts over a three-month period to try to obtain information. What [Catholic Charities] did is they did these little bread crumbs," Stone said. "Ultimately the attorney general's office concluded that the most efficient way to get the information that we need for our investigation is to just come sit for a pre-suit deposition."

Chief Justice Scott A. Brister asked Stone whether the attorney general's office believes it can force people to answer questions under oath any time it believes someone is violating the law, without having to file a lawsuit.

Stone responded that because the question had not been raised to the court previously, it's not a tool the attorney general's office has used routinely in investigations.

"Not yet," Brister said, looking directly at Stone.

William Powell, lawyer for the Rio Grande Valley charity, told justices that the state had not presented any evidence to substantiate its investigation or show any wrongdoing by Catholic Charities.

The charity handed state investigators a sworn statement from its director, Sr. Norma Pimentel, stating that the charity only helps migrants who have been processed and released legally into the country with paperwork by federal immigration officials, Powell said.

"The only thing really that the attorney general can say is, 'I didn't have to present any evidence because I automatically win because I'm the attorney general,'" Powell said. "I don't understand how they could think that a deposition of Sister Norma is going to produce anything different than what she already swore under oath."

"Maybe they have some Perry Masons that cross examine," said Brister, referring to the mid-20th century TV series about a criminal defense lawyer in Los Angeles who works to exonerate wrongfully charged clients — often getting the real killer to confess on the witness stand.

The case is one of several in which the attorney general's office has targeted groups that work with migrants across the state. The probes began after Abbott in December 2022 [directed Paxton's office](#) to investigate "the role non-governmental organizations may have in planning and assisting illegal border crossings into Texas."

State judges have blocked most of Paxton's efforts to shut down such groups, although Paxton has appealed four such rulings including the Catholic Charities case.

This story appears in the **Immigration and the Church** feature series. [View the full series](#).