

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

SHANNON PEREZ, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	CIVIL ACTION NO.
)	SA-11-CA-360-OLG-JES-XR
v.)	
)	
STATE OF TEXAS, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

US CONGRESSMAN HENRY CUELLAR ADVISORY TO THE COURT

Plaintiff Congressman Henry Cuellar file the following advisory pursuant to this Court’s order on April 5, 2017 (ECF No 1352).

I. Introduction

After lawsuits were filed in 2011, this matter has gone through several trials. We understand the Court to inquire about what matters, if any, the parties may still desire to address in the 2013 plan after its decision on the 2011 map. The 2013 map made several changes, including some, but not all, changes requested by the Plaintiffs. The 2013 map repaired some of the problems with the 2011 map but did not adequately address all of the issues that were raised involving the 2011 map and those matters have been raised in the pleadings challenging the 2013 map. As a result, Congressman Cuellar believes there are pending claims against the 2013 Congressional plan. Congressman Cuellar, along with other private plaintiffs, believe that entry of a permanent injunction and remedial plan immediately, then followed by a remedy trial on the merits, is the best way to ensure that a remedy is in place before the 2018 elections.

It is further essential to have such a remedial hearing to see what remedies are permitted

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under the Court's decision of April 5th before one will fully know what issues must still be litigated under the 2013 map; a quick remedial hearing might be the only chance to ensure that a remedy is place before the 2018 elections and avoid potentially having a decade of elections conducted in violation of our most basic right – the right to vote.

The remedy trial on the 2013 maps will involve a shorter trial than the one involving the 2011map. The Court would not need to consider all of the plaintiffs' 2013 evidence, but focus on where the already-identified 2011 violations persist in the 2013 plans; and at the same time pay the appropriate respect to legitimate state policy reflected in the 2013 plan.

II. Claims Being Pursued with Regard to the 2013 Plans

a. Claims that Will Still Be Pursued at Trial

i. 2013 Congressional Plan

- The newly adopted 2013 Legislative Plan (the Interim Plan previously) was a perfunctory nod to the legitimate claims asserted by the Plaintiffs that fell far short of correcting the problems in the plan. The districts in South Texas and DFW areas continue to eviscerate the rights of minorities:
- Bexar and Nueces County and South Texas :

Plaintiffs intend to propose a remedy to the violations perpetrated upon CD 35, CD 23 and the Nueces County minority community by presenting a plan in which seven 7 Latino districts can easily be drawn in South Texas. While Congressman Cuellar is satisfied with CD28, his congressional district, there are issues of vote dilution in these communities that need to be addressed. Also, intentional discrimination in the entire plan, in violation of the Fourteenth Amendment and the Voting Rights Act need to be remedied:

- Packing of CD 30 in Dallas County in violation of the Fourteenth Amendment
- Intentional vote dilution and racial gerrymandering in violation of the Fourteenth Amendment and the Voting Rights Act.

- While the creation of CD33 in C235 was a step toward remedying the intentional discrimination and racial gerrymandering in the DFW area, it is not a sufficient remedy. It does not unpack CD 30 completely, nor does it remedy the fracturing of Latino voters in the region. Types of Evidence Needed for Trial

With respect to the Section 2 effects claims the Plaintiffs intend to pursue in their challenge to the 2013 Congressional plan new demonstrative maps will be provided to the Court to establish that we can satisfy the first prong of *Gingles* in each area where Section 2 liability is claimed. Expert testimony will be needed to explain the maps and how they satisfy the first prong of *Gingles*. There have been two general elections since the last trial, so there are a substantial number of electoral races to examine.

While we are hopeful that some evidence can be stipulated to but this, of course, would require the State to agree; history has shown that Texas will use the normally deliberative federal judicial process to its advantage by delaying any timely remedy. It is important to note that there were previous stipulations and we would hope that such matters as stipulated then might be stipulated to now. Election Returns, Official records of Legislative Proceedings, public statements of state officials, election returns, and TLC reports seem to be matters that are clearly relevant and that should not be in dispute.

Congressman Cuellar is concerned that if a remedial plan is not forthcoming soon regarding the 2011 map violations and their continuing adverse effects on the 2013 plan, the likelihood of an illegal and unconstitutional map or configurations within a map being used again greatly increases. The State of Texas has already indicated, through it's Lieutenant Governor's public statements, that they are no longer planning for anymore redistricting and, in fact, are preparing for the 2020 redistricting cycle.

This Court needs to enforce the Voting Rights Act and the Equal Protection Clause by

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not allowing the State of Texas to successfully deny the voting rights of the minority
community for another decade.

DATED: April 24, 2017

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on this a true and correct copy of this **Advisory of US Congressman Henry Cuellar** has been served upon the Defendants using the electronic filing system.

Rolando L. Rios /s/
Rolando L. Rios

