

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHANNON PEREZ, et al.

Plaintiffs

v.

STATE OF TEXAS, et al.

Defendants

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CIVIL ACTION NO.
5:11-CV-0360-OLG-JES-XR
[Lead Case]

PLAINTIFFS' SIXTH AMENDED COMPLAINT

TO THE HONORABLE COURT:

Come Now, Shannon Perez, Gregory Tamez, Sergio Salinas, Carmen Rodriguez, Nancy Hall, Dorothy DeBose, Jessica Farrar, Wanda F. Roberts, Richard Nguyen Le, TJ Carson and League of United Latin American Citizens (collectively referred to herein as the “Perez Plaintiffs”) and file their Sixth Amended Complaint and would show the court as follows:

I.
PARTIES

1. Plaintiff Shannon Perez is a Latina and a citizen and registered voter who resides and is domiciled in Bexar County, Texas.
2. Jessica Farrar is a Latina and a citizen and registered voter who resides in Harris County and a member of The Texas House of Representatives, representing the 148th Legislative District of Harris County.
3. Plaintiff Gregory Tamez is a Latino and a citizen and registered voter who resides and is domiciled in Bexar County, Texas.
4. Plaintiff Sergio Salinas is a Latino and a citizen and registered voter who resides and is domiciled in Hidalgo County, Texas.

5. Plaintiff Carmen Rodriguez is a Latina and a citizen and registered voter who resides and is domiciled in El Paso County, Texas.

6. Plaintiff Nancy Hall is an African-American and a citizen and registered voter who resides and is domiciled in Dallas County, Texas.

7. Plaintiff Dorothy DeBose is an African-American and a citizen and registered voter who resides and is domiciled in Tarrant County, Texas.

8. Plaintiff Wanda F. Roberts is an African-American and a citizen and registered voter who resides and is domiciled in McLennan County, Texas.

9. Richard Nguyen Le is an Asian-American and a citizen and registered voter who resides and is domiciled in Fort Bend County, Texas.

10. Plaintiff TJ Carson is an African-American and a citizen and registered voter who resides and is domiciled in Bell County, Texas.

11. Plaintiff, League of United Latin American Citizens, hereinafter LULAC, founded in 1929, is the oldest and largest Latino civil rights organization in the United States. LULAC is a non-profit organization with presence in most of the fifty states and Puerto Rico. LULAC has chapters in almost all counties in Texas and individual members in almost all of the counties. LULAC has long been active in representing Latino's and other minority interests in all regions of the state through advocacy and litigation.

12. Plaintiff LULAC joins this complaint for the limited purpose of challenging the redistricting of the Texas House of Representatives as set forth in paragraph 32 below.

13. Defendants are officials of the State of Texas thereof who have duties and responsibilities under the laws of the state to redistrict congressional and state legislative districts in Texas following the release of the decennial census.

14. Defendant Rick Perry is the Governor of the State of Texas and, under Article IV, Section I, of the Constitution of the State of Texas, is the chief executive officer of the State of Texas.

15. Defendant David Dewhurst is the Lieutenant Governor of Texas. Under Article IV, Section 16, of the Texas Constitution he is the President of the Texas Senate.

16. Defendant Joe Straus is the Speaker of the Texas House of Representatives and is the presiding officer over the Texas House of Representatives.

17. Defendant John Steen is the Secretary of State for the state of Texas and is the state's chief election officer, succeeding Hope Andrade.

II. **JURISDICTION AND VENUE**

18. Plaintiffs' complaint arises under the United States Constitution and federal statutes to wit Section 2 of the Voting Rights Act, 42 U.S.C. §1973 et seq., and the Fourteenth and Fifteenth Amendments to the United States Constitution.

19. This court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a)(3) and (4), and 1357; and 42 U.S.C. §§ 1983 and 1988.

20. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).

21. Plaintiffs seek declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202 and a remedy under the provisions of Section 3(c) of the Voting Rights Act, 42 U.S.C. 1973(a)c.

22. Plaintiffs request convening of a three-judge court pursuant to 28 U.S.C. § 2284.

III. **STATEMENT OF CLAIM**

23. This amended pleading concerns the plans for future elections to the Texas House of Representatives and the election of the Texas Congressional delegation.

24. As this Court knows all too well, protracted litigation ensued following the Texas Legislature's adoption of Texas House and Congressional Redistricting, all evidenced in earlier orders of this Court. The outcome of this litigation was an order by this Court implementing for the 2012 election cycle interim election plans under which the 2012 elections were conducted. These plans were specifically limited to the 2012 elections.

25. In the 2013 regular session of the Texas Legislature, no action was taken on redistricting bills. However, since that time, the Governor called the Legislature into special session with the instructions to enact this Court's interim plans as the State's permanent redistricting plans. The Legislature dutifully complied and enacted S.B. 3 establishing districts for the Texas House of Representatives. S.B. 3 is identical to this Court's interim plan with the exception of minor modification of two districts in Dallas County and 2 districts in Harris County, and minor modifications in Webb and Tarrant counties. The Legislature adopted S.B. 4 redistricting the Texas Congressional plan. S.B. 4 is identical in all respects to this Court's interim plan. The Governor has signed S.B. 4 and S.B.3 into law.

26. Although the Court has ordered that the 2014 elections be conducted under S. B. 3 (Plan H 358) and S. B. 4 (Plan C 185) as "interim plans", these plans will continue to violate the constitutional and statutory right of Plaintiffs to be protected from intentional discrimination on the basis of race and ethnicity in the redistricting process and to be secure from the dilution of their right to vote.

27. With respect to the reapportionment of the Texas Congressional seats, the original legislative plans intentionally discriminated against minority voters fragmenting them into disparate districts and diluting their voting strength. S. B. 4 carries forward many of these violations. The Court's interim plan, incorporated in S. B. 4, somewhat ameliorated this

statutory and constitutional violation but the underlying injury to the minority voters remains unremedied and continuing in S. B. 4. The discriminatory intent is manifested throughout the congressional redistricting process as exemplified by the diminution of minority voting strength in District 23, the destruction of a functioning minority coalition in District 25, the failure to create an additional Latino opportunity district in South Texas, and the failure to create an additional minority opportunity district in the Dallas-Fort Worth Metroplex.

28. The original legislative enactment in 2011 reapportioning the Texas House intentionally discriminated against minority voters. The current enactment S. B. 3 perpetuates that discrimination and is littered with intentional diminution of minority strength and fragmentation of minority communities in violation of the 14th and 15th Amendments together with violations of 14th Amendment one person-one vote commands in the Districts we detail below.

- A. Dallas County Districts 102, 105, 107 and 113;
- B. Harris County Districts 132 and 135;
- C. Fort Bend County District 26;
- D. Tarrant County Districts 93 and 96;
- E. Bell County District 54;
- F. McLennan County District 56;

**IV.
RELIEF REQUESTED**

WHEREFORE, premises considered, Plaintiffs respectfully request the following relief:

- A. That this court assume jurisdiction and request the convening of a three-judge court pursuant to 28 U.S.C. Sec. 2284.
- B. Declare the existing plans for election of the Texas House of Representatives and Texas Congressional seats to be in violation of the Voting Rights Act and the 14th and 15th Amendments and enjoin their use in any future elections;
- C. Issue an order pursuant to 42 U.S.C. 1973a(c) requiring Texas to preclear its election plans through the Department of Justice in accordance with the Voting Rights Act.
- D. Award Plaintiffs a reasonable attorney's fees and costs; and
- E. Grant such other relief as may be necessary and proper as the needs of justice may require, including appropriate injunctive relief.

Respectfully submitted,

/s/ David Richards

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I hereby certify that on the 24th day of February 2014, I served all counsel of record/parties as indicated below:

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