

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

SHANNON PEREZ, et al., §
Plaintiffs, §
v. §
STATE OF TEXAS, et al., §
Defendants. §

CIVIL ACTION NO.
11-CA-360-OLG-JES-XR
[Lead Case]

MEXICAN AMERICAN §
LEGISLATIVE CAUCUS, TEXAS §
HOUSE OF REPRESENTATIVES, §
Plaintiffs, §
v. §
STATE OF TEXAS, et al., §
Defendants. §

CIVIL ACTION NO.
SA-11-CA-361-OLG-JES-XR
[Consolidated Case]

TEXAS LATINO REDISTRICTING §
TASK FORCE, et al., §
Plaintiffs, §
v. §
RICK PERRY, §
Defendant. §

CIVIL ACTION NO.
SA-11-CA-490-OLG-JES-XR
[Consolidated Case]

MARGARITA V. QUESADA, et al., §
Plaintiffs, §
v. §
RICK PERRY, et al., §
Defendants. §

CIVIL ACTION NO.
SA-11-CA-592-OLG-JES-XR
[Consolidated Case]

EDDIE RODRIGUEZ, et al., §
Plaintiffs, §
v. §

CIVIL ACTION NO.

RICK PERRY, et al., Defendants.	§ § §	SA-11-CA-635-OLG-JES-XR [Consolidated Case]
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**Summary of LULAC Argument in Perez v Perry
Relating to the 2014 trial of Plan C185**

TO THE HONORABLE THREE JUDGE COURT:

Comes now the League of United Latin American Citizens pursuant to this Courts order and submits its summary of LULAC's argument and would respectfully show;

Growth

The Anglo population in Texas fell below 50% in the 2010 Census. Between 2000 and 2010, the State grew by more than 4 million people. Anglos contributed only 10% of that growth. Texas received 4 new Congressional Districts. Had the minority community grown at the same rate as the Anglo Community, Texas would have lost a district perhaps 2. (Korbel)

Texas CVAP also expanded. The minority CVAP growth contributed more than 70% of that increase. (Korbel).

If population is used as a metric, at least 18 of the Districts would be districts where the minority community would be able to elect the representatives of choice. Under the population analysis the plan is short 8 Minority opportunity districts.

If you use citizen voting age population, you would expect that at least 15 of the districts would present a reasonable opportunity for minority voters to elect the representatives of choice. Under the CVAP analysis the plan is short 5 districts.

In another context, the Hispanic population of Texas is almost the same as that of the entire population of Michigan. (Korbel) From 2000 - 2010 Michigan had 15 members of Congress.

Plan C-185

C185 produces only 10 not 15-18 as we would expect.^{1/} There were 11 minority opportunity Districts in the benchmark C100. The testimony shows that in C185 this was reduced to 10. (Flores).

According to Dr. Alford, there was no increase in the number of Congressional Districts in which minorities were able to elect representatives of their choice because it was not possible to create additional districts where Hispanics were more than 50% of the Citizen Voting Age population. This a false representation of reality. LULAC offered 4 different plans to increase the number of Hispanic Majority CVAP Districts. See Korbel, LULAC Exhibits 5-12 for August 15, 2014 trial.

C256 and C259 are partial Gingles plans including only South and West Texas. Each of these Gingles plans produced 9 Hispanic CVAP District. Exhibits 5-8 (C256 and C259) did the same.

In Plans C261 and C262 ^{2/} (Exhibits 9-12), the entire state is drawn in. These two plans include 9 Hispanic and three Black CVAP Districts In addition, they also include two additional combined minority CVAP Districts in Dallas and Tarrant County. Plans 251 and 252 demonstrate that all of the Hispanic opportunity Districts are both majority Hispanic CVAP and majority Spanish Surnamed Registered Voters.

Criticism of Plan C185

“District 23 is nudged”

What C185 does is to transform District 23 “by nudges” into one where it would be unlikely that Hispanics could not elect their candidates of choice. (See generally testimony of Dr. Flores and Dr Alford). To begin with as pointed out by Dr. Flores, benchmark 23 was overpopulated. It could have been reduced in population and easily brought into “one person one vote” compliance. Instead District 23 in C185 removed a large number of persons from Bexar County as it was in the benchmark plan (C100) These persons are located in the Harlendale, South San Antonio, central city and the East Side of San Antonio. In addition it removes half of Maverick County. The testimony at the earlier trial indicates that these areas were the areas that

controlled District 23, where the latino community voted in large blocks for their candidate of choice. The losses in Bexar and Maverick Counties were replaced with all or parts of 9 West Texas Counties, that vote large blocks of Anglo voters.³⁵

The e-mails and testimony by the state's own witnesses clearly demonstrates that District 23 was intentionally drawn to replace voting precincts with high Hispanic CVAP and high turnout with precincts of equally high Hispanic CVAP but significantly lower voter turnout. The exhibits and testimony indicate that this was done specifically to make District 23 in C185 look like there was no retrogression but to effectively frustrate the election of candidates of choice.

District 27 has a History

In 1981, the Texas Congressional delegation was increased to 27 as a result of the growth from 1970-1980. New District 27 was drawn as an interim remedy by the Federal Courts in 1981 after a Section 5 Objection and was subsequently adopted by the legislature with minimal changes that did not alter District 27. See, http://www.tlc.state.tx.us/redist/pdf/congress_historical/c_1982.pdf

District 27 elected the candidates of choice of the Hispanic community in every election from 1982-2010. In the 2010 aberrational election the Hispanic candidate of choice lost by just a few votes.^{4/}

There was testimony at the hearing that there was a history of Nueces County being combined with Counties to the North. Once again a state misstatement of reality as this is true, only to the extent that history stopped in 1981 with the Voting Rights Objection (33 years ago). (Korbel)

In plan 185, District 27 is an awkward shaped district that runs from Nueces County to the Brazoria and Matagorda Counties and then takes a dogleg left and runs to the outskirts of Austin. This incredibly shaped district contains 4 media markets (Corpus Christi, Victoria, Houston and Austin). Houston and Austin are among the most expensive in the country. In addition if you follow the dog leg, it is actually a longer distance from Nueces County to the outskirts of Austin than the bacon strip district that ran from Austin to McAllen which was

criticized by the Supreme Court in *LULAC v Perry* and remedied by this Court on remand in 2006.

The benchmark plan had a District 27 with a population of almost three quarters Hispanic. Plan 185 reduces this to less than 50% Hispanic. ^{5/}

Dallas and Tarrant

Hispanics and African Americans represent over half of the population and almost half of the CVAP in Dallas and Tarrant Counties.

In the Dallas Tarrant County Congressional mix there are 8 Congressional Districts. Yet of these 8 districts, there is only 1 where minorities would be able to elect the representatives of choice.

This is accomplished with the traditional gerrymandering tricks of dilution and Concentration.

The Dallas Tarrant County mix includes all or parts of 14 Counties in addition to Dallas and Tarrant. Only 1 district (CD 30) is wholly contained in Dallas County. That is the only district where minorities can be expected to elect representatives of their choice. See LULAC Exhibit 16.

District 26 is the lightning bolt stretching from Denton County down into the heart of the minority Community in Tarrant County. It is an overwhelmingly Anglo area in Denton County diluting overwhelmingly minority area in Tarrant County. Significantly the Denton County portion of the District is more compact than any of the Districts in C185. The lightning bolt would be one of the least compact districts. Korbel

Then District 26 is surrounded by CD12 and CD 33. District 12 includes an area of almost 200,000 persons where Anglos make up only 21% of the population. The balance of the population is just over 500,000 and is almost 70% Anglo.

District 33 include Parker county and much of the population of Wise county as well as Suburban South and South central Tarrant County. This involves almost 400,000 persons who are almost 73% Anglo. Then it reaches an arm in around District 12 and grabs a portion of the fast growing Hispanic community in the Tarrant County mid cities area. This is all the way over

to the Eastern portion of Tarrant County. The minority area picked up is just over 300,000 persons who are only 29% Anglo.

District 6 is created by combining the balance of the mid cities area in Tarrant County with the mid cities area of Dallas County as well as part of the Northwest side Hispanic community. This heavily minority area contains 388,000 persons that is only 20% Anglo. It is diluted by tying them into the overwhelmingly Anglo population in the Suburban South side of Tarrant County as well as all of Ellis and Navarro Counties. This area contains more than 310,000 persons who are almost two thirds Anglo.

District 5 follows the same pattern as District 6 but on the Eastern portion of Dallas County. It begins with an arm that extends into Dallas County and scoops out 328,000 persons that are only 39% Anglo and ties them in with Anderson, Cherokee, Henderson, Kauffman, Van Zandt and Wood Counties. These counties contain 370,000 persons who are more than 73% Anglo.

The fast growing minority area in Dallas County located just North of CDs 5, 6 and 30 are tied into two dog shaped districts (CDs 24 and 32) and combined with the heavily Anglo and Suburban areas in far North Dallas County as well as portions of the equally Anglo parts of Denton, (CD 24) and Collin (CD 32) counties. District 24 includes 190,000 minorities from the Northern portion of Dallas County (143,000 Black and Hispanic).

District 32 in Dallas County has 650,000 residents of North side Dallas County. This area is just over half Anglo. It is tied into 48,000 persons from Suburban Collin County who are only 29% Hispanic and African American.

Then the balance of the minority community in Dallas County are forced into CD 30 which is only 13% Anglo.

The pattern in Dallas and Tarrant County is a dilution of the minority community by tying it in with the heavily Anglo Suburban and/or rural counties. Each district uses what can only be described as tortured geography to accomplish the dilution.

Finally District 25 extends from the outskirts of Fort Worth through 10 Heavily Anglo Counties or portions of counties (Johnson, Hill, Somerville, Erath, Bosque, Coryell, Hamilton,

Lampasas, Burnet and Hays to Bell and Travis County. In Bell county it grabs a part of the heavily minority community in Killeen. In Travis County it reaches in and picks up a large portion of the Austin minority community.

Travis County

In Travis County, CD 10 runs from Lake Austin to the outskirts of Houston. CD10 picks up a large portion of the increasingly minority community in North central Austin and joins it with the heavily Anglo Western portion of Harris County and 7 primarily Anglo East Central Texas Counties (Bastrop Lee Washington Fayette, Colorado Austin and Waller).

CD 21 joins the overwhelmingly Anglo Hill Country Counties (Real Kerr Gillespie Bandera Kendall Blanco Comal Hays) together with the Anglo far North side of San Antonio. Then it extends to pick up another hunk of the minority community in Austin.

CD 17 Begins with all or part of 12 Central Texas Counties (McLennan, Limestone, Freestone, Leon Madison, Robertson, Brazos, Burleson, Lee Milam Falls and Bastrop Counties) then extends a finger in and plucks out the developing minority community on the far Northern part of Travis County.

Finally CD 35 Ties the Heavily Hispanic portion of South Travis County into the Heavily Hispanic areas in South San Antonio including the Harlendale ISD and large portions of the San Antonio ISD.

In the benchmark plan C100, the minority community in Travis County was almost totally contained in District 25. In C185 it is split into 5 parts.

Although it is uncontested that District 35 is a Hispanic CVAP majority district, it was not necessary to fracture the minority community in Travis County to do so. Each of the 4 LULAC Gingles plans creates a District 35 that does not extend into Travis County.

Comment on the Defendant's Evidence

The testimony leaves one with the impression that the staff was pretty much in charge of the entire process and made most of the decisions. Yet no one would claim responsibility, especially among the politicians. The view was that unless the Hispanics or African Americans could demonstrate that it was possible to create a District that was more than 50% Hispanic or African

1. These were Districts 15, 16, 20, 23, 27, 28, 29 which were primarily Hispanic and Districts 9, 18 and 30 primarily African American. District 25 was trending minority and the testimony indicated that the choice of the minority community was being elected in all of these districts.

2. In plan C262, District 16 extends out to Midland and Ector Counties. Historically until the 1991 redistricting District 16 had that configuration. http://www.tlc.state.tx.us/redist/pdf/congress_historical/c_1972.pdf; http://www.tlc.state.tx.us/redist/pdf/congress_historical/c_1974.pdf; http://www.tlc.state.tx.us/redist/pdf/congress_historical/c_1976_1980.pdf; As the Hispanic population in El Paso increased District 16 was drawn back into El Paso County.

While District 16 in C185 produces the most compact district in plan 185 it is heavily packed. The configuration of District 16 in the *Gingles* plan C262 is an attempt to unpack District 16. In the other LULAC plans (Exhibits 5-11 C256, C259 and C261) District 15 is left as is in C185. Because the Congressional Districts are drawn to zero deviation, if District 16 in C262 was changed to the Configuration in plan C185, District 23 would also be in compliance with the one person one vote standard.

3. Atascosa, Crane, Loving, Reagan Schleicher Sutton, Frio, Ward and Winkler Counties.

4.

U. S. Representative District 27R. Blake Farenthold REP 47.8% Solomon P. Ortiz (I) DEM 47.1% Ed Mishou LIB 5.0% <http://elections.sos.state.tx.us/elchist.exe>

5.

Plan 100 Benchmark	Plan CD 27	Total	Anglo	Black	His	B+H	Other	% Anglo	% Black	% Hispanic	Blk + His	% Other
		741,993	169,020	20,112	543,306	559,593	13,380	22.82	2.77	3.27	54.18	14.8
Plan 185 Adopted by the Texas Legislature in 2011												
Plan CD 27	Total	Anglo	Black	His	B+H	Other	% Anglo	% Black	% Hispanic	Blk + His	% Other	
	698,487	298,684	42,159	345,730	383,572	16,231	42.8%	6.0%	49.5%	54.9%	2.3%	