

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

STATE OF TEXAS,

Plaintiff,

v.

UNITED STATES OF AMERICA; ERIC H. HOLDER,  
JR., in his official capacity as Attorney General of the  
United States,

Defendant,

and

WENDY DAVIS *et al.*

Defendant-Intervenors.

**Civil Action No. 1:11-cv-  
01303 (RMC-TBG-BAH)**

**DIRECT TESTIMONY OF DAVID ESCAMILLA  
ON BEHALF OF THE GONZALES INTERVENORS**

**January 17, 2012**

**I. BACKGROUND**

**Q. PLEASE STATE YOUR NAME.**

A. David Escamilla

**Q. SO THE RECORD IS CLEAR, STATE YOUR ETHNICITY.**

A. I'm Hispanic.

**Q. BY WHOM ARE YOU EMPLOYED, AND WHAT ARE YOUR JOB RESPONSIBILITIES?**

A. I am employed by Travis County, Texas, and hold the position of County Attorney. As the County Attorney, I oversee a staff that includes more than 70 attorneys. I have overall management responsibility for the day-to-day activities of the Travis County Attorney's Office. Our office handles all legal matters on behalf of the County, including misdemeanor criminal prosecutions and civil cases brought against or by the County.

**Q. HOW LONG HAVE YOU HELD THE POSITION OF COUNTY ATTORNEY FOR TRAVIS COUNTY?**

A. I have been County Attorney since 2003, and I have been with the County Attorney's Office since 1985. Prior to becoming the County Attorney, I held staff attorney positions in the office in which I had responsibilities for representing county officials in civil matters, and later had management responsibility for prosecuting criminal cases.

**Q. IS THE POSITION OF TRAVIS COUNTY ATTORNEY AN ELECTED POSITION?**

A. Yes, the County Attorney is elected every four years in a county-wide, partisan election.

**Q. HOW MANY TIMES HAVE YOU RUN AND BEEN ELECTED FOR THE POSITION OF TRAVIS COUNTY ATTORNEY?**

A. I have run for the position twice -- in 2004 and 2008 -- and was elected both times. I was originally appointed County Attorney in 2003 and served out the final two years of my predecessor's term. After serving for two years, I ran for the position in 2004 and did not face any opposition. I completed my first full term in 2008 and, once again, ran for the position that year without facing opposition.

**Q. WHERE IS TRAVIS COUNTY?**

A. The County is located in central Texas and encompasses most of the city of Austin.

**Q. HOW LONG HAVE YOU LIVED IN TRAVIS COUNTY?**

A. I have resided in Travis County since the mid 1970s, after growing up in Corpus Christi, Texas. I received my undergraduate degree from the University of Texas in Austin in 1979 and received my law degree from that same institution in 1982. I have lived and worked in Travis County since graduating from law school.

**Q. ARE YOU TESTIFYING IN THIS PROCEEDING VOLUNTARILY?**

A. Yes. I am testifying by my own choice because of my deep concerns relating to the Texas Legislature's decision to break up the tri-ethnic political coalition that has existed and been operating in Travis County for nearly 40 years. Travis County has long been a unique political oasis in Texas -- an area where Anglos, African Americans, and Hispanics consistently come together to support common candidates.

For decades, the tri-ethnic coalition in Travis County has given minorities the ability to elect candidates of their choice. In the Congressional Plan C100 enacted by the Texas Legislature in 2003 and as modified in 2006 by the federal district court on remand from the Supreme Court's decision in *LULAC v. Perry*, the Travis County tri-ethnic coalition was encompassed by Congressional District ("CD") 25. Within the district, Hispanics and African-Americans have been able to elect candidates of their choice even though Anglos are a majority of the district's population. This has occurred because of significant Anglo "cross-over" voting in the district – Anglo voters supporting the candidates who are supported by Blacks and Hispanics.

**Q. WHEN YOU SAY THAT THE TRAVIS COUNTY TRI-ETHNIC VOTING COALITION WAS “ENCOMPASSED” BY CONGRESSIONAL DISTRICT 25 UNDER THE CURRENT PLAN, WHAT DO YOU MEAN?**

A. County-wide (and city-wide for the City of Austin), the tri-ethnic voting coalition has been quite successful in achieving victory at the polls. But what I would call the strongest core of that coalition is covered by an area of the county running roughly from the highway designated “1” that runs north and south across roughly the middle of the county, and which we call "Mopac" locally, east to the eastern county line. If you'll look at the map where Plan C100's District 25 is located, you'll see that the part of the district in Travis County, which is where most of the district's population resides, covers most of that core.

**Q. WHAT IS THE BASIS FOR YOUR STATEMENT THAT THE TEXAS LEGISLATURE HAS BROKEN UP THE TRI-ETHNIC COALITION IN TRAVIS COUNTY?**

A. The Texas Legislature's Plan C185 completely reconfigures CD25, splintering apart the coalition of voters that has historically given minorities the ability to elect Congressional candidates of their choice. Instead of being in one district as they were in CD25, the Anglos, Blacks, and Hispanics in Travis County who gave minorities the ability to elect candidates of their choice are splintered into five different districts. This result is what cause me concern and is the reason for my decision to testify.

**II. TRAVIS COUNTY'S TRI-ETHNIC COALITION**

**Q. WHAT IS YOUR KNOWLEDGE OF THE TRAVIS COUNTY TRI-ETHNIC COALITION BASED UPON?**

A. My knowledge is based in on active involvement in Texas politics, and the politics of Travis County in particular, that goes back about 30 years. As a student at the University of Texas in the late 1970s and early 1980s, I was an active member of the University's "Young Democrats" organization where I began learning about Texas politics and the ethnic coalitions in Austin and Travis County that make this part of the state politically unique. Upon graduating from law school in 1982, I spent approximately three years working in the Texas State Senate as general counsel to a state senator. That position furthered my education in Texas politics and elections and provided a helpful foundation when I joined the Travis County Attorney's Office in 1985.

**Q. HAS RUNNING FOR ELECTION FOR THE POSITION OF TRAVIS COUNTY ATTORNEY CONTRIBUTED TO YOUR KNOWLEDGE OF THE COUNTY'S TRI-ETHNIC COALITION?**

A. Yes. In carrying out my responsibilities as County Attorney, I have extensive interactions with all the communities in Travis County. I regularly interact with political and community leaders in the different Anglo, Black, and Hispanic communities within the county. Through these interactions, I have first-hand knowledge of how these communities interact and cooperate with each other, including in elections. In my two elections for Travis County Attorney in 2004 and 2008, I had the support of significant percentages of Black and Hispanic voters, plus the support of a sizeable portion of Anglo voters in the county. The backing I've received from this tri-ethnic coalition explains in substantial part why I was unopposed in the 2004 and 2008 elections. It is well-known in Travis County that candidates who have the support of the coalition are difficult to defeat.

**Q. IS THERE AN ORGANIZATIONAL STRUCTURE TO THE TRI-ETHNIC COALITION?**

A. Not formally, but there are ways in which the intent of this coalition can manifest itself. The City of Austin and Travis County have a high level of political activism, which is reflected by the many political organizations in the area. These organizations provide a mechanism for the Anglo, Black, and Hispanic communities to participate directly in the political process. Examples of these organizations are the Central Austin Democrats, the South Austin Democrats, the North By Northwest Democrats, the West Austin Democrats, the Circle C Area Democrats, the Black

Austin Democrats, the Austin Tejano Democrats, the Central Labor Council, and the University (of Texas) Democrats. I can say that it is unusual, at least in Texas, for these kinds of local organizations to be such a strong political force, but they are here in Travis County.

**Q. DO THESE ORGANIZATIONS COOPERATE AND INTERACT WITH EACH OTHER?**

**A.** Yes. There is a significant level of interaction and cooperation among the organizations that comprise the tri-ethnic coalition, which fosters political alliances among the Anglo, Black, and Hispanic groups affiliated with the organizations. During election season, many of these groups come together and hold joint forums for candidates. At these forums, candidates speak directly, and at the same time, to many of the Anglo, Black, and Hispanic organizations that make up the tri-ethnic coalition. During the forums, the different organizations tend not to act in isolation. Instead, they discuss the candidates back and forth with each other. While the organizations ultimately make their own decisions concerning which candidates to endorse, the cooperation among them consistently produces broad agreement to support individual candidates and slates of candidates. The high frequency of agreement on candidates among the organizations within the Coalition also stems from the fact that many individuals are members of more than one of the organizations. This overlap in membership promotes agreement on common slates of political candidates.

**Q. HOW DOES THE TRI-ETHNIC COALITION AFFECT THE ABILITY OF MINORITIES TO ELECT CANDIDATES OF THEIR CHOICE IN TRAVIS COUNTY?**

A. Without the tri-ethnic coalition, Blacks and Hispanics in Travis County would have great difficulty electing candidates of their choice. Hispanics comprise 29.3% of the county's voting age population, and Blacks comprise 7.8%. Anglos comprise 55.2% of the county's voting age population. Given these percentages, it is apparent that Blacks and Hispanics are highly unlikely to be able to elect candidates of their choice without cross-over voting from the Anglo community. The decades-long history of elections in Travis County demonstrates that this cross-over vote has occurred and has consistently allowed Blacks and Hispanics to elect candidates of their choice in the county.

**Q. CAN YOU PROVIDE EXAMPLES OF MINORITY CANDIDATES IN TRAVIS COUNTY WHO HAVE BEEN ELECTED BECAUSE OF CROSS-OVER VOTING AND SUPPORT FROM THE TRI-ETHNIC COALITION?**

A. Every county-wide election in Travis County in which a minority candidate wins necessarily involves cross-over voting from the Anglo community. Again; this is because there are insufficient percentages of Blacks and Hispanics in the county to permit minorities to elect candidates of their choice without support from the Anglo community. Over the past 10 years, there have been 34 county-wide general elections in Travis County in which minority candidates have prevailed. A list of these elections and the winning candidates is attached to my testimony. *See Exhibit A.* Eighteen of the winning candidates have been African-American, and 16 have been Hispanic. I also would add that, as is shown on the last page of Exhibit A, a similar pattern is shown in city elections, which are non-partisan. The city's voting age population is majority Anglo. The Mayor and the City Council of Austin are



chosen in city-wide elections. From 2001 through 2009, minority candidates (including four Hispanics, three African-Americans, and one Asian) for these positions were victorious eight times. Once again, the core of tri-ethnic coalition is involved in these city elections.

**Q. HAVE ANY OF THESE GENERAL ELECTIONS INVOLVED A MINORITY CANDIDATE WHO DEFEATED AN ANGLO CANDIDATE?**

A. Yes. In 13 primary and general elections over the past 10 years, minority candidates have defeated Anglo opponents affiliated with one of the two major parties. A list of those elections, including the winning candidates, is attached. *See Exhibit B.* (The list also reflects that minority candidates defeated Anglo opposition in five of the Austin city council and mayoral races during the same timeframe.) The fact that minority candidates have defeated Anglo candidates with some regularity –in a county that has a majority Anglo population – shows the strength of the tri-ethnic coalition in Travis County. These results show that even in elections involving Anglo candidates, a significant proportion, sometimes a majority, of Anglo voters typically support Black and Hispanic candidates and give minorities the ability to elect candidates of their choice.

**Q. ARE THERE PARTICULAR ELECTIONS THAT DEMONSTRATE THE STRENGTH OF THE TRI-ETHNIC COALITION?**

A. Yes. In 2008, John Lipscombe, an Anglo Assistant County Attorney, ran for judge of the newly created County Court at Law No. 8. Mr. Lipscombe faced Carlos Barrera, an experienced Hispanic criminal defense lawyer. Despite having the lion's share of endorsements from the local Democratic clubs, Mr. Lipscombe was unable to gain

significant support from the Hispanic or African American community. On primary election day, Mr. Lipscombe lost to Mr. Barrera by a vote of 72,899 (58.03%) to 52,734 (41.97%).

Two years later, Mr. Lipscombe again ran for the bench, this time for a vacant County Court at Law No. 3. And, again, he faced an experienced Hispanic lawyer, Ms. Olga Seelig, a municipal judge with the City of Austin. In that election, Mr. Lipscombe was able to gather more significant support from the Hispanic community, reflected by the fact that his campaign treasurer this time was the wife of former Austin State Senator Gonzalo Barrientos, both of them icons in the local Hispanic community. Mr. Lipscombe's efforts were successful this time around, as he won the primary election by a vote of 17,442 (52.56%) to 15,745 (47.44%).

**Q. IS THE CROSS-OVER VOTING OF THE TRI-ETHNIC COALITION ALSO SEEN IN THE GENERAL ELECTIONS IN THE AREA OF TRAVIS COUNTY ENCOMPASSED BY CONGRESSIONAL DISTRICT 25?**

A. Yes. There is a long history of the tri-ethnic coalition coming together to support congressional candidates in the area of Travis County that encompasses CD 25, as that congressional district is configured in the existing congressional plan. From 1963 to 1994, Congressman Jake Pickle, who was Anglo, represented Texas's 10th Congressional District, which encompasses much of the area now included in CD 25. As one of only six southern congressmen who voted for passage of the Civil Rights Act of 1964, Congressman Pickle had strong support from the Black and Hispanic communities, in addition to the Anglo community. With continued support from the tri-ethnic coalition, Congressman Lloyd Doggett, who is also Anglo, was elected to

the 10th CD in 1994, after Congressman Pickle's decision to retire from office. Prior to being elected, Congressman Doggett had authored the legislation that created the Texas Human Rights Commission as a member of the Texas State Senate.

**Q. WHAT EFFECT HAS THE TRI-ETHNIC COALITION IN TRAVIS COUNTY HAD ON CONGRESSMAN DOGGETT'S VICTORIES IN ELECTIONS FOR THE SEAT IN CONGRESSIONAL DISTRICT 25?**

A. Congressman Doggett was the winning candidate in CD 25 in 2008 and 2010. As established by the voting data provided with the supplemental expert report of Dr. Stephen Ansolabehere, he was the candidate whom Black and Hispanic voters overwhelmingly favored in both elections and also received significant levels of the Anglo vote. These data show that Congressman Doggett was elected through a coalition of minority and Anglo voters. The election in 2010 is particularly illustrative of the effect of the tri-ethnic coalition. In that year, even though a minority of Anglo voters supported Congressman Doggett, Blacks and Hispanics were still able to elect him through their support, combined with the approximately one-third of Anglo voters who also supported him. It is this lack of racially polarized voting and cross-over among minority and Anglo voters that gives minorities in CD 25 the ability to elect candidates of their choice despite not being in the majority.

**III. THE EFFECT OF PLAN C185 ON THE TRI-ETHNIC COALITION AND CD 25**

**Q. HOW DOES THE TEXAS LEGISLATURES' PROPOSED PLAN C185 AFFECT THE TRAVIS COUNTY TRI-ETHNIC COALITION AND CD 25?**

A. Plan C185 tears apart the tri-ethnic coalition that has given minorities in Travis County and CD 25 the ability to elect candidates of their choice. Under Plan C100, Travis County was divided into three Congressional Districts, CD 10, CD 21, and CD25. These districts corresponded to the western and northwestern part of the County (CD 21), the northeastern part of the County (CD 10), and the central and southern part of the County (CD 25). The majority of the population of CD25 under C100 resided in Travis County. Plan C 185 divides the county across five Congressional Districts, and residents of Travis County are not a majority in any of them. This splintering of Travis County tears apart the tri-ethnic coalition and makes it unlikely that minorities will be able to elect candidates of their choice in CD 25.

Under Plan C100, a new CD 25 snakes across Interstate 35 to capture an area with the highest concentration of Blacks in Travis County. The result is to place much of the Black population in the center of the City of Austin into an overwhelmingly Anglo-dominated district that extends northward all the way north into Tarrant County and that encompasses nine predominantly White rural counties. Under Plan C100, that population resided in CD 25 as well, but the configuration of the district was very different, and the Black population in the center of Austin under Plan C100 resided in a district where it was able to elect its preferred candidate to Congress.

Proposed CD 21 under Plan C185 has 62,014 Travis County Blacks and Hispanics. Approximately one-third of the population that proposed CD 21 takes from Travis County is Black or Hispanic (compared with 13 percent under Plan C100). Nearly all of the area in the proposed CD 21 was in CD 25 under Plan C185. And nearly all of the Hispanic and Black population from Travis County that was added to CD 21 in

Plan C185 had the ability to elect their preferred candidate under Plan C100. If Plan C185 is approved, those populations – in addition to other Black and Hispanic populations that were in CD 25 – will have a reduction in their ability to elect their preferred candidates.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes.