
STATE OF TEXAS,

Plaintiff,

v.

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

Defendants.

WENDY DAVIS, *et al.*,

Defendant-Intervenors,

MEXICAN AMERICAN LEGISLATIVE CAUCUS,

Defendant-Intervenor,

GREG GONZALES, *et al.*,

Defendant-Intervenors,

TEXAS LEGISLATIVE BLACK CAUCUS,

Defendant-Intervenor,

TEXAS LATINO REDISTRICTING TASK FORCE,

Defendant-Intervenor,

TEXAS STATE CONFERENCE OF NAACP
BRANCHES, *et al.*,

Defendant-Intervenors.

Civil Action No. 1-11-cv-1303
(RMC –TBG – BAH)
Three Judge Court

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Direct Examination of Congressman Alexander Green

Q. Would you state your full name, please?

A. My name is Alexander Green.

Q. And you're a member of Congress?

A. I am a member of Congress, elected in 2004 and sworn in in 2005.

Q. What was your profession before being elected to Congress?

A. I was a former Justice of the Peace and still am a member of the bar of the State of Texas.

Q. What is your involvement with the NAACP?

A. I served for nearly ten years as president of the Houston branch of the NAACP.

Q. Can you describe the variety of things that your congressional office does to support constituents?

A. The Ninth Congressional District is a diverse district, and as a result of the diversity, we have a diverse caseload. We've acquired a reputation for working with persons who have issues related to immigration. We've had immigration workshops so that we can help persons lawfully immigrate so that they can become citizens. We have worked with persons who had a relative or family member in another country needing to get to this country because of an emergency. We also are proud of what we do for our veterans. The VA is in the Ninth Congressional District. We have had cases involving disability. We've had cases wherein persons were of the opinion that they were not receiving the just compensation that they merit. We have had cases involving Medicare wherein persons were of the opinion that Medicare had not properly covered the cost of services. We've had cases involving persons who believed that they were not being treated fairly by some agency of the government, and they wanted the congressional office to intercede. A very, very diverse caseload, one that requires us to work on weekends, one that requires us to be available. As a member of Congress I readily give my personal cell phone number to all of my constituents. The only requirement to get my cell number is to ask for it. That's the type of relationship we've worked to build with my constituents.

Q. Could you tell us about some of the communities of interest in your district under the current plan, Congressman? That's the C100 plan, not the C185.

A. When it was initially drawn, my district was approximately 36 percent African-American, 31 percent Latino, 21 percent Anglo and 12 percent Asian. And within the district we have different communities of interest, but these communities have bonded around issues of interests. There is

a Sunny Side area, the South Park/Martin Luther King area, and the Hiram Clarke area. These are communities of interest, and they're primarily African-American. The Fondren area is heavily Latino. Members of that Latino community have bonded and worked with other minority groups, especially when it came to the election of Sheriff Adrian Garcia, the first Latino sheriff. They were joined by these African-American communities of interest that I mentioned, and all of these communities of interest within the district worked together to get him elected. We call the area in the Bellaire and the southwest portion of the district the international district, where we have the Pakistani, Indian, Taiwanese, Chinese, and Vietnamese communities. In this area, African-American, Latino and Asian-American voters worked together to elect State Rep. Hubert Vo, the first person of Vietnamese ancestry elected to the Texas State House; Councilmember MJ Khan, the first South-Asian elected to Houston's City Council; and most recently, Councilmember Al Hoang, the first person of Vietnamese decent to be elected to city council. In fact, in the Ninth Congressional District the ballot in this upcoming 2012 Primary will be printed in four languages: English, Spanish, Vietnamese, and Chinese.

Q. Has there been a coalition in Harris County, from your estimation, between African-Americans and Latinos and Asians?

A. When I was a judge of the justice court, Judge Armando Rodriguez, who is currently Justice of the Peace in Harris County, formed the Black and Brown Coalition, which addressed some political problems, economic problems, but also just the problem of people similarly situated working together for the common good. In the larger Houston area, many of the minority communities—African-American, Latino and Asian-American—have similar economic situations and political needs, and they have demonstrably worked together to elect representatives responsive to those needs. Breaking up or otherwise unsettling the relationships within these communities of interest and amongst these communities of interest seems to me to be an intentional step toward minimizing the number of candidates of choice that minority voters can elect.

Q. Now, Congressman, could you take a look at C185 and tell us what impact it has had on communities of interest within your district?

A. Yes. Most significant institutions that constituents identify with and benefit from have been removed. C185, as presented here, has removed my district office, just below 610 on Buffalo Speedway, right near South Main, from the district. The 9th Congressional District was the home of the Astrodome, which is a great identifier for persons around the country. That has been removed from the district. The Medical Center is up in this area and has been removed from the district. There was a rail line that we've been working on for some time with the mayor of Missouri City, Mayor Allen Owen; mayor of Stafford, Mayor Leonard Sarcella. That rail line ran along U.S. 90A. We were able to have placed in an appropriations bill a million dollars to get started with that project. That project has been removed from the district. Houston Baptist University has also been removed from the district as well. It is an institution that is rich with ethnic diversity and has served as a community meeting place for many the residents of the Ninth Congressional District. The ability to elect a candidate of choice is significant for more than just the mere election—voters want there to be tangible benefits to that. A candidate responsive to the community's needs will bring economic generators that will benefit that community. This

removal of economic generators creates an invidious taking to the detriment of the voters in CD 9 .

In this area we have what we call the Hiram Clarke area. It has been removed. Sienna Plantation has been added. Along here there is Shadow Creek, an upscale development. In Sienna Plantation not only do you have upscale properties, but you also have estates with large amounts of property that may at some point be converted to some sort of tract building project, and as a result it would probably be upscale as well. These are some areas of great concern in C185. The district was about 35,000 over and did not necessitate the type of surgery that has been performed. I liken it to a patient with a cold and having the lungs and internal organs removed. It just wasn't necessary. The character of the district has changed significantly, as well as how it might perform over the next decade. Was this done by accident? I don't think so.

Q. Why is the loss of your district office from the district significant?

A. The district office provides a meaningful connection between a member and the people represented. Our district office is in a location that is well-known to my constituents and has been in its present location since 2006; it has easy access to major freeways, mass transit, and many of the important centers of business activity within the Ninth Congressional District such as the Texas Medical Center, the VA hospital, and the Astrodome complex. Other similar properties in the area have been surgically removed; this couldn't have been done by accident.

Q. Do you know if the district offices of Congresswomen Eddie Bernice Johnson and Sheila Jackson-Lee were also drawn out of their districts?

A. They were. Each African-American member of Congress from Texas had their district offices removed from their districts. I don't know of any Anglo Congressperson who had their district office drawn out.

Q. Do you believe it's appropriate to join African-Americans and Latinos together for the purpose of creating a district under Section II of the Voting Rights Act?

A. Yes, I do. I was in Congress when the Voting Rights Act was most recently reauthorized, and I think we specifically contemplated that. When we talk about opportunity districts, you're talking about adding minorities. Not always, necessarily, but where different minority communities share the same needs and concerns and act politically together, I think we certainly contemplated that the Voting Rights Act would protect such voters. I mean, look at my district. It is not 50% African American, but a coalition of African-American, Latino, and Asian American voters have consistently re-elected me.

Q. I'd like to discuss the concept of racially polarized voting. Do you believe that racially polarized voting continues exists?

A. I believe it does. I think this was evident in *Smith v. Allwright*, in which white primaries in Harris County were challenged. I see C185 as a progeny of that case and of *Terry versus*

Adams. Because after the white primaries ended, then there was a preprimary that was white. So from Allwright to C 185, we have had voting along racial lines and invidious discrimination.

Q. To discuss a specific example, the article that was entered as Exhibit 633 is the same one that you saw at the deposition and I believe that you felt that this somewhat indicated the existence of racially polarized voting in Harris County, is that right?

A. This news article, which is titled "What's In a Name," goes into how people gave up a part of their personage to hold public trust. One example is highlighted with Ms. Mekisha Murray, a white female. She lost an election in Harris County, running as a Democrat, and believes that the cause of her loss was the association between the sound of her first name and the indication it gave to voters that she was African American. She has since changed her name. That theory is supported by the fact that most Democrats won their elections that year, and three others who lost in addition to Ms. Murray had names that the article describes as "unusual." For example, a man named Goodwille Pierre, who is African American, lost. This transcends party affiliation because, as the article goes on to say, there was a Republican judge who lost as Cathy Herasimchuk and then changed her name to Cathy Cochran. The point is that name makes a difference to voters.

Q. Did it appear to you that the names being connected or apparently connected with racial minorities had anything to do with the outcome of those races?

A. It very much appears that way to me and to the persons who lost as well it seems. I think sometimes these things are difficult to prove, but they're easy to know. We may not prove it, but we know it's there. We know it.

Q. And the African-American candidate for district attorney that year, who was running with the same party, did he lose?

A. There was an African-American who was running, Bradford, who was former police chief in Houston, Texas. And he was running county wide, along with the other candidates, and he did lose.

Q. Congressman, your district as currently configured in C100, the current plan, has been a performing district, has it not?

A. It has.

Q. Okay. Was there a need to add more minority population to your district in order to make it perform?

A. We were about 35,000 over. My opinion, and my expert's opinion, based on the empirical evidence, is that it was not necessary to add additional minorities.

Q. Would you suggest that since your district has already been performing, that the addition of minorities in C 185 might be an indication of packing?

A. It seems to me that it is packing of an invidious nature and seeks to undermine the continuing ability of African Americans in the district to continue electing a candidate of their choice.

Q. Do you feel that your input was received in good faith in your attempts to work on the construction of a new congressional map in Texas?

A. I was very disappointed because I thought that we would have the opportunity to have meaningful input. We did have one meeting with the congressional delegation. The belief was that there would be follow-up meetings, but they never took place. The belief was that we would have something that might be called a congressional map that was agreed to by members of Congress, understanding that there's a majority party and a minority party, but that we would try to present something that would have some degree of credibility from the entire Texas delegation. I don't believe that occurred. If it did, it occurred without my knowledge. I don't believe such a plan was presented.

Q. And in reference to -- for example, the area where your office is and some of the areas that were taken out of your district, did you join with Congresswoman Lee to come together with an agreement to try to make the proposed 185 plan a little bit more digestible by making some changes to your district and hers, that both of you agreed to?

A. We tried to work through staff members to restore some of the areas that had been removed from both districts. We thought that if two members could accomplish this, that it would be accepted. So we did try. We tried to put my district office back into the Ninth Congressional District. There's an area that has been a part of the historic 18th Congressional District, my suspicion is since the inception, over in the Third Ward. We tried to do what we could to restore the equilibrium. But time was not on our side and there was a feeling that we were not going to get a lot of our desires adhered to.

Q. And so you made a proposal for modification, and that proposal was not accepted?

A. Well, we tried to work out a proposal. I did submit what I thought would work, through member Smith, whom I have great respect for, great respect. I did submit a proposal to him, and his indication was that it just wasn't -- the time -- it did not get done.

Q. Okay. Now, do you have an opinion in reference to whether or not there was any intent to discriminate against African-Americans and Latinos in the adoption of this map?

A. It is difficult to believe that it could happen by accident, the type of surgery that was performed. If you balance accident and intent, I think that it would be logical for a reasonable and prudent person to conclude that there was some intent. Now, that's looking at the map on its face. Going beyond just looking at it on its face, the way in which the map was promulgated indicated intent to me because there was not a lot of opportunity to see the map as it was developed, and it was presented in a manner that indicated that it was the only option.

Q. You're aware that Dr. Murray has indicated that, contrary to how African-Americans and Latinos kind of dominate the vote in 10 of the 32 districts and have influence in the vote currently, and that even with the addition of 4 new congressional seats, this new plan only provides for ten districts that would be dominated by African-American or Latino voters, while the other 26 districts would be dominated by white voters. Does that indicate to you any value being associated with the vote of one race as compared to other races?

A. It has an appearance of unfairness. The Honorable Lee Duggan in Houston gave me words that I try to use regularly. He said, it's not enough for things to be right. They must also look right. Now, that doesn't look right. Then when you examine the substance of it and you look at the actual empirical evidence, you then find that it isn't right. In my opinion such a plan invidiously discriminates against minorities, and such a plan doesn't happen by accident.

Q. And with the changes that were made with C185, does that impact your ability to leverage benefits or opportunities for the people within your district?

A. The Medical Center created the ability to work with colleagues on projects and provides your district with a kind of prowess that's recognized in our political order. The 90A rail line, which has been extricated, provided opportunities to collaborate with other members who are working on rail lines as well, which can give you additional support for what you're trying to accomplish. The plan C185 extracts the rail line, the Medical Center, and the Astrodome. It leaves District 9 as a bedroom community for the most part. And as a bedroom community, it has to be represented and will be represented, but it does not have the same prowess that it would have with the Astrodome, the Medical Center and the rail line.

Q. And finally, are there some concerns that you have in some of the growth areas or the undeveloped areas that were placed in your district?

A. Yes. Shadow Creek and Sienna Plantation both cause concern because of their growth possibilities coupled with the current development and increased upscale housing being built, which in turn has resulted in an influx of high numbers of Anglos moving into these undeveloped areas. The current Ninth Congressional District under Plan C100 is a very diverse district with a majority of minority voters; however, under C185, the Ninth Congressional District as proposed by the Texas State Legislature takes on a different character by adding very large undeveloped areas that have garnered the full attention of numerous upscale developers. The large undeveloped and developing areas of Fort Bend County have attracted many affluent and wealthy persons and are very likely sources of continued white growth. As these master-planned communities, wherein the median home price averages 200,000-250,000 continue to develop, it is inevitable that these areas will lead to the dilution of the Ninth Congressional District's minority voting strength. In summary, there is a great likelihood for the character of the district to change by avoidable design evidencing onerous intent.