

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,)	
)	
Plaintiff,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
and ERIC H. HOLDER, JR. in his)	Case No. 11-CV-01303
official capacity as Attorney General)	(RMC-TBG-BAH)
of the United States,)	[Three-Judge Panel]
)	
Defendants,)	
)	
)	
WENDY DAVIS, <i>et al.</i> ,)	
)	
Defendant-Intervenors.)	

**PLAINTIFF STATE OF TEXAS' NOTICE OF FILING OF DIRECT WRITTEN
TESTIMONY**

**EXHIBIT 5
Declaration of Senator Ken Seliger**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,)	
)	
Plaintiff,)	
)	
v.)	Case No. 11-CV-01303
)	(RMC-TBG-BAH)
UNITED STATES OF AMERICA,)	[Three-Judge Panel]
and ERIC H. HOLDER, JR. in his)	
official capacity as Attorney General)	
of the United States,)	
)	
Defendants,)	
)	
WENDY DAVIS, <i>et al.</i> ,)	
)	
Defendant-Intervenors.)	
)	

DECLARATION OF SENATOR KEL SELIGER

My name is Kel Seliger. I am over the age of 18, of sound mind, and fully competent to make this declaration. I have personal knowledge of the facts stated in this declaration, and they are true and correct.

1. I represent Senate District 31, which includes my hometown Amarillo Texas, much of the Texas Panhandle and the Permian Basin. During the recently completed 82nd legislative session, I served as Chairman of the Senate Select Committee on Redistricting.

2. I was not in the Legislature for the 2001 and 2003 redistricting cycles, so I was new to the redistricting process. The first step in the process for me was to get acquainted with some of the details. I did that when we retained Doug Davis as committee director and I got acquainted with Dave Hanna. Doug Davis drew the maps for the Senate Select Committee on Redistricting. I also learned how to use Red Apple to a degree and then went to the National

Conference of State Legislatures (“NCSL”) redistricting seminar. Later I went to Washington D.C. with Mario Gallegos, a Democratic Senator from Houston and Vice-Chairman of the Senate Select Committee on Redistricting. Committee counsel Professors David Guinn and Michael Morrison from Baylor Law School also travelled with us to Washington, D.C. While in Washington, I met with several officials at the Justice Department including Thomas Perez and Bob Berman.

3. During the NCSL redistricting seminar, the import and the gravity of the Voting Rights act was made clear. I interpreted the Voting Rights Act as essentially an immutable starting point for redistricting, and I instructed my staff that compliance with the Voting Rights Act was the *first* priority. Accordingly, we spent a lot of time talking about that and decided to start with the Voting Rights Act when drawing the map. Doug Davis and I would also frequently sit and discuss what we could do, what we must do, and how we would comply with the Voting Rights Act. That was the process that we used throughout the session to work on and draw maps.

4. I personally read materials on redistricting and learned about racially polarized voting, and I also personally reviewed racially polarized voting analyses for some districts. I also asked Doug Davis, the Office of the Attorney General, and Professors Guinn and Morrison to inform me if the demographics, performance, or any other attribute of a proposed district would raise concerns under the Voting Rights Act. I instructed my staff that if any lawyers raised Voting Rights Act concerns about a district, then that district was coming out of the map. Other than these instructions, I painted in broad strokes and leaned on Doug Davis and others to draw the maps and advise me on potential Voting Rights Act issues.

5. For the proposed Texas House map, the Senate was not really involved. We made no changes to the proposal that we received from the Texas House. We did this because traditionally the House does not fool with our maps, and we do not fool with theirs.

6. For the Senate map, the Senate Select Committee on Redistricting began holding public hearings across the State in the Fall of 2010. Doug Davis and I also started asking individual Texas Senators about their preferences for their districts, and Texas Senator Wendy Davis of Senate District 10 gave us her input. I remember she or her staff offered testimony at a public hearing asking that Senate District 10 stay within Tarrant County.

7. Lieutenant Governor Dewhurst asked me to hold off on moving the Senate redistricting legislation forward until the Legislature passed a budget. The budget passed in May, and we held our first hearing on the Senate plan shortly thereafter. After the budget passed but before our first hearing, Doug Davis and I also met with almost every Senator. We discussed the districts of the individual Senators, including Senator Wendy Davis, and we eventually showed the Senators proposed maps for their districts. Senator Davis shared her positions on Senate District 10 with Doug and me, and she also shared two proposed maps of the district.

8. When we drew the Senate plan, we were able to keep Senate District 10 in Tarrant County, but we could not incorporate all of Senator Davis's requests. Senator Davis did not simply ask us to keep existing Senate District 10, but instead asked us to make some pretty substantial changes to the district. Senator Davis was not on the Senate Select Committee on Redistricting, but Democratic Senator Zaffirini was on the Committee and she offered Senate District 10 amendments for Senator Davis. The Committee voted on these amendments but they

did not pass, and the Senate considered similar amendments on the floor. The floor amendments also did not pass.

9. Even though the House usually does not interfere with the Senate's plans, Representatives Veasey and Alonzo offered Senator Davis's amendments in the House of Representatives, but the amendments did not pass. Plan S148 passed the Texas Senate by a vote of 29-2. It also passed the Texas House by a vote of 96-47.

10. In addition to the Fall 2010 hearings, the Senate Select Committee on Redistricting held public hearings during session on the Senate plan. We considered the public testimony offered during these hearings.

11. From Fall 2010 through the passage of the Senate plan, I had an open-door policy with Senators, and we agreed to meet with any Senator that requested a meeting. I was interested in hearing everyone's perspective, even if I did not agree with their ideas. We also spoke with every Senator, including Senator Davis and Senators representing communities with substantial minority populations. I remember that I personally had informal discussions with Senator Zaffirini about redistricting on the floor.

12. The process for the Congressional plan was a little different than the Senate plan because we wanted to get input from the Texas Congressional delegation. I met with the Republican Congressional delegation in Washington, D.C. Vice-Chairman Mario Gallegos was with me in Washington, and he went and met with the Democratic Congressional delegation. Throughout the legislative session, members of Congress would come to Austin, and they would ask for meetings and we would have meetings with every Congressperson who requested one. The meetings would include me, Doug Davis, and an intern who wanted to see the redistricting process and sit through it. I met with Representatives Sheila Jackson-Lee in my office and later

spoke with her on the phone shortly before the map was up for a vote. We were unable to accommodate a specific request she made for her district during our phone call days before the vote. But in response to her request we confirmed that we had not reduced her chance of getting reelected.

13. For the Congressional map, I started looking at the map and realizing that we had to draw four additional seats. With numerous emergency items, three other maps, and a budget to pass, we did not get a Congressional map passed during the 140 day regular session. Governor Perry called a special session to finish the map, and when we went into special session we had a short window. The Senate had worked on a Congressional map and the House had worked on a Congressional map, and then we got together. Chairman Solomons of the Texas House Redistricting Committee and I decided that we were going to work together and try to work off the same map. We thought it would be efficient and there were going to be wide areas of agreement and we could work on those. So the House staff were the primary architects of the Congressional plan. We took their Congressional map proposal and analyzed it pretty much independently because we wanted to make sure we heard from the lawyers and staff that we were utilizing.

14. We considered whether it was possible to add additional Congressional districts where Latinos would have the opportunity to elect their candidate of choice. We probably spent the most time looking at Harris County to see if we could draw another Latino opportunity district there. The reason that we spent so much time on Harris County is that Senator Gallegos was convinced that because of the population growth and the growth of the Hispanic population in Harris County that there should be a Hispanic opportunity district in Houston. Mario

Gallegos is a friend and he was a great vice-chairman, and so that's what we did first. In the end we found that we could not draw an additional district in Houston that was required by Section 2.

15. We also looked at the possibility of drawing an additional Latino opportunity district in the Dallas-Fort Worth area. After we had already considered the DFW district, we saw a proposed MALDEF map, and we thought the MALDEF map was confirmation that we ought to be looking at a DFW district. In the end, as we analyzed it, we determined that Section 2 would not require us to draw an additional district in DFW because of low Hispanic Citizen Voting Age Population in that region. In fact, to draw one would have required us to draw a district with a very unusual shape. So we decided not to draw one.

16. We did draw an additional Latino opportunity district based in Bexar County. This district is district 35, and it was on the MALDEF plan. We felt that district 35 was not only required, but it was possible to draw it in the context of the other districts without affecting the ability of Latinos to elect their candidates of choice in Bexar County.

17. In district 23, we wanted to help Representative Canseco in political terms without fundamentally changing the district from its judicially established 2003 configuration. Representative Canseco is a Hispanic Republican. In the Senate version of the Congressional map, we could not draw district 23 in a way that would help Representative Canseco. The Congressional plan that our House colleagues drew looked like it would work for Representative Canseco, and it did not change the essential character of district 23, so we agreed on that. If we had not changed district 23, I still believe Representative Canseco would have had a fair chance of getting reelected.

18. In district 27, we changed the district by cutting it off in Nueces County. Nueces is now the southern border of the district. It used to run down to the Rio Grande Valley. We felt

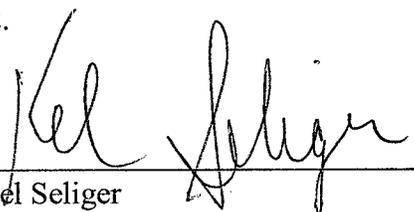
that we were clearly required to do an opportunity district in the Valley, which we did by creating district 34 in the enacted plan. Nueces County and the counties north and west of Nueces became the new district 27. Nueces County is a politically competitive county, but a significant number of the voters who reside there vote Republican. We changed district 27 so that incumbent Republican Representative Blake Farenthold might be able to hold the district.

19. During hearings on the Congressional plan, we were made aware of Latino population growth in Texas. When I heard about the growth, I asked my counsel on redistricting if growth alone was enough to compel the drawing of districts under the Voting Rights Act. Based on his advice, I concluded that it was not that simple.

20. Once we looked at a region and determined that an additional district was not required by Section 2, we focused on political numbers. The Legislature was not willing to pass a Congressional map containing additional Democratic districts unless these districts resulted from minority opportunity districts required by Section 2.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 10th day of January, 2012.



Kel Seliger