

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Mark A FAVORS, et. al.,

Plaintiffs,

-against-

1: 11 Civ. 05632

Andrew M. CUOMO, Governor of the State

(DLI)(RLM)

of New York, et. al.,

Defendants.

PLTS-INTERVENORS RAMOS' CONGRESSIONAL PROPOSAL / UNITY PLAN
– PROPOSED CONGRESSIONAL DISTRICT MAPS

Date: February 29, 2012
New York, New York

LatinoJustice PRLDEF
Jackson Chin (JC3494)
Counsel for Plaintiffs-Intervenors
Ramos, Chavarria, Roldan,
Heymann, Martinez, and Tirado
99 Hudson Street,
14th Floor
New York, New York 10013
(212)219-3360 ext. 7572

MEMORANDUM

To: Hon. Magistrate Roanne Mann, Court Expert Prof. Nathan Persily
All Counsel and Parties, Favors v. Cuomo litigation

Fr: Ramos, et al., Plaintiff-Intervenors

Da: Wednesday, February 29, 2012

Re: Report Submitted in Compliance with Magistrate Mann's Order of
February 27, 2012, regarding Plaintiffs-Intervenors' Ramos
Proposed Congressional Maps

Ramos Plaintiffs-Intervenors' Proposed Congressional Maps

Plaintiffs-Intervenors in this action, Juan Ramos, et al., respectfully submit this memorandum to accompany their proposed Congressional District maps (hereinafter "Ramos Congressional Proposal") for the New York City Congressional delegation. The Ramos Congressional Proposal is based in large part on the Unity Plan previously submitted to defendant LATFOR by a coalition of non-partisan civil rights and voting rights organizations, namely the Asian American Legal Defense & Education Fund ("AALDEF"), the Center for Law & Social Justice ("CLSJ"), LatinoJustice PRLDEF and the National Institute for Latino Policy ("NiLP").

From 2010 to date, LatinoJustice PRLDEF worked in collaboration with a wide spectrum of Latino community-based advocates, non-partisan organizations, political networks and residents in order to become familiar with the community of interests that were sources of local intelligence.

The purpose of this community engagement was to gauge community priorities and suggestions with the concomitant primacy of the United States Constitution, New York Constitution and Voting Rights Act on redistricting.

The right to have fair voter registration, fair ballot access, and the realized promise of electoral opportunities for Latino minority voters have been attained, in large part, by decades of community advocacy and enforcement of the Voting Rights Act.

The Unity Map sponsors, the AALDEF, CLSJ, LatinoJustice PRLDEF and NILP followed the fundamental principles of redistricting, namely, “one person, one vote” population equality under the U.S. Constitution’s Equal Protection clause, *Wesberry v. Sanders*, 376 U.S. 1 (1964), *Reynold v. Sims*, 377 U.S. 533 (1964), and, the Voting Rights Act, 42 U.S.C. § 1973, in their construction of the Unity Plan, along with traditional mapping criteria, such as, compactness, contiguity, and respect in preserving communities of interest.

The Ramos Congressional Proposal similarly follows these principles. In fact, but for making small modifications to Congressional districts 7, 8, 12, 14, 15, and 16, the Ramos Congressional Proposal is almost identical to the original Unity Plan.

The Ramos Congressional Proposal worked with the ideal population measure of 717,070 in each Congressional District (“CD”). Our goal was to create districts that had zero percent deviation to satisfy the legal standard of population equality. Under the proposed Ramos CDs-Unity Maps, any deviation within a district was limited to one person.

As noted above, the Ramos Congressional Proposal focuses on New York City only. As the Court is aware, New York State must reduce its congressional delegation by 2 Congressional districts, from 29 to 27, due to the 2010 reapportionment and the slower population growth in this state during the past decade.

The Ramos Congressional Proposal, as well as the Unity Plan upon which it is based, was supervised and crafted with an understanding of the federal Voting Rights Act. Section 5 of the Voting Rights Act requires preclearance of any new proposed changes and the obligation of officials to *not* retrogress the political strength of protected minorities in the covered jurisdictions of Bronx, New York and Kings Counties.

We are aware of the factors articulated in the U.S. Justice Department's final rules (2011) respecting Section 5 preclearance and its application to redistricting plans from covered jurisdictions. The 2006 Voting Rights Act Reauthorization and Amendments Act (VRARA), 42 U.S.C. §1973c, had enacted a revised standard of retrogression designed to overturn the Supreme Court's decision in *Georgia v. Ashcroft*, 539 U.S. 461 (2003). U.S. Justice Department's promulgated Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act; Notice, 76 Fed. Reg. 7470, 7471 (Feb. 9, 2011) and Revision of Voting Rights Procedures, 76 Fed. Reg. 21239, 21240 (Apr. 15, 2011).

Moreover, Congress believed that

“[the] gains made by minority communities in districts represented by elected officials of the minority communities' choice would be jeopardized if the retrogression standard, as altered by the Supreme Court in *Georgia*, remain[ed] uncorrected by Congress.” *See*, H.R. Rep. No. 109–478, at 70. “In an attempt to restore the simpler, ‘ability to elect’ analysis ... Congress added new language to the (VRARA) Act, stating that all voting changes that diminish the ability of minorities ‘to elect their preferred candidates of choice’ should be denied preclearance under Section 5.”

LaRoque v. Holder, 2011 WL 6413850, *70 (D.D.C. Dec. 22, 2011).

Federal courts have not been required to preclear redistricting plans that they have prepared and adopted. *See, Connor v. Johnson*, 402 U.S. 690, 691 (1971)(*per curiam*).

We believe that our assiduous efforts to comply with VRA Section 5's are reflected in the modified Unity Plan's Congressional maps with the Ramos Congressional Proposal.

Our technical mapping of proposed district lines relied on mapping expertise and consultants trained in the use of Maptitude, the premier software used for political redistricting and mapping analysis. US Census data files, including the Census 2000, Census 2010, and PL-94 data files

were also purchased, conformed, and loaded into files for use in the mapping software.

The final iteration of the Unity Plan's Congressional Maps was developed and submitted in December 2011 to LATFOR as well as released to the public. The Unity Plan and its supporting demographic data were posted on the Redistricting section of LatinoJustice PRLDEF's website (www.latinojustice.org) and circulate by all of the Unity Plan's sponsors. As noted above, the Ramos Congressional Proposal is our updated version of the Unity Plan that only modifies 5 districts – otherwise these plans are almost identical. It has not been made public until now.

The Ramos Congressional Proposal as well as the Unity Plan upon which it is based focuses on redrawing districts for the downstate New York area for the counties of The Bronx, New York, Queens, Kings, Richmond, Nassau and Suffolk. These counties saw the State's greatest population increases and shifts among Latinos and other minority populations. These are also the counties most subject to attempted disenfranchisement and the use of unfair barriers that may disadvantage or understate the political needs of its large racial minority and immigrant populations. See, Juan Cartagena, Voting Rights In New York City: 1982–2006, NYU Review of Law and Social Justice, vol. 17:2, 501-575 (2008).

The Unity Plan represents the collective experience of Section 5 voting rights litigators from each of the Unity Plan sponsors. The primary purpose of the Unity Plan was to address the collective voting strength of each of the protected minorities under Section 5 in ways that did not compromise their respective voting strength and thereby avoid any retrogression. We respectfully submit that this joint engagement is the product of labor-intensive, community based efforts that permitted the Unity Plan sponsors to forge unanimity on a number of key elements of a joint plan – and indeed, much of the Unity Plan is adopted by the Ramos Plaintiffs-Intervenors.

The Ramos Congressional Proposal, however, goes further by securing effective Latino majority districts in New York and Bronx counties that reflect the voting strength of Latino voters in both counties, consistent

with both their demographic growth in those counties and the requirements of the Voting Rights Act. The Ramos Congressional Proposal is a product of continued and evolving communications between Latino community groups and voters since the submission of the Congressional Unity Plan in December 2011.

As stated above, although this Court need not submit a court ordered plan for preclearance review under Section 5, those principles must nonetheless guide this Court. “[In fashioning the plan, the court should follow the appropriate Section 5 standards...” *McDaniel v Sanchez*, 452 U.S. 130, 149, *Abrams v. Johnson*, 521 U.S. 74, 95 (1997). Indeed, the Ramos Congressional Proposal is realistic and more accurately reflects the steady growth of the Latino populations in the past 10 years while simultaneously maintaining Latino neighborhoods largely in place at their current CDs.

In New York City, none of the existing CDs were overly-populated above the ideal population under the 2010 Census. Thus, all new CDs would require building up their districts to make up the difference in population equality. For the Ramos Congressional Proposal as well as the Unity Plan, core areas of Latino, Asian American and Black voters were maintained in the original CDs drawn after the 2000 Census with one major exception:

To achieve our Unity Plan mandate, CD 9 (2000) previously held by Congressman Anthony Weiner and now, after his resignation, represented by Congressman Robert Turner, was eliminated in both the Ramos Congressional Proposal and the Unity Plan. Inasmuch as the State of New York must eliminate two congressional districts both the Ramos Congressional Proposal and the Unity Plan are premised on the ability to protect the viability of majority minority districts in downstate New York and avoid Section 5 retrogression of minority voting strength. Therefore, we distributed the populations and communities previously contained in CD 9 into the proposed adjacent districts.

Given the overall increase in the ideal population for each CD district our proposed district lines were drawn to both expand outward to capture

needed populations from adjacent areas and conform to the criteria of compactness, contiguity and respect for actual communities of interest.

In recent days, we have reviewed a few Unity Plan districts for the Latino community abased on valuable community input and suggestions. The Ramos Congressional Proposal’s modified CDs, are, in our view, a significant improvement over the prior corresponding numbered districts in the original Unity Plan. We have made adjustments to district lines by enhancing by small percentages the Latino community’s population numbers in 2 of the Congressional districts, with no retrogressive effect.

Unity CDs	% LatinoPop	% LatinoVAP	Ramos CDs	% LatinoPop	% LatinoVAP
7	50	47.6	7	46	43.4
12	44.6	41.6	12	44.6	41.6
15	52.1	49.4	15	58.4	55.8
16	65.1	64.2	16	61.2	59.8

The following analysis describes the particular districts in the Ramos Congressional Proposal Maps in pdf format along with supporting demographic data.

Ramos Plan CD 7

Neighborhoods include parts of: Astoria, College Point, Jackson Heights, East Elmhurst, Corona, Woodside, Locus Point, Throgs Neck, County Club, Pelham Bay, Morris Park, Pelham Gardens, Bronxdale, and Pelham Gardens.

The Ramos Plan’s CD 7 retains the core of the existing CD 7(2000). The most significant changes are the addition of Astoria to and the loss

of Parkchester in the Bronx from the new Ramos District 16. Astoria was added in order to: 1) meet the total population requirement (717,707), 2) unite communities in Astoria with other Queens communities (previously, Astoria was in a mostly Manhattan-based district), and, 3) nest the majority of Senate District 12 inside the Ramos District 7, which reflects the desire of community residents and groups.

The neighborhoods of Ramos CD 7 are all connected by available transportation hubs. They share substantially similar demographic and socio-economic profiles.

Ramos District 7 is covered under Section 5 of Voting Rights Act.

RAMOS Plan CD 12

Neighborhoods include parts of: Greenpoint, Cyprus Hill, Woodhaven, Bushwick, Chinatown, Cobble Hill, the Gowanus, Ridgewood, Williamsburg and Sunset Park.

The Ramos Plan's district 12 retains the core of the existing CD 12 (2000). The most significant change is the addition of the Woodhaven neighborhood in Queens. The community there was very insistent that they not be split up again as they were in the previous redistricted plan. The Woodhaven neighborhood was added in order to 1) meet the total population requirement (717,707), 2) unite Latino Woodhaven with neighboring Latino communities, including Cypress Hills, Bushwick, and Ridgewood, in one district, and, 3) maintain CD 12 as a strong Latino district (44.6%) that enjoys crossover support especially from Asian American voters and one that has consistently elected a Hispanic representative for years."

In addition to adding Woodhaven, the Ramos Plan district 12 keeps the Sunset Park Asian community together by expanding the southern portion of the current district to include the southeast portion of Sunset Park, where significant Asian population growth has taken place. The Sunset Park community continues to be represented by the same elected official as Chinatown, which both communities insisted was important. These

communities share substantially similar demographic and socio-economic profiles.

Ramos District 12 is covered under Section 5 of Voting Rights Act.

Ramos Plan CD 15

Neighborhoods include parts of: West Harlem, Washington Heights, Inwood, Kingsbridge Heights, Marble Hill, Belmont, University Heights and Morris Heights,.

The compact Ramos Plan's CD 15 retains the core of the existing CD 15 (2000). The most significant change is the inclusion of a larger portion of the Northwest section of the Bronx. The communities of upper Manhattan and the Northwest Bronx have similar demographics and are both predominantly low and moderate income households. There is much commerce, economic cooperation and travel among these communities

The Northwest Bronx community was added in order to 1) meet the total population requirement (717,707), 2) unite Upper Manhattan and Northwest Bronx communities of interest, and, 3) consolidate areas based on respect for communities of interest.

Ramos District 15 is covered by Section 5 of the Voting Rights Act.

Ramos Plan CD 16

Neighborhoods include parts of: East Harlem, Bronx Park South, Concourse Village, Claremont, Mott Haven, Morissania, Melrose, Hunts Point, Longwood, Highbridge, Bathgate, East Tremont, Van Nest, Bronx River, Soundview, Bruckner, Castle Hill, Clason Point, Mount Eden and Union Point.

The Ramos Plan's CD 16 retains the core of the existing CD 16 (2000). The most significant change is the inclusion of El Barrio (Spanish Harlem), a thriving historic Latino enclave in Manhattan. The latter portion was added in order to 1) meet the total population requirement (717,707), 2) unite communities in "El Barrio" (Spanish Harlem) with

neighboring communities in Mott Haven and Hunts Point, and 3) nest the majority of Senate District 28 within Congressional District 16.

The neighborhoods of Ramos District 16 are all connected by all available transportation hubs. They have a similar demographic and socio-economic profile of many low and moderate income households.

Ramos District 16 is covered under Section 5 of Voting Rights Act.

Attachments

Unity Plan- Congressional Districts Plan, adjusted with Ramos CDs (1)

Ramos Congressional Districts (4)

Racial Breakdown by CD Data - Spreadsheet