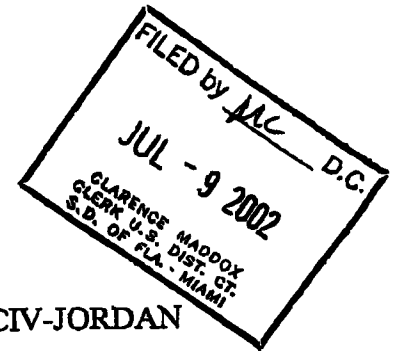


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION



HONORABLE RAUL L. MARTINEZ, et al.)
Plaintiffs)

vs.)

JOHN ELLIS "JEB" BUSH, et al.)
Defendants)

CASE NO. 02-20244-CIV-JORDAN

GEORGE MAURER)
Plaintiff)

vs.)

STATE OF FLORIDA, et al.)
Defendants)

CASE NO. 02-10028-CIV-JORDAN

**ORDER GRANTING SPEAKER'S MOTION FOR EMERGENCY RELIEF AND
ENACTING INTERIM REMEDIAL STATE HOUSE PLAN¹**

For the reasons which follow in summary form, Speaker Feeney's motion for emergency relief [D.E. 310 in *Martinez v. Bush*, No. 02-20244-Civ-Jordan] is GRANTED, and the remedial plan proposed by the Speaker – as set forth in the Speaker's Composite Exhibit D from the July 8, 2002, hearing – is hereby enacted by the three-judge court as an interim remedial state house redistricting plan for the 2002 elections. This ruling will be set forth in more detail when the court issues its findings of fact and conclusions of law.

On July 1, 2002, the Department of Justice interposed an objection under § 5 of the Voting Rights Act, 42 U.S.C. § 1973c, to Florida's redistricting plan for the state house of representatives. The DOJ concluded that proposed state house district 101 was retrogressive with respect to Hispanic voters. In "all other respects," the DOJ found that Florida had satisfied its burden of proof under § 5. The effect of the DOJ's objection is to render the state house redistricting plan unenforceable. *See Clark v. Roemer*, 500 U.S. 646, 652 (1991); *Connor v. Waller*, 421 U.S. 656, 656-57 (1975).

¹The clerk is directed to file this order in both cases.

Given the impending critical dates for elections, and the representation by Governor Bush's counsel that there is no intention to convene a special session of the legislature, Speaker Feeney and the *Martinez* plaintiffs have asked the court to draw a state house plan. Although redistricting is primarily a legislative matter, in these circumstances – where time is of the essence – the court has the authority to draw an interim remedial plan. *See, e.g., Connor v. Williams*, 404 U.S. 549, 552 n.4 (1972); *Terrazas v. Clements*, 537 F. Supp. 514, 537-38 (N.D. Tex. 1982).

The Speaker's proposed remedial plan is exactly the same as the state house plan enacted by the legislature in March of 2002, except for three districts (new proposed districts 76, 101, 112) which were modified in an attempt to cure the § 5 problem noted by the DOJ. The *Martinez* plaintiffs' proposed remedial plan, on the other hand, modifies eleven or twelve districts (new proposed districts 76, 101, 102, 103, 104, 106, 107, 108, 109, 110, 112, and 113).² Because the Miami-Dade districts challenged by the *Martinez* plaintiffs are unaffected, the court has considered all of the statutory and constitutional claims made by the plaintiffs, but has concluded that the plaintiffs have failed to meet their burden as to all of those claims. Accordingly, there is no legal infirmity that needs to be remedied with respect to the proposed districts that were not objected to by the DOJ.


After examining both proposed remedial plans, the evidence presented at yesterday's hearing, and the evidence presented at trial, the court concludes that the Speaker's plan is preferable. Exercising plenary review, the court holds that both proposed plans solve the § 5 problem with respect to district 101. The Speaker's plan, however, provides a remedy that is more appropriately tailored to the DOJ's § 5 objection because it affects only three districts and leaves intact those other districts which were part of the state house plan originally enacted by the legislature. As the Supreme Court has explained, those unaffected districts do warrant some deference: "[I]n the absence of any objection to . . . districts by the Attorney General, and in the absence of any finding of a constitutional or statutory violation with respect to those districts, a court must defer to the legislative judgments the plan[] reflect[s], even under circumstances in which a court order is

²At the hearing on Monday, July 8, 2002, counsel for Speaker Feeney pointed out that the *Martinez* plaintiffs' proposed remedial plan modifies twelve house districts geographically, but that in one of these districts the geographic change does not appear to affect any population.

required to effect an interim legislative apportionment plan.” *Upham v. Seamon*, 456 U.S. 37, 40-41 (1982).

Secretary of State Harris is directed to take appropriate measures as are necessary to conduct the 2002 elections for the state house under the interim remedial plan enacted by the court.³

DONE and ORDERED in chambers in Miami, Florida, this 9th day of July, 2002.



Adalberto Jordan
United States District Judge
for the Three-Judge Court

Copy to: All counsel of record and *pro se* parties
Hon. Gerald B. Tjoflat
Hon. Robert L. Hinkle

³Should any further judicial action be needed to implement the court’s interim remedial plan, Secretary Harris or the parties can file the appropriate motions.