

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT  
 WESTERN DISTRICT OF WASHINGTON  
 AT SEATTLE**

SUSAN SOTO PALMER, et al.,  
  
 Plaintiffs,  
  
 v.  
 STEVEN HOBBS, et al.,  
  
 Defendants,  
  
 and  
 JOSE TREVINO, et al.  
  
 Intervenor-Defendants.

NO. 3:22-cv-05035-RSL  
  
 CLOSING STATEMENT OF  
 DEFENDANT STEVE HOBBS

BENANCIO GARCIA III,  
  
 Plaintiffs,  
  
 v.  
 STEVE HOBBS, et. al.  
  
 Defendants.

No. 3:22-cv-05152-RSL-DGE-LJCV

Defendant Secretary of State Steve Hobbs continues to take no position on whether the *Soto Palmer* plaintiffs have established a violation of a Voting Rights Act (VRA) or on whether the *Garcia* plaintiff has established a violation of the Fourteenth Amendment. Secretary Hobbs addresses only two issues in this statement: (1) allegations of racial disproportionality in the

1 signature verification process, and (2) the appropriate remedy if this Court invalidates existing  
2 legislative district maps.

3 This Court should decline to make any findings related to allegations that the signature  
4 verification process disproportionately affects Latino<sup>1</sup> voters. The evidence does not support  
5 such a finding, and such a finding is not necessary to resolution of the case, regardless of the  
6 ultimate outcome. The topic of signature verification came up only in a narrow way. With respect  
7 to the *Soto Palmer* plaintiffs' VRA claim,<sup>2</sup> the expert report of Dr. Josué Estrada addressed six  
8 of the "Senate Factors." Dkt 104-2 (Ex. B) at 7-8. With respect to one of those six factors (Factor  
9 Three), Dr. Estrada addressed two topics: non-presidential-election-year elections for the state  
10 senate position and alleged disproportionate signature rejection. *Id.* at 43-46. As Dr. Estrada  
11 acknowledged at trial, his discussion of alleged disproportionate signature rejection is based on  
12 a news article published on the website Crosscut.com, which reported on a study by a "non-  
13 profit agency." *Id.* at 45-46; VRP (June 2, 2023) at 150:17-151:7. That study was not admitted  
14 into evidence in this case, nor did Dr. Estrada testify that he personally reviewed the study itself.  
15 Dr. Estrada also did not conduct an independent analysis. VRP (June 2, 2023) at 152:3-5. This  
16 double hearsay in an expert report is scant evidence to justify a finding that the signature  
17 verification process discriminates against Latino voters. The direct evidence from trial points in  
18 the opposite direction. Susan Soto Palmer testified that she has voted in every election and did  
19 not identify any signature verification issues. VRP (June 5, 2023) at 290:1-5. Gabriel Portugal  
20 went even further, testifying that voting in Washington is "very easy" for him. VRP (June 7,  
21 2023) at 840:18-20. In identifying barriers others in the Latino community had faced, signature  
22 verification was conspicuously absent. VRP (June 7, 2023) at 840:21-841:14.

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<sup>1</sup> In this filing, the Secretary uses the term "Latino" interchangeably with the use of "Hispanic" at trial.

<sup>2</sup> This topic is also conceivably relevant to *Garcia* plaintiff's Fourteenth Amendment racial gerrymandering claim, if the Court reaches the issue of whether the need to create a VRA district was a compelling governmental interest. *See, e.g., Wisconsin Legislature v. Wisconsin Elections Comm'n*, 142 S. Ct. 1245, 1248 (2022) (per curiam) (reflecting longstanding assumption that VRA compliance can satisfy strict scrutiny).

1           The resolution of allegations about disproportionate signature rejection is better left to  
 2 other pending lawsuits in which the issue is more squarely presented: *Reyes v. Chilton*, No. 4:21-  
 3 cv-5075 (E.D. Wash.), an as-applied challenge to the signature verification process in three  
 4 central Washington counties, and *Vet Voice Foundation v. Hobbs*, No. 22-2-19384-1 SEA  
 5 (Wash. King Cnty. Super. Ct.), a facial challenge to the statute requiring signature verification.<sup>3</sup>  
 6 Those lawsuits will have a more developed factual record on the topic.

7           A finding of fact related to an allegedly disproportionate impact of signature verification  
 8 on Latino voters is also unnecessary. Such a finding is not necessary in order to rule in favor of  
 9 any party. It is not necessary to rule in favor of *Soto Palmer* plaintiffs, as Dr. Estrada testified  
 10 that, even without consideration of the allegedly disparate impact of the signature verification  
 11 process, he would conclude that a totality of the circumstances analysis weighs in favor of the  
 12 VRA requiring a majority Latino district. VRP (June 2, 2023) at 152:6-25. And such a finding  
 13 is certainly not necessary to rule in favor of the State or the *Garcia* plaintiff.

14           On the question of the appropriate remedy, if the Court invalidates the existing legislative  
 15 district map, the Secretary largely takes no position. The Secretary's one limited position on this  
 16 issue is the Office of the Secretary of State is *not* the appropriate entity to create new maps. The  
 17 Secretary's role, together with county elections officials, is to *administer* election maps, not to  
 18 draw them. Further, pursuant to the Agreed Facts adopted by the parties, any new map must be  
 19 final and transmitted to counties no later than March 25, 2024, if it is to be implemented for the  
 20 2024 election cycle without significant disruption. *Soto Palmer*, Dkt. 191 at 20 (¶ 124); *Garcia*,  
 21 Dkt. 64 at 12 (¶ 85); *see also Soto Palmer*, Dkt. 179 at 2-6 (declaration of Director of Elections  
 22 Stuart Holmes discussing deadlines); *Garcia*, Dkt. 59 at 2-6 (same).

23           While the Secretary does not specifically advocate this proposal, there is an alternative  
 24 to assigning responsibility to a single entity. This Court could enter an order providing the State  
 25 of Washington an opportunity to adopt revised legislative districts pursuant to the process set

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26           <sup>3</sup> This Court can take judicial notice of the existence of these cases pursuant to Fed. R. Evid. 201(b)(2).

1 forth the Washington Constitution and state statute. *See* Wash. Const. art. II, § 43(8); Wash. Rev.  
2 Code § 44.05.120. By statute, that would require a reasonable period of time for the Governor  
3 to call a special session and for the Legislature to re-convene the Commission, 60 days for the  
4 reconvened commission to make revisions, and 30 days for the Washington Legislature to amend  
5 the Commission’s modification. Wash. Rev. Code § 44.05.120(4)-(5). Simultaneously, the Court  
6 could appoint a special master to create maps to be implemented if the State fails to adopt new  
7 maps that could be transmitted to counties by March 25, 2024. This would require some nuance.  
8 If the special master’s contingency maps are made public before the Commission has an  
9 opportunity to adopt a revised map, the existence of those maps may unnecessarily skew  
10 negotiations and prevent compromise. On the other hand, the special master’s proposed  
11 contingency maps would have to be shared with elections officials sufficiently ahead of  
12 March 25, 2024, to allow for any technical corrections that may be necessary.

13           RESPECTFULLY SUBMITTED this 12th day of July, 2023.

14                                   ROBERT W. FERGUSON  
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**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 12th day of July 2023, at Olympia, Washington.

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