

Nos. 23-35595 & 24-1602

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

SUSAN SOTO PALMER, et al.,
Plaintiff-Appellees,

v.

STEVEN HOBBS, in his official capacity as Secretary of State of Washington, and
the STATE OF WASHINGTON,
Defendant-Appellees,

and

JOSE TREVINO, ISMAEL G. CAMPOS, and State Representative ALEX
YBARRA,
Intervenor-Defendant-Appellants.

On Appeal from the United States District Court
for the Western District of Washington
Case No. 3:22-cv-05035

Hon. Robert S. Lasnik

INTERVENOR-APPELLANTS' FURTHER EXCERPTS OF RECORD

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SUSAN SOTO PALMER, et al.,)	C22-5035-RSL
)	
Plaintiffs,)	
v.)	SEATTLE, WASHINGTON
)	
STEVEN HOBBS, et al.,)	
)	March 8, 2024 -
Defendants.)	1:30 p.m.
)	
)	
JOSEPH TREVINO, et al.,)	EVIDENTIARY HEARING
)	
Intervenor-Defendants.)	
)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiffs:	Annabelle Harless Campaign Legal Center 55 W. Monroe Street, Suite 1925 Chicago, IL 60603
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Proceedings stenographically reported and transcript produced with computer-aided technology

1 A Again, it's up for the court to decide if that's significant
2 or not.

3 Q Okay. Now, you grew up in Southwest Washington, correct?

4 A Clark County, Vancouver, Washington.

5 Q America's Vancouver, correct?

6 A America's Vancouver, absolutely.

7 Q And you attended the University of Washington?

8 A In Seattle, yes.

9 Q Okay. Based on this, you would agree that you have personal
10 knowledge surrounding the different areas in Washington State and
11 their partisanship and racial demographics of where certain races
12 and political leanings lie throughout the state of Washington?

13 THE COURT: Just in general.

14 Q Generally. You have general knowledge of this, correct?

15 A Very general knowledge, but nothing specific.

16 Q Okay. Now -- just a minute here. I like Post-it notes,
17 Professor.

18 A Well, they're useful.

19 Q They are. Something you and I agree on, those notes are
20 useful.

21 A Yes, yes.

22 Q Now, what tasks were you given when you were retained by
23 plaintiffs to draw these proposed remedial maps?

24 A As I stated, to rely on Washington's redistricting criteria
25 and traditional redistricting principles to craft a remedial

1 Legislative District 14 that unites populated centers from East
2 Yakima to Pasco, along the Yakima Valley region, that the court
3 has identified as a community of interest, and then to also not
4 rely on any race, ethnicity, partisan, political, or electoral
5 data while doing so.

6 Q Did you review the court orders that were associated with
7 crafting this remedial map?

8 A Is "order" the same as an opinion?

9 Q Yes, among other things. There were several that kind of
10 came through the process here.

11 A No, I did not review any of those.

12 Q Okay. Did you review the opinion?

13 A No, I did not.

14 Q Okay. So you don't know exactly specifically what the court
15 ordered or requested be done because you never reviewed those
16 orders, correct?

17 A The only thing I know is what counsel told me.

18 Q Okay. What was your involvement with Dr. Collingwood during
19 this process --

20 A No involvement.

21 Q -- or did you have any interaction with him regarding these
22 maps?

23 A I did not have any interactions with him, but I do understand
24 that my maps, after they were completed, were shared with
25 Dr. Collingwood, and which he just testified he conducted

1 performance analysis on.

2 Q And you were in the courtroom when I was asking questions of
3 Dr. Collingwood, correct?

4 A Yes, I was.

5 Q He said he was unsure whether or not there were multiple
6 rounds of back-and-forth. Do you recall whether or not you
7 received any feedback from plaintiffs' counsel surrounding
8 Dr. Collingwood's statistical analysis and then made some
9 revisions and submitted new maps?

10 A My memory is actually very clear on this. I created five
11 maps, Remedial Maps 1 through 5. I submitted that to counsel.
12 And then, later on, I submitted Maps 1 through 5 -- 1A
13 through 5A, and then submitted that. Two occasions.

14 Q There were no back-and-forth?

15 A No.

16 Q Okay. I'm going to pull up your initial report. And you
17 kind of touched on this. I just want to take a look at this.
18 This is in ECF 245-1. And I'm going to look at page 3 of your
19 report, paragraph 8.

20 A Which report is that, the first one or --

21 Q Yes. This is your December 1st, 2023 report.

22 A And you said page 8?

23 Q Page 3. And I'm looking at the bottom page numbers on your
24 report.

25 A Okay. I have it up.

1 Q Do you see that there?

2 A Yes. Page 3, yes.

3 Q And you had stated here, you said, "I prepared" -- you talked
4 about traditional maps and you were given specific geographical
5 criteria that the plaintiffs' counsel wanted included in this
6 particular map, correct? You said you were asked to draw a map
7 that unites East Yakima with the Lower Yakima Valley. Do you see
8 that there in paragraph 8?

9 THE COURT: You can look at the screen if you want.

10 THE WITNESS: Thank you, Your Honor.

11 A Paragraph 8 says, "I prepared four remedial plans that
12 satisfy all of the above requirements, Plaintiffs' Remedial Maps
13 1 through 4."

14 I think that was different from what you just said.

15 Q And then you read on in that paragraph, and it talks about
16 how you were asked to draw another map --

17 A Yes, yes, yes.

18 Q -- that unites East Yakima with the Lower Yakima Valley?

19 A Yes. I believe you're talking about the one that does not
20 include Pasco, which would be Map 5 and 5A.

21 Q Okay. In the other four maps, aside from Map 5, were you
22 provided any type of geographical guidance of what plaintiffs
23 felt needed to be included in these maps --

24 A No.

25 Q -- about where the communities of interest were

1 geographically?

2 A Well, they just said that the court stated that it's from
3 East Yakima, along the Yakima Valley region, the population
4 centers that go through Pasco. That's the extent of the
5 information they shared with me.

6 Q Okay. Do you know if plaintiffs' counsel consulted any
7 racial or political data before they provided you with guidance
8 of what regions they wanted included in your proposed maps?

9 A They didn't provide guidance on specific regions, and I have
10 no idea what counsel or plaintiffs looked up or did.

11 Q Do you believe East Yakima is a specific region that they
12 gave you, they wanted included in a particular map?

13 A I was told that that is the region that forms a community of
14 interest that the court had identified, that this was not their
15 opinion.

16 Q Okay. Are you aware that the east side of Yakima is the
17 predominantly Latino side of Yakima, with the west side being the
18 white side of Yakima?

19 A I did not rely on any race and ethnicity data to know that.

20 Q So you didn't know this when you drew the map?

21 A No.

22 Q Is it possible that plaintiffs' counsel knew this when they
23 asked you to draw a map that included this side of Yakima?

24 A I cannot speculate as to what the plaintiffs' counsel knew or
25 did not know.

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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.

Case No.: 3:22-cv-05035-RSL

ORDER

The Court has now inquired regarding the conflict of interest issues raised by the State of Washington. Dkt. # 150. Having heard from counsel and reviewed the client affidavits submitted on March 9, 2023, the Court finds that the Intervenor-Defendants have been adequately informed of the potential conflicts arising from counsels' representation of multiple individuals and that the clients' litigation positions are not directly adverse to each other.

Dated this 13th day of March, 2023.



Robert S. Lasnik
United States District Judge

UNITED STATES DISTRICT COURT
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AT SEATTLE

SUSAN SOTO PALMER, *et al.*,

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Defendants.

Cause No. C22-5035RSL

ORDER GRANTING MOTION TO
INTERVENE

This matter comes before the Court on a “Motion to Intervene” filed by Jose Trevino (a resident of Granger, Washington), Ismael Campos (a resident of Kennewick, Washington), and Alex Ybarra (a State Representative and resident of Quincy, Washington). Dkt. # 57. Plaintiffs filed this lawsuit to challenge the redistricting plan for Washington’s state legislative districts, alleging that the Washington State Redistricting Commission (“the Commission”) intentionally configured District 15 in a way that cracks apart politically cohesive Latino/Hispanic¹ populations and placed the district on a non-presidential election year cycle in order to dilute Latino voters’ ability to elect candidates of their choice. Plaintiffs assert a claim under Section 2

¹ The Complaint and this Order use the terms “Hispanic” and “Latino” interchangeably to refer to individuals who self-identify as Hispanic or Latino and to persons of Hispanic Origin as defined by the United States Census Bureau and United States Office of Management and Budget.

protected interest and the plaintiff’s claims.” *Kalbers v. United States Dep’t of Justice*, 22 F.4th 816, 827 (9th Cir. 2021) (citation omitted). “The interest test is not a clear-cut or bright-line rule, because no specific legal or equitable interest need be established. . . . Instead, the ‘interest’ test directs courts to make a practical, threshold inquiry and is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process.” *United States v. City of Los Angeles*, 288 F.3d 391, 398 (9th Cir. 2002) (internal quotation marks, citations, and alterations omitted). “The relationship requirement is met if the resolution of the plaintiff’s claims actually will affect the applicant.” *Id.*

Intervenors Trevino and Campos claim “an interest in ensuring that any changes to the boundaries of [their] districts do not violate their rights to ‘the equal protection of the laws’ under the Fourteenth Amendment” Dkt. # 57 at 6. Representative Ybarra claims “a heightened interest in not only the orderly administration of elections, but also in knowing which voters will be included in his district.” *Id.* All three intervenors claim an interest in the boundaries of the legislative districts in which they find themselves and “in ensuring that Legislative District 15 and its adjoining districts are drawn in a manner that complies with state and federal law.” *Id.* at 6-7.

As an initial matter, under Washington law, intervenors have no right or protectable interest in any particular redistricting plan or boundary lines. The legislative district map must be redrawn after each decennial census: change is part of the process. Intervenors, in keeping

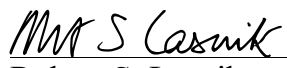
percipient witness from whom discovery is necessary, those issues can be heard and determined through motions practice as the case proceeds.

(4) Other Relevant Factors

After considering the various factors set forth in *Spangler*, 552 F.3d at 1329, the Court finds that, although intervenors lack a significant protectable interest in this litigation, the legal positions they seek to advance in opposition to plaintiffs' Section 2 claim are relevant and, in the absence of other truly adverse parties, are likely to significantly contribute to the full development of the record and to the just and equitable adjudication of the legal questions presented.

For all of the foregoing reasons, the motion to intervene (Dkt. # 57) is GRANTED. Intervenor shall file their proposed answer (Dkt. # 57-1) within seven days of the date of this Order. The case management deadlines established at Dkt. # 46 remain unchanged.

Dated this 6th day of May, 2022.


Robert S. Lasnik
United States District Judge

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Document	File Date	USDC Dkt. No.	ER No.
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