

LONE STAR PROJECT

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December 5, 2005

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Republicans Respond to DOJ Redistricting Memo with False and Misleading Statements

Facts refute Republican claims on DeLay redistricting plan

False Claim One – Republican officials claim that the three-judge Federal District court reviewed all relevant voting rights claims before handing down its decision and, thereby, justified the political appointee decision in support of DeLay’s Plan.

- “A three-judge federal court has exhaustively reviewed the record and unanimously found the plan to be constitutional...” said Hale (Angela Hale for Attorney General Greg Abbott, Source: Houston Chronicle, 12/3/05)

FACT: Under federal law, when a state submits its redistricting plan to the Voting Rights Section of the Justice Department, the State bears the burden of proof that the plan does not violate Section 5 of the Voting Rights Act. (Section 5 is the federal law that prevents the weakening of minority voting strength within a state) If the Justice Department pre-clears (approves) a State’s redistricting plan, that decision is not reviewable by any court. (See *Morris v. Gressette*) Once pre-cleared by DOJ, the State no longer has any burden to further prove that the plan abides by the Voting Rights Act (VRA), and no one can make any claims that the plan violates Section 5. A Federal District Court reviewing the plan does so with the knowledge that legal concerns under Section 5 have already been resolved by the Department of Justice and that the court cannot review DOJ’s decision. While a party can still go into court after DOJ pre-clearance and challenge a redistricting plan as illegal, the burden of proof is on the party trying to prove that the plan is discriminatory. Equally important, a party challenging a plan on the grounds that it violated the VRA after the plan has already been pre-cleared bears a heavier burden, it must meet higher legal standards, and is subject to more stringent legal tests than those that existed when the plan was before DOJ for pre-clearance.

Southern Methodist University political scientist Cal Jillson said “For all the courts knew, the Justice Department was unanimous and firm that it was a legal redistricting process. The courts didn’t know the professionals said it was not.....” (Source: San Antonio Express-News, 12/3/05)

False Claim Two – Most cynically, Republicans claim that the Delay plan increases the number of African American districts from two to three

- “DeLay spokesman Kevin Madden pointed out that in the end, the process produced one more African American seat than the two previous maps adopted.” (source: Austin American Statesman, 12/3/05)

FACT: This claim is based solely on the obvious observation that Al Green is an African American and that Martin Frost and Chris Bell are Anglos. Minority opportunity districts are defined by the race of the controlling population in the district **NOT** by the race of the person elected. The DeLay Plan actually reduced the number of African American opportunity districts from four to only three. (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2005) The Department of Justice memo details that the district currently electing Congressman Al Green was already an effective African American district prior to the DeLay changes. Further, the DOJ memo states that the 24th District, previously represented by Martin Frost, was an effective African American opportunity district dismantled by DeLay and never replaced.

- “Benchmark 25 (Bell) appears to be a safe minority district where minority voters have the ability to elect the candidate of their choice.” (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2003, page 36)
- “In fact, it appears that proposed 9 (A Green) is much stronger than it needs to be to provide minority voters with the ability to elect.” (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2003, page 41)
- **“black voters have the ability to elect the candidates of their choice in 18 (Jackson Lee), 24 (Frost), 25 (Bell), and 30 (Johnson). In the proposed plan, black voters can no longer elect their candidate of choice in proposed 24 (Frost). (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2003, page 31)**

Texas African American Opportunity Districts

Pre-DeLay Plan	DeLay Plan
1. Dist. 18 (Jackson Lee)	1. Dist. 9 (A. Green)
2. Dist. 24 (Frost)*	2. Dist. 18 (Jackson Lee)
3. Dist. 25 (Bell)	3. Dist. 30 (EB Johnson)
4. Dist. 30 (EB Johnson)	

*Eliminated as AA Opportunity District under the DeLay Plan

False Claim Three: Republicans say that the pre-DeLay Plan had 11 majority-minority districts and the current DeLay plan has 11 majority-minority districts.

FACT: This statement is meant to intentionally mislead people to believe that minorities enjoyed the same voting strength and controlled the same number of districts under the previous congressional district plan as they do under DeLay’s plan. Districts are considered safe minority opportunity districts when it has been demonstrated that a minority group possesses an effective opportunity to elect the candidate of their choice. Very often, particularly in Hispanic areas, districts contain an over 50 percent minority population but do not have the voting strength to elect the candidate of their choice. Under the DeLay plan, the number of minority opportunity districts was reduced by two – one African American opportunity district and one Hispanic opportunity District.

- “black voters have the ability to elect the candidates of their choice in 18 (Jackson Lee), 24 (Frost), 25 (Bell), and 30 (Johnson). In the proposed plan, black voters can no longer elect their candidate of choice in proposed 24 (Frost). (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2003, page 31)
- “There is classic retrogression in the benchmark 23 (Bonilla)... With the extreme level of polarization in the district, Hispanic voters simply no longer have the ability to elect their candidate of choice.” (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2003, page 68)
- **“in the end we concluded there was a net reduction of one “safe” Hispanic seat and one “safe” black seat...”** (Source: DOJ Section 5 Recommendation Memorandum, December 12, 2003, page 71)

Pre-DeLay Plan	DeLay Plan
1. <i>Dist.15 Hisp (Hinojosa)*</i>	1. Dist. 9 AA (A. Green)
2. Dist.16 Hisp (Reyes)	2. Dist. 16 Hisp (Reyes)
3. Dist. 18 AA (Jackson Lee)	3. Dist. 18 AA (Jackson Lee)
4. Dist. 20 Hisp (Gonzalez)	4. Dist. 20 Hisp (Gonzalez)
5. <i>Dist. 23 Hisp (Bonilla)*</i>	5. <i>Dist. 25 Hisp (Doggett)**</i>
6. <i>Dist. 24 AA (Frost)*</i>	6. Dist. 27 Hisp (Ortiz)
7. Dist. 25 AA (Bell)	7. Dist. 28 Hisp (Cuellar)
8. Dist. 27 Hisp (Ortiz)	8. Dist. 29 Hisp (G. Green)
9. Dist. 28 Hisp (Rodriguez)	9. Dist. 30 AA (EB Johnson)
10. Dist. 29 Hisp (G. Green)	
11. Dist. 30 AA (EB Johnson)	

* Eliminated as Minority Opportunity District Under DeLay Plan

** New Hispanic District under the DeLay Plan

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