

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LEAGUE OF UNITED LATIN
AMERICAN CITIZENS, ET AL.

vs.

RICK PERRY, GOVERNOR OF TEXAS
ET.AL.

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§
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§
§
§

CIVIL ACTION NO. 2:03-CV-354

Consolidated

LULAC's REPLY TO PROPOSED REMEDYS

The requirements for Court-ordered remedial plans are population equality, compliance with §§ 2 and 5 of the Voting Rights Act, remedying the violation, and maintaining the legislative “choices” in the previous districting plan. *Vera v. Bush*, 933 F. Supp. 1341 at 1347 (S.D. Tex. 1996).; *See, e.g., Wise*, 437 U.S. at 540, 98 S. Ct. at 2497; *Upham v. Seamon*, 456 U.S. 37, 44, 102 S. Ct. at 1522.

Below we compare each proposed remedy in light of the above criteria.

1. Population equality: Although most of the plans submitted attempt to achieve complete population equality, they do so by splitting voting tabulation districts (VTDs, roughly equivalent to voting precincts) and instead have drawn their plans at the census block level. Only the LULAC plans avoid splitting any VTDs.¹ Because there has been some issue raised that the LULAC plans have small (less than 1%) deviation we have modified Plans A and B to reduce deviation to 00.16% and cut no 2006 vtds (Plans 1428 and 1429). As a consequence, LULAC Plans A and B do not have absolute population equality. However, the

¹ The LULAC and Pate plans are drawn on the basis of the 2004 vtd's which is the base geography that is on the State's computer system. The 2006 vtd's are available as overlays and LULAC Plans 1426 and 1427 are modified to avoid cutting any 2006 vtds. Splitting vtds can create administrative problems for election administrators with special elections such as the ones contemplated in this case.

LULAC Plans are modeled in this respect after the rationale articulated by the District Court in *Bush v. Vera*, 933 F. Supp. 1341, 1348 (S.D. Tex. 1996). (“This Court has refused to redistrict at the census block level, one of the most pernicious features of the 1991 plan...The Court will view skeptically any final districting plan submitted by the state legislature that descends to districting at the census block level.” *Vera* 933 F. Supp. At 1348.) Accordingly, the LULAC plans population deviation is less than the level approved by the District Court in the *Vera* remedial plan and maintains existing VTDs.

2. Compliance with §§ 2 and 5 of the Voting Rights Act: The Supreme Court has already ruled that there is a violation of Section 2 of the Federal Voting Rights Act. Also, Justice Stevens was of the view that Section 5 was also violated by the state redistricting; however, that was not the holding of the court, *slip opinion*, Stevens at p. 36.
3. Tailoring the districts as closely as possible to the scope of the violation and effectuating "the legislative choices" in the previous districting plans. Conscious that the primary responsibility for drawing congressional districts is given to political branches of government, and hesitant to “und[o] the work of one political party for the benefit of another,” the three-judge Balderas court sought to apply “only ‘neutral’ redistricting standards” when drawing Plan 1151C. *Henderson*, 399 F.Supp.2d, at 768. Once the District Court applied these principles—such as placing the two new seats in high-growth areas, following county and voting precinct lines, and avoiding the pairing of incumbents —“the drawing ceased, leaving the map free of further change except to conform it to one-person, one-vote.” *Ibid*.

In this case, once the violation created by CD23 is cured, all the other districts become legislative intent districts. This is the reason that LULAC does not change CD25 because it should be considered as a legislative intent district. The Supreme Court

decision suggested changes in CD25 presumed they would be necessary to remedy the problems with CD23. In fact, CD23 can be cured without changing CD25 and there is no legal reason for this court to change CD25.

OVERVIEW OF THE PLANS

TABLE I
Changing the Racial Make up of the Respective CD's

Cong. District	State Demon.	LULAC A & B	Cong. Option	GI Forum	Jackson	Travis	Pate	Overstreet
10								
11								
20								
21	√							
23	√	√	√	√	√	√	√	√
25			√	√	√	√		√
28								√

Note: As can be seen, the LULAC and Pate plans are the only ones that change the racial make up of only one CD -- CD23 -- and leaves all the CD's the same. The State and The Jackson plans moves districts from one part of the state to another: The State moves CD 23 from the border area to northwest of Bexar County; the Jackson plan moves CD 25 from the Austin-Brownsville Area to Houston)

TABLE II
Changing the Partisan Make up of the Respective CD's

Cong. District	State Demon.	LULAC A & B	Cong. Option	GI Forum	Jackson	Travis	Pate	Overstreet
10								
11								
20								
21	√							
23	√		√	√	√	√		√
25			√					√
28								

Note: As can be seen, the LULAC and the Pate plans are the only one that do not change the partisan make up of any of the CD's; all the other plans change the partisan make up of at least one of the CDs.

Other Objective Criteria

Plan	Plan	Incumbents Paired	# of Cong. Dist. Changed	# of 2006 vtd splits *	Provides Proportional Latino Districts
State of Texas	1418C	Smith, Dogett	4	5	6
LULAC A*	1415C	Bonilla, Cuellar	5	0	7**
LULAC B*	1416C		4	0	7
American GI Forum (MALDEF)	1417C	Bonilla, Cuellar	6	44	6
Overstreet (Black Democrats)	1421C		5	20	6
Jackson (Texas Cong. Dem)	1406C	Bonilla, Cuellar	4	12	6
Travis County Remedial 1	1414C	Bonilla, Cuellar	6	26	6
Travis County Remedial 2	1413C		6	34	6
Congressional Incumbents (Rev.)	1422C		7	29	6
Pate	1407C	Bonilla, Cuellar	4	0	6

* These plans are drawn on the basis of the 2004 vtd's which is the base geography that is on the State's computer system. The 2006 vtd's are available as overlays and LULAC Plans 1426 and 1427 are modified to avoid cutting any 2006 vtds. Because there has been some issue raised that the LULAC plans have small (less than 1%) deviation we have modified Plans A and B to reduce deviation to 00.16% and cut no 2006 vtds (Plans 1428 and 1429).

** CDs 15, 16, 20, 23, 25, 27, 28.

Note: As can be seen, the LULAC Plans are the only ones that maintain proportional representation for Latinos: "... we accept the District Court's finding of 22%. [Latinos are 22% of the Citizen Voting Age Population]." Latinos are, therefore, two districts shy of proportional representation [Proportionally, they are entitled to seven (7) districts]. Justice Kennedy, *LULAC v Perry*, slip opinion at p.32.

Avoiding Packing Latinos in the Respective CD's (% HCVAP)

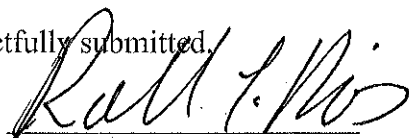
District	State Demon.	LULAC A & B	Cong. Option	GI Forum	Jackson	Travis	Pate	Overstreet
15	NC	NC	70.2	NC	NC	68.6/68.8	NC	NC
20	35	55.5/54.8	60.8	60.2	60.8	60.8/60.8	56.2	60.8
23	17.4	57.6/57.6	57.8	57.5	62.4	59.9/59.6	55.6	62.1
25	60.3	51.8/55.1	28.6	43	23.2	25.3/25.3	55.1	30.3
28	72.3	53.9/52.4	62.1	58.6	70.9	65.3/66.2	51.6	71.4

Note: As can be seen, the LULAC plan keeps the Latino CVAP in the mid 50's to avoid packing in any of the districts.

A district court fashioning a reapportionment plan or in choosing among plans, should not pre-empt the legislative task or 'intrude upon state policy any more than necessary.'" *Upham v Seamon*, 456 U.S. 37, at 41; *White v. Weiser*, 412 U.S., at 794-795 (citations omitted). LULAC's proposed remedy presents this court with plans in which the 23rd Congressional District is corrected to address the violation and, at the same time, has the least impact on the other districts to preserving the legislative intent.

DATED: July 21, 2006

Respectfully submitted,

By: 
Rolando L. Rios -Attorney in charge
SBN. 169359000 / FBN: 14370

Rolando L. Rios
George Korbel
The Law Office of Rolando L. Rios
115 E. Travis, Suite 1645
San Antonio, Texas 78205
Ph (210) 222-2102
Fax (210) 222-2898

Jose Garza
SBN: 07731950 / FBN: 1959
Judith A. Sanders-Castro
SBN:17595255
The Law Office of Jose Garza
7414 Robin Rest Dr.
San Antonio, Texas 78209
Ph (210) 392-2856

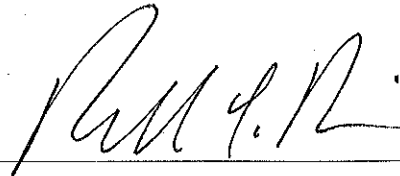
Luis Roberto Vera, Jr.
SBN: 20546740 / FBN: 16294
LULAC General Counsel
105 S. St. Mary's Street
San Antonio, Texas 78205
Ph (210) 225-3300
Fax (210) 225-2060

Attorneys for LULAC

CERTIFICATE OF SERVICE

I, Rolando L. Rios, hereby certify that I am a member of the Bar of this court, and that I have this 21st day of July, 2006, caused one copy of the Plaintiff LULAC's Proposed Remedy Brief and Plans to be served electronically to:

John Ament johnament@hotmail.com
Steve Bickerstaff sbickerstaff@bickerstaff.com
Gary L. Bledsoe garybledsoe@sbcglobal.net
Don Cruse don.cruse@oag.state.tx.us
R. Ted Cruz ted.cruz@oag.state.tx.us
Jose Garza garzpalm@aol.com
Richard Scott Gladden richscot1@hotmail.com
Anthony P. Griffin agriffinlawyers@sbcglobal.net
Javier P. Guajardo jpguajardo@sbcglobal.net
Max Renea Hicks rhicks@renea-hicks.com
Robert M. Long Micklong@earthlink.net
David C. Mattax david.mattax@oag.state.tx.us
Robert Stephen Notzon notzonlaw@sbcglobal.net
Morris L. Overstreet moverstreet@tsulaw.edu
Nina Perales nperales@maldef.org
Lucas A. Powe, Jr. spowe@ulaw.utexas.edu
Rolando L. Rios rrios@rolandorioslaw.com
Thomas A. Saenz tsaenz@maldef.org
David Weiser dweiser@katorparks.com
Don R. Willett don.willett@oag.state.tx.us
Jeremy D. Wright jwright@katorparks.com



Rolando L. Rios