

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

LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS, *et al.*,

Plaintiffs,

v.

RICK PERRY, *et al.*,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CIV. ACTION No. 2:03-CV-354

Consolidated

**DEFENDANT STATE DEMOCRATIC PARTY'S  
REMEDIAL RESPONSE BRIEF**

The Texas State Democratic Party Chairman, Boyd L. Richie, is a defendant in these consolidated cases.<sup>1</sup> While the State Party did not file a proposed remedial plan in this case, it does wish to comment on some of the remedial proposals offered by the various parties. Accordingly, Defendant Richie respectfully submits this response.

**ARGUMENT**

At the outset, we note that most of the proposed maps change five or more congressional districts. However, it is only necessary to re-draw four districts to correct the Section 2 violation in this case. We believe the rule of law is clear: this Court should focus its remedy on what is necessary to cure the violation. The legal requirement to minimize disruption is especially important in circumstances like those present here, where this Court's remedial order will cancel the choices made by primary voters in every district affected where a new election is ordered for the Fall.<sup>2</sup>

---

<sup>1</sup> Defendant Richie is a successor in office to former State Party Chair Charles Soechting . See Rule 25d(1), Federal Rules of Civil Procedure.

<sup>2</sup> Most of the proposed maps are defective because they effect more districts than necessary. For example the Bonilla Plan 1422c redraws seven districts. The plans suffer from other problems as well. Attached is

Accordingly, Defendant Richie will focus his comments on two maps before the Court: the state Defendant's proposed plan and the Jackson plaintiffs' proposed plan. As explained more fully below, the State Defendants' Proposed Plan fails to comply with the Supreme Court's decision and is blatantly partisan. As this Court will no doubt recall from the trial, former aide to Congressman Tom DeLay, Jim Ellis, wrote a memo to Congressman DeLay on August 17, 2003, explaining that "[w]e must stress that a map that returns Frost, Edwards, and Doggett is unacceptable and not worth all the time invested in this project." Jackson Plaintiffs' Exhibit 136. Congressman Frost was defeated as a result of the Delay map being pushed through the Legislature and Congressman Edwards was the only Democratic Anglo incumbent to survive in 2004 who ran from a majority Anglo district. Congressman Doggett actually moved into a new congressional district and won re-election in a bizarrely drawn CD 25 that stretched from Austin to the Mexican border. Defendant Richie sees the State Defendants' map as a renewed effort to use redistricting to eliminate Congressman Doggett as a congressional representative from Texas.

The Jackson plan, in sharp contrast, cures the Section 2 violation, does not pair any incumbent, and gives all congressional members a reasonable chance of winning re-election. Unlike the State Defendants' plan, the Jackson plaintiffs' proposed plan respects communities of interest, particularly minority communities, and is far less disruptive to Texas voters than the State Defendants' map.

**I. State Defendants' Plan (1418C) Filed On Behalf Of Republican Statewide Officeholders Rick Perry, Tom Craddick And David Dewhurst Is Extremely And Unnecessarily Disruptive, And Overtly Partisan.**

The State Defendants' plan appears to be driven by the dual purposes of removing Lloyd Doggett from Congress and redrawing CD23 as a suburban Anglo-dominated seat safe for the election of a Republican candidate (Henry Bonilla). In the Defendants' Plan, those partisan concerns clearly have a higher priority than any concern about the voting rights violation in the current map. As a result, the Perry-Craddick-Dewhurst Plan offered by State Defendants fails to meet their obligation to draw a plan that cures the Section 2 violation in CD23. At the same time, the State Defendants' Plan also fails to redraw CD25 as a compact district that respects communities with common interests and shared concerns.

**A. State Defendant Plan is Extremely and Unnecessarily Disruptive**

State Defendants' map rejected the notion of crafting a narrowly tailored plan that would make the relatively minor changes in CD23 that would unite Webb County and restore the Hispanic voting age population in CD23 to a level sufficient for Hispanics to elect the candidate of their choice. Instead, State Defendants chose to dramatically alter the configuration of four districts-- CD21, CD23, CD25 and CD28 -- placing 54.5% of the voters in those four districts in a new district.

CD23 is altered dramatically and converted from a border majority Hispanic District into a safe Republican district anchored by suburban areas of Bexar, Travis, and adjacent Hill Country counties. This configuration of CD23, even though it includes Bonilla's home, creates essentially a new Republican district with little or no affiliation

with the border region of Texas. The district includes a Hispanic voting age population of only 20.6 percent, yet included in that total are over 40,000 residents in Bexar County whose voting rights had been violated under the current plan. These CD23 Hispanic voters would not have their right to cast an effective vote under the State defendants' map, as they would now be stranded in a heavily Republican, overwhelmingly Anglo district with no opportunity to elect the candidate of their choice.

Under the State Defendants' plan, Webb County is united into CD28 (Cuellar), but the district itself is shifted dramatically westward to El Paso and northward to the border with CD11. It is essentially a cynical "number swap" with the region historically identified with CD23 simply relabeled as CD28. Only part of Webb County, Medina County and part of South San Antonio remain from the current CD28.

Because the State Defendants' plan rejects the notion of making the narrowly tailored changes to CD23 that would bring it into compliance with the Voting Rights Act, it retains CD25 as a "replacement district" for CD23. This "replacement" approach was specifically rejected by the Supreme Court, which we believe makes clear that drawing tortured congressional districts that stretch for hundreds of miles as "a replacement district" for dismantling an effective Hispanic district is simply not permitted.

Perhaps more defiant to the Supreme Court's decision is the State Defendants' decision to maintain CD25 as an elongated, non-compact district that cobbles together Hispanic communities in Hidalgo County with other Hispanic neighborhoods hundreds of miles away in Bexar County and up to the very border of Travis County. The reconfigured CD25 in State Defendant's plan is only 20 miles short of being the same

same length, north to south, as CD25 in the current map that the Supreme Court so harshly criticized and presumed would be redrawn in its decision and made compact.

The changes made within the borders of Bexar County and Travis County to accommodate Perry's, Dewhurst's and Craddick's desire for partisan advantage shred neighborhoods and communities of interest. Respected elected officials and community leaders who represent these areas at the state and local levels strongly oppose the radical redrawing of traditional and historical neighborhoods in these counties. It would be ironic indeed if this Court orders a map into effect that slices up existing minority communities of interest in the cause of curing a violation of the Voting Rights Act.

In Bexar County, the historical Southside has traditionally been united into a single congressional district where it has a significant, and sometimes dominant, influence on its Member of Congress. The State Defendant plan would literally split the Southside in two, moving over 120,000 residents into the proposed CD25. These residents have little in common with the border area Hispanics who live in Hidalgo County portion of proposed CD25. Just as important, however, they have been sheared away from their neighbors in Bexar County and, as a result will see their influence dramatically reduced relative to other regions in the District.

In Travis County, local opposition to the dramatic dissection of the County and the City of Austin under the current 1374C plan was widespread and is widely known. The State Defendants' plan is worse than Plan 1374C. In the State Defendants' plan, every resident in Travis County who does not currently live in CD10 would be assigned to a new congressional district. The Hispanic and African American populations are severely splintered into three districts in the Defendants' plan and would not have an

effective vote in any of them. With the removal of the large area of South Travis County that had been part of CD25, Travis County could easily be left as the largest County in Texas, a County of well over 800,000 residents, that will not serve as the electoral anchor of any congressional district.

Ultimately, the State Defendant's plan moves over 1.4 million Texans from one district to another within only four districts. That is hardly a narrowly tailored remedy to fix the violation in the middle of an election season. This dramatic disruption of the congressional representation of individuals, neighborhoods, cities and counties is entirely unnecessary to correct the violations in the current plan.

#### **B. State Defendant's Plan is Overtly Partisan**

The dramatic shifts of voters from one district to another and the "number swapping" of congressional districts are tools the State Defendants have used in an attempt to have the Court adopt a remedial plan that would further lock in partisan advantage and to mitigate against any loss of partisan strength that might result from a more narrowly tailored remedy to the violation in the current map.

As noted above, State Defendants' map dramatically reconfigures CD23 into an Anglo-dominated, heavily-Republican district anchored by suburban communities. The Hispanic voting age population is reduced to only 20.6 percent, dropping from 50.9 percent in the current plan and, of course, falling far short of the level needed to provide Hispanics an effective opportunity to elect their candidate of choice. The sole purpose for changing the geographic and electoral make-up of CD23 was to guarantee that a Republican would hold the seat.

At the same time, State Defendants retain CD25 as an elongated, non-compact “replacement district”, yet go to great lengths to remove any population from Travis County that might continue to serve as a base for senior Democrat Lloyd Doggett. In the current plan, over 250,000 residents from Travis County are included in CD25. The State Legislature, when originally constructing CD25 had the option to include or exclude Travis County from CD25, which was certainly expected to elect a Democrat to Congress. But the State Legislature in 2003 chose to include a significant part of Travis County in a District very likely to elect a Democrat to Congress. By intentionally removing Travis County population from being within any district with a reasonable chance of electing a Democrat, the State Defendants have taken action contrary to the intent of the Legislature and wholly unnecessary to correct the violations in the current map.

Under the State Defendants’ Plan, Travis County would stand as the only large urban county in Texas that supported the Democratic Presidential ticket in 2004, yet would not be represented in any part of the County by a Democratic Member of Congress. In fact, three out of the four Texas counties larger than Travis (Dallas, Harris, Bexar) have at least one Democratic congressional district located wholly within the County, even though all four had a majority vote in 2004 for the Republican ticket. The next largest county that supported the Democratic ticket in 2004, yet isn’t represented at present by any Democrat in Congress, is Jefferson County which, at a population of just over 250,000, is less than one-third the size of Travis. The State’s manipulation of Congressional boundaries to deny the majority of Travis County voters the opportunity to be represented, even in part, by a Democrat is both excessively partisan and punitive.

**II. Jackson Plaintiffs' Plan (1406C) Is A Narrowly Tailored Remedy Consistent With The Supreme Court Decision And Gives All Incumbents A Fair Chance To Earn Re-Election To Congress.**

The Jackson Plaintiffs' proposed plan unites Webb County and returns the County to CD23 (Bonilla), as it existed prior to the illegal 2003 plan taking effect. The Hispanic voting age population is increased from 50.9 percent to 67 percent, under the Jackson plaintiffs' map, clearly providing Hispanic voters with a meaningful opportunity to elect their candidate of choice. At the same time, incumbent Henry Bonilla retains a majority of the population he has represented in the past, giving him a fair opportunity to win the support of Hispanic voters and earn re-election in CD 23.

While Henry Cuellar represents CD28, which now includes part of Webb County, he lives, and has always lived, in current CD23. Cuellar has clearly has the option of running in Jackson Plan CD23 or in CD28.

The Jackson Plaintiffs' plan is also responsive to the Court's concerns about the non-compact configuration of current CD25. Under the Jackson Plan, CD25 is contracted to the north and picks up all of the Travis County population currently in CD21 (represented by Rep. Lamar Smith). The district is compact, extending south only to Gonzales County, and would be strongly anchored in Travis County. Consistent with the 2003 decision of the Legislature, Travis County would have the opportunity to be represented in Congress by at least one Democrat.

The Jackson Plaintiffs' plan is narrowly tailored because it affects only four districts. However, unlike the State Defendants' Plan, the Jackson Plaintiffs' plan disrupts far fewer Texas residents and does not "swap numbers" to re-label districts and confuse voters. Also, unlike the State Defendants' plan, any partisan political changes

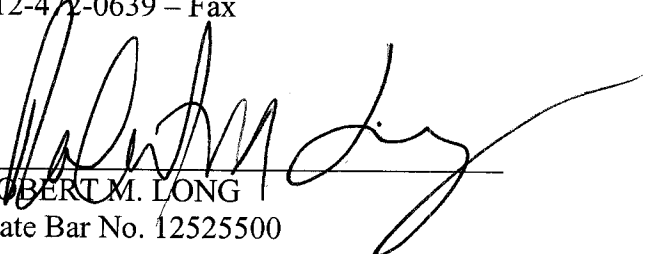
that might result from the Jackson Plaintiffs' plan are minimal and are the direct result of correcting the Section 2 violation rather than an aggressive attempt to gain partisan advantage.

**CONCLUSION**

For the reasons set forth above, Defendant Richie respectfully submits that this Court should order into effect the plan proposed by the Jackson Plaintiffs.

Respectfully submitted,

HOUDYSHELL & LONG, LLP  
300 West 6<sup>th</sup> Street, Suite 1840  
Austin, TX 78701  
512-476-0845  
512-472-0639 – Fax

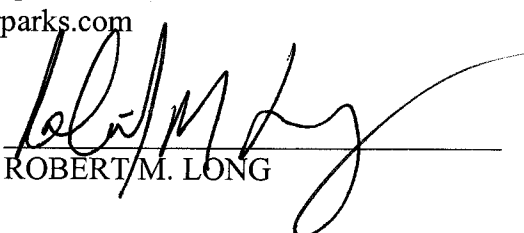
  
\_\_\_\_\_  
ROBERT M. LONG  
State Bar No. 12525500

ATTORNEYS FOR TEXAS STATE  
DEMOCRATIC PARTY CHAIRMAN,  
BOYD L. RICHIE

**CERTIFICATE OF SERVICE**

I, Robert M. Long, will electronically serve copies of the Texas State Democratic Party Chairman, Boyd L. Richie's Remedial Response Brief of the on the following persons on Friday, July 21, 2006:

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	<u>jpguajardo@sbcglobal.net</u>
Gerry Hebert	ghebert@comcast.net
Max Renea Hicks	rhicks@renea-hicks.com
Samuel Hirsch	SHirsch@jenner.com
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	<u>don.willett@oag.state.tx.us</u>
Jeremy D. Wright	jwright@katorparks.com

  
ROBERT M. LONG

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

LEAGUE OF UNITED LATIN  
AMERICAN CITIZENS, et al.

v.

RICK PERRY, ET AL.

§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 2:03-CV-354

Consolidated

**SWORN DECLARATION OF RUBÉN HINOJOSA**

Pursuant to 28 U.S.C. §1746, I declare that:

- 1) My name is Ruben Hinojosa and I represent Texas's Congressional District 15 in the United States House of Representatives.
- 2) On July 20, 2006, a Memorandum was filed by Reps. Lamar Smith, Henry Bonilla, and Henry Cuellar. In that Memorandum it was stated that attempts were made to address my concerns regarding the effect of Plan 1422C on Hidalgo County. I want to make it clear that my concerns were not addressed in any meaningful way by the drafters of the plan. I continue to oppose the way in which the residents of Hidalgo County and the Rio Grande Valley continue to be deprived of the representation they deserve given the almost 1.2 million people who reside in the region. I want to make it clear to the court that for this reason and others I oppose Plan 1422C.

I declare under penalty of perjury that the foregoing is true and correct.

Dated:

*July 20, 2006*

*Rubén Hinojosa*

RUBÉN HINOJOSA