

changes have not been submitted for, nor have they received the required pre-clearance pursuant to Section 5 of the Voting Rights Act.

2. Plaintiffs seek to enjoin the Defendant and their successors from conducting elections pursuant to the non pre-cleared changes and illegal delegate allocation plan.

JURISDICTION

3. Jurisdiction of this Court is invoked pursuant to 42 U.S.C. §1973c, 28 U.S.C. §1343(3) and (4), and 28 U.S.C. § 2201.

PARTIES

Organizational Plaintiffs

4. The League of United Latin American Citizens of Texas, hereinafter LULAC, is a civil rights organization with thousands of members, citizens and voters in Texas, whose purpose include to fight discrimination in voting.

5. The Mexican American Bar Association, Houston Chapter, is a professional association of Latino lawyers who are citizens and voters in the Houston area, devoted to speak on behalf of the Hispanic community on legal issues affecting the community, including the principle that our voting processes should be free of discrimination.

Individual Plaintiffs

6. Plaintiff Angela Garcia is a citizen, voter, and resident of Senate District 26 in Bexar County, Texas. Plaintiff A. Garcia is an active member of LULAC of Texas. Plaintiff Bernardo J. Garcia is a citizen, voter and resident of Senate District 6 in Harris County, Texas. Plaintiff B. Garcia is a member of and the President-elect of MABAH. Plaintiff Elvira Rios is a citizen, voter and resident of Senate District 20 in Hidalgo County, Texas. Plaintiff Rios is an active member of LULAC of Texas. Plaintiff Roger

Rocha is a citizen, voter and resident of Senate District 21 in Webb County, Texas. Plaintiff Rocha is an active member of LULAC of Texas and is the State Director for LULAC of Texas. Plaintiff Raymundo Velarde is a citizen, voter and resident of Senate District 29 in El Paso County, Texas. Plaintiff Velarde is an active member of LULAC of Texas. Plaintiff Rosario Vera is a citizen, voter and resident of Senate District 19 in Bexar County, Texas. Plaintiff Vera is an active member of LULAC of Texas.

Defendants

7. The Defendant State of Texas is a political jurisdiction that is covered by the pre-clearance provisions of Section 5 the Federal Voting Rights Act, 42 U.S.C, Sec. 1973c as well as Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

8. The Defendant Texas Democratic Party is authorized by the State of Texas and is acting under the authority of the State of Texas in conducting its nominating primary elections and nominating conventions.

STATEMENT OF THE FACTS

9. Under authority of the State of Texas, the Texas Democratic Party conducted its primary election on March 4, 2008. (See: Tex. Election Code, § 191.004)

10. Under authority of the State of Texas, the Texas Democratic Party conducted its nominating precinct conventions on March 4, 2008. (See: Tex. Election Code, § 174.022).

11. Under authority of the State of Texas, the Texas Democratic Party adopted rules to govern the conduct of its nominating precinct conventions. (See: Tex. Election Code, § 163.002 et seq.).

12. Pursuant to rules adopted for the conduct of its nominating precinct conventions, the Texas Democratic Party allocated the number of delegates each precinct convention would be allowed to elect to attend its Senatorial and County conventions according to the raw vote cast in each such precinct for the Democratic nominee for governor in 2006. (See: Rules of the Texas Democratic Party 2006-2008, Article IVB8.)

13. The adoption of rules for the conduct of Texas Democratic Party precinct conventions, including rules establishing the allocation of delegates to be elected to attend the Senatorial or County conventions has not be pre-cleared pursuant to Section 5 of the Voting Rights Act. (See Exhibit No. 1, Affidavit of Luis R. Vera, Jr.)

14. The manner used to allocate the delegates to be elected from the precinct conventions under-values Latino Democratic voters and does not provide Latino voters with an equal opportunity to participate in the nominating process and to elect candidates of their choice.

15. Under authority of the State of Texas, the Texas Democratic Party conducted its nominating senatorial and county conventions on March 29, 2008. (See: Tex. Election Code, § 174.063)

16. Pursuant to rules adopted for the conduct of its nominating senatorial and county conventions, the Texas Democratic Party allocated the number of delegates each Senatorial and County convention would be allowed to elect to attend its State convention according to the raw vote cast in each Senate District for the Democratic nominee for governor in 2006. (See: Rules of the Texas Democratic Party 2006-2008, Article IVC8.)

17. The adoption of rules for the conduct of Texas Democratic Party senatorial and county conventions, including rules establishing the allocation of delegates to be elected to attend the State convention has not be pre-cleared pursuant to Section 5 of the Voting Rights Act. (See: Exhibit 1)

18. The manner used to allocate the delegates to be elected from the senatorial and county conventions under-values Latino Democratic voters and does not provide Latino voters with an equal opportunity to participate in the nominating process and to elect candidates of their choice.

19. Under authority of the State of Texas, the Texas Democratic Party will conduct its nominating State convention on June 5-7, 2008. (See: Tex. Election Code, § 174.093).

20. Pursuant to rules adopted for the conduct of its nominating State convention, the Texas Democratic Party allocated the number of delegates each Senatorial delegation would be allowed to elect to attend the Democratic national convention according to the proportion of vote cast in each such district of the total statewide vote for the Democratic nominee for governor in 2006. (See: Rules of the Texas Democratic Party 2006-2008, Article VII, 8(b))

21. The rules adopted for the conduct of Texas Democratic Party State convention, including rules establishing the allocation of delegates to be elected from the Senatorial District caucus' to attend the Democratic National convention have not been pre-cleared pursuant to Section 5 of the Voting Rights Act.(See: Exhibit No. 1)

22. Texas will send 228 delegates and 32 alternates to the National Democratic Convention. Of those the Senatorial District delegations to the State Convention will elect 126 delegates and 21 alternates, chosen and allocated pursuant to the non pre-

cleared and discriminatory rules adopted by the Texas Democratic Party under authority of the State of Texas.

23. More delegates are allocated to Republican Senatorial districts than to the Democratic Senatorial districts even though more than 60% of the Hispanic voting age population lives in the Democratic districts. While the seven Latino majority Senatorial districts all gave the Democratic nominee for Governor in 2006, plurality support in a four person race, and all vote overwhelmingly for Democratic candidates, the Democratic Party rules used to allocate delegates resulted in an average of only 3.5 delegates per district for the Latino majority districts.

24. Had the State Democratic Party employed an allocation plan based on proportion of support for the Democratic candidate for governor, or the proportion of vote for Democratic candidates, or even on an even distribution for each district, the allocation would have resulted in a distribution that rewarded Democratic loyalty without punishing Latino voters. Numerous options existed that would have provided all Democratic voters with a fair opportunity to participate, and a fair allocation of delegates without diluting Latino voter participation.

25. The manner used to allocate the delegates to be elected from the senatorial district caucus at the State Convention under-values Latino Democratic voters and does not provide Latino voters with an equal opportunity to participate in the nominating process and to elect candidates of their choice. For example, Senate District 6, in Harris County is over 53% Spanish Surnamed of registered voters. In the critical election used by the Democratic Party to calculate the allocation of delegates, Senate District 6 voted for Mr. Bell at about 51%. Conversely, Senate District 25 in Bexar County is only about 19%

Spanish Surname of registered voters. In the critical election used by the Democratic Party to calculate the allocation of delegates, Senate District 25 gave the Republican nominee for Governor, Mr. Perry about 40% of its votes, and Mr. Bell, the Democratic nominee only about 26% of its votes. Yet, in allocation of delegates, the majority Latino Senate District 6 is rewarded for its loyalty to the Democratic Party with 3 delegates to the National Convention. The Anglo majority Senate District 25 is rewarded for its loyalty to the Republican Party with an award 6 delegates to the Democratic National Convention.

26. Elections in Texas primaries and general elections are racially polarized and Latino voters are politically cohesive.

27. Latino voters continue to suffer from the effects of historical discrimination in that over a number of socio-economic and educational factors, the Latino community fares poorly when compared to the Anglo population of Texas.

FIRST CAUSE OF ACTION

Section 5.

28. With respect to this cause of action, plaintiffs incorporate, reallege and reaver all of the matters contained in paragraphs 1-27 as if fully set forth herein.

29. The State of Texas and the Texas Democratic Party are currently enforcing rules and an election process adopted by the Texas Democratic Party under the authority of the State of Texas for use in the nominating conventions that has not been pre-cleared by the Department of Justice under Section 5 of the Federal Voting Rights Act and fully intends to continue to hold the nominating conventions under terms and conditions that make it

more difficult for Latinos to participate in the political process and elect representatives of their choice.

30. Unless enjoined by this Court, the State of Texas and the Texas Democratic Party will continue to hold nominating conventions using a process without the requisite pre-clearance and in clear violation of Section 5 of the Voting Rights Act, 42 U.S.C. §1973c.

SECOND CAUSE OF ACTION

Section 2.

31. With respect to this cause of action, plaintiffs incorporate, reallege and reaver all of the matters contained in paragraphs 1-27 as if fully set forth herein.

32. The manner used to allocate the delegates to be elected from the precinct conventions, senatorial and county conventions and the senatorial district caucus at the State Convention, under-values Latino Democratic voters and does not provide Latino voters with an equal opportunity to participate in the nominating process and to elect candidates of their choice, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

IMMUNITIES

33. Plaintiffs allege, inter alia that qualified and absolute immunity do not protect the defendants because this suit asks only injunctive relief, declaratory relief and attorney's fees. Plaintiffs also allege that absolute immunity does not protect the defendants because so far as the scope of this suit, defendants are not acting in any of the capacities which received immunity at common law, The defendants are not entitled to Eleventh

Amendment Immunity because plaintiffs seek only injunctive relief, declaratory relief and attorney's fees.

EQUITIES

34. Plaintiffs have no adequate remedy at law other than the judicial relief sought here. Unless the defendants are enjoined, they will persist in this election scheme, which will violate the rights of the plaintiff, which are secured under Federal statutory law. No legitimate or compelling governmental interest requires the procedures complained about.

ATTORNEYS FEES

35. In accordance with 42 U.S.C. Sections 19731(e) and 1988 plaintiffs' counsel are entitled to recover a reasonable fee and appropriate expenses, including expert fees as part of the costs in this matter.

PRAAYER

Plaintiffs respectfully pray that this Court enter Judgment granting Plaintiffs:

A. A declaratory judgment that Defendants' actions regarding the use of Democratic Party rules for primary conventions and delegate allocations for the conduct of primary elections, without Section 5 pre-clearance, violate the rights of Plaintiff as secured by the Voting Rights Act, 42 U.S.C. §1973c;

B. A declaratory judgment that Defendants' actions regarding the use of Democratic Party rules for primary conventions and delegate allocations for the conduct of primary elections, dilutes Latino voting strength, violates the rights of Plaintiffs as secured by Section 2 of the Voting Rights Act, 42 U.S.C. §1973;

C. Preliminary and permanent injunctive relief enjoining Defendants, their successors in office, agents, employees, attorneys and those persons acting in concert

with them and/or at their discretion from not taking action to proceed with nominating conventions using the discriminatory delegate allocation system described herein.

D. An order requiring Defendants to comply with Section 5 pre-clearance requirements of the Voting Rights Act;

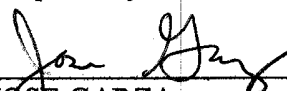
E. The costs of this suit and reasonable attorneys fees;

F. An order of this Court retaining jurisdiction over this matter until all Defendants have complied with all orders and mandates of this Court; and

G. Such other and further relief as the Court may deem just and proper.

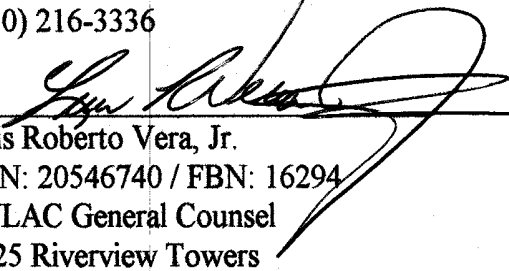
DATED: May 9, 2008

Respectfully Submitted,



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