

U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

In the United States District Court
for the Eastern District of Texas
Marshall Division

06 JUL 12 AM 10:35

TX-EASTERN-MARSHALL

BY _____

League of United Latin American
Citizens, *et al.*

v.

Rick Perry, Governor of Texas, *et al.*

§
§
§
§
§
§

Civil No. 2:03-CV-354
Consolidated

**MOTION FOR LEAVE TO PARTICIPATE
AS AN *AMICUS CURIAE PRO SE***

A. J. Pate, acting solely and individually as a private citizen of Texas, respectfully moves this Court for leave to participate in the above-captioned case as an *amicus curiae pro se*.

In his requests for consent from the counsels in this case, he received one objection to his status as *amicus curiae*. This objection was received from Gerald Hebert by telephone on July 10, 2006, who stated that he was "representing the Eddie Jackson plaintiffs" and speaking for Paul Smith. As noted in some detail below, A. J. Pate has participated in two landmark redistricting cases, *Miller v. Johnson* (1995) and *Bush v. Vera* (1996) as an *amicus curiae*, and virtually every Texas redistricting case since 1996 as an *amicus curiae pro se*. This is the first objection he has ever received to a request for consent from any of the parties in any previous cases.

In support of his motion, he would show the Court that:

1. In 1996, he fully participated in the remedial phase of *Bush v. Vera* upon its remand from the U. S. Supreme Court under circumstances very similar to those facing this Court in the present case. *Vera v. Richards* was a racial gerrymandering case which was heard by a three-judge federal court, Judge Edith Jones presiding. In that trial, the Owens-Pate Plan C606, drawn by A. J. Pate and William C. Owens in 1991, was entered into evidence and testimony was given regarding the plan. In the opinion of the Court written by Judge Jones, she refers to the plan several times in her comments (*Vera v. Richards*, 861 F. Supp. 1304, 1329, 1330, 1342). The Court declared three districts as unconstitutional racial gerrymanders.

The case was then appealed to the U. S. Supreme Court as *Bush v. Vera*. A. J. Pate wrote and filed a brief in the case as an *amicus curiae*. The Court upheld the lower court's decision. In opinions written by Justices O'Connor and Kennedy, references were made to the Owens-Pate Plan. *Bush v. Vera*, 517 U. S. 952, 956, 995, 998.

After remand to the three-judge court from the Supreme Court, the Hispanic defendant-intervenors, in a motion to the Court, "urge[d] that the Court designate either Mr. A. J. Pate or Mr. A. J. Pate and Mr. Bill Owen[sic] as the Court's masters or representatives in the drafting of the Court's interim Congressional plan should that become necessary." Their motion further stated that Pate and Owens "have been involved on an entirely non-partisan manner in the Congressional redistricting" and, although not always agreeing with their approach, "know them to be persons who understand the process and be entirely fair and impartial." ~~(Copy of motion attached.)~~



However, the Court decided to do its own drafting of the remedial plans.

In hearings subsequent to the remand, in the remedial phase, Judge Edith Jones requested A. J. Pate and William Owens to participate in two in-chamber hearings with the parties in the case.

2. He proposed a U. S. Congressional redistricting plan for the State of Texas which he presented to various State legislative redistricting committees in the current redistricting cycle, Pate Statewide Plan 1160C dated May 21, 2001. The plan is non-partisan and incumbent-neutral, respecting the integrity of the unique geographical regions of the State and the communities of interest within them by providing fair and effective representation for those interests in functionally compact districts, while fully complying with legal requirements of population equality and ethnic/racial minority representation.

3. He wrote and filed briefs *amicus curiae* with the U. S. Supreme Court in the landmark redistricting cases of *Miller v. Johnson* (1995) and *Bush v. Vera* (1996).

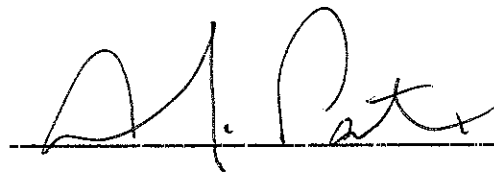
4. After the 1990 Census cycle, he prepared a Congressional redistricting plan for the State of Texas with William C. Owens, the Owens-Pate Plan C606. This plan received considerable attention in the State Legislature, a three-judge U. S. District Court (861 F. Supp. at 1329, 1330, 1342), and the U. S. Supreme Court in oral argument and concurring opinions of Justices O'Connor and Kennedy (517 U.S. Reports at 956, 995, 998).

5. He has a significant continuing interest in the provision of fair and effective representation for the people of Texas through U. S. Congressional redistricting, as evidenced by his preparation of remedial maps at the Texas Legislative Council and

writing a supporting brief for presentation to this Court for its consideration in these proceedings.

6. He has never received one cent of remuneration or even expense reimbursement from any source for his redistricting efforts.

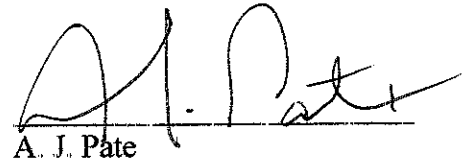
Respectfully submitted this eleventh day of July 2006.

A handwritten signature in black ink, appearing to read "A. J. Pate", written over a horizontal line.

A. J. Pate
15118 Terrace Oaks Drive
Houston, Texas 77068
Phone: 281-444-3568
Fax: 281-444-4035

CERTIFICATE OF CONFERENCE

On the tenth day of July 2006, A. J. Pate served, by facsimile transmission, the Counsel in the afore-mentioned case with notice of his intent to file a Motion for Leave to Participate as an Amicus Curiae in this case. He received one objection as fully explained in the Motion attached. Having received no notices to the contrary from the other Counsel, he presumes there is no further opposition to his being granted such status by this Court.



A. J. Pate

CERTIFICATE OF SERVICE

I hereby certify that, on July 11, 2006, a copy of the foregoing letter and accompanying submission of a Motion for Leave to Participate as an Amicus Curiae was served by facsimile transmission to the following counsel of record:

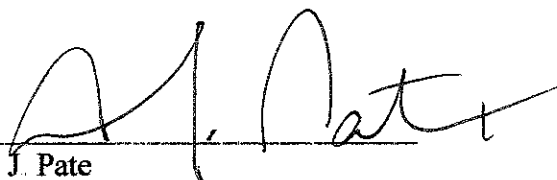
R. Ted Cruz
Solicitor General
Office of the Attorney General
300 West 15th Street, 10th Floor
P. O. Box 12548
Austin, TX 78711

Rolando L. Rios
Milam Building
115 E. Travis, Suite 1645
San Antonio, TX 78205

Renea Hicks
800 Norwood Tower
114 West 7th Street
Austin, TX 78701

Paul M. Smith
Jenner & Block, LLP
601 Thirteenth Street, N. W.
Washington, DC 20005

Nina Perales
Mexican American Legal Defense
and Educational Fund
140 E. Houston, Suite 300
San Antonio, TX 78205

A handwritten signature in black ink, appearing to read "A. J. Pate", written over a horizontal line.

A. J. Pate
15118 Terrace Oaks Drive
Houston, Texas 77068
Phone: 281-444-3568
Fax: 281-444-4035