

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

WALTER SESSION, ET AL.	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION
	§	
RICK PERRY, ET AL.,	§	NO. 2:03CV354
Defendants.	§	CONSOLIDATED
	§	

TEXAS NAACP BRIEF ON REMEDIAL CONSIDERATIONS

TO THE HONORABLE PANEL OF SAID COURT:

The Texas NAACP does not propose a remedial plan for the Panel to consider. Rather the Texas NAACP respectfully requests the Panel to consider the following issues with regard to its response to the Supreme Court's opinion in this matter. The Texas NAACP reserves the right to respond and comment upon the proposed plans submitted the other parties to this action.

SUMMARY OF POSITION

The Texas NAACP makes the following requests of the Panel in its decision to remedy the deficiencies of plan 1374C:

1. Any plan adopted should not alter the three African American opportunity Districts currently represented by Eddie Bernice Johnson (30th), Sheila Jackson Lee (18th) and Alexander Green (9th),

2. Any plan adopted should impact, to the extent possible following traditional redistricting principles of contiguity and compactness, only CD 23 and 25 and the districts immediately adjacent to these two districts,
3. Any plan adopted should reduce the impact on political subdivisions: specifically, Laredo and Webb County and Austin and Travis County,
4. Any plan adopted should reduce the impact on communities of interest,
5. Any plan adopted should ensure that there are at least six Hispanic opportunity districts having at least 54% Hispanic CVAP,
6. Any new elections should only impact the districts that have been reconfigured by this remedial process, and
7. Any new changes should be implemented to meet the November 2006 general election.

Brief in Support

The African American opportunity districts of CD 9, 18 and 30 are sufficiently removed geographically that there should be no need to disturb their current configurations in accordance with established precedent.

Upham v. Seaman, 456 U.S. 37, 40-44 (1982).

By the same reasoning referred to above, the Supreme Court was specifically concerned with CD 23 and 25 and therefore to the extent possible all remedial reconfigurations should be based in and limited to the extent possible to CD 23 and 25 and as few other districts as possible. In crafting these new districts the Panel should employ the traditional concepts of contiguity and compactness. *Abrams v. Johnson*, 521 U.S. 74 (1997).

In accordance with the GI Forum plaintiffs and the City of Austin and Travis County plaintiffs, the Texas NAACP requests that impacts to political subdivisions be reduced to the greatest extent possible. For example, Laredo and/or Webb County and Austin and/or Travis County have demonstrated cohesive voting practices. In the case of Laredo and Webb County the voters have a strong ethnic cohesion while Austin and Travis County demonstrate a cross-ethnic cohesion, both of which are protected and promoted by the VRA. *Abrams v. Johnson*, 521 U.S. 74, 101 (1997) and *Miller v. Johnson*, 515 U.S. 900, 916-17 (1995).

As distinct from political subdivisions, the impact on communities of interest should also be reduced to the greatest amount possible.

The Supreme Court was clear that there should be at least six Hispanic opportunity districts with Hispanic CVAP of at least 54%.

In keeping with the traditional redistricting principles of limited remedial change and the concurrent public policy goal of reducing cost and confusion, only those districts that have been reconfigured through this remedial process should have their primary and general election schemes and ballots modified. *Upham v. Seaman*, 456 U.S. 37, 40-44 (1982).

Given the clear invalidity of plan 1374, the amount of time left before the general election in November 2006 and the focused and minimized

impact on only a few districts that will surely result in this Panel's action, there should be no reason that all remedial reconfigurations be implemented such that the November 2006 elections shall reflect these changes. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964) and *Bush v. Vera*, 933 F.Supp. 1341, 1342-59 (S.D.Tex. 1996).

PRAYER

The Texas NAACP respectfully requests that this Panel keep the above listed considerations in mind when taking its remedial actions and such other and further relief as justice and fairness so require.

Respectfully submitted by,



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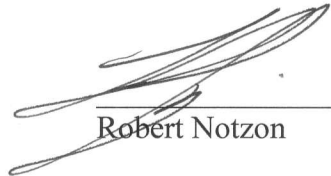
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ATTORNEYS FOR Texas-NAACP

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the above and foregoing instrument was served via email delivery to counsel in this case on July 14, 2006.



Robert Notzon