

In The
Supreme Court of the United States

—◆—
TRAVIS COUNTY, TEXAS, *et al.*,

Appellants,

v.

RICK PERRY, Governor of Texas, *et al.*,

Appellees.

—◆—
**On Appeal From The United States District Court
For The Eastern District Of Texas**

—◆—
**MOTION FOR LEAVE TO FILE SUPPLEMENTAL
BRIEF AFTER ORAL ARGUMENT,
AND SUPPLEMENTAL BRIEF**

—◆—
RENEA HICKS
LAW OFFICE OF MAX RENEA HICKS
1250 Norwood Tower
114 West 7th Street
Austin, Texas 78701
(512) 480-8231
fax: (512) 480-9105

*Attorney for Travis County
Appellants*

March 13, 2006

**MOTION FOR LEAVE TO FILE SUPPLEMENTAL
BRIEF AFTER ORAL ARGUMENT**

Under Supreme Court Rules 25.5 and 25.6, the Travis County Appellants (Travis County, Gustavo Luis “Gus” Garcia, and the City of Austin) move for leave to file a supplemental brief, after oral argument, in their appeal. The supplemental brief clarifies the analytical distinctness of the Travis County Appellants’ sole issue in light of its omission at oral argument on March 1, 2006, except for a sentence on rebuttal. It further addresses the newly enacted Georgia redistricting legislation which Appellee Charles Soechting seeks leave to bring to the Court’s attention.

Respectfully submitted,

RENEA HICKS
LAW OFFICE OF MAX RENE HICKS
1250 Norwood Tower
114 West 7th Street
Austin, Texas 78701
(512) 480-8231
fax: (512) 480-9105

*Attorney for Appellants
Travis County, Gustavo Luis
“Gus” Garcia, and City of Austin*

TABLE OF AUTHORITIES

Page

STATUTES

13 U.S.C. § 196	2
2006 Georgia Act 436 (Senate Bill 386)	3

SUPPLEMENTAL BRIEF FOR THE TRAVIS COUNTY APPELLANTS

The district court panel on remand split on only one issue: the one person, one vote claim raised by the Travis County Appellants. Judge Ward found the equal population claim valid, in a special concurrence.

Oral argument was to have separately addressed this issue;¹ however, the equal population issue was entirely omitted from opening argument of appellants' counsel and addressed in rebuttal in only a single sentence. The numerous issues raised by the several Texas redistricting appeals, combined with the unpredictability of the course of oral argument, surely account for this omission.

No intent to abandon one person, one vote issue as independent claim

The one person, one vote issue is raised by three sets of appellants (the Jackson plaintiffs in No. 05-276, LULAC in No. 05-204, and the Travis County Appellants in No. 05-254). Yet, for the Travis County Appellants, the one person, one vote issue is their *only* issue – and has been since the case's inception in 2003. The purpose of this supplemental brief is to emphasize that the equal population issue's omission at oral argument did not signal any

¹ The Court's Order of January 23, 2006, authorizing divided argument for the appellants in this and the other Texas redistricting appeals (Nos. 05-204, 05-276, and 05-439) granted a motion for divided argument as to the second alternative request, which specifically identified the one person, one vote issue as one of the several issues that counsel in No. 05-276 would argue. *See* Motion for Divided Argument by the Jackson Appellants, the Travis County Appellants, and the G. I. Forum Appellants, January 17, 2006, at 3.

intent to abandon or otherwise diminish the issue or have it relegated to a sub-category of the mid-decade partisan gerrymandering issue of the appellants in No. 05-276.²

The one person, one vote issue in this case is an analytically distinct challenge to Plan 1374C. Unlike the mid-decade partisan gerrymandering issue raised in No. 05-276, the one person, one vote issue serves as a hurdle, not a ban. *See* 13 U.S.C. § 196 (authorizing special state censuses). For those who would enact statewide, judicially un-coerced congressional redistricting plans in mid-decade, the path remains open, as long as a significant constitutional hurdle is cleared.

Georgia's Senate redistricting of March 1st

The quite recent Georgia senate redistricting bill brought to the Court's attention in Appellant Soechting's supplemental post-argument brief, while not a statewide effort, is judicially un-coerced and, from public accounts, a purely political venture. Undertaken six years into the decade, it did not use fresh population numbers to satisfy the constitutional rule of equal population that applies to state legislative districts.³ If countenanced for congressional redistricting where the strictest application of the equal population rule applies, this approach means

² Travis County Appellants here imply no disagreement with the mid-decade partisan gerrymandering claim in No. 05-276.

³ A review of the website for Georgia's Legislative Apportionment Services Office reveals that all the population data for Georgia redistricting plans this decade have been from the 2000 Census. *See* <http://georgiareapportionment.uga.edu/>. There is no indication that the population data used for Senate Bill 386 (2006 Georgia Act 436) is any different.

that state legislative and local government districts across the country may be redrawn right up until release of the 2010 Census using the 2000 Census population data to meet the constitutional one person, one vote rule.



CONCLUSION

Notwithstanding the vagaries that necessarily attend oral argument in complex cases such as these, the one person, one vote argument of the Travis County Appellants remains both a live argument and analytically separate from the other arguments raised by the parties.

Respectfully submitted,

RENEA HICKS
LAW OFFICE OF MAX RENE HICKS
1250 Norwood Tower
114 West 7th Street
Austin, Texas 78701
(512) 480-8231
fax: (512) 480-9105

*Attorney for Appellants
Travis County, Gustavo Luis
"Gus" Garcia, and City of Austin*