

2. Plaintiffs seek a declaratory judgment that the existing congressional, state representative and state senate districts of Texas violate Plaintiffs' civil rights because such districts unlawfully dilute the voting strength of Latino voters and are unconstitutionally malapportioned. Plaintiffs seek a permanent injunction prohibiting the calling, holding, supervising or certifying of any future congressional, state representative or state senate elections under the present redistricting plans. Plaintiffs seek the creation of congressional, state representative and state senate redistricting plans which will not cancel out, minimize, or dilute the voting strength of Latino voters in Texas and that comply with the constitutional requirements of equal population. Plaintiffs further seek costs and attorneys' fees.

II.
JURISDICTION

3. Jurisdiction is based upon 28 U.S.C. §§ 1343a(3) & (4) and upon 28 U.S.C. § 1331 for causes of action arising from 42 U.S.C. §§ 1971 and 1973. Jurisdiction for Plaintiffs' claim for declaratory relief is based upon 28 U.S.C. §§ 2201 and 2202. Jurisdiction for Plaintiffs' claim under the Fourteenth Amendment to the U.S. Constitution is based upon 42 U.S.C. § 1983. Jurisdiction for Plaintiffs' claim for attorneys fees is based on 42 U.S.C. §§ 1973l(e) and 1988. Venue is proper in this court under 28 U.S.C. § 1391(b).

III.
PLAINTIFFS

4. Plaintiff SIMON BALDERAS is a Latino registered voter of Smith County, Texas. He is a resident of the 5th Congressional District of Texas, the 2nd Senatorial District and the 5th State Representative District of Texas and is eligible to vote for members of congress, state representatives and state senators in Texas.

5. Plaintiff GILBERTO Z. TORRES is a Latino registered voter of Uvalde County, Texas. He is a resident of the 23rd Congressional District of Texas, the 19th Senatorial District and the 43rd State Representative District of Texas and is eligible to vote for members of congress, state representatives and state senators in Texas.
6. Plaintiff Texas League of United Latin American Citizens (Texas LULAC) is a non-profit membership organization with thousands of members throughout Texas that works to advance the economic condition, educational attainment, political influence, health and civil rights of the Hispanic population of the United States and Texas. The structure of Texas LULAC includes hundreds of local councils which are organized into over 18 districts around the state. The majority of Texas LULAC members are Latino registered voters of Texas.

IV.
DEFENDANTS

7. Defendants are the STATE OF TEXAS and officials thereof who have responsibility under the laws of Texas to redistrict congressional and state legislative districts after each decennial census..
8. Defendant RICK PERRY is sued in his official capacity as Governor of Texas. Defendant Perry is the Chief Executive Officer of Defendant STATE OF TEXAS.
9. Defendant WILLIAM R. "BILL" RATLIFF is sued in his official capacity as Lieutenant Governor of Texas and the Presiding Officer of the Texas Senate.
10. Defendant JAMES "PETE" LANEY is sued in his official capacity as Speaker of the House and the presiding officer of the Texas House of Representatives.

11. Defendant HENRY CUELLAR is sued in his official capacity as Secretary of State and is responsible under the laws of Texas to oversee elections in the state.
12. Defendant MOLLY BETH MALCOLM is sued in her official capacity as Chairperson of the State Democratic Party.
13. Defendant SUSAN WEDDINGTON is sued in her official capacity as Chairperson of the State Republican Party.

VI.
FACTS

14. According to the 2000 Census, the population of Texas is 20,851,820 with a Latino population of 6,669,666 (32%). The Latino voting age population of Texas is 28.6% of the total voting age population in Texas.
15. On December 28, 2000, the President of the United States sent to Congress the total population figures for each state. These figures show that Texas is entitled to 32 congressional seats for the 2000 redistricting cycle.
16. There are currently 30 districts included in the Texas congressional redistricting plan. Seven of the congressional districts contain a majority Latino voting age population.
17. There are 150 districts that each elect one member to the Texas State House of Representatives. Currently, 31 of these districts have a majority Latino voting age population.
18. There are 31 districts that each elect one member to the Texas State Senate. Currently, 7 of these districts have a majority Latino voting age population.

19. The Texas Legislature convened in regular session on January 9, 2001 and confirmed receipt from the U.S. Census Bureau of the 2000 Census redistricting data for the state on March 12, 2001.
20. The Texas Legislature adjourns *sine die* on May 28, 2001. It is likely that the Texas Legislature will fail to enact, or the Governor will fail to sign, congressional and state legislative redistricting plans during the legislative session and that the intervention of this Court will become necessary to protect Plaintiffs' statutory and constitutional rights.
21. Defendants employ congressional, state representative and state senate redistricting plans that operate to dilute the voting strength of Plaintiffs.
22. The Latino population of Texas is sufficiently geographically compact to comprise the majority of citizen voting age persons in at least 8 congressional districts.
23. The Latino population of Texas is sufficiently geographically compact to comprise the majority of citizen voting age persons in at least 32 state representative districts.
24. The Latino population of Texas is sufficiently geographically compact to comprise the majority of citizen voting age persons in at least 8 state senate districts.
25. Latinos in Texas, including the areas in which Latino citizen voting age majority districts can be created, are politically cohesive.
26. Whites (Anglos) vote sufficiently as a bloc to enable them -- in the absence of special circumstances, such as the Latino candidate running unopposed -- usually to defeat the Latino voters' preferred candidates in Texas, including the areas in which Latino citizen voting age majority districts can be created .

27. The current Texas congressional, state representative and state senate redistricting plans interact with social and historical conditions to cause an inequality in the opportunity of Latino voters to elect representatives of their choice as compared to white (Anglo) voters.
28. According to the 2000 Census, the 5th Congressional District of Texas, in which Plaintiff BALDERAS resides, has a total population of 657,495. Plaintiff BALDERAS's congressional district contains 5,876 persons more than the ideal congressional district population of 651,619 and is .9% over the ideal population.
29. According to the 2000 Census, the 23rd Congressional District of Texas, in which Plaintiff TORRES resides, has a total population of 762,627. The congressional district in which Plaintiffs TORRES resides contains 111,008 persons more than the ideal congressional district population of 651,619 and is 17.04% over the ideal population.
30. According to the 2000 Census, the 2nd Senatorial District of Texas, in which Plaintiff BALDERAS resides, has a total population of 704,392. Plaintiff BALDERAS's senate district contains 31,753 persons more than the ideal senate district population of 672,639 and is 4.72% over the ideal population.
31. According to the 2000 Census, the 43rd State Representative District of Texas, in which Plaintiff TORRES resides, has a total population of 155,063. Plaintiff TORRES's state representative district contains 16,051 persons more than the ideal state representative district population of 139,012 and is 11.55% over the ideal population.
32. Many Texas LULAC members reside in state House of Representative, state Senate or U.S. Congressional districts that are overpopulated according to the 2000 Census. In addition, many Texas LULAC members reside in state House of Representative, state Senate or U.S.

Congressional districts whose configuration results in vote dilution on the basis of race or color.

33. Plaintiffs currently reside in congressional, state representative and/or state senate districts that are malapportioned and dilute their voting strength.

34. In its current redistricting process, the Texas Legislature is employing population data released by the U.S. Bureau of the Census that contains inaccuracies due to the failure of the Census to count all persons in Texas.

35. Latinos, as compared to Anglos, are disproportionately undercounted by the Census in Texas.

36. The plaintiffs who reside in counties with a substantial Latino population are in danger of having their vote diluted through malapportionment of state legislative districts unless these districts are adjusted to reflect the disproportionate undercount of Latinos.

37. At all times relevant herein, Defendants acted under color of State law.

V.
CAUSES OF ACTION

38. The redistricting plans used to elect members of the Texas congressional delegation, as well as members of the Texas State House of Representatives and Texas State Senate, result in a denial or abridgement of the right to vote of Plaintiffs on account of their race, color, or ethnicity, by having the effect of canceling out or minimizing their individual voting strength as minorities in Texas. The redistricting plans do not afford Plaintiffs an equal opportunity to participate in the political process and to elect representatives of their choice, and deny Plaintiffs the right to vote in elections without distinction of race, color or previous condition of servitude in violation of 42 U.S.C. §§ 1971(a) and 1973.

39. Plaintiffs' congressional districts are malapportioned in violation of Section 2, Article I of the United States Constitution and Section 2 of the 14th Amendment to the United States Constitution.
40. The state representative district of Plaintiff TORRES is malapportioned in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution.
41. The state senate district of Plaintiff BALDERAS is malapportioned in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution.
42. The state representative and state senate districts of many members of Plaintiff Texas LULAC are malapportioned in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution.
43. Defendants' planned creation of state house and state senate districts with data that incorporates an undercount of Latinos is dilutive of Plaintiffs' voting strength in violation of 42 U.S.C. Sections 1971(a) and 1973 and also causes malapportionment in violation of Section 2, Article I of the United States Constitution and the Equal Protection Clause of the 14th Amendment to the United States Constitution.

VII.
ATTORNEYS' FEES

44. In accordance with 42 U.S.C. §§ 1973l(e) and 1988, Plaintiffs are entitled to recover reasonable attorney's fees, expenses and costs.

VIII.
PRAYER

45. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that this Court:

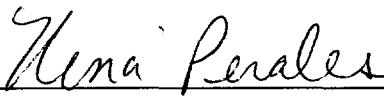
- (a) assume jurisdiction of this action and consolidate this action before the three-judge district court convened in *Mayfield v. Texas*, 2:00CV268-DF and *Lee v. Texas*, 6:01CV98, so that this case may be heard pursuant to Section 2284 of Title 28 of the United States Code and Rule CV-42(c) of the Local Rules of the United States District Court for the Eastern District of Texas;
- (b) issue a declaratory judgment finding that the existing method of electing members to congress, the State House of Representatives and the State Senate in Texas is unconstitutional, unlawful, null and void;
- (c) permanently enjoin Defendants from calling, holding, supervising or certifying any further elections under the present Texas redistricting plans for U.S. Congress, the State House of Representatives and the State Senate. Plaintiffs have no adequate remedy at law other than the judicial relief sought herein, and unless the Defendants are enjoined from continuing the present redistricting plans, Plaintiffs will be irreparably harmed by the continued violation of their statutory and constitutional rights;
- (d) set a reasonable deadline for state authorities to enact or adopt redistricting plans for congressional, state representative, and state senate districts that conform to the constitutional and legal standards of equal population and that do not dilute, cancel out or minimize the voting strength of Latino voters;
- (e) if state authorities fail to enact or adopt valid redistricting plans by the Court's deadline, order new redistricting plans for congressional, state representative, and state senate districts that conform to the constitutional and legal standards of equal

population and that do not dilute, cancel out or minimize the voting strength of Latino voters;

- (f) adjudge all costs against Defendants, including reasonable attorneys fees;
- (g) retain jurisdiction to render any and all further orders that this Court may from time to time deem appropriate; and
- (h) grant any and all further relief to which the Plaintiffs may show themselves to be entitled.

DATED: July 2, 2001

Respectfully submitted,

By: 
NINA PERALES
State Bar No. 24005046
Attorney-in-Charge

Mexican American Legal Defense
and Educational Fund
The Book Building
140 E. Houston Street, Suite 300
San Antonio, TX 78205
(210) 224-5476
FAX: (210) 224-5382

OF COUNSEL:
ALBERT H. KAUFFMAN