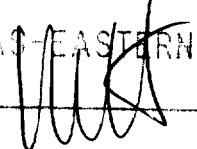


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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U.S. DISTRICT COURT
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TEXAS-EASTERN
BY 

SIMON BALDERAS, GUADALUPE
ROMAN, and GILBERTO Z. TORRES,

Plaintiffs,

v.

Civil Action No. 6:01CV158

(three-judge court requested)

STATE OF TEXAS; RICK PERRY, in his
official capacity as Governor of Texas,
WILLIAM R. "BILL" RATLIFF, in his official
capacity as Acting Lieutenant Governor of
Texas, THE TEXAS HOUSE OF
REPRESENTATIVES, THE TEXAS SENATE,
JAMES "PETE" LANEY, in his official
capacity as Speaker of the Texas House of
Representatives; HENRY CUELLAR in his
official capacity as Secretary of State for the
State of Texas; MOLLY BETH MALCOLM,
in her official capacity as Chair of the Texas
Democratic Parry; SUSAN WEDDINGTON,
in her official capacity as Chair of the Texas
Republican Party,

Defendants.

J.B. MAYFIELD, ROY STANLEY,
PHYLLIS COTTLE, DOROTHY M. LEE, and
MOLLY WOODS

Plaintiff/Intervenors.

**COMPLAINT OF INTERVENORS
MAYFIELD, STANLEY, COTTLE, LEE, AND WOODS**

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1. The plaintiff/intervenors, J.B. Mayfield, Roy Stanley, Phyllis Cottle, Dorothy M. Lee, and Molly Woods (hereafter "plaintiff/intervenors") bring this action to enforce their voting rights guaranteed by the United States Constitution and federal law. As registered voters in the State of Texas, plaintiff/intervenors Mayfield, Stanley, Cottle, and Lee have exercised, and wish to continue exercising, their right to vote for their preferred candidate for the United States

Representative from Texas's Fourth Congressional District, both in general elections and in Democratic Party primary elections. As a registered voter in the State of Texas, plaintiff/intervenor Woods has exercised, and wishes to continue exercising, her right to vote for her preferred candidate for State Senate from Texas's Third Senatorial District and for State Representative from Texas's Eighteenth State House District, both in general elections and in Democratic primary elections. As recently released census data demonstrate, however, population shifts during the last decade have now diluted plaintiff/intervenors' voting strength and have rendered Texas's congressional, state senate, and state house districting plans unconstitutional under the rule of "one person, one vote."

PARTIES

2. Plaintiff/intervenor J.B. Mayfield resides at Old Kilgore Highway, in Tyler, Texas. Plaintiff/intervenor Roy Stanley resides at 14733 FM Rd., in Tyler, Texas. Plaintiff/intervenor Phyllis Collie resides at 601 Pascal, Troup, Texas. Plaintiff/intervenor Dorothy M, Lee resides at 1015 W. Bow Street, Tyler, Texas 75702. Plaintiff/intervenors Mayfield, Stanley, Cottle and Lee are registered voters who live in the Fourth Congressional District.

3. Plaintiff/intervenor Molly Woods resides in Goodrich, Texas, located in Polk County. Plaintiff/intervenor Woods is a registered voter who lives in the Third Senatorial District and the Eighteenth State House District.

4. Defendants are the State of Texas and officials thereof who have duties and responsibilities under the laws of Texas to redraw congressional, state senate, and state house districts in Texas following the release of population data from each federal decennial census and

then to conduct elections in those districts. Defendant Rick Perry is the Governor of Texas. Defendant Bill Ratliff is the Acting Lieutenant Governor of Texas and President of the Texas Senate. Defendant James “Pete” Laney is the Speaker of the Texas House of Representatives. Defendant Henry Cuellar is the Secretary of the State and oversees Texas’s electoral process. Defendant Molly Beth Malcolm is the Chair of the Texas Democratic Party. Defendant Susan Weddington is the Chair of the Texas Republican Party. All defendants are sued in their official capacities.

JURISDICTION AND VENUE

5. This case is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), 1357, 2201, 2202 and 2284. Venue is proper in this district under 28 U.S.C. § 1391(b).

BASIS OF CLAIMS

6. Section 2 of Article I of the United States Constitution, as amended by Section 2 of the Fourteenth Amendment, provides, in part, that “[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States” and that “Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State” The Equal Protection Clause of Section 1 of the Fourteenth Amendment prohibits any State from “deny[ing] to any person within its jurisdiction the equal protection of the laws.” Those provisions create a constitutional guarantee of “one person, one vote” – requiring a State’s congressional districts to achieve population equality as nearly as is practicable.

7. Under Section 2a of Title 2 of the United States Code, the President of the United States is required, every ten years, to transmit to Congress a statement showing the number of persons in each State (as ascertained under the federal decennial census of population) and the number of Representatives to which each State is therefore entitled.

8. On December 28, 2000, the Secretary of Commerce reported to the President of the United States the tabulation of population for each of the fifty States, including the defendant State of Texas, as determined in the 2000 decennial census. Those population figures show Texas's total population to be 20,851,820 and further show that Texas is now entitled to thirty-two (32) Representatives in Congress – an increase of two Representatives since the 1990 census. The ideal population for each U.S. Representative district using this figure is 651,619 (20,851,820 divided by 32).

9. When the Texas Legislature redrew congressional districts in Texas following the 1990 census, each congressional district contained exactly 566,217 persons. Although a federal court redrew 13 of the 30 congressional districts in 1996, 17 of the congressional districts were not changed by the 1996 federal court order. As a result of the 1996 court decision, the population deviation among the congressional districts in Texas was 0.82%, according to the 1990 census.

10. The official 2000 federal decennial census figures for Texas show that population shifts during the last decade have generated substantial inequality among Texas's thirty congressional districts, whose populations now range from a low of 597,401 (for the Thirteenth Congressional District) to a high of 845,541 (for the Twenty-Sixth Congressional District). Thus, the total deviation is now approximately 248,140 persons.

11. According to the official 2000 federal decennial census figures for Texas, the Fourth Congressional District, which contains parts of fast-growing Denton and Collin Counties, has significantly increased its population during the last decade and now contains 707,408 persons. These official census figures show that the Fourth Congressional District exceeds by 55,789 the ideal population of 651,619 for each congressional district in Texas. The Fourth District is overpopulated relative to congressional districts elsewhere in the State and elsewhere in the Nation.

12. The existing malapportionment of congressional districts in Texas dilutes the voting strength of plaintiff/intervenors in the overpopulated Fourth Congressional District, as the weight or value of plaintiff/intervenors' vote is less than that of other voters residing in underpopulated congressional districts.

13. According to the official 2000 federal decennial census figures for Texas, the Third Senatorial District, which includes Polk County, Texas, has significantly increased its population during the last decade and now contains 719,506 persons. These estimates show that the Third Senatorial District exceeds by 46,867 the ideal population (of 672,639) for each senatorial district in Texas. The Third Senatorial District is overpopulated relative to senatorial districts elsewhere in the State of Texas.

14. According to the official 2000 federal decennial census figures for Texas, the Eighteenth State House District, which includes Polk County, Texas, has significantly increased its population during the last decade and now contains 146,008 persons. These estimates show that the Eighteenth State House District exceeds by 6,996 the ideal population (of

139,012) for each state house district in Texas. The Eighteenth State House District is overpopulated relative to state house districts elsewhere in Texas.

15. The existing malapportionment of state senate and state house districts in Texas dilutes the voting strength of plaintiff/intervenor Woods in the overpopulated Third State Senate District and in the Eighteenth State House District, as the weight or value of plaintiff/intervenor's vote is less than that of any voter residing in an underpopulated state senate and state house district.

16. Despite the current malapportioned districts, the Texas Legislature has failed to adopt a new plan for its congressional, state senate, and state house districts. The Legislature adjourned sine die on May 28, 2001, and Governor Perry has not yet called a special session of the Legislature. It thus is exceedingly unlikely that a new plan will be enacted by the Legislature in time for candidates to register for the congressional and state legislative primaries. This case, therefore, is ripe. This Court's intervention is necessary to remedy the existing constitutional violation of plaintiff/intervenors' rights and to protect their rights to cast an undiluted vote for Congress, state senate, and state house of representatives.

CLAIM I

17. Plaintiff/intervenors Mayfield, Stanley, Cottle, and Lee incorporate by reference Paragraphs 1 through 16.

18. The facts herein alleged constitute a denial or abridgement of the plaintiff/intervenors Mayfield, Stanley, Cottle, and Lee's right to vote for their Representative to the United States Congress, in violation of Section 2 of Article I of the United States Constitution, as amended by Section 2 of the Fourteenth Amendment.

CLAIM II

19. Plaintiff/intervenors incorporate by reference Paragraphs 1 through 18.

20. The facts herein alleged constitute a denial to the plaintiff/intervenors of the equal protection of the laws as guaranteed to them by the Equal Protection Clause of Section 1 of the Fourteenth Amendment to the United States Constitution.

CLAIM III

21. Plaintiff/intervenors incorporate by reference Paragraphs 1 through 20.

22. The facts herein alleged constitute an abridgment of the privileges and immunities of citizenship guaranteed to plaintiff/intervenors by the Privileges or Immunities Clause of Section 1 of the Fourteenth Amendment to the United States Constitution.

CLAIM IV

23. Plaintiff/intervenors incorporate by reference Paragraphs 1 through 22.

24. The facts alleged herein constitute a deprivation of plaintiff/intervenors' rights under the Fifteenth Amendment to the United States Constitution.

CLAIM V

25. Plaintiff/intervenors Mayfield, Stanley, Cottle, and Lee incorporate by reference Paragraphs 1 through 24.

26. The facts herein alleged constitute a violation of Section 2c of Title 2 of the United States Code because the current number of congressional districts no longer equals the number of Representatives to which the State of Texas is entitled under federal law.

PRAYER FOR RELIEF

WHEREFORE, plaintiff/intervenors respectfully pray that this Court:

A. Assume jurisdiction of this matter and immediately convene as a three-judge District Court pursuant to Section 2284 of Title 28 of the United States Code;

B. Enter a declaratory judgment that the existing congressional, state senate, and state house districting plans presently in effect in Texas violate plaintiff/intervenors' rights under the aforesaid provisions of the United States Constitution and federal law;

C. Enjoin permanently the defendants, their officers, agents, employees, attorneys, successors in office, and all persons in active concert or participation with them, from conducting primary, general, or special elections using the current congressional districting plan, the current senate plan, and the current state house plan, or any other congressional, state senate or state house districting plan, that violates the United States Constitution or federal law;

D. Set a reasonable deadline, pursuant to the principles of federalism and comity set forth in Grove v. Emison, 507 U.S. 25, 32-37 (1993), for the state authorities to enact or adopt a new plan partitioning the territory of the State of Texas into thirty-two (32) substantially equipopulous congressional districts, thirty-one (31) substantially equipopulous state senate districts, and one hundred and fifty (150) substantially equipopulous state house districts state house districts, and

E. If the state authorities fail to enact or adopt a new, legally valid congressional, state senate, and/or state house redistricting plans by that deadline, impose by Court order new redistricting plans that meet the requirements of the United States Constitution and federal and state law;

F. Grant plaintiff/intervenors their reasonable attorneys' fees, litigation expenses, and court costs; and

G. Grant plaintiff/intervenors any other relief that the Court finds appropriate and equitable.

Respectfully submitted,

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Certificate of Service

This is to certify that a true and correct copy of the foregoing Complaint in Intervention has been forwarded, via regular First Class U.S. Mail, with proper postage affixed, to the following counsel of record this the 14th day of June, 2001:

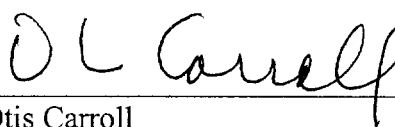
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