

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

**SYLVIA DIFFENDERFER, et als
(DRD)**

CIVIL NO. 08-1918

Plaintiffs

v.

RAMON E. GOMEZ-COLON, Et. Als.

Defendants

**MEMORANDUM OF LAW
IN COMPLIANCE WITH ORDER**

TO THE HONORABLE COURT:

Comes now defendant Nelson Rosario-Rodriguez, individually and in his official capacity as Electoral Commissioner of the Puerto Ricans for Puerto Rico Party (PPR), through the undersigned attorney and very respectfully states and prays:

The instant action was filed on August 19, 2008.

The instant action requests the court to order the Puerto Rico Elections Commission to print all ballots and voting instructions in English as well as in Spanish.

The plaintiffs base their claim on the First, Fifth and Fourteenth Amendments to the Constitution of the United States.

This court issued an order on August 20, 2008, directing all defendants to show cause why the remedies sought in the complaint should not be granted.

Defendant Rosario-Rodriguez and the political party he represents at the Puerto Rico Elections Commission have always favored making the electoral system in Puerto Rico more inclusive and making it easier for the citizens to participate in the electoral processes.

After careful examination of the arguments, and as partially discussed in the answer to the complaint, Rosario-Rodriguez believes there is no reason why the remedies sought by the plaintiffs, or similar remedies which can provide the same results sought by the plaintiffs, should not be granted.

As stated in the complaint, the right to vote is a fundamental right guaranteed by the constitution and laws of the United States. In fact, the electoral franchise of US citizens has been increased since the foundation of the republic in 1787. At the beginning of our republic, the right to vote was only limited to white males over 21 years of age.

The following changes were achieved through amendments to the Constitution.

In 1865, the electoral franchise was expanded to include former slaves (15th Amendment).

In 1920, the electoral franchise was expanded to include women (Amendment XVIII).

In 1971, the electoral franchise was expanded to include 18 year olds (26th Amendment).

Congress approved the Voting Rights Act in 1965 to deal with the limitations imposed in various jurisdictions upon African Americans of their right to vote. The statute has been extended and amended to include linguistic minorities, and to require the printing of bilingual ballots in various instances to protect people who speak languages other than English.

In 2002, the Bureau of the Census issued a report on the jurisdictions that print bilingual ballots and voting materials, indicating the applicable states, counties, and the languages that apply to each case. Although the main language used for bilingual ballots is Spanish, the provisions of the Voting Rights Act have been used to provide election materials in Chinese, Korean, Filipino, Vietnamese and various native American languages.

Although the Voting Rights Act does not deal with the situation where English speaking voters are the linguistic minorities, it is obvious that for the law and electoral processes to be fair, the same standard must apply in instances such as this one.

The purpose of the Voting Rights Act is to expand the electoral franchise and, therefore, we support the printing of ballots and voting instructions in English in Puerto Rico, since the demographics of Puerto Rico make English speakers a linguistic minority here.

Moreover, having bilingual ballots in Puerto Rico is a matter of First Amendment rights, as the current one-language ballots limit the free speech of

citizens who live in Puerto Rico and can only communicate in English. For 2008, taking into account the short time before the election, the Court could order the Elections Commission to prepare special materials to be distributed to the polling places, such as instruction sheets and large signs with the instructions on how to vote written in English. These instruction sheets can also be made available to the parties and candidates participating in this election, as well as to all the Elections Commission offices in Puerto Rico, and on the Elections Commission's web page.

Whereby, we support the claim made by the plaintiffs, and ask the court to provide the remedies sought by them in the complaint, or remedies of a similar nature that allow voters who only understand English to fully exercise their right to vote. If it is determined that to modify the ballots themselves at this state for the 2008 election is too costly, we support the printing of instruction sheets in English to be distributed to all polling places as well as to the political parties and candidates participating in the election.

I HEREBY CERTIFY, that on this same date, a true and exact copy of the original was filed electronically with the Clerk of the Court via the CM/ECF which will send notification of such filing to attorneys of record.

Respectfully submitted in San Juan, Puerto Rico, on August 26, 2008.

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