

IN THE SUPREME COURT OF THE UNITED STATES

No. 05-204

LEAGUE OF UNITED LATIN AMERICAN CITIZENS,
ET AL., APPELLANTS

V.

RICK PERRY, GOVERNOR OF TEXAS, ET AL.

No. 05-276

EDDIE JACKSON, ET AL., APPELLANTS

V.

RICK PERRY, GOVERNOR OF TEXAS, ET AL.

No. 05-439

GI FORUM OF TEXAS, ET AL., APPELLANTS

V.

RICK PERRY, GOVERNOR OF TEXAS, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MOTION OF THE UNITED STATES AS AMICUS CURIAE
FOR DIVIDED ARGUMENT AND TO PARTICIPATE IN ORAL ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court,
the Solicitor General, on behalf of the United States, respectfully

moves for leave to participate in the oral argument and for divided argument in these consolidated cases. The United States requests that ten minutes of appellees' argument time be allotted to the United States. Appellees have agreed to that allocation of time. Granting this motion therefore would not require the Court to enlarge the overall time for argument.

These cases present a number of different issues arising from legal challenges to the 2003 congressional redistricting plan adopted by the State of Texas to replace a court-ordered plan that was previously in effect. Among other things, appellants argue that the State's 2003 plan dilutes the votes of minority voters in violation of Section 2 of the Voting Rights Act of 1965, 42 U.S.C. 1973. The United States has filed a brief as amicus curiae supporting appellees with respect to the Section 2 issues.

Specifically, appellants claim that the State's plan dilutes the votes of African Americans in the Dallas and Fort Worth area of the State. The three-judge district court rejected that claim, holding that African Americans in former District 24, who constituted only about 22% of the voting age population in that area, could not show that their ability to elect candidates of their choice had been abridged by the State's plan under the analysis set forth in Thornburg v. Gingles, 478 U.S. 30 (1986).

Appellants also claim that the State's plan dilutes the votes of Hispanics in South and West Texas because it decreases the Hispanic population in one district and, in the seven districts it creates in that area, it draws only six (rather than all seven) with a citizen voting age population that is majority Hispanic. The district court rejected that claim, finding that appellants had failed to show that the State could have fashioned an additional majority-Hispanic district in South and West Texas that would have enabled them to elect the candidate of their choice. The court also rejected their claim because Hispanics constituted only 58% of the relevant population in South and West Texas, while the State's plan gave them a majority of the relevant population and the ability to elect the candidate of their choice in six of seven (or 85%) of the districts in that area.

The United States has primary responsibility for enforcing Section 2, see 42 U.S.C. 1973j(d), and it therefore has a significant interest in the legal standards governing Section 2 claims and experience in litigating such claims. The United States has participated as a party or amicus at oral argument in all of the Court's cases involving amended Section 2 of the Voting Rights Act. See, e.g., Holder v. Hall, 512 U.S. 874 (1994); Johnson v. De Grandy, 512 U.S. 997 (1994); Voinovich v. Quilter, 507 U.S. 146

(1993); Grove v. Emison, 507 U.S. 25 (1993); Chisom v. Roemer, 501 U.S. 380 (1991); Thornburg v. Gingles, 478 U.S. 30 (1986).

In arguing that the district court erred in rejecting their Section 2 claim with respect to the former District 24, appellants have relied in part on an incomplete description of the position that the United States has taken in other Section 2 cases presenting similar issues. See 05-276 Br. for Appellants 37.

In light of the substantial interest of the United States in the Section 2 issues presented by these cases, and its unique perspective on these issues, oral presentation of the views of the United States would be of material assistance to the Court.

Respectfully submitted.

PAUL D. CLEMENT
Solicitor General
Counsel of Record

FEBRUARY 2006