

Nos. 05-204, 05-254, 05-276, 05-439

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IN THE SUPREME COURT OF THE UNITED STATES

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LEAGUE OF UNITED LATIN AM. CITIZENS, ET AL., *Appellants*,  
v.  
RICK PERRY, ET AL., *Appellees*.

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TRAVIS COUNTY, TEXAS, ET AL., *Appellants*,  
v.  
RICK PERRY, ET AL., *Appellees*.

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EDDIE JACKSON, ET AL., *Appellants*,  
v.  
RICK PERRY, ET AL., *Appellees*.

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GI FORUM OF TEXAS, ET AL., *Appellants*,  
v.  
RICK PERRY, ET AL., *Appellees*.

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On Appeal from the United States District Court  
for the Eastern District of Texas

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**MOTION OF APPELLEES TINA BENKISER,  
Chairman, Republican Party of Texas,  
AND JOHN DeNOYELLES  
FOR DIVIDED ARGUMENT**

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Pursuant to Supreme Court Rule 28.4, Appellees Tina Benkiser, Chairman of the Republican Party of Texas, and John DeNoyelles (the "Private Appellees") move that the hour allotted to all Appellees for oral argument be divided and that the Private Appellees be allotted 10 minutes of that time. The United States, with the consent of all Appellees, has requested leave to participate in oral argument as *amicus curiae*, with 10 minutes of oral argument time. If both the United States' motion and this motion are granted, then the hour allotted to Appellees would be divided as follows: 40 minutes for Appellees Rick Perry, Tom Craddick, David Dewhurst, Roger Williams, and the State of Texas (the "State Appellees"), 10 minutes for the

Private Appellees, and 10 minutes for the United States.\* The State Appellees do not object to this division of argument time.

These four cases are appeals from a single judgment of a three-judge district court, which rejected Appellants' challenges to Texas' congressional districts. The Court noted probable jurisdiction and consolidated the cases and allotted a total of two hours for oral argument. The Court has granted a motion to divide Appellants' hour of argument time as follows: 40 minutes for Appellants in No. 05-276 and 20 minutes for Appellants in No. 05-439.

When governmental parties and private parties are on the same side of a redistricting appeal, the Court routinely hears oral argument from both. *See Georgia v. Ashcroft*, 539 U.S. 461 (2003); *Easley v. Cromartie*, 532 U.S. 234 (2001); *Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320 (2000); *Abrams v. Johnson*, 521 U.S. 74 (1997); *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471 (1997); *Bush v. Vera*, 517 U.S. 952 (1996); *Shaw v. Hunt*, 517 U.S. 899 (1996); *Johnson v. De Grandy*, 512 U.S. 997 (1994); *Chisom v. Roemer*, 501 U.S. 380 (1991). In redistricting cases, a State seeks primarily to advance public, nonpartisan interests in the enforceability of state law, whereas private parties seek primarily to advance their particularized interests in voting and elections. The Court therefore benefits from briefing and oral argument by both governmental and private parties.

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\* The State Appellees and the Private Appellees are the only parties that have appeared in this Court to defend the district court's judgment. Three parties have filed merits briefs in support of Appellants.

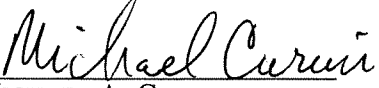
The hour allotted to Appellees for oral argument is sufficient time for the Private Appellees to be heard in addition to the State Appellees and the United States. In at least one other redistricting appeal, the Court has divided argument among the State of Texas, private parties, and the United States. *Bush v. Vera*, 517 U.S. 952. Furthermore, allowing oral argument by two sets of Appellees and the United States would be consistent with the Court's division of argument between two sets of Appellants and the Court's usual practice when the United States appears as *amicus curiae*.

While counsel for the Private Appellees is fully prepared to address all issues, participation by the Private Appellees in oral argument will enable a more complete presentation to the Court, particularly because certain important points have been discussed in detail only by the Private Appellees. For example, the State Appellees address Appellants' many specific arguments concerning alleged political gerrymandering and "mid-decade redistricting." See Br. of State Appellees at 20-69. Only the Private Appellees, however, affirmatively contend that there cannot be *any* cognizable political gerrymandering claim, and otherwise take a broader, national perspective on these issues. See Br. of Benkiser and DeNoyelles at 9-26; cf. *Vieth v. Jubelirer*, 541 U.S. 267 (2004). In addition, on Appellants' claim under Section 2 of the Voting Rights Act, the State Appellees and the United States argue that it was not clearly erroneous for the district court to find that black voters have the potential neither to form a majority of an additional district in the Dallas area, nor to "control" an additional district with the assistance of white "crossover" voters. See Br. of State Appellees at 69-90; Br. of U.S. at 11-17; see also Br. of Benkiser and DeNoyelles at 27-29. Only the Private Appellees, however, affirmatively argue that Section 2 vote dilution claims cannot be brought by minorities unless they constitute a potential numerical majority in a district, even if the group *could* "control" electoral outcomes

with the assistance of “crossover” white voters. *See id.* at 29-50. Thus, oral argument by the Private Appellees will not be repetitive of oral argument by the State Appellees and the United States but, rather, will provide the Court with a more developed perspective on the key issues presented in these appeals.

The Private Appellees therefore request that the Court divide oral argument so that they are allotted 10 minutes of the hour allotted to all Appellees for oral argument.

Respectfully submitted,

  
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CERTIFICATE OF SERVICE

I hereby certify that I am a member in good standing of the bar of this Court and that, pursuant to Supreme Court Rule 29, I caused one copy of the Motion of Appellees Tina Benkiser, Chairman, Republican Party of Texas, and John DeNoyelles for Divided Argument, in *League of United Latin Am. Citizens, et al. v. Rick Perry, et al.*, No. 05-204, *Travis County, Texas, et al. v. Rick Perry, et al.*, No. 05-254, *Eddie Jackson, et al. v. Rick Perry, et al.*, No. 05-276, and *GI Forum of Texas, et al. v. Rick Perry, et al.*, No. 05-439, to be mailed via first-class mail, postage prepaid, on the 8th of February, 2006, to all parties required to be served:

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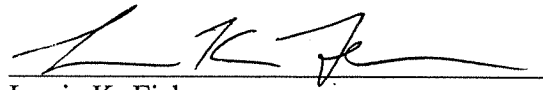
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