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The Latino Legal Voice for Civil Rights in America.

Background Paper

Texas redistricting case: *Abbott v. Perez*

Background

This appeal involves the second phase of redistricting challenges in Texas. After the Texas Legislature adopted new political maps in 2011, a federal court found the maps discriminated against minority voters in certain districts and, based on those preliminary findings, ordered interim redistricting plans for 2012.

The 2012 interim maps created (or restored) several minority opportunity districts but largely carried forward the districts drawn by Texas in 2011. Texas quickly enacted the interim maps even though the district court warned that it had yet to resolve all the discrimination claims against the maps.

In the summer of 2017, the district court concluded that several more districts in the interim maps were discriminatory. Without waiting for the district court to adopt remedial maps, Texas appealed to the U.S. Supreme Court.

What is at issue in this appeal?

Overarching Issues

Does the U.S. Supreme Court have jurisdiction to hear a redistricting appeal after the trial court found discrimination but before the trial court adopted new maps?

Can Texas find a safe harbor in enacting the 2012 interim maps, even when the trial court warned that it might find more discrimination in the state-drawn districts that were carried forward into the interim maps?

House Districts at Issue

Was the trial court correct in concluding that Texas racially gerrymandered State House District 90 in Tarrant County (Ft. Worth) in 2013 in order to help reelect an Anglo incumbent in a Latino

majority district? This issue is unique to MALDEF and its clients the Texas Latino Redistricting Task Force, et al.

Was the trial court correct in finding intentional racial discrimination in several state-drawn districts that were carried forward into the 2012 interim maps?

- In Dallas County, where the State tried to preserve an Anglo district by assigning more Latino voters to existing Latino districts.
- In Nueces County, where the State tried to preserve an Anglo district by assigning more Latino voters into an existing Latino district.
- In Bell County, where the State tried to preserve an Anglo district by dividing Latino and African American voters between two districts.

Congressional Districts at Issue

CD27: Was the trial correct in concluding that Texas intentionally discriminated against Latino voters in Corpus Christi/Nueces County when it reassigned Nueces County from a Latino majority district to an Anglo majority district?

CD35: Was the trial correct in concluding that Texas, when it created a new Latino majority congressional district, should not have included Latino voters who live in Travis County? MALDEF, on behalf of the Texas Latino Redistricting Task Force plaintiffs, supported including Travis County Latinos in the new Latino-majority CD35 but other litigants have challenged CD35 as a racial gerrymander.

Possible Outcomes

If the Supreme Court rules in favor of Texas, the current redistricting plans will remain in place until the next redistricting cycle in 2021.

If the Supreme Court rules in favor of the challengers, the case will return to the trial court for the creation of remedial maps.

The Supreme Court could also conclude that the trial court should have used a different legal test for finding discrimination and send the case back to the trial court for further deliberations.

How have the Texas redistricting maps changed up to now?

Court rulings in 2012 found discrimination against Latino voters in several areas of the state. As a result, the trial court made the following changes in the 2012 interim maps. Those changes are not contested in the current appeal:

Congressional Plan

- New minority congressional district in Dallas-Ft. Worth (CD33) currently represented by Marc Veasey.
- Restored Latino opportunity in a congressional district in West Texas (CD23) currently represented by William Hurd.

State House Plan

- New Latino-majority State House district in the Rio Grande Valley (HD35) currently represented by Oscar Longoria.
- New Latino-majority State House district in Houston/Harris County (HD144) currently represented by Mary Ann Perez.
- Restored Latino opportunity in a State House district in San Antonio/Bexar County (HD117) currently represented by Philip Cortez.
- Restored Latino opportunity in a State House district in El Paso County (HD78) currently represented by Joe Moody (Hispanic).