

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHANNON PEREZ, ET AL)
 Plaintiffs,)
)
 vs.)
)
RICK PERRY, ET AL,)
 Defendants.)
.....

No. SA:11-CV-360
San Antonio, Texas
July 10, 2017

TRANSCRIPT OF TRIAL DAY I

BEFORE THE HONORABLE ORLANDO L. GARCIA,
THE HONORABLE XAVIER RODRIGUEZ,
UNITED STATES DISTRICT JUDGES,
AND THE HONORABLE JERRY E. SMITH,
UNITED STATES CIRCUIT JUDGE

APPEARANCES:

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CAUCUS, TEXAS HOUSE OF REPRESENTATIVES:

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TASK FORCE:

Mexican American Legal Defense &
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110 Broadway Street, Suite 300
San Antonio, Texas 78205

EXAMINATION OF LON BURNAM

* * *

[210] Q. And did you at that point sit down with anybody and try to draw a map of House District 90 that would be more preferable to you?

A. I asked my chief of staff to draw one that – and I believe you have already seen, so I'll just cut to the chase. The first one that we drew that got Como in there had too much of an impact on the Hispanic percentage of voters, and so we really made some ugly lines to – basically we got rid of every white voter near the western boundary of the district to keep the Hispanic vote over 50 percent, but to get Como back into the district.

* * *

[211] Q. So was there ever a situation where you and he were at the computer together and you were –

A. Probably.

Q. Okay. So maybe you were pointing different areas and he was helping you include them?

A. Right, because I know the area and he doesn't, yeah.

* * *

[212] Q. Do you ever recall speaking with Chairman Darby about whether you had the agreement of your neighbor, Representative Geren, to obtain this?

A. Yes. Yes. And it also involved the third member.

Q. Who is that member?

A. To the left.

Q. To the southwest. Okay.

A. Because of the redistricting in 2010, the Lake Como community would not be contiguous with the district without a precinct. And I think the reason – the first filing wasn't the good match because of the numbers was it was a precinct that had been in the district north of the railroad track, but there were too many white people in that district. So what we [213] did in the refiling is we went to a precinct that is in essence south of the railroad tracks in Craig Goldman's district. There's no population in that precinct yet right now, and so Craig obliged. So basically my two neighbors agreed to a kind of – once again, the domino effect of changing.

* * *

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[215] Q. Okay. And were you attempting to meet any goals with respect to one person, one vote when you offered your amendment in 2013?

A. That wasn't a goal, but it was understood that by adding Como, it would decrease that deviation, but then we had to deal with taking as many white folks out as we could, and so trying to eliminate the deviation was kind of lost in the process.

* * *

[216] Q. So you tracked the western boundary of House District 90 and you looked for white people to put in Representative Geren's district?

A. Correct.

Q. And were you assisting Conor Kenney while he was doing that? Were you there?

A. I assisted him somehow because I know the neighborhoods and he doesn't.

Q. I'll withdraw that.

And when you were working with Mr. Kenney and you mentioned you know the neighborhoods, what were you telling Mr. Kenney about the neighborhoods as you modified the western boundary of House District 90?

A. Quite a bit of that western boundary is high density, higher income stuff, and so I would point out right here between the street and that street is, you know, a hundred white voters, they're higher income,

put them over in the Republican district. I don't know what you know about Fort Worth, but the Montgomery Ward Plaza is a redevelopment, and [217] it's all higher income, overwhelmingly white, and so let's pull that in.

* * *

Q. Okay. And do you recall whether Mr. Kenney was also tracking any election results while he was making this change or was it purely a demographic exercise?

A. It was purely a demographic exercise.

* * *

Q. Is it then correct to say that the reason that the 2013 boundary cuts Sansom Park the way that it does is that it's removing what is currently white majority blocks out of House District 90?

A. Well, as you point out with the numbers, it's probably white majority voting age population.

Q. And that's what's coming out of House District 90 with your boundary in 2013?

[218] A. Correct.

* * *

[222] Q. Do you know why this portion of Precinct 4125 was taken into House District 90?

A. I'm only speculating, but it's heavily Hispanic.

Q. Okay. Now, look just above that area for me in the yellow shaded Precinct 4068, there's a little square.

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A. Right. North of Jacksboro Highway.

Q. Yes.

A. And it looks like it's part of two different streets.

Q. Yes. Can you tell me why that area, which was formerly in House District 90, is taken out there?

A. I don't know for sure, but I think it's because they're white.

Q. We're going to the second page now. Here, the thematic shading is the same. The precincts are shaded. The red line [223] is the 2013 plan. The black line is the 2011 plan. It looks like, right near the number 90, that there is a small area on Matisse Drive right by the big number 90.

A. On what drive?

Q. Matisse.

A. Okay.

Q. That looks like it's coming out of the district. Do you have any knowledge about why that area, it's a portion of Precinct 4493, is coming out of the district?

A. Oh, yes.

Q. And why is that?

A. Do you see Calder Court just to the –

Q. Yes.

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A. Okay. Do you see Trinity Park Drive?

Q. Yes.

A. That's where Wendy Davis lives, and it's a really high income gated community enclave.

Q. I see. And so –

A. And I would love to keep her as a constituent, but, I mean, everybody there is wealthy and they're white.

Q. Okay. And so would it be correct to say then that the removed area from 4493 that includes Matisse Drive is coming out of District 90 in the 2013 plan because it's predominantly white?

A. Really high income white.

[224] Q. Okay. And do you – do you know why the area just to the north of that, which runs along the train tracks –

A. Yes.

Q. – and just to the west, do you know why that is taken out?

A. Yes. I mentioned it to you earlier, Montgomery Plaza Redevelopment. I think there's only one Hispanic living there, and he owns the largest Hispanic construction firm in the state. But everybody is white and high income.

Q. And just to finish up with this map, do you know why that block bounded by Bledsoe, Norwood, Lancaster and University is being moved?

A. No. Right now there's not any population in that.

Q. Okay. Okay.

A. I mean, there may be somebody registered to vote there, but nobody lives there. That's what it is. It's probably white voters there and nobody lives in this area.

* * *

[225] Q. Okay. And then you'll notice moving up Vickery Boulevard, that Precinct 1015 is split. Do you see that in the 2013 plan?

A. Yes.

Q. And what is – what has come out now is a portion of 1015 and also 1674. Do you see that?

A. Yes.

Q. Can you tell me why Precinct 1015 is split in this way in the 2013 plan?

A. Well, that's the northwest corner of that precinct, and it's more Anglo and higher income. And then 1674 itself is Arlington Heights High School.

Q. Okay. Is there – Okay. And so the more Anglo area came out and thus so did the high school; is that right?

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A. That is that's correct.

Q. Now, if you would look more towards the eastern portion of the map, it looks like the 2013 plan here takes in a Precinct, 1434, which has got Berry Street in it –

A. Yes.

Q. – to the south. And can you tell me why that precinct was taken in?

A. Yes. It's low income and Hispanic.

Q. Okay. And then it looks like –

A. 1408 that was added, and then we just – and so we just [226] added some additional numbers there.

Q. I see. And was – is that the same then for a little bit higher up along the railroad track – actually, 1062 is coming out of the district.

A. It's very high income, Anglo.

Q. Now, overall during this process of crafting your amendment that becomes HD90 in 2013, throughout the entire process did you examine any potential changes in election performance of the district?

A. No.

Q. And did you look at any primary elections and how the results might change?

A. No, no.

* * *

[232] Q. And when you were discussing your amendment with Representative Geren, do you recall whether he ever asked you if the proposed amendment might dilute Hispanic voting strength in HD90?

A. Maybe. I don't recall specifically, but – because I don't recall the mechanics of the transition from the first plan to the second plan, but I may have had a conversation with him about that.

Q. And would that be with respect to the Spanish surname voter registration?

[233] A. Yes.

Q. Okay. And did he inquire any more deeply into the question of Hispanic electoral strength beyond just the SSVR?

A. No.

Q. And for the same question with Chairman Darby. Did Chairman Darby ever talk with you about the potential one way or the other to dilute Hispanic voting strength in HD90 beyond this question of SSVR?

A. I don't believe he did.

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TRANSCRIPT OF TRIAL DAY II

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EXAMINATION OF CONOR KENNY

* * *

[670] Q. We're going to look now at Exhibit 3J,
line 1.

And with respect to the cut in Precinct 4125, you
remember telling Mr. Burnam that cutting this pre-
cinct in order to draw Hispanic population into the dis-
trict would be ugly, correct?

A. Yes, I do recall this area, actually.

Q. And with respect to the precinct cut that you
described as "ugly," when you pointed out to Mr. Bur-
nam that it would bring more Hispanics into the dis-
trict, he said "great," correct?

A. That sounds right.

Q. And did you previously testify that he said
"great"?

A. If that's what the transcript says, then, yes.

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Q. And, in fact, your boundary here cuts Precinct 4125 and the precinct immediately to the west of it, correct?

A. West? I don't see a precinct to the west of it. oh, is that little pink bloc part of the precinct next to it? I'm sorry. It's just not clear.

Ah, yes, that appears to be.

Q. You see there's pink on both sides?

A. Yes. That appears to be the case. Yes.

* * *
