

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STATE OF TEXAS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 11-1303
)	(RMC-TBG-BAH)
UNITED STATES OF AMERICA, and)	
ERIC H. HOLDER, in his official)	
capacity as Attorney General of the)	
United States)	
)	
Defendants, and)	
)	
Wendy Davis, <i>et. al.</i> ,)	
)	
Intervenor-Defendants.)	

ORDER

Plaintiff State of Texas seeks summary judgment and a declaration that (1) the State’s proposed redistricting plans for the U.S. House of Representatives, the Texas House of Representatives, and the Texas State Senate¹ neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority and otherwise fully comply with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973c; and (2) that the State’s redistricting plans for the U.S. House of Representatives, Texas House of Representatives, and Texas State Senate may be implemented without delay.

The three-judge panel appointed to hear the case received extensive briefing and held lengthy oral argument on November 2, 2011. If any one of the plans is not precleared by this Court

¹ Without challenge to the State’s redistricting plan for the Texas State Board of Education, the Court gave preclearance to that plan by Order dated September 22, 2011.

at this stage in the proceedings, the District Court for the Western District of Texas must designate a substitute interim plan for the 2012 election cycle by the end of November.² *See Perez v. Texas*, No. 11-360, Am. Order [Dkt. # 391] (W. D. Tex. Oct. 4, 2011) (consolidated action). Therefore, the Court issues its Order promptly and will issue a memorandum opinion hereafter.

Having carefully considered the entire record and the parties' arguments, the Court finds and concludes that the State of Texas used an improper standard or methodology to determine which districts afford minority voters the ability to elect their preferred candidates of choice and that there are material issues of fact in dispute that prevent this Court from entering declaratory judgment that the three redistricting plans meet the requirements of Section 5 of the Voting Rights Act. *See* 42 U.S.C. 1973c.

Accordingly, it is hereby

ORDERED that the Motion for Summary Judgment [Dkt. # 41] is **DENIED**.

SO ORDERED.

Date: November 8, 2011

/s/
THOMAS B. GRIFFITH
United States Circuit Judge

/s/
ROSEMARY M. COLLYER
United States District Judge

/s/
BERYL A. HOWELL
United States District Judge

² On November 7, 2011, the District Court for the Western District of Texas issued an order modifying the election schedule in Texas and changing the date pursuant to which prospective candidates for office may first file an application for a place on the Primary Ballot to November 28, 2011. *See Perez v. Texas*, No. 11-360, Am. Order [Dkt. # 489] (W. D. Tex. Nov. 7, 2011) (consolidated action).