

Adding a Weekend Day to Early Voting

LULAC v. Texas

(Xavier Rodriguez, W.D. Tex. 5:06-cv-1046)

A federal complaint challenged the exclusion of weekend days from an early-voting period for a special congressional runoff election, and the district judge ordered that counties that included parts of the congressional district would have the discretion to extend the early voting period by one day to include a Saturday.

Subject: Absentee and early voting. *Topics:* Early voting; case assignment; attorney fees; malapportionment; three-judge court.

The League of Latin American Citizens (LULAC) and three voters filed a federal complaint in the Western District of Texas on December 1, 2006, challenging the elimination of weekend early voting for a runoff special congressional election to be held on December 12, the holiday celebrating the Virgin of Guadalupe, “a feast of special significance to the Mexican American population of the United States.”¹ With their complaint, the plaintiffs filed a motion for a temporary injunction.²

The runoff election was for district 23, which the Supreme Court held on June 28 violated section 2 of the Voting Rights Act.³ On remand, because primary elections had already been held for the districts that the Supreme Court decided were improperly drawn, a three-judge district court in the Eastern District of Texas ordered special open elections for newly court-drawn districts to be held at the same time as the November 7 general election.⁴ Because candidates would not have been winnowed by a primary election, the court ordered that Texas hold a runoff election for any special congressional race in which no candidate received a majority of votes.⁵

Western District of Texas Judge Xavier Rodriguez transferred the December 1 case to the Eastern District of Texas three-judge court on the day that the case was filed.⁶ Four days later, Judge Rodriguez reconsidered and accepted the case back.⁷ On that same day, he ordered that counties including parts of district 23 have the discretion to extend early voting by one day to include Saturday, December 9.⁸

1. Complaint, *LULAC v. Texas*, No. 5:06-cv-1046 (W.D. Tex. Dec. 1, 2006), D.E. 1.

2. Motion, *id.* (Dec. 1, 2006), D.E. 2.

3. *LULAC v. Perry*, 548 U.S. 399 (2006).

4. Order, *LULAC v. Perry*, No. 2:03-cv-354 (E.D. Tex. Aug. 4, 2006), D.E. 336 [hereinafter Special-Election Order], 2006 WL 3069542; *see LULAC v. Perry*, 457 F. Supp. 2d 716 (E.D. Tex. 2006).

5. Special-Election Order, *supra* note 4, at 2; *see Carlos Guerra, Stunning Election Results Are Product of a Convolved Contest*, San Antonio Express-News, Dec. 14, 2006, at 1B.

6. Order, *LULAC*, No. 5:06-cv-1046 (W.D. Tex. Dec. 1, 2006), D.E. 3.

7. Order, *id.* (Dec. 5, 2006), D.E. 7.

8. Order, *id.* (Dec. 5, 2006), D.E. 8.

On December 5, Judge Rodriguez dismissed the case as settled.⁹ On May 22, 2007, he awarded the plaintiffs \$19,562.50 in attorney fees and costs.¹⁰

9. Order, *id.* (Dec. 5, 2006), D.E. 9.

10. Opinion, *id.* (May 22, 2007), D.E. 15.