

STATE OF TEXAS,  
  
Plaintiff,  
  
v.  
  
UNITED STATES OF AMERICA, and  
ERIC H. HOLDER, in his official  
capacity as Attorney General of the  
United States  
  
Defendants, and  
  
Wendy Davis, *et. al.*,  
  
Intervenor-Defendants.

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 Senate<sup>1</sup> 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.

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<sup>1</sup> 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.<sup>2</sup> *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/  
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THOMAS B. GRIFFITH  
United States Circuit Judge

/s/  
\_\_\_\_\_  
ROSEMARY M. COLLYER  
United States District Judge

/s/  
\_\_\_\_\_  
BERYL A. HOWELL  
United States District Judge

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<sup>2</sup> 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).