

## Preclearance Required for Special Election Schedule Ordered by a State Court

*LULAC of Texas v. Ramon*  
(*Alia Moses Ludlum, Jerry E. Smith,*  
*and Xavier Rodriguez, W.D. Tex. 2:10-cv-58*)

A federal complaint filed in the Western District of Texas on September 9, 2010, challenged a state-court-ordered election schedule for a special Democratic primary election for Val Verde County commissioner, which the state court ordered on a finding of undue influence in the original close primary election, alleging that the tight time frame would disadvantage minority voters in violation of sections 2<sup>1</sup> and 5<sup>2</sup> of the Voting Rights Act.<sup>3</sup>

The circuit's chief judge named Circuit Judge Jerry E. Smith and Western District of Texas Judge Xavier Rodriguez to join Judge Alia Moses Ludlum, the originally assigned judge, as a three-judge court to hear the section 5 claim.<sup>4</sup> Observing that "[t]he Defendants . . . do not dispute that these changes are at variance with the Texas Election Code and have not been submitted to, or precleared by, the Department of Justice," the three-judge court issued a preliminary injunction on September 14 against the election schedule ordered by the state court.<sup>5</sup>

Upon preclearance of "proposed uncontested election changes" on October 1, the three-judge court issued an order on October 5 dissolving the preliminary injunction.<sup>6</sup>

---

1. Pub. L. No. 89-110, § 2, 79 Stat. 437, 437, *as amended*, 52 U.S.C. § 10301 (2014).

2. *Id.*, § 5, 79 Stat. at 439, *as amended*, 52 U.S.C. § 10304 (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination and requiring that preclearance disputes be heard by a three-judge court).

On June 25, 2013, the Supreme Court declined to hold section 5 unconstitutional, but the Court did hold unconstitutional the criteria for which jurisdictions require section 5 preclearance. *Shelby County v. Holder*, 570 U.S. \_\_\_, 133 S. Ct. 2612 (2013).

3. Complaint, *LULAC of Texas v. Ramon*, No. 2:10-cv-58 (W.D. Tex. Sept. 9, 2010), D.E. 1.

4. Order, *id.* (Sept. 10, 2010), D.E. 2; *see* Docket Sheet, *id.* (Sept. 10, 2010).

5. Order, *id.* (Sept. 14, 2010), D.E. 3.

6. Order, *id.* (Oct. 5, 2010), D.E. 6; *see* Amended Complaint, *id.* (Oct. 4, 2010), D.E. 4.