

## Postponement of a City Council Election for Preclearance of New Districts

*LULAC Council #682 v. City of Seguin*  
(*Orlando L. Garcia, W.D. Tex. 5:02-cv-369*)

On April 12, 2002, the day that a voting rights group filed a federal complaint in the Western District of Texas, Judge Orlando L. Garcia ordered briefing for an April 15 hearing on the legal implications of a planned May 4 city council election for which districts had become malapportioned, but a new districting plan had not yet received preclearance pursuant to section 5 of the Voting Rights Act.<sup>1</sup>

Following the hearing, held two days before early voting was to begin, Judge Garcia enjoined the election and set the case for hearing again on April 24.<sup>2</sup> The circuit's chief judge named Circuit Judge Emilio M. Garza and Western District of Texas Judge Edward C. Prado to join Judge Garcia as a three-judge court to hear section 5 claims.<sup>3</sup> On April 30, the three-judge court converted the temporary restraining order into a preliminary injunction.<sup>4</sup>

Following May 17 preclearance of new districts, the three-judge court issued an order on June 26 approving settlement of the case by holding the election on September 14.<sup>5</sup> The parties agreed to an award of \$10,000 in attorney fees and costs.<sup>6</sup>

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1. Order, *LULAC Council #682 v. City of Seguin*, No. 5:02-cv-369 (W.D. Tex. Apr. 12, 2002), D.E. 3; see Voting Rights Act of 1965, Pub. L. No. 89-110, § 5, 79 Stat. 437, 439, as amended, 52 U.S.C. § 10304 (2014) (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).

2. Order, *LULAC Council #682*, No. 5:02-cv-369 (W.D. Tex. Apr. 16, 2002), D.E. 6; see Sonja Garza, *Judge Postpones Seguin Election*, San Antonio Express-News, Apr. 16, 2002, at 1B; see also Roger Croteau, *Seguin Accepts Delayed Election*, San Antonio Express-News, Apr. 17, 2002, at 7B.

3. Order, *LULAC Council #682*, No. 5:02-cv-369 (W.D. Tex. Apr. 16, 2002), D.E. 7.

Judge Garza retired on January 5, 2015, and Judge Prado was elevated to the court of appeals on May 5, 2003. Federal Judicial Center Biographical Directory of Federal Judges, [www.fjc.gov/history/home.nsf/page/judges.html](http://www.fjc.gov/history/home.nsf/page/judges.html).

4. Order, *LULAC Council #682*, No. 5:02-cv-369 (W.D. Tex. Apr. 30, 2002), D.E. 9.

5. Order, *id.* (June 26, 2002), D.E. 13.

6. *Id.* at 4.