

## 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)

A federal judge enjoined a May 4 city-council election, because a previous districting plan had become malapportioned and a new plan had not yet received preclearance. The election was held on September 14.

*Subject:* District lines. *Topics:* Enjoining elections; section 5 preclearance; malapportionment; three-judge court; attorney fees; early voting.

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 district 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>

---

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 district 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. 529 (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; Judge Prado was elevated to the court of appeals on May 5, 2003, and he retired on April 2, 2018. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

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

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

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>

---

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

6. *Id.* at 4.