

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION

4 THE UNITED STATES OF AMERICA,)

5 Plaintiff,)

6 v.)

CIVIL ACTION NO.
CV 00-03691-GHK(SHx)

7 CITY OF SANTA PAULA, CALIFORNIA;)

8 SANTA PAULA CITY COUNCIL;)

9 RICHARD COOK, LAURA FLORES)

10 ESPINOSA, DONALD JOHNSON, RAY)

11 LUNA, JOHN PROCTER, members of)

12 the Santa Paula City Council;)

13 RICHARD DEAN, Ventura County)

14 Clerk-Recorder,)

15 Defendants,)

16 SANTA PAULA VOTERS OPPOSED TO)

17 ELECTORAL REDISTRICTING,)

18 Defendant-Intervenor.)

19 Plaintiff United States of America (the "United States")
20 filed this action pursuant to Section 2 of the Voting Rights Act
21 of 1965, as amended, 42 U.S.C. 1973. The Complaint alleges that
22 the at-large election system for electing the Santa Paula City
23 Council has the effect of diluting Hispanic voting strength,
24 resulting in Hispanic citizens being denied an opportunity equal
25 to that afforded to other members of the electorate to
26 participate in the political process and elect representatives of
27 their choice.

28 Defendant City of Santa Paula, California ("City of Santa
Paula"), has denied that the at-large system for electing the
Santa Paula City Council violates Section 2 or dilutes Hispanic
voting strength. The City of Santa Paula contends that there is
no past or current condition of vote dilution in Santa Paula,

1 that Hispanic voters would not elect more Hispanic preferred
2 Hispanic candidates under a district election system than under
3 the current at large system and that this lawsuit is barred by
4 the disclaimer in Section 2 that proportional representation is
5 not required. Santa Paula also contends that there can be no
6 vote dilution as a matter of law, because Hispanics, who have
7 become a majority of the electorate, have an equal opportunity to
8 elect.

9 In its Answer to the Complaint, Defendant-Intervenor Santa
10 Paula Voters Opposed to Electoral Redistricting has denied that
11 the method of electing the Santa Paula City Council violates
12 Section 2 of the Voting Rights Act.

13 In an effort to conserve judicial resources and the
14 resources of the parties, the United States and the City of Santa
15 Paula have arrived at a Stipulation of Facts and have agreed to
16 the following terms:

17 (1) The City of Santa Paula shall place a proposition on the
18 ballot for the November 5, 2002 election, which shall provide
19 voters with an opportunity to vote on whether the members of the
20 Santa Paula City Council should be elected by district as
21 provided by Cal. Gov't Code § 34871.

22 (2) For all purposes between the United States and the City
23 of Santa Paula, the facts contained in Stipulation of Facts
24 executed on August 30, 2001, shall be considered undisputed and
25 established facts as of the date the Stipulation of Facts is
26 executed;

27 (3) This action shall be dismissed without prejudice.

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1 Wherefore, by agreement of the United States and the City of
2 Santa Paula, the Court hereby finds as follows:

3 1. This Court has jurisdiction over this action pursuant
4 to 42 U.S.C. 1973j(f) and 28 U.S.C. 1345.

5 2. The terms of this Settlement Agreement are reasonable,
6 lawful, and fair.

7 Accordingly, it is hereby ORDERED that:

8 I. The Stipulation of Facts attached hereto as Exhibit A is
9 incorporated into this Settlement Agreement and Order.

10 II. The City of Santa Paula shall submit to the voters
11 during the November 5, 2002 election one ordinance providing for
12 the members of the Santa Paula City Council to be elected by
13 district. The ordinance shall provide for one of the following
14 methods of election:

15 (a) Five council members elected by single-member
16 districts;

17 (b) Four council members elected by single-member
18 districts and a mayor elected citywide; or

19 (c) If authorized by the Legislature, four
20 council members elected by two two-member
21 districts and a mayor elected citywide.

22 III. Nothing in this Settlement Agreement shall be
23 construed to require the voters of Santa Paula to change the
24 current method of electing members of the City Council, or to
25 suggest that they should.

26 IV. The ordinance required by Paragraph II above shall be
27 placed on the ballot in accordance with Sections 34871-34879 of
28 the California Government Code, and the term "by districts" shall

1 have the same meaning as it is defined in Section 34871 of the
2 California Government Code.

3 V. Any electoral districts used to elect the Santa Paula
4 City Council shall comply with the provisions of California
5 Elections Code § 21601 and with Section 2 of the Voting Rights
6 Act.

7 VI. Nothing in this Settlement Agreement shall be
8 construed as an admission of liability by the City of Santa Paula
9 or an admission by the United States that the at-large method of
10 electing the Santa Paula City Council does not violate Section 2
11 of the Voting Rights Act.

12 VII. The Stipulation of Facts between the United States and
13 the City of Santa Paula is without prejudice to Defendant-
14 Intervenor Santa Paula Voters Opposed to Electoral Redistricting
15 and does not constitute findings of fact by this Court. If
16 Defendant-Intervenor seeks to intervene in future litigation
17 between the United States and the City of Santa Paula concerning
18 the system for electing the Santa Paula City Council, the United
19 States and the City of Santa Paula shall confer in good faith
20 with Defendant-Intervenor before either party opposes such
21 intervention.

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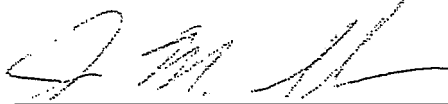
1 VIII. Plaintiff United States and the City of Santa Paula
2 shall bear their own costs and fees in this action.

3 This action is dismissed without prejudice.

4 FOR PLAINTIFF UNITED STATES OF AMERICA:

5 RALPH F. BOYD, JR.
6 Assistant Attorney General
7 Civil Rights Division
8 JOHN S. GORDON
9 United States Attorney
10 MICHELE C. MARCHAND
11 Assistant United States Attorney

12 DATED: September 25, 2001

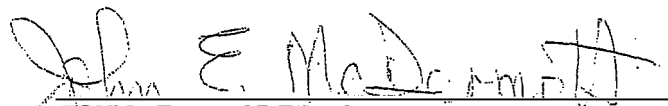


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24 FOR DEFENDANT CITY OF SANTA PAULA:

25 PHILLIP H. ROMNEY
26 Santa Paula City Attorney

27 DATED: September 26, 2001



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IT IS SO ORDERED.

Date

United States District Judge

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2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION

4 THE UNITED STATES OF AMERICA,)

5 Plaintiff,)

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11 Defendants,)

12 SANTA PAULA VOTERS OPPOSED TO)

13 ELECTORAL REDISTRICTING,)

14 Defendant-Intervenor.)

15)

16 Plaintiff United States of America (the "United States")
17 filed this action pursuant to Section 2 of the Voting Rights Act
18 of 1965, as amended, 42 U.S.C. 1973 (hereinafter "Section 2").
19 The Complaint alleges that the at-large election system for
20 electing the Santa Paula City Council has the effect of diluting
21 Hispanic voting strength, resulting in Hispanic citizens being
22 denied an opportunity equal to that afforded to other members of
23 the electorate to participate in the political process and elect
24 representatives of their choice.

25 Defendant City of Santa Paula, California ("City of Santa
26 Paula"), has denied that the at-large system for electing the
27 Santa Paula City Council violates Section 2 or dilutes Hispanic
28 voting strength. The City of Santa Paula contends that there is

1 no past or current condition of vote dilution in Santa Paula,
2 that Hispanic voters would not elect more Hispanic preferred
3 Hispanic candidates under a district election system than under
4 the current at large system and that this lawsuit is barred by
5 the disclaimer in Section 2 that proportional representation is
6 not required. The City of Santa Paula also contends that there
7 can be no vote dilution as a matter of law, because Hispanics,
8 who have become a majority of the electorate, have an equal
9 opportunity to elect.

10 In its Answer to the Complaint, Defendant-Intervenor Santa
11 Paula Voters Opposed to Electoral Redistricting has denied that
12 the method of electing the Santa Paula City Council violates
13 Section 2 of the Voting Rights Act.

14 In an effort to conserve judicial resources and the
15 resources of the parties, and to facilitate settlement of this
16 matter, the United States and the City of Santa Paula have agreed
17 to stipulate to the following facts as being established for all
18 purposes between the United States and the City of Santa Paula as
19 of the date this Stipulation of Facts is executed:

20 1. The City of Santa Paula has an at-large election system
21 for electing its five member City Council. All voters in the
22 City can vote for all five Councilmembers.

23 2. Councilmember terms are staggered, with two
24 Councilmembers elected during one biennial election, and the
25 other three elected two years later.

26 3. All candidates run on the same ballot for the seats up
27 for election on a plurality win basis. There is no runoff or
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1 majority vote requirement. There is no prohibition against
2 bullet voting.

3 4. The Hispanic population within the City of Santa Paula
4 is sufficiently large and geographically compact so that
5 Hispanics could comprise a majority of the voting age citizens,
6 registered voters, and voters turning out to vote in at least two
7 of five properly-apportioned districts.

8 5. As of this date, the United States can satisfy the
9 first precondition of Thornburg v. Gingles, 478 U.S. 30, 106 S.
10 Ct. 2752, 92 L. Ed. 2d 25 (1986).

11 6. According to the 1990 Census, Hispanic persons
12 comprised 59 percent of Santa Paula's total population, 54
13 percent of its voting age population, and approximately 38
14 percent of its citizen voting age population. Anglo persons
15 comprised 39 percent of Santa Paula's total population, 46
16 percent of its voting age population, and approximately 60
17 percent of its citizen voting age population.

18 7. According to the 2000 Census, Hispanic persons comprise
19 72 percent of Santa Paula's total population of 28,598, and 66
20 percent of its voting age population. Anglo persons comprise 26
21 percent of the total population and 31 percent of the voting age
22 population in Santa Paula. Citizen voting age population data
23 for Santa Paula is not yet available from the 2000 Census.

24 8. The share of Hispanic registered voters has increased
25 since the November 1988 election when Spanish surnamed registered
26 voters constituted 32 percent of all registered voters. In the
27 November 2000 election, Spanish surnamed registered voters
28 constituted 49 percent of all registered voters. Spanish

1 surnaming registrants tends to slightly underestimate the
2 percentage of Hispanic origin registrants.

3 9. The share of Hispanic persons who cast ballots has
4 increased since the November 1988 election when Spanish surnamed
5 voter turnout constituted 29 percent of all voters. In the
6 November 2000 election, Spanish surnamed voters constituted 46
7 percent of all voters. Spanish surnaming voters tends to
8 slightly underestimate the percentage of Hispanic origin voters.

9 10. Since 1966, at least one Hispanic person has served on
10 Santa Paula City Council at all times: Henry Vela and Joe Bravo
11 served on the Santa Paula City Council from 1966 to 1974; Al
12 Urias served on the Santa Paula City Council from 1974 to 1986
13 and from 1988 to 1996; Al Escoto served on the Santa Paula City
14 Council from 1984 to 1988; Laura Flores Espinosa has served on
15 the Santa Paula City Council since 1994; and Ray Luna has served
16 on the Santa Paula City Council since 2000.

17 11. When the Complaint was filed on April 6, 2000, Ms.
18 Espinosa was the only member of the Santa Paula City Council at
19 the time who had been preferred by Hispanic voters. With Mr.
20 Luna's election in November 2000, two of the five current
21 Councilmembers are Hispanic persons who were preferred by
22 Hispanic voters.

23 12. Robin Sullivan served on the Santa Paula City Council
24 from 1992 to 2000. During her 1996 campaign for Santa Paula City
25 Council, Ms. Sullivan distributed a flier addressed "TO THE
26 LATINO COMMUNITY IN SANTA PAULA," in which she stated that her
27 grandmother was "a full blooded Mexican." There is no evidence
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1 that Ms. Sullivan was generally known as being Hispanic when she
2 was elected to the Santa Paula City Council in 1992.

3 13. In each Santa Paula City Council election between 1988
4 and 2000, at least one Hispanic candidate ran for election to the
5 Santa Paula City Council.

6 14. In 1988, Al Urias and Al Escoto were Hispanic
7 candidates for Santa Paula City Council. Hispanic voters
8 supported Mr. Urias and Mr. Escoto more strongly in this election
9 than any other candidate(s), and both would have been elected if
10 the election would have been held only among Hispanic voters.
11 Les Maland was the most preferred candidate of non-Hispanic
12 voters. Mr. Escoto and Paul Kaiser received the next highest
13 levels of support of non-Hispanic voters and they received
14 approximately the same level of support. Mr. Maland and Mr.
15 Urias were elected.

16 15. In 1990, Jesse Ornelas and Bob Borrego were Hispanic
17 candidates for the Santa Paula City Council. Hispanic voters
18 supported Mr. Ornelas and Mr. Borrego more strongly in that
19 election than any other candidate(s), and both would have been
20 elected if the election would have been held only among Hispanic
21 voters. Wayne Johnson, Margaret Ely, and John Melton were the
22 candidates preferred by non-Hispanic voters. Mr. Johnson, Ms.
23 Ely, and Mr. Melton were elected. For this election, Spanish-
24 surnamed persons comprised 34% of the registered voters and 30%
25 of those who cast ballots.

26 16. In 1992, Al Urias was a Hispanic candidate for the
27 Santa Paula City Council. Hispanic voters supported Mr. Urias
28 more strongly in that election than any other candidate(s), and

1 he would have been elected if the election would have been held
2 only among Hispanic voters. Robin Sullivan and Flo Zakrajshek
3 were the candidates preferred by non-Hispanic voters. Ms.
4 Sullivan and Mr. Urias were elected.

5 17. In 1994, Laura Espinosa and Victor Salas were Hispanic
6 candidates for the Santa Paula City Council. Hispanic voters
7 supported Ms. Espinosa and Mr. Salas more strongly in that
8 election than any other candidate(s), and both would have been
9 elected if the election would have been held only among Hispanic
10 voters. Don Johnson, John Melton, and Flo Zakrajshek were the
11 candidates preferred by non-Hispanic voters. Ms. Espinosa, Mr.
12 Johnson, and Mr. Melton were elected.

13 18. In 1996, Al Urias and Gabriella Araiza-Reeves were
14 Hispanic candidates for the Santa Paula City Council. Hispanic
15 voters supported Mr. Urias and Ms. Gabriella Araiza-Reeves more
16 strongly in that election than any other candidate(s), and both
17 would have been elected if the election would have been held only
18 among Hispanic voters. Robin Sullivan and James Garfield were
19 the candidates preferred by non-Hispanic voters. Ms. Sullivan
20 and Mr. Garfield were elected.

21 19. In 1998, Laura Espinosa, Richard Garcia and Al Escoto
22 were Hispanic candidates for the Santa Paula City Council.
23 Hispanic voters supported Ms. Espinosa, Mr. Garcia and Mr. Escoto
24 more strongly in that election than any other candidate(s), and
25 all three would have been elected if the election would have been
26 held only among Hispanic voters. Don Johnson, Richard Cook, and
27 Scott Dunbar were the candidates preferred by non-Hispanic
28 voters. Mr. Cook, Mr. Johnson, and Ms. Espinosa were elected.

1 20. In 2000, Al Guilin and Ray Luna were Hispanic
2 candidates for the Santa Paula City Council. Hispanic voters
3 supported Mr. Guilin and Mr. Luna more strongly in that election
4 than any other candidate(s), and both would have been elected if
5 the election would have been held only among Hispanic voters.
6 John Procter received almost as much Hispanic support as Mr.
7 Luna. Mr. Procter and James Garfield were the candidates
8 preferred by non-Hispanic voters. Mr. Procter and Mr. Luna were
9 elected.

10 21. Hispanic voters generally were politically cohesive in
11 Santa Paula City Council elections from 1990 to 2000.

12 22. As of this date, the United States can satisfy the
13 second precondition of Thornburg v. Gingles, 478 U.S. 30, 106 S.
14 Ct. 2752, 92 L. Ed. 2d 25 (1986).

15 23. Three of the five elected members on both the Santa
16 Paula Elementary School District Board of Trustees and the Santa
17 Paula High School District Board of Trustees are Hispanic
18 persons.

19 24. Measure I, to curb development, was enacted in the
20 November 2000 election. Hispanic voters favored Measure I and
21 non-Hispanic voters did not. Hispanic turnout as a percentage of
22 Hispanic registration was lower than non-Hispanic turnout.
23 Measure I was enacted because Hispanic voters favored Measure I
24 more strongly than non-Hispanic voters opposed it.

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1 25. Facts not included in this Stipulation of Facts may be
2 relevant to the totality of circumstances and/or whether the
3 success or defeat of any particular candidate was the result of
4 special circumstances.

5 FOR PLAINTIFF UNITED STATES OF AMERICA:

6 RALPH F. BOYD, JR.
7 Assistant Attorney General
8 Civil Rights Division

9 JOHN S. GORDON
10 United States Attorney
11 MICHELE C. MARCHAND
12 Assistant United States Attorney

13 DATED: August 29, 2001




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25 FOR DEFENDANT CITY OF SANTA PAULA, CALIFORNIA:

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27 Santa Paula City Attorney

28 DATED: August 30, 2001



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