


NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT NUMBER ONE V. GONZALES



The NAACP Legal Defense Fund (LDF) represents several African-American voters in *Northwest Austin Municipal Utility District Number One v. Gonzales*, a lawsuit filed by a small Austin-based utility district days after Congress overwhelmingly voted to reauthorize the federal oversight provisions of the Voting Rights Act. This case is of critical importance to those in the voting rights bar as it is the first case testing the constitutionality of Congress's recent reauthorization of Section 5. Moreover, a negative ruling in this case would have far-reaching implications for the 16 states that are wholly or partially covered under the Section 5 preclearance provision of the Act.

The Voting Rights Act has long been deemed one of the most important federal civil rights statutes given its role in preserving and protecting minority voting strength. The entire state of Texas is subject to the Act's Section 5 preclearance provision as a result of its well-documented history of voting discrimination. Section 5 requires that covered jurisdictions submit their voting changes to the Department of Justice or a federal court before the changes can take effect. The changes are reviewed to ensure that they do not worsen the position of minority voters and to ensure that they were not adopted with a discriminatory purpose.

The utility district, a political subunit in the State of Texas, seeks to terminate its obligations under Section 5 by seeking to "bailout" under a special provision of the Act. LDF and other Defendants in the case argued that the utility district is ineligible for "bailout" because it is not a state, county or type of jurisdiction deemed eligible for this special exemption under the Act. In anticipation of this position, the district seeks to have the court declare the Section 5 preclearance provision of the Voting Rights Act unconstitutional. In particular, the district argues that Congress exceeded its legislative authority under the 14th and 15th Amendments and also argues that there is insufficient evidence of ongoing voting discrimination in Texas and other covered jurisdictions.

The Attorney General serves as the lead Defendant in the case. In addition to LDF, several other organizations have intervened in the suit including the Mexican American Legal Defense and Education Fund, NAACP, Texas RioGrande Legal Aid, People for the American Way, the ACLU, and the Lawyers' Committee for Civil Rights Under Law working in collaboration with the law firm of Wilmer, Cutler, Pickering, Hale & Dorr.

The case was argued before a three-judge panel of the District Court for the District of Columbia on September 17, 2007. Should the Defendants receive a favorable ruling that upholds the constitutionality of Section 5, a direct appeal to the U.S. Supreme Court is expected.