

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MAGALY CAMACHO, FRANCISCO)	CIVIL ACTION NO. 2002-10428-DPW
DOMINGUEZ, ANGEL MEZA, KAREN)	
PAZOS, GABRIEL VALERIO,)	
JUAN VEGA, CHELSEA'S)	
COMMISSION ON HISPANIC)	
AFFAIRS, INC., and ¿OISTE?: The)	
Massachusetts Statewide)	
Latino Organization,)	
)	
Plaintiffs,)	
)	
v.)	
)	
THOMAS M. FINNERAN, in his official)	
capacity as Speaker of the Massachusetts)	
House of Representatives, THOMAS F.)	
BIRMINGHAM, in his official capacity)	
as President of the Massachusetts Senate,)	
JANE SWIFT, in her official capacity as)	
Acting Governor of the Commonwealth)	
of Massachusetts, and WILLIAM)	
FRANCIS GALVIN, in his official)	
capacity as Secretary of the)	
Commonwealth of Massachusetts,)	
)	
Defendants.)	

SUBSTITUTED COMPLAINT

Through this action, the plaintiffs seek declaratory and injunctive relief against use of the recently enacted redistricting plan for the House of Representatives for the Commonwealth of Massachusetts on the grounds that it dilutes the voting strength of Latino citizens in Chelsea and adjacent areas in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. Plaintiffs also seek an order requiring elections to be held after 2002 to be conducted under a lawful districting plan which complies with the Voting Rights Act.

JURISDICTION AND VENUE

1. Plaintiffs invoke the jurisdiction of this Court under 28 U.S.C. §§ 1331, 1343(a)(3), 1343(a)(4), and 2201. This lawsuit is authorized by 42 U.S.C. §§ 1973j(f) and 1983. Because the defendants reside in this district and a substantial part of the events or omissions giving rise to the claims herein occurred in Massachusetts, venue is proper in this district under 28 U.S.C. § 1391(b).

THE PARTIES

2. Plaintiff Magaly Camacho is a Latino citizen of the United States who is duly registered to vote in Massachusetts, residing at 133 Walnut Street, Chelsea, Massachusetts, which is within the Second Suffolk District.

3. Plaintiff Francisco Dominguez is a Latino citizen of the United States who is duly registered to vote in Massachusetts, residing at 9 Pembroke Street, Chelsea, Massachusetts, which is within the Second Suffolk District.

4. Plaintiff Angel Meza is a Latino citizen of the United States who is duly registered to vote in Massachusetts, residing at 5 Clyde Street, Chelsea, Massachusetts, which is within the Second Suffolk District.

5. Plaintiff Karen Pazos is a Latino citizen of the United States who is duly registered to vote in Massachusetts, residing at 78 Spencer Avenue, Chelsea, Massachusetts, which is within the Second Suffolk District.

6. Plaintiff Gabriel Valerio is a Latino citizen of the United States who is duly registered to vote in Massachusetts, residing at 73A Marlboro Street, Chelsea, Massachusetts, which is within the Second Suffolk District.

7. Plaintiff Juan Vega is a Latino citizen of the United States who is duly registered to vote in Massachusetts, residing at 26 Shawmut Street, Chelsea, Massachusetts, which is within the Second Suffolk District.

8. Plaintiff Chelsea's Commission on Hispanic Affairs, Inc. is a Massachusetts non-profit corporation organized to promote the social, political, and economic empowerment of the Latino community in Chelsea, with its principal place of business at 201 Washington Avenue, Chelsea, Massachusetts. Many of its members are Latino citizens of the United States who reside in Chelsea and are otherwise eligible to vote.

9. Plaintiff ¿OISTE? is a Massachusetts non-profit corporation organized to promote the social, political, and economic standing of Latinos and Latinas in Massachusetts, with a principal place of business at 37 Temple Street, Boston, Massachusetts. Its members include Latino citizens of the United States who reside in Chelsea and are otherwise eligible to vote.

10. Defendant Thomas M. Finneran is, and was at all times relevant to this action, the Speaker of the House and the presiding officer of the House of Representatives of Massachusetts. The House is one of two branches of the state legislature in which the power to redistrict the state House and Senate is vested. He is sued in his official capacity.

11. Defendant Thomas F. Birmingham is, and was at all times relevant to this action, the President and the presiding officer of the Senate of Massachusetts. The Senate is one of two branches of the state legislature in which the power to redistrict the state House and Senate is vested. He is sued in his official capacity.

12. Defendant Jane Swift is the Acting Governor of the Commonwealth of Massachusetts, and has authority to approve redistricting legislation. She is sued in her official capacity.

13. Defendant William Francis Galvin is the Secretary of the Commonwealth of Massachusetts, responsible under its laws for the administration of state elections. He is sued in his official capacity.

THE FACTS

14. According to the 2000 census conducted by the United States Census Bureau (“Census 2000”), the Commonwealth of Massachusetts has a total population of 6,349,097, of which 428,729 (6.8 %) is Latino. The total voting age population of the Commonwealth of Massachusetts is 4,849,033, of which 271,003 (5.6%) is Latino.

15. These numbers reflect substantial growth in the Latino population of Massachusetts. The Latino population of Massachusetts grew by 49.1% between 1990 and 2000, according to Census 2000 figures.

16. Each of the members of the Commonwealth’s House of Representatives is chosen from one of 160 voting districts. As a result, each of these voting districts has an ideal population of 39,682.

17. The Chelsea and East Boston area has Massachusetts’ third largest voting age population of Latinos, following Latino populations in the cities of Lawrence and Springfield. Chelsea and East Boston are geographically adjacent to each other, and are both located within Suffolk County.

18. The city of Chelsea has a population of 35,080, according to Census 2000. Also according to Census 2000, Chelsea has a Latino population of approximately 16,984, or 48.4 percent of the total. Latinos comprise 43.6% of the voting age population of Chelsea.

19. According to Census 2000, East Boston's population includes 14,990 Latinos out of a total of 38,413, or a Latino population of 39%. Latinos comprise 36% of the voting age population of East Boston.

20. On November 8, 2001, Acting Governor Swift signed into law Chapter 125 of the Acts of 2001, entitled "An Act Relative to Establishing Representative Districts in the General Court" (the "Redistricting Act"). The House of Representatives had voted to approve the bill which became the Redistricting Act, House Bill No. 4701, on October 25, 2001. The Senate voted to approve the same bill as Senate Bill No. 2147 on October 30, 2001.

21. In drafting the Redistricting Act, the House of Representatives disregarded a proposal from plaintiff Chelsea's Commission on Hispanic Affairs, Inc. to place Chelsea together with an adjacent area of East Boston, which would have created a district wherein the majority of the voting-age population were minorities. Instead, the Redistricting Act places certain of Chelsea's precincts together in a district with the overwhelmingly white, non-Latino population of Charlestown, creating a district in which the voting power of the Latino community is significantly diluted by that of the white non-Latino community in Charlestown.

22. Under the Redistricting Act, twelve of Chelsea's sixteen newly drawn precincts, including those precincts with the greatest number of Latino eligible voters, were placed in the Second Suffolk, together with all of Charlestown's seven precincts. Charlestown has only 1,764 Latino citizens in its total population of 15,195, or approximately 11.6 percent of the total, according to Census 2000. Also according to Census 2000, 78.6 percent of Charlestown's residents are white non-Latinos, including almost 84.6 percent of the voting age population. The resulting Second Suffolk District is only 32.3% Latino in voting age population.

23. The four precincts of Chelsea not combined with Charlestown in the Second Suffolk District were placed in the Sixteenth Suffolk District, which also includes precincts from the town of Saugus and the city of Revere. The voting age population of the Sixteenth Suffolk district is also overwhelmingly white and non-Latino.

24. Combining the large majority of Chelsea's Latino eligible voters with the overwhelmingly non-Latino voters in Charlestown in the Second Suffolk District significantly dilutes the voting strength of Latino citizens. Charlestown's politically cohesive white non-Latinos voters form a supermajority with similar white non-Latino voters in Chelsea who will usually vote to defeat the electoral preferences of the sizable Latino population.

25. Latino voters are sufficiently numerous and geographically compact to constitute a majority in a properly drawn representative district. Several alternative maps can readily be created joining compact, geographically contiguous areas of Chelsea and East Boston and resulting in a district having a majority Latino voting-age population. Such potential districting plans would unite communities sharing similar cultural, economic, religious, and political interests and provide Latino citizens with an opportunity to elect a candidate in keeping with their electoral preferences.

26. The individual plaintiffs, as well as some of the members of Chelsea's Commission on Hispanic Affairs and ¿OISTE?, reside in the area that could be included in a properly drawn voting district where the majority of the voting age population are Latinos.

27. In addition to sharing linguistic, cultural, religious, and economic ties, Latino residents of the area to be encompassed by such a district are politically cohesive and exhibit common voting patterns. For example, in the most recent Chelsea city elections, the Latino candidate for at-large city council, Roy Avellanada, was the highest vote-getter in those precincts

with the greatest number of Latino voters, becoming the first Latino to win an at-large seat on the Chelsea City Council. Recent at-large elections for the School Committee in Chelsea demonstrate similar cohesive voter patterns where Latino candidates rank highly in Latino precincts in contrast to low—or, in some elections, the lowest rankings among all candidates—in Chelsea’s majority white precincts.

28. The white non-Latino population in the Second Suffolk District votes sufficiently as a bloc usually to defeat candidates for office who are preferred by Latino voters. For example, Charlestown’s white non-Latino majority consistently votes against minority candidates for at-large seats on the Boston City Council. In the 2001 city election, only 14.8% of Charlestown voters gave Latino candidate Felix Arroyo one of their four allotted votes for at-large city council member. Indeed, Charlestown voters ranked Arroyo last among the six highest vote-getters citywide. Similarly, Charlestown voters ranked Frank Jones, an African-American candidate, last out of the six highest vote-getters in 1995 and 1997, marking him on only 13.6% and 17.2% of their ballots, respectively.

29. A districting plan combining Chelsea with East Boston instead of with Charlestown would better combine communities with shared interests than the plan created by the Redistricting Act.

30. Out of 160 members of the House of Representatives, only three Latino representatives currently serve. Two of them, Representatives Jose Santiago and Cheryl Rivera, are elected from districts with large Latino concentrations. Although the third, Representative Jarrett T. Barrios, was elected from a non-majority-Latino district in Cambridge, Massachusetts, that district was itself dismantled by the Redistricting Act.

31. In addition to dismantling Representative Barrios' district and diluting the voting strength of Latinos in Chelsea and East Boston, the Redistricting Act demonstrates a pattern of dividing similar urban Latino communities into different districts. For example, the Act severed the concentrated Latino populations in each of the cities of Boston, Lowell, and Worcester, Massachusetts into different districts.

32. Members of the Latino community advised the Legislature during the redistricting process that placing the area of Chelsea with the highest Latino population in a district together with Charlestown, instead of with East Boston, would dilute Latino voting strength and deny equal political opportunity to Latinos.

33. Historically, the Latino residents of the Commonwealth, including the Latino residents of Chelsea and East Boston, have been subject to discrimination affecting their ability to participate equally in the political process.

34. Latino residents of the Commonwealth and of Chelsea and East Boston bear the effects of past discrimination, resulting in depressed socioeconomic status in education, housing, employment, health services, and other areas, which hinders their ability to participate effectively in the political process.

35. Latinos are substantially underrepresented in the Massachusetts House of Representatives. In addition, no Latino currently serves in the Massachusetts Senate, and none serves in any elected statewide office.

36. Based on the totality of circumstances, the Redistricting Act results in dilution of Latino voting strength and denies plaintiffs an equal opportunity to participate in the political process and elect candidates of choice to office.

37. Upon information and belief, the Redistricting Act was enacted for discriminatory purposes, including, but not limited to, the protection of white, non-Latino incumbents, by diluting the voting strength of Latino citizens.

COUNT I
(Violation of the Voting Rights Act, 42 U.S.C. § 1973)

38. Plaintiffs hereby reallege and incorporate herein by reference all preceding paragraphs of the Complaint as if fully set forth herein.

39. The Redistricting Act dilutes the voting strength of Latino citizens and denies them an equal opportunity to participate in the political process and elect candidates of choice to office. As such, the Redistricting Act results in a denial or abridgment of the plaintiffs' right to vote on account of their race, color, or ethnicity, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

40. In addition, upon information and belief, the Redistricting Act was enacted for the discriminatory purpose of diluting the voting strength of Latino citizens, in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

41. Unless the Redistricting Act is declared to be in violation of the Voting Rights Act, and defendant Galvin is enjoined from conducting elections to be held after 2002 in accordance with the Redistricting Act, plaintiffs will suffer irreparable harm.

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment:

1. declaring Chapter 125 of the Massachusetts Acts of 2001, An Act Relative to Establishing Representative Districts in the General Court, to be in violation of section 2 of the Voting Rights Act;
2. issuing permanent injunctive relief enjoining defendant Galvin and his agents from conducting, after 2002, elections of members of the Massachusetts House of Representatives under the Redistricting Act;

3. awarding plaintiffs reasonable attorneys' fees, costs, and other expenses of bringing and prosecuting this action, in accordance with 42 U.S.C. §§ 1973l(e) and 1988; and
4. granting plaintiffs such other and further relief as the Court deems just and proper.

MAGALY CAMACHO, FRANCISCO
DOMINGUEZ, ANGEL MEZA,
KAREN PAZOS, GABRIEL VALERIO,
JUAN VEGA, CHELSEA'S COMMISSION ON
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¿OISTE?: The Massachusetts Statewide
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By their attorneys,

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