

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**BEAUMONT INDEPENDENT
SCHOOL DISTRICT,**

Plaintiff,

v.

UNITED STATES OF AMERICA et al.,

Defendants.

Civil Action 13-401 (RC)

TEMPORARY RESTRAINING ORDER

Upon consideration, the court hereby **GRANTS** the Attorney General's motion for a temporary restraining order and enjoins the Beaumont Independent School District ("BISD") from violating Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. The court held a hearing today on the Attorney General's motion, which the BISD did not oppose.

This court is authorized to "grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted." 28 U.S.C. § 2284(b)(3); *see also Hicks v. Pleasure House, Inc.*, 404 U.S. 1, 1–2 (1971) (per curiam). The court finds that the Attorney General has established through papers filed in this action, the declaration of Timothy F. Mellett, and additional exhibits that irreparable damage will result in the absence of a temporary restraining order.

The BISD Board of Education (the "Board") is meeting today to consider and act on an order issued by the Texas Court of Appeals for the Ninth District, which purported to compel the BISD to implement a redistricting plan and make other voting changes that have not been precleared by either the Attorney General or this court. *See In re Rodriguez*, 2013 WL 1189005

(Tex. App. Mar. 18, 2013) (granting mandamus); *In re Rodriguez*, No. 09-13-115-CV (Tex. App. Mar. 27, 2013) (denying stay). These voting changes are covered by Section 5, as the BISD effectively concedes. *See* Compl. ¶ 42; Pl.’s Mot. Interim Relief ¶¶ 12–15 (Dkt. # 6); *see also Branch v. Smith*, 538 U.S. 254, 262 (2003); *NAACP v. Hampton County*, 470 U.S. 166, 174–80 (1985); *Hathorn v. Lovorn*, 457 U.S. 255, 266 n.16 (1982); 28 C.F.R. § 51.13. In particular, the Board “may declare each unopposed candidate” for a seat on the Board “elected to . . . office” today. TEX. ELEC. CODE § 2.053(a). The Board also presently intends to finalize, print, and mail ballots (including absentee ballots) that reflect a redistricting plan and other voting changes that have not received preclearance. These actions would cause the irreparable harm of injecting confusion into the election process. A temporary restraining order is therefore appropriate to prevent the implementation of voting changes that have not been precleared in accordance with the Voting Rights Act. 28 U.S.C. § 2284(b)(3); *see Clark v. Roemer*, 500 U.S. 646, 652–54 (1991).

Accordingly, it is hereby **ORDERED, ADJUDGED, and DECREED**, that:

1. The Beaumont Independent School District has not received preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, of the voting changes for which the BISD is seeking preclearance in this action.

2. Absent a temporary restraining order, the Beaumont Independent School District, its officers, agents, servants, employees, attorneys, and others in active concert or participation with it, will continue to implement the unprecleared voting changes at issue in this litigation by making final preparations at the Board meeting today and throughout this week to conduct an election for seven positions on the Board—including certifying the final ballot, issuing certificates of election for unopposed positions, printing ballots and sending out ballots to

absentee voters—all before the election procedures and redistricting plan have received the required preclearance under Section 5.

3. The Beaumont Independent School District, its officers, agents, servants, employees, attorneys, and all others in active concert or participation with any of them are therefore **ENJOINED** from any further implementation of the unprecleared voting changes at issue in this litigation and further **ENJOINED** from the conduct of the May 11, 2013 Board election, unless and until the necessary preclearance for the voting changes at issue in this matter has been obtained.

4. This order “shall remain in force only until the hearing and determination by the district court of three judges” of the Attorney General’s “application for a preliminary injunction.” 28 U.S.C. § 2284(b)(3).

SO ORDERED this 9th day of April 2013.

Rudolph Contreras
United States District Judge