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13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF WASHINGTON

15 ROGELIO MONTES and MATEO
16 ARTEAGA,

17 Plaintiffs,

18 v.

19 CITY OF YAKIMA, MICAH
20 CAWLEY, in his official capacity as
21 Mayor of Yakima, and MAUREEN
22 ADKISON, SARA BRISTOL,
23 KATHY COFFEY, RICK ENSEY,
24 DAVE ETTL, and BILL LOVER, in
25 their official capacity as members of
26 the Yakima City Council,

Defendants.

No. CV-12-3108-TOR
COMPLAINT

I. INTRODUCTION

1. This Complaint is a challenge to the at-large election system utilized by the City of Yakima, Washington to elect members of its City Council. This at-large scheme impermissibly dilutes the Latino vote, does not allow for equal participation by Latinos in the election process, and thus violates Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

II. JURISDICTION

2. This is an action for injunctive and declaratory relief under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.
3. Jurisdiction is proper under 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4). Venue is proper under 28 U.S.C. § 1391.

III. PARTIES

4. Plaintiffs Rogelio Montes and Mateo Arteaga (“Plaintiffs”) are Latinos, registered voters, and residents of the City of Yakima.
5. Plaintiffs desire to participate in the electoral and political processes of the City of Yakima on an equal basis with all other residents.
6. Defendant City of Yakima is a governmental entity that maintains an electoral system comprised of residency district and at-large positions

1 for the Yakima City Council (“the City Council”). All City Council
2 positions are elected in an at-large general election.
3

- 4 7. Defendants Micah Cawley, the Mayor of the City of Yakima, Maureen
5 Adkison, Sara Bristol, Kathy Coffey, Rick Ensey, Dave Ettl, and Bill
6 Lover are the current elected members of the City Council. The City
7 Council has authority to set voting districts. The City Council
8 members are each sued in their official capacity only.
9

10 **IV. FACTS**

- 11
12 8. The City Council is comprised of seven members. All positions for
13 the City Council are elected using an at-large election process. Four
14 City Council members are nominated in a non-partisan top-two
15 primary in four residency districts and then elected via an at-large
16 general election process. The remaining three City Council members
17 are elected on a purely at-large basis.
18

- 19
20 9. The City Council positions have staggered terms and therefore
21 staggered elections occur every two years. The last general elections
22 for the residency district positions were held on November 8, 2011.
23 The last general elections for the at-large positions were held on
24 November 3, 2009.
25
26

1 10. The City of Yakima's at-large election process, which is used for both
2 residency district and city-wide council member seats, violates
3 Section 2 of the Voting Rights Act because it impermissibly dilutes the
4 Latino vote, consistently allows the white majority's bloc voting to
5 defeat the candidates preferred by Latino voters, and deprives Latinos
6 of an equal opportunity to elect representatives of their choice. This
7 election system does not allow the city's Latino residents to participate
8 equally in the political process.

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12 11. The Latino community in the City of Yakima is sufficiently numerous
13 and geographically compact such that one or more properly
14 apportioned single-member electoral districts can be drawn in which
15 Latinos would constitute an effective majority of eligible voters.

16
17 12. Latinos in the City of Yakima are a politically unified group that votes
18 cohesively as a bloc.

19
20 13. Bloc voting patterns prevail in City Council elections. White voters
21 consistently vote as a bloc to elect candidates favored by the white
22 community and defeat the Latino community's representatives of
23 choice. This racially polarized voting results in the limited
24 representation of or indifference to the Latino community's interests
25 on the City Council.
26

1 14. As a result of racially polarized bloc voting, no Latino candidate has
2 ever won an election for a seat on the City Council, and the sole Latino
3 appointed to serve on the City Council, Sonia Rodriguez, could not
4 retain her seat in the next at-large election, even with the advantage of
5 incumbency.
6

7
8 15. According to the 2010 Census conducted by the U.S. Census Bureau,
9 the City of Yakima has a total population of 91,067 and a voting-age
10 population of 65,287.
11

12 16. With 37,587 Latinos residing within the City of Yakima, Latinos
13 comprise approximately 41.3% of the city's population.
14

15 17. With 21,837 Latinos of voting age residing within the City of Yakima,
16 Latinos comprise approximately 33.4% of the city's voting-age
17 population.
18

19 18. It is possible to draw a single-member district plan for the Yakima
20 City Council that contains at least one compact single-member district
21 with a Latino citizen voting-age population ("LCVAP") majority.
22

23 19. Historically, Latinos in the City of Yakima have been subjected to
24 official and private discrimination on the basis of race and ethnicity in
25 employment, education, health services, and housing. There has also
26 been discrimination against Latinos in their efforts to exercise the

1 franchise and to participate equally with other residents in the political
2 process.
3

4 20. As a result of historical discrimination against Latinos in education,
5 housing, employment, and health services, many Latinos in the City of
6 Yakima have a lower socioeconomic status.
7

8 21. According to the 2010 American Community Survey (ACS) 1-Year
9 Estimates, the poverty rate for Latino residents of the city of Yakima is
10 over three times higher than the rate for non-Hispanic white residents
11 (38.3% to 12.4%). In 2010, the mean income for Latino residents in
12 the city was \$10,392, while the mean income for non-Hispanic whites
13 was \$30,865.
14

15 22. According to the 2010 ACS 1-Year Estimates, educational disparities
16 between Latino and non-Hispanic white residents in the City of
17 Yakima are stark. 53.7% of Latino residents 25 years of age and over
18 have less than a high school degree or the equivalent (e.g., GED), as
19 compared to 12.7% of their non-Hispanic white counterparts. The
20 percentage of Latinos with less than a high school degree is more than
21 four times higher than the corresponding rate for non-Hispanic white
22 residents.
23
24
25
26

1 23. According to the 2010 ACS 1-Year Estimates, while 13.1% of non-
2 Hispanic white residents of the city of Yakima lack health insurance,
3 34.9% of Latinos lack the same.

4
5 24. The historical discrimination and resulting lowered socioeconomic
6 status have hindered Latinos' ability to participate effectively in the
7 political process. This contributes to the lack of Latino representation
8 on the Yakima City Council. The at-large election scheme, historical
9 and ongoing discrimination, and the disproportionate weakness of
10 Latino political participation are all mutually reinforcing. Together,
11 these factors have combined to allow elected officials to remain
12 unresponsive to the needs and complaints of the Latino community in
13 Yakima without fear of consequence at the polls.

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15
16
17 25. Additionally, racial bloc voting by the white majority is encouraged
18 and perpetuated by appeals to vote based on racial bias against
19 Latinos.

20
21 26. The City of Yakima's election process is also characterized by the use
22 of practices and procedures that impair Latino electoral success. This
23 includes, but is not limited to, the at-large election procedure in the
24 general election for all City Council seats. The reason for the
25 continued use of an at-large system for all elections, including those
26

1 for City Council members nominated by residency districts, is tenuous
2 at best and does not serve a purpose that is more compelling than
3 ensuring all Yakima residents have a meaningful opportunity to
4 participate in the electoral process.
5

6 27. The at-large method of elections, history of discrimination, and
7 racially polarized voting have left Latinos with less opportunity than
8 other residents to participate in the city's political process and to elect
9 representatives of their choice.
10
11

12 **COUNT ONE**
13 **VIOLATION OF SECTION 2 OF THE VOTING RIGHTS ACT OF 1965**

14 28. The allegations contained in Paragraphs 1 through 27 are hereby
15 incorporated in Count One of the Complaint as if set forth herein.

16 29. The Latino community in the City of Yakima is sufficiently numerous
17 and geographically compact such that one or more properly
18 apportioned single-member electoral districts can be drawn in which
19 Latinos would constitute an effective majority of eligible voters.
20

21 30. Latinos in the City of Yakima constitute a politically unified group that
22 votes cohesively as a bloc.
23

24 31. Racially polarized voting persists in Yakima City Council elections.
25 White voters consistently vote as a bloc to elect candidates favored by
26

1 the white community and defeat the Latino community's
2 representatives of choice.
3

4 32. Under the totality of the circumstances, the at-large method of electing
5 members of the Yakima City Council denies Latino citizens in the City
6 of Yakima an opportunity to participate in the political process and
7 elect representatives of their choice equal to that afforded other
8 members of the electorate, thereby diluting Latino voting strength.
9

10 33. This vote dilution violates Section 2 of the Voting Rights Act, 42
11 U.S.C. § 1973.
12

13 **PRAYER FOR RELIEF**

14 WHEREFORE, the Plaintiffs pray that the Court enter an order:
15

- 16 1. Declaring that the at-large method of electing Yakima City Council
17 members violates Section 2 of the Voting Rights Act of 1965;
18
19 2. Enjoining Defendants, their agents and successors in office, and all
20 persons acting in concert with any of these individuals, from
21 administering, implementing, or conducting any future elections for
22 the City of Yakima under the current method of electing City Council
23 members;
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25
26

3. Ordering the implementation of an election system for the Yakima City Council that complies with Section 2 of the Voting Rights Act of 1965;
4. Retaining jurisdiction of this action and granting Plaintiffs any further relief which may in the discretion of this Court be necessary and proper to ensure that timely and lawful procedures are used in elections for the Yakima City Council;
5. Granting Plaintiffs the attorneys' fees and costs they incur, pursuant to 42 U.S.C. § 1973l(e) and 42 U.S.C. § 1988; and
6. Granting any other relief that the Court may determine to be just and equitable.

DATED this 22nd day of August, 2012.

Respectfully submitted,

ACLU OF WASHINGTON FOUNDATION

By:

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s/ La Rond Baker

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25 * Application for admission to the Eastern District of Washington pending.