

## **TX: Rodriguez is down to his last chance**

With the visiting judge ruling in favor of Henry Cuellar in his lawsuit to overturn the recount results in the CD28 Democratic primary, Rep. **Ciro Rodriguez** has **one hope left**, which is an appeal to the federal court.

Rodriguez's final option is to ask the 4th Court of Appeals to overturn visiting District Judge Joe Hart's ruling and allow him to introduce evidence alleging ballot fraud and the illegal casting of votes — an action his attorney, Buck Wood, plans to take within days.

"I'm not disheartened at all," said Wood, who grew testy after repeated questions from reporters after Tuesday's abbreviated trial. "If the Court of Appeals is going to sustain the trial judge, then better we find out now rather than spend weeks in court."

[...]

Rodriguez's string of losses at the ballot box and in the courtroom shouldn't factor in to any legal opinion issued by the appeals court, St. Mary's University law Professor Jose Roberto Juarez said.

If the court finds Hart had evidence to support his decision, it likely will let his decision stand. But if the appellate judges find Rodriguez's case was incorrectly dismissed on a technicality — such as filing a motion too late — they may reverse Hart's ruling, he said.

"These are narrow technical issues, but that's how we run our legal system," Juarez said.

Wood has been hamstrung by his own legal strategies from the beginning.

He earlier tried to allege hundreds of illegally registered Webb County voters cast ballots in the race, but Hart declined to hear the evidence, saying Wood filed his motion too late.

Then Wood raised the issue of ballot tampering, but he was unprepared to take the case to trial. On Tuesday, he requested more time for his document expert to examine the remainder of Webb County's 16,000 ballots cast in the race. That motion also was denied.

Cuellar attorney Steve Bickerstaff countered his team was fully prepared to accept testimony from Wood's expert, adding that the notion of fraudulent ballots is "based on the mystery of an expert's opinion and has no basis in fact."

Rodriguez hired document expert Erich Speckin of Michigan to inspect ballots in Webb and Zapata counties, which have been the focus of Rodriguez's contest since the end of March.

Speckin didn't testify, but he later told reporters that of the 2,000 ballots he examined in Webb County, 29 showed obvious signs of tampering. On some ballots, Speckin said, the bubbles for the Cuellar-Rodriguez race were filled in on a different surface than the bubbles representing other races on the ballot.

In other cases, slight indentations on the paper may have been caused by filling in one ballot on top of another.

"I'd say there's strong evidence that there were votes that were added at a later date in the congressional race," Speckin said.

Cuellar's document examiner, Linda James of Dallas, was prepared to dispute Speckin's findings but was not called to testify Tuesday. Even if Wood had been allowed to include Speckin's findings at trial, the 29 questionable ballots would not have been enough to overcome the 58-vote margin.

Juarez said both Rodriguez and Cuellar have valid arguments when it comes to raising questions about the race.

"On the one hand, if you're going to challenge an election, it takes some time to have experts review documents and determine if there are problems. We all know that from the Bush-Gore fiasco," he said, referring to the monthlong drama in Florida surrounding the 2000 presidential election.

But on the other hand, Juarez said, "elections need to be finalized."

"Cuellar's argument is 'How many bites at the apple do you get?'" he said.