

Count 'em again

Judge orders re-recount, rejects fraud allegations

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Webb County ballots must be re-recounted in the Congressional District 28 race, a state district judge ruled Tuesday, but he severely hampered U.S. Rep. **Ciro Rodriguez's** case by rejecting specific information about alleged voting fraud.

Visiting State District Judge Joseph Hart ordered that all ballots be inspected for possible tampering Thursday and then counted for a third time.

He also ordered an inspection Friday, but no re-recount, of ballots cast in Zapata County.

Rodriguez (D-San Antonio) is contesting the election with Henry Cuellar of Laredo, who won the Democratic nomination for Rodriguez seat after a March 30 recount.

Results from the re-recount and inspections will be presented when the trial begins May 11.

Both sides sought to put the best spin on Hart's rulings.

"The judge did the proper thing," Cuellar said. "This should clear up the dark clouds that Rodriguez has put over Webb and Zapata counties."

Rodriguez, who was at a defense committee meeting in Washington, blasted right back.

"I didn't cast those clouds," Rodriguez said by phone. "They were initially made by my opponent, who made charges of dead voters. When he asked for a recount I didn't say any negative things."

"This is an embarrassment as a whole, not just in those two counties," he added. "We need to make sure we have clean and fair elections and not have people voting twice or voting where they do not actually reside."

He cited Cuellar's campaign manager, Colin Strother, as an example. Strother is registered to vote at the home of Cuellar's parents but lives in an adjacent congressional district. He has said that he planned to rent space at the parents' property, but hasn't yet done so.

Rodriguez's first amendment to the lawsuit, filed last week, alleged there were "in excess of 100" people who voted illegally in Webb County, including Strother. Tuesday, he was seeking to add more names for a total of nearly 400 voters.

In rejecting the names, Hart said he considered them to be substantive information provided after the 10-day deadline to file an election contest, in violation of the Texas Election Code.

The original contest was filed before the deadline, but gave only general allegations of voting, counting and recounting irregularities that Rodriguez claimed reversed the true outcome of the election.

Hart's refusal to accept the amended pleadings came as a blow to Buck Wood, Rodriguez's attorney.

"I was surprised because I'm not sure what the judge would have wanted me to plead. I could not have pleaded those names in that 10-day period. There was no way. We have a rule that we can't plead something we haven't investigated," Wood said.

In the amendments, Rodriguez claimed that some voters were registered at addresses where they do not reside, some were registered at non-existent addresses, and some had addresses that were vacant lots or abandoned houses, among other allegations.

Wood said he will appeal that part of the ruling to the 4th Court of Appeals in San Antonio.

For the inspection of ballots, both parties tentatively agreed to use a forensic document analyst based in Michigan, as suggested by Rodriguez's attorney.

The expert, Erich J. Speckin, is scheduled to arrive Wednesday, Wood said.

While Wood was alone at Tuesday's hearing, Cuellar was flanked by a bevy of Austin and Laredo attorneys, including C. Robert Heath, David Mendez and Martha Cigarroa de Llano.

Among the witnesses called were Webb County Democratic Chairman Roberto Balli and Elsa Guajardo, presiding judge during the Webb County recount.

Guajardo, who was the Cuellar team's only witness, was called twice, but wasn't present. When she finally arrived, the judge noted it was too late and Cuellar's attorneys didn't object.

During his testimony, Balli said he sent an affidavit to the Texas Democratic

Party Chair requesting a re-recount of the March 30 recount in Webb County.

During the recount, 115 more votes were tallied than had been counted on Election Day. All of these votes went toward Cuellar.

Cuellar also picked up an additional 62 votes from the "undervote/overvote" category while Rodriguez picked up none.

"It's mathematically impossible," Balli said on the stand. "I felt there must have been a mistake in the recount procedure...I thought the numbers should not be accepted."

State Democratic party officials denied Balli's request for the re-recount, saying it was a matter better decided in court, under oath.

Rodriguez initially won the Democratic primary by 145 votes, out of more than 48,000 votes cast. In the district-wide recount of ballots, however, Cuellar surged ahead with 203 votes.

The controversy has centered around Webb and Zapata counties, where Cuellar picked up 414 new votes and Rodriguez picked up 67.