

Robert C. Koehl, Esq.
County Attorney
Post Office Box 155
Bourdanton, Texas 78026

7 DEC 1979

Dear Mr. Koehl:

This is in reference to the redistricting of Commissioner, Justice of the Peace and Constable Districts by the County of Atascosa, Texas, received by us on December 8, 1976, for the Attorney General's consideration pursuant to Section 5 of the Voting Rights Act of 1965, as amended.

Our records indicate that, to date, the submission of these changes has not been completed in spite of our letters dated January 26, 1977, and August 11, 1977, in which we requested information and clarification necessary to complete our review. (Copies of our letters are attached.) Specifically, answers to our inquiries concerning the demography of the commissioners' precincts, the discrepancy detailed in question No. 4 of our August 11, 1977 letter and the results of elections in which minority candidates participated (question No. 3, letter dated January 26, 1977) would have enabled us to evaluate the proposed plan on its own merits, as well as compare it to the pre-existing districts, and would have allowed us to study the voting patterns in Atascosa County in order to assess the effect of the submitted plan on minority voters. Failure of the County to provide this information has not allowed us to discharge this responsibility.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of proving that a submitted change has no discriminatory purpose or effect. See, e.g., Georgia v United States, 411 U.S. 526 (1973); 28 C.F.R. 51.19. In

failing to provide the Attorney General with the information necessary for the proper evaluation of your submission, you have failed to sustain your burden of proof. Therefore, on behalf of the Attorney General, I must object to the submitted changes.

Of course, as provided by Section 5 of the Voting Rights Act you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (25 C.F.R. 41.21(b) and (c), 41.23, and 41.24) permit you to request the Attorney General to reconsider the objection and, in this instance, we will reconsider the matter upon receipt of the additional information we previously have requested. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the redistricting of Commissioner, Justice of the Peace and Constable Districts by Atascosa County, Texas legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter what course of action Atascosa County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Eida Gordon (202-324-4415) of our staff, who has been assigned to handle this submission.

Sincerely,

DREW G. RAYE III
Assistant Attorney General
Civil Rights Division

25 FEB 1980

Mr. George H. Spencer
Clemens, Spencer, Welmaker &
Finck
1805 National Bank of Commerce
Building
San Antonio, Texas 78205

Dear Mr. Spencer:

This is in response to your letter dated January 16, 1980, in which you requested that the Attorney General reconsider his December 7, 1979, objection to the redistricting of Commissioner, Justice of the Peace and Constable Precincts by Atascosa County, Texas, in light of the decision in Garcia v. Uvalde County, 455 F. Supp. 101 (W.D. Tex. 1978), aff'd sub nom. United States v. Uvalde, 439 U.S. 1059 (1979). Your letter was received on January 22, 1980.

In Garcia, the court found (p. 106) that the Attorney General had repeated his request for information which the submitting authority had already stated to be unavailable and concluded that "[t]he submission was, therefore, according to the regulations, complete." The circumstances surrounding the submission from Atascosa County are distinguishable from those present in Uvalde County.

Our initial request for information of January 26, 1977, asked for the number or percent of black or Spanish-heritage residents and voters of each of the precincts, for the results, by voting precinct, of all county elections held since January 1, 1972, in which minority candidates have participated, and for the names and business-hour telephone numbers of Spanish-heritage residents who were consulted regarding the redistricting plan. No response was made to this request nor have we been advised that the requested information is unavailable.

To the contrary, the information requested does appear to be available to the submitting authority since voter lists and county election results are maintained at county offices. Also the undated narrative, "Atascosa County--A Redistricting Proposal," submitted by the county, contains a chart breaking down the 1970 Census population figure for the county into the four proposed commissioner precincts and the narrative of the methodology employed to arrive at those figures suggests that this process could have been followed to determine the pre-redistricting composition of each commissioner precinct.

In addition to these items, an explanation was requested in our letter dated August 11, 1977, of a discrepancy in the data initially submitted from that provided in response to our request for additional information concerning the population figures given for Precinct No. 2. This explanation was never received.

In light of the circumstances noted above, we do not believe this submission can be considered to have been completed as was the one in Uvalde County. Accordingly, the Attorney General is unable to withdraw his objection based on the decision in the cited case. However, as stated in our letter of objection, should the county elect to provide the requested information the Attorney General will evaluate the matter on its merits and determine whether there is a basis for withdrawing the objection.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action Atascosa County plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Ms. Elda Gordon (202--724-6675) of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division