



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

20 OCT 1983

Lavon L. Jones, Esq.
Assistant Criminal District
Attorney
P. O. Box 2553
Beaumont, Texas 77704

Dear Mr. Jones:

This is in reference to the dissolution of the Beaumont Independent School District; the creation of a common school district; and its attachment to the South Park Independent School District in Jefferson County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on August 22, 1983. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have given careful consideration to the information you have provided, as well as comments and information provided by other interested parties. We also have considered the evidence of record concerning the litigation pending in United States v. Texas Education Agency, 699 F.2d 1291 (5th Cir.), cert. denied, 52 U.S.L.W. 3228 (U.S. Oct. 3, 1983).

Our analysis of all available information shows that, at present, the City of Beaumont is divided into two school districts--the Beaumont Independent School District and the South Park Independent School District. Both districts elect a seven-member school board at-large. In the Beaumont Independent School District, which is 40-percent black, blacks have been able to elect three of the seven school board members; in the South Park Independent School District, which is 30-percent black, blacks have been unable to elect any of the seven members to the school board.

The change now under review proposes to create a single school district by abolishing the Beaumont Independent School District, and its integrated school board, and annexing that area to the South Park Independent School District. The enlarged school district would be 36-percent black and would elect its school board on an at-large basis.

Our information is that voting along racial lines exists in these elections and that blacks have been able to elect candidates of their choice in the 40-percent Beaumont Independent School District only by utilizing the technique of single-shot voting. Our analysis also has revealed a widespread concern among minorities and others that the decrease in the black percentage of the population resulting from the annexation to South Park of the Beaumont constituency will have a significant adverse impact on the ability of blacks to elect representatives of their choice to the surviving school board under an at-large election system.

Under Section 5 the county is required to demonstrate that the proposed change affecting voting "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." 42 U.S.C. 1973c. See Georgia v. United States, 411 U.S. 526 (1973). See also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). While the submitting jurisdiction's burden usually is to show that the change will not "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise" (Beer v. United States, 425 U.S. 130, 141 (1975)), in the case of an annexation such as that now before us, the proposed change would not have the prohibited effect "as long as the post-annexation electoral system fairly recognizes the minority's political potential" (City of Richmond v. United States, 422 U.S. 358, 378 (1975)). In other words, the system of elections after the change should be one that would afford minorities "representation reasonably equivalent to their political strength in the enlarged community." Id. at 370.

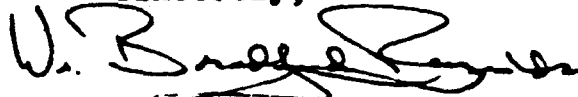
On the basis of our analysis of this submission, we are unable to conclude either that the changes in question will be nonretrogressive for black voters or that the election system will afford blacks "representation reasonably equivalent" to their political strength in the post-annexation school district. Accordingly, on behalf of the Attorney General, I must interpose an objection to the proposed dissolution of the Beaumont Independent School District, the creation of a common school district, and its attachment to the South Park Independent School District.

In this regard, courts consistently have recognized that the Voting Rights Act does not prohibit the territorial expansion of jurisdictions but that such expansions may "be approved only on the condition that modifications calculated to neutralize to the extent possible any adverse effect upon the political participation of black voters are adopted, i. e., that the [jurisdiction] shift from an at-large to a ward system of electing its [officials]." City of Petersburg v. United States, 354 F. Supp 1021, 1031 (D. D.C. 1972), aff'd, 410 U.S. 962 (1973). See also, City of Port Arthur v. United States, 51 U.S.L.W. 4033 (U.S. Dec. 13, 1982); City of Rome v. United States, 446 U.S. 156 (1980); City of Richmond v. United States, supra. Therefore, should the Board of Trustees of the South Park Independent School District undertake to adopt an appropriate election plan for its expanded jurisdiction (see Tex. Educ. Code Ann. §23.024 (Vernon 1983), as amended by Senate Bill No. 1304 (1983)), such action would provide grounds for reconsideration and withdrawal of the objection.

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. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the dissolution of the Beaumont Independent School District, the creation of a common school district, and its attachment to the South Park Independent School District legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Jefferson County plans to take with respect to this matter. If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division