



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 26, 1988

Ann Clarke Snell, Esq.
Bickerstaff, Heath & Smiley
San Jacinto Center, Suite 1800
98 San Jacinto Boulevard
Austin, Texas 78701-4039

Dear Ms. Snell:

This refers to the reduction in the number of justice of the peace and constable precincts from five to one in Lynn 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 the information to complete your submission on July 26, 1988.

We have considered carefully the information you have provided, as well as information from other interested parties and from the Section 5 submissions of prior redistricting plans in 1982 and 1985 for justice of the peace ("JP") precincts in Lynn County. As you know, on November 18, 1985, the Attorney General interposed an objection to the county's proposal to reduce the number of JP precincts from five to two and the associated redistricting plan. In that letter, we noted what appeared to be a pattern of racially polarized voting in local elections and, in that context, the changes appeared to have a retrogressive effect on the opportunity of minority citizens to participate in the political process. We also noted that much of the information we had requested to enable us to reach a more informed decision had not been furnished and that some of that which had been provided was inconsistent with other information available to us. Finally, we shared with you our observation that the reduction in the number of JP precincts did not appear on its face to be objectionable, but that an objection was necessary in the context of the implementing districting plan which was retrogressive to minority voting strength in the county.

The county now proposes to adopt a single, countywide JP precinct. In so doing, the county has not sought to provide any of the information which we explained was lacking in the prior submission nor has the county clarified any of the inconsistencies which handicapped our prior review. However, on the basis of the information available to us it appears that the new plan will not only continue but increase the retrogression which led to the 1985 objection. Also, we find particularly relevant the fact that, as with the 1985 plan, minority citizens were not allowed the opportunity to participate in the process leading to the adoption of the present proposal.


Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed reduction in the number of justice of the peace and constable precincts from five to one.

In interposing this objection we wish to reiterate that a reduction in the number of JP precincts, if implemented by a fairly drawn, nondiscriminatory districting plan, should encounter no difficulty satisfying Section 5 preclearance standards. In that regard, we note that the state constitution (art. 5, sec. 18) continues to provide Lynn County the authority "from time to time, for the convenience of the people, . . . [to] divide[the county] into not more than four precincts."

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 the instant 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, Section 51.45 of the guidelines permits you to request that the Attorney General reconsider the objection. 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 proposed reduction legally unenforceable. 28 C.F.R. 51.10.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the county plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-8388), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script that reads "James P. Turner".

James P. Turner
Acting Assistant Attorney General
Civil Rights Division