



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

April 6, 1992

Robert T. Bass, Esq.
Allison & Associates
208 West 14th Street
Austin, Texas 78701

Dear Mr. Bass:

This refers to the 1991 redistricting plan for the commissioners court, the redistricting plan for the justice of the peace/constable districts, the elimination of three polling places, and the realignment of voting precincts for Terrell 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 response to our December 30, 1991, request for additional information on February 5, 1992.

We have carefully considered the information you have provided, as well as 1990 Census data and information from other interested parties. With regard to the redistricting plan for the justice of the peace/constable districts, the Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

We are unable to reach the same conclusion regarding the redistricting plan for the commissioners court. We note that between 1980 and 1990 the Hispanic share of Terrell County's population increased by ten percentage points, from 43.3 percent to 53.3 percent. Under the existing districting plan, Hispanics constitute a significant majority of the population in two districts, District 1 (71.8%) and District 2 (79.8%). The

proposed redistricting plan, however, reduces the Hispanic population proportion in District 1 nearly nine percentage points (to 63%), while increasing the Hispanic population proportion four percentage points in District 2 (to 83.9%). In doing so, the plan fragments the county's Hispanic population among Districts 1, 2 and 4, and shifts politically active Hispanics from District 1 to District 2 and from District 2 into District 4.

Although the 1990 Census reveals that District 1 in the existing plan is overpopulated and that Districts 2 and 4 are underpopulated, our examination of county demography indicates that one-person, one-vote requirements could have been satisfied without reducing the Hispanic share of the population in District 1. Moreover, our analysis of recent elections indicates that the proposed plan's reduction in the Hispanic share of the population in District 1 would appear to lessen the opportunity for Hispanics to elect representatives of their choice. Beer v. United States, 425 U.S. 130 (1976). The county has failed to provide an adequate nonracial explanation for its redistricting decisions concerning the redistricting plan for the commissioners court.

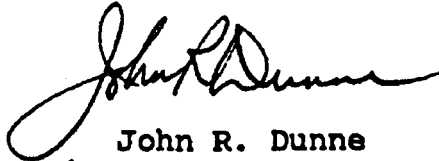
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In view of the concerns noted above, however, I am unable to conclude, as I must under the Act, that the county has carried its burden with regard to the submitted change. Accordingly I must, on behalf of the Attorney General, interpose an objection to the proposed redistricting plan for the commissioners court in Terrell County.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change has 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, you may 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 redistricting plan for the commissioners districts continues to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

Because the elimination of the three polling places and the realignment of voting precincts are dependent upon the objected-to redistricting plan, the Attorney General will make no determination with regard to them. 28 C.F.R. 51.22(b) and 51.35.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Terrell County plans to take concerning this matter. If you have any questions, you should call Richard B. Jerome (202-514-8696), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division