

APR 28 1978

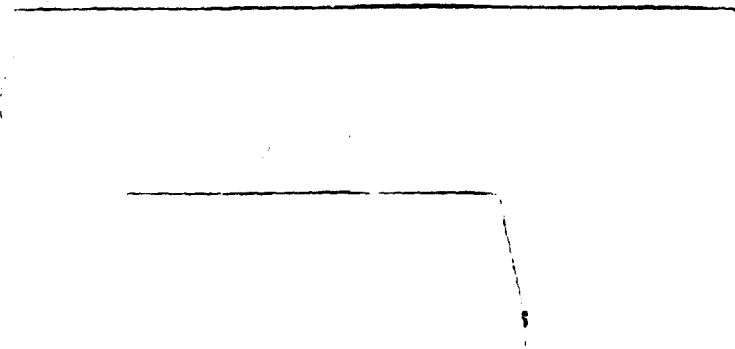
Mr. James L. Anderson, Jr.
County Attorney
Aransas County Courthouse
Rockport, Texas 78382

Dear Mr. Anderson:

This is in reference to the redistricting of commissioner precincts of Aransas County, Texas, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended.

Your initial letter was received on December 21, 1977. On February 17 and March 31, 1978, we requested additional information with respect to this submission to enable us to analyze whether the redistricting has the purpose or will have the effect of abridging the right to vote on account of race, color, or membership in a language minority group. Your responding letters, received by us on February 28, and April 12, 1978, provided some, but not all, of the information requested. Although the submission of the redistricting cannot be considered complete, you have requested that we make a determination as soon as possible on the basis of the information available to us.

Under Section 5 the burden is on the jurisdiction proposing a voting change to show that the new practice or procedure is not discriminatory in purpose or effect. The burden of proof is the same when a submission is made to the Attorney General as it would be in a suit for a declaratory judgment under Section 5 brought in the United States District Court for the District of Columbia. See Georgia v. United States, 411 U.S. 526 (1973). The Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, C.F.R. 51.19, state:



If the evidence as to the purpose or effect of the change is conflicting, and the Attorney General is unable to resolve the conflict within the 60-day period, he shall, consistent with the above-described burden of proof applicable in the district court, enter an objection . . .

We have analyzed the information contained in your submission and data obtained from the Bureau of the Census in the light of relevant judicial decisions. See, e.g., Kirksey v. Hinds County Board of Supervisors, 554 F.2d 139 (5th Cir. 1977), cert. denied, 46 U.S.L.W. 3357 (Nov. 16 1977); Robinson v. Commissioners Court, 505 F.2d 674 (5th Cir. 1974). Our analysis reveals that the 1970 population of Arkansas County was 8,902, of which 2,372 or 27 percent were of Spanish heritage. The 1975 population of the county has been estimated to have been 10,507; the Spanish heritage proportion of this number is not known. In 1970 the black population of the county was 411, or about 5 percent of the total. The 1975 black population is not known. We have not been provided the total population of the four commissioner precincts, either under the old plan or the new plan. Thus we do not know the extent to which the old plan deviated from the requirements of the one person, one vote principle, the extent to which any such deviation has been remedied by the new plan, nor the effect, if any, of that remedying upon the minority voting strength. We also have not been provided with the racial composition of the old or new districts.

On the basis of voter registration statistics and Fifth Count data from the 1970 census, however, it appears that a concentration of Mexican American population in the City of Rockport was divided, under the old plan, between commissioner precincts 1 and 2, and that this division is maintained under the new plan. We note further that those commissioner precincts with the greatest concentration of Mexican American registered voters, numbers 1 and 2, also have significantly more registered voters than the remaining two precincts. If, as is frequently the case, the Mexican American registration rate is lower than the Anglo registration rate, this leads to the distinct possibility that the districting plan fails to satisfy the one person, one vote principle, and that the underrepresented precincts are those with the greatest Mexican American concentration. See Ely v. Klahr, 403 U.S. 105 (1971).

In addition, it is our understanding that minorities were not consulted with respect to the creation or adoption of the new plan, and that no minorities have been elected to the Commissioners Court. An analysis of election returns and voter registration data by voter precinct leads to an inference that support for Mexican American candidates comes largely from Mexican American voters and, thus, that racial bloc voting exists.

Under these circumstances, we are unable to conclude that the county has carried its burden of proving that the submitted redistricting plan for Aransas County will not have the effect of diluting the vote of Mexican Americans in Aransas County. Accordingly, on behalf of the Attorney General, I must interpose an objection to this plan.

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 this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.2(b), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. 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 plan legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

cc: Honorable John D. Wendell
County Judge

Ms. Lola Bonner, Chairman
Aransas County Democratic Party

Mr. Harold Shirey, Chairman
Aransas County Republican Party