



U.S. Department of Justice

Civil Rights Division

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Office of the Assistant Attorney General

Washington, D.C. 20530

November 18, 1985

Honorable J. F. Brandon  
Lynn County Judge  
P. O. Box 1256  
Tahoka, Texas 79373

Dear Judge Brandon:

This refers to the redistricting of justice of the peace and constable precincts and the reduction in the number of justices of the peace and constables from five to two 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 your response to our request for additional information on September 18, 1985.

We have considered carefully the materials you have provided, as well as information and comments from other interested parties. At the outset, we note that the current plan provides for one district in which minority group members comprise a 57 percent majority, and that the minority population of Lynn County is situated in such a way that a variety of fairly drawn plans would allow the retention or enhancement of that majority. However, when the proposed plan is analyzed with 1980 Census data, the highest combined minority percentage in any district is 51 percent, and both districts have clear white voting age majorities. These facts indicate at least initially that the proposed districting plan would have a retrogressive effect on minority voting strength.

In order to examine further the purpose and effect of the proposed changes, we requested specific additional information, including election returns for all contests within the county which have involved minority candidates, current

voter registration data, and maps showing the location of the county's minority population concentrations so that we could judge their treatment by the proposed districting. To date, much of this information which would enable us to reach a reasoned decision has not been furnished and some of that which has been supplied is not consistent with other information available to us. For example, the population statistics you have provided for the existing districts are, without explanation, significantly different from the statistics provided in connection with our earlier review of those districts when they were adopted in 1982. Thus, while the data used in the plan submitted show whites as constituting only 40 percent of the county's population, the earlier submitted statistics, as well as Census data, show that whites constitute over 58 percent of the county's population, a difference that is not satisfactorily accounted for or explained in the submitted plan.

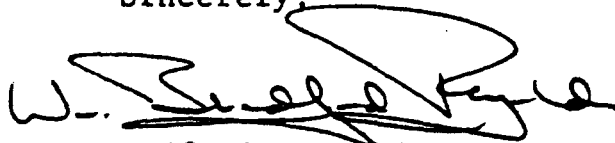
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). Based on the circumstances discussed above, and in light of evidence of racial bloc voting in local elections and the absence of evidence of an effective opportunity for minority participation in designing the districting plan, we are unable to conclude that the county's burden has been met in this instance. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the proposed districting plan.

With regard to the reduction in the number of justices of the peace and constables, this change does not appear on its face to be objectionable. However, it would be inappropriate to preclear such a change in the absence of a nondiscriminatory districting system for its implementation and, for that reason, an objection also is being interposed to that change pending the county's adoption of a districting plan that meets Section 5 requirements.

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, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objections. However, until the objections are withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objections by the Attorney General is to make the redistricting and reduction 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 Lynn County plans to take with respect to this matter. If you have any questions, feel free to call John K. Tanner (202-724-8388), Attorney/Reviewer of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a large, sweeping flourish at the end.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division