

January 13, 1986

Honorable Charles Stavley  
Terrell County Judge  
P. O. Box 674  
Sanderson, Texas 79848

Dear Judge Stavley:

This refers to the reduction in the number of justices of the peace and constables from four to one and the resulting consolidation of the existing four single-member districts into a single county-wide unit for electing those offices in 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 the information to complete your submission on December 26, 1985.

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)). While we have considered carefully all of the materials and information you have provided in connection with this submission, we cannot conclude that the county has met its burden with respect to the change here under consideration.

According to the information presently available to us, the county, in pursuing its objective to reduce the number of its justices of the peace, had before it two proposals, one of which would have reduced the number from four districts to two and the other of which would reduce the number from four districts to one. In spite of support for the former and opposition to the latter in the minority community, the county nevertheless adopted the latter. We have received comments from local citizens to the effect that this option was selected, at least in part, to assure the removal from office

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of the lone Mexican-American incumbent in existing Precinct 2. Although by our letter of October 8, 1985, we sought additional information to help resolve these issues, the county's response essentially was a denial that the Precinct 2 incumbency was a motivating factor and a denial that a two district alternative was considered. The commissioner court's order of September 10, 1984, which you furnished, indicates consideration was given to both plans. Had the county provided a persuasive explanation of the governmental purpose served in preferring the single district plan, negating the contention that it was based on elimination of a minority incumbent, it is likely that the change would have merited preclearance. Should you so desire, such information may still be submitted in support of an application for reconsideration (see 28 C.F.R. §51.44).

Under these circumstances, and as indicated above, I cannot conclude, as I must under the Voting Rights Act, that the county has sustained its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the change to a single justice of the peace elected, of necessity, from the county at large.

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 objection and we stand ready and willing to reconsider this matter should the county adequately justify the need for reducing its number of justices of the peace to one rather than two. 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 reduction in the number of justices of the peace and constables from four to one and their concomitant election at large 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 Terrell 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,

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division