



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 30 1992

Michael Morrison, Esq.
Guinn & Morrison
Baylor Law School
P.O. Box 97288
Waco, Texas 76798-7288

Dear Mr. Morrison:

This refers to the 1991 redistricting plan for commissioner court districts, the reduction in the number of justices of the peace and constables from five to four and the districting plan, the realignment of voting precincts, the establishment of fourteen new voting precincts and seven polling places, four consolidations of voting precincts and the designation of polling places therefor, and seven polling place changes, in Ellis 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 January 29 and February 4, 1992; supplemental information was received on February 19 and March 5 and 6, 1992.

We have carefully considered the information you have provided as well as 1990 Census data and information from other interested parties. According to our information, the proposed commissioners court plan was one of many that was considered during the redistricting process. Although the proposed plan is not retrogressive of minority voting strength, most of the alternative plans that were considered provided for significantly greater increases in the minority percentage in one district. Some alternatives provided for a district with a majority of Hispanic and black population. We are unable to conclude that the county has provided sufficient nonracial reasons for its failure to adopt one of these alternatives.

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. Georgia v. United States, 411 U.S. 526 (1973); 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 your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the commissioners court redistricting plan.

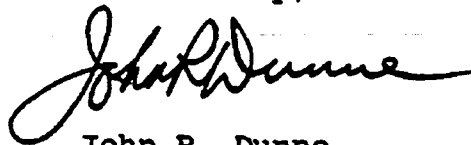
We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change has neither a discriminatory purpose nor effect. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the commissioners redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10.

The Attorney General does not interpose any objection to the remaining specified changes. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Ellis County plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), an attorney in the Voting Section.

Since the Section 5 status of these changes has been placed at issue in Gant v. Ellis County Commissioners' Court, No. 3-92CV0395-D (N.D. Tex.), we are providing a copy of this letter to the court in that case.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division



U.S. Department of

Civil Rights Division

JRD:GS:CGM:gmh
DJ 166-012-3
91-4250

Voting Section
P.O. Box 6628
Washington, D.C. 20035-6128

July 29, 1992

Michael Morrison, Esq.
Guinn & Morrison
Baylor Law School
P. O. Box 97288
Waco, Texas 76798-7288

Dear Mr. Morrison:

This refers to your request that the Attorney General reconsider the March 30, 1992, objection interposed under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the redistricting plan for the commissioners court in Ellis County, Texas. We received your request on May 30, 1992.

In your subsequent June 3, 1992, letter, Ellis County withdrew its request for reconsideration. Accordingly, as we previously have informed you, the Attorney General will not take any action on the reconsideration request and the Section 5 objection remains in force.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

BY: *Debra J. Kunkel*

for Steven H. Rosenbaum
Chief, Voting Section