

## Voting Rights Challenge to a School District Consolidation

*North Forest Independent School District  
v. Texas Educational Agency  
(David Hittner, S.D. Tex. 4:13-cv-1786)*

The seven trustees of the North Forest Independent School District filed a federal complaint<sup>1</sup> in the Southern District of Texas on June 19, 2013, claiming that state-ordered absorption of the North Forest school district into the Houston Independent School District violated section 2 of the Voting Rights Act,<sup>2</sup> and the consolidation had not yet been precleared pursuant to section 5 of the Voting Rights Act.<sup>3</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction.<sup>4</sup>

On the day that the case was filed, Judge David Hittner set a hearing for June 24.<sup>5</sup> On June 25, the Supreme Court declined to hold section 5 unconstitutional, but the Court did hold unconstitutional the criteria for which jurisdictions require section 5 preclearance.<sup>6</sup> On June 26, Judge Hittner determined that the plaintiffs' section 5 claim was no longer valid.<sup>7</sup>

Judge Hittner did not dismiss the section 2 claim, but he denied the plaintiffs immediate relief.<sup>8</sup> Noting the majority-minority North Forest school district's "well-documented educational struggles," Judge Hittner reasoned, "A halt in the further effectuation of this transition, just days before the consolidation goes into effect, would no doubt have dire consequences."<sup>9</sup> Judge Hittner also noted the plaintiffs' late bringing of the case.<sup>10</sup>

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1. Complaint, *North Forest Indep. School Dist. v. Texas Educ. Agency*, No. 4:13-cv-1786 (S.D. Tex. June 19, 2013), D.E. 1.

2. Voting Rights Act of 1965, Pub. L. No. 89-110, § 2, 79 Stat. 437, 437, *as amended*, 52 U.S.C. § 10301, *formerly* 42 U.S.C. § 1973 (2013).

3. Voting Rights Act of 1965, Pub. L. No. 89-110, § 5, 79 Stat. 437, 439, *as amended*, 52 U.S.C. § 10304, *formerly* 42 U.S.C. § 1973c (2013) (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination and requiring that preclearance disputes be heard by a three-judge court).

4. Motion, *North Forest Indep. School Dist.*, No. 4:13-cv-1786 (S.D. Tex. June 19, 2013), D.E. 2.

5. Order, *id.* (June 19, 2013), D.E. 6; *see Minutes, id.* (June 24, 2013), D.E. 11.

6. *Shelby County v. Holder*, 570 U.S. \_\_\_, 133 S. Ct. 2612 (2013); *see Harvey Rice, Voting Rights Decision Ripples*, Hous. Chron., July 1, 2013, at 1.

7. Opinion, *North Forest Indep. School Dist.*, No. 4:13-cv-1786 (S.D. Tex. June 26, 2013), D.E. 14 (noting that preclearance had been sought on April 2, 2013); Order, *id.* (June 27, 2013), D.E. 15 (denying as moot the plaintiffs' request for a three-judge court to hear their section 5 claim).

8. Opinion, *supra* note 7, at 7–11; *see Ericka Mellon, North Forest Loses Another Court Ruling*, Hous. Chron., June 27, 2013, at 5.

9. Opinion, *supra* note 7, at 10–11.

10. *Id.* at 10 n.3.

The North Forest school district had been absorbed by the Houston school district by the time that schools opened on August 26.<sup>11</sup>

On September 9, Judge Hittner granted the parties a stipulated nonsuit.<sup>12</sup>

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11. See Ericka Mellon, *HISD Staffers and Their Children Look to Future at Former N. Forest School*, Hous. Chron., Aug. 27, 2013, at 1; see also Ericka Mellon, *For North Forest ISD, It's All Over*, Hous. Chron., July 1, 2013, at 1.

12. Order, *North Forest Indep. School Dist.*, No. 4:13-cv-1786 (S.D. Tex. Sept. 9, 2013), D.E. 19.