

## Preclearance for a Soil-and-Water Conservation District

*Evans v. Bennett (Beverly B. Martin, N.D. Ga. 1:04-cv-2641)*

Five days before a scheduled election for soil-and-water-conservation-district supervisors, two voters filed a federal complaint claiming that matters relating to the election had not received preclearance pursuant to section 5 of the Voting Rights Act. The election was canceled, and preclearance was obtained three months later.

*Subject:* Election dates. *Topics:* Section 5 preclearance; enjoining elections.

On September 9, 2004, two voters filed a federal complaint in the Northern District of Georgia charging that matters relating to a September 14 election for two supervisors for the soil-and-water conservation district of Dekalb County had not received preclearance pursuant to section 5 of the Voting Rights Act.<sup>1</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction<sup>2</sup> and a motion for designation of a three-judge district court to hear their case.<sup>3</sup>

Judge Beverly B. Martin held a telephone conference with the parties on September 13, at which she learned that immediate action was not necessary because the election had been canceled.<sup>4</sup> At a September 27 telephone conference, the parties informed Judge Martin that the elections were awaiting preclearance,<sup>5</sup> and the plaintiffs withdrew their motions.<sup>6</sup>

On notice that preclearance was granted on December 21,<sup>7</sup> Judge Martin dismissed the action on January 20, 2006.<sup>8</sup>

---

1. Complaint, *Evans v. Bennett*, No. 1:04-cv-2641 (N.D. Ga. Sept. 9, 2004), D.E. 1; see Voting Rights Act of 1965, Pub. L. No. 89-110, § 5, 79 Stat. 437, 439, *as amended*, 52 U.S.C. § 10304 (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 district court).

On June 25, 2013, the Supreme Court declined to hold section 5 unconstitutional, but the Court did hold unconstitutional the criteria for which jurisdictions require section 5 preclearance. *Shelby County v. Holder*, 570 U.S. 529 (2013).

2. Motion, *Evans*, No. 1:04-cv-2641 (N.D. Ga. Sept. 9, 2004), D.E. 2.

3. Motion, *id.* (Sept. 9, 2004), D.E. 4.

4. Minutes, *id.* (Sept. 13, 2004), D.E. 5.

Judge Martin was elevated to the court of appeals on January 28, 2010, and she retired on September 30, 2021. Federal Judicial Center Biographical Directory of Article III Federal Judges, [www.fjc.gov/history/judges](http://www.fjc.gov/history/judges).

5. Minutes, *Evans*, No. 1:04-cv-2641 (N.D. Ga. Sept. 27, 2004), D.E. 6.

6. Order, *id.* (Sept. 27, 2004), D.E. 7.

7. Motion, *id.* (Jan. 18, 2006), D.E. 9.

8. Order, *id.* (Jan. 20, 2006), D.E. 10.