

## Enjoining a Water District Annexation for Want of Section 5 Preclearance

*Thelma Area Neighborhood Corp. v.  
Evergreen Underground Water Conservation District  
(Edward C. Prado, W.D. Tex. 5:01-cv-1191)*

An organization filed a federal complaint against a water district on December 28, 2001, in the Western District of Texas, to challenge a February 2, 2002, election to annex the southern part of Bexar County, claiming that the election had not yet received preclearance pursuant to section 5 of the Voting Rights Act.<sup>1</sup> With its complaint, the plaintiff filed a motion for a temporary restraining order.<sup>2</sup>

Judge Edward C. Prado set the case for hearing on January 3, 2002.<sup>3</sup> Following the hearing, Judge Prado agreed to stay the case until January 14, two days before early voting was to begin, to see if preclearance would be granted.<sup>4</sup> Because preclearance had not been granted by January 14, Judge Prado enjoined the election.<sup>5</sup> Following the cancellation of the election, Judge Prado dismissed the case on January 25.<sup>6</sup>

Annexation failed in a May 4 election.<sup>7</sup>

---

1. Docket Sheet, *Thelma Area Neighborhood Corp. v. Evergreen Underground Water Conservation Dist.*, No. 5:01-cv-1191 (W.D. Tex. Dec. 28, 2001) (D.E. 1); Temporary Restraining Order, *id.* (Jan. 14, 2002), D.E. 8; *see* Voting Rights Act of 1965, Pub. L. No. 89-110, § 5, 79 Stat. 437, 439, *as amended*, 52 U.S.C. § 10304 (2014) (requiring preclearance of changes to voting procedures in jurisdictions with a certified history of discrimination).

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. \_\_\_, 133 S. Ct. 2612 (2013).

2. Docket Sheet, *supra* note 1 (D.E. 2).

3. Order, *Thelma Area Neighborhood Corp.*, No. 5:01-cv-1191 (W.D. Tex. Dec. 28, 2001), D.E. 3.

Judge Prado was elevated to the court of appeals on May 5, 2003. Federal Judicial Center Biographical Directory of Federal Judges, [www.fjc.gov/history/home.nsf/page/judges.html](http://www.fjc.gov/history/home.nsf/page/judges.html).

4. Order, *Thelma Area Neighborhood Corp.*, No. 5:01-cv-1191 (W.D. Tex. Jan. 3, 2002), D.E. 6.

5. Temporary Restraining Order, *supra* note 1.

6. Order, *id.* (Jan. 25, 2002), D.E. 13; *see* Jerry Needham, *Water District Delays Annexation Election*, *San Antonio Express-News*, Jan. 23, 2002, at 8B.

7. *See* Jerry Needham, *Water Management at Issue in 2 Votes*, *San Antonio Express-News*, May 5, 2002, at 8B.