

## Preclearance for a Soil and Water Conservation District

*Evans v. Bennett*

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

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 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>

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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*, 42 U.S.C. § 1973c (2012) (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).

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 Cnty. v. Holder](#), 570 U.S. \_\_\_, 133 S. Ct. 2612 (2013); *see* Robert Barnes, *Court Blocks Key Part of Voting Rights Act*, Wash. Post, June 26, 2013, at A1; Adam Liptak, *Justices Void Oversight of States, Issue at Heart of Voting Rights Act*, N.Y. Times, June 26, 2013, at A1.

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.

5. [Minutes](#), *id.* (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.