



The Senate of
The State of Texas

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December 30, 2003

RQ-0157-GA

FILE # ML-43397-03

I.D. # 43397

General Greg Abbott
Office of Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Dear General Abbott:

I am requesting an Attorney General opinion on the voter registration dispute in Waller County. The Waller County District Attorney has declared that students at Prairie View A&M University may not meet residency requirements sufficient to vote in local elections. This assessment has caused a great deal of concern and confusion.

Texas's voter registration law only requires that a person be a resident of the county at least 30 days prior to the elections, be a U.S. citizen, at least 18 on election day, properly registered, not a convicted felon who has not completed his sentence, and not mentally disabled as determined by a court of law.

In 1979 in *Symm vs. United States*, the Supreme Court affirmed the right of Prairie View students to vote in Waller County elections. By a 5-4 vote, the Supreme Court rejected an appeal by Waller County in a ruling by the 5th U.S. Circuit Court of Appeals in favor of Prairie View A&M University students.

The state argued three years ago that residency amounted to where a person intended to declare their permanent residence. The issue was litigated in response to seasonal visitors attempting to vote in the pending state Senate District 3 election. The courts ruled in favor of the state which allowed a number of votes to be counted in that race.

The scenario involving Prairie View A&M is no different. This surprising action by the Waller County District Attorneys' office is strongly perceived by many as voter intimidation.

In particular, I am looking for an Attorney General opinion on the following questions:

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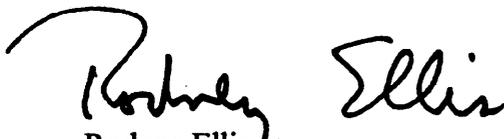
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1. What are the legal requirements to vote in an election in Texas?
2. What is the law with regard to residency in the State of Texas as it relates to voter registration?
3. Does the District Attorney have the jurisdiction or authority to prevent local election officials from refusing to allow a person to register to vote in the county? In other words, can the District Attorney preemptively prevent someone from registering to vote in an election or must the District Attorney bring an action against the individual after an election has taken place contesting unlawful voter registration?

Please consider this as a formal request for an Attorney General opinion clarifying the law regarding voter registration and residency requirements.

Sincerely,



Rodney Ellis

RE:kb

Enclosures