



TEXAS  
CIVIL RIGHTS  
PROJECT



SOUTHERN  
COALITION  
for SOCIAL JUSTICE

August 26, 2025

TO: Judge KP George, fbc.judge@fbctx.gov  
Commissioner Vincent Morales, commpct1@fbctx.gov  
Commissioner Grady Prestage, commpct2@fbctx.gov  
Commissioner Andy Meyers, Andy.Meyers@fortbendcountytexas.gov  
Commissioner Dexter L. McCoy, commpct4@fbctx.gov

CC: Shaneka Smith, shaneka.smith@fbctx.gov

**RE: Legal Concerns Regarding Proposed County Commissioner Redistricting**

Dear Judge George and Members of the Fort Bend County Commissioners Court:

The ACLU of Texas, Texas Civil Rights Project, and Southern Coalition for Social Justice, nonpartisan civil rights organizations with decades of redistricting experience, are writing to express concerns about Fort Bend's unexpected, unprecedented, and unjustifiable mid-decade redistricting of county commissioner precincts.

We seek to respond to, and correct, information in a memorandum provided to Commissioner Meyers by the Law Offices of Tony McDonald on May 24, 2025 ("McDonald Memo"), so that you may fully understand your legal obligations and the risks that flow from the current redistricting plans, which bear certain hallmarks of intentional racial discrimination.

**Contrary to the McDonald Memo's suggestion, it would have been lawful in 2021 for Fort Bend to consider race in order to create legally required coalition districts.** This is because when the current districts were created, Fifth Circuit caselaw still recognized that the Voting Rights Act protected coalition districts. *See Campos v. City of Baytown*, 840 F.2d 1240, 1244 (5th Cir. 1988). Subsequent changes in law do not retroactively make prior considerations of race unlawful if they were done to comply with the law at that time. Thus, the recent legal decision *Petteway* does not automatically place the county at risk of successful legal challenges to the existing commissioner precincts based on prior consideration of race. As such, Fort Bend cannot rely on this race-based justification to initiate mid-cycle redistricting and destroy majority-minority districts. Indeed, it is intentionally dismantling majority-minority districts that opens the County to greater risk of legal challenge.

The Supreme Court has consistently recognized that awareness of race is “permissible” when governments redistrict—indeed, the Voting Rights Act “itself *demands* consideration of race”—so long as legislators also consider other traditional districting factors. *Allen v. Milligan*, 599 U.S. 1, 30 (2023) (quotation omitted) (emphasis added). Those other factors may include “communities of interest, political subdivisions, [county] lines, culture, [and] religion” among others. *Robinson v. Ardoin*, 86 F.4th 574, 593 (5th Cir. 2023). Within this framework, “race consciousness does not lead inevitably to impermissible race discrimination.” *Shaw v. Reno*, 509 U.S. 630, 646 (1993). The law just demands that race “not be ‘the *predominant* factor in drawing district lines unless there is a compelling reason.’” *Allen*, 599 U.S. at 31 (quoting *Cooper v. Harris*, 581 U.S. 285, 291 (2017) (emphasis added)). Further, complying with the Voting Rights Act is a compelling reason for governments to rely, even predominantly, on race. *See, e.g., Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 193 (2017); *Abbott v. Perez*, 585 U.S. 579 (2018).

While the McDonald Memo points to *Petteway v. Galveston County*, 111 F.4th 596 (5th Cir. 2024), to suggest that “governments are not permitted to use race” to prevent vote dilution of “a so-called racial ‘coalition,’” this ignores that *Petteway* was not decided until well after Fort Bend passed its current map in 2021. In 2021, the governing law in the Fifth Circuit was *Campos v. City of Baytown*, which held that “distinct minority groups may aggregate their populations for purposes of vote dilution claims under Section 2.” *Petteway*, 111 F.4th at 599 (citing *Campos*). That means that *Petteway* cannot automatically cast Fort Bend’s map into doubt, since it is understandably proper for legislatures to “apply the body of law in effect at th[e] time” redistricting took place, and that body of law protected so-called coalition claims. *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 197 (2017) (Alito, J., concurring). Thus, *even if* race predominated in the 2021 map drawing—a demanding showing that a plaintiff challenging Fort Bend’s map would have to prove in court—it is the law that supplied “a compelling interest at the relevant time” that matters, not changes in the law that the legislature couldn’t have predicted. *Id.* at 193.

Thus, contrary to the McDonald Memo’s suggestion, in 2021 Fort Bend could have constitutionally considered race to comply with the Voting Rights Act, as it was understood at that time. To the extent Fort Bend did so to create coalition districts that were still legally protected, the county cannot now rely on *Petteway* to argue that race was improperly considered in 2021.

Most importantly, this justification should not be used to justify dismantling functioning coalition districts. *Petteway* did not direct the intentional dismantling of existing minority coalition districts. *See generally* 111 F.4th 596. Instead, the Supreme Court has previously observed that “if there were a showing that a State intentionally drew district lines in order to destroy otherwise effective crossover districts, that would raise serious questions under both the Fourteenth and Fifteenth Amendments” as intentional discrimination, regardless of those districts’ status under the Voting Rights Act. *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009).

Both the timing and explicit racial motivations behind this redistricting threaten the civil rights of Fort Bend’s minority citizens. “[A] legislature’s decision to redistrict in the middle of the

census cycle, when the [government] is under no legal obligation to do so, makes the judicial task of identifying the [government's] motive simpler than it would otherwise be.” *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 458 (2006). It is an “inescapable conclusion that the [government] may not decide to redistrict if its sole motivation is ‘to minimize or cancel out the voting strength of racial or political elements of the voting population.’” *Id.* at 461 (citation omitted). This letter serves as a formal notice of the constitutional violations that will arise from Fort Bend’s intentional dismantling of majority-minority districts.

As such, the undersigned nonpartisan civil rights organizations urge you not to rely on the reasoning contained in the McDonald Memo to engage in unnecessary mid-decade redistricting.

Sincerely,

Ashley Harris  
Staff Attorney  
ACLU of Texas  
aharris@aclutx.org

Sarah Chen  
Senior Supervising Attorney, Voting Rights  
Texas Civil Rights Project  
schen@texascivilrightsproject.org

Adrienne Spoto  
Counsel, Voting Rights  
Southern Coalition for Social Justice  
adrienne@scsj.org