

October 6, 2005

Mr. Sammy Hinson
Columbus County Citizens For Better Government
442 S. Madison Street
Whiteville, North Carolina 28472

Dear Mr. Hinson:

You have asked whether Columbus County might conduct a referendum on changing to an at-large method of electing county commissioners. The question is whether the federal court's 1992 orders in the *Ward v. Columbus County* voting rights case prohibit the county from holding such a referendum. The answer is that the county may hold a referendum but that implementation of at-large elections, if approved at the referendum, could not take place until approved by the federal court.

The *Ward* lawsuit was brought under Section 2 of the federal Voting Rights Act. The plaintiffs, representing African American citizens of the county, contended that the use of at-large elections at that time denied them an opportunity to elect candidates of their choice. Our firm represented the county in defending the lawsuit. A second group of black citizens intervened on behalf of the county and opposed the lawsuit.

At the end of the trial the court decided that the election method then be used violated Section 2. As a remedy the court ordered that the board of commissioners be expanded from five to seven members, with each commissioner to be elected from and by the voters of a single district. The districts were drawn so that two districts had majorities of black voters.

North Carolina General Statutes § 153A-60 authorizes a board of county commissioners to initiate a change in the method of electing commissioners by calling a referendum. One of the options that may be submitted to the voters is at-large elections. (A change in the election method, or the setting of a referendum, also might be accomplished by an act of the General Assembly.) Nothing in the federal court orders in the *Ward* case prohibits such a referendum in Columbus County. Because of the precedence of federal law, however, the change to at-large elections would have to be approved by the federal court before it could take effect. In short, the district method of election ordered by the court in 1992 remains in effect until the court's order is modified or voided.

The issue of whether the federal court would approve the change is more complicated and I will not attempt to opine on it here. The voters' approval of the change would be a factor in the court's consideration, however.

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I will be glad to assist your group and the county with further discussion of these issues.

Sincerely,

THARRINGTON SMITH, L.L.P.

Michael Crowell

Michael Crowell

MC/ksn

cc: Steve Fowler
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