



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

November 20, 1958

Mr. Leo Brewster, President
State Bar of Texas
509 W. T. Waggoner Building
Fort Worth, Texas

Opinion No. WW-522

Re: Terms of the Harris County
Director of the State Bar
of Texas and members of
the Grievance Committee,
following division of that
county into an additional
Congressional District.

Dear Mr. Brewster:

In your recent letter you have propounded two ques-
tions for the consideration of this office.

"1. Can W. Sears McGee, a resident of that portion of Harris County, Texas, that is soon to become Congressional District No. 22, serve as Director of the State Bar for said District No. 22, on the theory that he is entitled to complete the three year term beginning July, 1957, for which he was elected by the lawyers of Harris County, Texas, at a time when that entire County comprised Congressional District No. 8?

"2. Can the Grievance Committee for Congressional District No. 8, all of whom live in that portion of Harris County, Texas that is soon to become Congressional District No. 22, serve as members of the Grievance Committee for District No. 22 for the balance of the terms for which they were originally appointed, without any further action in the way of re-appointment?"

You further state that Mr. McGee was elected State Bar Director for the Eighth Congressional District in June, 1955, for a three-year term commencing July 6, 1957. Thereafter, by the provisions of House Bill 229, Acts of the 55th Legislature, Regular Session, 1957, Chapter 286, page 681, codified as Article 197a of Vernon's Civil Statutes, Harris County was divided into two Congressional Districts --

Mr. Leo Brewster, page 2. (WW-522)

Nos. 8 and 22 -- and that Mr. McGee lives in that part of the county which is now the 22nd Congressional District.

It is apparent that Section 2 of Article VI, Rules Governing the State Bar of Texas, quoted as follows, contemplates that each Congressional District be represented on the Board of Directors of the State Bar by a resident of that District:

"Each elected Director shall be a resident of the district for which he is elected and upon removal from the district shall thereby automatically vacate his office. . . .

"If there be any vacancy, the President shall appoint some member who is a resident of the district in which the vacancy exists to serve until the next regular annual election of Directors."

In addition, the recent case of Childress County v. Sachse, 310 S.W.2d 414, and affirmed by 312 S.W. 2d 380, is analagous to the situation presented here. In that case, the Commissioners' Court changed the boundaries of the commissioners' precincts, which resulted in placing Commissioner Sachse's residence in a precinct different from that from which he was elected. The Commissioners' Court promptly declared a vacancy and appointed another individual to serve the remainder of Sachse's term. Sachse sued the county seeking to recover the salary of the office for that part of the term after his "removal". The Court of Civil Appeals affirmed the District Court's judgment for Sachse by relying upon and quoting 20 C.J.S. 840:

"While a change of boundary lines of commissioner districts, or a redistricting, does not deprive a county commissioner of the right to hold office for the rest of his term, although by reason of the change his residence is without the district from which he was elected, provided it is still within the county, still he does not by becoming a resident of another district, become entitled to succeed the official in that district after the expiration of his term." (Emphasis ours)

Mr. Leo Brewster, page 3. (WW-522)

The Supreme Court affirmed, using the following language:

" . . . We approve the holding of the Court of Civil Appeals that changes in precinct boundaries do not create a vacancy in the office of County Commissioner or deprive the incumbent of the right to hold office, for the remainder of his term, even though by reason of such changes his residence is not within the precinct as redefined."

Even though the Supreme Court failed to make reference to the latter part of the quotation by the Court of Civil Appeals concerning the right of the Commissioner to succeed to the office of the district of his residence after the change of boundary, the language in the opinion of the Court of Civil Appeals would, in our opinion, preclude Mr. McGee from completing the remainder of his elected term as Director of a Congressional District different from that from which he was elected.

Considering the foregoing, it is our opinion that your first question must be answered in the negative. It might be added, however, that the language of the Sachse case, along with the authorities cited therein, establishes the right of Mr. McGee to continue to serve as State Bar Director from the 8th Congressional District, from which he was elected, until the expiration of his term.

Regarding your second question as to whether those appointed to the original Grievance Committee, District No. 8, may continue to serve as members of Grievance Committee, District No. 22, without the necessity of re-appointment, Section 4 of Article XII of the Rules of the State Bar of Texas, provides in part as follows:

"In making appointments for the first time after this amended rule has been adopted and become effective, or after Congressional re-districting, or after change in boundaries of districts, the President shall specify which members of the Committee whose terms have not expired shall serve for one more year, which for two more years, and which, if any, shall serve for three more years, and likewise with reference to appointments then being made,

Mr. Leo Brewster, page 4. (WW-522)

which members shall serve for one, two or three years, to the end that thereafter the terms of approximately one-third of the Committee shall expire each year."

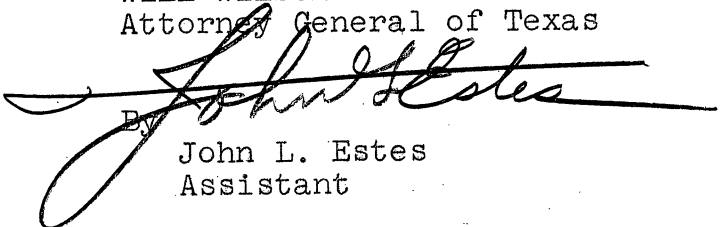
It is apparent that those members of the Grievance Committee whose terms have not expired, may continue to serve in the district of their residence after the Congressional re-districting, for such a term as the President of the State Bar may prescribe, without the necessity of re-appointment.

SUMMARY

After a Congressional re-districting which divides the 8th Congressional District into Congressional Districts Nos. 8 and 22, a Director of the State Bar of Texas, elected from the original 8th Congressional District, does not have a right to continue his term as a Director of the 22nd Congressional District, where his residence after the re-districting is in the 22nd Congressional District; but he may continue to serve as Director of the 8th Congressional District for the remainder of his term. However, the members of the Grievance Committee, District No. 8, whose terms have not expired, may continue to serve in such capacity in the District of their residence, after a Congressional re-districting, for such term as the President may designate, without the necessity of re-appointment.

Yours very truly,

WILL WILSON
Attorney General of Texas


By John L. Estes
Assistant

JLE:ci:zt

APPROVED:
OPINION COMMITTEE
Geo. P. Blackburn, Chairman

L. P. Lollar
Ray V. Loftin, Jr.
Robert Lewis

REVIEWED FOR THE ATTORNEY GENERAL
BY: W. V. Geppert