



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 6 1986

Robert A. Wills, Esq.
City Attorney
P. O. Box 547
Bay Minette, Alabama 36507

Dear Mr. Wills:

This refers to the three annexations (Act No. 85-594, Act No. 298 (1973), and Act No. 744 (1965)) to the City of Bay Minette in Baldwin County, Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submissions on August 7, 1986.


We have considered carefully the information you have provided along with information and comments received from other interested parties and relevant Bureau of the Census data. In reviewing annexations, we are required to analyze their effect from the perspective of the "most current available population data." City of Rome v. United States, 446 U.S. 156, 186 (1980). Our analysis of the information received concerning Bay Minette indicates that almost all of the persons living within the three annexed areas are white, and from all that we can determine, it would appear that the annexations decrease the black population percentage in the city by approximately five percent. This decrease is significant because it occurs in the context of a city whose council is chosen through an at-large election system characterized by racially polarized voting. In that regard, we note that since 1965 there have been nine black candidacies for municipal office but none have been successful.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that submitted changes do not have a discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). Under City of Richmond v. United States, 422 U.S. 358, 371 (1975), annexations that result, as here, in a significant decrease in the minority proportion of a city's population have such an effect and may pass Section 5 muster only if the method utilized for electing the city's governing body "fairly reflects the strength of the minority community as it exists after the annexation." In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the city has carried its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the voting changes occasioned by the three annexations submitted by the City of Bay Minette.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the annexations legally unenforceable insofar as they have an effect on voting in Bay Minette. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Bay Minette plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-8388), Attorney/Reviewer in the Section 5 Unit of the Voting Section.

Sincerely,


Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division