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DJ 166-012-3

DEC 2 1971

Mr. C. B. Vaughn, Jr.
Vaughn & Barksdale
Attorneys at Law
P. O. Box 410
Conyers, Georgia 30207

Dear Mr. Vaughn:

Reference is made to House Bill No. 1390 of the Georgia General Assembly which provides for changes in mayor and alderman elections in the City of Conyers, Georgia, which you submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your submission was received on November 1, 1971.

Our examination of your submission and other voting changes made in Conyers, Georgia subsequent to November 1964, indicates that the city elections since 1965 have been held under procedures which were not reviewed by the District Court for the District of Columbia or the Attorney General as is required by Section 5. After carefully considering the changes submitted, I cannot conclude that the provisions requiring aldermen to run for numbered posts, that the mayor and aldermen must receive a majority of votes cast and that two aldermen must run for office each year do not have the effect of abridging voting rights on account of race or color. Therefore, I must interpose an objection to the administration of these voting changes.

In accordance with your request we have given the Conyers submission expedited consideration, and twenty-nine days remain before the expiration of the 60-day period the Attorney General has for considering Section 5 submissions. Should you wish to present additional justification for the changes, or evidence that their implementation would not violate Section 5 of the Voting Rights Act, we will re-examine this matter.

Of course, as provided for by Section 5, you have an alternative of instituting an action in the United States District Court for the District of Columbia for declaratory judgment that the changes do not have the purpose and will not have the affect of denying or abridging the right to vote on account of race or color.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division

DJ 166-012-3 JAN 28 1972

Mr. C. R. Vaughn, Jr.
Vaughn & Berkedale
Attorneys at Law
Post Office Box 410
Conyers, Georgia 30207

Dear Mr. Vaughn:

This is in reference to your request for reconsideration by the Attorney General of his decision of December 2, 1971, to interpose an objection to the implementation of voting changes which have been proposed by amendments to the Conyers, Georgia City Charter.

We have carefully considered the additional information that you sent on December 10, along with that information which you submitted initially for the Attorney General's approval. While we recognize the commendable work that you have done in the integration of your public school system, police department, and in other areas involving equal rights for racial minorities, we still cannot find a basis for withdrawing the Attorney General's previous decision to interpose an objection to implementation of the Charter amendments.

As you may know, before a decision is made under Section 5 by the Attorney General, he determines whether the action being taken would have the effect of diminishing the voting rights of racial minorities. If this is found to be the case, it is immaterial to the Attorney General's decision that the submitting authority did not purposefully intend that the change have an adverse racial effect. It is our opinion that the action you have taken substantially diminishes the possibilities of having the representative of a minority group elected to the city council and our objection is based on that effect.

You have raised the point on page 4 of your letter of December 10 that Section 34l407 of the Code of Georgia Annotated requires all candidates in a municipal election to receive a majority of the votes cast in order to be elected when the charter of the city in question does not specifically spell out a plurality vote requirement for election. Section 5 of the Voting Rights Act of 1965 applies to all standards, practices, or procedures with respect to voting which are sought to be administered and which are different from those in effect on November 1, 1964. Clearly, persons being elected in Conyers prior to the most recent election were required to have a plurality of the votes cast in order to win, and this standard was changed to a majority vote requirement. Even if it is assumed that the change was necessary under state law, and the previous practice was not predicated on a statutory requirement, the modification of voting procedures in Conyers is covered by Section 5. It was just this type of situation that the Supreme Court examined and decided in Perkins v. Matthews 400 U.S. 379 (1971).

You also noted that in a recent case a federal judge allowed candidates for the Rockdale County Board of Education to run from designated post positions. However, the school board case does not appear to give much assistance in evaluating the submitted changes because the issues being litigated before the Court merely decided whether the one-person, one-vote requirement of the Fourteenth Amendment was satisfied, and did not weigh the possible effects of such an election system on Fifteenth Amendment rights.

Under the facts presented by your submission, I believe that the elections held on December 4, 1971, should be reconducted, without using the Charter Amendments which have been objected to. This approach is consistent with the decision entered on October 29, 1971, in United States v. W. H. Cohen, et al, Civil Action No. 2882, United States District Court for the Southern District of Georgia. The facts in that case were similar to this one, and Alexander Lawrence, Chief Judge, ordered

the City of Hinesville, Georgia to rehold its municipal elections without using the changes that had been objected to by the Attorney General under Section 5. It is also our belief that such an election should be conducted without using the anti-single shot ordinance which was enacted in 1965. This ordinance was never submitted for the Attorney General's review, and cannot, therefore, be legally implemented prior to his determination under Section 5 of the Voting Rights Act of 1965.

Please advise this Department within fifteen (15) days of your decision concerning the possibilities of holding a new election under the circumstances described.

If after studying the matter, you still feel that a conference would be fruitful, we will be happy to arrange one as soon as possible.

Sincerely,

DAVID L. NORMAN
Assistant Attorney General
Civil Rights Division