

D.J. 166-012-3
X7825-7827

OCT 13 1976

Mr. William K. Childers, Jr.
City Attorney, City of Monroe
Law Offices of Sorrells,
Hearn & Childers
139 East Highland Avenue
Monroe, Georgia 30655

Dear Mr. Childers:

This is in reference to the three annexations to the City of Monroe, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on August 14, 1976.

The Attorney General does not interpose any objection to the annexation of the property, not intended for residential use, belonging to the Monroe Golf and Country Club, Inc. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change.

However, after careful consideration of voting patterns and the present system of election in the City of Monroe and of recent court decisions in analogous situations, the Attorney General is not able to reach a like conclusion with respect to the addition of white voters as a result of the annexation of property described in Ordinances 9-72 and 10-72 to an at-large system with residency and majority vote requirements. In considering this matter, we have applied the legal principles developed by the courts in cases such as the City of Richmond v. United States, 422 U.S. 358 (1975) and City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972), aff'd 413 U.S. 962 (1973). Essentially, these cases require an analysis

of an annexation submission to examine the impact of the boundary expansion on minority voting rights, both statistically and in the context of the local electoral system, with due consideration to the historic patterns of minority electoral participation. See also Whitcomb v. Chavis, 403 U.S. 124 (1971); White v. Regester, 412 U.S. 755 (1973); and Blacks United for Lasting Leadership, et al. v. City of Shreveport, et al., _____ F. Supp. (Civ. Action No. 74-272 W.D. La., decided July 16, 1976).

In light of these decisions, it is incumbent on us to examine not only the percentage of dilution of the total population resulting from the addition of potential white voters (34 in the case of this submission in the context of Monroe's at-large system of elections (which appears to be approximately 1 percent as you indicate in your letter of submission)), but also to examine past election results. Such an examination reveals that past elections have been decided by as few as ten votes and often by fewer than 100 votes. Although blacks represent more than 30 percent of the total population of the city, no black has ever served on the City Council.

In view of these facts, we are unable to conclude, as we must under the Voting Rights Act, that the City of Monroe has carried its burden of establishing that these annexations will not have the effect of impermissibly diluting the black vote in that city. Consequently, I must on behalf of the Attorney General enter an objection to implementation of the submitted annexations described in Ordinances 9-72 and 10-72 to the extent that they affect voting in the City of Monroe. In that connection, however, I would emphasize that such objection does not under federal law affect the legality or propriety of the annexations themselves. Rather, the objection entered herein may be withdrawn as a result of the city's taking steps to "neutralize to the extent possible any adverse effect upon the political participation of black voters***". City of Petersburg v. United States, supra, at p. 1031.

Of course, as provided by Section 5, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these annexations have neither the purpose nor the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

J. Stanley Fetting
Assistant Attorney General
Civil Rights Division