



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

17 DEC 1982

Henry L. Crisp, Esq.
Crisp, Oxford, & Gatewood
P.O. Box J
Americus, Georgia 31709

Dear Mr. Crisp:

This is in reference to the redistricting plan for the Sumter County School District in Sumter County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on November 12, 1982.

We have given careful consideration to the information you have submitted, as well as that available from the Bureau of the Census and from other interested parties. According to the 1980 Census, the Sumter County School District has a population of 13,240, of whom 5,745 (43.4 percent) are black. The submitted plan provides for six single-member districts and one member elected at-large. Our analysis reveals that District 2 has a black population of 60 percent (56 percent black voting age population) and District 4 has a black population of 62 percent (58 percent black voting age population). Our analysis also shows that the black population concentrated in the southern portion of the county has been divided between Districts 2, 3, and 4.

Our evaluation of this plan indicates that it does not fairly reflect the black voting strength in the school district. The division of the black community by the configuration of proposed Districts 2 and 4 fragments the black voting strength for apparently no compelling governmental reason and such fragmentation need not exist in a fairly drawn plan. Our analysis also has revealed evidence of racially polarized voting, non-responsiveness on the part of the school board members to the particularized needs of the black community, and other factors which, in the context of a history of racial discrimination in the county, increase the likelihood that the proposed redistricting plan will deny black voters an equal opportunity to elect representatives of their choice.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no 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)). A change has a discriminatory effect within the meaning of Section 5 if it would "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976). In determining whether such retrogression exists, the normal approach is to compare the proposed plan to the one presently in effect. Here, however, the court has determined, in Edge v. Sumter County School District, Civil Action No. 80-20-AMER (M.D. Ga. Nov. 25, 1981), that "there is now no legally enforceable election system for the school district" (slip op. at 4). In such circumstances, "it is appropriate, in measuring the effect of the voting changes, to compare the voting changes with options for properly apportioned single-member district plans." Wilkes County, Georgia v. United States, 450 F. Supp. 1171, 1178 (D. D.C. 1978).

In this connection, we note that the ACLU had provided the school district with an alternate plan which contains seven contiguous single-member districts, of which three districts would contain black population percentages of over 60 percent, including two with black populations of more than 65 percent. Our understanding is that the school district did not consider that plan, nor has it presented any legitimate reasons for not doing so. Furthermore, our analysis shows that by a mere adjustment of boundary lines in the six-one plan, contiguous and fairly drawn districts of about 65 and 72 percent could result.

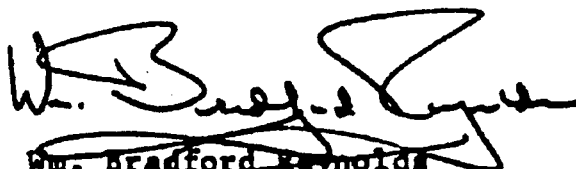
The information which has been provided also suggests that the submitted plan was designed with the purpose of minimizing minority voting strength in the school district. Thus, it appears that the board consciously did not consider the alternate plan proposed by the ACLU because of racial considerations and similarly did not obtain or seek input from the minority community, which comprises 43 percent of the district's population.

In light of the circumstances involved here, I cannot conclude, as I must under the Voting Rights Act, that the board has sustained its burden of showing the absence of the proscribed purpose and effect. Therefore, on behalf of the Attorney General, I must object to the submitted redistricting plan.

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 this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the redistricting plan legally unenforceable. See also 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 Sumter County School Board plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division