



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 31, 1983

Tom S. Lee, Esq.
Attorney, Scott County
Board of Supervisors
P.O. Box 326
Forest, Mississippi 39074

Dear Mr. Lee:

This is in reference to the reapportionment of supervisor and justice court districts in Scott County, Mississippi, 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 submission on April 1, 1983.

The Attorney General does not interpose any objection to the redistricting of justice court districts. 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. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

With regard to the supervisor district changes, we have given careful consideration to the materials you submitted, along with Bureau of the Census data and comments and information from other interested parties. At the outset, we note from the 1980 Census that the black population of Scott County has increased from 31% of the total population in 1970 to 35% as of 1980; the 1980 Census also reveals that present supervisor districts are malapportioned. Your submission indicates that the primary purpose of the supervisors' redistricting plan was to remedy the malapportionment of the existing plan. The submission and other information also reveal, however, that, in remedying the malapportionment, the county attempted to maintain the same racial percentage in each of the existing districts.

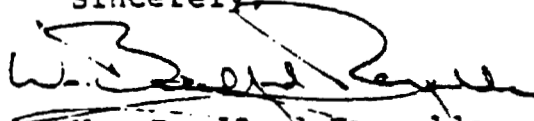
While that objective in and of itself is not an impermissible approach (see e.g., United Jewish Organization v. Carey, 430 U.S. 144, 161 (1977)), a concern arises where, as here, the effort to achieve the objective results in a plan which fragments the black community of the City of Forest among several districts, fails to recognize the increased potential for black political participation which might be expected from the population increase, and proposes several irregularly shaped alterations to the previously uniform supervisor districts. Additionally, we have received a number of complaints from members of the minority community of Scott County concerning both the lack of minority input in the redistricting process and fragmentation of the minority community in Forest.

Under Section 5, the submitting authority has the burden of showing that the proposed voting change was not enacted with a discriminatory purpose and will not have a detrimental effect on minority voting strength. Beer v. United States, 425 U.S. 130 (1976); City of Richmond v. United States, 422 U.S. 358 (1975). In light of the considerations discussed above, I cannot conclude that that burden has been satisfied in this instance. Accordingly, on behalf of the Attorney General, I must interpose an objection to the proposed plan for the redistricting of supervisor districts.

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, Section 51.44 of the guidelines permits you to request that the Attorney General 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 reapportionment plan for supervisor districts legally unenforceable. 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 Scott County plans to take with respect to this matter. If you have any questions, feel free to call Paul F. Hancock (202-724-3095), Assistant for Litigation, Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division