



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 7, 1985

Tommy McWilliams, Esq.
Townsend, McWilliams & Holladay
P. O. Box 107
Indianola, Mississippi 38751

Dear Mr. McWilliams:

This refers to the redistricting of supervisor districts; the creation of four additional polling places; a polling place change; and the elimination of a polling place in Sunflower 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 8, 1985.

We have considered carefully the information you have provided along with information and comments received from other interested parties as well as relevant Bureau of the Census data. Concerning the supervisor redistricting plan, we note at the outset that the basis for our July 19, 1983, objection to an earlier plan was that the redistricting proposed there needlessly fragmented the black community in the Indianola area among three supervisor districts. We were able to discern no nonracial justification for such fragmentation and thus concluded that the county had failed to satisfy its burden of demonstrating that the plan was enacted without a racially discriminatory purpose. Your submission of the most recent plan states that the instant plan was designed to remedy the concerns which led to the 1983 objection.

Our analysis of the plan now before us, however, reveals that the newly proposed supervisor districts continue needlessly to fragment the black community in the Indianola area among three districts. While the proposed plan does include the Southgate subdivision in a single district, the remedying of that fragmentation is effectively offset by the fragmenting of other black neighborhoods in the Indianola area. As in the plan previously objected to, District 3 continues to be unusually

shaped and continues to make a southerly turn within Indianola to include a substantial portion of the black community even though the rest of District 3 remains heavily white in racial composition.

My personal familiarity with the cohesiveness of the black residential areas at issue causes great concern over the manner in which these neighborhoods have been fragmented. The railroad tracks form a natural boundary within Indianola and it is well recognized that this boundary divides neighborhoods as well as communities of interest. Yet in devising the submitted plan, the railroad tracks apparently were ignored as a potential district boundary line. As a result, some black citizens residing in subdivisions such as Green Acres and Woodburn are fragmented from their neighbors residing in the same subdivisions and assigned to District 3; it is difficult to conclude that these residents share more common interests with the citizens in the northern portion of Indianola than they do with their own neighbors.

No nonracial explanation has been furnished by the board of supervisors as to why the district boundaries of the submitted plan continue to meander through the streets of the black community in so divisive a manner, particularly in light of the strong opposition of the black community to this manner of plan drawing. In fact the submission indicates that the fragmentation of the black community was devised consciously to assure that the black population percentage of any district would not increase appreciably.

While the racial composition of the districts does not, standing alone, evidence a discriminatory purpose or effect within the meaning of Section 5, the Voting Rights Act does not allow a covered jurisdiction to fragment cohesive black residential areas for the purpose of avoiding the higher black percentages which would be the logical result of drawing district boundaries on a nonracial basis. See, e.g., Connor v. Finch, 431 U.S. 407, 425 (1977). Yet, in the instant case, the conclusion is inescapable that the southern portion of Indianola was fragmented into three districts because it is a neighborhood wherein black citizens reside and because the county desires to minimize the effectiveness of the political participation of these citizens that would result from their sheer numbers and concentration.

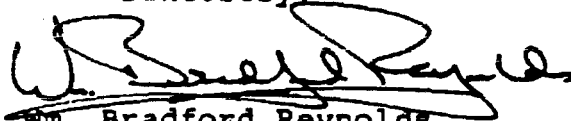
As noted in our previous letter of objection, under Section 5 the submitting authority has the burden of showing that the proposed voting changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, I am unable to conclude that the county has satisfied its burden in this instance. As a consequence, I must, on behalf of the Attorney General, interpose an objection to the supervisor 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 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 supervisor redistricting plan legally unenforceable. 28 C.F.R. 51.9.

Finally, in light of the Section 5 objection to the redistricting plan, the Attorney General is unable to make a determination as to the remaining voting changes included in your submission at this time. Similarly, in our July 19, 1983, letter, we likewise declined to make a determination with respect to the creation of two additional voting precincts and the polling places therein because those changes were dependent upon supervisor lines to which an objection was being interposed. Thus, even though we did, in fact, preclear at that time the county justice court redistricting plan, your April 4, 1985, letter in response to our request for more information is incorrect in its statement that the Attorney General has "approved the establishment of these precincts in connection with the Justice Court redistricting plan."

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Sunflower County plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a horizontal line underneath the name.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division