



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 30 1991

William Ward, Esq.
Ward & Rogers
P. O. Drawer 59
Starkville, Mississippi 39759

Dear Mr. Ward:

This refers to the redistricting of the justice court and supervisor districts for Oktibbeha 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 August 5, 1991.

We have considered carefully the information you have provided, as well as comments provided by other interested parties. The Attorney General does not interpose any objection to the 1991 redistricting plan for the justice court/constable districts. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With respect to the 1991 redistricting plan for the board of supervisor districts, we cannot reach a similar conclusion. At the outset, we note that although black citizens constitute over one third of the county's population, only one black candidate has been elected to the board of supervisors. Our analysis indicates that, by continuing to fragment black population concentrations in the county, the proposed plan would preclude black voters from having an equal opportunity to participate in the political process and elect candidates of their choice by undermining their ability to elect candidates of choice in more than one district.

The continuing fragmentation of black population concentrations by the proposed plan, the refusal of the board to consider the minority community's redistricting suggestions, the apparent absence of any legitimate governmental interest in

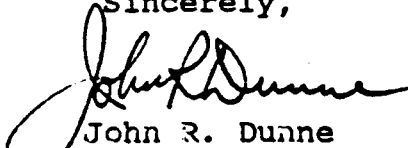
avoiding those suggestions in favor of the plan adopted and the apparent overriding interest on the part of the county in protecting white incumbent supervisors are all matters of concern in this regard. However, our analysis indicates that there were easily discernible or actually suggested alternatives which would have avoided such fragmentation while still allowing the county to meet legitimate governmental objectives. The county has not advanced any persuasive nonracial reasons for not pursuing such alternative configurations.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory 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. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the supervisor redistricting plan.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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, you may 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 supervisor redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, and in light of the impending county elections, please inform us of the action Oktibbeha County plans to take concerning this matter. If you have any questions, you should call John Tanner (202-307-2897), an attorney in the Voting Section.

Sincerely,


John R. Dunne
Assistant Attorney General
Civil Rights Division