



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

APR 25 1994

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602-1151

Dear Mr. Crowell:

This refers to the annexation (Ordinance No. 0-1994-01) to the City of Laurinburg in Scotland County, North Carolina, 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 your submission on February 23, 1994.

We have considered carefully the information that you have provided, as well as Census data and comments and information from other interested persons. According to the 1990 Census, the city's total population consists of 11,643 persons of whom 5,218 (44.8 percent) are black. Black voters constitute 39.1 percent of the voting age population. The proposed annexation adds approximately 4,109 persons as city residents, only 800 of whom (19.5 percent) are black. Thus, the addition of this area to the city would decrease the black share of the city's population by 6.5 percentage points, from 44.8 percent to 38.3 percent. The black share of the city's voting age population would decrease from 39.1 percent to 32.6 percent.

The city elects its five-member city council at large to staggered terms with a plurality vote requirement. Our analysis of municipal elections reveals an apparent pattern of racially polarized voting that has limited the ability of black voters to elect their preferred candidates. Thus, in this context, the reduction in the black share of the city's population as effectuated by the proposed annexation would further limit the opportunity of black voters to elect their candidates of choice to the city council.

You have represented in your submission that the city intends to ameliorate the impact of this annexation on black voting strength by changing its existing method of election to include a districting plan from which black voters will have greater opportunities to elect their preferred candidates than at present. We understand, however, that any change in method of electing the city council is subject to state legislative approval and that the city has not yet obtained authorization to adopt such a change. Accordingly, the only system under which we can analyze the submitted annexation is the existing, at-large, electoral system.

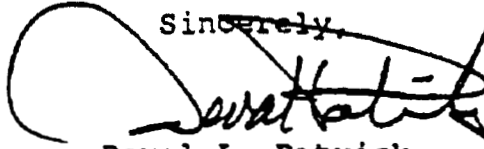
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that submitted changes have neither a discriminatory purpose nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.52. Annexations that result, as here, in a significant decrease in the minority proportion of a city's population have such a proscribed effect, and, therefore, may satisfy Section 5 only if the method used for electing the city's governing body "fairly reflects the strength of the [minority] community as it exists after the annexation." City of Richmond v. United States, 422 U.S. 358, 370-71 (1975). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the city's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed annexation occasioned by the City of Laurinburg's adoption of Ordinance Number 0-1994-01.

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 annexation will 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, you may request that the Attorney General reconsider the objection. In this regard, should the city change its method of election and adopt a new system that comports with the legal standards set forth in City of Richmond v. United States, *supra*, we would be willing to reconsider this objection at the time that Section 5 preclearance is sought for that change and any related districting proposal. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the proposed annexation continues to be legally unenforceable insofar as it affects voting. See Dotson v. City of Indianola, 514 F. Supp. 397, 403 (N.D. Miss. 1981 (three-judge court) (municipal residents of areas annexed after Section 5 coverage date may not participate in municipal elections unless and until the annexations receive Section 5 preclearance). See also Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

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To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of Laurinburg plans to take concerning this matter. If you have any questions, you should call Ms. Delora L. Kennebrew (202-307-3718), a Deputy Chief in the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval Patrick", written over the word "Sincerely,".

Deval L. Patrick
Assistant Attorney General
Civil Rights Division



Office of the Assistant Attorney General

Washington, D.C. 20035

JUN 23 1994

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P. O. Box 1151
Raleigh, North Carolina 27602-1151

Dear Mr. Crowell:

This refers to the change in the method of electing city councilmembers from at large to two double-member districts and one at large, the districting plan and an implementation schedule for the City of Laurinburg in Scotland County, North Carolina, 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 your submission on May 17, 1994.

This also refers to your request that the Attorney General reconsider and withdraw the April 25, 1994, objection under Section 5 to the city's adoption of an annexation (Ordinance No. 0-1994-01). We received your request on May 17, 1994.

As noted in our objection letter, the annexation would reduce significantly the black proportion of the city's total population. Our analysis showed that, in the context of racially polarized voting, the existing at-large method of election for the city council would not fairly reflect black voting strength in the expanded city, and accordingly, an objection was interposed. See City of Richmond v. United States, 422 U.S. 358 (1975).

Under the proposed election system, city councilmembers would be elected from two double-member districts, one of which has a black population of 62.9 percent. Our analysis shows that this system would fairly recognize black voting strength in the expanded city and therefore resolves our Section 5 concerns.

Accordingly, I hereby withdraw the objection to the annexation identified by Ordinance No. 0-1994-01 and interpose no objection to the change in method of election, districting plan and implementation schedule. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Since the Section 5 status of the proposed annexation is at issue in Speller v. City of Laurinburg, No. 3:93 CV 365, we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick", with a large, stylized flourish extending from the end of the signature.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

cc: Honorable William L. Osteen, Jr.
United States District Judge

Counsel of Record