

28 APR 1980

W. McLean Pitts, Esq.
Pitts, Pitts & Thompson
Post Office Drawer 537
Selma, Alabama 36701

Dear Mr. Pitts:

This is in reference to the realignment of ward boundaries by the City of Selma in Dallas County, Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on February 24, 1980.

Under Section 5, the City of Selma has the burden of proving that the submitted change does not have the effect of producing a retrogression in the position of black voters in the City of Selma and that it does not transgress constitutional limits with respect to black voters. See Pearl v. United States, 425 U.S. 130 (1976). See, also, 26 C.F.R. 201.25.

We have considered information provided by the City of Selma and the Bureau of the Census as well as by other interested parties. Our analysis reveals that in addition to evidence of a general pattern of racially polarized voting in the City of Selma, a black candidate lost election from Ward Three by a slim margin under the existing plan and that one effect of the proposed plan is to reduce the black population percentage of Ward Three. Our analysis has also shown that it is not difficult to devise a plan which remedies the malapportionment of the existing wards without decreasing the black population percentage in Ward Three. The adoption by the City of Selma of an electoral scheme that would maintain minority voting strength at a minimum

level, where alternate options would provide a fair chance for minority participation, is relevant to the question of an impermissible racial purpose in its adoption. See Wilkes County v. United States, 450 F. Supp. 1171 (D. D.C. 1978).

Under the circumstances, we are unable to conclude, as we must, under Section 5 that the submitted change does not have a racially discriminatory purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the implementation of the proposed redistricting for the City of Selma.

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, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (18 C.F.R. 51.21(b) and (c), 51.23, and 51.24) 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 obtained, the effect of the objection by the Attorney General is to make the proposed redistricting plan for the City of Selma, Alabama legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter the course of action the City of Selma, Alabama plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Eida Gordon (202-724-6575), of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division