



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 11 1984

Lynda K. Oswald, Esq.
Assistant Attorney General
250 Administrative Building
64 North Union Street
Montgomery, Alabama 36130-1601

Dear Ms. Oswald:

This refers to Act No. 84-734 which provides for a purge and reidentification of voters in Baldwin County, Alabama, 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 October 12, 1984.

We have reviewed carefully the information you have provided to us, as well as comments and information received from other parties. At the outset, we note that, while the concept of voter reidentification is not, per se, racially discriminatory, Congress has cautioned us to grant close scrutiny to "reregistration procedures not shown to be necessary and administered in ways that make it difficult for blacks to register." S. Rep. No. 97-417, 97th Cong., 2d Sess., 14 n.22. Thus, in reviewing Section 5 submissions of voter reidentification programs, we have examined the reasons underlying the program, and have paid particular attention to the procedures which are established to carry out the reidentification. In that regard, we have found in other Alabama counties that the potential discriminatory impact of reidentification can be avoided by allowing a substantial period of time for reidentification (e.g., Sumter and Perry Counties allowed more than one year); by giving substantial publicity to the requirement of, and procedure for, reidentification; by utilizing deputy registrars and reidentifying voters at the place at which they vote; by allowing reidentification by mail; by providing

reidentification opportunities during evening hours or on weekends; and by allowing voters the opportunity to reidentify at the polling place on election day.

We find that the reidentification proposed by Baldwin County contains few of these kind of safeguards to assure that the program does not impose an unnecessary burden on voters in general and on black voters in particular. The program was designed to be completed within only a three-month period, little publicity was built into it, deputy registrars are not intended to be utilized in it, and it appears that even those voters who voted as recently as in the November 6, 1984, election would be required to make a special appearance at the office of the probate judge to reidentify. In addition to these readily perceived deficiencies, we have been advised by the chair of the Baldwin County Board of Registrars that as of December 7, 1984, the county had not finalized its plans for implementing the reidentification process because of the press of other business. Thus, while the submitted statute requires the probate judge to visit each precinct between October 1, 1984, and December 31, 1984, to reidentify voters, no such visits have taken place and none have been planned.

In these circumstances it would appear that implementation of the reidentification procedures prescribed by the submitted statute will have an adverse impact on all voters of Baldwin County. However, black voters, who have suffered from a long history of racial discrimination in the electoral process in Alabama, may be particularly affected by the reidentification process and the resulting voter purge.

Under Section 5 of the Voting Rights Act the submitting authority has the burden of showing that the submitted change has neither the purpose nor will have the effect of denying the right to vote on account of race or color. Georgia v. United States, 411 U.S. 526, 538-539 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). On the basis of the facts before us we cannot conclude that the state has satisfied its burden in this instance. Therefore, on behalf of the Attorney General, I must interpose an objection to the implementation of Act No. 84-734.

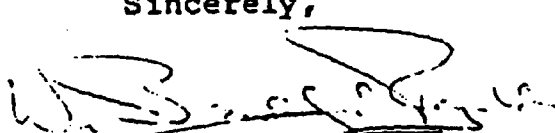
Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of

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 a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the purge and reidentification of voters in Baldwin County as mandated by Act No. 84-734 legally unenforceable. 28 C.F.R. 51.9.

Although I am compelled to enter this objection, we note that the county is not precluded from continuing to purge voters pursuant to preexisting and precleared provisions of Alabama law. If implementation of such purge provisions is deemed to be inadequate, however, we are willing to give further consideration to this matter should the state or county devise a reidentification program to be administered in a manner which does not make it difficult for black citizens to reidentify.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the State of Alabama plans to take with respect to this matter. If you have any questions, feel free to call Robert S. Berman (202-724-3100), Attorney/Supervisor of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

cc: Mr. David C. Wood
Administrator, Baldwin County
Commission