



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Charles E. Bailey
Mayor
P. O. Box 552
Alexander City, Alabama 35010

DEC 1 1986

Dear Mayor Bailey:

This refers to the two annexations (Act No. 208 (1969) and Act No. 86-21) to the City of Alexander City in Tallapoosa County, Alabama, submitted to the Attorney General for the required review 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 submissions on October 3, 1986.

We have considered carefully the information you have submitted, data from the 1970 and 1980 Censuses, and information from other interested parties. At the outset, we note that black voters have been unable, until 1984, to elect a candidate of their choice to the city council even though a number of such candidates have sought council positions over the years. This appears in substantial part to be the result of a general pattern of racially polarized voting occurring in the context of the city's electoral system which is characterized by at-large voting, numbered posts, and a majority vote requirement.

Even so, our analysis shows that the 1969 annexation, adding as it does, only about 210 persons to the city, does not have a significant effect on minority voting strength, particularly when viewed against the later annexation precleared by the Attorney General in 1979 which added some 500 or more persons, 60 percent of whom were black. Accordingly, the Attorney General does not interpose any objection to the voting changes occasioned by that annexation. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

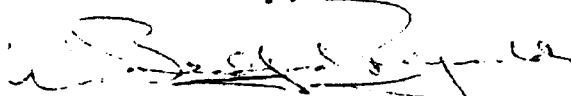
On the other hand, the effect of the 1986 annexation is to reduce the total black population of the city from 27.4 percent to 25.5 percent, a reduction which serves to make it even more difficult for blacks to elect a candidate of their choice and to enhance the ability of the white majority to exclude blacks totally from participation in the governing of the city through membership on the council. Absent an electoral system, not here existent, which fairly reflects the strength of the minority community as it exists after the annexation, such an effect is not permissible under the Voting Rights Act. See Beer v. United States, 425 U.S. 130 (1976); City of Richmond v. United States, 422 U.S. 358, 370 (1975).

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). 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 1986 annexation insofar as it affects voting rights.

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 none of these changes has either the purpose or 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 annexation accomplished by Act No. 86-21 legally unenforceable with regard to voting. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Alexander City plans to take with respect to this matter. If you have any questions, feel free to call Ms. Lora Tredway (202-724-8388), attorney reviewer in the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division