



U.S. Department of Justice  
Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

DEC 24 1992

John E. Pilcher, Esq.  
Pilcher and Pilcher  
P.O. Box 1346  
Selma, Alabama 36702-1346

Dear Mr. Pilcher:

This refers to the October 26, 1992 redistricting plan for the board of education in Dallas 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 your submission on November 2, 1992.

We have considered carefully the information you have provided, as well as Census data, information contained in your submissions of two earlier redistricting plans following the 1990 Census, and information and comments received from other interested parties. As you know, we interposed Section 5 objections to the school board's two previous redistricting plans because of the unjustified and unnecessary retrogression in minority voting strength in proposed District 2. Moreover, the school board's redistricting decisions as to both plans appeared to be motivated, in part, by a desire to protect the incumbent board member from District 2.

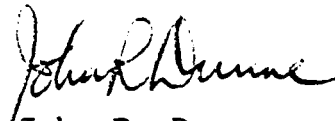
Analysis of the plan now under submission reveals that it, too, reduces the black share of the population in District 2 (from 65.3 percent to 63.0 percent). As we noted in our previous letters, no reduction in black population percentage in District 2 is necessary to comply with the one person, one vote requirement of the United States Constitution. Moreover, the school board has continued to reject alternative plans that balanced the county's population among the districts without any reduction in the black percentage of District 2. The school board has articulated no legitimate nonracial justification for its latest choice of a plan which, like its predecessors, effects a retrogression in the position of minority voters given the county's electoral history and pattern of polarized voting. See Beer v. United States, 425 U.S. 130 (1976).

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 October 26, 1992 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 redistricting plan 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 redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Dallas County Board of Education plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), an attorney in the Voting Section.

Sincerely,

A handwritten signature in dark ink, appearing to read "John R. Dunne", is written over a horizontal line.

John R. Dunne  
Assistant Attorney General  
Civil Rights Division