

T. 12-7-77  
DSD:DHH:wmd  
D.J. 166-012-3  
V8970  
A2049-2081  
A2796-2801

DEC 9 1977

Mr. George E. Glaze  
City Attorney  
City of College Park  
114 McDonough Street  
Jonesboro, Georgia 30236

Dear Mr. Glaze:

This is in reference to the redistricting of wards for the City of College Park, Georgia, and to thirty-two annexations to that City, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on October 11, 1977.

With respect to the redistricting, our determination is guided by the relevant judicial decisions concerning the possible discriminatory effects of redistrictings, see, e.g., Kirksey v. Board of Supervisors of Hinds County, 554 F.2d 139 (5th Cir.), cert. den. U.S. (1977), and Anderson v. Commissioners Court, 503 F.2d 674 (5th Cir. 1974), and by the relevant judicial decisions concerning the standard of review under Section 5. See Beer v. United States, 473 U.S. 130 (1976), and Georgia v. United States, 411 U.S. 526 (1973). We have carefully considered the information you have provided as well as information and comments from other interested persons. Our analysis of these materials reveals the following situation. The City of College Park has a seven member city council, consisting of a mayor and six council members. The mayor is elected at large and the remaining council members are elected from six single-member districts. The population of College Park is now 26,835 and is approximately 36 percent black. Voting in municipal elections appears to follow racial lines. Under the districting plan adopted by the City there will be a black majority in one of the six wards; Ward 2 will be 77 percent black in total population. Thus if voting is along racial lines blacks under this plan will have the opportunity to elect no more than one of the six council members elected from single member districts, although they constitute almost one-third of the City's population. In addition, our analysis reveals that this plan has a total deviation from equal district population of plus or minus 15.8 percentage points, and that it is possible to draw a plan creating two districts with substantial black majorities that has a significantly smaller total deviation. Finally, our analysis has been hindered

because you have not provided population data, by race, for the prior districts based on the present population of the City. The analysis presented by your "Exhibit Map 3" (the prior plan) is based on a population of the City of 16,694, while "Exhibit Map 5" (the plan under consideration) estimates the City's population to be 26,833. Because of this substantial disparity we are unable to compare the racial effect of the new plan with that of the old.

Under section 51.19 of the Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 CFR 51.19, the burden of proving that a submitted change does not have the prohibited racial purpose or effect is on the submitting authority. Thus "if the evidence as to the purpose or effect of the change is conflicting, and the Attorney General is unable to resolve the conflict within the 60-day period," an objection is required. Based on this standard and on the analysis presented above, we are unable to conclude, as we must under the Voting Rights Act, that the redistricting will not have the effect of abridging the right to vote on account of race or color. Accordingly, on behalf of the Attorney General, I must interpose an objection to the submitted redistricting plan.

With respect to the annexations, our proper concern is not with the validity of the annexations as such but with the changes in voting that result from them. It is necessary for the Attorney General, when considering annexations under Section 5, to determine whether they have the purpose or will have the effect of abridging the right to vote on account of race or color. In considering annexations the Attorney General is guided by the decisions in City of Richmond v. United States, 422 U.S. 358 (1975), and City of Petersburg v. United States, 354 F. Supp. 1021 (D.D.C. 1972), affirmed, 410 U.S. 962 (1973).

Our analysis reveals that of the City's population of 26,833, approximately 8,748 reside in the annexed areas under consideration of these, according to the best estimates we have received, approximately 98 percent are white. As a result, the City without the annexed areas would have a population of 18,117 and would be approximately 43 percent black. Thus the annexations have resulted in a dilution of the black population from 43 percent to approximately 30 percent. It should be noted that, where there is a dilutive effect, an annexation may still be unobjectionable if the city takes steps "to neutralize to the extent possible any adverse effect upon the political participation of black voters." City of Petersburg v. United States, 354 F. Supp. at 1031. Also, "an annexation reducing the relative political strength of the minority race in the enlarged city as compared with what it was before the annexation is not a statutory violation, as long as the post-annexation electoral system fairly recognizes the minority's political potential." City of Richmond v. United States, 422 U.S. at 378.

Based on this analysis and that presented above with respect to the redistricting, we must conclude that the annexations significantly dilute the City's black population and that College Park's electoral system does not minimize the dilutive effect of these annexations.

Several of the annexations under consideration--represented by Ordinance Nos. 66-62, 68-1, 69-43, 70-27, 70-57, 71-43, 71-67, 73-7, 73-20, and 73-25 and by Georgia Act Nos. 162 and 266 (1971)--are used or intended to be used non-residentially; others--represented by Georgia Acts Nos. 757 and 758 (1971)--aligned the boundary between the City of College Park and the City of East Point without affecting residences. Because these annexations can have no significant effect on minority voting strength in College Park, the Attorney General does not interpose any objections to them. 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 these changes.

We are unable to conclude, as we must under the Voting Rights Act, that the remaining of the thirty-two annexations submitted will not have the effect of abridging the right to vote on account of race or color. Accordingly, on behalf of the Attorney General, I must interpose an objection to these annexations--represented by Ordinance Nos. 66-29, 69-12, 69-25, 69-26, 69-27, 69-28, 69-29, 70-53, 70-81, 70-82, 71-33, 71-40, 72-58, 72-59, 73-19, and 74-27, and Georgia Act No. 520 (1965).

Under the Procedures for the Administration of Section 5 of the Voting Rights Act (42 C.F.R. 51.21(b) and (c), 51.23, and 51.24) you may request the Attorney General to reconsider these objections. If you decide to make such a request, the following information would facilitate our reconsideration:

1. The current population, by race, of the prior districts.
2. Revised estimates of the present population, by race, of the annexed areas.
3. Projections of the 1980 population, by race, of the proposed districts.
4. Any information with respect to the existence of racial bloc voting in the City of College Park.

5. Any information concerning the participation of minorities in the formulation of the proposed districting plan or concerning support in the minority community for that plan.

In addition, Section 5 permits you to seek a declaratory judgment from the United States District Court for the District of Columbia that the redistricting plan and the annexations do not have the effect of denying or abridging the right to vote on account of race or color. However, until such a judgment is rendered by that Court, the legal effect of the objections by the Attorney General is to render these changes affecting voting unenforceable.

Because your submissions resulted from the decision in Freeman v. Prasley, C.A. No. 74-577A (N.D. Ga. Dec. 2, 1976), I am sending a copy of this letter to the Court and to counsel for the plaintiffs.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division

cc: United States District Judge Richard C. Freeman  
Donald P. Edwards, Esquire

MAY 22 1978

JPT:DHH:JAS:mrk  
DJ 166-012-3  
A2049-50, 53-59, 63, 65-66,  
72-73, 77, 6366, 88, 71

Mr. George E. Glaze  
City Attorney  
City of College Park  
114 McDonough Street  
Jonesboro, Georgia 30236

Dear Mr. Glaze:

This is in reference to your request that the Attorney General reconsider his December 9, 1977 objection under Section 5 of the Voting Rights Act of 1965, as amended, to certain annexations to the City of College Park, Georgia. Your request for reconsideration was received on March 24, 1978.

Our objection was based on information available to us at that time which showed that these annexations had added a significant number of white persons to the City of College Park, thereby substantially diluting the voting strength of the city's black population. The more documented information that you recently provided to us, however, shows that in fact a large proportion and perhaps a majority of the persons now residing in the annexed areas are black and that the present effect of the annexations has been to increase rather than decrease black voting strength in College Park. Under these circumstances, therefore, on behalf of the Attorney General I am withdrawing the objection to these annexations to the City of College Park.

In this connection, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, we would note that the objection to the city's districting plan also interposed in our December 9, 1977, letter remains outstanding.

Sincerely,

James P. Turner  
Acting Assistant Attorney General  
Civil Rights Division

cc: U. S. District Judge Richard C. Freeman  
(Freeman v. Presley, C.A. No. 76-577A)

Donald P. Edwards, Esquire