



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

John T. Lamar, Jr., Esq.
Attorney, Board of Supervisors
216 South Ward Street
Senatobia, Mississippi 38668

JUL 2 1991

Dear Mr. Lamar:

This refers to the redistricting of supervisor districts and justice court districts, and a polling place change in Tate County, Mississippi, 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 initial submission on April 16, 1991; supplemental information was received on May 7 and June 3, 1991.

We have considered carefully the information you have provided, as well as comments provided by other interested parties. The Attorney General does not interpose any objection to the justice court redistricting and the polling place change. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

With respect to the redistricting of the supervisor districts, we cannot reach a similar conclusion. At the outset, we note that although blacks constitute about one-third of the county population, in the context of a history of polarized voting in county elections no black has been elected to the board of supervisors since the adoption of the Voting Rights Act. Our analysis indicates that the proposed plan would continue to preclude black voters from having a meaningful opportunity to participate in the political process and elect candidates of their choice, by fragmenting black population concentrations in and around the cities of Senatobia and Coldwater, as well as in rural areas. Thus, only one of the five proposed districts (District 4) has a bare black majority in population and none has a black voting age population majority. In addition, we understand that the county has included in District 4 an area west of Senatobia near the District 4 boundary where a subdivision has been approved for construction, which is expected to be occupied by white residents.

cc: Public File

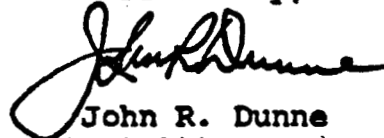
The county has not set forth any neutral, nonracial justifications for adopting this districting configuration. Instead, our analysis suggests that there are a number of alternatives available which would largely avoid fragmenting black population concentrations while still allowing the county to meet its goal of minimizing the changes to the existing districting structure. Such a plan would likely include two black majority districts, in the Senatobia and Coldwater areas.

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 supervisor 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 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, 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 supervisor redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, and in light of the impending county elections, please inform us of the action Tate County plans to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division