



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 19 1991

Joseph R. Meadows, Esq.  
Meadows, Riley, Koenen & Teel  
P. O. Box 550  
Gulfport, Mississippi 39502

Dear Mr. Meadows:

This refers to the redistricting plan for the board of supervisors (and other officials) in Harrison 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 response to our request for additional information on July 11, 1991.

We have considered carefully the information you have provided as well as comments and information from other interested parties. At the outset, we understand from your submission correspondence and the information provided concerning the county's redistricting meetings and hearings that county officials faced two principal issues in crafting the new district lines. First, black leaders and other members of the black community spoke out strongly for the inclusion of a district which would more effectively recognize black voting potential in the county either by uniting to a greater extent the black concentrations in and around the City of Gulfport or by combining the black community in Gulfport with the black community in Biloxi. Secondly, the county was called upon to determine whether to maintain the existing north/south districting configuration, in which all five districts run from the northern to the southern county boundaries and include an amalgam of beachfront, urban, and rural areas.

Our analysis indicates that two of the alternative plans (Plans B and D) prepared by county planners and presented to the board of supervisors sought to accommodate these interrelated objectives. In both alternatives, four of the five districts included beachfront, urban, and rural areas; the fifth district, which was an effort to give fuller recognition to the voting potential of black population concentrations, included beachfront and urban areas but little if any rural area. In this regard, we note that the black residents of the county are concentrated generally on an east-west axis, in urban areas near the county's Gulf coast and, thus, any requirement that all five districts span the geography of the county necessarily would result in a plan that fragments or diffuses black population concentrations. Indeed, the plan here proposed by the county appears to do precisely that.

It appears, also, that at least one of the reasons for the county's rejection of these alternative approaches was a concern for protecting incumbent supervisors, none of whom were elected as the choice of minority voters. While, generally, nothing in the Voting Rights Act precludes jurisdictions from taking incumbency into consideration, in the context of elections characterized by racially polarized voting, such as that which seems to exist in Harrison County, deference to the interests of incumbents, while refusing to accommodate the community of interest shared by insular minorities, is suggestive of racial purpose. See, e.g., Garza v. Los Angeles County, 918 F.2d 763, 771 (9th Cir. 1990), cert. denied, 111 S. Ct. 681 (1991); Ketchum v. Byrne, 740 F.2d 1398, 1408-09 (7th Cir. 1984), cert. denied, 471 U.S. 1135 (1985).

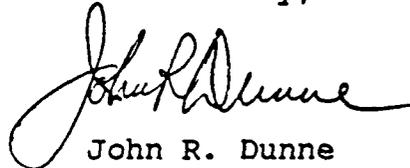
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 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 Harrison 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,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne  
Assistant Attorney General  
Civil Rights Division