



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

April 11, 1995

James S. Gore, Esq.
Gore & Gregory
P.O. Box 367
Houston, Mississippi 38851

Dear Mr. Gore:

This refers to the 1994 redistricting plan for the board of supervisors in Chickasaw 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 responses to our December 22, 1994, request for additional information on February 10 and 24, 1995.

We have considered carefully the information you have provided, as well as 1990 Census data, information contained in your submissions of redistricting plans adopted in 1989 and 1992, and information received from other interested persons. According to the 1990 Census, black residents comprise 38 percent of the total population of the county and 34 percent of the voting age population.

This is the third redistricting plan for the board of supervisors submitted for Section 5 review since the federal district court ruled that the county's 1983 supervisorial redistricting plan violated Section 2 of the Voting Rights Act, 42 U.S.C. 1973. Gunn v. Chickasaw County, 705 F. Supp. 315 (N.D. Miss. 1989). The court found that there was "an extreme degree of racial polarization in elections in Chickasaw County," 705 F. Supp. at 320, and that no black person had been elected to the positions of county supervisor or county election commissioner. Id.

The Attorney General interposed objections to both of the prior submitted plans. In each case the county failed to demonstrate that the proposed plan would fairly reflect minority voting strength in the county and thus remedy the Section 2 violation found by the court. In each case, the county failed to

adequately explain the rejection of available alternative plans which would more fairly recognize minority voting strength. Thus, the Attorney General was unable to conclude that the proposed plans were adopted without the intention of limiting minority voting power unfairly.

The proposed plan was originally presented to the board by Dr. Howard Gunn, a named plaintiff in the pending class action litigation. However, at the time the board of supervisors adopted the plan, it was aware that the plan was not acceptable to the attorneys who represented the class of black voters in Chickasaw County. It appears that the board of supervisors made no effort to determine whether the proposed plan had the support of any class members other than Dr. Gunn. In fact, the "redistricting process," such that it was, included no public notice, no public hearings, no appointment of a citizen redistricting committee, and no commissioning of new redistricting plans.

Unlike the previous two objected-to plans, the plan now before us includes only one majority black district. While the black population percentage in that district (64.5%) is a few points higher than that in the strongest black district in the county's prior submission, no other district in the proposed plan has a black percentage exceeding 44 percent. At the time the board of supervisors adopted the proposed plan, it had available to it the alternatives which we referred to in our letter interposing an objection to the 1993 plan, as well as two other plans subsequently developed by the plaintiffs' attorneys.

In our initial response to your submission we asked the county to explain how the proposed plan responds to the concerns which motivated our prior objections. Your response did not address this question. Thus, as was the case in your previous submissions, the county has failed to demonstrate that the proposed plan will fairly reflect minority voting strength, thereby remedying the Section 2 violation, and has failed to explain why the county rejected alternatives that would be fair to Chickasaw County's minority population.

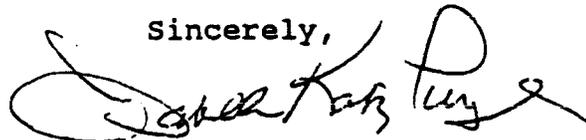
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In addition, a submitted change may not be precleared if its implementation would lead to a clear violation of Section 2 of the Act. See 28 C.F.R. 51.55. 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 1994 redistricting plan for Chickasaw County.

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, color, or language minority group. See 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the 1994 redistricting plan continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Chickasaw County 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.

Since the Section 5 status of the proposed redistricting plan is a matter before the court in Gunn v. Chickasaw County, we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,



Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

cc: Honorable Glen H. Davidson
United States District Judge

John A. Gregory, Esq.
Ellis Turnage, Esq.
Robert B. McDuff, Esq.