



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 26 1982

Robert G. Kendall, Esq.
Johnston, Johnston & Kendall
P.O. Box 550
Mobile, Alabama 36601

Dear Mr. Kendall:

This is in reference to the proposed redistricting plan for electing members of the Board of Directors in Conecuh 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. Your submission was received on July 21, 1982. Pursuant to the request of the Court in Fluker v. Conecuh County, Alabama (S.D. Ala.), we have reviewed your submission on an expedited basis.

We have given careful consideration to the materials you have provided in this and previous submissions, as well as to comments and information of other interested parties, and information obtained during the course of our observation of elections in Conecuh County. We note that a high level of racial bloc voting obtains in county elections, and that even though much of the black population in Conecuh County is concentrated in the southeastern portion of the City of Evergreen (Beat 11-3) and the adjacent southeastern portion of the County (Beats 7 and 16), none of the proposed districts has a black majority.

The previously existing single-member district election plan is now severely malapportioned and has not been utilized in over ten years. In these circumstances we believe that, in order to satisfy the Section 5 effect standard, the County must demonstrate that the proposed plan "fairly reflects the strength of black voting power as it exists." State of Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1981).

Based on 1980 Census data, 36.63 percent of the County's voting age population is black. By far the largest concentration of minority population is located in the southeastern quadrant of the county, particularly the southeastern part of the City of Evergreen. A fairly drawn plan should, in our view, include at least one district in that area that has a black majority voting age population. Our analysis suggests that several alternatives are available to the County that would accomplish such a result consistent with the constitutional "one person, one vote" requirement. The County has offered no satisfactory explanation for adopting, instead, a plan that needlessly fragments black communities in the southeast, leaving the minority population with no district in which its actual voting strength can be realized.

We note that the plaintiffs in the Fluker litigation have prepared a single-member district plan under which black voters would constitute a majority in one district and a sizable minority in another. We have not fully analyzed that proposal under Section 5, since it falls outside the jurisdictional bounds of our statutory review responsibility. As a preliminary matter, we can say, however, that it appears to address our principal concerns with the County's proposal. Nonetheless, it is but one of several options available for further consideration.

Without specific reference to any of the plans under discussion, we would generally caution against any configuration of districts designed to maximize black voting strength. A racially discriminatory effect can be found as readily under Section 5 for unnecessarily "packing" large numbers of minorities into one district as it can for needlessly "cracking" (or fragmenting) minority communities so that the black vote is dispersed among two or more districts. A fairly drawn plan follows natural or logical boundary lines and suffers from neither "packing" nor "cracking" minority communities.

For the reasons stated, I must on behalf of the Attorney General, interpose an objection to the proposed redistricting plan, since it has not been shown, as the County must under Section 5, that the submitted plan has neither a racially discriminatory purpose nor effect.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the proposed redistricting plan legally unenforceable. See also 28 C.F.R. 51.9.

We recognize the time constraints under which the County has operated in devising this plan and we also recognize that the task of devising an acceptable plan is a responsibility of elected officials which should be pre-empted by the court only as a last resort. Reynolds v. Sims, 377 U.S. 533, 587 (1964); Chapman v. Meier, 420 U.S. 1, 27 (1975). Thus, if the County officials desire to revise the plan to fairly reflect black voting strength as it exists, this Department stands ready to conduct the necessary Section 5 review on an expedited basis.

A copy of this letter is being provided to the Court in Fluker v. Conecuh County, Alabama (S.D. Ala.).

Sincerely,


Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division