Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

FEB 17 1984

David F. Steele, Esq.
Hare and Hare
P. O. Box 833
Monroeville, Alabama 36461

Dear Mr. Steele:

This is in reference to the 1970 change in the method of electing members of the county commission from four single-member districts to at-large election from double-member residency wards in Monroe 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. We received the information to complete your submission on December 19, 1983.

We have considered carefully the information you have provided along with that provided by other interested parties and relevant Census data. At the outset, we note that under both the 1970 and 1980 Censuses, blacks constituted more than 42 percent of the population of Monroe County; yet no black has ever been successful in winning a seat on the council. On the other hand, our analysis indicates that blacks are concentrated in the northern part of the county and appear to have constituted a significant majority in two of the four previously existing single-member districts. While we are aware that that plan was declared to be malapportioned and thus unconstitutional under the Fourteenth Amendment in Bowden v. Stacey, 309 F. Supp. 510 (S.D. Ala. 1970), our analysis also shows that, under a fairly drawn single-member district plan using 1980 Census data, blacks likely would still constitute significant majorities in two of the four districts.

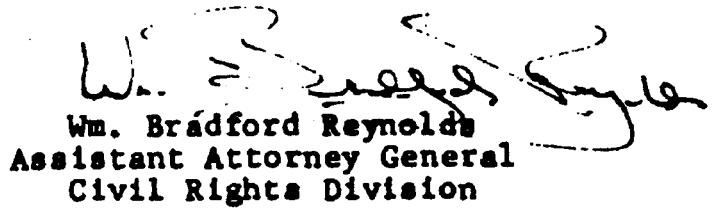
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). Under Beer v. United States, 425 U.S. 130 (1976), the absence of such an effect is shown only when it is demonstrated that there has been no retrogression in the political strength that the minority group has already attained. In the context of racially

polarized voting which appears to exist in the county, and the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the county's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the change from single-member districts to the at-large election of members of the Monroe County Commision.

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 or color. In addition, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the change to at-large elections in Monroe County legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Monroe County plans to take with respect to this matter. If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division