



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

January 3, 1994

Nicholas H. Cobbs, Jr., Esq.
City Attorney
1110 Main Street
Greensboro, Alabama 36744

Dear Mr. Cobbs:

This refers to the 1993 districting plan for the City of Greensboro in Hale 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 your submission on November 2, 1993; supplemental information was received on December 21, 1993.

We have considered carefully the information you have provided, as well as comments and information from other interested persons. According to the 1990 Census, black residents constitute 62 percent of the total population and 56 percent of the voting age population in Greensboro. On December 4, 1992, the Attorney General interposed a Section 5 objection to the initial districting plan adopted by the city following the 1990 Census.

Our analysis of the 1992 districting plan showed unnecessary fragmentation of black population concentrations in several areas of the city. Information made available to us indicated that the city configured its boundary lines with the express purpose of keeping District 2 under the objected-to plan to a predetermined black population percentage designed to reflect the black population percentage in the city as a whole. Within the context of the polarized voting patterns that appear to be prevalent in Greensboro city elections, and virtually a closed districting process, the objected-to plan appeared unnecessarily to limit black voters to an opportunity to elect only two of the five councilmembers. On June 15, 1993, we declined to withdraw our objection based upon the city's failure to provide new factual information or legal arguments in support of its reconsideration request.

The 1993 districting plan makes minimal changes to the objected-to plan. With regard to District 2, which had been the focus of our concern, the 1993 plan adds one block to the district and removes another block from the district. While the plan provides for slight increases in the black population percentages in District 2, the opportunity for black voters to elect a representative of their choice in that district appears to have been constrained deliberately, taking into account the continued fragmentation of black population concentrations, the pattern of racially polarized voting and the reduced electoral participation by black persons, which is traceable to a history of discrimination.

The city has provided no satisfactory explanation for limiting black electoral opportunities in this manner. Indeed, the city was aware of several alternative plans that created three districts in which black voters constituted a greater majority of the voting age population in a third district than in proposed District 2. While the city was not required under the Voting Rights Act to adopt any specific alternative plan, it is not free to adopt a districting plan which, as would appear here, is calculated to limit black voting strength.

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); 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 with regard to the proposed districting plan. Therefore, on behalf of the Attorney General, I must object to the 1993 city council districting 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 districting plan continues to be legally unenforceable. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of Greensboro plans to take concerning this matter. If you have any questions, you should call Delora L. Kennebrew (202-307-3718), a Deputy Chief in the Voting Section.

Because the objected-to plan is the subject of ongoing litigation, Dillard v. City of Greensboro, No. 87-T-1223-N (M.D. Ala) (Thompson, J), we are providing a copy of this letter to the Court and to plaintiffs' counsel.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Honorable Myron H. Thompson
United States District Judge

Edward Still, Esq.