

DJ 166-012-3

A5916

JUN 16 1978

Mr. W. S. McMichael
Chairman
Board of Commissioners
City of Quitman
P. O. Box 208
Quitman, Georgia 31643

Dear Mr. McMichael:

This is in reference to a majority vote requirement for the City of Quitman, Georgia, set forth in Act. No. 1011 of the 1970 Georgia State Legislature and submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on April 17, 1978.

It is our understanding that the five-member Board of Commissioners in Quitman is elected at large to designated seats for staggered three-year terms. The submitted change adds a majority requirement to this method of election.

We have given careful consideration to the information furnished by you as well as demographic data and information furnished by other interested parties. Our analysis shows that blacks constitute approximately 51 per cent of the population in the City of Quitman, that with one exception blacks have not been elected to the City's Board of Commissioners and that racial bloc voting may exist.

Under these circumstances, recent court decisions, to which we feel obligated to give great weight, indicate that the addition of a majority vote requirement to an at-large election system such as exists in the City of Quitman has the potential for adversely affecting minority political influence. See White v. Regester, 412 U.S. 755 (1973); Nevett v. Sides, 571 F.2d 209 (5th Cir. 1978); Zimmer v. McKeithen, 485 F.2d 1297, 1305 (5th Cir. 1973), aff'd sub nom. East Carroll Parish School Board v. Marshall, 424 U.S. 636 (1976). We are therefore unable to conclude, as we must under the Voting Rights Act, that the combination of these requirements will not have a racially discriminatory effect. Accordingly, on behalf of the Attorney General, I must interpose an objection to the imposition of a majority vote requirement for election of the Board of Commissioners of Quitman.

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 these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.2(b), 51.23, and 51.24) 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 However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the majority vote requirement legally unenforceable.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

5 OCT 1979

Mr. W. H. Michael
Chairman
Witman City Commissioners
Post Office Box 206
Witman, Georgia 31043

Dear Mr. Michael:

This is in reference to your request that the Attorney General reconsider his June 14, 1978 objection under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c to the majority vote requirement for the election of members of the Board of Commissioners of the City of Witman, Brooks County, Georgia, as set forth in Act 1011 of the 1978 Georgia Legislature. Your request was received August 6, 1979.

We have carefully reviewed the information that you have provided to us, as well as comments and information provided by other interested parties. However, we have not found a basis for the withdrawal of the Attorney General's objection. Therefore, on behalf of the Attorney General, I must decline to withdraw the objection.

Of course, Section 5 permits you to seek a declaratory judgment from the District Court for the District of Columbia that this enactment has neither the purpose nor the effect of denying or abridging the right to vote on account of race or membership in a language minority group irrespective of whether the change has previously been submitted to the Attorney General. As previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the change in question unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us immediately upon receipt of this letter of the course of action the City of Gaitman plans to take with respect to this matter. Also, please indicate at that time whether the November, 1979, election will be held with a plurality vote sufficient for election. If you have any questions concerning this matter, please feel free to call Mr. James Cox (800/734-7411).

In regard to the change in election hours from between 8:00 a.m. and 6:00 p.m. to between 7:00 a.m. and 7:00 p.m., and the change in procedure for breaking a tie vote in commission elections, which were submitted along with your request for reconsideration, the Attorney General does not interpose any objection to the changes in question. However, we feel a responsibility to point out that Section 3 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enforce the enforcement of such changes.

Sincerely,

BRUCE J. DAVIS III
Assistant Attorney General
Civil Rights Division