



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

Honorable Harry Knight
Mayor
P.O. Box 1249
Monroe, Georgia 30655

OCT 22 1993

Dear Mr. Knight:

This refers to Act No. 384 (1993), which provides for a four-year mayoral term of office, a change in the method of electing the six regular city councilmembers from at large to four single-member districts and two single-member "superdistricts," the districting plan, and the implementation schedule for the City of Monroe in Walton County, Georgia, 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 request for additional information on August 25 and 30, 1993; other supplemental information was received on September 27 and 28, and October 5, 1993.

This also refers to your request that the Attorney General reconsider and withdraw the July 3, 1991, objection under Section 5 to the use of a majority vote requirement in city council and mayoral elections. As clarified by your letter of October 6, 1993, your request was received on August 25, 1993.

We have carefully considered the information you have provided, as well as information from other interested persons. According to the 1990 Census, the City of Monroe has a total population of 9,759, of whom 41 percent are black, and the black share of the voting age population in the city is 37 percent. The city is governed by a city council consisting of six members; in addition, the mayor has a tie-breaking vote and we understand that in recent years that vote has been utilized.

All seven city officials are elected at large, and no black resident of the city has been elected in modern times. As we advised in our July 3, 1991, letter interposing the objection to the majority vote requirement, our analysis indicates that the at-large system deprives black residents of an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act. 42 U.S.C. 1973c.

The Attorney General does not interpose any objection to the adoption of a four-year mayoral term. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

We are unable to reach the same conclusion with respect to the election plan occasioned by Act No. 384. Under the proposed plan, there are four single-member districts and two "superdistricts" (formed by pairing the four single-member districts). Two of the six election districts have black voting age population majorities. In the context of polarized voting, the proposed system would appear to afford black voters the opportunity to elect councilmembers only in those two districts.

Prior to the city's receipt of our July 3, 1991, letter, the city on several occasions had rejected requests from the black community for the adoption of a district election system, although the city up until 1964 had elected four of the six councilmembers from single-member districts. The 1964 change occurred immediately prior to adoption of the Voting Rights Act and the Section 5 coverage date and, in response to our inquiries in the majority vote submission, the city was unable to articulate any nonracial explanation for the 1964 change.

Following the July 1991 letter, the city began the process which ultimately led to the adoption of Act No. 384. However, city officials did not undertake this process in a manner that allowed for effective participation by the black community. For example, city officials went to the state reapportionment office in Atlanta to draw alternative plans, but did not include any black leaders in the working group. Plans drawn by the reapportionment office and denominated by that office as Plans 1, 2, and 4 were presented to the public at a December 1991 city council meeting -- these plans followed the four district, two superdistrict approach adopted in Act No. 384, and involved district lines similar to Act No. 384's districting plan. However, we have been informed by the reapportionment office that its files include a Plan 3 drawn by that office, which is a six-district plan with three black majority districts. This plan was never presented by the city to the public for comment and

discussion. A separate six-district plan with three black majority districts was presented by the black community; however, it apparently was given little or no consideration by city officials.

Our analysis indicates that a six-district approach allows for a variety of readily discernible districting schemes that would provide black voters with a greater opportunity to affect the political process than the plan now before us. The city has provided no valid, nonracial explanation for its districting process and the plan which is the product of that process.

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 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 proposed method of election and districting plan.

With respect to the request for reconsideration of the objection to the majority vote requirement, the city continues to assert that the majority vote requirement may be legally enforced under Section 5. We have considered and rejected this argument for the reasons set forth in the July 3, 1991, objection letter and the October 21, 1991, letter in which we previously declined to withdraw this objection. In addition, in light of our determination concerning the proposed method of election and districting plan, there is no basis at present for withdrawing this objection. Should the city adopt a racially fair electoral system for its city council, our conclusion in this regard may change, although we note that our concern about the use of this requirement in mayoral elections could well remain.

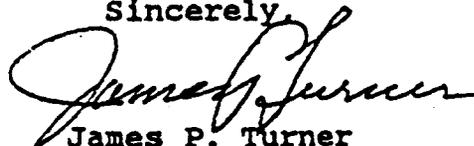
With respect to the implementation schedule, the Attorney General will make no determination concerning this change since it is directly related to the objected-to changes. 28 C.F.R. 51.22(b). However, we note here that our analysis indicates that the city could have satisfied its interest in implementing the new plan on a staggered basis while providing for both black majority districts to elect their initial councilmembers in the city's regular 1993 election. The city's failure to so provide raised an additional concern about the city's motivations in obtaining adoption of this local legislation.

As we previously have advised, 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 objected-to

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, you may request that the Attorney General reconsider the objections. However, until the objections are withdrawn or a judgment from the District of Columbia Court is obtained, the method of election and districting plan enacted in Act No. 384, and the majority vote requirement, continue to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

Because of the pendency of the city council and mayoral election on November 2, 1993, please inform us within five days of receiving this letter of the action that the City of Monroe plans to take. If you have any questions, you should call Mark Posner, Special Section 5 Counsel, at (202) 307-1388.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division