



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

December 20, 1994

Joan W. Harris, Esq.
City Attorney
P. O. Box 247
Macon, Georgia 31298

Dear Ms. Harris:

This refers to the redistricting plan for the City of Macon in Bibb and Jones Counties, 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 submission on October 21, 1994.

We have carefully considered the information you have provided, as well as information provided by other interested persons. According to the 1990 Census, the City of Macon has a total population of 106,612, of whom 52 percent are black, up from 45 percent in 1980. The city is governed by a 15-member city council, with ten members elected from five double-member districts and five members elected at large (with the five districts serving as candidate residency districts).

Under the existing districting plan, three of the five districts now have substantial black population majorities. These districts currently elect six black councilmembers. Only one black councilmember has been elected at large since 1987. The proposed plan would increase the already substantial black majorities in two of these districts, but would substantially reduce the black population percentage in District 1. District 1 would be transformed from one that has a significant black voting age population majority (58%) to one where whites would constitute a majority of the voting age residents. In the context of a pattern of racially polarized voting, the plan thus would occasion a prohibited "retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976).

It is clear that the city council was aware, during the redistricting process, that alternative plans are available that would correct the population malapportionment in the existing plan, avoid any retrogression in electoral opportunity for black voters, and adhere to other traditional districting principles. Indeed, existing District 1 is not malapportioned, and this district could easily have been retained in a new plan without any change. Instead, the district was changed significantly, with substantial black population removed and new white neighborhoods added. The lines also were adjusted to fragment the portion of the city east of the Ocmulgee River unnecessarily, and otherwise depart from racially neutral districting principles. In these circumstances, the city has not provided a persuasive, nonracial explanation for reducing black electoral opportunity in the manner proposed. Indeed, it appears that a majority of the city council rejected adopting a nonretrogressive plan because of a concern that black city residents may challenge the use of at-large seats which historically have been controlled electorally by white voters.

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 the city's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the submitted redistricting 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 redistricting plan 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 submitted redistricting plan continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (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 Macon plans to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), Special Section 5 Counsel in the Voting Section.

Sincerely,

A handwritten signature in cursive script that reads "Loretta King". The signature is written in dark ink and is positioned above the typed name and title.

Loretta King
Acting Assistant Attorney General
Civil Rights Division