



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 23, 1983

John K. Keyes, Esq.
P.O. Box 546
Collins, Mississippi 39428-0546

Dear Mr. Keyes:

This is in reference to the reapportionment of supervisor districts in Covington County, Mississippi, 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 March 22, 1983. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have given careful consideration to the materials you have submitted, along with Bureau of the Census data and comments and information from other interested parties.

Under Section 5, the submitting authority has the burden of showing that the proposed voting change does not have a discriminatory purpose and would not "lead to a 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 (1975); City of Richmond v. United States, 422 U.S. 358, 378-379 (1975).

The new plan fragments the large black population concentration in the City of Collins, and in the context of racially polarized voting, minimizes its voting strength by preventing black citizens there from electing candidates of their choice. This result is achieved in disregard of the county's stated policies of "least change" and adherence to non-discrimination in voting as well as compactness and contiguity. In comparison with the old, the new districts are less compact, involve more changes than necessary, are noncontiguous in a crucial area, and dilute minority voting strength by fragmenting black population concentrations. Whenever a single-member district plan "fragments a geographically concentrated minority voting community in a context of racial bloc voting," racial purpose and result are suggested. Kirksey v. Board of Supervisors of Hinds County, 554 F.2d 139, 149 (5th Cir. 1977); Mississippi v.

United States, 490 F. Supp. 569, 581 (D. D.C. 1979); Busbee v. Smith, 549 F. Supp. 494, 517 (D. D.C. 1982).

Departures from the county policies of compactness, "least change," and anti-dilution of the minority vote also result in the numerically small, but politically significant, retrogression of minority voting strength in Districts 4 and 5. Given the racially polarized voting patterns in the area, the net effect of the new plan is to erase the narrow margin of victory in District 5, where blacks have recently enjoyed electoral success, and would also diminish the influence of the black community in near majority black District 4. These departures also establish an inference of racial purpose. Finally, in its reapportionment decision-making process, the county acted in a racially disparate manner by providing opportunities to the white community for input into the reapportionment process while effectively denying the black community similar opportunities, and this additionally evinces an invidious racial motivation.

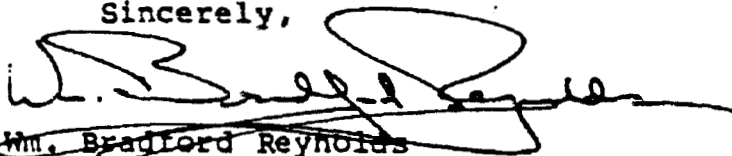
In Connor v. Finch, 431 U.S. 407, 425 (1977), the Supreme Court said, "[s]uch unexplained departures from the results that might have been expected to flow from the [county's] own neutral guidelines can lead . . . to a charge that the departures are explicable only in terms of a purpose to minimize the voting strength of a minority group." See also Busbee v. Smith, *supra*, 549 F. Supp. at 517. Because these departures from normal reapportionment criteria have not been satisfactorily explained with a nonracial justification, the county has not met its burden of showing that the proposed redistricting plan is devoid of the proscribed racially discriminatory purpose and effect. Therefore, on behalf of the Attorney General, I must object to the Covington County reapportionment plan.

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 reapportionment plan 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 Covington County plans to take with respect to this matter. If you

have any questions, feel free to call Sandra S. Coleman
(202-724-6718), Deputy Director of the Section 5 Unit of the
Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a large, prominent loop at the end.

~~Wm. Bradford Reynolds~~
Assistant Attorney General
Civil Rights Division