



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 28, 1987

Hoke Stone, Esq.  
P. O. Drawer 158  
Lambert, Mississippi 38643

Dear Mr. Stone:

This refers to the consolidation of the Birdie, Sabino, and Belen Precincts, and the elimination of the polling places in Birdie and Sabino in Quitman 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 the information to complete your submission on July 29, 1987.

We have considered carefully the information you have provided, as well as comments and information from other interested parties. At the outset, we note that the Birdie and Sabino Precincts, both of which are majority black in registration, were established in 1983 as the result of the consent decree in Jackson v. Quitman County, Mississippi, C.A. No. 83-58-WK-O (N.D. Miss. June 29, 1983). It appears that these precincts were created to meet what was perceived as a particular need among the black electorate in that area of the county and, according to the information presently available to us, it would appear that the particular circumstances which prompted the establishment of the precincts continue to exist today. In that regard, we note that the elimination of the Birdie and Sabino polling locations would require voters to travel greater distances to vote in Belen and that turnout figures for voters in the Birdie and Sabino areas indicate that black voter participation has increased significantly since these precincts were established. Thus, it appears that the changes proposed by the county "would 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 (1976).

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also Section 51.52 (52 Fed. Reg. 497-498 (1987)). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the proposed consolidation of voting precincts and the elimination of the polling places at Birdie and Sabino.

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, 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 consolidation of voting precincts and the elimination of the polling places at Birdie and Sabino legally unenforceable. Section 51.10 (52 Fed. Reg. 492 (1987)).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Quitman County plans to take with respect to this matter. If you have any questions, feel free to call Mark A. Posner (202-724-8388), Deputy Director of the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division