



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 19, 1991

Ruma Haque, Esq.
Attorney, Board of Supervisors
P. O. Box 686
Jackson, Mississippi 39205

Dear Ms. Haque:

This refers to the redistricting of supervisor, justice court, and constable districts, and a realignment of voting precincts in Hinds 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 May 20, 1991.

We have considered carefully the information you have provided, as well as information and comments provided by other interested persons. At the outset, we note that as it applies to the redistricting process, the Voting Rights Act requires the Attorney General to determine whether the submitting authority has sustained its burden of showing that the proposed plan is free of racially discriminatory purpose or effect and whether the plan will result in a clear violation of Section 2 of the Voting Rights Act. We endeavor to evaluate these issues in the context of the actual and anticipated demographic changes faced by the jurisdiction when it redistricted. See Garza v. County of Los Angeles, 918 F.2d 763 (9th Cir. 1990), cert. denied, 111 S.Ct. 681 (1991).

In this regard, we note that the black share of the county's population is now over 50 percent and that it has been increasing steadily for at least the past 20 years. This trend is expected to continue over this decade. Our analysis indicates that the 1991 redistricting effort focused on how to address this increasing black population and proceeded at least with the implicit recognition of the racial polarization in voting that still obtains in the county. Thus, with two of the five districts in the existing plan overwhelmingly black, county officials and others viewed the various alternative plans from the standpoint of the potential for creating a third district with a black population majority.

The submitted redistricting plan appears to have evolved during the final stages of the process, and reflects the board majority's rejection of the five initial plans drawn by its demographer based upon criteria established by the board, itself. Significantly, all five of those plans had two districts with substantial black voting age population majorities and a third district with a bare black voting age population majority. District 4 of the submitted plan, however, has a white voting age population majority and combines inner city areas in the City of Jackson, which appear to be declining in population, with the largely white, suburban City of Clinton, which has grown markedly in population. The plan also increases unnecessarily the black share of the voting age population in District 2 (from 80 to 85 percent), while continuing to fragment black population concentrations in the City of Jackson.

Neither the public record of the redistricting process, nor the Section 5 submission, itself, offer legitimate, nonracial reasons for adopting the proposed plan over available alternatives that appear better to satisfy the county's adopted redistricting criteria without unnecessarily restricting the potential for black citizens to be able to elect candidates of their choice.

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 redistricting plan for supervisor, justice court, and constable districts.

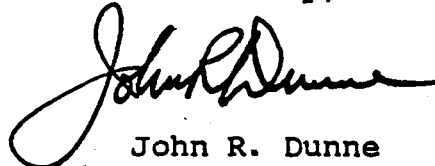
Because the realignment of voting precincts is directly related to the redistricting plan, the Attorney General will make no determination with regard to this related change. 28 C.F.R. 51.22(b).

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 proposed 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, 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 redistricting plan for supervisor, justice court, and constable districts continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 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 Hinds County plans to take concerning this matter. If you have any questions, you should call Steven H. Rosenbaum, Deputy Chief of the Voting Section (202-307-3143).

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Dunne". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

John R. Dunne
Assistant Attorney General
Civil Rights Division