



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

OCT 7 1991

Stone D. Barefield, Esq.
Attorney, Board of Supervisors
P.O. Box 1894
Hattiesburg, Mississippi 39403

Dear Mr. Barefield:

This refers to the redistricting of supervisor, justice court/constable districts, the realignment of voting precincts, and the establishment of the Grace Christian School Sub A Precinct for Forrest 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 response to our request for additional information on August 6, 1991.

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 during the last decade the black proportion of the population of Forrest County has increased significantly and that demographic changes in the county have resulted in the formation of an additional concentration of black population in a band of voting precincts located across Hattiesburg's northern border, ending just to the north of and adjacent to the University of Southern Mississippi campus. Despite these demographic changes, however, the county's proposed plan continues to provide for only one black majority district and, in doing so, appears unnecessarily to fragment black population concentrations among Districts 1, 2, 3, and 4. The county has failed to offer any persuasive nonracial explanation for its failure to cure the fragmentation of black concentrations and to provide for districts in which black voters would have an equal opportunity to participate in the political process and elect candidates of their choice even though the county appears to have been aware of the black citizens' interest in a second supervisor district with a black population majority.

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 supervisor redistricting plan presently under submission.

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 proposed supervisor redistricting plan 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.

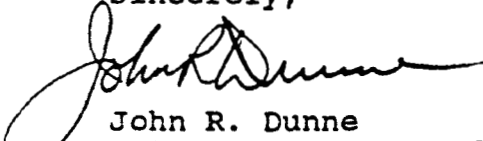
Although the cover letter of your submission refers to the redistricting of justice court and constable districts, it appears from the materials you have submitted that the justice court/constable districts are unaffected by the submitted supervisor redistricting plan. In addition, you acknowledged in an October 2, 1991, telephone conversation with a member of our staff that no change in the existing justice court/constable districting plan has yet been adopted. Thus, there is nothing before us upon which the Attorney General can make a final determination with respect to any redistricting for the justice court and constables at this time. 28 C.F.R. 51.22(a).

With regard to the realignment of voting precincts and the creation of the Grace Christian School Sub A Voting Precinct, it is apparent that these changes were made to accommodate the changes in the supervisor district boundary lines. Since these changes are dependent upon the objected-to redistricting plan, the Attorney General is also unable to make a final determination with respect to them at this time. 28 C.F.R. 51.22(b).

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To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Forrest County plans to take concerning this matter. If you have any questions, you should call John K. Tanner (202-307-2897), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division