



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 22 1993

William M. Beasley, Esq.
Mitchell, Voge, Beasley
and Corban
P. O. Box 29
Tupelo, Mississippi 38802-0029

Dear Mr. Beasley:

This refers to the 1992 redistricting plan for the board of supervisors in Lee 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 January 19, 1993.

We have considered carefully the information you have provided as well as comments from other interested parties. According to the 1990 Census, black residents constitute 21.4 percent of the total population in Lee County. The county is governed by a five-member board of supervisors elected from single-member districts.

As you know, on August 23, 1991, the Attorney General interposed an objection under Section 5 to the board of supervisor's first redistricting plan adopted after the 1990 Census. The objected-to plan, which made only minimal changes to the existing district boundaries, fragmented black population concentrations in the south-central portion of the county (in and around the City of Tupelo) and in the southwestern part of the county, with the result that black persons comprised no more than 34 percent of the population in any district. Our objection letter specifically noted that absent such fragmentation "a reasonably compact district may be drawn . . . in which blacks would constitute a majority of the voting age population." Moreover, in the context of the racially polarized voting patterns in the county, the foreseeable effect of the fragmentation, which the objected-to plan would have perpetuated, would have been to continue to deny black voters an equal opportunity to elect candidates of their choice to the board of supervisors.

After a lengthy delay, the county has now submitted a new redistricting plan that once again does not include a district in which blacks would constitute a majority of the voting age population. This plan eliminates only some of the fragmentation of black population concentrations that had been identified and results in an increase in the black percentages in District 4, the district with the highest black population concentration, to 44.4 percent of the total population and 37.2 percent of the voting age population. Like prior plans, the submitted plan separates the black population concentration in the City of Tupelo from nearby black population concentrations in that district.

Indeed, the board of supervisors apparently did not seriously consider options that fully cured the identified fragmentation and thereby would have created a district with a majority black voting age population. We understand that the board's demographer did not present the board with such a redistricting plan for its consideration. In addition, the information available to us suggests that the board gave only perfunctory consideration to several alternative redistricting plans, each of which provided for one district in which approximately 55 percent of the voting age population was black. While the county is not required by Section 5 to adopt any particular plan, it is not free to adopt a plan that perpetuates the unnecessary fragmentation of black population concentrations, particularly when the clear result of such fragmentation will be to deny black voters the opportunity to elect a candidate of their choice to the board of supervisors.

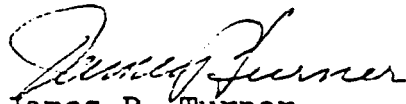
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 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 1992 supervisor 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 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 supervisor redistricting plan continues to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (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 Lee County plans to take concerning this matter. If you have any questions, you should call Robert A. Kengle (202-514-6196), an attorney in the Voting Section.

Since the Section 5 status of the proposed redistricting plan has been placed at issue in Stanfield v. Lee County, No. 91-252-S-D (N.D. Miss.), we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,



James P. Turner

Acting Assistant Attorney General
Civil Rights Division

cc: Hon. L. T. Senter, Jr.
United States District Judge

Counsel of Record