



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

March 30, 1993

Hubbard T. Saunders IV, Esq.
Crosthwait, Terney, Noble & Allain
P. O. Box 2398
Jackson, Mississippi 39225-2398

Dear Mr. Saunders:

This refers to the redistricting plan and the realignment of voting precincts for the Town of Gloster in Amite 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 November 25, 1992, request for additional information on January 29, 1993; supplemental information was received on March 30, 1993.

We have considered carefully the information you have provided, as well as data obtained from the 1990 Census and comments and information received from other interested parties. According to 1990 Census data, black persons comprise 59.1 percent of the total population of the Town of Gloster and 54.1 percent of the town's voting age population. The town is governed by a five-member board of aldermembers elected from single-member districts and a mayor elected at large.

The existing districting plan concentrates most of the black population in the northwest part of the town in wards 3 and 4, both of which have black total populations in excess of 80 percent. The proposed redistricting plan, like the existing plan, concentrates black population in ward 3 (83 percent black in population) and increases the black concentration in ward 4, from 83 to 93 percent of the ward's population. The proposed plan also divides the black population in the southeastern part of the town between wards 2 and 5, so that the black population percentage of ward 2 is 56.8 percent and ward 5 is 46.7 percent.

The proposed plan resulted from a redistricting process in which white town officials did not share information with black town officials. Indeed, white town officials rejected the first districting plan produced by the town's demographer, in which ward 2 had a total black population of more than 61 percent, without consulting the black aldermembers or any other member of the black community. The town attempts to explain this decision on the ground that the rejected plan placed two incumbents in the same district. Our analysis indicates that alternative redistricting options were available that would have allowed the town to separate incumbents, while increasing the total black population in ward 2 to a level even higher than the 61 percent in the rejected plan. The town, however, did not pursue such options.

Our analysis indicates that, in the context of the racially-polarized voting that appears to prevail in town elections, the proposed plan's fragmentation of black residents between wards 2 and 5 minimizes the opportunity for black citizens to participate in the political process and elect their candidates of choice. This fragmentation appears to be unnecessary to satisfy the one person, one vote requirement or the town's professed interest in separating incumbents. Under these circumstances, the town has failed to provide a legitimate nonracial explanation for its redistricting decisions.

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 proposed 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 redistricting plan 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 aldermanic redistricting plan continues to be legally unenforceable. Clark v. Roemer, 11 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

Because the submitted precinct realignment is dependent upon the redistricting plan to which an objection is being interposed, the Attorney General is unable to make a final determination with respect to this change. 28 C.F.R. 51.22(b).

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the Town of Gloster plans to take concerning this matter. If you have any questions, you should call Donna M. Murphy (202-514-6153), an attorney in the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division