

DJ 166-012-3
C9562-9563

A. D. Ward, Esq.
Ward, Ward, Willey and Ward
209 Pollock Street
Post Office Drawer 1428
New Bern, North Carolina 28560

29 SEP 1980

Dear Mr. Ward:

This is in reference to the two annexations by ordinances dated November 20, 1979, and February 12, 1980, to the City of New Bern in Craven County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was completed on July 30, 1980.

To determine that a change in the composition of New Bern's population resulting from annexations does not have the effect of abridging the right to vote on account of race or color, the Attorney General must be satisfied either that the black population percentage has not been appreciably reduced and that voting is not racially polarized, or that, nevertheless, the city's electoral system will afford black citizens representation reasonably equivalent to their political strength in the enlarged community. See City of Richmond v. United States, 422 U.S. 358 (1975). See also 28 C.F.R. 51.19.

We have given careful consideration to the information you have provided, as well as to comments and information provided by other interested parties. In addition to evidence of a general pattern of racially polarized voting in New Bern municipal elections, we have noted that, with the exception of only one black candidate, no black of the many who have run has ever won election to the New Bern board of aldermen under the at-large, residency requirement, and majority vote-runoff features of the city's electoral system. We have been presented with and have considered demographic information indicating that the proportion of minority residents of the submitted annexations is significantly smaller than that for the existing City of New Bern. Our analysis of the submitted data indicates that the submitted annexations would reduce New Bern's minority population percentage by over one percent and that, taken cumulatively with all annexations since

1970, they would decrease the minority population percentage by more than three percent. In the context of New Bern's at-large election system, with its residency requirements and majority vote-runoff provision, this dilution will not be counterbalanced by an ability on the part of the black community to achieve representation reasonably equivalent to its strength in the enlarged community. See City of Richmond, supra.

Under the circumstances we are, therefore, unable to conclude, as we must under Section 5, that the submitted annexations will not have the proscribed discriminatory purpose or effect. Accordingly, I must, on behalf of the Attorney General, interpose an objection to the submitted annexations.

Should the City of New Bern adopt an electoral system that would afford black voters an opportunity to elect candidates of their choice, the Attorney General will consider withdrawing this objection. Options which the city may wish to consider include the adoption of a fairly drawn single-member district plan or the removal of the majority-vote and residency requirements. Either of these options holds the promise of providing black voters with an opportunity to achieve representation reasonably equivalent to their political strength in the enlarged community and, therefore, could provide a basis for the withdrawal of the objection here interposed.

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 neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.21(b) and (c), 51.23, and 51.24) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court obtained, the effect of the objection by the Attorney General is to make the annexations legally unenforceable.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us within twenty days of your receipt of this letter of the course of action the City of New Bern plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Mr. Andrew Kerron (202--724-7403) of our staff, who has been assigned to handle this submission.

Sincerely,

Drew S. Days III
Assistant Attorney General
Civil Rights Division

DSD:JMC:ATK:mab
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A. D. Ward, Esq.
Ward, Ward, Willey
& Ward
409 Pollock Street
P.O. Drawer 1428
New Bern, North Carolina 28560

Dear Mr. Ward:

This is in reference to your request that the Attorney General reconsider his September 29, 1980, objection under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c, to two annexations by the City of New Bern in Craven County, North Carolina. Your request was received on October 21, 1980.

Our reconsideration of the outstanding objection will begin when we have received the information that you have indicated you intend to submit in support of your request. We would be pleased to meet with you or other representatives of the City of New Bern here in our Washington offices at any time either prior or subsequent to your submission of the additional information, in accordance with the Provisions of the Procedural Guidelines for the Administration of Section 5 (28 C.F.R. 51.23 and 51.24).

If you have any questions concerning the matters discussed in this letter, please do not hesitate to call Mr. Andrew T. Karron (202/724-7403) of our staff, who has been assigned to handle this submission. Please refer to File Nos. C9562-9563 in any written response to this letter so that your correspondence will be properly channelled.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

By:
GERALD W. JONES
Chief, Voting Section