



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 28, 1992

Mr. Jack C. Langston
Dorchester County Administrator
P.O. Box 416
St. George, South Carolina 29477

Dear Mr. Langston:

This refers to the 1992 redistricting plan for the county council in Dorchester County, South Carolina, 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 responses to our request for additional information on May 14, and July 2 and 9, 1992; supplemental information was received on July 21, 1992.

We have carefully considered the information you have provided, as well as information provided by other interested persons. Dorchester County has a total population of 83,060 according to the 1990 Census, of whom 23 percent are black. Recent registration figures indicate that 22 percent of those registered to vote in the county are black. The county is governed by a seven-member council elected from single-member districts.

In the existing redistricting plan, viewed from the perspective of current population and registration data, there are two districts in which blacks constitute a majority or near majority of the population and a near majority of the registered voters. District 1 is 55 percent black in population and 49 percent black in voter registration. District 3 (excluding a nonvoting prison population) is 49 percent black in both population and voter registration. Recent elections in these districts have involved close contests between black and white candidates with voting substantially polarized along racial lines. In 1990, a black candidate was elected in District 1, while in the 1986 and 1990 primaries in District 3 a black candidate very narrowly lost gaining the Democratic nomination.

In the proposed redistricting plan, the black population percentage in District 3 decreases significantly, to 32 percent, eliminating the existing potential for black voters to elect a candidate of their choice. This decrease is not accompanied by any increase in the black percentage in District 1, which remains at 55 percent black in population (excluding the prison population), and apparently will continue to be a swing district in the context of polarized voting. While both districts in the existing plan are substantially underpopulated, our analysis indicates that reasonable redistricting options were available that would allow the county to comply with the one-person, one-vote requirement while not reducing black voting strength in District 3. Alternatively, we note that black leaders requested that the county adopt a plan in which black voting strength would be increased in one of these two districts, with a concomitant reduction in black voting strength in the other district, and that redistricting options are available that would accomplish this goal.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of demonstrating that a proposed change neither has a discriminatory purpose nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973). Under the effect standard, the submitting authority must demonstrate that the change will not "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the county's burden has been sustained in this instance. Accordingly, 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 this 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 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 Dorchester County plans to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), Special Section 5 Counsel in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "James P. Turner".

James P. Turner
Acting Assistant Attorney General
Civil Rights Division