

*Madison La.*

APR 13 1977

Mr. R. L. Goza  
Attorney at Law  
114 West Center  
Canton, Mississippi 39046

Dear Mr. Goza:

This is in reference to the redistricting of the City of Canton, Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on February 22, 1977.

We have carefully considered the City's plan and other information you have provided, demographic data and election statistics, the comments of other interested persons, and relevant court decisions. As a result of Stewart v. Waller, 404 F. Supp. 206 (N.D. Miss. 1975), the form of government and method of election in the City of Canton is that specified by Miss. Code Ann. Section 3374-36 (1956). Accordingly, the City of Canton is governed by a seven-member city council with one member to be elected at-large and six members from single member districts. Under the proposed reapportionment plan, three of the six wards have black majorities. Two of these, Wards 5 and 6, are virtually 100 percent black.

According to 1970 census, the City is 56.6% black. However, according to information you furnished the City conducted its own census for purposes of this submission by counting houses and multiplying that number by the overall average number of persons per house (3.5) as shown by the 1970 census. Using this factor, the statistics you submit show Canton to be approximately 53% black but this process did not take into account another very significant fact also disclosed in the 1970 census, namely, that the average white household in Canton consisted of approximately 3 persons and the average black household of approximately 4 persons. Although these factors were not used by the City, we have not been afforded any basis for rejecting them

cc: Public File  
A0051

in determining the approximate current racial composition of the City. Thus, even though we have received information that the City's house count itself may not be accurate, if the 3 and 4 person factors are applied to the white and black house count data, respectively, which the City has provided, the City is 59.6% black, Wards 5 and 6 are significantly overpopulated, and the majority white wards are all underpopulated. The result of this is that blacks are, in general, underrepresented and whites are overrepresented.

Under Section 5 of the Voting Rights Act, the submitting authority bears the burden of proving that a submitted change in voting practice or procedure does not have a racially discriminatory purpose or effect. (See Georgia v. United States, 411 U.S. 526 (1973) and 28 C.F.R. 51.19.) Under the facts here the Attorney General is unable to conclude that this burden has been met. Accordingly, on behalf of the Attorney General, I must interpose an objection to the redistricting plan for the City of Canton.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the District Court for the District of Columbia that the redistricting plan does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. In addition, our guidelines (28 C.F.R. Sections 51.21, 51.23, and 51.24) permit reconsideration of the objection should you have new information bearing on the matter. However, until such time as the objection may be withdrawn or a judgment from the District of Columbia Court obtained, the legal effect of the objection by the Attorney General is to make the districting plan unenforceable.

Sincerely,

Drew S. Days III  
Assistant Attorney General  
Civil Rights Division