



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

May 27, 1983

Ben M. Caldwell, Esq.
Caldwell & Easterling
P.O. Box 370
Marks, Mississippi 38646

Dear Mr. Caldwell:

This is in reference to the redistricting of supervisor and justice court districts and the realignment of voting precincts in Quitman 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 March 28, 1983.

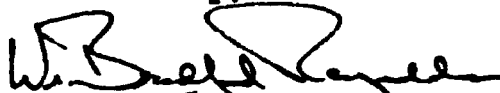
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). With this standard in mind, we have given careful consideration to the information you have provided, as well as Bureau of the Census data and comments and information from other interested parties. In spite of our best efforts, however, we have been unable to resolve conflicts that appear in the data furnished in your submission and that afforded by the Census.

Section 51.39(e) of the Attorney General's Procedures for the Administration of Section 5, supra, provides that "if the evidence as to the purpose or effect of a change is conflicting and the Attorney General is unable to determine that the submitted change does not have the prohibited purpose or effect, an objection shall be interposed to the change." Since the 60-day period in which the Attorney General must make a determination in this matter expires today, and since we are unable to resolve

the conflicting data mentioned above, I must interpose an objection to the redistricting plans for the supervisor and justice court districts at this time. However, upon your providing us with information which will clarify existing discrepancies, we will reconsider this matter and advise you further.

Inasmuch as the realignment of voting precincts is directly related to the redistricting plans, the Attorney General will make no determination with regard to this related change at this time. 28 C.F.R. 51.20(b).

Sincerely,



~~W. Bradford Reynolds~~
Assistant Attorney General
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 17, 1983

Ben M. Caldwell, Esq.
Caldwell & Easterling
P.O. Box 370
Marks, Mississippi 38646

Dear Mr. Caldwell:

This is in reference to your request that the Attorney General reconsider the May 27, 1983, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the redistricting of supervisor and justice court districts in Quitman County, Mississippi. We received your letter on June 1, 1983. In addition, on May 27, 1983, the Attorney General also made no determination with regard to the realignment of the county's voting precincts.

We have given careful consideration to the information you have provided, including the clarification of Census data and comments and information from other interested parties. At the outset, we note that the existing plan never met Section 5 preclearance requirements; that the preexisting plan was declared unconstitutional by the court; and that in such circumstances, under Wilkes County, Ga. v. United States, 450 F. Supp. 1171 (D. D.C. 1978), and Mississippi v. United States, 490 F. Supp. 569, 581 (D.D.C. 1979), our responsibility under Section 5 is to determine whether the submitted plan fairly reflects minority voting strength as it exists. Using that standard, our analysis, including the information which clarified the Census data, shows that the instant plan fails to meet the test for preclearance.

Our review indicates that by moving district lines only a few blocks in the City of Marks and the Town of Lambert -- where minority voting strength was unnecessarily fragmented by the unprecleared existing plan -- the proposed change would have resulted in three districts in which blacks would have a fair opportunity to elect a representative of their choice. In this regard we also note that the new lines for the justice court districts are drawn so that the two new districts fail to provide blacks with an opportunity that realistically approaches that which previously existed.

In connection with the above, the submitted supervisory lines appear to have been drawn so as to maintain the black voting strength at a level below that which would have resulted under a fairly drawn plan. See Busbee v. Smith, 549 F. Supp. 494, 516 (D.D.C. 1982). Likewise, with respect to the justice court districts, the new plan for the election of justice court judges appears to have been designed to restrict black voting strength unnecessarily. In each instance, we understand that there were readily available alternatives which more realistically reflected black voting strength.

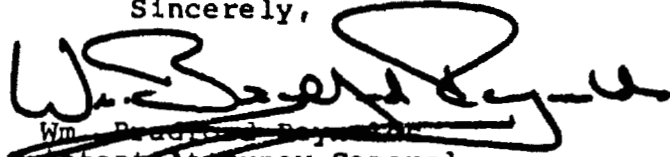
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In seeking to meet that burden here, you have provided us with information regarding black officials elected in Quitman County. We note, however, that only one of those officials is a member of the Board of Supervisors, and he was barely elected in the district having the largest black majority. This is, of course, the relevant consideration for purposes of our analysis here. Accordingly, I cannot conclude, as I must under the Voting Rights Act, that the Board has sustained its burden in this instance. I must, therefore, decline on behalf of the Attorney General to withdraw the objection to the redistricting of supervisor and justice court districts. Inasmuch as the realignment of voting precincts is directly related to the redistricting plans, the Attorney General will make no determination with regard to this related change. 28 C.F.R. 51.20(b).

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 have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the implementation of the redistricting of supervisor and justice court districts legally unenforceable. 28 C.R.F. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Quitman County plans to take with respect to this matter. If you have any questions, feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

In light of the fact that related issues are currently pending before the District Court for the Northern District of Mississippi, we are providing the Court and the parties with copies of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds", written over a horizontal line.

~~Wm. Bradford Reynolds~~
Assistant Attorney General
Civil Rights Division