



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Gerald E. Braddock, Esq.  
Ellis, Braddock & Bost  
P.O. Drawer 1099  
Vicksburg, Mississippi 39180

10 JUN 1983

Dear Mr. Braddock:

This is in reference to the redistricting of supervisor and justice court districts; the defining of voting precincts; the reregistration of voters; and the three polling place changes in Warren 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 the information to complete your submission on April 22, 1983. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.32).

We have given careful consideration to the information you have provided, as well as to Bureau of the Census data and comments and information provided by other interested parties. We also have considered the evidence of record in several recent court decisions involving minority participation in the political process of Warren County. Donnell v. United States, C.A. No. 78-0392 (D. D.C. July 31, 1979), aff'd, 444 U.S. 1059 (1980); Stokes v. Warren County Election Commission, Civ. No. J79-0425(c) (S.D. Miss. Sept. 20, 1979).

At the outset, we note that the incumbent members on the board of supervisors were elected pursuant to an election plan ordered into effect by the United States District Court for the Southern District of Mississippi. Stokes v. Warren County Election Commission, supra. That plan provided black residents of Warren County with a fair opportunity to elect candidates of their choice to office in two districts, both of which had black population percentages of more than 65 percent. Those districts were adopted by the district court in Mississippi on the basis of a standard formulated by the United States District Court for the District of Columbia in Donnell v. United States, the county's action for a declaratory judgment pursuant to Section 5 on its 1978 reapportionment plan.

In denying preclearance the District of Columbia Court reviewed the history and extent of the minority community's participation in the political process. The court found that racial bloc voting, combined with Warren County's past history of discrimination and resulting low black voter registration and turnout for elections, made it necessary for an electoral district in Warren County to contain a black population of at least 65 percent or a black voting age population of at least 60 percent to provide black voters with an equal opportunity to elect a candidate of their choice. Donnell v. United States, supra, slip op. at 8.

Section 5 requires the county to demonstrate that the proposed reapportionment of supervisor districts "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." 42 U.S.C. 1973c. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). A proposed voting change would have the prohibited effect if it would "lead to a retrogression in the position of racial minorities with respect to the effective exercise of the electoral franchise." Beer v. United States, 425 U.S. 130, 141 (1976). The proper benchmark for measuring such retrogression, in this instance, is the 1979 court-ordered plan in the Stokes litigation or, in other words, the plan currently in existence. Mississippi v. United States, 490 F. Supp. 569 (D. D.C. 1979), aff'd, 444 U.S. 1050 (1980). Under that plan minorities have a fair opportunity to elect candidates of their choice in two of the five supervisor districts.

Our analysis shows, however, that the county's proposed plan contains only one district (No. 2) in which, according to the teaching of Donnell v. United States, supra, the minority community would have a reasonable opportunity to elect candidates of their choice to office. The county has offered nothing to support a conclusion that the standard adopted by the district courts is no longer a proper one. In addition, our analysis reveals that such reduction in the number of apparently effective districts for blacks was not necessitated by present demographic circumstances in the county. Nor has the county provided any other nonracial justification. In fact, the county's decision to equalize the population by extending District 3 east of Interstate 20 would appear to have resulted in the greatest possible decrease in that district's black population percentage.

In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the county has demonstrated that the proposed redistricting of supervisor districts does not have the prohibited discriminatory effect. Therefore, on behalf of the Attorney General, I must interpose an objection to the redistricting of supervisor districts in Warren County.


The Attorney General does not interpose any objection to the redistricting of justice court districts. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. 28 C.F.R. 51.42 and 51.48. We also note that this change would appear to be interrelated to the proposed redistricting of supervisor districts. To the extent that they may be altered to conform to future changes in the supervisor district lines, those changes also will have to meet Section 5 preclearance requirements.

Inasmuch as the new voting precincts and the polling place changes are directly related to the redistricting of supervisor districts, the Attorney General will make no determination with respect to these changes. 28 C.F.R. 51.20(b). Similarly, since you have indicated in your letter of April 20, 1983, that on April 14, 1983, the county resolved not to conduct a reregistration of voters, we will make no determination with regard to this matter. 28 C.F.R. 51.33.

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 the redistricting plan for supervisor districts 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, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the supervisors' redistricting plan legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Warren 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is written in a cursive style with a large, sweeping flourish at the end.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division