



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

13 JUN 1983

Benjamin E. Griffith, Esq.
Jacobs, Griffith, Eddins
& Povall
P.O. Box 159
Cleveland, Mississippi 38732

Dear Mr. Griffith:

This is in reference to the redistricting of supervisor districts; the realignment of voting precincts; and the administrative reregistration of voters in Bolivar 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 information to complete your submission on April 29, 1983, and, as you requested, we have expedited our consideration of your 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. According to the 1980 Census, over 62 percent of the population in Bolivar County is black and a large portion of that population is located in a compact and cohesive community on the eastern side of the City of Cleveland. The county is divided into five supervisor districts, two of which under both the proposed and existing plans have populations which are over 65-percent black.

The 1980 Census reveals that the present supervisor districts are malapportioned, and we are aware that the county attempted to remedy this malapportionment through adjustments to portions of the existing districts. In addition to the requirement of one-person, one-vote, we understand that the county's stated criteria also included the avoidance of dilution and retrogression of minority voting strength and the principle of "least change" to the existing supervisor lines.

Our analysis reveals that, because of racially segregated housing patterns within the City of Cleveland, the creation of a third viable majority black district would be the expected result of the application of the county's stated nonracial criteria used in the reapportionment. For example, District 4 of the existing plan contains the largest population of any of the districts. To remedy the overpopulation of District 4, the proposed plan understandably assigns several hundred people among various bordering supervisor districts. In doing so, however, the proposed plan transfers over 100 persons to District 2 in the City of Cleveland and over 250 persons to District 5. It should be noted that District 2 needed no additional population and, in fact, was within .1 percent of the ideal district population. If the county had adhered to its own criterion of least change, it could have included both the area transferred to District 2 and additional areas, most likely black, from District 4 in the transfer to underpopulated District 5. This more direct transfer would have increased the black percentage of District 5 and avoided much of the double district transferring of city population from District 4 into District 2, and from District 2 into District 5, which is evident in the proposed plan. As the Supreme Court observed in Connor v. Finch, 431 U.S. 407, 425 (1977), "[s]uch unexplained departures from the results that might have been expected to flow from the [county's] own neutral guidelines can lead . . . to a charge that the departures are explicable only in terms of a purpose to minimize the voting strength of a minority group."

In addition, our review shows that the new plan heightens the fragmentation of the large black population concentration in the City of Cleveland and, in the context of the racially polarized voting which seems to exist in the county, seems to minimize black voting strength by limiting the potential of black citizens for electing candidates of their choice. This result is achieved in disregard of the county's stated criteria of "least change" and furtherance of nondiscrimination in voting. In comparison with the old, the new districts are less compact, involve more changes than would appear necessary to the existing lines under the stated criteria, and unnecessarily sharpens the fragmentation of a cohesive black population concentration. Whenever such a plan "fragments a geographically concentrated minority voting community in a context of [racial] bloc voting," racial purpose and result are suggested. Kirksey v. Board of Supervisors of Hinds County, Mississippi, 554 F.2d 139, 149 (5th Cir. 1977); Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1979); Busbee v. Smith, 549 F. Supp. 494, 517 (D. D.C. 1982), aff'd, 51 U.S.L.W. 3552 (U.S. Jan. 24, 1983).

In this regard, we take particular note that black citizens of Bolivar County proposed an alternate plan (Mississippi Legal Services Coalition draft plan submitted to the board on October 9, 1982) which does not appear to violate the county's stated criteria for redistricting to the extent the county's does and which would have resulted in three supervisor districts that provide black voters with a realistic opportunity to elect candidates of their choice. Information available to us indicates that the board summarily rejected that plan for no legitimate nonracial reason.

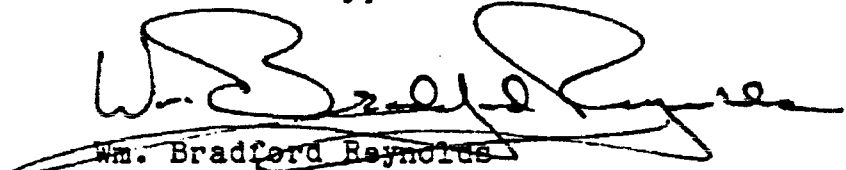
Section 5 requires the county to demonstrate that the proposed reapportionment of supervisor districts "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." 42 U.S.C. 1973c. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the burden has been sustained in this instance. City of Richmond v. United States, 422 U.S. 358 (1975); Connor v. Finch, *supra*; Busbee v. Smith, *supra*; Terrazas v. Clements, 537 F. Supp. 514, 530-536 (N.D. Tex. 1982). Accordingly, on behalf of the Attorney General, I must object to the redistricting plan for supervisor districts.

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 submitted supervisor district lines 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 supervisor redistricting plan legally unenforceable. 28 C.F.R. 51.9.

Inasmuch as the realignment of voting precincts and the administrative reregistration of voters are directly related to the redistricting plan, the Attorney General will make no determination with regard to these related changes at this time. 28 C.F.R. 51.20(b).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Bolivar County plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Deputy 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, looping initial "W".

Wm. 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

August 22, 1983

Benjamin E. Griffith, Esq.
Jacobs, Griffith, Eddins & Povall
Post Office Box 159
Cleveland, Mississippi 38732

Dear Mr. Griffith:

This is in reference to your request that the Attorney General reconsider the June 13, 1983, objection under Section 5 of the Voting Rights Act of 1965, as amended, to the redistricting plan for the Board of Supervisors of Bolivar County, Mississippi. We received your letter on June 21, 1983. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have reviewed carefully the factual information that you have provided to us, as well as comments and information provided by other interested parties. You have not provided any new factual information and your legal arguments, although carefully considered, do not provide a basis for the withdrawal of the Attorney General's objection. Therefore, on behalf of the Attorney General, I must decline to withdraw the objection.

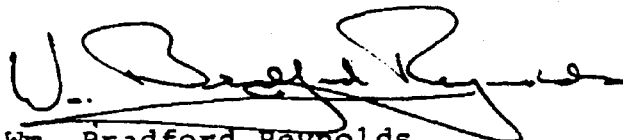
In making this decision, let me underscore once again the cause for concern. Contrary to your resubmission, it is not the Attorney General's position that the county must produce a third district having a black population of at least 65-percent in order to obtain preclearance. Our focus is less on percentages and much more on the redistricting process as a whole. Here, the county, for reasons that have not yet been satisfactorily explained, departed rather dramatically from its own stated criteria in that area of the county where the largest cohesive black population resides, i.e., the City of Cleveland. If that is the desired redistricting, Section 5 of the Voting Rights Act places on the

submitting jurisdiction the burden of explaining why it was necessary for the county to go out of its way to fragmentize the black community. To suggest that the one-person, one-vote requirement compelled such a result is simply unsupportable as a factual matter. To suggest that the county's "least change" standard is responsible disregards the fact that, in the Cleveland area, the lines hardly represent a "least change." Nor does the close parallel percentage in black population among the five existing districts and the five proposed districts provide an acceptable answer.

Our review of the board of supervisors' redistricting for Bolivar County indicated quite clearly that five districts could be drawn following your stated criteria that fully complied with one-person, one-vote requirements and avoided so egregious a fragmentation of the black voters in the Cleveland area. In the absence of a nonracial explanation for the pending proposal, submission of such an alternative redistricting would be the most promising route for withdrawal, whatever percentages of black population might be produced in the five supervisor districts.

Of course, Section 5 permits you 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, irrespective of whether the change previously has been submitted to the Attorney General. As previously noted, until such a judgment is rendered by that court, the legal effect of the objection by the Attorney General is to render the change in question unenforceable. See also 28 C.F.R. 51.9.

Sincerely,

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

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division