



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 29, 1983

J. Hoy Hathorn, Esq.  
Hathorn and Hathorn  
P. O. Box 151  
Louisville, Mississippi 39339

Dear Mr. Hathorn:

This is in reference to the redistricting of supervisor and justice court districts and the administrative reregistration of voters in Winston 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 30, 1983.

We have made a careful analysis of the information you have provided along with the United States Bureau of the Census data and information provided by citizens of Winston County.

Under Section 5, the submitting authority has the burden of showing that the proposed voting change was not enacted with a discriminatory purpose and will not have a retrogressive effect on minority voting strength. Beer v. United States, 425 U.S. 130 (1976); City of Richmond v. United States, 422 U.S. 358 (1975); 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 evaluating your submission in light of this legal standard, our review of the information presented by this redistricting reveals that the proposed apportionment plan was designed to minimize black voting strength in the county by fragmenting the black population unnecessarily so as to avoid having a black majority in any of the five districts. A logical configuration following natural boundary lines would have enabled the county to devise a plan that fairly reflected minority voting strength. We have received no satisfactory explanation for the county's decision to adopt instead the peculiarly shaped configuration that has been submitted.

Nor have we received an adequate explanation why black citizens were denied a meaningful opportunity to participate in the development of the submitted plan. After the plan was prepared initially by a consultant, black citizens voiced strong opposition to it and protested that the plan denied them a fair opportunity to elect candidates of their choice from any of the five districts. The plan, however, was adopted by the board without alteration.

We note that the existing plan was declared unconstitutional by the court; and that in such circumstances, under Wilkes County, Georgia v. United States, 450 F. Supp. 1171 (D. D.C. 1978), our responsibility under Section 5 is to determine whether the submitted plan fairly reflects minority voting strength as it exists. Our analysis confirms that the proposed reapportionment, in the context of prevailing patterns of racial bloc voting, fails to offer black voters an equal opportunity to elect candidates of their choice to the board. Accordingly, on behalf of the Attorney General, I must interpose an objection to the proposed supervisor districts.

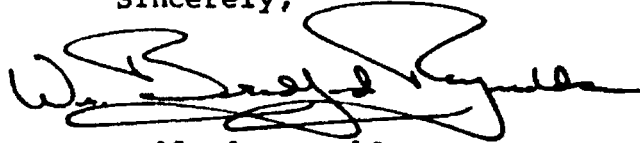
With regard to the proposed justice court districts, the Attorney General interposes no objection. However, we feel a responsibility to point out that Section 5 of the VRA expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin enforcement of such change. See Procedures for Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51-48).

The remaining voting changes included in your submission appear to be dependent upon the redistricting plans, and in light of the objection to those plans, we will make no determination as to the remaining voting changes at this time.

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 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, 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 redistricting of Winston County supervisor districts 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 Winston 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 stylized with a large, looping initial "W" and a long, sweeping underline.

Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division