U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

1 JUL 1983

Wm. Harold Odom, Esq.
Attorney, Jones County
Board of Supervisors
P. O. Box 354
Laurel, Mississippi 39440

Dear Mr. Odom:

This is in reference to the redistricting of supervisor and justice court districts in Jones 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 May 2, 1983.

We have made a careful analysis of the information that you provided as well as comments from other interested persons and data from the United States Bureau of the Census. With regard to the justice court districts, the Attorney General does not interpose any objection. However, we feel a responsibility to point out that Section 5 expressly provides that the failure to object does not bar any subsequent judicial action to enjoin the enforcement of such change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

Concerning the supervisor districts, we note at the outset that the existing districts were precleared by the Attorney General in October 1970. We note further that, according to your submission, the county board established, as its primary criterion, the "least change" approach or the idea that the districts be adjusted only to the extent necessary to conform the plan to the requirements of one-person, one-vote. Our information and analysis indicate, however, that, in response to requests from residents in the Sand Hill and Blackwell Precincts, both all-white areas, those precincts were moved from District 2 to District 5. This population shift was not necessary to equalize population. In fact, the movement of this population served to exacerbate the existing underpopulation of District 2, resulting in a series of shifts in population throughout the county and an alteration of lines which one would not expect to occur in order to satisfy the "least change" approach.

On the other hand, our information is that no effort was made to accommodate, or even to ascertain, the views of black persons to preserve their community of interests. Our analysis shows, however, that if the county had chosen to equalize population by adjusting precincts within the City of Laurel, as opposed to the rural areas of the county, not only would the "least change" criterion have been met but it is likely that the result would have been district lines within the city which minimized the fragmentation to the black community that already existed. The county has not offered any nonracial justification for the approach it took and where, as here, population shifts such as the county performed have an adverse racial impact, they raise the question of an improper racial intent, since a discriminatory impact and departures from procedural criterion are evidence of a discriminatory purpose. See Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 266-267 (1977); see also Rybick v. State Board of Elections, C.A. No. 81C6093 (N.D. Ill. Jan. 12, 1982). Indeed, the District Court for the District of Columbia has held that when persons who draw plans determine to "implement a policy of preserving 'communities of interest' [they] bear a heavy burden under the [Voting Rights] Act to demonstrate why such a policy would be implemented in white residential areas but not in black residential areas." Busbee v. Smith, 549 F. Supp. 494, 517 (1982).

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 discriminatory effect on minority voting strength. 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 county's burden has been sustained in this instance. For that reason, I must, on behalf of the Attorney General, interpose an objection to the redistricting of the Jones County 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 supervisors' districting plan does not violate Section 5 of the Voting Rights Act. In addition, Section 51.44 of the guide-

lines 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 that 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 Jones 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,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division