



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

5 JUL 1983

Donald B. Patterson, Esq.
Attorney, Lincoln County Board
of Supervisors
P. O. Box 888
Brookhaven, Mississippi 39601

Dear Mr. Patterson:

This is in reference to the redistricting of supervisor and justice court districts; four polling place changes; the realignment of voting precincts and the reregistration of voters for Lincoln 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 May 4, 1983. Although we noted your request for expedited consideration, we have been unable to respond until this time.

We have given careful consideration to the information you have provided, as well as to Bureau of the Census data and information and comments provided by other interested parties concerning the redistricting of the supervisor districts. According to the 1980 Census, approximately 30 percent of the population of Lincoln County is black and almost 40 percent of the county's black population resides in the City of Brookhaven. A majority of the black population in the City of Brookhaven resides in the southeastern part of the city.

Initially, we must state that the existing redistricting plan for the county board of supervisors was not subjected to the Section 5 review process as required by the Voting Rights Act of 1965, 42 U.S.C. 1973c. The currently existing plan was submitted by Lincoln County to the Federal District Court for the Southern District of Mississippi after a one-person, one-vote lawsuit challenged the malapportionment of the county's supervisor districts. W.M. Jones v. Lonnie

Rogers, et al., C.A. No. 4521 (S.D. Miss. 1969). On June 8, 1970, the district court approved the county's redistricting plan which was then implemented without obtaining the required federal preclearance. McDaniel v. Sanchez, 450 U.S. 130 (1981). Therefore, where as here, no determination has yet been made as to the lawfulness of the existing plan under Section 5 of the Voting Rights Act or the Fifteenth Amendment, plaintiff's burden with respect to any new redistricting submission "is to demonstrate that the reapportionment plan *** fairly reflects the strength of black voting power as it exists." Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1979); Wilkes County v. United States, 450 F. Supp. 1171 (D. D.C. 1978).

Our analysis shows that the proposed redistricting plan needlessly divides the black community in southeast Brookhaven primarily between two districts in such a way as impermissibly to dilute minority voting strength. No satisfactory explanation has been provided by the County as to why consideration was not given to any number of logical alternatives that could have resulted in at least one district in Lincoln County more fairly representative of the large concentration of black voters in the southeastern part of Brookhaven.

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, the Procedures for the Administration of Section 5 (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. Additionally, we have received a number of complaints from members of the minority community of Lincoln County concerning the failure of the board of supervisors to provide blacks an opportunity to participate in the redistricting process. Such exclusionary tactics, where they go unexplained (as is the case here), weigh heavily against preclearance.

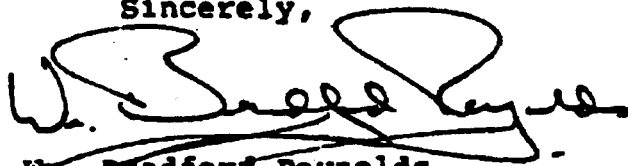
Accordingly, on behalf of the Attorney General, I must object to the redistricting plan for the supervisor districts. Inasmuch as the realignment of voting precincts, the four polling place changes and the reregistration of voters are directly related to this redistricting, the Attorney General will make no determination with regard to these related changes. 28 C.F.R. 51.20(b).

Concerning the redistricting of the justice court districts, the Attorney General interposes no objection. However, we feel a responsibility to point out that the failure to object does not bar any subsequent litigation to enjoin enforcement of the change. In addition, we note that the proposed plan apparently has been drawn to conform in some areas to the lines of the newly proposed supervisor districts. Since an objection to those districts is being interposed at this time, we wish also to note that should any remedial alteration in the supervisor district lines result in future changes in the justice court district boundaries, such changes will have to meet Section 5 preclearance requirements.

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 for the county board of supervisors 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 board of supervisor 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 Lincoln 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