



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 5, 1983

Rick Fortenberry, Esq.
Sandusky, Bailey, Fortenberry
& Stephenson
P.O. Box 1165
Meridian, Mississippi 39301

Dear Mr. Fortenberry:

This is in reference to the redistricting of county supervisor districts; administrative reregistration of voters; realignment of voting precincts; two consolidations of voting precincts; the establishment of one polling place and a polling place change in Lauderdale 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 3, 1983.

With respect to the supervisor redistricting, our analysis shows that the plan proposes to continue the fragmentation of black residential areas of the City of Meridian among three supervisor districts. The justification offered for the fragmentation is that it was necessary in devising a plan wherein the city portions of the supervisor districts could be used for the election of the five-member Meridian city council. Our information indicates that representatives of the black community were told that coterminous council-supervisor lines are necessary to prevent the voter confusion which results when voters are assigned to different polling places for different election contests. Such persons were told also that, given the necessity of coterminous lines, it would be impossible to increase appreciably black voting strength for supervisory districts. As a result of such representations, it appears that black citizens were dissuaded from pursuing their efforts to remedy fragmentation of black neighborhoods within Meridian, thus preventing meaningful participation by blacks in the redistricting process.

While the desire to eliminate voter confusion is laudable, we have been afforded no explanation as to why coterminous council-supervisor lines are necessary to achieve that goal; voter confusion can be eliminated merely by utilizing the same precincts for council elections as are used for supervisor elections. We are unaware of any other county in Mississippi which has found it necessary to employ coterminous council-supervisor lines within municipalities in order to avoid voter confusion. In fact, the use of coterminous precincts rather than election districts not only would avoid voter confusion but also would allow the development of a plan which avoids the fragmentation of black residential areas and substantially increases black voting strength.

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); State of 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 view of the circumstances discussed above, we are unable to conclude that the board has satisfied the burden imposed by Section 5 in this instance. Accordingly, on behalf of the Attorney General, I interpose a Section 5 objection to the supervisor redistricting plan.

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 plan for supervisor districts legally unenforceable. 28 C.F.R. 51.9.

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

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



James P. Turner
Acting Assistant Attorney General
Civil Rights Division