



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

16 AUG 1983

Nat G. Troutt, Esq.  
Troutt and Moore  
210 South Ward Street  
Senatobia, Mississippi 38668

Dear Mr. Troutt:

This is in reference to the proposed redistricting of supervisor and justice court districts and the concomitant precinct realignment and reregistration of voters in Tate 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. The information necessary to complete your submission was received on June 17, 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 materials you have submitted, together with Bureau of the Census data and information provided by other interested parties. 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 Voting Rights Act expressly provides that the failure of the Attorney General 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).

At the outset of our consideration of the supervisor districts, we note that almost all of the proposed changes in these districts are in the City of Senatobia and that, although the district lines within Senatobia under the existing plan are relatively compact and uniformly drawn, the proposed districts are convoluted and irregularly shaped. In particular, we find that proposed District 4 has 16 sides in Senatobia and fragments the black community in the eastern part of the city by excluding

a portion of predominantly black Census block 537 south of Main Street, and including a largely white community north of Main Street. While we are mindful of the county's purported justification that the irregularly shaped lines and the fragmentation were necessary to equalize property tax assessments, that justification is not supported by the facts submitted, since our analysis shows that District 4's assessment is almost 24 percent above the average assessment and the maximum deviation in assessments is 85 percent. On the other hand, our analysis indicates that if the existing malapportionment were remedied by drawing compact districts within Senatobia, District 4 would have a black majority in population and would be likely to further the objective of equalizing tax assessments.

Although over 38 percent of the population of Tate County is black, none of the proposed districts has a black majority in population. While this is true also of the existing plan, it is relevant to note that, despite a number of black candidacies, no black person has ever been elected to office in Tate County from those districts, which have racial compositions similar to those in the submitted plan. In addition, factual information revealing a marked underrepresentation of black persons among poll officials in Tate County is pertinent to the question of whether officials have allowed black citizens a fair opportunity to participate in the political process.

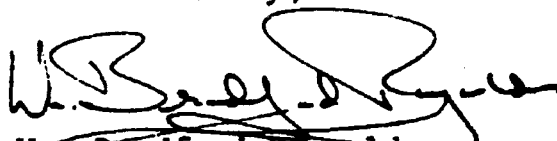
Under Section 5, the submitting authority has the burden of establishing the absence of any racially discriminatory purpose and effect. Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In Connor v. Finch, 431 U.S. 407, 425 (1977), the Supreme Court noted that "unexplained departures 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." See also Busbee v. Smith, 549 F. Supp. 494, 517 (D. D.C. 1982). While our analysis here has revealed no retrogressive effect in the plan under submission, application of the above legal standard demonstrates that the county has not satisfied its burden of showing the absence of a discriminatory purpose. Accordingly, on behalf of the Attorney General, I must interpose an objection to the proposed 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 proposed redistricting legally unenforceable. 28 C.F.R. 51.9.

Because the remaining voting changes included in your submission are directly related to the supervisor redistricting plan, and in light of the objection to that plan, we will make no determination as to the remaining voting 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 Tate County plans to take with respect to this matter. If you have any questions, feel free to call Paul F. Hancock (202-724-3095), Assistant for Litigation in the Voting Section.

Sincerely,



Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division