



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 26, 1983

Mike Smith, Esq.  
Attorney, Pike County  
Board of Supervisors  
P. O. Drawer 549  
McComb, Mississippi 39648

Dear Mr. Smith:

This is in reference to the redistricting of supervisor and justice court districts; the realignment of voting precincts; the elimination of a voting precinct; the creation of two voting precincts; and the polling place changes in Pike 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 initial submission on June 2, 1983; supplemental information was received on June 10, 20, and 27, 1983.

We have made a careful analysis of the information you have provided along with United States Bureau of the Census data and comments and information from other interested parties. Under Section 5, the submitting authority has the burden of demonstrating that the proposed voting changes "[do] 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 also 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)). The absence of the racially discriminatory effect can be established by demonstrating that the redistricting plans will not lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise or by demonstrating that the plans fairly reflect the voting strength of the black community of Pike County. See Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1979).

The 1980 Census reveals that 43.5 percent of the total population of Pike County is black; that percentage is approximately the same as that revealed by the 1970 Census. The supervisors' redistricting plan before us for Section 5 review represents the second reapportionment of supervisor districts in Pike County since enactment of the Voting Rights Act in 1965 but only the first plan submitted for Section 5 review. Under the apportionment plan in effect at the time of the Act's passage, black citizens comprised a majority of the total population in three of the five districts, and comprised more than 65 percent of the population in one of those districts. In 1970, the board of supervisors, in response to litigation in Gillis v. Board of Supervisors, adopted a new redistricting plan. Under the 1970 plan, which has never been precleared under Section 5, no district had a black population percentage greater than 55 percent. The plan now under review maintains the same basic configuration as the 1970 plan; two of the districts have black population majorities of 51 percent and 58 percent but none approaching the 65-percent district of the plan in existence on the effective date of the Voting Rights Act. In our view, therefore, the proposed plan clearly will have a retrogressive effect on black voters.

Additionally, our analysis does not reveal that the proposed plan fairly reflects the voting strength of the black community of Pike County. In that regard, the proposed plan fragments black residential areas in and near the City of McComb with the result that black voting strength is minimized. Such circumstances strongly suggest prohibited racial purpose, particularly when viewed in light of the alternative plans which would have avoided the retrogression from the level of black voting strength which existed under the pre-1970 plan, and our information is that those proposals were rejected simply because the board was opposed to the creation of a district with a substantial black population majority.

Our review of the proposed justice court districting reveals that it suffers from the same problems as the plan for supervisor districts. Because of the interrelationship of the lines under the two plans, we find much of the criticism in the preceding discussion equally applicable to the justice court plan.

Under the circumstances set forth above, I am unable to conclude that Pike County has met the burden of proof imposed by Section 5 and, accordingly, on behalf of the Attorney General, I must interpose objections to the proposed supervisor and justice court districts for Pike County. In light of the objection, no determination will be made with respect to the attendant adjustments in precinct lines and polling places. 28 C.F.R. 51.20(b).

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 these changes 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 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 plans 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 Pike 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,



~~W. Bradford Reynolds~~  
Assistant Attorney General  
Civil Rights Division