



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

January 3, 1984

Francis Vining, Esq.
P. O. Drawer 250
Monticello, Mississippi 39654

Dear Mr. Vining:

This is in reference to the redistricting of the supervisor districts in Lawrence 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 November 2, 1983.

We have given careful consideration to the information you have submitted, as well as to Census data and information provided by other interested parties. According to the 1980 Census, Lawrence County has a total population of 12,518 persons, of whom 3,886 (31.0%) are black. Under the existing plan, which was precleared by the Attorney General in 1970, three of the county's five districts have a black population of better than 41 percent.

As background for our review, we note that in Lawrence County Branch NAACP v. The Lawrence County Board of Supervisors, Civ. Action No. H83-0217(N) (S.D. Miss.), the court found the existing plan to be unconstitutionally malapportioned and ordered the county to work out a compromise plan with the plaintiffs in that lawsuit and, failing that, to submit its own plan to the Attorney General for Section 5 review. The plan now under submission is one devised by the county.

Our analysis of the submitted plan reveals that the county made a conscious effort to retain the minority population in each district at a level approximating that which is reflected in the existing plan, reasoning that minority participation in the electoral process is better served with three black "influence" districts than with one majority black district. We have no quarrel with this rationale, assuming the rationale was not adopted for the purpose of minimizing black voting strength and indeed we note that such a nondiscriminatory rationale has received judicial support. Seamon v. Upham, 536 F. Supp. 931 (E.D. Texas 1982). Nonetheless, in this

instance, the county's redrawing of district lines reduced the percentage of black population (albeit marginally) in four of the five districts. Such a reduction has significance where, as here, it is unexplained and the county has achieved this result by increasing the fragmentation of the black community (to the east and south of the City of Monticello), dividing it into three districts -- again, without adequate explanation.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. 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, the submitted plan is retrogressive and I therefore cannot conclude, as I must under the Voting Rights Act, that the county has met its burden in this instance. Accordingly, on behalf of the Attorney General, I must object to the county's supervisory redistricting plan.

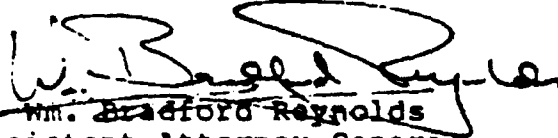
In registering an objection, I should make it clear that the county has available to it a number of possible redistrictings that can satisfy Section 5 requirements. In the event it should elect to ensure that the black population retains the same number of "influence" districts that currently exist, the county need only adjust the lines in the submitted plan to eliminate its retrogressive features in four of the five districts and, in so doing, undertake to minimize to the extent possible the existing fragmentation of black voters in the Monticello area. Alternatively, the county could, if it chooses, just as properly take the approach urged by the NAACP and devise a plan that affords the black community an opportunity to elect candidates of their choice in at least one district -- while noticeably reducing the influence blacks will henceforth have in the other districts. We leave that decision to the county.

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 submitted 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 submitted 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 Lawrence 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. Also, in view of the pending litigation concerning this redistricting plan, we are forwarding a copy of this letter to the Honorable Walter L. Nixon, Jr., United States District Judge, Southern District of Mississippi.

Sincerely,



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