



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 21, 1984

Walter Brown, Esq.  
City Attorney  
P. O. Box 1185  
Natchez, Mississippi 39120

Dear Mr. Brown:

This is in reference to the redistricting of aldermanic wards; the four polling place changes; and the November 23, 1981, annexation to the City of Natchez in Adams 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 December 20, 1983.

The Attorney General does not interpose any objection to the November 23, 1981, annexation. 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).

With regard to the redistricting of aldermanic wards, we have given careful consideration to the information furnished by you as well as information and comments by interested parties. Our analysis reveals that while blacks constitute approximately 51.2 percent of the total population of the City of Natchez, only one black has ever been elected to the six-member board of aldermen, a circumstance which appears to have resulted from a general pattern of racially polarized voting occurring in city elections.

We note that the criteria established for the redistricting of the city's wards were (1) one person, one vote; (2) nondilution of minority voting strength; (3) maintaining existing ward boundaries and election districts to the extent

possible; and (4) symmetry, all of which would appear to state legitimate concerns. Our analysis shows that the reapportionment problem facing the city involved a situation where the districts in the western portion of the city generally were underpopulated and those in the eastern portion of the city were generally overpopulated. Wards 1 and 4 were the most underpopulated while Wards 5 and 6 were the most overpopulated. In this setting, a simple movement of the boundaries eastward as appropriate to gain the necessary population for the underpopulated wards would have seemed the logical approach to meeting not only the one-person, one-vote requirement but the city's other stated criteria as well. Instead, the submitted plan shows that population was shifted in and out of Wards 1 and 4 at numerous locations, unnecessarily affecting the boundaries of other districts in the plan and, at the same time, maintaining black proportions in each of the wards at or below their levels in the existing plan which, but for Ward 2, have proved ineffective for black success.

No satisfactory explanation has been offered as to why the population adjustments used were necessary to satisfy the city's stated criteria and, in fact, the result is not the one that would have been expected had the city followed its stated objectives. See Connor v. Finch, 431 U.S. 407, 425 (1977). In addition, it appears that the city did not welcome but, rather, sought to avoid and rejected input from the black community in the redistricting decision-making process, which is further suggestive of an invidious racial motivation. See Terrazas v. Clements, 537 F. Supp. 514, 530-536 (N.D. Tex. 1982).

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 28 C.F.R. 51.39(e). The courts have recognized especially that an official action taken for the purpose of racial discrimination "has no legitimacy at all under our Constitution or under [Section 5]." City of Richmond v. United States, 422 U.S. 358, 378-379 (1975); see also Busbee v. Smith, 549 F. Supp. 494, 517 (D. D.C. 1982), aff'd, 51 U.S.L.W. 3552 (U.S. Jan. 24, 1983). In view of these legal standards and the circumstances involved here, I am unable to conclude, as I must under the Voting Rights Act, that the city

has met its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the redistricting plan for the aldermanic wards in the City of Natchez.

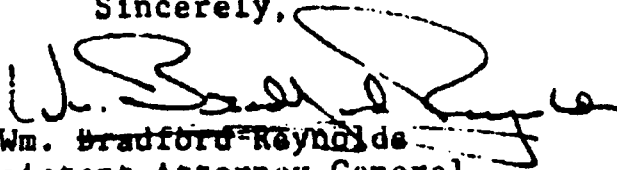
In registering an objection, I want to make it clear that the city has a number of possible redistricting alternatives available that can satisfy Section 5 requirements. The Voting Rights Act does not compel a jurisdiction to seek to assure electoral success to any candidate or group. However, a jurisdiction may not, on the other hand, seek to use the redistricting process to limit artificially a racial group's participation in the electoral process particularly where, as here, adherence to nonracial criteria normally would satisfy the Act.

Since the four polling place changes included in your submission appear to be dependent upon the proposed redistricting plan and, in light of the objection to the plan, we can make no determination as to these polling place changes at this time. 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 neither have 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 of aldermanic wards and the resulting four polling place changes 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 the City of Natchez 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,

  
Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division