

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

4 MAY 1984

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

Dear Mr. Smith:

This refers to the redistricting of supervisor and justice court districts, the change in the method of electing members of the board of education and the concomitant reapportionment of school board districts 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 November 14, 1983; supplemental information was received on December 1, 1983, January 6, 1984, and March 5, 1984.

We have made a careful analysis of the information you have provided along with 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); 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).

As we indicated in our letter of August 26, 1983, under the apportionment plan for justice court districts in effect at the time of the passage of the Voting Rights Act in 1965 black citizens comprised a majority of the total population in three of the five districts, and comprised more than 65% of the population in one of those districts. Our analysis of the plan then under submission showed that, of the three districts contained in that plan as required by Mississippi law, only one had a majority (56.6%) black population and the district lines had been drawn so as to fragment needlessly large elements of the black community in Pike County. The instant submission goes far to correct the earlier problem of fragmentation but, on a comparative analysis with the earlier five-district plans, it continues to fall short of providing minority voters the same degree of political influence that they enjoyed at the time of the statute's enactment in 1965. Our analysis demonstrates that there are a number of alternative three-district plans that could be drawn to overcome the present "retrogression" problem with only modest adjustments to the proposed lines and population percentages for the justice court. However, until that redistricting process takes place, I cannot conclude that Pike County has met the burden of proof imposed by Section 5 with respect to the proposed justice court districts.

Accordingly, on behalf of the Attorney General, I must interpose an objection to the justice court 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, color, or membership in a language minority group. 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 justice court redistricting plan legally unenforceable. 28 C.F.R. 51.9.

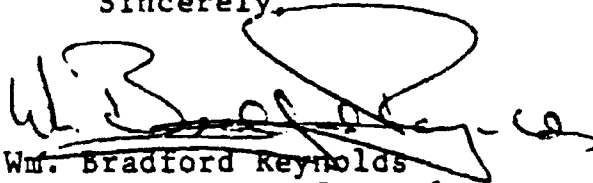
With regard to the proposed supervisor districts, the Attorney General does not interpose any objection to the change insofar as it involves use of these districts for the election of county supervisors. In this connection, we feel a responsibility to point out that Section 5 of the Voting Rights Act 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. 28 C.F.R. 51.48.

However, to the extent that these districts are proposed to be used for the election of school board members, we find that the information that has been provided in response to our request for additional information is incomplete and inadequate to enable us to make the determination required by Section 5. We note that you have informed Ms. MaryAnne Jackman of our staff by telephone that the county is making efforts to resolve discrepancies which exist between the legal descriptions of the districts and the map you have provided and that you are compiling necessary population statistics, by race, for the resulting districts which will be provided to us shortly. Accordingly, the Attorney General will make no determination with regard to the school district plan at this time.

In connection with our further consideration of the school board plan it would be of assistance to our review if the correct boundary lines for the McComb Municipal Separate School District were drawn on county maps clearly delineating present and proposed school district lines with reference to present and proposed supervisor districts. Additionally, we encourage you to provide us with registration data, by race, for voting precincts or any other information which might support your view that racial bloc voting does not exist in Pike County.

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,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division