



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

January 12, 1988

Jack W. Thomas, Esq.
Attorney, Monroe County
Board of Supervisors
P. O. Box 267
Amory, Mississippi 38821

Dear Mr. Thomas:

This refers to the redistricting of supervisor districts, the realignment of voting precincts, and the polling place change for the South Aberdeen Precinct in Monroe 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 November 13, 1987.

At the outset, we note that the existing plan which does not provide for any majority black districts has resulted in black voters being unable to elect candidates of their choice to office in any of the existing districts and that the proposed plan has been adopted by the county in the wake of a Section 2 lawsuit challenging the existing supervisors' districting plan. Thus, the proposed plan increases the district with the highest black percentage, District 4, from 47 percent to 60 percent. Such an increase makes the plan more favorable to black voters than is the existing plan and, therefore, the plan meets the nonretrogressive effects tests imposed by Section 5.

With regard to the issue of racial purpose, however, we are unable to draw the same conclusion. In this connection we note the county's stated criteria for drawing the new districts, namely, to provide blacks with an opportunity to elect a candidate of their choice to office; to make minimal changes in the existing plan; to maintain existing road mileage and taxing districts; and to avoid splitting communities of interest. We note further, however, that the proposed plan abandons the stated nonracial criteria in the City of Aberdeen by fragmenting the black

community between District 3 and District 4. This maneuver has the effect of excluding over 600 black city residents from the black community with which they have heretofore been regularly associated, and for no apparent or stated reason. If the county sees a need to fragment a community of interest in order to accomplish legitimate nonracial districting objectives, it has the burden of explaining such action. Here, the county has not yet provided a sufficient nonracial justification for this seemingly unnecessary fragmentation of this black community of interest.

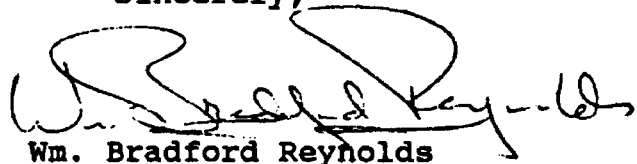
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). While this plan cannot be said to be retrogressive in effect, in light of the considerations discussed above I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained with regard to purpose. It should be made clear that this conclusion has little to do with the actual percentage of blacks in proposed District 4. There is no 65 percent rule utilized by the Department in connection with our Section 5 analysis. But there is a rule, well settled in law, that where a districting line needlessly divides a cohesive community of blacks with a close identity of interest for the apparent purpose of denying those in the community equal voting opportunities, preclearance must be withheld unless and until such fragmentation is satisfactorily explained. The county has yet to provide such an explanation. Therefore, on behalf of the Attorney General, I must object to the supervisors' redistricting plan presently under submission.

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 supervisors' redistricting plan legally unenforceable. See 28 C.F.R. 51.10.

With regard to the precinct realignment and the polling place change, it is apparent that these changes were made to accommodate the changes in the supervisor district boundary lines. Thus, since these changes are dependent upon the objected-to redistricting plan, the Attorney General is unable to make a final determination with respect to them at this time. 28 C.F.R. 51.33.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Monroe County plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. Bradford Reynolds". The signature is fluid and cursive, with a large initial "W" and "R".

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division