



U.S. Department Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Jack N. Thomas, Esq.
P.O. Box 267
Amory, Mississippi 38821

APR 26 1991

Dear Mr. Thomas:

This refers to the redistricting for the board of supervisors, the realignment of voting precincts, the elimination of three voting precincts, and three polling place changes 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 last submittal of information regarding these matters on February 26, 1991.

We have considered carefully the information you have provided, as well as 1980 and 1990 Census data, information from other sources, and the opinion and record of the district court in Ewing v. Monroe County, 740 F. Supp. 417 (N.D. Miss. 1990). At the outset, we note that the instant redistricting is the county's response, at least in part, to the district court's ruling that Monroe County's current electoral system denies black citizens an equal opportunity to participate in the political process and elect candidates of their choice, in violation of Section 2 of the Voting Rights Act of 1965, 42 U.S.C. § 1973. The Ewing court found, and the information available to us confirms, that elections in Monroe County are marked by racial bloc voting and that the black population is sufficiently compact to form a majority in at least one of the five supervisor districts. Blacks constitute approximately 30 percent of the county's population.

In 1988, we interposed an objection to a supervisor districting plan proposed earlier by Monroe County because that plan split the black community in Aberdeen between Districts 3 and 4, and the county failed to provide a nonracial explanation for this seemingly unnecessary fragmentation. Not only has the county failed to remedy that fragmentation in the currently proposed plan, but that fragmentation would appear to have been exacerbated in the instant proposal which has moved an even larger number of black residents of Aberdeen out of District 4,

the district in which most of the Aberdeen black community resides. In addition, the currently proposed plan further compounds the fragmentation by splitting the black community in Amory. While the majority of Amory's black community is included in District 5, a portion of that community is inexplicably shifted to District 2.

The gravity of the county's actions here is enhanced by the fact that the county was aware that alternative districting plans could be drawn to avoid this fragmentation in Aberdeen and Amory and that, by avoiding such fragmentation, districts with substantially higher black proportions would have resulted. The county's only explanation for the lines as drawn in the currently proposed redistricting plan is that the plan conforms to the voting age population percentages suggested by the district court in Ewing. However, the county has acknowledged its understanding that the court's suggestion that District 4 have a black voting age population between 51 and 55 percent was aimed at establishing the minimum necessary to remedy the Section 2 violation, not a maximum permissible percentage. Thus, reliance on the court's suggested population figures cannot serve to satisfy the county's burden of providing a nonracial justification for fragmenting the black communities in Aberdeen and Amory with the resultant minimization of black voting strength.

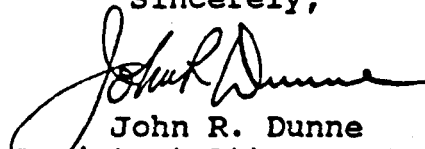
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the supervisor redistricting plan presently under submission.

We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed 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, you may 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 proposed supervisor redistricting plan continues to be legally unenforceable. 28 C.F.R. 51.10 and 51.45.

With regard to the realignment of voting precincts, the elimination of three voting precincts, and the three polling place changes, 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 us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Monroe County plans to take concerning this matter. If you have any questions, you should call Richard Jerome (202-514-8696), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division