



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

AUG 2 1991

Lester F. Sumners, Esq.
Sumners, Carter & McMillin, P.A.
P.O. Drawer 730
New Albany, Mississippi 38652

Dear Mr. Sumners:

This refers to the redistricting of supervisor districts, realignment of voting precincts, and the elimination of Precinct 403 in Union 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 last submittal of information on June 3, 1991.

We have considered carefully the information you have provided as well as comments from other interested parties. At the outset, we note that although the county is only 15 percent black in total population, approximately 60 percent of the black population is concentrated within the City of New Albany and approximately 75 percent of this population is either in the city or within about a mile of the city limits. In addition, over the last 30 years, the county's black population has become increasingly concentrated in New Albany. The proposed redistricting plan, however, fragments this population among four of the five districts (Districts 2 through 5) with the result that each of these proposed districts has approximately the same black population percentage and no district is greater than 20 percent black. Our analysis indicates that if this fragmentation were cured, by keeping a large portion of New Albany intact in one district and by also including in that district a portion of the county southwest of the city, there would result a compact district with a near black population majority. Thus, in the context of an apparent pattern of racially polarized voting in the county, the proposed plan significantly minimizes the ability of black voters to participate in the political process. See Chisom v. Roemer, 59 U.S.L.W. 4696, 4700 n.24 (U.S. June 20, 1991).

There are several additional factors that heighten our concern about the proposed plan. First, the plan has an oddly shaped configuration, especially with respect to proposed District 3 which consists of two noncontiguous areas on either side of New Albany joined by a narrow sliver of land that snakes through the city. Second, while the county's justification for drawing unusual districts in the past has been the need to equalize road mileage among the districts, this justification appears no longer valid with the county's recent adoption of the unit system of governing roads. Third, the county appears to have locked itself into proceeding with a "least change" plan at the outset of the redistricting process, and thus inquiries during the process about changing the configuration to lessen the fragmentation of the black population were considered to be essentially irrelevant.

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.

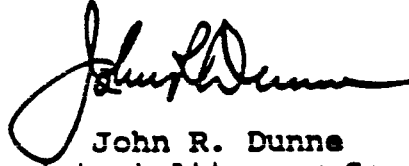
We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, 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 supervisor redistricting plan continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

With respect to precinct realignment and the elimination of a precinct, the Attorney General will make no determination at this time since they are directly related to the objected-to change. 28 C.F.R. 51.35.

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To enable us to meet our responsibility to enforce the Voting Rights Act, and in light of the impending county elections, please inform us of the action Union County plans to take concerning this matter. If you have any questions, you should call Mark A. Posner (202-307-1388), 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