



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 23, 1991

William M. Beasley, Esq.  
Mitchell, Voge, Beasley & Corban  
P.O. Box 29  
Tupelo, Mississippi 38802-0029

Dear Mr. Beasley:

This refers to the supervisor redistricting plan and the precinct realignment for Lee 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 most recent provision of information on June 26, 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 blacks constitute about a fifth of the county's population, since the adoption of the Voting Rights Act black voters have not had an opportunity to elect a candidate of their choice to the five-member board of supervisors. This appears to be the consequence of an ongoing pattern of polarized voting in county elections and the adoption of districting plans which have been crafted in such a way that all five districts have had white population majorities, even though, as you have noted, blacks have, since 1970, sought to have the county include a black majority district in the plan.

This year, the county considered several alternative redistricting plans but, again, was not responsive to the request of local black residents. Our understanding is that, when black leaders protested the adoption of a plan which they considered unresponsive to their concerns, the county's response was that the blacks should take their protest to the Department of Justice; when a local black leader responded that he would rather work it out with the county, he was given four days in which to develop a plan without assistance from the county.

The county contends that a black majority district may not be drawn except by "gerrymandering." Our analysis indicates, however, that the proposed plan seems unnecessarily to fragment a number of black concentrations in the south-central and southwestern portion of the county, and that, if such fragmentation were avoided, a reasonably compact district may be drawn in this area in which blacks would constitute a majority of the voting age population. Further, the county's concern about "gerrymandering" appears suspect given the oddly shaped configuration reflected by proposed District 3 which consists of two noncontiguous areas on either side of Tupelo joined by a narrow sliver of land that snakes through the city.

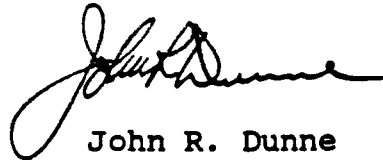
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 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, the Attorney General will make no determination at this time since it is directly related to the objected-to change. 28 C.F.R. 51.35.

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 Lee 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