



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

August 23, 1991

Hubbard T. Saunders, IV, Esq.
Crosthwaite, Terney, Noble & Allain
P. O. Box 2398
Jackson, Mississippi 39225-2398

Dear Mr. Saunders:

This refers to the supervisor redistricting plan, the justice court redistricting plan, the precinct realignment, the elimination of one precinct, and four polling place changes for Amite 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 submission on May 20, 1991; supplemental information was received on June 26, July 16, and August 20, 1991.

The Attorney General does not interpose any objection to the justice court redistricting. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this change if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

With respect to the supervisor redistricting plan, however, we cannot reach the same conclusion. At the outset, we note that one of the county's announced redistricting criteria was that there should be no retrogression in black voting strength other than that which might be necessary to conform districts to the 1990 Census. Nevertheless, while the black percentage in one of the two existing black majority districts is increased (District 2), the black percentage in the other is decreased from 61.8

percent (in existing District 3) to 57.8 percent (in proposed District 5). Nothing has been provided to show that such a reduction was required and, given the apparent pattern of racially polarized voting in county elections and the recent history of close elections involving black candidates in existing Districts 3 and 5, such a reduction would appear to be significant.

Furthermore, the plan's configuration would seem calculated to minimize black voting strength in District 5 by unnecessarily fragmenting a black population concentration south of the Town of Liberty between that district and the district to its north. That the county could have accomplished the increase in the black population percentage in District 2 while also providing for greater black voting strength in District 5 is evidenced by such an alternative which was considered but rejected by the county allegedly because District 5 contained an excessive amount of road mileage and bridges. However, we note that that feature was not among the county's stated criteria, that other districts in the proposed plan appear to have been drawn without regard to road mileage and bridge locations, and that changes reducing the black percentage in District 5 were adopted without the benefit of any road mileage or bridge data.

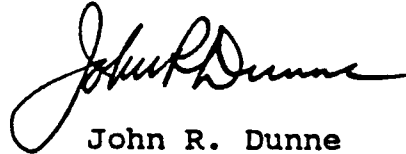
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the 28 C.F.R. 51.52. In light of the considerations discussed 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 and polling place changes, 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.

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 Amite 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