



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 16 1991

Mr. Lenis S. Pearson
President, Montgomery County
Board of Supervisors
P. O. Box 71
Winona, Mississippi 38967

Dear Mr. Pearson:

This refers to the redistricting of the justice court districts for Montgomery 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 concerning this matter on July 30, 1991.

We have given careful consideration to the information and materials you have provided, as well as to information and comments from other interested parties. We note at the outset that, according to the 1990 Census, 44 percent of the population of Montgomery County is black, an increase from 41 percent in 1980. This increase appears to have occurred largely within the City of Winona. The 1990 Census shows a clear geographic concentration of black population in Winona and in adjacent rural areas to the east and northeast. We also note the apparent prevalence of racially polarized voting in local elections, the generally depressed social and economic status of the local black population, the presence of a majority vote requirement in local elections, the use of racial campaign appeals in elections affecting the county in the past, and the fact that Montgomery County shares in the state's history of racial discrimination in general.

From information you have provided, we understand that the county undertook to devise its two justice court districts by combining two and a portion of a third of its five supervisor districts so as to form each of the two justice court districts. While this approach would certainly appear to be a logical and

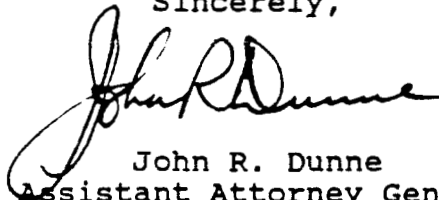
justifiable one, under the proposed redistricting plan, the black population concentration in and near Winona is divided between the two justice court districts so that neither district has a population over 46 percent black. This result is occasioned by combining supervisor Districts 1, 3 and a portion of District 2 into one justice court district with Districts 4, 5, and the remainder of 2 constituting the other. Yet, our analysis indicates that if the county had combined all of supervisor Districts 3 and 4 and a portion of 5, one justice court district with a significant black majority could have been drawn, thus providing to black voters an equal opportunity to participate in the political process and to elect candidates of their choice to this office. And even though we understand that the county was aware of an interest on the part of black citizens of the county to have a justice court district with a substantial black majority, the county does not appear to have responded to that interest either by creating such a district or by offering a persuasive justification for not doing so.

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. In view of the circumstances set forth above, however, I am unable to conclude, as I must under the Act, that the county has sustained its burden in this instance. Accordingly I must, on behalf of the Attorney General, interpose an objection to the proposed redistricting plan for justice court districts for Montgomery County.

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 redistricting plan for the justice court districts 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.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Montgomery County, Mississippi, plans to take concerning this matter. If you have any questions, you should call John Tanner (202-307-2897), an attorney in the Voting Section.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne". The signature is written in dark ink and is positioned above the typed name and title.

John R. Dunne
Assistant Attorney General
Civil Rights Division