



U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

September 24, 1991

Ms. Jenifer Buford
Comprehensive Planner
East Central Planning and
-Development District
P. O. Box 499
Newton, Mississippi 39345

Dear Ms. Buford:

This refers to the redistricting of supervisor and justice court/constable districts, the precinct realignment, and the elimination of the DeSoto voting precinct and polling place in Clarke 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 response to our July 8, 1991, request for additional information on July 26, 1991.

We have given careful consideration to the materials you have submitted, as well as to information and comments from other interested parties. We note at the outset that although the 1990 Census establishes that 34.5 percent of the population of Clarke County is black, voting patterns seem to be defined along racial lines and black persons have never been able to elect candidates of their choice from the county's supervisor or justice court/constable districts. While the county's black population is so concentrated that two of its five supervisor districts and one of its two justice court districts would be expected to produce substantial black majorities, the proposed redistricting plan, like the existing plan, fragments black population concentrations in the county among the various districts in such a way that only one supervisor district has even a nominal black majority.

During the redistricting process, the county appears to have been aware of the interest on the part of black citizens to have their voting potential better recognized, especially by increasing the black majority in District 2 to a level at which

black voters would be able to elect a representative of their choice. Specific areas were identified for addition to or deletion from the district to achieve such a result. In response, county officials indicated that enhancement of the black voting potential in District 2 was not possible because areas of substantial white population necessarily would be coupled with the targeted areas of black concentration and that this would preclude any significant increase in the District 2 black percentage. Yet, our analysis of the 1990 Census clearly shows that this was not correct. Areas of black population concentrations are available for addition to the district to achieve the results sought by black citizens, including those very areas specified by them during the redistricting process. Thus, the stated basis for the county's choices is not supported and the county has presented no other persuasive explanation for the failure to cure the fragmentation of black concentrations and provide for districts from which black voters would have an equal opportunity to elect candidates of their choice.

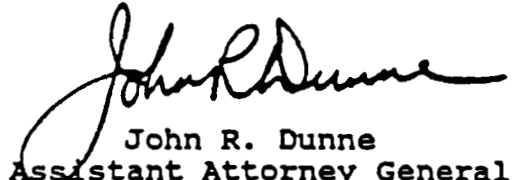
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In view of the circumstances set forth above, I am unable to conclude, as I must under the Act, that the county has carried its burden with regard to the proposed redistricting plans. Indeed, the available evidence convinces me that these proposed redistrictings fail to provide black voters of Clarke County an equal opportunity to elect candidates of their choice and that, if implemented, they would violate Section 2 of the Act. Accordingly I must, on behalf of the Attorney General, interpose an objection to the proposed redistricting plans for supervisor and justice court/constable districts for Clarke 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 changes have 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 plans for the supervisor and justice court districts continue 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.

The realignment of voting precincts and the elimination of the DeSoto voting precinct and the polling place therefor are directly related to the proposed redistricting. Therefore, the Attorney General will make no determination at this time with regard to those changes. 28 C.F.R. 51.22(b) and 51.35.

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

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division