



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 30 1991

Peggy A. Jones, Esq.
Jones, Brown & Schneller
P.O. Box 417
Holly Springs, Mississippi 38635

Dear Ms. Jones:

This refers to the 1991 redistricting plans for the board of supervisors and justice court districts and the realignment of voting precincts, including the elimination of two voting precincts and polling places in Marshall 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 the last submittal of information concerning these changes on July 31, 1991.

We have given careful consideration to the information you have provided, as well as the 1990 Census data and comments provided by other interested parties. With respect to the redistricting of the justice court districts, the Attorney General does not interpose any objection. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

We are, however, unable to reach a similar conclusion with regard to the redistricting plan submitted for the supervisor districts in Marshall County. On the basis of our analysis, it would appear that the proposed plan needlessly fragments the black community in southwest Holly Springs by separating from District 1 the area between College and Park Avenues and assigning it District 5. In adopting this plan the board rejected an alternative proposal from the black community which would have avoided this fragmentation by allowing the College/Park area to remain in District 1 and by transferring in its place a roughly equivalent area of white population. This exchange would eliminate the fragmentation, give fuller recognition to the community of interest, and more fairly reflect minority voting strength in that area.

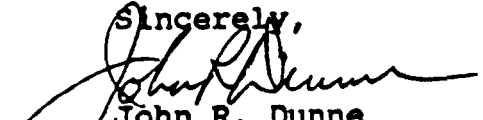
An examination of election returns for past elections in District 1 show that supervisor candidates preferred by the minority community have been unable to achieve election, and in the 1987 Democratic primary runoff the minority preferred candidate lost by only 54 votes. In this context it would appear that the fragmentation effected by the proposed plan adversely impacts upon black voting strength in District 1. Such fragmentation is probative of racial purpose, particularly where the county has provided no persuasive justification for its refusal to adopt a readily available alternative which would have avoided this result.

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 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, 1991); 28 C.F.R. 51.10 and 51.45.

With respect to the submitted precinct and polling place changes, the Attorney General will make no determination at this time since they are directly related to the objected-to 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 Marshall County plans to take concerning this matter. If you have any questions, you should call George Schneider (202-307-3153), an attorney in the Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division



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JAN 23 1992

Peggy A. Jones, Esq.
Jones, Brown & Schneller
P.O. Box 417
Holly Springs, Mississippi 38635

Dear Ms. Jones:

This refers to your request that the Attorney General reconsider the September 30, 1991, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the 1991 redistricting plan for the board of supervisors in Marshall County, Mississippi. We received your letter on November 26, 1991; supplemental information was received on January 14, 1992.

As you will recall, our objection letter noted our concern that the proposed plan needlessly divides the black community in southwest Holly Springs between supervisor Districts 1 and 5. Based on returns for past elections in District 1, we concluded that this fragmentation adversely impacts upon black voting strength in District 1 and that such fragmentation is probative of racial purpose.

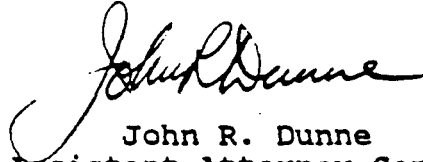
We have reconsidered our earlier determination at your request, but we note that the county has not provided any information in support of its request for reconsideration which addresses the concerns noted in our letter. Thus, we find no basis to alter our original determination.

In light of this, I remain unable to conclude that Marshall County has carried its burden of showing that the 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 (29 C.F.R. 51.52). Therefore, on behalf of the Attorney General, I must decline to withdraw the objection to the supervisor redistricting plan.

As we previously advised, you may 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. We remind you that until such a judgment is rendered by that court, the objection by the Attorney General remains in effect and the proposed change continues to be legally unenforceable. 28 C.F.R. 51.10 and 51.48(d).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Marshall County plans to take with respect to this matter. If you have any questions, feel free to call George Schneider (202-307-3153), 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