



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 25, 1991

Tommy M. McWilliams, Esq.
Townsend, McWilliams & Holladay
P. O. Box 107
Indianola, Mississippi 38751

Dear Mr. McWilliams:

This refers to the 1991 supervisor redistricting plan, the realignment of voting precincts, two polling place changes, and the establishment of an additional precinct and polling place in Sunflower 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 request for additional information on August 28, 1991.

We have carefully considered the information you have provided, as well as comments from other interested persons. At the outset, we note that in seeking to remedy the malapportionment of the current supervisor districts, the county was required to transfer population from the southern to the northern districts since Districts 2 and 3 in the south are overpopulated while Districts 4 and 5 are underpopulated. Specifically, given the current configuration of these districts, the county needed to "roll" population northward, from District 2 to 3, then from District 3 to 4, and finally from District 4 to 5. Because the rural portions of the county are not densely populated, the county reasonably determined that this redistricting could be best accomplished by generally shifting urban populations.

Accordingly, in adjusting the population in District 4, the county shifted the Town of Sunflower and adjacent urban areas into that district and then determined that a portion of the Town of Ruleville would need to be transferred into District 5. In terms of the impact of these changes on black voters, this meant

that an area that is almost exclusively black necessarily would be shifted into District 4. However, in Ruleville the demographic patterns are such that a number of options were available with respect to the racial composition of the area to be transferred.

For reasons that have not been adequately explained, the county chose to transfer out of District 4 an area of Ruleville that is about 97 percent black and, indeed, refused to give any consideration to an alternative that would transfer a substantial number of white residents, although the county concedes that it would have been a simple matter to develop such an alternative. As a result, the increase in black voting strength in District 4 that would be expected with the inclusion of the Town of Sunflower did not occur and, instead, the county has configured a district in which the black population percentage remains essentially unchanged from the level extant in the existing district, which has been ineffective for black voters to elect candidates of their choice in the past. Such manipulation of the district lines in this area would suggest an intent to minimize the opportunity of black voters to elect candidates of their choice to the board, especially when viewed in the totality of the electoral circumstances present in Sunflower County, including the apparent pattern of racially polarized voting, the lingering effects of the state's long history of discrimination, and the objections interposed under Section 5 to the supervisor redistricting plans adopted by the county following the 1980 Census.

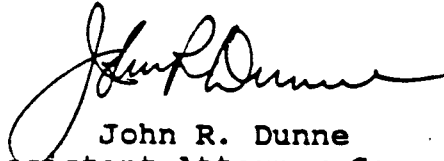
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 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 the two polling place changes, the Attorney General does not interpose any objection to these changes. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. 28 C.F.R. 51.41. With respect to the precinct realignment, and the establishment of an additional precinct and polling place, 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, please inform us of the action Sunflower 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