



U.S. Department of Justice

Civil Rights Division

Office of the Assist. Att. General

Washington, D.C. 20530

JAN 13 1992

John E. Shaw, Esq.
P.O. Box 744
Kosciusko, Mississippi 39090-0744

Dear Mr. Shaw:

This refers to the redistricting of the board of supervisors and the realignment of voting precincts in Attala 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 responses to our request for additional information on November 14 and December 31, 1991.

We note at the outset that although blacks comprise nearly 40% of the county's population, under the current districting plan there is only one district with a black voting age majority, and that is the only district to have elected a black candidate. Our analysis of election returns indicates that racial bloc voting continues to characterize Attala County elections, and that the existing plan denies black voters an equal opportunity to participate in the political process and elect candidates of their choice. During the redistricting process minority citizens requested that two districts be drawn in which minority voters would have an equal opportunity to elect candidates of their choice, thereby more equitably recognizing minority voting strength in the county. The board of supervisors, however, rejected alternative districting plans that would have created two black voting age majority districts in favor of the submitted plan which continues the existing fragmentation of black population concentrations in Kosciusko.

The county has said that the alternative plans were rejected because they would lead to wide and unfair disparities in road mileage among the districts which would be inconsistent with the county's beat system for maintaining roads. However, to the extent that such considerations may be considered relevant in a

review under the Voting Rights Act, we note that the specific information you have provided on road mileage and financing does not appear to support your statement. For one thing, under the submitted plan the largest district has approximately 2.5 times the road mileage of the smallest district. Under one of the alternative plans, by contrast, the largest district would have approximately twice the road mileage of the smallest district. We also note that under state law the county board has the authority to reallocate funds among the districts to account for variances in road mileage. In short, the evidence does not appear to support the view that the county's beat system will be seriously undermined by adoption of a redistricting plan that comports with the Voting Rights Act. The necessary administrative adjustments in the county's beat system implicate "[l]ess fundamental concerns [that] must be subordinated to the constitutional interests of the citizenry." Kirksey v. Board of Supervisors, 554 F.2d 139, 151 (5th Cir. en banc), cert. denied, 434 U.S. 968 (1977).

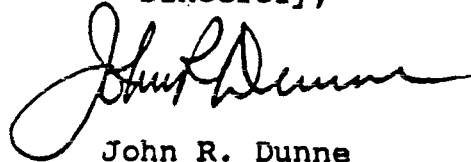
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has neither a discriminatory purpose nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973); Procedures for the Administration of Section 5, 28 C.F.R. 51.52. In light 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. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. 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. See Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10.

The Attorney General will make no determination with respect to the realignment of voting precincts since it is directly related to the objected-to change. See 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 Attala County plans to take concerning this matter. If you have any questions, you should call Daniel Hairis (202-514-3870), an attorney in this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

June 22, 1992

Benjamin E. Griffith, Esq.
Griffith & Griffith
P. O. Drawer 1680
Cleveland, Mississippi 38732

John E. Shaw, Esq.
P.O. Box 744
Kosciusko, Mississippi 39090

Dear Messrs. Griffith and Shaw:

This refers to your request that the Attorney General reconsider the January 13, 1992, objection under Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, to the redistricting of the board of supervisors for Attala County, Mississippi. We received your letter on April 23, 1992.

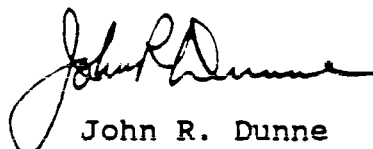
We have reconsidered our earlier determination in this matter based on the information and arguments you have advanced in support of your request, along with the other information in our files. After reviewing the information available to us, we do not see any basis for changing our original determination.

In light of these considerations, I remain unable to conclude that Attala 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 (28 C.F.R. 51.52). Therefore, on behalf of the Attorney General, I must decline to withdraw the objection to the submitted change.

As previously noted, 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, however, 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. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10, 51.11, and 51.48(c) and (d).

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Attala County plans to take with respect to this matter. If you have any questions, feel free to call Daniel Harris (202-514-3870), an attorney in the Division.

Sincerely,

A handwritten signature in cursive script, appearing to read "John R. Dunne".

John R. Dunne
Assistant Attorney General
Civil Rights Division