



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

June 4, 1993

George P. Cossar, Jr., Esq.
City Attorney
P.O. Box 50
Charleston, Mississippi 38921

Dear Mr. Cossar:

This refers to the 1993 redistricting plan for the City of Charleston in Tallahatchie 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 latest response to our request for additional information on June 1, 1993.

We have considered carefully the information that you have provided, as well as Census data and information received from other interested parties. The 1990 Census shows that black residents constitute 55.5 percent of Charleston's total population and 50.4 percent of the city's voting age population. This is an increase from 1980, when the Census reported a black population of 53.2 percent and a black voting age population of 46.3 percent. The black population in Charleston is concentrated in the western part of the city and in the northern portion of the city.

The proposed plan reflects the city's desire to adopt a "least change" approach from its existing plan, and to duplicate the racial proportions of the districts as they were initially drawn in 1985. In doing so, the black population in the western part of the city is maintained in District 1, which is 82 percent black in voting age population. But the plan fragments the black population concentration in the northern portion of the city among Districts 2, 3, and 5, with black voting age populations of 60 percent, 31 percent, and 34 percent, respectively.

We understand that when concerns about this fragmentation and the district configurations in this area were raised, city officials contended that the fragmentation was necessary to comply with one person, one vote requirements. But our analysis indicates the availability of readily discernible alternatives satisfying those requirements, which would have split this black population between two districts instead of three, thereby increasing the black share of the population in at least one of the three districts in that area. In light of the election results over the last ten years and the apparent pattern of racially polarized voting that occurs in city and county elections, it appears that the proposed plan unnecessarily limits the opportunity of black voters to elect their preferred candidates.

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 1993 redistricting plan for the City of Charleston.

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 continues to be legally unenforceable. Clark v. Roemer, 111 S. Ct. 2096 (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 the City of Charleston plans to take concerning this matter. If you have any questions, you should call Richard Jerome (202-514-8696), an attorney in the Voting Section.

Since the Section 5 status of this redistricting has been placed at issue in Hamilton v. City of Charleston 2;93cv075-B-0 (N.D. Miss.), we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Honorable Neil Biggers

cc: Counsel of Record