U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

September 17, 1993

Claude A. Chamberlin, Esq.
County Attorney
P. O. Box 72
Aberdeen, Mississippi 39730

Dear Mr. Chamberlin:

This refers to the 1992 redistricting plans for county supervisor and justice court/constable districts, the realignment of voting precincts and polling place changes in Monroe 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 April 5, 1993, request for additional information on July 19, 1993; supplemental information was received on August 2 and 31, 1993.

The Attorney General does not interpose any objection to the 1992 redistricting plan for justice court/constable districts. 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 change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

We cannot reach the same conclusion with regard to the 1992 redistricting plan for the board of supervisors. We have considered carefully the information you have provided, as well as 1990 Census data, information contained in your submission of a 1990 redistricting plan, and information and comments received from other interested parties. In 1989, a federal district court ruled that the county's 1982 redistricting plan for the board of supervisors violated Section 2 of the Voting Rights Act, 42 U.S.C. 1973. Ewing v. Monroe County, 740 F. Supp. 417 (N.D. Miss. 1990). Under the 1982 plan, black voters constituted a majority of the voting age population in one of the five supervisor districts. The court found that there was extreme racial polarization in Monroe County elections specifically noting that no black person had been elected in a countywide or district election in Monroe County in the 20th Century. 740 F. Supp. at 421.

As a proposed remedy for the Section 2 violation, the county submitted a 1990 redistricting plan for Section 5 review to which we interposed an objection on April 26, 1991. While that plan had two districts with black population majorities (District 4 at 57.2% and District 5 at 50.2%), black voters constituted a majority of the voting age population in only one of those districts, District 4. Our objection letter stated that the county had not remedied the fragmentation of black population concentrations in Aberdeen and Amory that had prompted our 1988 objection to a redistricting plan submitted by the county, and that it had provided no nonracial justification for allowing this fragmentation to continue to minimize black voting strength.

In 1991, the federal court in Ewing adopted a plan drawn by a court-appointed special master to be used on an interim basis for supervisor and justice court/constable elections in the fall of 1991. The special master's plan, based on 1990 Census data, contains two districts with black population majorities (District 4 at 63.8% and District 5 at 51.9%) but the black voting age population in District 5 is less than 50 percent (48%). The special master's plan, now the proposed plan adopted by the county, does not fully remedy the fragmentation of the black community that was of concern to us in our 1988 and 1991 objections.

Our analysis of the 1991 county elections has been hampered by the county's failure to provide us with data indicating the racial composition of the precincts used in those elections. However, the information that is available to us provides no basis for concluding that the 1991 elections for supervisors were free from the extreme racial polarization that has long characterized county elections and that was recognized by the court in 1989. We note that the results of the 1991 elections did nothing to alter the court's 1989 observation that Monroe County has yet to elect a black person to any countywide or district elective office.

The information provided by the county indicates that the board of supervisors adopted the special master's plan without any modifications. When the board initially adopted the plan in 1991 there was no effort to inform the public and no opportunity for minority input, and when the plan was adopted again in 1993 the board appears to have gone through only a perfunctory redistricting process. On neither occasion did the county make any effort to address the continuing fragmentation of the black community. Monroe County has not presented any nonracial justification, in light of longstanding racially polarized voting patterns and its election history, for its decision to adopt a redistricting plan that continues unnecessarily to fragment black population concentrations in and around Aberdeen and Amory and, thus, to limit black voting strength in the county.

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 28 C.F.R. 51.52. In addition, a submitted change may not be precleared if its implementation would lead to a clear violation of Section 2 of the Act. 28 C.F.R. 51.55. 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 1992 redistricting plan for Monroe County.

Because the submitted precinct and polling place changes are directly related to the objected-to redistricting plan for the county board of supervisors, no determination by the Attorney General is necessary or appropriate for those changes.

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 1992 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 Monroe County plans to take concerning this matter. If you have any questions, you should call Donna M. Murphy (202-514-6153), an attorney in the Voting Section.

Since the Section 5 status of the proposed redistricting plan is a matter before the court in Ewing v. Monroe County, 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 Neal B. Biggers, Jr.
United States District Judge

Counsel of Record