



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

December 21, 1993

William R. Collins, Esq.
Montgomery, Smith-Vaniz & McGraw
Post Office Box 1039
Canton, Mississippi 39046

Dear Mr. Collins:

This refers to the June 19, 1991, annexation and the 1993 redistricting plan for the board of aldermembers for the City of Canton in Madison 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 March 16, 1993, request for additional information on May 13, 1993; supplemental information was received on June 28, July 1, and October 22, 1993.

We have given careful consideration to the information you have provided, as well as to 1990 Census data and information and comments provided by other interested parties. With respect to the annexation, 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 change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

We cannot reach the same conclusion regarding the 1993 redistricting plan. According to the 1990 Census, black residents constitute 67.1 percent of the total population in the city and 61.4 percent of the voting age population. Information provided to us by the city indicates that, with the population that is included in the submitted annexation, the black share of the city's total population will increase to 69.2 percent. The city is governed by a seven-member board of aldermembers, six of whom are elected from single-member districts with the seventh member elected at large. The mayor, who votes only in the case of ties, is also elected at large.

Our analysis of city elections reveals an extreme pattern of racially polarized voting and that the continuing effects of the history of racial discrimination results in black voters turning out at lower rates than white voters. As a result, black voters have been able to elect candidates of their choice only in the three districts in the existing plan that are overwhelmingly black in population. It was against this backdrop that the city undertook its redistricting efforts.

Under the proposed plan, there are four districts that are majority black in total and voting age populations. In three of those districts, the black share of the voting age population is over 65 percent; in the other district, the black share is only 55.7 percent. Our review of the redistricting process shows that the debate centered on how high the black share of the voting age population would be in the fourth black majority district.

The black community consistently sought from the earliest stages a redistricting plan that would contain at least four districts in which black voters would have an opportunity to elect candidates of their choice. A series of nine alternative redistricting plans were presented to the city by the board's own demographer, two of which would have afforded black voters with greater electoral opportunities than those presented in the proposed plan. While Canton was not required to adopt any particular plan advocated by the black community, it is not free to adopt a plan that unnecessarily limits black voting strength.

Our analysis suggests that the proposed plan would maintain the opportunity for black voters to elect their candidates of choice in three districts but would not provide black voters with a realistic opportunity for additional representation among the single-member districts. It appears that the desire to achieve that result was a motivating factor in the board's redistricting choices.

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 1993 redistricting plan for the board of aldermembers.

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 a discriminatory purpose nor effect. 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 1993 redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 111 S. Ct. 2096 (1991); 28 C.F.R. 51.10.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of Canton 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.

Since the Section 5 status of the proposed redistricting plan is before the Court in Madison County Voter's League v. Runnels, 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 Henry T. Wingate
United States District Judge

Edward Blackmon, Jr., Esq.
Blackmon, Blackmon & Evans