



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

JAN 30 1995

Marion Smith, Esq.
Truly, Smith, Latham & Kuehnle
P. O. Box 1307
Natchez, Mississippi 39121-1307

Dear Mr. Smith:

This refers to the 1994 redistricting plan for the board of supervisors of Adams 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 submission on November 29, 1994; supplemental information was received on January 10, 24, 25, 26 and 27, 1995.

We have carefully considered the information you have provided, as well as Census data, information in our files regarding other Section 5 submissions for Adams County, including the 1991 redistricting plan for the board of supervisors, and comments and information from other interested persons. According to the 1990 Census, the county has a total population of 35,356, of whom 48.5 percent are black. The county supervisors are elected from five single-member districts and black candidates have been elected to the board only from districts with black population majorities. On October 21, 1991, the Attorney General precleared the county's 1991 redistricting plan, which represented the county's second effort post-1990 Census to redistrict its supervisorial districts. The precleared 1991 plan included two districts, Districts 3 and 4, with black population majorities of 70.6 and 72.4 percent, respectively, and a third district, District 5, with a bare black majority of 52 percent.

It is against the benchmark of the 1991 redistricting plan that the effects of the proposed 1994 plan must be measured. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.54).

Under the proposed plan, the black population percentage in District 5 has been reduced from 52 to 46.9 percent, while the already substantial black majorities in Districts 3 and 4 have increased. Given the county's overall electoral history and pattern of racially polarized voting, the proposed plan would appear to have a retrogressive effect on the opportunity of black voters in District 5 to affect the outcome of elections and to elect candidates of their choice. These results are clearly avoidable, as is evidenced in the benchmark 1991 plan.

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); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). The existence of some legitimate, nondiscriminatory reasons for the voting change does not satisfy this burden. See Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 265-66 (1977); City of Rome v. United States, 446 U.S. 156, 172 (1980); Busbee v. Smith, 549 F. Supp. 494, 516-17 (D.D.C. 1982), aff'd, 459 U.S. 1166 (1983). 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 1994 redistricting plan for the board of supervisors.

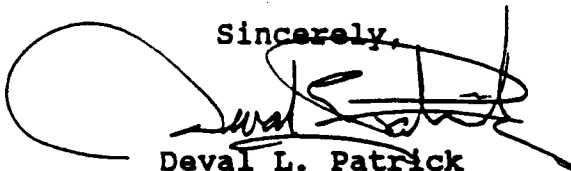
We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. See 28 C.F.R. 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 1994 redistricting plan continues to be legally unenforceable. See Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

It has been brought to our attention that in anticipation of the 1995 supervisorial elections, candidate qualifying may be proceeding under the now objected-to redistricting plan. As noted above, the objected-to plan remains legally unenforceable. At present, the only legally enforceable redistricting plan available for use in the county is the 1991 redistricting plan.

Should the county wish to use any redistricting plan other than the 1991 precleared plan, this would constitute a voting change that must be submitted for review under Section 5 prior to implementation.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action Adams County plans to take concerning this matter. If you have any questions, you should call Ms. Zita Johnson-Betts (202-514-8690), an attorney in the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Deval L. Patrick", with a large, stylized flourish on the left side.

Deval L. Patrick
Assistant Attorney General
Civil Rights Division