



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

MAR 20 1995

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

Dear Mr. Chamberlin:

This refers to the 1995 redistricting plan for county supervisor districts 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 submission on January 17, 1995.

We have considered carefully the information you have provided, as well as 1990 Census data, information contained in previous submissions of redistricting plans from the county, and information and comments received from other interested parties.

This is the fourth redistricting plan for the board of supervisors submitted for Section 5 review since minority plaintiffs challenged the 1982 redistricting plan for that body, and the third since the federal district court ruled that the 1982 plan 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). The court found that there was 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, 423.

The Attorney General interposed objections to all three of the prior submitted plans. Each was characterized by significant fragmentation of black population concentrations in the Cities of Aberdeen and Amory among different supervisors districts which had the effect of limiting minority voting strength. In each case, the fragmentation could easily have been eliminated in a plan meeting constitutional standards, and the county's asserted justifications for not doing so did not withstand Section 5 scrutiny. The most recent prior submission was of a plan adopted in 1991, used in 1992 to elect election supervisors, and not submitted for preclearance until the following year. Our objection to this plan was interposed on September 17, 1993. More than a year went by, it appears, before the county began the process of developing a new redistricting plan.

Your submission includes a letter to the demographer charged by the county to develop three redistricting plans. The only criteria specified in that charge were: to satisfy the constitutional requirement of one-person one-vote; to avoid dilution of minority voting rights, such as "unnecessary concentration [or] fragmentation of minority communities;" and to avoid partisan gerrymandering. Nevertheless, we understand that the county informed the demographer that she was to work off the plan objected to in 1993 and limit her changes to ones in the City of Amory. Indeed, the plan that was adopted made only two changes to the 1993 objected-to plan, both in Amory and both specified by the board of supervisors. This plan remedies the majority of the previous fragmentation of the black community in Amory, raising the black share of the voting age population in District 5 to 49 percent. The demographer's alternative plans would have fully remedied this fragmentation, but her failure to shift population out of District 5 resulted in overall population deviations among the districts exceeding 10 percent, and they were rejected on that basis.

Because the submitted plan makes no changes to Districts 3 and 4, the fragmentation of the minority community in Aberdeen, which affects far more black voters than were affected in Amory and which has far more significance with regard to drawing a district in which minority voters will be able to elect candidates of their choice, remains as it was. The county has asserted several reasons for its refusal to remedy the fragmentation in this area. Our analysis indicates that curing this fragmentation would not require a plan that exceeds constitutionally permissible population deviations, and the county's claim to the contrary is not supported. Nor has the county explained how the long arm of District 3, which reaches deep into District 4 and fragments a cohesive black community, constitutes a "natural boundary."

We have also examined the county's claim that the election of Circuit Judge Barry Ford to a seven-county position refutes

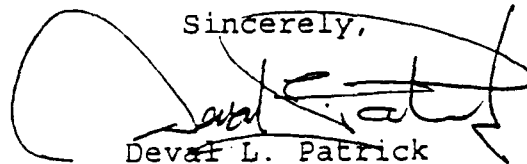
historic evidence of severe racial polarization in elections for Monroe County office. An examination of precinct data shows that Judge Ford did significantly worse in predominantly white precincts than in predominantly black precincts. Moreover, attaching greater importance to this election than to the consistent record of defeat by black candidates when running for county office is unwarranted, given the significant differences between this election and elections to county office.

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). In light of the considerations discussed above, I cannot conclude that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 1995 redistricting plan for Monroe County.

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 1995 redistricting plan continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (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 Monroe County 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.

Sincerely,



Devar L. Patrick  
Assistant Attorney General  
Civil Rights Division