



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

October 21, 1985

Ms. Lourena N. English  
City Clerk  
P. O. Box 1449  
Sumter, South Carolina 29150

Dear Ms. English:

This refers to the 57 annexations to the City of Sumter in Sumter County, South Carolina, 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 the information to complete your submissions on August 23, 1985.

We have considered carefully the information you have submitted, data obtained from the 1980 Census, and information provided by other interested parties. Based upon our review, the Attorney General does not interpose any objections to 12 of these annexations (Ordinance Nos. 578, 583 (1965); Nos. 617, 618 (1968); Nos. 659, 662 (1972); No. 696 (1974); Nos. 721, 735 (1976); No. 885 (1982); Nos. 905, 922 (1983)). However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.48).

With regard to the remaining 45 annexations (Ordinance Nos. 576, 577, 579, 581, 584 (1965); Nos. 589, 590, 591 (1966); Nos. 614, 615, 616, 624, 625, 626, 627, 628 (1968); Nos. 631, 634 (1969); Nos. 658, 660, 661 (1972); Nos. 668, 669, 672, 674, 677, 679, 683 (1973); Nos. 687, 688, 689 (1974); No. 710 (1975); Nos. 719, 720, 734, 739, 741 (1976); Nos. 880, 884, 903, 904 (1982); Nos. 912, 920, 921, 931 (1983)), we are unable to reach a similar conclusion. At the outset, we note that even though black citizens constitute almost 40 percent of the city's population, and although there have been several minority candidacies, no black has been elected to the city council in recent times. This appears in substantial part to be the result of a general pattern of racially polarized voting


occurring in the context of Sumter's at-large election system-- a system that includes a majority vote requirement and staggered terms. Against this electoral milieu, the proposed annexations, which our analysis shows have decreased the city's minority population by approximately 4.98 percent, serve to enhance the ability of the white majority to exclude blacks totally from participation in the governing of the city through membership on the city council, an effect not permissible under the Voting Rights Act. See City of Richmond v. United States, 422 U.S. 358, 370 (1975). In addition, we are concerned that what appears to be a pattern of annexation which seems calculated to take in only whites while excluding predominantly black areas has not been satisfactorily explained.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or effect. See Georgia v. United States, 411 U.S. 526 (1973); see also 28 C.F.R. 51.39(e). In light of the considerations discussed above, I cannot conclude, as I must under the Act, that the city has sustained its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the 45 annexations listed above.

Of course, as provided by Section 5 of the Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. Further, Section 51.44 of the guidelines permits you to 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 effect of the objection by the Attorney General is to make the 45 annexations legally unenforceable insofar as voting rights are concerned. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Sumter plans to take with respect to this matter. If you have any questions, feel free to call Sandra Coleman (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

  
Wm. Bradford Reynolds  
Assistant Attorney General  
Civil Rights Division