



U.S. Department of Justice

Civil Rights Division

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Office of the Assistant Attorney General

Washington, D.C. 20530

007 28 1992

Honorable Charlotte Beall  
Probate Judge  
P.O. Box 264  
Wrightsville, Georgia 31096-0264

Dear Judge Beall:

This refers to the relocation of the polling place for the Wrightsville precinct from the county courthouse to the American Legion in Johnson County, Georgia, 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 September 24, 1992.

This also refers to the elimination in 1968 of a segregated polling place at the Wrightsville city hall and location of an integrated polling place at the county courthouse in Johnson County. We received your submission on October 9, 1992.

With respect to the 1968 changes regarding the integration of the polling place at the county courthouse and the elimination of the segregated polling place at city hall, the Attorney General does not interpose any objection to the specified changes. 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 changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

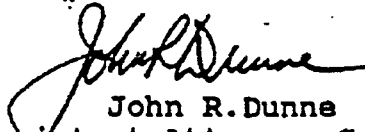
We are unable to reach a similar conclusion regarding the 1990 relocation of the polling place for the Wrightsville precinct from the county courthouse to the American Legion. We have given careful consideration to the information you have provided, as well as information and comments from other interested parties. Our review indicates that the American Legion in Johnson County has a wide-spread reputation as an all-white club with a history of refusing membership to black applicants. Moreover, the American Legion hall, itself, is used for functions to which only whites are welcome to attend. Consequently, the atmosphere at the American Legion is considered hostile and intimidating to potential black voters, and it appears that locating a polling place there has the effect of discouraging black voters from turning out to vote.

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 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, 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 change of polling places in Wrightsville from the county courthouse to the American Legion.

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 change of polling places from the county courthouse to the American Legion 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 Johnson 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,



John R. Dunne  
Assistant Attorney General  
Civil Rights Division

cc: Robert W. Wommack, Jr., Esq.  
County Attorney