Office of the Assistant Attorney General

Washington, D.C. 20530

September 6, 1983

James W. Burgoon, Jr., Esq.
Fraiser, Burgoon and Abraham
P. O. Drawer 1640
Greenwood, Mississippi 38930

Dear Mr. Burgoon:

This is in reference to the proposed redistricting of supervisor districts, the realignment of voting precincts, and the polling place changes in Leflore 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 July 7, 1983.

We have given careful consideration to the materials you have submitted, as well as Bureau of the Census data and comments and information from other interested parties. According to the 1980 Census more than 59 percent of the Leflore County population is black. We note the existence of a long history of official discrimination against black voters in Leflore County and that only one black serves among the five members of the board of supervisors. We note, also, that the court in Moore v. Leflore County, Mississippi, C.A. No. GC83-249-WK-O (N.D. Miss.) found on July 28, 1983, that the current supervisor districts are unconstitutionally malapportioned and thus may no longer be used for the election of supervisors.

Our analysis shows that, in correcting the malapportionment in the existing districting plan it was necessary to reduce the population of District 4, which is the most predominantly black district, and to add population, in varying degrees, to the other four districts. In doing this, however, the county developed a plan which increases the fragmentation of the sizeable black population concentration in the City of Greenwood, dividing that population into all five of the supervisor districts whereas, previously, the minority population was divided into only four districts. Our analysis shows that not only was this further fragmentation of the black community unnecessary, but it places black voters into districts which lack a commonality of interests and in some respects leaves them physically isolated.

This configuration results in a plan which does not fairly represent black voting strength in the county. Because the Moore court has found the existing plan to be unconstitutional under the Fourteenth Amendment, it is necessary, in determining the effect of the change, to compare the proposed districts with "options for properly apportioned single-member district plans" (Wilkes County, Ga. v. United States, 450 F. Supp. 1171, 1178 (D. D.C. 1978), aff'd, 439 U.S. 999 (1978)) that "fairly reflect" black voting strength as it exists (State of Mississippi v. United States, 490 F. Supp. 569, 581 (D. D.C. 1979), aff'd, 444 U.S. 1050 (1980)). Here the proposed plan does not satisfy that legal standard. The additional fragmentation of the black community in Greenwood, when other alternatives were readily available or discernible, and the fact that the addition of black population concentrations to other districts would have provided a more realistic and fairer opportunity for blacks to realize their voting strength, raise the inference that the development of the plan was not free of racial purpose. See Busbee v. Smith, 549 F. Supp. 494 (D. D.C. 1982), aff'd, 51 U.S.L.W. 3552 (U.S. Jan. 24, 1983). We have not been provided an adequate non-racial justification for the submitted configuration.

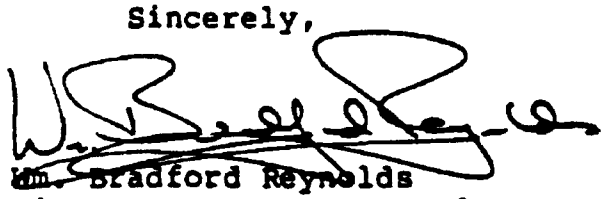
Under Section 5 of the Voting Rights Act, the submitting authority has the burden of demonstrating the absence of both a racially discriminatory purpose and effect respecting the proposed change. Georgia v. United States, 411 U.S. 526 (1973). See also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). In light of the considerations discussed above, however, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the supervisors' redistricting plan for Leflore County.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this 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, 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 redistricting plan legally unenforceable. See also 28 C.F.R. 51.9.

We note that your submission also contains changes in polling places and precincts which are dependent on the implementation of the submitted redistricting. In light of our determination with regard to the redistricting plan, the Attorney General will make no determination with regard to the proposed changes in polling places and precincts. 28 C.F.R. 51.20(b).

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

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division