

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 9, 1987

Mike Smith, Esq.
Attorney, Pike County
Board of Supervisors
P. O. Drawer 549
McComb, Mississippi 39648

Dear Mr. Smith:

This is in reference to the 1983 districting plan for the county board of education and the change in the method of electing the county board of education from five single-member districts to four single-member districts and one at large in Pike County, Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973. We received the information to complete your submission on December 9, 1986.

We have made a careful analysis of the information you have provided along with United States Bureau of the Census data and comments and information from other interested parties. Under Section 5, the submitting authority has the burden of demonstrating that the proposed voting changes have neither a discriminatory purpose nor a discriminatory effect. Georgia v. United States, 411 U.S. 526 (1973); see also Section 51.52(a) of the Procedures for the Administration of Section 5 (52 Fed. Reg. 497-498 (1987)). A racially discriminatory effect exists if the submitted changes will lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise. Beer v. United States, 425 U.S. 130 (1976).

The 1980 Census reveals that 45.5 percent of the total population of the area served by the Pike County Board of Education is black. The districting plan before us for Section 5 review represents the second reapportionment of districts for the election of school board members in Pike County since the State of Mississippi became subject to the Voting Rights Act on November 1, 1964, but only the first plan

submitted for Section 5 review. Accordingly, the plan in effect on November 1, 1964, is the appropriate benchmark for the instant analysis. See Section 51.54(b) (52 Fed. Reg. 498 (1987)).

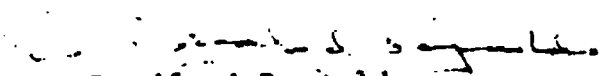
The 1983 county school board redistricting must be reviewed against a backdrop of a precleared 1983 plan for the board of supervisors and the pre-1964 Mississippi law that establishes a set procedure for the election of county school board members. Application of that state formula to the cleared supervisory districts raises two relevant preclearance problems. First, there appears to be retrogression with respect to black voting opportunities when the proposed county board plan is compared with the plan in effect on November 1, 1964. Second, this apparent retrogression is cause for greater concern since both the 1964 plan and the current proposal are, by operation of the state law, dramatically at variance with the one-person/one-vote requirements of the Fourteenth Amendment.

Under these peculiar circumstances, I am unable to conclude that the standards for preclearance imposed by Section 5 have been met in this instance. Accordingly, on behalf of the Attorney General, I must interpose an objection to the 1983 county school board redistricting and the related change in method of election.

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 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. In addition, Section 51.45 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 proposed changes legally unenforceable. Section 51.10 (52 Fed. Reg. 492 (1987)).

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

Sincerely,


Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division