



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 15 1991

Benjamin E. Griffith, Esq.
Griffith & Griffith
P.O. Drawer 1680
Cleveland, Mississippi 38732

Dear Mr. Griffith:

This refers to the redistricting plan for the board of supervisors and the realignment of voting precincts in Bolivar 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 May 15, 1991.

We have given careful consideration to the information you have provided, as well as to Census data and comments and information from other sources. At the outset, we note that although blacks constitute 62.9 percent of the population of Bolivar County, only one of five supervisor districts has elected a black supervisor since the adoption of the Voting Rights Act. This circumstance appears to have resulted from a pattern of racially-polarized voting occurring in county elections and from the fragmentation of the black community in the City of Cleveland into three supervisor districts.

We further note that the county's stated criteria for redistricting the supervisor districts were (1) one-person, one-vote; (2) the avoidance of dilution and retrogression of minority voting strength; and (3) the principle of "least change" to existing supervisor district lines. Our analysis reveals that, in the existing plan, Districts 2 and 4 are the most overpopulated, while Districts 1 and 3 are the most underpopulated. To remedy the overpopulation of District 4, the proposed plan assigns several hundred people from District 4 to Districts 1 and 3. However, rather than adjusting the overpopulation of District 2 by transferring persons from that district to District 1, which was still underpopulated, the county removed additional population from District 4 and then transferred the predominantly white Cleveland Courthouse Precinct, with 587 persons, from District 2 to District 4.

The result of this transfer was to reduce the black proportion of total population and voting age population of District 4 and to create a district in which the opportunity of black voters to participate in the electoral process and to elect representation of their choice is diminished. On the other hand, closer adherence to the county's stated criteria would appear to have resulted if the county had transferred the Longshot Precinct, which contains only 283 persons, from District 2 to District 1, and kept the much larger Cleveland Courthouse Precinct in District 2. This alternative would not have reduced the black percentage in District 4, would have brought District 1 closer to ideal population size, would have maintained an acceptable relative population deviation among districts, and would have affected less than half as many voters. Other alternatives, such as transferring voters from the East Cleveland Precinct to District 4, also were available and would have avoided the fragmentation of black concentrations in the City of Cleveland. As the Supreme Court observed in Connor v. Finch, 431 U.S. 407, 425 (1977), "[s]uch unexplained departures from the results that might have been expected to flow from the [county's] own neutral guidelines can lead . . . to a charge that the departures are explicable only in terms of a purpose to minimize the voting strength of a minority group."

In this regard, we take particular note that on several occasions, black citizens brought to the county's attention their concerns that the proposed Cleveland Courthouse Precinct transfer would lower the effectiveness of the black electorate in District 4, and expressed support for alternatives that would have avoided this result. The county has presented no legitimate nonracial explanation for its unresponsiveness to these concerns.

Section 5 requires the county to demonstrate that the proposed change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." 42 U.S.C. 1973c. In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the burden has been sustained in this instance. Accordingly, on behalf of the Attorney General, I must object to the redistricting plan for the board of supervisors districts.

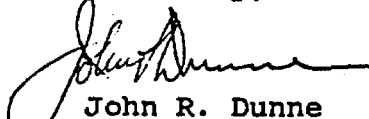
We note that under Section 5 you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that the proposed change will have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, 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 redistricting plan for the board of supervisors continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

Inasmuch as the realignment of voting precincts is directly related to the redistricting plan, the Attorney General will make no determination with regard to these related changes at this time. 28 C.F.R. 51.22(b).

To enable us to meet our responsibilities under the Voting Rights Act, and in light of the impending county elections, please inform us of the action Bolivar County plans to take concerning this matter. If you have any questions, you should call Richard Jerome (202 514-8696), an attorney in the Voting Section.

Sincerely,



John R. Dunne
Assistant Attorney General
Civil Rights Division