



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 14 1992

David E. Verlander III, Esq.
McLeod, Verlander, Eade & Verlander
P.O. Box 2270
Monroe, Louisiana 71207-7000

Dear Mr. Verlander:

This refers to the reduction in the size of the police jury from eleven to seven members and the redistricting plan in Morehouse Parish, Louisiana, 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 initial submission on July 16, 1992; supplemental information was received on July 17, 1992.

We have considered carefully the information you have provided, as well as Census data, information contained in your submissions of two earlier redistricting plans following the 1990 Census, and information and comments from other interested parties. As you know, we interposed Section 5 objections to the parish's two previous redistricting plans for the reasons explained in our letters of September 27, 1991 and May 26, 1992.

Now, the parish has submitted a reduction in the size of the police jury from eleven to seven members. With regard to this change, the Attorney General does not interpose any objection to the specified change. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

We are unable to reach the same conclusion regarding the proposed redistricting plan. The submitted redistricting plan and the various alternative plans provide for two predominantly urban districts in which black voters clearly would be able to elect candidates of their choice. The differences between the plans centered on the treatment of predominantly rural District 2. As was true with regard to your most recent submission, the

proposed redistricting plan appeared suddenly and was quickly adopted at the very end of the redistricting process with little time for study or debate. In choosing this plan the parish rejected alternatives which provided greater assurance to the minority voters of District 2 that they would have a realistic opportunity to elect candidates of their choice in the context of racial bloc voting which appears to exist in Morehouse Parish. The submitted plan appears to have intentionally kept this district at a lower black population although there were alternatives available that would have made it a viable district. The parish has failed to adequately articulate a nonracial explanation for its rejection of these alternative redistricting plans.

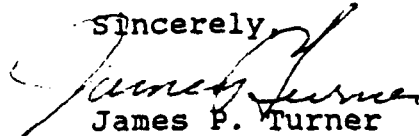
Moreover, it appears that a primary element in the proposed plan's configuration of District 2 was its efforts to safeguard electoral opportunities for incumbents in neighboring districts. While protecting incumbency is not in and of itself an inappropriate consideration, it may not be accomplished at the expense of minority voting potential. See, e.g., Garza v. County of Los Angeles, 918 F.2d 763, 771 (9th Cir. 1990), cert. denied, 111 S.Ct. 681 (1991); Ketchum v. Byrne, 740 F.2d 1398, 1408-09 (7th Cir. 1984), cert. denied, 471 U.S. 1135 (1985).

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 redistricting plan.

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 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, 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 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 Morehouse Parish plans to take concerning this matter. If you have any questions, you should call George Schneider (202) 307-3153, an attorney in the Voting Section.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division