



U.S. Department of Justice
Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 22 1993

Charles L. Hamaker, Esq.
City Attorney
P.O. Box 123
Monroe, Louisiana 71210-0123

Dear Mr. Hamaker:

This refers to Act No. 682 (1992), which provides for three judges and the creation of three judicial divisions, a conditional change in method of election from an at-large system to two single-member districts and one at-large position, the districting plan, the candidate residency qualification under the districting system, a redefinition of the electorate and an annexation to the electorate for the Monroe City Court in Ouachita 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 response to our September 14, 1992, request for additional information on January 21, 1993.

This refers also to your request that the Attorney General withdraw the October 23, 1990, objections interposed under Section 5 to Act No. 393 (1977), which provided for a second judgeship and the adoption of designated positions; Act No. 8 (1990), which provided for a third judgeship elected from a designated position; and Act No. 728 (1990), to the extent that it provided for a third judgeship for the Monroe City Court. We received your response to our September 14, 1992, request for additional information on January 21, 1993.

We have considered carefully the information you have provided, as well as comments and information from other interested parties. As of November 1, 1964, the Monroe City Court was composed of one judge, the electorate for which was comprised of all residents of Wards 3 and 10 in Ouachita Parish. Your submission does not include 1990 Census data for this area.

The registered voter data you provided show that in 1990, the black share of the registered voters in Wards 3 and 10 was 49.2 percent; in January 1993, the black share of registered voters in Wards 3 and 10 was 50.8 percent.

Act No. 682 (1992), presently before us for Section 5 review, redefines the territorial jurisdiction and the electorate of the Monroe City Court to include only the residents of the City of Monroe and the residents of Ouachita Parish Wards 3 and 10. Your submission states that one effect of Act No. 682 is to bring uninhabited areas presently within the City of Monroe, but outside the electorate of the Monroe City Court as of November 1, 1964, into the city court's electorate. Your submission also states that Act No. 682 also will prevent the expansion of the court's electorate into any areas outside of Wards 3 and 10 that are not part of the City of Monroe. Act No. 682 also provides that the Monroe City Court shall have three judges, and that the court shall be divided into three divisions. As did Act No. 728 (1990), Act No. 682 also provides for a conditional change in the method of electing city court judges, a districting plan and a provision that there shall be no district residency requirement.

The Attorney General does not interpose any objection to the provisions of Act No. 682 so far as they redefine the electorate for the Monroe City Court to include only the residents of Ouachita Parish Wards 3 and 10 and the residents of the City of Monroe, and so far as they annex the identified uninhabited portions of Wards 1 and 2 presently within the City of Monroe into the electorate of the Monroe City Court. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, any future annexation by the City of Monroe extending the municipal boundaries to areas not presently within the court's jurisdiction, or redefinition of the Ouachita Parish ward boundaries that would alter the city court's electorate, will be viewed as a separate change affecting the city court electorate and subject to review under Section 5.

Our review of the portions of Act No. 682 providing for a change in the city court's method of election, a districting plan and a candidate residency qualification indicates that these provisions are not capable of implementation at this time. Act No. 682 provides that these changes will occur only "[i]f the federal courts finally determine that the present method of electing Louisiana trial judges violates Section 2 of the Voting

Rights Act of 1965 and requires the subdistricting of such courts as a remedy." We understand from the information you have provided that neither the City of Monroe, nor the State of Louisiana, construes this condition as having been satisfied. Moreover, the Attorney General of Louisiana has issued an opinion stating that the condition "could only be satisfied when the present method (at large elections) of electing judges in the entire State of Louisiana is found to be in violation of the Voting Rights Act of 1965." Op. La. Att'y Gen. No. 92-685 (1993). Under this interpretation, it appears that there would be no occasion for the requisite court ruling in the future as the resolution of the Section 2 claims in the Clark v. Edwards, No. 86-435-A (M.D. La.) and Chisom and United States v. Edwards, No. 86-4075 (E.D. La.) cases obviates the basis for such a ruling. Accordingly, with respect to the conditional method of election change, districting plan and candidate residency qualification contained in Act No. 682, no determination under Section 5 is necessary or appropriate because these changes cannot be implemented at this time. 28 C.F.R. 51.35.

The only other voting changes provided for in Act No. 682 are the increase in the number of city court judges to three, and the designation of those judgeships as separate divisions of the city court. The effect of these would be to create three judgeships for the Monroe City Court, elected at large by designated positions. In this regard, Act No. 682 would impose the same voting changes as imposed by Act No. 393 (1977), Act No. 8 (1990) and Act No. 728 (1990), to which we have interposed a Section 5 objection.

Your request for reconsideration of that objection and your submission of Act No. 682 (1992) do not provide any new factual or legal basis for us to reach a different conclusion concerning those voting changes. The same factors that occasioned the 1990 objections to the preceding enactments appear to remain present at this time, and to be applicable equally to the changes contained in Act No. 682.

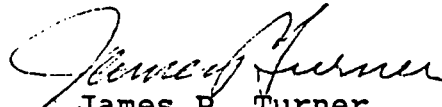
Therefore, the City of Monroe has not sustained its burden of showing that the proposed changes have neither a discriminatory purpose nor effect. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.52). Further, our guidelines provide that a submitted change may not be precleared

if its implementation would lead to a clear violation of Section 2 of the Act. See 28 C.F.R. 51.55. Accordingly, your request for withdrawal of these objections must be denied, and to the extent that Act No. 682 (1992) also provides for three judges for the Monroe City Court to be elected at large from designated positions, an objection is required to that enactment as well.

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 the changes to which we have objected do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color. However, until the objections are withdrawn or a judgment from the District of Columbia Court is obtained, the two additional judgeships for the Monroe City Court and the adoption of designated positions continue to be legally unenforceable. Clark v. Roemer, 111 S.Ct. 2096 (1991); 28 C.F.R. 51.10 and 51.45.

Because we understand this matter is still pending before the court in Hunter v. City of Monroe, No. 90-2031 (W.D. La.), we are sending a copy of this letter to the three-judge court and counsel of record in that case.

Sincerely,



James P. Turner
Acting Assistant Attorney General
Civil Rights Division

cc: Honorable Jacques L. Wiener, Jr.
United States Circuit Judge

Honorable Tom Stagg
Chief United States District Judge

Honorable Donald E. Walter
United States District Judge

Counsel of Record