U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

June 4, 2004

The Honorable Phillip A. Lemoine
Mayor
P.O. Box 390
Ville Platte, Louisiana 70586

Glenn A. Koepp, Esq.
Chief Executive Officer
Redistricting, L.L.C.
P.O. Box 80279
Baton Rouge, Louisiana 70898

Dear Mayor Lemoine and Mr. Koepp:

This refers to the 2003 redistricting plan for the City of Ville Platte in Evangeline Parish, Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your responses to our February 9, 2004, request for additional information through May 7, 2004.

We have carefully considered the information you have provided, as well as census data, comments and information from other interested parties, and other information, including the city's previous submissions. Under Section 5 of the Voting Rights Act, the Attorney General must determine whether the submitting authority has met its burden of showing that the proposed changes do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race. Georgia v. Ashcroft, 123 S.Ct. 2498 (2003); Procedures for the Administration of Section 5 of the Voting Rights Act, 28 C.F.R. 51.52 (c). As discussed further below, I cannot conclude that the city's burden under Section 5 has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 2003 redistricting plan for the city council.

According to the 2000 Census, the city has a total population of 8,596 persons, of whom 4,864 (56.6%) are black. Of

the 5,945 persons of voting age, 2,867 (48.2%) are black. Since 1980, the city's black population percentage has increased both consistently and considerably. In 1980, black persons constituted less than a third of the city's population; now they are over 56 percent. In 1980, the black voting age population was barely over a quarter of the total; now it is almost half. According to the city's 2004 voter registration data, black persons constituted 51.3 percent of the city's eligible voters.

Our analysis reveals that the black population in District F has increased significantly since the district's creation in 1997 and that this trend is likely to continue. The district's black population level increased from 28.7 percent at the time the 1997 plan was adopted, which was based on 1990 Census data, to 55.1 percent in 2000. The most recent demographic information, particularly registered voter data, indicates that black persons currently appear to constitute a majority of the voting age population in the district. The proposed 2003 redistricting plan eliminates the black population majority by reducing it to 38.1 percent.

Our electoral analysis indicates that elections in the city, including in District F, are marked by a pattern of racially polarized voting. Under the benchmark plan, District F is a district in which minority voters have attained the ability to elect candidates of their choice because of the significant increase in black voting strength in recent years. Further, the evidence establishes that, in light of existing demographic patterns and trends, this ability would even more clearly exist in the future within the benchmark district or a district with a similar configuration. The city proposes to drop the district's black population percentage by 17 points. Under such a reduction and within the context of the racially polarized elections that occur in the city, black voters will have lost the electoral ability they currently possess.

A voting change has a discriminatory effect if it will lead to a retrogression in the position of members of a racial or language minority group (i.e., will make members of such a group worse off than they had been before the change with respect to their effective exercise of the electoral franchise). Reno v. Bossier Parish School Board, 528 U.S. 320, 340, 328 (2000); Beer v. United States, 425 U.S. 130, 140-42 (1976). The reduction in black voting strength under the proposed plan in District F makes minority voters worse off than under the benchmark plan and eliminates their ability to elect the candidate of their choice.

Moreover, "Section 5 looks not only to the present effects of changes but to their future effects as well." Reno, supra, at 340, citing City of Pleasant Grove v. United States, 479 U.S. 462, 471 (1987). Under these facts and against this standard, the city has not met its burden of establishing that the significant reduction in the minority population in District F does not result in the proposed plan effectuating a retrogression of the minority voting strength in the city.

In addition, and perhaps more clearly, our analysis indicates that the evidence precludes a determination that the proposed plan was not adopted, at least in part, to effectuate this proscribed effect.

The starting point of our analysis concerning whether the plan was motivated by an intent to retrogress is Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252 (1977). There, the Supreme Court identified the analytical structure for determining whether racially discriminatory intent exists. This approach requires an inquiry into: 1) the impact of the decision; 2) the historical background of the decision, particularly if it reveals a series of decisions undertaken with discriminatory intent; 3) the sequence of events leading up to the decision; 4) whether the challenged decision departs, either procedurally or substantively, from the normal practice; and 5) contemporaneous statements and viewpoints held by the decision-makers. Id. at 266-68.

Following the framework presented in that case, we turn first to the city's past redistricting efforts, particularly those in 1993 and 1995. In each instance the Attorney General determined that the city failed to establish that, under an analogous set of facts, those efforts were not motivated, at least in part, by a discriminatory purpose.

Second, despite the existence under the benchmark plan of four districts in which black persons were a majority, the city sought a redistricting plan, "which would consist of three majority-minority districts, and three majority districts." Letter of April 2, 2004, at 1. The city has provided no evidence to rebut the conclusion that use of such a criterion under these circumstances was designed, at least in part, to retrogress minority voting strength by eliminating the electoral ability of black voters in District F. Garza and United States v. County of

Los Angeles, 918 F.2d 763, 778 n.1 (9th Cir. 1990), (Kozinski, J., dissenting), cert. denied, 498 U.S. 1028 (1991).

Third, the precipitous drop in black voting strength in District F was not driven by any constitutional or statistical necessity. The district required, at the most, only minimal adjustments. However, the city undertook wholesale changes, swapping white neighborhoods for black neighborhoods, and moving black population from District F into District B, a district which was already 78.8 percent black.

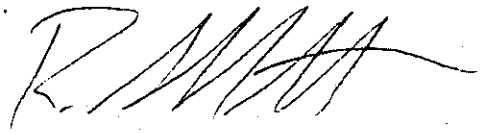
The city claims that the reduction in District F was necessary to retain the electoral ability of black voters in District B. Contrary to the city's assertion, however, a plan that retains benchmark levels of minority voting strength while following most of the city's criteria, was possible. The city reviewed, but gave no serious consideration to Plan 4, an alternative plan that maintained District F at the benchmark level and our analysis indicates that District B with 66.3 percent black population level unquestionably remains a viable district for minority-preferred candidates. Thus, the retrogression that results from the plan was avoidable. Georgia, supra, at 2511.

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. Georgia v. United States, 411 U.S. 526 (1973); 28 C.F.R. 51.52. In light of the considerations discussed above, I cannot conclude that your burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the city's 2003 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 change neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the submitted change continues to be legally unenforceable. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. 51.10.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the City of Ville Platte plans to take concerning this matter. If you have any questions, you should call Mr. Robert Lowell (202-514-3539), an attorney in the Voting Section.

Sincerely,



R. Alexander Acosta
Assistant Attorney General