U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

JUL 2 2002

The Honorable Bill Robertson
Mayor
P.O. Box 580
Minden, Louisiana 71058

Mr. H. Gray Stothart II
Coordinating & Development Corporation
P.O. Box 37005
Shreveport, Louisiana 71133-7005

Dear Mayor Robertson and Mr. Stothart:

This refers to the 2001 council redistricting plan for the City of Minden in Webster Parish, Louisiana, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your response to our April 17, 2002, request for additional information on May 2, 2002; supplemental information was received through May 28, 2002. We have considered carefully 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. Based on our analysis of the information available to us, I am compelled to object to the submitted redistricting plan on behalf of the Attorney General.

The 2000 Census indicates that the City of Minden has a population of 13,027, of whom 52.1 percent are black. The city council consists of five members elected from single-member districts to serve four-year, concurrent terms. Under 2000 Census data, three of the five districts in the current, or benchmark, plan have both total and voting-age populations that are majority black and which in fact have been electing the candidate of choice of black voters. Under the proposed plan, in two of these three districts black voters will continue to have the ability to elect candidates of their choice. Our analysis, however, shows that this is not true for the third district, District C. Under the benchmark plan, black voters in that district have the ability to elect their candidates of choice, and they will not have that same ability under the proposed plan.

Our analysis shows that elections within District C may be marked by a pattern of racially polarized voting. Moreover, we analyzed several city-wide elections to determine whether black voters have the present ability to elect candidates of choice under the benchmark plan District C and whether they would continue to have that ability under the proposed plan. We determined that, while under the benchmark plan black voters did indeed have the ability to elect a candidate of choice, under the proposed plan they probably would not. Analysis of prior elections implies that under District C, as configured under the proposed plan, the black candidate of choice would lose, or, at best, win by an extremely narrow margin. Accordingly, at a minimum, the city has not carried its burden of proof under Section 5 of showing that implementation of the proposed plan will not have a retrogressive effect on the ability of minority voters to effectively exercise their electoral franchise.

Moreover, this potential retrogression was avoidable. Our analysis of the information submitted indicates that the reduction of the black population percentage in District C was not required to comply with the city's stated redistricting criteria. First, the district had the lowest deviation of all districts and did not require any modification. Second, the city's own consultant presented an alternative plan, Plan B, which satisfied the city's initial redistricting criteria and maintained the demographics of the benchmark district.

A proposed change has a discriminatory effect when it 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. 125, 141 (1976). If the proposed plan materially reduces the ability of minority voters to elect candidates of their choice to a level less than what they enjoyed under the benchmark plan, preclearance must be denied. State of Georgia v. Ashcroft, 195 F.Supp 2d. 25 (D.D.C. 2002). In Texas v. United States, the court held that "preclearance must be denied under the 'effects' prong of Section 5 if a new system places minority voters in a weaker position than the existing system." 866 F.Supp. 20, 27 (D.D.C. 1994).

With respect to the city's ability to demonstrate that the plan was adopted without a prohibited purpose, we note that the city was not compelled to redraw the district, and even if it wished to do so, the city was presented with an alternative that met all of its legitimate criteria while maintaining the minority community's electoral ability in District C, an alternative the city rejected. Most probative on the issue of intent is the fact

that during the redistricting process the city explicitly decided to eliminate one of three existing majority minority districts in favor of a "swing district," more similar to the city's redistricting configuration after implementation of the 1994 redistricting plan. In these circumstances, we cannot conclude that the city has sustained its burden, as it must, that implementation of the plan in question was not motivated by a discriminatory intent to retrogress.

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); Reno v. Bossier Parish School Board, 528 U.S. 320 (2000); see also Procedures for the Administration of Section 5 (28 C.F.R. 51.52). In light of the considerations discussed above, I cannot conclude that the city has sustained its burden in this instance. Therefore, on behalf of the Attorney General, I must object to the submitted redistricting plan.

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 neither have the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. See 28 C.F.R. 51.44. In addition, you may request that the Attorney General reconsider the objection. See 28 C.F.R. 51.45. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the changes continue 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 Minden plans to take concerning this matter. If you have any questions, you should call Ms. Judith Reed (202-305-0164), an attorney in the Voting Section. Refer to File No. 2002-1011 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,

Ralph F. Boyd, Jr.
Assistant Attorney General