



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

July 23, 2008

The Honorable Troy King
Attorney General
State of Alabama
Alabama State House
11 South Union Street
Montgomery, Alabama 36130

Dear Attorney General King:

This refers to your May 27, 2008, request that the Attorney General withdraw his January 8, 2007, objection to a submission under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, of the method for filling vacancies on the Mobile County Commission in Mobile County, Alabama. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. § 51.45).

Your request to withdraw the objection notes the May 27, 2008, decision of the United States Supreme Court in *Riley v. Kennedy*, 128 S. Ct. 1970 (No. 07-77) (2008). The Supreme Court reversed an August 18, 2006 decision of a three-judge federal district court which had concluded that the decisions of the Alabama Supreme Court in *Stokes v. Noonan*, 534 So. 2d 237 (Ala. 1988) and *Riley v. Kennedy*, 928 So. 2d 1013 (Ala. 2005) had led to an unprecleared change affecting voting under Section 5. The Supreme Court held that, in the circumstances of this case, the two Alabama Supreme Court decisions had effectuated no change in the method of filling vacancies on the Mobile County Commission.

Because the United States Supreme Court has held that the matter which is the subject of this submission does not represent any change from the prior law or practice, then no determination by the Attorney General is required or appropriate under Section 5. See 28 C.F.R. §§ 51.2 and 51.35. Accordingly, we have reconsidered our earlier objection in this matter, and pursuant to 28 C.F.R. § 51.48, the January 8, 2007, objection to the method for filling vacancies on the Mobile County Commission is hereby withdrawn. 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 28 C.F.R. § 51.41.

-2-

Since the Section 5 status of the method for filling vacancies on the Mobile County Commission is before the court in *Kennedy v. Riley*, No. 2:05cv1100 (M.D. Ala.), we are providing a copy of this letter to the court and counsel of record in that case.

Sincerely,

A handwritten signature in black ink that reads "Grace Chung Becker". The signature is written in a cursive, flowing style.

Grace Chung Becker
Acting Assistant Attorney General

cc: Court and counsel of record