Hearing Exhibit
PR-84
3:22-cv-00211-SDD-RLB

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20035

JUL 15 1991

Honorable Jimmy N. Dimos
Speaker, House of Representatives
P. O. Box 94062
Baton Rouge, Louisiana 70804-9062

Dear Mr. Dimos:

This refers to Act No. 1 (2d E.S. 1991), which provides the 1991 redistricting plan and an implementation schedule therefor for the House of Representatives of the State of 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 May 14, 1991; supplemental information was received June 6 and 13, 1991.

We have carefully considered the information you have provided, as well as Census data and information and comments from other interested persons. At the outset, we would note that as it applies to the redistricting process, the Voting Rights Act requires the Attorney General to determine whether the submitting authority has sustained its burden of showing that each of the legislative choices made under a proposed plan is free of racially discriminatory purpose or retrogressive effect and that the submitted plan will not result in a clear violation of Section 2 of the Act. In the case of a statewide redistricting such as the instant one, this examination requires us not only to review the overall impact of the plan on minority voters, but also to understand the reasons for and the impact of each of the legislative choices that were made in arriving at this particular plan.

In making these judgments, we apply the legal rules and precedents established by the federal courts and our published administrative guidelines. See, e.g., 28 C.F.R. 51.52 (a), 51.55, 51.56. For example, we cannot preclear those portions of a plan where the legislature has deferred to the interests of incumbents while refusing to accommodate the community of interest shared by insular minorities. See, e.g., Garza v. Los Angeles County, 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). Such concerns are frequently related to the unnecessary fragmentation of minority communities or the needless packing of minority constituents into a minimal number of districts in which they can expect to elect candidates of their choice. See 28 C.F.R. 51.59. We endeavor to evaluate these issues in the context of the demographic changes which compelled the particular jurisdiction's

need to redistrict (id.). Finally, our entire review is guided by the principle that the Act insures fair election opportunities and does not require that any jurisdiction attempt to guarantee racial or ethnic proportional results.

Turning now to the instant submission, we note first that demographic changes in the state during the past decade have resulted in a small gain in total population and approximately a one percent increase in the black proportion of the total population which, under 1990 data, is 30.8 percent. Yet, it appears in some areas, the demographic shifts are such that the black proportion of the total population is greater than it was ten years ago, a factor that we have evaluated in our review of the proposed redistricting plan. In addition, we have examined the 1991 House redistricting choices in light of a pattern of racially polarized voting that appears to characterize elections at all levels in the state.

With this background in mind, our analysis shows that, in large part, the Louisiana House redistricting plan meets Section 5 preclearance requirements. In seven areas, however, the proposed configuration of district boundary lines appears to minimize black voting strength, given the particular demography of those areas: the Northwest area, involving Caddo and Bossier Parishes; the Northcentral area, including Bienville, Claiborne, Jackson, Lincoln, Union, and Winn Parishes; the Delta Parishes of East Carroll, Madison, Tensas, and Concordia; the area consisting of Pointe Coupee, the Felicianas, and St. Helena parishes; East Baton Rouge Parish; Orleans Parish; and Jefferson Parish.

As you know, we have discussed these concerns in some detail at meetings with House staff and counsel. In general, it appears that in each of these areas the state does not propose to give effect to overall black voting strength, even though it seems that boundary lines logically could be drawn to recognize black population concentrations in each area in a manner that would more effectively provide to black voters an equal opportunity to participate in the political process and to elect candidates of their choice. For example, in the Northwest area and in East Baton Rouge Parish, it appears that black population is overconcentrated in some districts at the expense of establishing at least one additional district in which black voters would have the potential for electing their preferred candidate. In Orleans Parish, at least one of the proposed black majority districts has a black population level that suggests it may not provide a realistic opportunity for black voters under current circumstances, while a portion of a continuous black neighborhood seems unnecessarily to have been separated from the black community in that district and submerged in a predominantly white district.

In the three rural areas at issue and in Jefferson Parish, it appears that concentrations of black voters have been submerged into several different white majority districts, although reasonable configurations of boundary lines would permit recognition of these concentrations in a manner that would provide to black voters the opportunity to elect their candidate of choice in at least one district in each area. In addition, such an alternative configuration for the Delta Parishes likely would produce a more compact district as well.

Under the Section 5 guidelines, one relevant factor as to a redistricting effort is "[t]he extent to which available alternative plans satisfying the jurisdiction's legitimate interests were considered." 28 C.F.R. 51.59(e). For most of the areas in question, reasonable alternatives providing for black majority districts were presented and advanced by minority legislators. Also, our own analysis suggests that a number of different configurations may be possible in which boundary lines are drawn as logically as in the proposed plan, but in which the black population concentrations are recognized in a manner which provides an additional opportunity for minority voters. Moreover, House staff also have indicated that in Jefferson Parish the alternative advanced by the Legislative Black Caucus (H.B. No. 2) is not the only scheme that permits a combination of black communities into a black majority district. While the state avers that the H.B. No. 2 alternative was rejected primarily because it crosses the Mississippi River, no non-racial explanation has been advanced for failing to consider alternatives that would result in a black majority district that does not span the river.

In addition, our analysis indicates that the state has not consistently applied its own criteria, but it does appear that the decision to apply or deviate from the criteria in each instance tended to result in the plan's not providing black voters with a district in which they can elect a candidate of their choice. For example, applying the compactness and "whole parish" criteria in the Northcentral region means that cohesive black population concentrations are divided into three white majority districts, while deviating from those same criteria in configuring the Delta Parishes also separates cohesive black population into white majority districts. With regard to the Delta districts, the state avers that it adhered to the criteria of combining similar communities of black population concentrations that are located in similar demographic and geographic areas, in this case, the "bottomland" areas of the Delta Parishes that border the State of Mississippi to the east. Yet, along the parishes that border Mississippi to the north, the state deviated from these criteria, even though there likewise are similar demographic and geographic characteristics (e.g., black concentrations, rural) among these areas of the Mississippi border parishes. The result in each case is the submergence of

black population concentrations into white majority districts. Such departures from neutral guidelines are sufficient to support a reasonable inference that "the departures are explainable," at least in part, "by a purpose to minimize the voting strength of a minority group." Connor v. Finch, 431 U.S. 407, 425 (1977).

In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that the state's burden has been sustained in this instance. Therefore, on behalf of the Attorney General, I must object to the 1991 redistricting plan for the State House of Representatives to the extent that it incorporates the proposed configurations for the seven areas discussed above.

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 1991 House redistricting plan has 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 1991 redistricting plan for the House of Representatives continues to be legally unenforceable. Clark v. Roemer, 59 U.S.L.W. 4583 (U.S. June 3, 1991); 28 C.F.R. 51.10 and 51.45.

The remaining change proposed under Act No. 1 (2d E.S. 1991) with respect to the implementation schedule is directly related to the proposed 1991 House redistricting plan. Therefore, the Attorney General is unable to make any determination at this time with regard to the proposed implementation schedule. See 28 C.F.R. 51.22(b) and 51.35.

To enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State of Louisiana plans to take concerning these matters. If you have any questions, you should call Lora L. Tredway (202-307-2290), an attorney in the Voting Section.

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division