

J. Gerald Hebert
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March 14, 2014

Mr. Michael S. Ratcliff
City Attorney
City of Jasper, Texas
161 South Main Street
Jasper, Texas 75951

Dear Mr. Ratcliff:

The Campaign Legal Center is a nonpartisan, nonprofit organization in Washington, DC. One of the focuses of our organization is the protection and enforcement of voting rights under the federal Voting Rights Act and the United States Constitution.

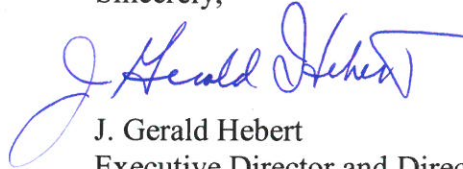
We understand that the City of Jasper is considering the annexation of three subdivisions into the City. We write to express our concern that these annexations, if approved, could be a violation of the Voting Rights Act, 42 U.S.C. §1973.

As you may know, in August 1988, the City of Jasper proposed an annexation that was found by the United States Department of Justice to be violative of Section 5 of the Voting Rights Act. The Department of Justice concluded that the proposed annexation would be retrogressive and dilutive of black voting strength. At that time, the City elected its city council at-large and the proposed annexation would have reduced the black voting age population from 42.4% to 40.1%. A copy of the Department of Justice's objection letter is attached for your information.

We are informed that the City is currently considering for annexation three predominantly white areas that will reduce the black population percentage in the City. In addition to reducing the black population percentage in the City as a whole (thus reducing the black population with respect to the at-large seat on the council), at least one of the predominantly white subdivisions being proposed for annexation would be added to District 4, a district in which black voters have demonstrated an effective ability to elect their candidate of choice. Thus, the proposed annexation of a predominantly white neighborhood into District 4 has the potential to dilute black voting strength in violation of Section 2 of the Voting Rights Act, 42 U.S.C. §1973.

We write to express our hope that the City Council will carefully consider these issues if it undertakes consideration of the proposed annexations.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Gerald Hebert". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke extending to the right.

J. Gerald Hebert
Executive Director and Director of Litigation

cc Ms. Denise Kelley, Interim City Manager
The Honorable Eric Holder, United States Attorney General



Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Frank H. Lindsey, Jr.
Mayor
P. O. Box 1170
Jasper, Texas 75951

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Dear Mayor Lindsey:

This refers to the annexation, reflected in Ordinance No. 3-88-1, to the City of Jasper in Jasper County, Texas, 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 the information to complete your submission on June 13, 1988.


We have considered carefully the information you have provided, information obtained from Census data, and information from other informed sources. At the outset, we note that the city elects its mayor and council at large by numbered posts. Analysis of election returns establishes that candidates who appear to have the support of black voters essentially have been unsuccessful in city elections and this result appears to be due, at least in part, to the existence of a pattern of racial bloc voting in the local electoral process. In this context, the proposed annexation, which will have the immediate effect of reducing the black population of the city by 2.3 percentage points (from 42.4 percent to 40.1 percent) is retrogressive and, if precleared, would dilute the position of black voters.

Under Section 5 of the Voting Rights Act, the submitting authority has the burden of showing that a submitted change has no discriminatory purpose or 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). In light of the considerations discussed above, I cannot conclude, as I must under the Voting Rights Act, that that burden has been sustained in this instance. See City of Rome v. United States, 446 U.S. 156, 184 & n.19 (1980); City of Richmond v. United States, 422 U.S. 358, 370 (1975). Therefore, on behalf of the Attorney General, I must object to the proposed annexation.

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 this change has neither 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. In addition, Section 51.45 of the guidelines permits you to request that the Attorney General reconsider the objection and, in this regard, it should be noted that normally annexations of this nature may be found to meet Section 5 standards if the city's election system is modified in a way which fairly reflects minority voting strength in the expanded city. See, s.g., City of Richmond v. United States, supra, 422 U.S. at 370. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the voting changes occasioned by the proposed annexation legally unenforceable. 28 C.F.R. 51.10.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of Jasper plans to take with respect to this matter. If you have any questions, feel free to call Ms. Lora L. Tredway (202-724-8290), Attorney Reviewer in the Section 5 Unit of the Voting Section.

Sincerely,



Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division