OP-00-007

Shelby County Attorney's Office

Memorandum

OPINION

To: John Ryder
Assistant County Attorney

From: Thomas R. Russell TRR
Assistant County Attorney

Date: January 21, 2000

Subject: Shelby County School Board Redistricting

This memorandum is being rendered in response to certain issues which have been raised relative to a proposed plan to redistrict the Shelby County Board of Education.

ISSUES

1. Is there a legal requirement that Shelby County School Board Districts be reasonably compact and contiguous?

2. Is there a legal requirement that in the establishment of the boundaries for school board districts, no voting precinct shall be split?

OPINIONS WITH ANALYSIS

1. In researching this issue:

- T.C.A. § 5-1-111(e) which requires county legislative body districts to be reasonably compact and contiguous does not apply to the establishment of school board district.

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- T.C.A. § 49-2-201 which sets forth the general rules for the election of county school board members does not require that the boundaries of the school board districts be reasonably compact and contiguous but simply states, in relevant part, "members of county boards of education shall be residents of and elected from districts of substantially equal population established by resolution of local legislative body."

- There is no other statutory provision which mandates that county school board district be reasonably compact and contiguous.

- The United States and the State Constitutional requirement mandating "one person, one vote" does not require that voting districts shall always be reasonably compact and contiguous. "Federal law, therefore, neither requires nor expresses a preference for contiguity." Mader v. Crowell 498 F. Supp. 226, 228 (M. D. Tenn. 1980).

- The Federal Voting Rights Act, as amended, does not require that state or local voting districts be reasonably compact and contiguous. Of course, if the lines of the voting district were drawn in such a manner as to "pack" or "fracture" a minority voting population, an unusually shaped and/or noncontiguous district would be found in violation of the said act.

- An argument may be made that the presence of an insubstantial portion of the City of Memphis between two county precincts which are otherwise adjacent does not undermine the concept of contiguity. In Mader v. Crowell, supra, the court held that a legislative district, portions of which were separated by the Tennessee river, was contiguous.

> "We believe that a district lacks contiguity only when a part is isolated from the rest by the territory of another district."

Mader v. Crowell, at 229.

In the proposed plan, a portion of the City of Memphis (The Wolfchase Annexation) is interposed between portions of School Board District 6. Since the City of Memphis is not "another district," its presence does not negate contiguity.

In conclusion, there is no legal provision, statutory or otherwise, which would require that a county school board district be reasonably compact and contiguous.

2. In researching the issue of whether it is legal when establishing school board districts to split voting precincts, I found:

- The provisions of T.C.A. § 5-1-111(f) which require that in the establishment of boundaries of county legislative body districts that no precincts are to be split, it is not applicable that the establishment of districts for county school boards.

- There is no provision in T.C.A. § 49-2-201 finding for the election of county school board members nor in any other Section Title 49 which would prohibit splitting voting precincts between districts.

- There is no specific provision in state election law which specifically prohibits the division of a voting precinct between or among civil districts. However, T.C.A. § 2-3-102(a)(1) provides, paraphrasing the relevant part thereof, that any precinct boundary which is altered in accordance with the provision of subsection (a)(1) shall coincide with a census block, tract, municipal or county boundary as designated on the United States Bureau of the Census Maps prepared for the 1990 Federal Decennial Census.

- Neither the federal or state constitutional mandate of "one man, one vote" facially prohibits the division of state or local voting precincts among two or more districts.

- The Federal Voting Rights Act, as amended, does not prohibit splitting a voting a precinct between or among election districts.

In conclusion, so long as the provisions of T.C.A. § 2-3-102 are complied with, the law, statutory or otherwise, does not prohibit the splitting of voting precincts between or among election districts.

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