Treatise
Senate Counsel & Research

Senate
State of Minnesota

1990s Supreme Court Redistricting Decisions

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I. Introduction

Redistricting has always been a political game, played at the highest levels by state legislatures. The rules of the game have been laid down by the United States Supreme Court.

In the 1960s, the Court said that everyone must play, and must redraw their legislative and congressional districts every ten years to take account of changes in the population recorded by the federal census. *Baker v. Carr* , 369 U.S. 186 (1962); *Wesberry v. Sanders* , 376 U.S. 1 (1964); *Reynolds v. Sims* , 377 U.S. 533 (1964).

In the 1970s, the Court developed a standard of population equality that required legislative districts to differ by no more than ten percent from the smallest to the largest, unless justified by some "rational state policy." *Gaffney v. Cummings* , 412 U.S. 735 (1973); *White v. Regester* , 412 U.S. 755 (1973).

In the 1980s, the Court developed a standard of equality for congressional districts that required them to be mathematically equal, unless justified by some "legitimate state objective." *Karcher v. Daggett* , 462 U.S. 725 (1983).

While that pretty well completed the Court's work on rules for population equality, its rules for treatment of racial and ethnic minorities were far from settled. In the 1970s, the Court had said that a redistricting plan need not be precleared by the Justice Department if it would be likely to cause fewer minority representatives to be elected than before. *Beer v. United States* , 425 U.S. 130 (1976). It began the 1980s with a decision that said that a plan would not be found to discriminate against a racial minority unless the plaintiffs could prove that its drafters *intended* to discriminate against them. *City of Mobile v. Bolden* , 446 U.S. 55 (1980). Congress was swift to react to this new limitation on how to prove racial discrimination. In 1982, after most of the plans based on the 1980 census had

already been enacted, Congress amended § 2 of the Voting Rights Act to make clear that it applied to any plan that *results* in discrimination against a member of a racial or ethnic minority group. Pub. L. No. 97-205, 3, June 29, 1982, 96 Stat. 134, coded as 42 U.S.C. 1973.

How were the courts to determine whether a redistricting plan would have discriminatory results? In the 1986 case of *Thornburg v. Gingles* , 478 U.S. 30, the Court set forth three preconditions a minority group must prove in order to establish a violation of § 2 of the Voting Rights Act:

1) that the minority group is sufficiently large and geographically compact to constitute a majority in a single-member district;

2) that it is politically cohesive, that is, it usually votes for the same candidates; and

3) that, in the absence of special circumstances, bloc voting by the white majority usually defeats the minority's preferred candidate.

478 U.S. at 50 -51.

If the minority group could establish those three preconditions, it would be entitled to proceed to the next step: proving a § 2 violation by "the totality of the circumstances." Those circumstances would have to show that the members of the minority group had "less opportunity than other members of the electorate to participate in the electoral process and to elect representatives of their choice." 42 U.S.C. 1973 (b) .

What does that mean, "less opportunity"? In North Carolina, where *Gingles* arose, it meant replacing multimember districts where blacks were in the minority with single-member districts where blacks were in the majority. To the rest of the country, and to those of us who were going to be drawing new districts after the 1990 census, it meant that wherever there was a racial or ethnic minority that was "sufficiently large and geographically compact to constitute a majority in a single-member district," 478 U.S. at 50 -51, we would have to draw a district for them or risk having our plan thrown out, even if we acted without any intent to discriminate.

Being forewarned of the impact of § 2, drafters of redistricting plans after the 1990 census went to great lengths to draw majority-minority districts wherever the minority population counts seemed to justify it. There was intense pressure to go even further, and that pressure caused race to be the dominant issue for redistricting in the 1990s, especially for the U.S. Supreme Court.

Before I delve into the dominant issue, however, I'd like to describe the other issues the Supreme Court has resolved in the 1990s.

II. Counting the Population

A. Counting the Population Overseas

The Constitution requires that the apportionment of seats in the House of Representatives be determined by an "actual enumeration" of persons "in each State," conducted every ten years. Art. I, 2, cl. 3 ; amdt. 14, 2 . In the 1990 census, the Census Bureau allocated the overseas employees of the Department of Defense to particular states, based on their "usual residence." Including these overseas military personnel in the counts of each state caused one congressional district to be shifted from Massachusetts to Washington. Massachusetts sued the Secretary of Commerce, alleging that the

procedure was contrary to the language of the Constitution and arbitrary and capricious, in violation of the Administrative Procedures Act. The Massachusetts federal district court agreed, but the Supreme Court reversed.

In *Franklin v. Massachusetts* , 505 U.S. 788 (1992), the Supreme Court found that the Secretary's decision was not subject to the Administrative Procedures Act, because it was not a "final agency action." Rather, it formed the basis for the Secretary's report to the President of the population of each state, which the President was free to adopt or revise as he saw fit.

The decision to allocate overseas federal employees to their home state based on their usual residence was consistent with the practice of the Census Bureau since the first census of trying to assign each person to the person's home state, even though they might be temporarily absent from it on the day of the census. Assuming that the overseas employees have retained ties to their home states, the Court found that the Secretary's method of allocation actually promotes equality of representation.

B. Adjusting the Population Count

The Census Bureau has long acknowledged that its decennial count of the population misses some people. After each recent census the Bureau has done a post-enumeration survey of limited areas designed to determine the degree to which the census may have undercounted the total population. If the undercount were uniform across states and among racial and ethnic groups, it would not present a problem for reapportionment and redistricting, since those tasks are based not on absolute population but on relative population. But the post-enumeration surveys have showed that some populations are more likely to be undercounted than others. In particular, they have showed that racial and ethnic minority populations are more likely to be undercounted than the white population.

In anticipation of another "differential undercount" in the 1990 census, the City of New York and several other plaintiffs sued the Department of Commerce, demanding that the Department make a statistical adjustment to the 1990 census count to increase the total population to the number suggested by a post-enumeration survey, and also to increase the population within each state, city, precinct, and block. The Department of Commerce agreed to conduct the post-enumeration survey and prepared adjusted counts for the entire United States, but declined to adopt the statistically adjusted counts as the official census. The adjusted counts would have caused Wisconsin to lose one congressional seat, which would have been shifted to Arizona. The City of New York challenged the Department's decision not to adjust, and the State of Wisconsin intervened to support the Department.

In *Wisconsin v. City of New York* , 517 U.S. 1 (U.S. 1996), the Supreme Court upheld the decision of the Department of Commerce not to make the statistical adjustment. The Court found that, while the Constitution requires that there be a census, the particular mode of conducting the census is delegated to the Congress, which in turn has delegated it to the Secretary of Commerce. The decisions of the Secretary of Commerce on how to conduct the census "need only bear a reasonable relationship" to accomplishing the "actual enumeration" required by article I, section 2, clause 3 . The decision of the Secretary not to adjust was based on the Secretary's determinations that "distributive accuracy" of the census had historically been more important than "numerical accuracy," that is, that the relative populations of various areas have been more important than their absolute populations; that the unadjusted census data would be most "distributively" accurate; and that an adjustment based on the post-enumeration survey would not improve the "distributive" accuracy of the census. The Court found these bases were reasonable and well within the Secretary's discretion.

III. Congressional Reapportionment

Since the 1930 census, Congress has apportioned seats in the House of Representatives using the mathematical formula called the "method of equal proportions." The formula had been recommended by a committee of respected mathematicians appointed by the National Academy of Sciences to evaluate the various possible methods of apportionment. The committee chose the method of equal proportions as being the best for reducing both the relative difference between states in the population of districts and the relative difference between states in the number of persons per representative. Those ratios differ between states because every state is entitled to at least one representative, and the number of representatives assigned to a state must be a whole number. Thus, the congressional districts in each state must be the same size, but their size differs from one state to another.

Applying the method of equal proportions to the 1990 census count had caused Montana to drop from two congressional seats to one. Montana sued the Department of Commerce, home of the Census Bureau, alleging that the method of equal proportions did not achieve the greatest possible equality in the number of persons per representative.

In *United States Department of Commerce v. Montana* , 503 U.S. 442 (1992), the Supreme Court agreed, but pointed out that the method did achieve the smallest relative difference between the populations of the districts in different states. As between alternative methods, each of which measured equality differently, the Court held that Congress had not abused its discretion in selecting the method of equal proportions.

IV. Equal Population

The Supreme Court's rules for population equality had become settled during the 1980s. The Court has had only two occasions to deal with population equality since then.

In *Quilter v. Voinovich*, 794 F. Supp. 695 (N.D. Ohio 1992), the federal district court had ruled that Ohio's legislative plan violated the Equal Protection Clause because it had total population deviations in excess of ten percent, and that the excess could not be justified by a policy of preserving political subdivisions. The Supreme Court reversed, *Voinovich v. Quilter* , 507 U.S. 146 (1993), citing its decisions from 1973, *Mahan v. Howell* , 410 U.S. 315, and 1983, *Brown v. Thompson* , 462 U.S. 835, where the Court had found that preserving the boundaries of political subdivisions was a "rational state policy" that could justify population deviations of up to 16.4 percent in one case and 89 percent in the other. On remand, the district court found that the population deviations of 13.81 percent in the house plan and 10.54 percent in the senate plan were justified by the state policy of preserving whole counties. *Quilter v. Voinovich*, 857 F. Supp. 579 (N.D. Ohio 1994).

In *Abrams v. Johnson* , 65 U.S.L.W. 4478 (June 19, 1997) (No. 95-1425), the federal district court had drawn a remedial plan with an overall range of 0.35 percent. Appellants challenged the plan for failing to meet the strict standards for population equality that apply to court-drawn congressional plans. The Supreme Court rejected the challenge for several reasons. First, because its overall range was lower than the 1982 plan, the 1992 plan, or any other plan presented to the court that was not based on race. Second, because of Georgia's historical preference for not splitting counties outside the Atlanta area. Third, because shifts in population since 1990 had made it unlikely that further tinkering with the district populations would reflect Georgia's true population distribution in any event.

V. Federalism

A. The Race Between State and Federal Courts

Race was the dominant issue for the Supreme Court when it dealt with redistricting in the 1990s. But there was a second kind of race that was also important: the race between the state and federal courts.

After the 1990 census, 20 states had suits in state courts concerning redistricting plans; 28 states had suits in federal court. Eleven states had suits in both state and federal courts *on the same plan*. New York had cases in four different federal courts and three different state courts. How was all this parallel litigation supposed to be coordinated?

In a 1965 case, *Scott v. Germano* , 381 U.S. 407 (*per curiam*), the Supreme Court had recognized that state courts have a significant role in redistricting and ordered the federal district court to defer action until the state authorities, including the state courts, had had an opportunity to redistrict.

In the 1990s, some federal district courts properly deferred action pending the outcome of state proceedings, *see, e.g., Members of the Cal. Democratic Congressional Delegation v. Eu*, 790 F. Supp. 925 (N.D. Cal. 1992), *rev'd, Benavidez v. Eu*, 34 F.3d 825 (9th Cir. 1994) (deferral until conclusion of state proceedings was proper; dismissal "went too far"), but others did not.

In Minnesota, after a state court had issued a preliminary order correcting the technical errors in the legislative plan enacted by the Legislature, the federal district court enjoined the state court from issuing its final plan. *Emison v. Growe*, Order, No. 4-91-202 (D. Minn. Dec. 5, 1991). The U.S. Supreme Court summarily vacated the injunction a month later. *Cotlow v. Emison*, 502 U.S. 1022 (1992) (mem.). After the state court issued its final order on the legislative plan and had held its final hearing before adopting a congressional plan, the federal court threw out the state court's legislative plan, issued one of its own, and enjoined the Secretary of State from implementing any congressional plan other than the one issued by the federal court. *Emison v. Growe*, 782 F. Supp. 427 (D. Minn. 1992). The federal court's order regarding the legislative plan was stayed pending appeal, *Growe v. Emison*, No. 91-1420 (Mar. 11, 1992) (Blackmun, J., in chambers), but the congressional plan was allowed to go into effect for the 1992 election. After the election, the Supreme Court reversed.

In *Growe v. Emison* , 507 U.S. 25 (1993), the Court held that the district court had erred in not deferring to the state court. The Court repeated its words from several previous cases that "reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court." 507 U.S. at 34 . As the court said:

> Minnesota can have only one set of legislative districts, and the primacy of the State in designing those districts compels a federal court to defer.

507 U.S. at 35 .

Rather than coming to the rescue of the Minnesota electoral process, the federal court had raced to beat the state court to the finish line, even tripping it along the way. 507 U.S. at 37 . The Supreme Court found that the state court had been both willing and able to adopt a congressional plan in time for the elections. 507 U.S. at 34 . By reversing the federal court's decision in its entirety, the Supreme Court allowed the state court's congressional plan to become effective for the 1994 election.

B. Representing the State Legislature in Federal Court

Although the Court was unanimous in holding that a federal court must defer to a state court that is in the process of redistricting, *Growe v. Emison* , *supra*, it split 5-4 on the question of what procedure a federal court should follow when deferring to a state legislature whose redistricting plan has come under attack. *Lawyer v. Dept. of Justice* , 65 U.S.L.W. 4629 (June 25, 1997) (No. 95-2024).

Florida Senate District 21 (Tampa Bay) had been challenged in federal court on the ground that it violated the Equal Protection Clause of the United States Constitution. The district had been drawn by the Florida Legislature; the Justice Department had refused to preclear it because it failed to create a majority-minority district in the area; the Governor and legislative leaders had refused to call a special session to revise the plan; the state Supreme Court, performing a review mandated by the Florida Constitution before the plan could be put into effect, had revised the plan to accommodate the Justice Department's objection; and the plan had been used for the 1992 and 1994 elections. Suit was filed in April 1994, and a settlement agreement was presented for court approval in November 1995. The Florida Attorney General appeared representing the State of Florida and lawyers for the President of the Senate and the Speaker of the House appeared representing their respective bodies. All parties but two supported the settlement agreement, and in March 1996 the district court approved it. Appellants argued that the district court had erred in not affording the Legislature a reasonable opportunity to adopt a substitute plan of its own. The Supreme Court did not agree.

Justice Stevens, writing for the majority, found that action by the legislature was not necessary. He found that the State was properly represented in the litigation by the attorney general and that the attorney general had broad discretion to settle it without either a trial or the passage of legislation. Slip op. at 8-11 .

Justice Scalia, writing for the four dissenters, argued that:

> The "opportunity to apportion" that our case law requires the state legislature to be afforded is an opportunity to apportion through normal legislative processes, not through courthouse negotiations attended by one member of each House, followed by a court decree.

Slip op. at 7 .

Now that this argument has been rejected, legislatures will want to take care to remain on good terms with their attorney general.

VI. Race

A. Maximizing Minority Representation

1. Florida

The political game of redistricting is played by the politicians who draw the plans. Those of you who have drawn plans know that you often start by packing your opposition into as few districts as possible and then fragmenting the rest of the opposition into as many districts as possible, in order to minimize the total number of seats they will win. In the 1990s round of redistricting, the natural desire of some minority groups to be grouped together in districts they could win coincided with the desire of some plan drafters to pack them. Since African-Americans and Hispanics have tended to vote

Democratic, Republican plan drafters were more than willing to accommodate their desire to have districts drawn for them.

To make sure that intransigent public officials did not create new barriers to effective participation in the political process as fast as the courts could strike them down, § 5 of the Voting Rights Act of 1964, 42 U.S.C. 1973c , gave the Department of Justice extraordinary power over certain "covered" jurisdictions, primarily in the South and large urban areas. The Department was given the responsibility to "preclear" any change in election laws in those covered jurisdictions before they could take effect. (If a covered jurisdiction did not choose to ask the Department of Justice for preclearance, it could seek preclearance from the federal district court for the District of Columbia.) The Department of Justice had become a vigorous advocate for the rights of minorities in the electoral process and reviewed every redistricting plan to make sure it did not discriminate against them.

In the 1990s, when new redistricting plans were drawn in preparation for the 1991 and 1992 elections, the Justice Department was controlled by Republicans. As states like North Carolina, Georgia, Louisiana, and Texas presented their plans to the Justice Department for approval, the Justice Department insisted that they create additional majority-minority districts wherever the minority populations could be found to create them. This insistence was not limited by any concern that the districts be "geographically compact." The States' plans were first denied preclearance and then, after majority-minority districts were added, the plans were precleared. It seemed as though the Justice Department was requiring the States to *maximize* the number of majority-minority districts.

Section 2 of the Voting Rights Act included a proviso, added through the efforts of Senator Dole in 1982, that "nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population." 42 U.S.C. 1973 (b) . In other words, § 2 did not mandate proportional representation. So, how could it be construed by the Justice Department to require that a minority group be given the *maximum* number of elected representatives?

In *Johnson v. DeGrandy* , 114 S. Ct. 2647 (1994), the Supreme Court found that it could not be so construed. The Florida Legislature had drawn a house plan that created nine districts in Dade County (Miami) where Hispanics had an effective voting majority. Miguel DeGrandy and the Justice Department attacked the plan in federal court, alleging that the Hispanic population in Dade County was sufficient to create 11 house districts where Hispanics would have an effective voting majority. The district court agreed, imposing its own plan (based on one submitted by DeGrandy) that created 11 Hispanic districts. The Supreme Court reversed, saying that maximizing the number of majority-minority districts was not required. As Justice Souter said in his opinion for the Court, "Failure to maximize cannot be the measure of § 2." 114 S. Ct. at 2660 . Indeed, even a failure to achieve proportionality does not, by itself, constitute a violation of § 2. 114 S. Ct. at 2656-57 .

The nine districts provided for in the Legislature's plan were roughly proportional to the number of Hispanics in Dade County's voting-age population. But the Court refused to draw a bright line giving plan drafters a safe harbor if they created minority districts in proportion to the minority population. That, the Court said, would ignore the clear command of the statute that the question of whether minority voters have been given an equal opportunity to elect representatives of their choice must be decided based on "the totality of the circumstances," rather than on any single test. It would encourage drafters to draw majority-minority districts to achieve proportionality even when they were not otherwise necessary, and would foreclose consideration of possible fragmentation of minority populations among other districts where they were not given a majority. 114 S. Ct. at 2660-61 . However, after reviewing the totality of circumstances in the Dade County area and not finding evidence that the plan discriminated against Hispanics in other ways, the Supreme Court concluded

that affording Hispanics a proportional number of districts was sufficient in this case to provide them with an equal opportunity to elect representatives of their choice. 114 S. Ct. at 2658-59 .

The Court rejected the argument of the Justice Department that proportionality of a statewide plan should be considered only on a statewide basis. Rather, the Court said, the choice of whether to evaluate the plan on a statewide basis or with reference to a particular region was left to the parties. In this case, the plaintiffs had chosen to attack the plan in the Dade County area, and all the evidence of both sides was directed to its proportionality in that area. The Court refused to change the focus of the case after the evidence was in. 114 S. Ct. at 2662 .

2. Colorado

Although several plans have now been struck down for going too far in attempting to provide representation for racial and ethnic minorities, at least one plan has been struck down for not going far enough. The Court of Appeals for the Tenth Circuit has found that state house District 60 in south central Colorado violates § 2 of the Voting Rights Act because it does not include a voting-age majority of Hispanic voters. *Sanchez v. Colorado* , 97 F.3d 1303 (10th Cir., Sep. 30, 1996), *cert. denied sub nom. Colorado v. Sanchez* , 1997 WL 120597, 65 U.S.L.W. 3763, 3766 (May 19, 1997) (No. 96-1452). The Colorado General Assembly will attempt to redraw the district for the 1998 election.

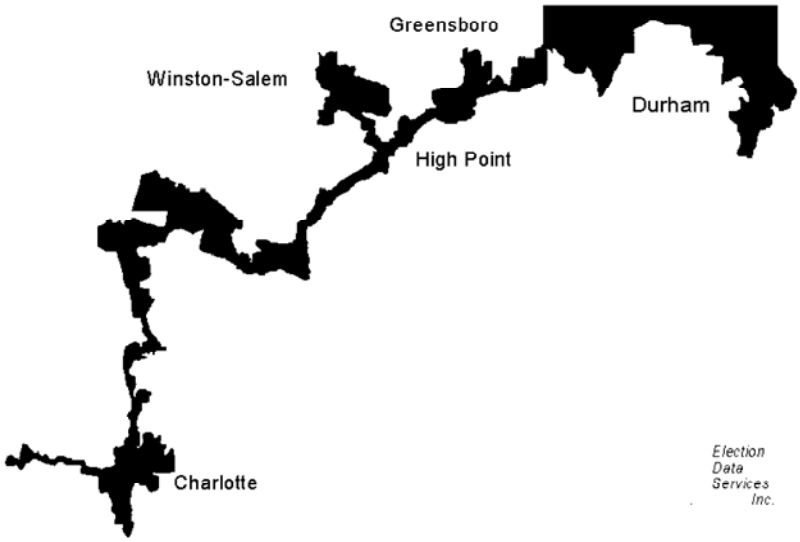
B. Racial Gerrymanders

1. Bizarre Shapes--North Carolina

The Justice Department may have been wrong in trying to force states to maximize the number of majority-minority districts, but that does not mean that the pressure the Department exerted had no effect. Far from it. North Carolina, Georgia, Louisiana, and Texas all created "maximized" plans that were used for the elections in 1992 and 1994. These plans have now all been struck down by the courts.

The North Carolina plan has already been reviewed by the Supreme Court for the third time, *Shaw v. Hunt* , 116 S. Ct. 1894 (1996). Let me begin by telling you about its first two trips there.

Congressional District 12



The 12th Congressional District in North Carolina is one of the most egregious racial gerrymanders ever drawn. You've all heard about it. The "I-85" district, stretching 160 miles across the state, for much of its length no wider than the freeway, but reaching out to pick up pockets of African-Americans all along the way. It was first attacked in federal district court as a partisan political gerrymander. That attack failed. *Pope v. Blue*, 809 F. Supp. 392 (W.D. N.C. 1992). The district court's dismissal of the action was summarily affirmed by the Supreme Court. 113 S. Ct. 30 (1992).

The second time, the plan was attacked as a racial gerrymander. That attack also failed in the district court, *Shaw v. Barr*, 809 F. Supp. 392 (W.D. N.C. 1992), but the legal theory on which the attack was based was endorsed by the Supreme Court. *Shaw v. Reno* , 509 U.S. 630 (1993). The Supreme Court did not actually rule that the plan was invalid. It only ruled that a racial gerrymander may, in some circumstances, violate the Equal Protection Clause. The case was remanded to the district court to determine whether the districts had been drawn on the basis of race and, if so, whether the racial gerrymander that resulted was "narrowly tailored to further a compelling governmental interest." 509 U.S. ____ (slip op. at 26) .

The five-to-four majority opined that "reapportionment is one area in which appearances do matter." 509 U.S. 630, ____ (slip op. at 15). As Justice O'Connor said in her opinion for the Court:

> A reapportionment plan that includes in one district individuals who belong to the same race, but who are otherwise widely separated by geographical and political boundaries, and who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid. It reinforces the perception that members of the same racial group--regardless of their age, education, economic status, or the community in which they live--think alike, share the same political interests, and will prefer the same candidates at the polls . . . . By perpetuating such notions, a racial gerrymander may exacerbate the very patterns of racial bloc voting that majority-minority districting is sometimes said to counteract.

509 U.S. 630, ____ (slip op. at 15 -16).

The Court said that a redistricting plan that is so bizarre on its face that it is unexplainable on grounds other than race demands the same strict scrutiny given to other state laws that classify citizens by race. 509 U.S. 630, ____ (slip op. at 12).

The Court did not say that race-based redistricting is always unconstitutional. The Court recognized that:

> [R]edistricting differs from other kinds of state decisionmaking in that the legislature is always *aware* of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors. That sort of race consciousness does not lead inevitably to impermissible race discrimination. . . . [W]hen members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes. The district lines may be drawn, for example, to provide for compact districts of contiguous territory, or to maintain the integrity of political subdivisions.
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> But, when a State concentrates a dispersed minority population in a single district by disregarding "traditional districting principles such as compactness, contiguity, and respect for political subdivisions" the State is drawing a racial gerrymander that is subject to strict scrutiny.

509 U.S. 630, ____ (slip op. at 14-15).

To survive strict scrutiny, a racial classification must be narrowly tailored to serve a compelling governmental interest. The Court acknowledged that eradicating the effects of past racial discrimination was a compelling governmental interest. But the Court warned that the State must have "a strong basis in evidence for concluding that remedial action is necessary," 509 U.S. 630, ____ (slip op. at 24), and that "race-based districting, as a response to racially polarized voting, is constitutionally permissible only when the State employs sound districting principles, and only when the affected racial group's residential patterns afford the opportunity of creating districts in which they will be in the majority." 509 U.S. 630, ____ (slip op. at 25) (internal citations and quotations omitted). The Court anticipated that the State might assert on remand that complying with § 5 of the Voting Rights Act was a compelling governmental interest that justified the creation of District 12. But the Court warned that "A reapportionment plan would not be narrowly tailored to the goal of avoiding retrogression if the State went beyond what was reasonably necessary to avoid retrogression." 509 U.S. 630, ____ (slip op. at 23). The Court also noted that the State had asserted that the race-based district was necessary to comply with § 2 of the Voting Rights Act, but left the arguments on that question open for consideration on remand. 509 U.S. 630, ____ (slip op. at 23 -24).

In dissent, Justice White criticized the majority for focusing on the district's shape, rather than on the political impact it would have. He chastised them for failing to adhere to the requirements he had enunciated in *Davis v. Bandemer* , 478 U.S. 109 (1986), for striking down a partisan political gerrymander under the Equal Protection Clause: that the plan have both a discriminatory purpose and a discriminatory effect on an identifiable group of voters. Since the plaintiffs had not alleged that the plan discriminated against either blacks or whites, Justice White would have affirmed the decision of the district court dismissing the claim. 509 U.S. 630 , ____ (slip op. at 6).

Justice Stevens pointed out that the Court already knew that the North Carolina Legislature had drawn the I-85 district to include a majority of African-American residents. The Court didn't need to

examine the shape of the district to find that out. But, since the purpose of drawing the district was to enhance the minority's electoral strength, rather than to diminish it, he saw no equal protection violation. Indeed, he found it "perverse" that the Court was using the Equal Protection Clause to deny African-Americans, the people for whom the Equal Protection Clause was written, an improvement in their electoral representation. 509 U.S. 630 , ____ (slip op. at 4).

On remand, the federal district court in North Carolina found that the Legislature had intentionally drawn the plan to create two districts where blacks were an effective voting majority. *Shaw v. Hunt*, 861 F. Supp. 408, 473-74. The Court then applied strict scrutiny to the plan and found that it was narrowly tailored to achieve a compelling state interest. Eradicating the effects of past racial discrimination was not a compelling state interest in this case, because that was not actually the reason the State created District 12. But complying with § 5 and § 2 of the Voting Rights Act were compelling state interests, and the district court found the plan was necessary to comply with both of those sections.

On the plan's third trip to the Supreme Court, the Supreme Court reversed the district court for a second time. *Shaw v. Hunt* , 116 S. Ct. 1894 (1996). In an opinion by Chief Justice Rehnquist, the Supreme Court again assumed without deciding that complying with § 5 and § 2 was a compelling state interest, but found that the plan was not narrowly tailored to achieve that interest.

North Carolina had not previously had any black-majority districts. The first plan drawn by the State had included one black-majority district. A second black-majority district was not necessary in order to avoid retrogression under § 5. 116 S. Ct. at 1904.

To make out a violation of § 2, a plaintiff must show that a minority population is "sufficiently large and geographically compact to constitute a majority in a single member district." The Court noted that District 12 had been called "the least geographically compact district in the Nation." 116 S. Ct. at 1901. There may have been a place in North Carolina where a geographically compact minority population existed, but the shape of District 12 showed that District 12 was not that place. Since District 12 did not encompass any "geographically compact" minority population, there was no legal wrong for which it could be said to provide the remedy. 116 S. Ct. 1906 .

The Supreme Court's decision striking down the North Carolina plan was announced June 13, 1996. But the federal district court took no action to draw new districts for the 1996 election. Rather, the court referred the plan to the North Carolina Legislature, with instructions that it draw a new plan for use in the 1998 election.

2. Race the Dominant Motive

a. Georgia

Having started at the top, with one of the most bizarrely shaped districts in the nation, the Supreme Court soon had occasion to work its way down the list, and found a need to develop a slightly different test for determining which districts must fall.

In Georgia, the Court was faced with a congressional district that, while perhaps uncouth, was "not among those on a statistically calculated list of the 28 most bizarre districts in the United States." *Miller v. Johnson , 115 S. Ct. 2475, 2504 (1995) (Ginsburg, J., dissenting).*

Congressional District 11

Georgia's 11th Congressional District stretched from Atlanta to the sea, but not in the 60-mile-wide swath cleared by General Sherman. Rather, it began with a small pocket of blacks in Atlanta, spread out to pick up the sparsely populated rural areas, and narrowed considerably to pick up more pockets of blacks in Augusta and Savannah, 260 miles away. 115 S. Ct. at 2484. It had not been included in either of the first two plans enacted by the Legislature and sent to the Department of Justice for preclearance. Both of those plans had included two black-majority districts. The Justice Department had rejected them for failure to create a third. This rejection had occurred notwithstanding that the 1980 plan had included only one black-majority district and that there was no evidence the Georgia Legislature had intended to discriminate against blacks in drawing the 1990 plan. The new district was drawn to meet the Department's requirement that the State maximize the number of black-majority districts, and it's inclusion in the third plan was sufficient to obtain preclearance from the Justice Department. 115 S. Ct. at 2483-84 .

In *Miller v. Johnson* , 115 S. Ct. 2475 (1995), the Supreme Court shifted its focus away from the shape of the district, saying that plaintiffs challenging a racial gerrymander need not prove that a district has a bizarre shape. The shape of the district is relevant, not because bizarreness is a necessary element of the constitutional wrong, but because it may be persuasive circumstantial evidence that race was the Legislature's dominant motive in drawing district lines. Where district lines are not so bizarre, plaintiffs may rely on other evidence to establish race-based redistricting. 115 S. Ct. at 2486 .

In Georgia's case, the Legislature's correspondence with the Justice Department throughout the preclearance process demonstrated that race was the dominant factor the Legislature considered when drawing the 11th District. The Court found that the Legislature had considered "traditional race-neutral districting principles," such as compactness, contiguity, and respect for political subdivisions and communities of interest, but that those principles had been subordinated to race in order to give the 11th District a black majority. 115 S. Ct. at 2489-90 .

Since the district had been proved to be a racial gerrymander, it was subject to strict scrutiny. It could be sustained only if narrowly tailored to achieve a compelling state interest. Assuming that complying with the Voting Rights Act might be considered a compelling state interest, the Court found that drawing a third black-majority district was not necessary to comply with § 5's nonretrogression

requirement. The plan for the previous decade had included only one black-majority district. The two previous plans enacted by the Georgia Legislature after the 1990 census had included two black-majority districts, thus improving on the status quo. Without evidence that the Georgia Legislature had enacted the plans with an intent to discriminate against blacks, and without any other evidence that the plans had a discriminatory effect, the plans were sufficient to comply with § 2. Adding a third black-majority district was not necessary and thus not narrowly tailored to achieve the state's interest in complying with the Voting Rights Act. 115 S. Ct. at 2490-94 .

The Supreme Court scolded the Justice Department for having pursued its policy of maximizing the number of majority-minority districts. As the Court said:

> Although the Government now disavows having had that policy . . . and seems to concede its impropriety . . . the District Court's well-documented factual finding was that the Department did adopt a maximization policy and followed it in objecting to Georgia's first two plans . . . . In utilizing § 5 to require States to create majority-minority districts wherever possible, the Department of Justice expanded its authority under the statute beyond what Congress intended and we have upheld.

115 S. Ct. at 2492-93 .

In dissent, Justice Stevens repeated his argument from *Shaw*: that a plan drawn to favor a racial minority is not unconstitutional when there is no evidence it was drawn with any intent or effect to discriminate against any other group of voters. 115 S. Ct. at 2497-99 .

On remand, the federal district court first allowed the Georgia Legislature an opportunity to draw a new plan. When the Legislature failed to agree on a plan, the district court found that Georgia's Second Congressional District was also an unconstitutional racial gerrymander. *Johnson v. Miller* , 922 F. Supp. 1552 (S.D. Ga., Dec. 1, 1995). The district court reasoned that, since the enacted plan was the product of improper pressure imposed by the Justice Department, it did not embody the Legislature's own policy choices and therefore should not be used as the basis for the court's remedial plan. The district court then imposed an entirely new plan with only one African-American majority district. *Johnson v. Miller*, 922 F. Supp. 1556 (S.D. Ga., Dec. 13, 1995). The court's plan was used for the 1996 election, but the district court's decision was appealed to the Supreme Court on the ground that the court failed to give due deference to the Legislature's policy choices.

The Supreme Court affirmed. *Abrams v. Johnson* , 65 U.S.L.W. 4478 (June 19, 1997) (No. 95-1425). It found that neither the Legislature's 1991 plan, rejected by the Justice Department because it contained only two black-majority districts, nor the 1992 plan, with three black-majority districts, embodied the Legislature's own policy choices because of the improper pressure imposed by the Justice Department. It found the district court was within its discretion in deciding it could not draw two black-majority districts without engaging in racial gerrymandering. Since the last valid plan, the 1982 plan, contained only one black-majority district, the district court's one-district plan did not retrogress in violation of § 5 of the Voting Rights Act.

b. Ohio

After the Supreme Court's decision in the Georgia case, a federal district court in Ohio applied the "predominant factor" test to a plan for redistricting the Ohio Legislature. *Quilter v. Voinovich*, 912 F. Supp. 1006 (N.D. Ohio 1995). The court held that a plaintiff need not prove that the state had abandoned or even violated "traditional districting principles" when drawing a plan intended to create

black "influence districts." Rather, the court ruled that race becomes the "predominant factor" when a state "substantially complies with traditional redistricting principles" but gives them less weight in the redistricting process than racial considerations. 912 F. Supp. at 1019. That ruling has been vacated by the Supreme Court and remanded for further consideration in light of the North Carolina and Texas cases, *Shaw v. Hunt* and *Bush v. Vera*. *Voinovich v. Quilter*, 116 S. Ct. 2542 (June 24, 1996).

3. More Bizarre Shapes

a. Texas

Congressional District 30 **Congressional District 18** **Congressional District 29**

Under the 1990 reapportionment of seats in Congress, Texas was entitled to three additional congressional districts. The Texas Legislature decided to draw one new Hispanic-majority district in South Texas, one new African-American majority district in Dallas County (District 30), and one new Hispanic-majority district in the Houston area (District 29). In addition, the Legislature decided to reconfigure a district in the Houston area (District 18) to increase its percentage of African-Americans. The Texas Legislature had developed a state-of-the-art computer system that allowed it to draw congressional districts using racial data at the census block level. Working closely with the Texas congressional delegation and various members of the Legislature who intended to run for Congress, the Texas Legislature took great care to draw three new districts and reconfigure a district that the chosen candidates could win.

The Justice Department precleared the plan under § 5 of the Voting Rights Act and it was used in the 1992 election.

Plaintiffs challenged 24 of the state's 30 congressional districts as racial gerrymanders. The federal district court struck down three, Districts 18, 29, and 30, *Vera v. Richards*, 861 F. Supp. 1304 (S.D. Tex. 1994), but the decision was stayed pending appeal, so the plan continued in use for the 1994 election.

In June of 1996, the Supreme Court affirmed the district court's decision throwing out those three districts. *Bush v. Vera* , 116 S. Ct. 1941 (U.S. 1996). The Court, in a plurality opinion written by Justice O'Connor, found that the plan was subject to strict scrutiny. She repeated what the Court had said in *Shaw v. Reno* , 509 U.S. 630 (1993), that strict scrutiny does not apply merely because redistricting is performed with consciousness of race. She added that strict scrutiny does not apply in all cases of intentional creation of majority-minority districts, such as the compact districts created by a state court in California. But strict scrutiny does apply where race was the predominant factor in drawing district lines and traditional, race-neutral districting principles were subordinated to race. 116 S. Ct. at 1951 .

The State argued that the bizarre shape of District 30 in Dallas County was explained by the drafters' desire to unite urban communities of interest and that the bizarre shape of all three districts was

attributable to the Legislature's efforts to protect incumbents of old districts while designing the new ones. The Supreme Court upheld the district court's finding to the contrary, holding that race was the predominant factor. 116 S. Ct. at 1959-60 .

The Court again assumed without deciding that complying with § 2 of the Voting Rights Act was a compelling state interest, 116 S. Ct. 1960 , but found that the districts were not narrowly tailored to comply with § 2 because all three districts were bizarrely shaped and far from compact as a result of racial manipulation. To the extent there was political manipulation, race was used as a proxy for political affiliation. It was race that predominated. 116 S. Ct. at 1961 .

Justice O'Connor further noted that:

> [B]izarre shape and noncompactness cause constitutional harm insofar as they convey the message that political identity is, or should be, predominantly racial. . . . [C]utting across pre-existing precinct lines and other natural or traditional divisions, is not merely evidentially significant; it is part of the constitutional problem insofar as it disrupts nonracial bases of identity and thus intensifies the emphasis on race.

116 S. Ct. at 1962 .

The court pointed out that, if the minority population is not sufficiently compact to draw a compact district, there is no violation of § 2; if the minority population is sufficiently compact to draw a compact district, nothing in § 2 requires the creation of a race-based district that is far from compact. 116 S. Ct. at 1961 .

How compact must a race-based district be? *Reasonably* compact.

A § 2 district that is *reasonably* compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries, may pass strict scrutiny without having to defeat rival compact districts designed by plaintiffs' experts in endless "beauty contests."

116 S. Ct. at 1960 .

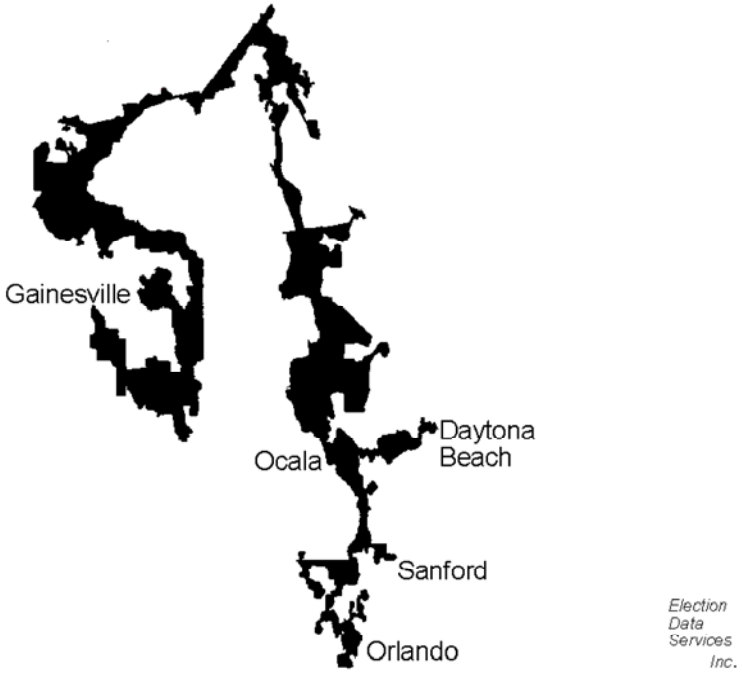
The Court found that the district lines were not justified as an attempt to remedy the effects of past discrimination, since there was no evidence of present discrimination other than racially polarized voting. Since racially polarized voting only served to make a case for a violation of § 2, and the plan was not narrowly tailored to remedy a § 2 violation, the bizarre shapes were not justified.

The Court found that creation of District 18, the reconfigured African-American district in the Houston area, was not justified as an attempt to avoid retrogression under § 5, since it actually increased the African-American voting population from 40.8 percent to 50.9 percent.

On remand, after being notified by the Governor that he did not intend to call a special session to redraw the invalid districts in time for the 1996 election, the district court redrew both the offending districts and the districts adjoining them to be more compact. It ordered the voters in the 13 affected congressional districts to participate in a special open primary election to be held the same day as the general election, with a runoff election to be held December 10, 1996, if no candidate in a district received a majority of the votes cast in the primary. The Court denominated its plan an interim one, to govern the 1996 election only, and directed the Texas Legislature to draft a plan to govern future elections by June 30, 1997. *Vera v. Bush* , 933 F. Supp. 1341 (S.D. Tex., Aug. 6, 1996).

b. Florida

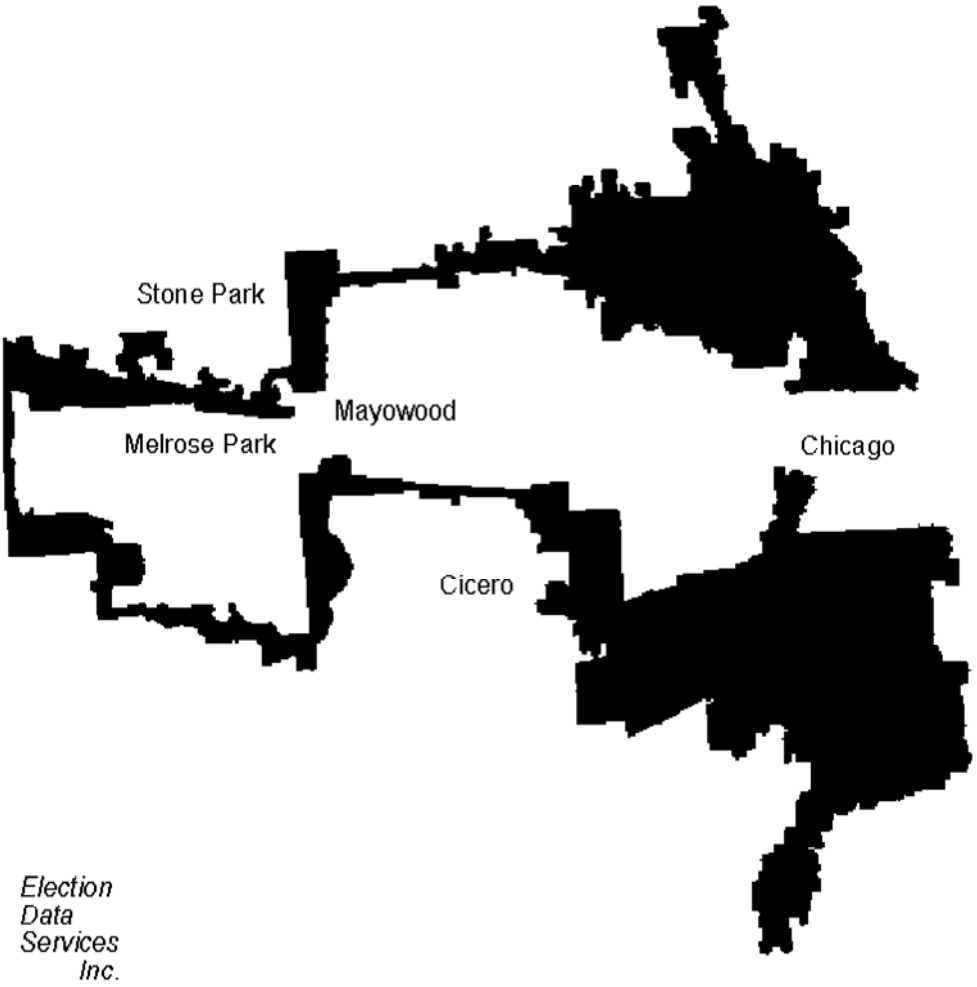
Congressional District 3



The federal district court in Florida had deferred action on a challenge to the Third Congressional District pending the Supreme Court's decision in the Georgia case. *Johnson v. Smith*, 1994 WL 907596 (N.D. Fla. Jul. 18, 1994). Following the decision, the Florida court found that the Third District was drawn for predominantly race-based reasons and therefore subject to strict scrutiny. *Johnson v. Mortham*, 915 F. Supp. 1529 (N.D. Fla. 1995). Applying strict scrutiny, the court found that the state did not have a compelling interest in drawing a race-based plan. The African-American population in the district was not sufficiently compact to make out a violation of § 2 of the Voting Rights Act, nor was there sufficient evidence of present discrimination to provide a "strong basis in evidence" that a race-based district was needed to remedy the effects of past discrimination. *Johnson v. Mortham*, 926 F. Supp. 1460 (N.D. Fla. Apr. 17, 1996). The court gave the Florida Legislature until May 22, 1996, to draw a new plan. *Id.* The Legislature drew a new plan by the deadline, and the court approved it as an interim plan for use in the 1996 election. *Johnson v. Mortham* , 1996 WL 297280 (N.D. Fla., May 31, 1996). Any use beyond 1996 will require preclearance under 5 of the Voting Rights Act .

c. Illinois

Congressional District 4

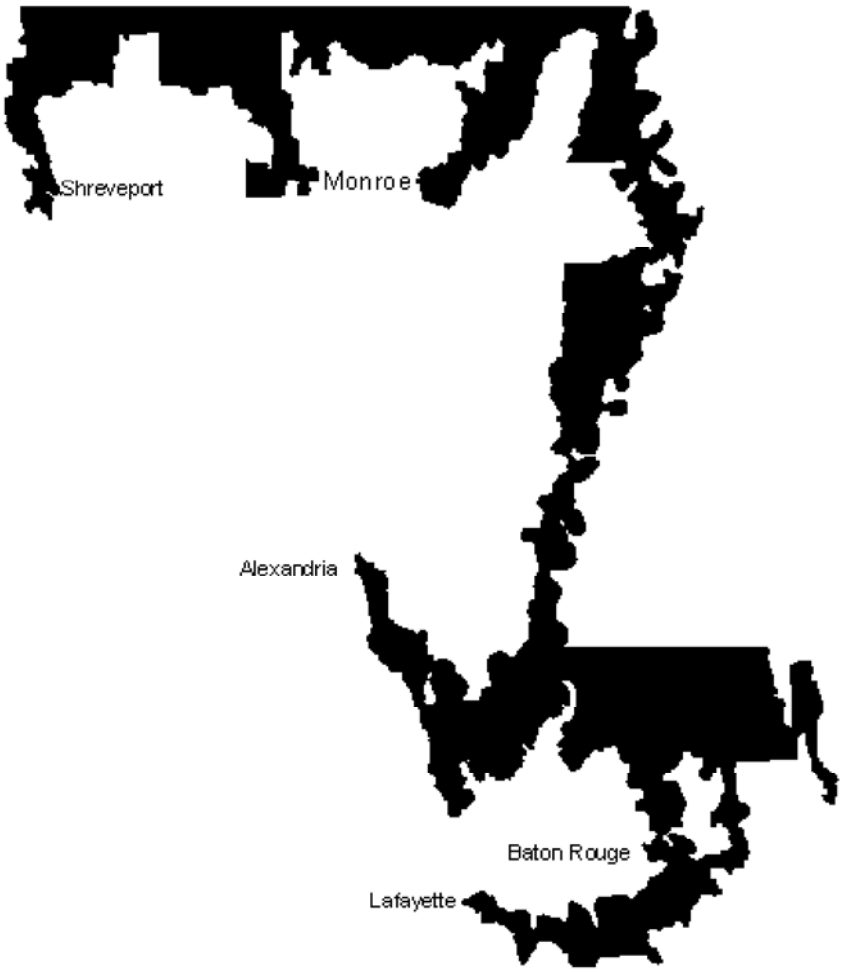


Following the Supreme Court's decision in *Shaw v. Reno*, 509 U.S. 63 0 (1993), plaintiffs in Illinois attacked the "ear muff" Fourth Congressional District in Chicago. The district had been drawn by a federal district court to create an Hispanic-voting-majority district without diminishing the African-American voting strength in three adjacent districts with African-American majorities. When forced to review the prior decision in the light of *Shaw I* and *Miller*, another panel of the district court found that the compactness requirement of *Gingles* applied only in determining whether a § 2 violation had occurred, not in drawing a district to remedy the violation. It found that the ear muff shape was necessary in order to provide Hispanics with the representation that their population warranted without causing retrogression in African-American representation. It held that the Fourth District survived strict scrutiny. *King v. State Board of Elections*, No. 95 C 827, 1996 WL 130439 (N.D. Ill. Mar 15, 1996).

Plaintiffs appealed. The Supreme Court vacated the judgment and remanded to the district court for further consideration in light of its decisions in the North Carolina and Texas congressional district cases. *King v. Illinois Board of Elections*, 1996 WL 442640 (U.S., Nov 12, 1996) (No. 96-146).

4. The Need to Live in the District

Congressional District 4



Not every challenge to a racial gerrymander has succeeded. In Louisiana, the congressional plan enacted by the Legislature under pressure from the Justice Department included two majority-minority districts. District 4 was a Z-shaped creature that zigzagged through all or part of 28 parishes and five of Louisiana's largest cities. It was attacked by plaintiffs who lived in the district. After the plan had been used for the 1992 election, it was struck down by the federal district court. *Hays v. Louisiana* , 839 F. Supp. 1188 (W.D. La. 1993). The Legislature then enacted a new plan for use in the 1994 election. District 4 was substantially altered, so that instead of a "Z," it was more of a backslash, stretching from the northwest corner of the state, through Baton Rouge, southeast to New Orleans. Plaintiffs amended their complaint to attack the new District 4. The court likewise struck down the new district and substituted a plan of its own. *Hays v. Louisiana* , 862 F. Supp. 119 (W.D. La. 1994). The Supreme Court stayed the order of the district court pending appeal. 115 S. Ct. 31 (1994).

In June of 1995, the Supreme Court vacated the decision of the district court. *U.S. v. Hays* , 115 S. Ct. 2431 (1995). It noted that the change in the shape of District 4 between the 1992 and 1994 elections had removed the plaintiffs from the district. Not living in the district, they did not have standing to complain about any representational harm the racially gerrymandered district lines might be causing.

A new complaint was filed by plaintiffs who lived in District 4. The federal district court again ruled the plan invalid and imposed the plan it had drawn in 1994. *Hays v. Louisiana*, 936 F. Supp. 369

(W.D. La., Jan. 5, 1996). The Louisiana Legislature enacted the court's plan, but the Justice Department, still insisting on maximizing the number of majority-minority districts, denied the plan preclearance. Since the Legislature's plan could not be put into effect without preclearance, the court's plan (which was identical) was used as an interim plan for the 1996 election.

C. Influence Districts

1. Ohio

In states whose plans were not subject to preclearance by the Justice Department, district shapes tended to be less bizarre, but the use of race in drawing district lines was still the primary focus of litigation in the 1990s.

In Ohio, legislative redistricting plans are drawn by a five-member Apportionment Board. In the 1990s, the board has had a Republican majority. Since black voters in Ohio have had a history of voting Democratic, the Apportionment Board had a natural interest in packing them into as few districts as possible. That interest coincided with the interest of the Ohio Branch of the NAACP, which wanted to elect as many black legislators as possible. The two worked together to create a plan that included five black-majority districts. Democratic plaintiffs attacked the plan, alleging that it diluted the voting strength of black voters. That happened because blacks had historically often supported the same candidates as whites, that is, Democrats. Blacks and white Democrats often lived in the same areas, so that creating majority-black districts also created super-majority Democratic districts, thus reducing the number of seats Democrats were likely to win statewide. This arrangement may have helped black candidates, but plaintiffs alleged that it hurt black voters by diluting their influence in other districts.

In *Voinovich v. Quilter* , 507 U.S. 146 (1993), the Supreme Court assumed that there might be some circumstances under which a plan must include influence districts, but that the plaintiffs had failed to prove those circumstances here. In particular, the plaintiffs had failed to prove that bloc voting by the white majority had usually defeated the blacks' preferred candidate. On the contrary, plaintiffs had showed that whites and blacks often voted together to elect candidates. In the absence of racially polarized voting, there could be no § 2 violation.

The Supreme Court disagreed with the lower court's holding that § 2 prohibits the creation of majority-minority districts except to remedy a statutory violation. The choice of whether to draw majority-minority districts is left in the first instance to the state officials who draw the plan. The burden is on plaintiffs to show that, in the totality of the circumstances, the plan discriminates against minority voters. 507 U.S. 146, 155-56 .

2. Minnesota

Even in Minnesota, where blacks were only two percent of the 1990 population, race was a vital issue in redistricting litigation.

Minnesota's greatest concentrations of minority voters are in Minneapolis and St. Paul. Nowhere is it possible to draw either a senate district or a house district where any racial or language minority group is a majority of the voting age population. The efforts of the Minnesota Legislature focused instead on drawing districts where minority voters would have the greatest possible influence. The plan's drafters worked with leaders from the black, Indian, Asian, and Hispanic communities to create

two senate districts in Minneapolis where the voting age population of all minorities taken together was between 30 and 40 percent. The plan enacted by the Legislature was not alleged to violate the Voting Rights Act. The federal district court, acting on its own initiative, without receiving any evidence or briefs or hearing any argument on the issue, threw the plan out for not having created a senate district where all minorities taken together constituted a majority of the population. Having invalidated the plan because it lacked this one senate district, the district court proceeded to redraw all 201 Senate and House districts in the state. Its super-majority minority district had a total black population of 43 percent and total population counting all minorities of 60 percent. (Considering only the voting-age population, it was 37 percent black and just under 50 percent counting all minorities.)

In *Growe v. Emison* , 507 U.S. 25 (1993), the Supreme Court reversed. It found that the *Gingles* preconditions, which it had previously applied only to challenges to multimember districts, also applied to single-member districts. 507 U.S. at 39 -41. Applying the *Gingles* preconditions to the Minnesota plan, the Supreme Court found that they were unattainable. Even making the "dubious assumption" that the minority voters were geographically compact, there was no evidence of political cohesion within any of the three minority groups in the district, nor was there any evidence of political cohesion between them. Likewise, there was no evidence of bloc voting by the white majority. In the absence of evidence to establish the preconditions, the § 2 challenge was thrown out. 507 U.S. 41 -42. (The Court observed in a footnote that the usual measure for determining vote dilution is the minority population of voting age, not the total minority population used by this district court. 507 U.S. at 38 n.4 .)

VII. Conclusion

This completes my review of the Supreme Court's reapportionment and redistricting decisions for the 1990s. But, be aware that the Court is not yet done with litigation arising out of the 1990s redistricting. It is likely to have more decisions on redistricting before the next round starts in 2001. Stay tuned.

Table of Authorities

Abrams v. Johnson , 65 U.S.L.W. 4478 (June 19, 1997) (No. 95-1425)

Baker v. Carr , 369 U.S. 186 (1962)

Beer v. United States , 425 U.S. 130 (1976)

Brown v. Thompson , 462 U.S. 835

City of Mobile v. Bolden , 446 U.S. 55 (1980)

Davis v. Bandemer , 478 U.S. 109 (1986)

Emison v. Growe, Order, No. 4-91-202 (D. Minn. Dec. 5, 1991), *vacated sub nom. Cotlow v. Emison*, 502 U.S. 1022 (1992) (mem.), 782 F. Supp. 427 (D. Minn. 1992), *rev'd sub nom. Growe v. Emison* , 507 U.S. 25 (1993)

Franklin v. Massachusetts , 505 U.S. 788 (1992)

Gaffney v. Cummings , 412 U.S. 735 (1973)

Hays v. Louisiana, 839 F. Supp. 1188 (W.D. La. 1993), *vacated and remanded* 114 S. Ct. 2731 (1994) (mem.), *on remand* 862 F. Supp. 119 (W.D. La. 1994), *vacated and remanded sub nom. U.S. v. Hays* , 115 S. Ct. 2431 (1995), *on remand sub nom. Hays v. Louisiana* , 936 F. Supp. 360 (W.D. La. 1996)

Johnson v. DeGrandy , 114 S. Ct. 2647 (1994)

Johnson v. Mortham, 915 F. Supp. 1529 (N.D. Fla. 1995), 926 F. Supp. 1540 (N.D. Fla. 1996), 1996 WL 297280 (N.D. Fla. May 31, 1996)

Johnson v. Smith, 1994 WL 907596 (N.D. Fla. Jul. 18, 1994)

Karcher v. Daggett , 462 U.S. 725 (1983)

King v. State Board of Elections, No. 95 C 827, 1996 WL 130439 (N.D. Ill. Mar 15, 1996), *vacated sub nom. King v. Illinois Board of Elections* , 1996 WL 442640, 65 U.S.L.W. 3086 (Nov. 12, 1996) (No. 96-146) (mem.)

Lawyer v. Dept. of Justice , 65 U.S.L.W. 4629 (June 25, 1997) (No. 95-2024)

Mahan v. Howell , 410 U.S. 315

Members of the Cal. Democratic Congressional Delegation v. Eu, 790 F. Supp. 925 (N.D. Cal. 1992)

Miller v. Johnson , 115 S. Ct. 2475, 2504 (1995), *on remand sub nom. Johnson v. Miller* , 922 F. Supp. 1552, 1556 (S.D. Ga. 1995), *aff'd sub nom. Abrams v. Johnson* , and *U.S. v. Johnson*, 65 U.S.L.W. 4478 (June 19, 1997) (Nos. 95-1425, 95-1460)

Pope v. Blue, 809 F. Supp. 392 (W.D. N.C. 1992), *aff'd* 113 S. Ct. 30 (1992) (mem.)

Quilter v. Voinovich, 794 F. Supp. 695 (N.D. Ohio 1992), *rev'd sub nom. Voinovich v. Quilter* , 507 U.S. 146 (1993), *on remand sub nom. Quilter v. Voinovich* , 857 F. Supp. 579 (N.D. Ohio 1994), *vacated sub nom. Voinovich v. Quilter* , 116 S. Ct. 2542 (1996)

Reynolds v. Sims , 377 U.S. 533 (1964)

Sanchez v. Colorado, 97 F.3d 1303 (10th Cir., Sep. 30, 1996), *cert. denied sub nom. Colorado v. Sanchez*, 1997 WL 120597, 65 U.S.L.W. 3763, 3766 (May 19, 1997) (No. 96-1452)

Scott v. Germano , 381 U.S. 407 (*per curiam*)

Shaw v. Reno , 509 U.S. 630 (1993), *on remand sub nom. Shaw v. Hunt*, 861 F. Supp. 408 (E.D. N.C. 1994), *rev'd sub nom. Shaw v. Hunt,* 116 S. Ct. 1894 (1996)

Thornburg v. Gingles , 478 U.S. 30

United States Department of Commerce v. Montana , 503 U.S. 442 (1992)

Vera v. Richards, 861 F. Supp. 1304 (S.D. Tex. 1994), *aff'd sub nom.* *Bush v. Vera* , 116 S. Ct. 1941 (1996), *on remand sub nom. Vera v. Bush*, 933 F. Supp. 1341 (S.D. Tex. 1996)

Wesberry v. Sanders , 376 U.S. 1 (1964)

White v. Regester , 412 U.S. 755 (1973)

Wisconsin v. City of New York , 64 U.S.L.W. 4153 (U.S. 1996)

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