

Race-based Congressional Districts

Shaw v. Reno, 1993

Constitutional Issue ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

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★★★★★★★★★★★★★★★★★ **Background of the Case** ★★★★★★★★★★★★★★★★★★

From the earliest days of the federal republic, parties in power in state legislatures organized congressional districts in their states so that the parties would be certain to have their representatives elected to Congress. Manipulating the boundaries of congressional districts by the political party in power, or political gerrymandering as it came to be known, was accepted as a normal part of state politics.

The physical size and shape of congressional districts became an issue after the Voting Rights Act of 1965 and its later amendments. The act had been passed to eliminate the practices that had kept African Americans and other minorities from voting. In the South particularly, registration by African Americans increased dramatically as a result of the act. Nevertheless, the impact of increased voting by African Americans tended to be diluted by including African American voters in congressional districts that were heavily white. As a result, relatively few African Americans were elected to Congress from states with large African American populations.

States covered by the Voting Rights Act—such as North Carolina—cannot change any electoral practice, i.e., they cannot redistrict, without receiving preapproval from either the attorney general or the United States District Court for the District of Columbia. When the state became entitled to a twelfth congressional district as a result of the 1990 census, it needed preapproval in order to redraw its congressional map to reflect 12 rather than 11 districts.

The North Carolina legislature adopted a redistricting plan in which 1 of the 12 congressional districts had a majority African American voting population. The state submitted this plan to the attorney general for preapproval. However, the attorney general declined to approve the plan because he believed that North Carolina should create 2 majority African American congressional districts rather than 1.

The North Carolina legislature responded by enacting a redistricting plan which contained 2 majority African American districts—Districts 1 and 12. Five white North Carolinians sued the state and federal governments over the design of the Twelfth District. The district spanned 160 miles in a snake-like pattern to include exclusively African American neighborhoods along Interstate 85. The five whites argued that the white population’s constitutional rights had been violated under the redistricting.

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★★★★★★★★★★★★★ **The Supreme Court's Decision** ★★★★★★★★★★★★★★

The Supreme Court ruled in a 5-to-4 decision that states with irregularly shaped electoral districts, drawn with the intention of creating minority districts, could be challenged on equal protection grounds. Justice Sandra Day O'Connor, writing for the Court, stated that the "bizarre" shape of the Twelfth District resembled the "most egregious racial gerrymanders of the past" which had excluded African Americans.

Justice O'Connor stated that there are legitimate reasons for states to provide minority districts. She believed, however, that "traditional districting principles" in regard to compactness, contiguity, and respect for political divisions must be utilized. The justice drew a comparison between linking a geographical area together on the basis of skin color to that of a "political apartheid." She was referring to the former policy of South Africa that was used to legally separate and discriminate the races.

★★★★★★★★★★★★★ **Dissenting Opinion** ★★★★★★★★★★★★★★

The four dissenting justices believed that white voters had not been harmed by the redrawing of the Twelfth District. The dissent also criticized the emphasis on the shape of the district. They believed discriminatory gerrymandering could take place in a regularly shaped district as easily as in an oddly shaped district.

Justice John Paul Stevens stated that "the duty to govern impartially is abused when the group with power over the election process defines electoral boundaries to enhance its own political strength at the expense of any weaker groups. However, the duty to be impartial is not violated when the majority acts to facilitate the election of such a member of a group that lacks such power."

In another dissent, Justice David Souter held that legislators have to take race into account when drawing district lines in order to avoid the dilution of the minority vote. He believed that if redistricting harms participation in the election process, then the Fourteenth Amendment is violated. He held that because no one's participation had been harmed, the redrawing of the Twelfth District did not violate the Fourteenth Amendment.

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. Why had the Twelfth District been created by the state legislature?
2. What was the constitutional basis on which some white citizens of the Twelfth District brought the case to court?
3. What was the Court's position on redrawing congressional districts to promote minority interests?
4. On what grounds did Justice Stevens base his dissent?
5. What is your opinion of the practice of creating congressional districts to facilitate the election of minorities to Congress?