

Baker v. Carr

Argued: April 19-21, 1961

Reargued: October 9, 1961

Decided: March 26, 1962

Background

In the United States, each state is responsible for determining its legislative districts. For many decades, states drew districts however they wanted. By the 1950s and 1960s, questions arose about whether the states' division of voting districts was fair. Many states had not changed their district lines in decades. During that time many people moved from rural areas to cities. As a result, a significant number of legislative districts became uneven—a rural district might have 500 people while an urban district had 5,000 people, but each only had one representative in the state legislature. Some voters filed lawsuits to address the inequities, but federal courts deferred to state laws and would not hear these cases.

At that time, federal courts did not generally involve themselves in issues determined to be “political” matters. Courts were reluctant to interfere when another branch of government (the executive or legislative) made a decision on an issue that was assigned to it by the Constitution. For example, if the president negotiated a treaty with another country (a power granted to the president by the Constitution), the courts would generally not decide a case questioning the legality of the treaty. The power of state legislatures to create voting districts was one of those “political questions” that the courts had avoided.

This is a case about whether federal courts could rule on the way states drew their state legislative boundaries.

Facts

In the late 1950s, Tennessee was still using boundaries between electoral districts that had been determined according to the 1900 census. Each of Tennessee's 95 counties elected one member of the state's General Assembly. The problem with this plan was that the population of the state changed substantially between 1901 and 1950. The distribution of the population had changed, too. Many more people lived in Memphis (and its district—Shelby County) in 1960 than had in 1900. But the entire county was still only represented by one person in the state legislature, while rural counties with far fewer people also each had one representative.

In fact, the state constitution required revising the legislative district lines every 10 years to account for changes in population. But state lawmakers ignored that requirement and refused to redraw the districts.

An eligible voter who lived in an urban area of Shelby County, Charles Baker, felt that he was denied equal protection of the laws under the Fourteenth Amendment because his vote was “devalued.” He said his vote, and those of voters in similar situations, would not count the same as those of voters residing in less populated, rural areas. He sued the state in a federal district court in Tennessee.

The state of Tennessee argued that courts could not provide a solution for this issue because this was a “political question” that federal courts could not decide. The state said that its political process should be allowed to function independently. The federal district court dismissed Baker's complaint on the grounds that it lacked authority to decide the case. Baker appealed that decision up to the U.S. Supreme Court, which agreed to hear his case.

Issue

Should the Supreme Court and other federal courts decide cases about state legislative districts?

Constitutional Amendments and Precedents**U.S. Constitution, 14th Amendment**

“No State shall...deny to any person within its jurisdiction the equal protection of the laws.”

Article III, section 2, of the Federal Constitution

“The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority. . . .”

***Colegrove v. Green* (1946)**

An Illinois resident sued Illinois officials to prevent them from holding an upcoming election. He argued that the state's congressional districts were irregularly shaped and did not include the same number of people in each. The Supreme Court was asked to decide whether Illinois' congressional districts violated constitutional requirements for fair districting.

The Court dismissed the case, concluding that federal courts lack the competence to decide whether a state's districting decisions are consistent with the Constitution. The Court decided that because the legislative districting process is inherently political in nature, the courts cannot second-guess the political judgment of a state as to how best to draw districts, or order a state to draw its districts any particular way.

Arguments for Baker (petitioner)

- The courts should be able to decide this issue. The text of Article III, section 2 of the Constitution is clear: “judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution.” This is an issue that arises under the Constitution because people’s rights are being violated.
- Political questions are not neatly defined and are determined by a number of factors. Just because an issue involves politics, doesn’t mean it is a political question. By refusing to decide political questions, courts are trying to avoid a situation where a coequal branch of government is telling another what to do. But the courts would not be drawing new districts (that is the legislature’s responsibility). The courts would simply be instructing the legislature to fix the problems.
- Courts cannot rely on a long-held practice just because it is a tradition. There needs to be an important and constitutional reason why they do not decide a case.
- Baker’s complaint—that his vote does not count equally—is a very serious violation of his rights. Many states have been unwilling to address this violation. In a case like this, the courts must get involved to protect people’s rights and prevent the “evil” that would happen if the situation is not addressed immediately.
- The states suggest that voters’ concerns can be remedied by elected officials – that voters can lobby for state laws and practices. That solution is flawed, however. Voters’ power to influenced officials is greatly diminished when too many voters are grouped together in small districts.

Arguments for Carr (respondent)

- The federal courts do not have the constitutional authority to review legislative districts. One branch of the government should not tell another what to do on a question that is committed to the discretion of that branch alone. All three branches—legislative, judicial, and executive—are equal in the Constitution, and co-equal bodies cannot interfere with each other’s basic functions.
- If the courts decide this case, they will overstep their authority and abuse their power. The State of Tennessee can enforce its own laws and decide what legislative districts it thinks achieve the fairest representational system. The federal government should respect the state’s sovereignty and not force uniformity in an area where the Constitution left it to the states to decide how best to draw districts.
- Federal courts have never recognized the authority to review voting districts drawn by state legislatures because they have always viewed districting as a uniquely political function that states do not have to carry out in any particular way.
- Even if the courts had authority to hear the case, there is nothing in the Constitution that says that state legislative districts must each have the same number of people. Nor is there any objective way to decide whether a state’s districting decisions are sufficiently “fair.”

- The courts do not need to interfere with the democratic process. If the residents of Tennessee want a change how their legislature draws the state’s districts, they can encourage their elected officials to make that change.

Decision

In a 6–2 decision, the U.S. Supreme Court decided in favor of Baker. Justice Brennan wrote the opinion of the Court and was joined by Justices Black and Chief Justice Warren. Justices Douglas, Clark, and Stewart wrote concurring opinions, meaning they agreed with the Court’s decision but not totally with its reasoning. Justice Frankfurter and Justice Harlan wrote dissenting opinions.

Majority

The Supreme Court decided that the lower court’s decision that courts could not hear this case was incorrect. The Court did not decide whether Tennessee’s districts were unconstitutional, however. Instead, the justices instructed the district court to allow a hearing on the merits of Baker’s claim that the state’s legislative districts violated his Fourteenth Amendment rights. The Supreme Court decided that drawing lines around state electoral districts can be reviewed by courts, because it is not a political question.

The justices in the majority described several instances where courts took cases on federal congressional districts. They said that, based on those earlier decisions, federal courts could also hear and decide cases about state legislative districts. Tradition alone is not a reason for federal courts not to decide these types of cases.

Concurrence

Justice Douglas agreed that the Supreme Court did not need to decide whether Tennessee’s districts were fair, and agreed that a federal court should hear that case. However, he disagreed with some of the precedents on which Justice Brennan relied. Douglas said that the right to vote in any kind of election—state or federal—is something courts have been concerned about, and protected, for a long time.

Justice Clark wanted the Supreme Court to decide the problem that Baker complained about—the legislative districts in Tennessee. He thought that Tennessee’s districting law violated the Equal Protection clause of the 14th Amendment. He thought that Tennessee’s legislature intentionally discriminated against voters. He felt most of the people of Tennessee had “no practical opportunities for exerting their political weight at the polls” to correct the existing unfair discrimination.

Dissent

Justices Frankfurter and Harlan disagreed with the majority. They thought that the precedents that came before this decision were clear and consistent in refusing to review a state’s districting decisions, and they saw no reason for federal courts to decide these types of cases. This type of case was an entirely “different matter from denial of the franchise [right to vote] to individuals because of race, color, religion or sex.” Because they found nothing in the Constitution that would requires

Shaw v. Reno (1993)

Argued: April 20, 1993

Decided: June 28, 1993

Background

After the Civil War, the 13th, 14th, and 15th Amendments ended slavery, granted citizenship to formerly enslaved persons, and gave African-American men the right to vote. Soon thereafter, state governments, primarily in the south, institutionalized black codes and Jim Crow laws to prevent former slaves from voting. Poll taxes, literacy tests, and felon disenfranchisement were among the practices commonly used to suppress black voting.

In order to prevent states from suppressing the right of African-Americans and other minorities to vote, Congress passed the Voting Rights Act in 1965. This law prohibited voting rules that discriminated on the basis of race. The law also placed cities, counties, and states with a history of discriminatory practices in a special category. These jurisdictions had to request pre-clearance from the federal government before changing their voting rules and were required to prove that the proposed change did not limit a person's right to vote because of their race. The courts concluded that the Voting Rights Act, including this "pre-clearance" requirement, applied to the drawing of legislative district boundaries, which each state must do every 10 years to account for changing populations. While states generally can adopt their own criteria for districting—which typically include making districts that are reasonably compact and contiguous (where all parts of the district are connected to one another) and that align with existing geographical boundaries like cities or counties—they may not draw districts in a way that discriminates on the basis of race.

In *Thornburg v. Gingles* (1986), the Supreme Court ruled that if voting is racially polarized, and if a minority group is both large enough and geographically compact enough to make up a majority of the voters in a new district, then the Voting Rights Act requires the district to be drawn to comprise a majority of minority voters—i.e., to be drawn as a "majority-minority" district. The Court concluded that drawing majority-minority districts in such circumstances is necessary to give minority groups "the opportunity to elect their candidate of choice."

Facts

Between 1865 and 1993, the state of North Carolina elected only seven African-Americans to the U.S. House of Representatives. In 1990, none of the state's 11 members of Congress were black, while 20% of the state's population was. After the 1990 census, the state gained a 12th Congressional seat, and the state legislature tried to ensure the election of an African-American representative through the creation of a legislative district that would be majority African-American. Forty of North Carolina's counties were covered by the Voting Rights Act requirement that redistricting plans be pre-cleared by the federal government, so the state submitted its plans to the U.S. Department of Justice. The attorney general rejected the North Carolina state legislature's first

redistricting plan because it created only one majority-minority district. The Department of Justice said that a second majority-minority district could also be created.

The General Assembly (North Carolina's legislature) redrew the district lines to create a second majority-minority district, District 12. District 12 ran along Interstate 85 in snake-like fashion for 160 miles, breaking up several counties, towns, and districts to connect geographically separate areas densely populated by minority voters into a single district that, in some places, was only as wide as the highway. The attorney general did not object to this new districting plan. In 1992, Melvin Watt won the 12th district, becoming one of North Carolina's first two black members of Congress in the 20th century.

Five white voters filed a lawsuit against both state and federal officials in the U.S. District Court for the Eastern District of North Carolina. They argued that District 12 violated the 14th Amendment's Equal Protection Clause because it was motivated by racial discrimination and resulted in a district drawn almost entirely on racial lines, with the sole purpose of electing black Congressional representatives. The District Court dismissed the case, concluding that using race-based districting to benefit minority voters does not violate the Constitution. The voters appealed to the Supreme Court, which is required by law to hear most redistricting cases.

Issue

Did the North Carolina residents' claim that the 1990 redistricting plan discriminated on the basis of race raise a valid constitutional issue under the 14th Amendment's Equal Protection Clause?

Constitutional Amendments and Supreme Court Precedents

– 14th Amendment to the U.S. Constitution

"Nor shall any state...deny to any person within its jurisdiction the equal protection of the laws."

– 15th Amendment to the U.S. Constitution

"The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

– *Gomillion v. Lightfoot* (1960)

In 1957, the Alabama legislature decided to redraw the boundaries of the city of Tuskegee. While the city had long been shaped as a square, the legislature redrew it as "a strangely irregular twenty-eight-sided figure." The result of this redistricting was to remove all but four or five of the city's 400 black voters from its boundaries, while removing no white voters or residents. The black voters sued, but the lower courts dismissed their case, concluding that courts have no power to interfere with how state legislatures draw district lines. The U.S. Supreme Court reversed. The Court found it difficult to explain the bizarrely shaped district as anything other than an effort to segregate black voters and deprive them of their right to

vote. The Court concluded that courts have the power under the 15th Amendment to invalidate districts that are drawn to abridge the right to vote on the basis of race.

– *United Jewish Organizations of Williamsburgh, Inc. v. Carey* (1977)

A Hasidic Jewish community in New York was divided into two districts as a result of a reapportionment plan that reorganized several districts to achieve a minimum nonwhite representation of 65% in each district. The U.S. Supreme Court upheld the plan, holding that considering race when drawing districts does not necessarily violate the 14th or 15th Amendments. Although New York deliberately increased nonwhite majorities, the Court concluded that this use of racial criteria was permissible because there was no “fencing out” of the white population in the county from participating in the election processes, and whites were not subsequently underrepresented relative to their representation of the population.

Arguments for Shaw (petitioner)

- The Constitution is “color-blind,” meaning it prohibits using race as the basis for how to draw districts. This redistricting plan is the opposite of color-blind and amounts to unconstitutional discrimination on the basis of race.
- The snake-like shape of District 12 makes it neither compact nor truly contiguous, which are the traditional criteria for district maps. The legislature’s obvious disregard for these criteria confirms that its sole purpose was to create a seat to represent a particular racial group.
- In *Gomillion v. Lightfoot* (1960), the Court held that dividing voters into districts on the basis of their race is impermissible racial segregation. That does not change just because race is used to advance the interests of a minority group rather than limit them.
- Drawing districts on the basis of race advances the stereotype that black voters will only vote for a black candidate and white voters for a white candidate. Minority voters have different views and interests, and do not necessarily have a single, unified “candidate of choice.”

Arguments for Reno (respondent)

- The courts have ruled that the use of race in redistricting is permissible and might even be more important than traditional districting features such as contiguity and compactness, as long as the configurations are not too extreme. Oddly shaped districts are sometimes necessary if states are to elect representatives who are reflective of the people of the state.
- The Voting Rights Act of 1965 encourages the creation of districts with majorities of black, Hispanic, and other minority voters, especially where there has been voting discrimination in the past.
- In *Gomillion v. Lightfoot* (1960), the Court held that districts can’t be drawn to discriminate against minorities. But that does not mean that race can’t be used to draw districts that advance the interests of minorities.

- In *United Jewish Organizations of Williamsburgh, Inc. v. Carey*, the Court approved “racial redistricting where appropriate to avoid abridging the right to vote on account of race.” Though whites had lost one legislative seat as a result of redistricting, the Court found that their constitutional rights were not violated because they were not deprived of effective representation or the right to vote.

Decision

In a 5–4 decision, the U.S. Supreme Court decided in favor of Shaw, and sent the case back to the lower court to be reheard. Justice O’Connor authored the majority decision, which was joined by Chief Justice Rehnquist and Justices Scalia, Kennedy, and Thomas. Justices White, Blackmun, Stevens, and Souter dissented.

Majority

Justice O’Connor detailed the troublesome history of racial gerrymandering and explained how North Carolina District 12 was similar in many ways to past districts that had been held unconstitutional, like the bizarrely shaped district in *Gomillion*. The justices said that classifications of citizens predominantly on the basis of race are undesirable in a free society and conflict with the American political value of equality.

The majority said that any redistricting plan that includes people in one district who are geographically disparate and share little in common with one another but their skin color, bears a strong resemblance to racial segregation. They wrote that racial classifications of any sort promotes the belief that individuals should be judged by the color of their skin. They also said that drawing districts to advance the perceived interests of one racial group may lead elected officials to see their obligation as representing only members of that group, rather than their constituency as a whole. The justices concluded that racial gerrymandering, even for remedial purposes, may “balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters.”

The Court was tasked with deciding the grounds on which voters could challenge voting districts as racial gerrymanders. They decided that if a redistricting plan cannot rationally be understood as anything other than an effort to divide voters based on their race, voters may challenge such a district under the Equal Protection Clause. Therefore, the case was sent back to the lower court to determine if the North Carolina plan could be justified in terms other than race.

Dissents

In a series of separate dissents, the dissenters argued that consideration of race in the districting process is inevitable, and that it does not violate the Constitution unless the party challenging a district shows that the district was drawn in a way that deprives a racial group of an equal opportunity to participate in the political process. Some of the dissenters also argued that there are legitimate reasons to consider race because people of the same race share interests and often vote