

Colorado court strikes down Republican gerrymandering

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6 December 2003

The Colorado Supreme Court ruled December 1 that the Republican-controlled state legislature had violated the state's constitution by redrawing congressional districts for the purpose of maintaining the Republican majority in the state's delegation in the US House of Representatives. The court threw out the redistricting and ordered the state to hold the 2004 elections using the same district boundaries used for the 2002 vote.

The case was the first to arise as a consequence of the unprecedented effort by the national Republican congressional leadership to gerrymander district boundaries in selected states to guarantee a more or less permanent Republican majority in the House of Representatives.

In pursuit of this goal, the Republican Party has broken with the 200-year-old practice of redrawing congressional district boundaries once in 10 years, after the decennial census. Instead, it has decided to redraw boundaries whenever it has the power and deems it advantageous to its political interests.

In both Colorado and Texas, the state governments were unable to adopt a redistricting plan in 2001 because the executive and legislative branches were split between the Democrats and Republicans. As is common in such cases, the task of redistricting was eventually performed by a panel of federal judges, and the resulting district boundaries were used for the 2002 congressional elections.

The Republican Party won complete control of the two state governments in 2002 and moved immediately to use that power to redraw the congressional district boundaries, rather than leaving the newly established districts in place until the next census in 2010. The sole reason for changing the boundaries was to craft districts that would be easier for Republicans to win.

In Colorado, which gained a congressional seat from

the reapportionment after the 2000 census, the new 7th District saw the closest contest of any congressional race in 2002. In that district, Republican Bob Beauprez won by only 121 votes out of over 160,000 cast. Early this year the Colorado legislature redrew the boundaries, moving thousands of Republican voters into Beauprez's district to give him a much safer seat.

The Colorado Supreme Court's 5-2 decision found that the legislature had exceeded its authority by changing the boundaries only one year after they had been drawn by a federal court. "Having failed to redistrict when it should have, the General Assembly has lost its chance to redistrict until after the 2010 federal census," the court declared.

State officials said they would appeal to the US Supreme Court, but it would be extremely unusual for the top federal court to overturn a state supreme court's interpretation of its own state's constitution. Such an intervention would be as nakedly political as the US Supreme Court's notorious *Bush v. Gore* decision that overturned the Florida Supreme Court ruling ordering a recount of the 2000 presidential vote in Florida.

The Colorado decision has no immediate application to the more important case of Texas, since the state constitutions are different and the Texas redistricting is being challenged on federal civil rights grounds as well. A three-judge federal panel begins trying the Texas case December 11.

Texas is the most extreme example of a form of gerrymandering, using sophisticated new computer software pinpointing voting patterns on a block-by-block basis, referred to by Republican strategists as "packing and cracking."

Large concentrations of Democratic voters—frequently from racial and ethnic minorities—are "packed" into a handful of districts with top-heavy

Democratic majorities, while the rest are “cracked” into many districts with smaller, but relatively safe, Republican majorities.

The result is a redistricting map in Texas where 32 congressional districts, currently divided 17-15 in favor of the Democrats, are reshaped so that there will be only 10 safe Democratic seats, nearly all with overwhelmingly black and Hispanic populations, and 22 safe Republican seats, all of them in predominantly white areas. The Republican Party, which holds a narrow nine-seat edge in the US House of Representatives, would gain seven seats, nearly doubling its margin of control.

This technique has two complementary purposes, short-term and long-term. House Majority Leader Tom DeLay, the main architect of the plan, seeks to guarantee Republican predominance in the House of Representatives for the rest of this decade, regardless of the popular will.

The other aim is to polarize the two-party system along a racial axis, creating the conditions where Democratic congressional delegations will be largely black and Hispanic, and the Republican delegation nearly all-white, thus identifying the Republican Party with the majority racial group and the Democrats exclusively with minorities.

The Texas redistricting plan was blocked for most of the spring and summer by Democratic stalling tactics, including successive flights from the state by most Democratic members of the lower house and then of the state Senate, blocking the quorum necessary for adoption of the measure.

This opposition collapsed in September when one Democratic state senator, John Whitmire, abandoned the boycott and provided the vote necessary for a quorum. The Texas legislature passed the redistricting plan in October.

Seven Democratic congressman are expected to lose their seats, and Austin, Texas, the state capital, will become the largest city in the United States without its own congressional seat. (The Austin-based district, now held by liberal Democrat Lloyd Doggett, will disappear, with the city divided among four congressional districts stretching as far as 250 miles to the north, east and south.)

State Rep. Garnet Coleman, a black Democrat from Houston, called the Republican plan “racist” and said

that its central purpose was the elimination of elected white Democrats.

“They want to change the face of the Democratic Party to black and brown so they can continue to run racist innuendo in their campaigns,” he said.

An email to Republican congressional aides, leaked to the Texas media, boasted of the anti-democratic character of the redistricting campaign, declaring that its purpose was to “assure that Republicans keep the House no matter the national mood.” The memo, written by Joby Fortson, an aide to Texas Republican Congressman Joe Barton, called the redistricting plan “the most aggressive map I have ever seen.”

Fortson revealed that Republican strategists had deliberately created a handful of new minority-dominated districts to insulate the plan from a challenge under the Voting Rights Act, although the actual political influence of minority voters will be severely diluted as they are crammed into a handful of districts.



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