

Supreme Court strikes down North Carolina redistricting

Our reporter
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The US Supreme Court issued a ruling Monday confirming a lower court decision that struck down the congressional district lines drawn in North Carolina on the grounds that they illegally used race as the predominant factor.

The decision in *Cooper v. Harris* came in two parts, with a unanimous 8-0 ruling against the boundaries of North Carolina's 1st District, linking most of the majority-black areas of eastern and coastal North Carolina, and a 5-3 ruling against the boundaries of the 12th District, the notorious "I-85 district" connecting the urban cores of Charlotte, Winston-Salem and Greensboro, a distance of nearly 100 miles, by means of narrow strips of land running along the interstate highway.

In both cases, the Republican-controlled state government drew the boundaries to concentrate black voters into a few districts and thus minimize their influence in the state as a whole. As a result, since the 2010 redistricting, North Carolina's congressional delegation has been 10 Republicans and 3 Democrats, although the total vote in congressional elections is divided roughly 50-50.

The high court decision does not affect the current congressional district boundaries, which were redrawn last summer after a circuit court decision that the Supreme Court has now upheld. The 1st District was only slightly altered, but the 12th District was entirely restructured, now comprising only the Charlotte metropolitan area.

The court decision on the 12th District was unusual for the composition of the five-member majority: the four moderate liberals, with Justice Elena Kagan writing the opinion, joined by ultra-conservative Clarence Thomas, who wrote a concurring opinion reiterating his long-held view that any consideration of

race—including under the provisions of the 1965 Voting Rights Act—is unconstitutional.

The Voting Rights Act was passed to compel the states of the Deep South to stop barring blacks from voting through such devices as literacy tests—administered on a grossly discriminatory basis—or outright refusal to register African-American voters. The law also barred other discriminatory political measures, such as shifting city councils from district to at-large representation in order to prevent a black minority from electing representatives.

Under the auspices of the Voting Rights Act, most southern states created "majority-minority" congressional districts based on largely black urban areas such as Atlanta and New Orleans. But in the 1990s, Republican state legislatures began to create additional black-majority districts that had no geographical logic for the purpose of ensuring overall Republican majorities in congressional delegations. In this, they frequently had the support of black Democratic Party politicians, who were guaranteed safe seats as a result.

The procedure, given the cynical title "packing and cracking," was intended to create a handful of black-majority districts that would be overwhelmingly Democratic, while drawing the remaining boundaries to ensure that Republicans had comfortable majorities in all other districts. The effort was so successful that by 2001, nearly every white-majority district in the Deep South had a Republican congressman, while Democrats controlled the relatively small number of black-majority districts.

The North Carolina redistricting was perhaps the most blatant example of this process. The state's 1990 redistricting survived a Supreme Court challenge, but the 2010 redistricting went even further, using

computerized Census data to pick out predominately black neighborhoods and transfer them into the 1st and 12th Districts, raising the African-American percentage in the 1st District from 48.6 percent to 52.7 percent, and raising the African-American percentage in the 12th District from 43.8 percent to 50.7 percent.

Kagan's opinion held that states were not required to adhere to any specific percentage of minority voters in a district, but the North Carolina example went too far and constituted "a racial gerrymander whose necessity is supported by no evidence and whose *raison d'être* is a legal mistake." The African-American composition of the districts was not increased to further the goal of the Voting Rights Act—increased representation of African-Americans—but for the opposite purpose, she argued, to reduce their influence.

In both districts, the court found that the federal district court judge who conducted the initial trial had sufficient grounds for his finding that race, not politics, had determined the drawing of boundary lines.

In the case of the 12th District, three conservative justices, John Roberts, Samuel Alito and Anthony Kennedy, found that the boundaries were drawn for partisan and not racial reasons, and were therefore constitutional. Justice Neil Gorsuch, who joined the court last month, did not participate in the decision because the arguments were heard before he was confirmed for his seat.

State Republicans argued that they increased the African-American population of the districts to comply with the Voting Rights Act, but Justice Elena Kagan wrote in her decision that the argument "does not withstand strict scrutiny." She continued: "For nearly 20 years before the new plan's adoption, African-Americans made up less than a majority of District 1's voters, but their preferred candidates scored consistent victories," Kagan wrote of the district currently held by Democratic Rep. G.K. Butterfield.

All the arguments on both sides of this decision took as their point of departure the reactionary, racist view that African-Americans in Congress represent African-Americans and whites in Congress represent whites, without any consideration of the more fundamental division in capitalist society, that of class. In reality, both black and white politicians of the Democratic and Republican parties represent the capitalist class, not their working class constituents of whatever race.



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