

# Racial Gerrymandering \*

## What the Courts Have Said

The courts have required strict scrutiny when creating majority-minority districts. In the Supreme Court case of *Shaw v. Reno*, the courts made a clear stance against majority-minority districts. The case concerned a controversial district in North Carolina that stretched along Interstate 85 for approximately 160 miles. This district was created to comply with the Attorney General's wish that a second majority-black district be created to increase black's voting strength. Five North Carolina residents, who filed this complaint, argued that this controversial district was created with no regard for issues of compactness, geographical boundaries, political affiliations, or contiguity (the generally accepted considerations). These standards were generally used to ensure that districts were created fairly.

The courts found the underlying idea behind majority-minority districts, namely that blacks can be identified as a constituency based solely upon race, violates the Equal Protection Clause. Race cannot be the main factor when creating a district. Nor is racial gerrymandering acceptable because it favors minorities. The Equal Protection Clause, "is not dependent on the race of those burdened or benefited by a particular classification," according to the courts in *Shaw v. Reno*, 509 U.S. 630 (1993). The Equal Protection Clause prohibits the classification of people according to race, which is exactly what racial gerrymandering does. Justice Sandra Day O'Connor stated in the majority opinion:

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 have little in common with another but the color of their skins, 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 prefer the same candidates at the polls. 509 U.S. 630 (1993)

The courts also passed a "strict scrutiny" test. According to the courts, "state legislation that expressly distinguishes among citizens on account of race – whether it contains an explicit distinction or is 'unexplainable on grounds other than race,' – must be narrowly tailored to further a compelling governmental interest" 509 U.S. 630 (1993). A state cannot generally say that it wants to correct past racial discrimination and create majority-minority districts because gerrymandering, in this case, is not advancing a "compelling state interest."

\* excerpts from

"Racial Gerrymandering: Enfranchisement or Political Apartheid"  
Maraleen D. Shields