

## Connecticut General Assembly Reapportionment Committee

### Court Cases

#### Selected Supreme Court Case Law

**Baker v. Carr**, 369 U.S. 186 (1962). In an opinion which explored the nature of "political questions" and the appropriateness of Court action in them, the U.S. Supreme Court held that legislative apportionment was a justiciable issue. The Court provided past examples in which it had intervened to correct constitutional violations in matters pertaining to state administration and the officers through whom state affairs are conducted. It concluded that the case's Fourteenth Amendment's equal protection issues merited judicial evaluation.

*The Oyez Project:* [http://www.oyez.org/cases/1960-1969/1960/1960\\_6](http://www.oyez.org/cases/1960-1969/1960/1960_6)

**Gray v. Sanders**, 372 U.S. 368 (1963). Justice Douglas wrote, "The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the 15<sup>th</sup>, 17<sup>th</sup>, and 19<sup>th</sup> Amendments can mean only one thing—one person, one vote."

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**Wesberry v. Sanders**, 376 U.S. 1 (1964). The Court held that Georgia's apportionment scheme grossly discriminated against voters in the Fifth Congressional District. Because a single congressman had to represent two to three times as many people as were represented by congressmen in other districts, the Georgia statute contracted the value of some votes and expanded the value of others. The Court recognized that "no right is more precious" than that of having a voice in elections and held that "[t]o say that a vote is worth more in one district than in another would not only run counter to our fundamental ideas of democratic government, it would cast aside the principle of a House of Representatives elected 'by the People. . .'"

*The Oyez Project:* [http://www.oyez.org/cases/1960-1969/1963/1963\\_22](http://www.oyez.org/cases/1960-1969/1963/1963_22)

**Burns v. Richardson**, 384 U.S. 73 (1966). The Supreme Court noted that, "The fact that district boundaries may have been drawn in a way that minimizes the number of contests between present incumbents does not in and of itself establish invidiousness."

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**Reynolds v. Sims**, 377 U.S. 533 (1964). In an 8-to-1 decision, the Court upheld a challenge to the Alabama system, holding that the Equal Protection Clause demanded "no less than substantially equal state legislative representation for all citizens...." Noting that the right to direct representation was "a bedrock of our political system," the Court held that both houses of bicameral state legislatures had to be apportioned on a population basis. States were required to make "honest and good faith" efforts to construct districts as nearly of equal population as practicable.

*The Oyez Project:* [http://www.oyez.org/cases/1960-1969/1963/1963\\_23](http://www.oyez.org/cases/1960-1969/1963/1963_23)

**Gaffney v. Cummings**, 412 U.S. 735 (1973). The Court held that “We have repeatedly recognized that state reapportionment is the task of local legislatures or of those organs of state government selected to perform it. Their work should not be invalidated under the Equal Protection Clause when only minor population variations among districts are proved. Here, the proof at trial demonstrated that the House districts under the State Apportionment Board’s plan varied in population from one another by a maximum of only about 8% and that the average deviation from the ideal House district was only about 2%. The Senate districts had even less variations. On such a showing, we are quite sure that a prima facie case of invidious discrimination under the 14<sup>th</sup> Amendment was not made out.”

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**Karcher v. Daggett**, 462 U.S. 725 (1983). Democrats in control of the New Jersey Legislature designed a plan for congressional redistricting in which the district populations differed by less than 1% from each other, but were clearly drawn to maximize Democratic power in the state. Even though the population differences in the districts were slight, the Court held that they were unconstitutional because they were not the result of a good-faith effort to achieve population equality.

*The Oyez Project:* [http://www.oyez.org/cases/1980-1989/1982/1982\\_81\\_2057](http://www.oyez.org/cases/1980-1989/1982/1982_81_2057) (edited by Susan Price, CGA Office of Legislative Research)

**Davis v. Bandemer**, 478 U.S. 109 (1986). A group of Democrats challenged Indiana's 1981 state apportionment scheme on the ground of political gerrymandering. They argued that the apportionment unconstitutionally diluted their votes in important districts.

The Court held that while the apportionment law may have had a discriminatory effect on the Democrats, that effect was not "sufficiently adverse" to violate the Equal Protection Clause. The mere lack of proportional representation did not unconstitutionally diminish the Democrats' electoral power. The Court also ruled that political gerrymandering claims were properly justiciable under the Equal Protection Clause, noting that judicially manageable standards could be discerned and applied in such cases.

*The Oyez Project:* [http://www.oyez.org/cases/1980-1989/1985/1985\\_84\\_1244](http://www.oyez.org/cases/1980-1989/1985/1985_84_1244) (edited by Susan Price, CGA Office of Legislative Research)

*(Overruled—see Vieth v. Jubelirer, below)*

**Thornburg v. Gingles**, 478 U.S. 30 (1986). A unanimous Court found that five of the six contested districts in this North Carolina case discriminated against blacks by diluting the power of their collective vote. The district court properly performed its function "to ascertain whether minority group members constitute a politically cohesive unit and to determine whether whites vote sufficiently as a bloc usually to defeat the minority's preferred candidate." The lower court also correctly analyzed data from three election cycles to determine that the black voters strongly supported black candidates, whereas whites usually voted against black candidates. The redistricting plan apportioned "politically cohesive groups of black voters" into districts where blocs of white voters would consistently defeat the black candidates. This damaged the ability of black citizens to participate equally in the political process and to elect candidates of their choice in violation of the Voting Rights Act.

The Court set three preconditions for establishing a Section 2 violation: (1) compactness/numerosity, (2) minority cohesion or bloc voting, and (3) majority bloc voting.

*The Oyez Project:* [http://www.oyez.org/cases/1980-1989/1985/1985\\_83\\_1968](http://www.oyez.org/cases/1980-1989/1985/1985_83_1968)

**Voinovich v. Quilter**, 507 U.S. 146 (1993). The district court found that the maximum total deviation from ideal districts exceeded 10%, establishing a prima facie case of discrimination. The appellants were required to justify the deviation, and they claimed that it resulted from the state's constitutional policy favoring the preservation of county boundaries. The Supreme Court held that the lower court erred by not considering whether the deviations could reasonably be said to advance the rational state policy of preserving county boundaries, and if so, whether the population disparities among the districts that have resulted from the pursuit of the plan exceed constitutional limits.

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases> (edited by Susan Price, CGA Office of Legislative Research)

**Shaw v. Reno**, 509 U.S. 630 (1993). The Court held that although North Carolina's reapportionment plan was racially neutral on its face, the resulting district shape was bizarre enough to suggest that it constituted an effort to separate voters into different districts based on race. After concluding that the residents' claim did give rise to an equal protection challenge, the Court remanded--adding that in the absence of contradictory evidence, the district court would have to decide whether or not some compelling governmental interest justified North Carolina's plan.

*The Oyez Project:* [http://www.oyez.org/cases/1990-1999/1992/1992\\_92\\_357](http://www.oyez.org/cases/1990-1999/1992/1992_92_357) (edited by Susan Price, CGA Office of Legislative Research)

**Johnson v. DeGrandy**, 512 U.S. 997 (1994). The Court found that minority voters form effective voting majorities in a number of House (and Senate) districts roughly proportional to their respective shares in the voting-age population. While such proportionality is not dispositive, it is a relevant fact in the totality of circumstances to be analyzed when determining whether minority voters have "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice."

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**Bush v. Vera**, 517 U.S. 952 (1996). The Court held that Texas' redistricting plans were unconstitutional. Using the strict scrutiny standard of review, it noted that the proposed districts were highly irregular in shape, that their computerized design was significantly more sensitive to racial data, and that they lacked any semblance to pre-existing race-neutral districts. The Court also held that the totality of the circumstances surrounding the proposed districts would deprive minority groups of equal participation in the electoral political processes. Thus, the proposed districts violated the Voting Rights Act's "results" test prohibiting activity that "results in a denial or abridgment of the right of any citizen to vote on account of race or color." Finally, with respect to one proposed district, the Court held that Texas deliberately designed it to hamper the local African-American minority's ability to elect representatives of their choice. This violated the Voting Rights

Act's "nonretrogression" principle, prohibiting state action from obstructing a minority's ability to elect representatives of their choice.

*The Oyez Project:* [http://www.oyez.org/cases/1990-1999/1995/1995\\_94\\_805](http://www.oyez.org/cases/1990-1999/1995/1995_94_805)

**Hunt v. Cromartie**, 532 U.S. 234 (2001). The Court, in reversing a lower court's ruling, stated, "In a case such as this one where majority-minority districts (or the approximate equivalent) are at issue and where racial identification correlates highly with political affiliation, the party attacking the legislatively drawn boundaries must show at the least that the legislature could have achieved its legitimate political objectives in alternative ways that are comparably consistent with traditional districting principles. That party must also show that those districting alternatives would have brought about significantly greater racial balance."

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**Vieth v. Jubelirer**, 541 U.S. 267 (2004). In a plurality decision, the Court overruled *Bandemer* (see above): "Eighteen years of essentially pointless litigation have persuaded us that *Bandemer* is incapable of principled application. We would therefore overrule that case and decline to adjudicate these political gerrymandering claims." Justice Kennedy took the position that, although the *Vieth* complaint must be dismissed, all possibility of judicial relief should not be cut off because a limited and precise rationale may yet be found to correct an established constitutional violation.

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**League of United Latin American Citizens v. Perry**, 548 U.S. 399 (2006). The Court held that "influence districts" are not protected under Section 2 of the Voting Rights Act. It also ruled that, for the Hispanic minority in this case, a district's citizen voting age population was the proper Section 2 measure. The court also stated that the compactness precondition of *Gingles* (see above) refers not just to geographical compactness of the district, but also to a compactness of the minority group.

*Massachusetts Legislature Redistricting Court Cases:* <http://www.malegislature.gov/District/CourtCases>

**Bartlett v. Strickland**, 556 U.S. 1 (2009). The Supreme Court affirmed the North Carolina Supreme Court holding that the Voting Rights Act does not require state officials to redraw election district lines to allow a racial minority group to feasibly join with crossover voters to elect the minority's candidate choice when the racial minority group would make up less than 50% of the voting population in the redrawn district. The Voting Rights Act allows redistricting only when a geographically compact group of minority voters could form a majority in the redrawn election district. The Court reasoned that this requirement was not satisfied here as the minority group in the redrawn district comprised only 39% of the voting population.

*The Oyez Project:* [http://www.oyez.org/cases/2000-2009/2008/2008\\_07\\_689](http://www.oyez.org/cases/2000-2009/2008/2008_07_689) (edited by Susan Price, CGA Office of Legislative Research)