

SUPREME COURT OF THE UNITED STATES

Tennant v. Jefferson County Commission

567 U.S. 758 (2012) · No. 11-1184 · Decided September 25, 2012

SUMMARY

The Supreme Court held that West Virginia's 2011 congressional redistricting plan did not violate the Article I, §2, requirement of population equality among congressional districts. Applying *Karcher v. Daggett*, the Court concluded that the plan's 0.79% population variance was justified by legitimate state interests, including avoiding county splits, preventing incumbent contests, and minimizing population shifts. The Court reversed the District Court's judgment and remanded for consideration of the plaintiffs' claims under the West Virginia Constitution.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Federal
DECIDED	September 25, 2012
DOCKET	11-1184
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The state defendants directly appealed a three-judge District Court judgment enjoining implementation of West Virginia's congressional redistricting plan.
STANDARD OF REVIEW	The Court applied the two-prong <i>Karcher</i> standard for congressional redistricting population deviations: challengers must prove that the deviations could practicably be avoided, after which the State must show with some specificity that the deviations were necessary to achieve a legitimate state objective. The State's burden is flexible and requires consideration of the size of the deviations, the importance and consistency of the State's interests, and the availability of closer alternatives.
PRECEDENTIAL VALUE	binding
PARTIES	Natalie E. Tennant, West Virginia Secretary of State, et al. v. Jefferson County Commission, et al.

TOPICS

redistricting

election law

constitutional law

election administration

PRACTICE AREAS

constitutional law

election law

congressional redistricting

QUESTIONS PRESENTED

1. Whether West Virginia's congressional redistricting plan violated Article I, § 2 of the Constitution because its 0.79% population variance could have been reduced.
2. Whether the State demonstrated under *Karcher v. Daggett* that the population deviations were necessary to achieve legitimate, consistently applied state districting objectives.
3. Whether the case should be remanded for consideration of the plaintiffs' separate claims under the West Virginia Constitution.

HOLDINGS

1. The redistricting plan was constitutionally permissible because West Virginia carried its burden of showing that the minor population deviations were justified by legitimate state objectives.
2. The District Court erred in requiring the legislature to identify a discrete, numerically precise portion of the variance attributable to each districting policy.
3. The case was remanded for the District Court to address the remaining West Virginia constitutional claims in the first instance.

KEY QUOTATIONS

“This burden is a “flexible” one, which “depend[s] on the size of the deviations, the importance of the State’s interests, the consistency with which the plan as a whole reflects those interests, and the availability of alternatives that might substantially vindicate those interests yet approximate population equality more closely.” (567 U.S. at 760)

“Despite technological advances, a variance of 0.79% results in no more (or less) vote dilution today than in 1983, when this Court said that such a minor harm could be justified by legitimate state objectives.” (567 U.S. at 766)

“This is not to say that anytime a State must choose between serving an additional legitimate objective and achieving a lower variance, it may choose the former.” (567 U.S. at 767)

FACTUAL BACKGROUND

West Virginia retained its allocation of three congressional seats after the 2010 census but experienced population shifts within the State. The Legislature adopted S. B. 1008, which had a 0.79% population variance, did not split counties or place incumbents in the same district, and moved only one county, representing 1.5% of the State's population. Although the State conceded that plans with smaller population variations were possible,

it justified the variance by its legitimate interests in preserving county boundaries, avoiding incumbent contests, and minimizing population shifts between existing districts.

PROCEDURAL HISTORY

The Jefferson County Commission and two county commissioners challenged West Virginia's 2011 congressional redistricting plan. The United States District Court for the Southern District of West Virginia declared the plan null and void and enjoined its implementation. The state defendants appealed directly to the Supreme Court under 28 U.S.C. § 1253; the Supreme Court stayed the District Court's order, reversed, and remanded for consideration of the plaintiffs' unaddressed claims under the West Virginia Constitution.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The District Court must address the plaintiffs' remaining claims under the West Virginia Constitution in the first instance.

CASES CITED

- Karcher v. Daggett, 462 U.S. 725 (1983)
- Wesberry v. Sanders, 376 U.S. 1 (1964)
- Kirkpatrick v. Preisler, 394 U.S. 526 (1969)
- Perry v. Perez, 565 U.S. ____ (2012) (per curiam)
- West Virginia Civil Liberties Union v. Rockefeller, 336 F. Supp. 395 (S.D. W. Va. 1972)
- Graham v. Thornburgh, 207 F. Supp. 2d 1280 (D. Kan. 2002)
- Turner v. Arkansas, 784 F. Supp. 585 (E.D. Ark. 1991), summarily aff'd, 504 U.S. 952 (1992)