

SUPREME COURT OF THE UNITED STATES

Perry v. Perez

565 U.S. 388 (2012) · No. Nos. 11-713, 11-714, and 11-715 · Decided January 20, 2012

SUMMARY

The Supreme Court addresses interim congressional and state legislative redistricting maps adopted by a federal district court for Texas's 2012 elections while the State's enacted plans awaited Voting Rights Act preclearance. The Court held that the district court should use the recently enacted state plan as guidance, while avoiding provisions likely to violate the Constitution or the Voting Rights Act, and vacated and remanded the interim-map orders. Justice Thomas concurred in the judgment, reasoning that Texas's enacted plans should govern because he considered Section 5 unconstitutional.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Per curiam
JURISDICTION	Federal
DECIDED	January 20, 2012
DOCKET	Nos. 11-713, 11-714, and 11-715
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from orders of a three-judge United States District Court for the Western District of Texas adopting interim redistricting plans for the 2012 Texas elections while the State's newly enacted plans awaited Voting Rights Act §5 preclearance.
STANDARD OF REVIEW	The Supreme Court reviewed whether the district court applied the proper legal standards in drawing interim redistricting plans pending §5 preclearance and resolution of constitutional and §2 challenges.
PRECEDENTIAL VALUE	binding
PARTIES	Rick Perry, Governor of Texas, et al. v. Shannon Perez et al., Wendy Davis et al.

TOPICS

- redistricting
- voting rights
- election law
- appellate procedure
- federalism

PRACTICE AREAS

election law

constitutional law

redistricting

appellate procedure

federalism

QUESTIONS PRESENTED

1. What standards must a district court apply when drawing interim redistricting plans for an upcoming election because a newly enacted state plan has not yet received §5 preclearance and the existing plan is unusable?
2. To what extent must a district court use the policy judgments embodied in a recently enacted but unenforceable state redistricting plan as guidance for an interim plan?
3. When may a district court depart from the enacted state plan based on alleged constitutional or Voting Rights Act §2 defects?
4. May a district court prejudge the merits of a pending §5 preclearance challenge or independently disregard the State's redistricting policies?

HOLDINGS

1. When a district court must draw an interim redistricting plan because the existing plan is unusable, the court should take guidance from the State's recently enacted plan and the legislative policies it embodies, to the extent those policies do not lead to violations of the Constitution or the Voting Rights Act.
2. A district court may depart from the State's enacted plan to avoid constitutional or Voting Rights Act §2 defects only to the extent the challenged aspects are shown to have a likelihood of success on the merits.
3. A district court drawing an interim plan must not prejudge the merits of a pending §5 preclearance proceeding; it should disregard the State's policy judgments only when the §5 challenge presents a reasonable probability of failure, meaning that the challenge is not insubstantial.
4. The Western District of Texas's interim-plan orders could not stand because it was unclear whether the court had followed the required standards, including appropriate deference to the enacted state plan and adequate findings concerning alleged legal defects.

KEY QUOTATIONS

“To avoid being compelled to make such otherwise standardless decisions, a district court should take guidance from the State’s recently enacted plan in drafting an interim plan.” (at 4-5)

“Section 5 prevents a state plan from being implemented if it has not been precleared. But that does not mean that the plan is of no account or that the policy judgments it reflects can be disregarded by a district court drawing an interim plan.” (at 5)

“The local district court drafting an interim plan must therefore be careful not to prejudge the merits of the preclearance proceedings.” (at 6)

“Because it is unclear whether the District Court for the Western District of Texas followed the appropriate standards in drawing interim maps for the 2012 Texas elections, the orders implementing those maps are vacated, and the cases are remanded for further proceedings consistent with this opinion.” (at 10)

FACTUAL BACKGROUND

The 2010 census showed that Texas had gained more than four million residents and four congressional seats, requiring substantial redistricting. Texas enacted new congressional and state legislative plans, but the plans had not received §5 preclearance when the 2012 elections approached. Because the old plans no longer satisfied the Constitution's one-person, one-vote requirement, the Western District of Texas drew interim plans after a trial and extensive hearings.

PROCEDURAL HISTORY

Texas enacted new congressional and state legislative district plans following the 2010 census and submitted them for §5 preclearance in the District Court for the District of Columbia. Appellees challenged the plans in the Western District of Texas under the Constitution and §2 of the Voting Rights Act. Because the existing plans could not be used after population growth and preclearance was unlikely before the 2012 elections, the Texas district court adopted interim plans. The Supreme Court stayed those plans, noted probable jurisdiction, vacated the interim-plan orders, and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The cases were remanded for further proceedings consistent with the opinion. The district court was instructed to redraw interim maps using the recently enacted state plan as guidance, depart from it only to avoid legal defects shown to have a likelihood of success or a reasonable probability of failing §5 preclearance, and avoid prejudging the §5 proceedings.

CASES CITED

- Georgia v. Ashcroft, 539 U.S. 461, 488 n. 2 (2003)
- Northwest Austin Municipal Util. Dist. No. One v. Holder, 557 U.S. 193, 198, 204 (2009)
- Clark v. Roemer, 500 U.S. 646, 652 (1991)
- Branch v. Smith, 538 U.S. 254, 283-285 (2003) (Kennedy, J., concurring)
- Connor v. Finch, 431 U.S. 407, 414-415 (1977)
- Chapman v. Meier, 420 U.S. 1, 27 (1975)
- Miller v. Johnson, 515 U.S. 900, 915-916 (1995)
- White v. Weiser, 412 U.S. 783, 795-797 (1973)
- Abrams v. Johnson, 521 U.S. 74, 79, 85-86, 98 (1997)
- Upham v. Seamon, 456 U.S. 37, 40-43 (1982) (per curiam)
- Whitcomb v. Chavis, 403 U.S. 124, 160-161 (1971)
- Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008)
- Perkins v. Matthews, 400 U.S. 379, 385 (1971)

- *Lopez v. Monterey County*, 519 U.S. 9 (1996)
- *McDaniel v. Sanchez*, 452 U.S. 130 (1981)
- *Balderas v. Texas*, No. 6:01cv158 (W.D. Tex. 2001) (per curiam), summarily aff'd, 536 U.S. 919 (2002)
- *Bartlett v. Strickland*, 556 U.S. 1, 13-15 (2009) (plurality opinion)

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