

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Judson Edge, Ronald J. Foust, Georgia L. Deriso, David W. Tietjen,
and Arthur Watts v. Sumter County School District, et al.

28 Ed. Law Rep. 366 (11th Cir. 1985) · No. No. 84-8489 · Decided November 14, 1985

SUMMARY

The Eleventh Circuit vacated and remanded a district court-ordered reapportionment plan for elections to the Sumter County, Georgia, school board. The court held that the district court had to conduct a hearing and assess compliance with Section 2 of the Voting Rights Act, properly address Section 5 objections, and consider whether an at-large seat could be retained consistent with constitutional and statutory requirements. The court allowed officials elected under the challenged plan to remain in office until the scheduled November 1986 election.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Per curiam; Roney, Circuit Judge; Hill, Circuit Judge; Tuttle, Senior Circuit Judge
JURISDICTION	Federal
DECIDED	November 14, 1985
DOCKET	No. 84-8489
DISPOSITION	vacated_and_remanded
PROCEDURAL POSTURE	Residents appealed from a district court's court-ordered reapportionment plan for elections to the Sumter County, Georgia, school board.
STANDARD OF REVIEW	De novo review of the district court's application of legal standards, with remand required where the district court misapplied legal standards in making discrimination findings.
PRECEDENTIAL VALUE	Published Eleventh Circuit opinion; precedential
PARTIES	Judson Edge, Ronald J. Foust, Georgia L. Deriso, David W. Tietjen, Arthur Watts v. Sumter County School District, et al.

TOPICS

- voting rights
- redistricting
- election administration
- appellate procedure
- remedies

PRACTICE AREAS

Voting Rights Act litigation

Election law

Constitutional law

Federal appellate procedure

Reapportionment remedies

QUESTIONS PRESENTED

1. Whether the district court could adopt a court-ordered reapportionment plan without determining whether the plan complied with § 2 of the Voting Rights Act.
2. Whether the district court properly applied § 5's retrogression and discriminatory-effect principles when evaluating a plan in a jurisdiction with no legally enforceable electoral system.
3. Whether the district court was required to consider preserving the legislature's preference for one at-large seat and six single-member districts if that configuration could satisfy constitutional and statutory requirements.
4. Whether the district court had jurisdiction to supervise and create a valid electoral plan after the prior plan was enjoined.
5. Whether new elections were required after the court-ordered plan was vacated.

HOLDINGS

1. A district court may not validly adopt a reapportionment plan without determining whether the plan complies with § 2 of the Voting Rights Act.
2. When a district court adopts a reapportionment plan without holding a hearing or analyzing the § 2 factors, the proper course is to vacate and remand for a hearing and reconsideration under the correct standards.
3. Where no legally enforceable electoral plan is in effect, a proposed plan must be evaluated in relation to other properly apportioned alternatives rather than treated as a change from a valid existing at-large plan; § 5 analysis must also account for whether the new plan itself discriminates in violation of the Constitution.
4. A district court designing a court-ordered reapportionment remedy must limit modifications to those necessary to cure constitutional or statutory defects and must consider preserving unobjected-to aspects of the legislature's plan when legally permissible.
5. The district court possessed jurisdiction, derived from the three-judge court's remand, to supervise the development of and create a valid electoral plan even though no prior legally enforceable plan was available for reinstatement.
6. Vacatur of the district court's plan did not require immediate new elections; officials elected under the plan could remain in office until the scheduled November 1986 election while a valid plan was developed.

KEY QUOTATIONS

“We vacate and remand on the ground that the district court failed to properly follow the controlling cases and misapplied Sections 2 and 5 of the Voting Rights Act of 1965.” (at 1510)

“A hearing must be held to permit the parties to submit evidence on the Section 2 issues.” (at 1510-11)

“An appropriate reconciliation of these two goals can only be reached if the district court's modifications of a state plan are limited to those necessary to cure any constitutional or statutory defect.” (at 1512)

“As it is, we simply hold that the district court had the jurisdiction delivered to it by the remand from the three judge court.” (at 1513)

FACTUAL BACKGROUND

Sumter County had approximately 12,500 residents, 44 percent of whom were Black, yet no Black person had ever served on the county school board. The county had no legally enforceable electoral system after a prior plan was held unconstitutional and an at-large plan was enjoined for lack of § 5 preclearance. Two replacement plans providing for one at-large member and six single-member districts were rejected because they did not fairly reflect Black voting strength, after which the district court adopted its own plan without holding a § 2 evidentiary hearing.

PROCEDURAL HISTORY

Earlier litigation invalidated the 1968 legislative plan under the one-person, one-vote principle and later litigation enjoined the 1973 at-large plan for failure to obtain Voting Rights Act § 5 preclearance. After two proposed plans were rejected by the Attorney General, the district court created a reapportionment plan. The Eleventh Circuit vacated that plan because the district court did not hold a hearing or determine compliance with § 2 and misapplied § 5 and remedial principles, remanding for further proceedings while allowing officials elected under the plan to remain in office until the November 1986 election.

DISPOSITION

vacated_and_remanded

REMAND INSTRUCTIONS

The district court must hold a hearing allowing the parties to submit evidence on the § 2 issues, evaluate the plan under the correct statutory and constitutional standards, consider properly apportioned alternatives and the permissible preservation of the legislature's preferred structure, and make any necessary changes before the November 1986 election. Officials elected under the existing plan may remain in office until that election.

CASES CITED

- Carter v. Crenshaw, No. 768 (M.D. Ga. July 12, 1972)
- Edge v. Sumter County School District, 541 F. Supp. 55 (M.D. Ga. 1981)
- Sumter County School District v. Edge, 456 U.S. 1002 (1982)

- *Jordan v. Winter*, 541 F. Supp. 1135 (N.D. Miss. 1982), vacated and remanded, sub nom. *Brooks v. Winter*, 461 U.S. 921 (1983)
- *United States v. Marengo County Commission*, 731 F.2d 1546 (11th Cir. 1984), cert. denied, 105 S. Ct. 375 (1984)
- *Zimmer v. McKeithen*, 485 F.2d 1297, 1305 (5th Cir. 1973) (en banc), aff'd per curiam sub nom. *East Carroll Parish School Board v. Marshall*, 424 U.S. 636 (1976)
- *United States v. Dallas County Commission*, 739 F.2d 1529, 1534-35 (11th Cir. 1984)
- *Ketchums v. Byrne*, 740 F.2d 1398, 1403-06 (7th Cir. 1984)
- *Velasquez v. City of Abilene*, 725 F.2d 1017, 1020-23 (5th Cir. 1984)
- *Pullman-Standard v. Swint*, 456 U.S. 273, 291-93 (1982)
- *Beer v. United States*, 425 U.S. 130 (1975)
- *Wilkes County, Georgia v. United States*, 450 F. Supp. 1171, 1178 (1978)
- *Connor v. Johnson*, 402 U.S. 690 (1971)
- *Upham v. Seamon*, 456 U.S. 37, 42-44 (1982)
- *Wise v. Lipscomb*, 437 U.S. 535, 540, 542 (1978)
- *Connor v. Finch*, 431 U.S. 407, 414 (1977)
- *Whitcomb v. Chavis*, 403 U.S. 124, 161 (1971)
- *Allen v. State Board of Elections*, 393 U.S. 544 (1969)
- *Perkins v. Matthews*, 400 U.S. 379, 383-85 (1971)
- *Louisville & Nashville Railroad Co. v. Mottley*, 211 U.S. 149, 152 (1908)
- *Connor v. Waller*, 421 U.S. 656 (1975)
- *United States v. Georgia*, 351 F. Supp. 444 (N.D. Ga.), aff'd, 411 U.S. 526 (1973)
- *Kirksey v. Board of Supervisors*, 554 F.2d 139, 159-63 (5th Cir. 1977)
- *Lee County Branch of NAACP v. City of Opelika*, 748 F.2d 1473, 1483 (11th Cir. 1984)