

Racial Gerrymandering Court Cases

- 14th Amendment – race was the predominant factor in district boundaries
 - Odd shaped districts (low compactness)
 - Direct evidence from people involved in redistricting
 - Use of racial and voting data in the technology
- Voting Rights Act – diminished ability to elect “candidate of choice”
(*Gingles* test)
 - Majority-minority district possible in compact area
 - Minority group is votes as a bloc
 - Majority group votes as a bloc and differently than minority group

Racial Gerrymandering Court Cases

- *Shaw v. Reno* (1993, NC)
- *Miller v. Johnson* (1995, GA)
- *Bush v. Vera* (1996, TX)
- *LULAC v. Perry* (2006, TX)
- *Ala. Leg. Black Caucus v. Alabama* (2015)
- *Bethune-Hill v. Va. State Bd. Of Elections* (2017)
- *Cooper v. Harris* (2017, NC)
- *Abbott v. Perez* (2018, TX)
- *North Carolina v. Covington* (2018)

Racial Gerrymandering Cases



Shaw v. Reno (1993)

- North Carolina had 1 majority-minority district following 1991 redistricting
- DOJ asked for 2 such districts to improve black voter representation
- Adding a second would've required a shape "so bizarre that it is unexplainable on grounds other than race"
- Result: cannot draw a district strictly for racial reasons (but also need to comply with Voting Rights Act)

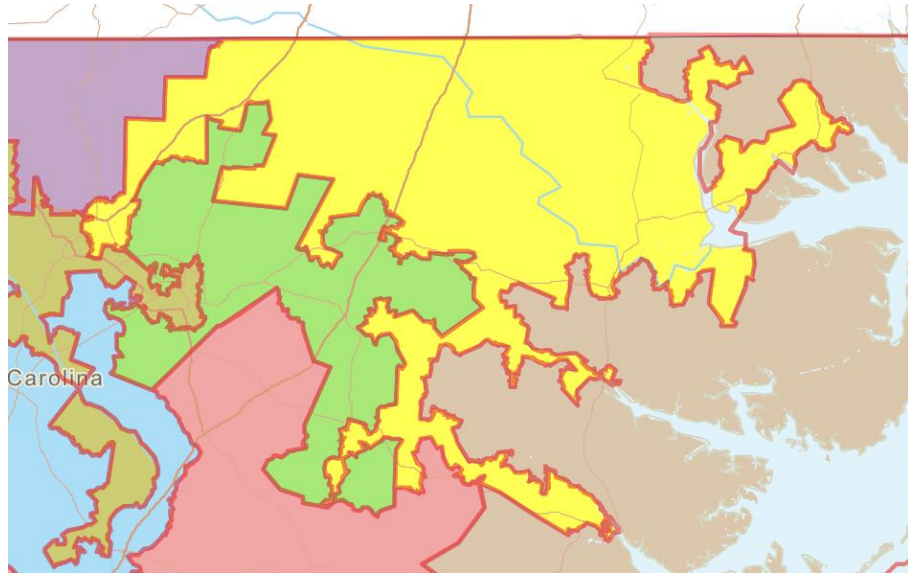
Cooper Vs. Harris

- Occurred in North Carolina (specifically 1st and 12th districts)
- Lawsuit filed on November 3, 2011, after the maps created following the 2010 Census were passed. It was filed by David Harris and Christine Bowser, registered voters that resided in the districts in question.
- Their argument: The North Carolina general assembly packed the 1st and 12th districts with black voters to diminish their voting power in other districts.
 - Violates Voting Rights Act
- May 22, 2017 — Court determined that black voters were placed disproportionately into the two districts, diluting the impact of their votes. The Congressional maps were redrawn.

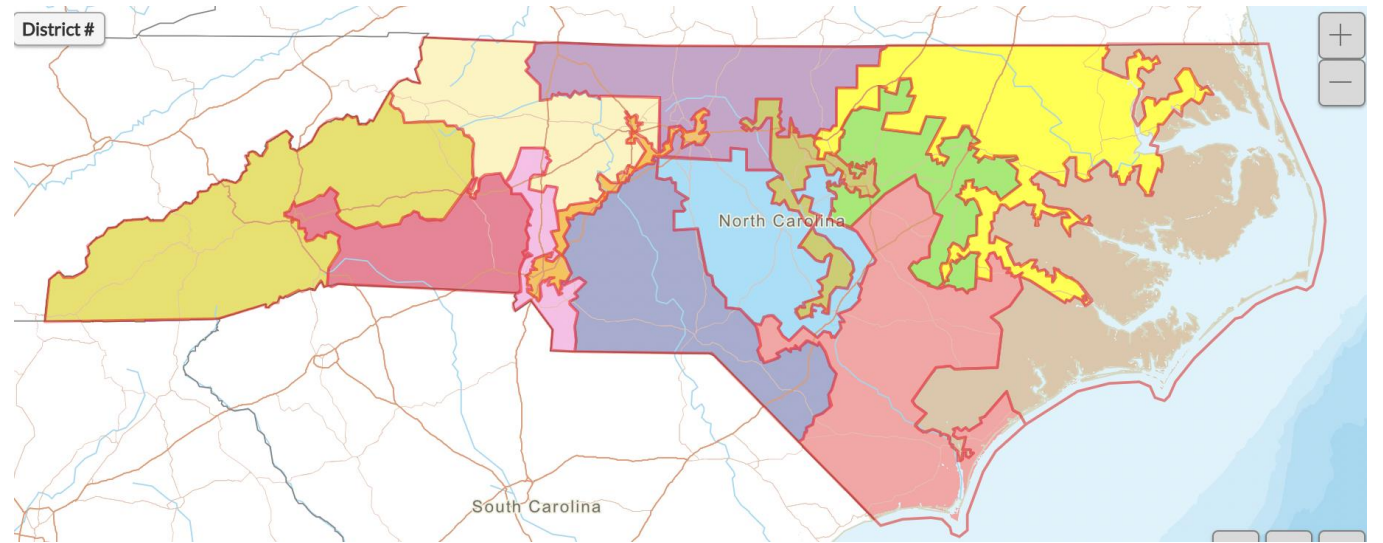
Alex Chambers

Cooper Vs. Harris

- District 1 (shown in yellow) entire map:



Shown in the context of the

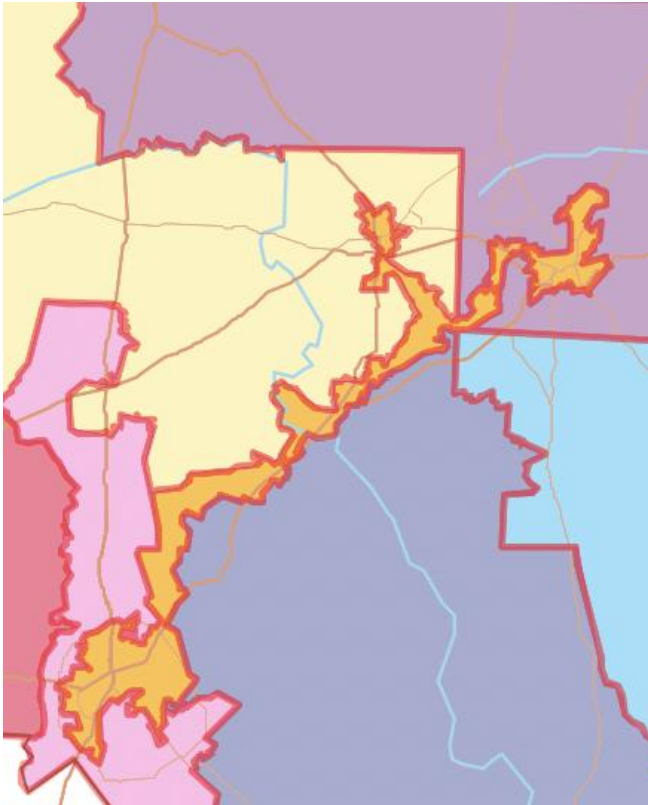


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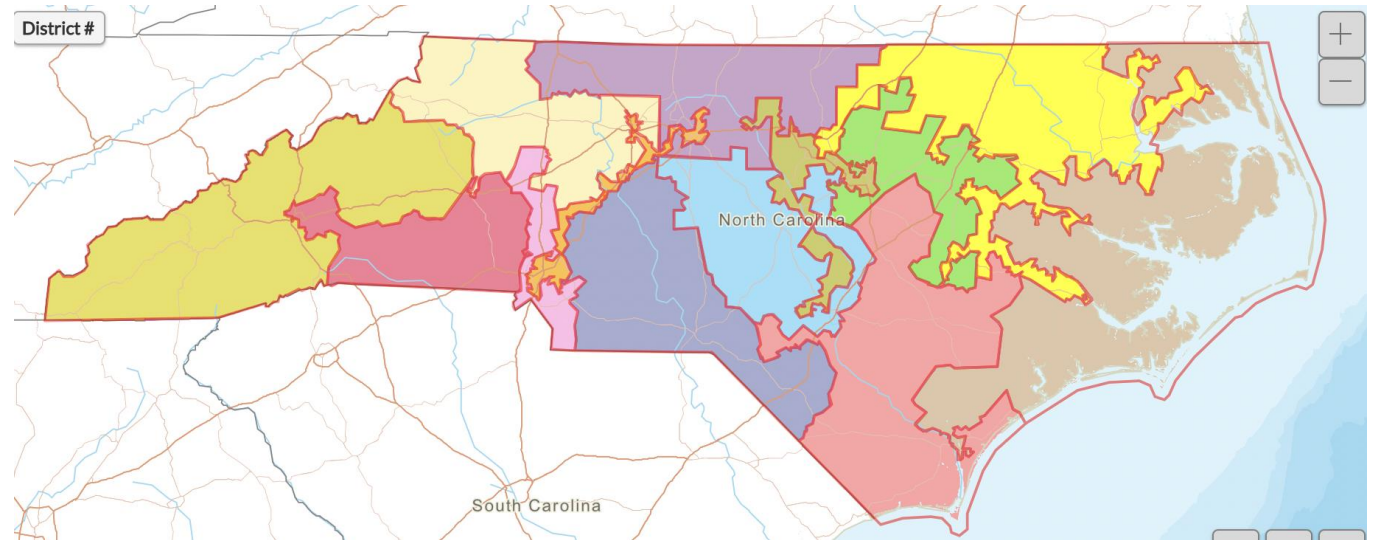
<https://www.ncleg.gov/Redistricting/DistrictPlanMap/C2011E>

Cooper Vs. Harris

- District 12 (shown in orange) entire map:



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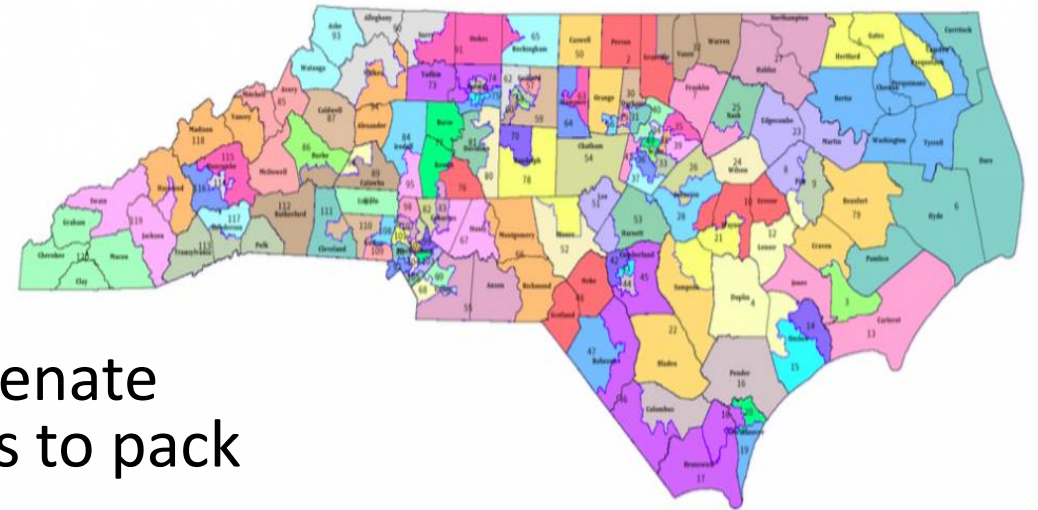
Alex Chambers

<https://www.ncleg.gov/Redistricting/DistrictPlanMap/C2011E>

North Carolina v. Covington

- ❖ North Carolina V Covington revolved around the racial gerrymandering of the state house and state senate maps, therefore the maps were in violation of the 14th Amendment.
- ❖ The case involved a group of 31 voters who sued the state of North Carolina and its Republican party.
- ❖ They claimed that 19 House Districts and 9 Senate Districts had been created by the Republicans to pack African American voters.
- ❖ The main entities that made a verdict of the case were the District Court, U.S. Supreme Court and a Special Master who they appointed to redraw certain districts.

North Carolina House Special Master's Draft Plan



Sam Burg, Henry Shapiro
<https://www.oyez.org/cases/2017/17-1364>

North Carolina v. Covington The Main Arguments

- **Plaintiffs**

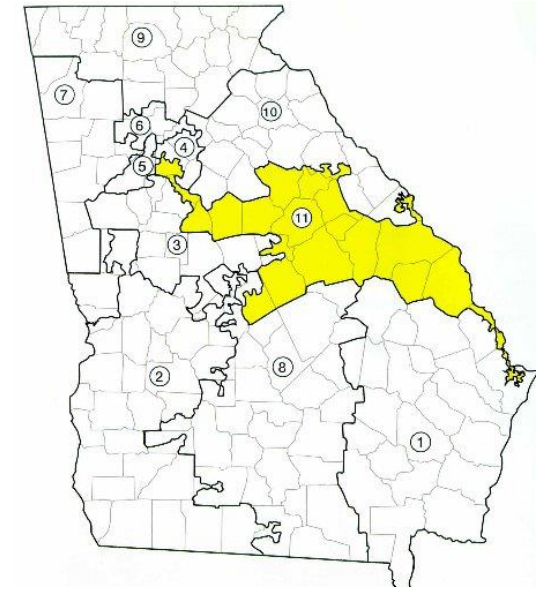
- ❖ Claim that 28 district for the state legislature were racially gerrymandered
- ❖ Challenged the newly drawn districts claiming that they were also racially gerrymandered
 - ❖ Specifically districts 21 and 28 in the state senate and districts 21 and 57 in the state house

- **Defendants
(Republicans)**

- ❖ Claim that race was absolutely not a consideration when drawing maps
- ❖ Argued that the District Court didn't have the jurisdiction to appoint a Special Master to draw a new map (instead of giving the General Assembly another chance to draw it)

Miller V. Johnson (1995)

- ❖ Miller v. Johnson first examined whether racial gerrymandering is a violation of the Equal Rights Act, and secondly, if Georgia's redistricting plans had no explanation other than to segregate voters on the basis of racial identity.
- ❖ The Case was first brought about when the Georgia Department of Justice refused preclearance on the redistricting plans, from this point, the ACLU and Black Caucus of the Georgia General Assembly quickly got involved.
- ❖ The case impacted most largely the population of Georgia's eleventh congressional District, specifically majority black neighborhoods of Macon, Savannah, the metropolitan Atlanta area and a small part of coastal Chatham County,
- ❖ The case received its final ruling at the Supreme Court from Justices Rehnquist, Stevens, O'Connor, Scalia, Kennedy, Souter, Thomas, Ginsberg, and Breyer.

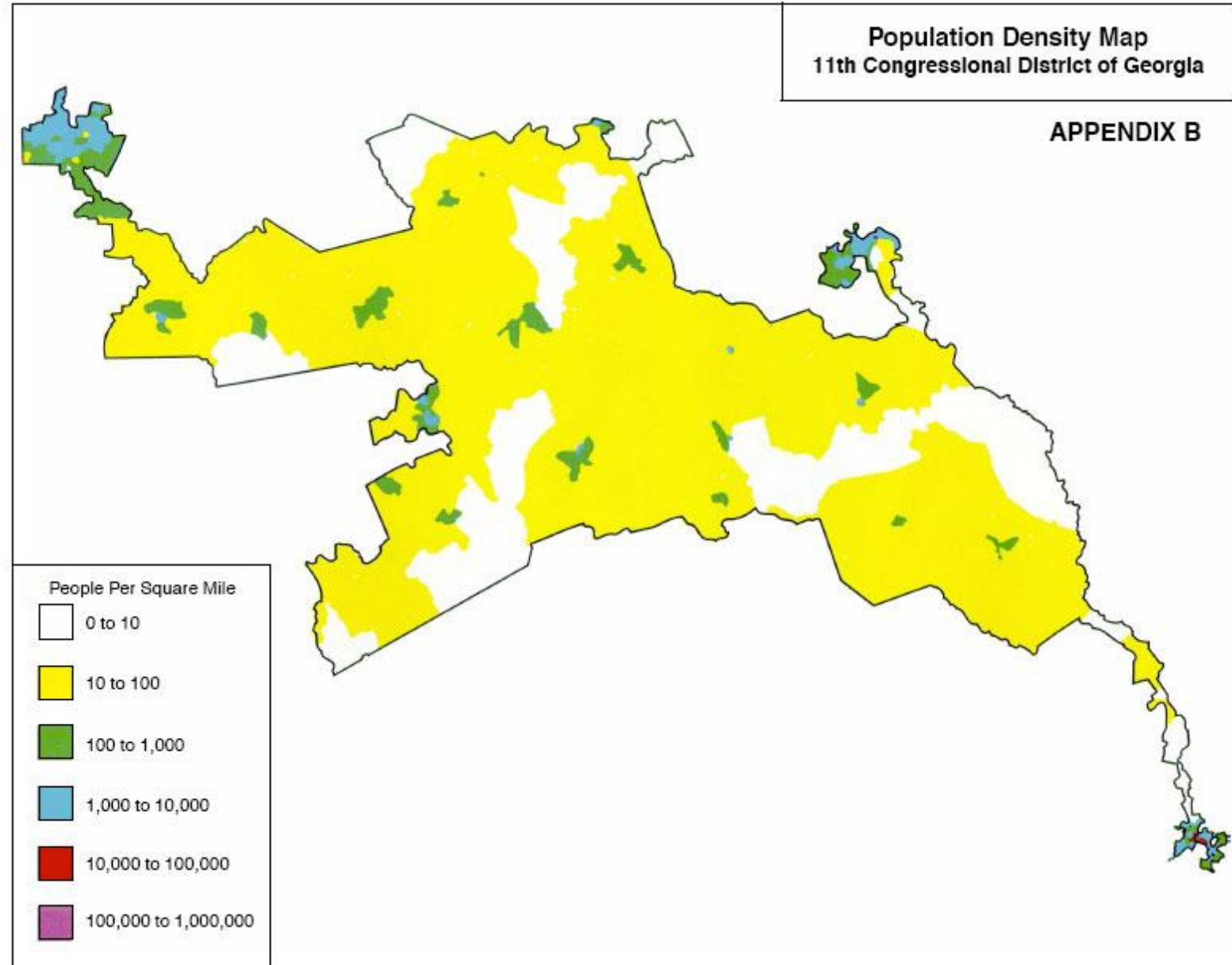


Miller V. Johnson (1995)

- The plaintiff (Miller et al.) argued that the borders and shape of the district were swayed to directly affect voters in large black communities. Not only did it go into cities such as the Metropolitan Atlanta area and Savannah which have large black communities, the irregular shape stretched down the coastline so oddly that it was almost obvious there was gerrymandering occurring.

- Along with the strange stretch of coastline along the Atlantic Ocean, the district stretched 6,784 square miles from Atlanta to the Atlantic Ocean, making it what became called a "geographic monstrosity."

- The defendant (Johnson) argued that the district was created with "traditional" district planning and that there were no racial biases occurring. Pre-clearance for previous drawing had already been denied twice by the Justice Department. This was because there was a push for three black majority districts, so the maps drawers were running out of options.



Miller V. Johnson (1995)

- The Justices split 5-4 on this decision, with Kennedy, Rehnquist, Scalia, O'Connor and Thomas as the majority and Ginsburg, Stevens, Breyer and Souter dissenting. The reason for the majority decision was the precedent set by Shaw v Reno. Shaw v Reno was a very important case for the issue of gerrymandering, as it established the strict scrutiny standard as the one to use for cases of gerrymandering. The strict scrutiny standard means that in order for a conflict with the constitution to be ignored, the government must provide a compelling interest achieved by the law. The majority saw this standard and applied it to this district, which they found was beyond a reasonable purpose and was a racial gerrymander. The dissenting argument did not deny that race was a part of the process, but argued that it was not the predominant factor, and therefore within the standard.



LULAC V. PERRY (2006)

Plaintiff: LULAC= League of United Latin American Citizens

Defendant: Rick Perry, (Former) Governor of Texas

- **Facts:**

- Following the 2000 census, the Texas legislature could not agree on a redistricting plan, so a federal court made a map. This map slightly favored Republicans.
- Then, the 2002 election gave the Republican Party a new control of the state legislature. Also, Latino support for the incumbent declined to 8% in 2002.
- In 2003, the GOP controlled state legislature began a new re-drawing process (following the 2000 census).
- Then, in 2004 Texas Republicans gained 5 seats in the house.



LULAC V. PERRY (2006)

Plaintiff

- Proposed map violates Constitution & Section 2 of the Voting Rights Act
- Map diluted racial minority voting strength & maximized partisan advantage

- Supreme Court ruled that only District 23 of the 2003 Texas redistricting violated the Voting Rights Act.
- The Court refused to throw out the entire plan, ruling that the plaintiffs failed to state a sufficient claim of partisan gerrymandering.

Defendant

- Maps can be redrawn as many times as legislators see fit
- They should be allowed to use the most recent census (2000)



Ala. Leg. Black caucus v. Alabama (2015)

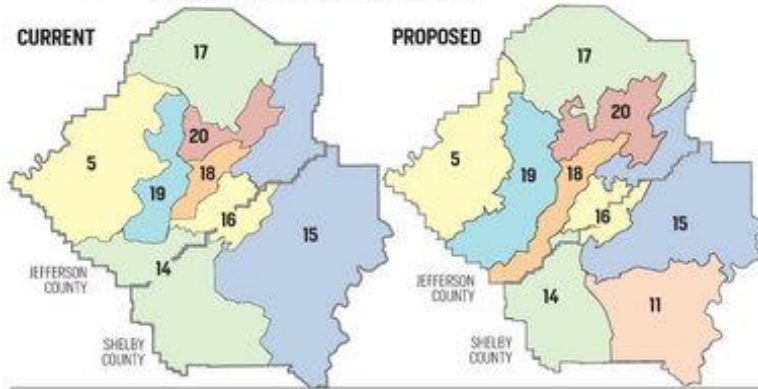


- ❖ Who: Plaintiff was the Alabama Legislative Black Caucus also the Alabama Democratic Conference. Defendant was the state of Alabama.
- ❖ **Case Facts:** The Alabama legislature redrew the state's electoral districts in 2012 with the purpose of establishing districts with a population deviation of only 1%, as opposed to the customary 5 % allowed by judges when analyzing redistricting attempts. Alabama also attempted to keep the existing minority voter percentage in each electoral district.
- ❖ Petitioners filed a lawsuit in federal court, claiming that Alabama's redistricting violated the Voting Rights Act and amounted to racial gerrymandering, resulting in unequal representation of racial minorities throughout various electoral districts.
- ❖ According to the District Court, the petitioners failed to show that race was a "dominant and controlling" factor in redrawing Alabama's electoral districts, as well as that Alabama's goal of maintaining minority population percentages in existing districts was "narrowly tailored" to a compelling state interest. That is when the Supreme Court stepped in with its probable jurisdiction to review the lower court's legal principles.
- ❖ Arguments: Justice Breyer said that the court ruled in favor of the Alabama Legislative Black Caucus because
 - ❖ The district court wrongfully assumed this was targeting statewide districts, when it was only a few districts.
 - ❖ Alabama's reasoning for maintaining a certain population of POC voters in districts is not justified
- ❖ Dissent: Justice Antonin M. Scalia argued that the majority overstepped into the case
 - ❖ Other dissenters argued that the math was found to support an opinion, instead a claim
- ❖ Results: Racial Gerrymandering Claims must be looked at on district level, not state.

ALA. Black Caucus v. Alabama (2015)

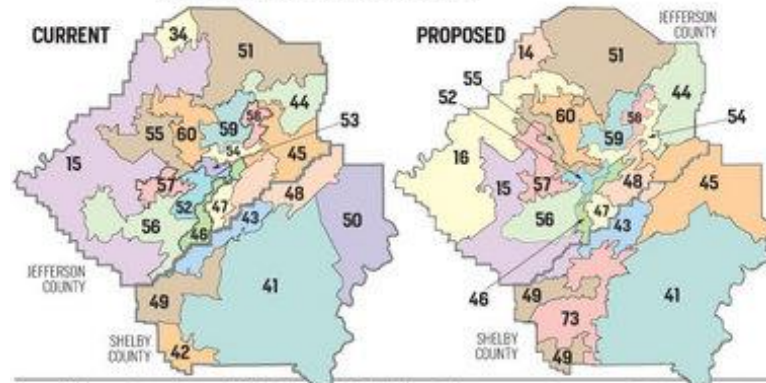
SENATE DISTRICTS

The proposal for redrawing Senate districts would split Shelby County among four districts, rather than the current three districts, as well as changing many of the other district lines.



HOUSE DISTRICTS

The proposal for redrawing House districts would drop Jefferson County's District 53, create a new District 73 in Shelby County, bring House District 16 from west Alabama into Jefferson County, and make more compact districts in high growth areas of southwest Jefferson and northwestern Shelby counties, among other changes.

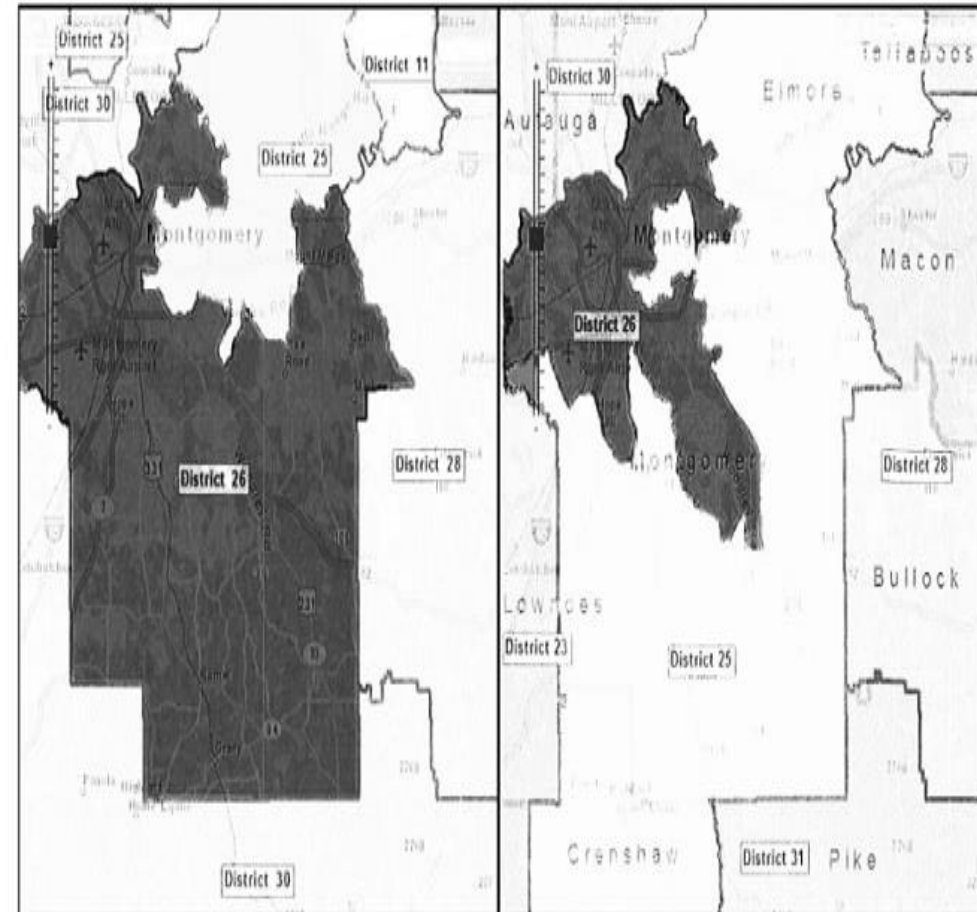


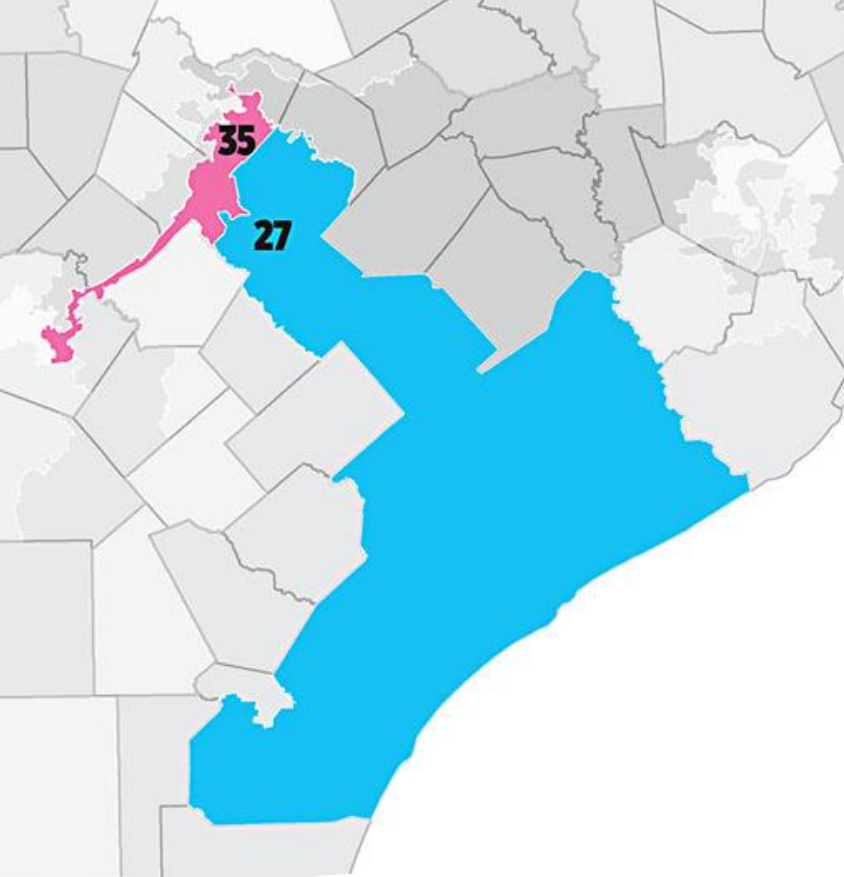
Source: Alabama Reapportionment Office. For more detailed information, see maps at policymaker.alabama.gov/Districts.aspx

The Birmingham News

2001 Districting Plan

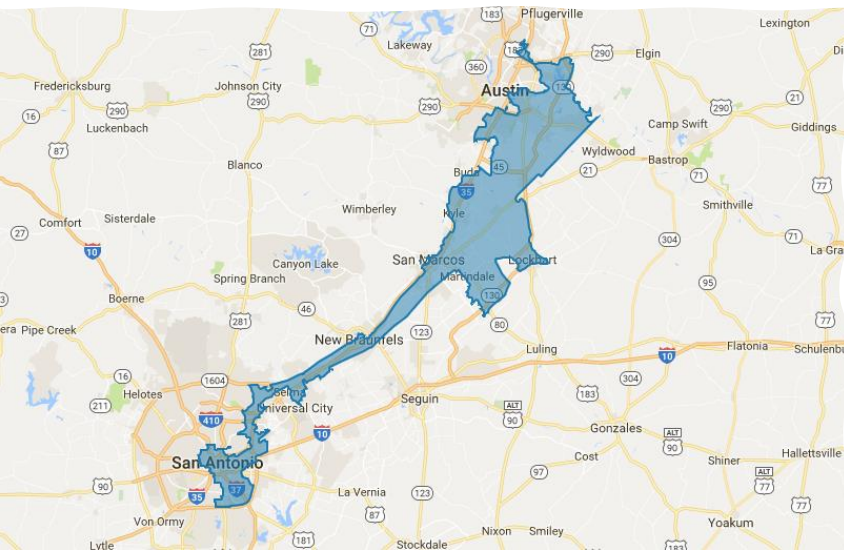
2012 Districting Plan

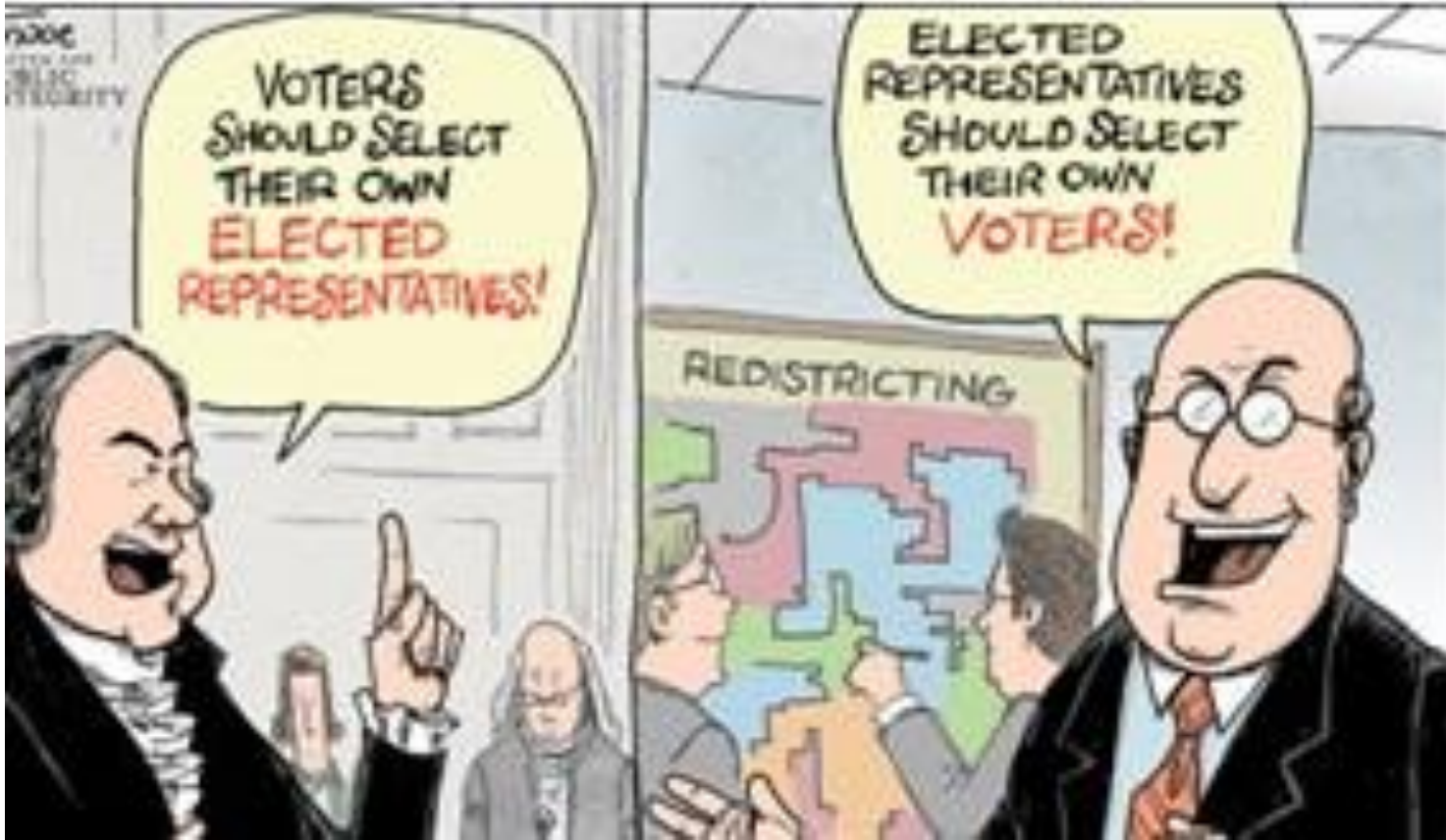




Abbot vs. Perez

- Individual voters in Texas, along with organizations representing Latinos and African Americans, filed a number of lawsuits in 2011, challenging the Texas legislature's congressional and state house redistricting plans.
- Texas' 2013 maps for Congressional Districts 27 and 35 and nine State House Districts had been drawn with racially discriminatory intent, unconstitutionally diluting the impact of racial minority votes in those districts.





Abbot vs. Perez

With a ruling of 5-4, the results of the case was that the Supreme Court reversed the ruling.

- The D.C. District Court subsequently denied preclearance to the proposed redistricting plans on the basis that they were enacted with discriminatory intent and had the effect of abridging minority voting rights. Texas appealed this decision to the U.S. Supreme Court.
- After the Texas District Court's interim maps were used for the 2012 elections, the Texas legislature failed to take any action on redistricting in the 2013 regular session. However, it convened a special session during which it adopted, among others, the Texas District Court's congressional interim map ("Plan C235") without any changes. The governor subsequently signed the legislation adopting this plan.

Bethune-Hill vs Virginia Board of Elections

- On December 22, 2014, 12 Virginia residents from 12 majority minority districts in Virginia sued the Virginia State Board of Elections arguing that there was racial gerrymandering that violated the equal protection clause of the 14th amendment. (illegally clusters minority voters)
- The district court ruled that race was not a factor in 11 out of the 12 challenged districts
- The court ruled that the one district where race was considered was allowed because the Virginia State Board of Elections was pursuing a "compelling state interest" where race was narrowly used to serve that interest

Bethune-Hill vs Virginia Board of Elections

Ensuing court cases

- This case ultimately went to the supreme court where they ruled the district court applied the wrong legal standard in evaluating the plaintiffs' claims of racial gerrymandering in 11 of the 12 districts
- In June, 2018, these 11 districts were found unconstitutional by a lower court who ruled race was the main factor in creating the districts
- The Virginia House of Delegates appealed this decision to the supreme court, but the court ruled 5-4 that the Virginia House of Delegates lacked standing to file the appeal

