PANELISTS

Speaker: Richard Raile
Baker Hostetler
Washington, D.C.

Moderator: Karen Garrett
Office of Legal Services
Tennessee

Speaker: Kareem Clayton
Southern Coalition for Social Justice
North Carolina

Evenwel v. Abbott (2016)


Cooper v. Harris (2017)

Shelby County v. Holder (2013)
Harris v. Ariz. Indep. Redistricting Comm’n (2016) [legislative]

- **Issue**: One Person, One Vote (Equal Protection)
- **Trial Court Holding**: For the Redistricting Comm’n
- **SCOTUS Holding**: For the Redistricting Comm’n, affirmed Trial Court
- **Result**: AZ’s Population deviations were predominantly motivated by a good faith effort to comply with the Voting Rights Act and thus did not violate the “one person, one vote” principle of the Equal Protection Clause.
- **Key Detail**: Legitimate considerations justifying population deviation includes good faith efforts to comply with the VRA, does not include goals of partisan advantage.
**Issue**: One Person, One Vote (Equal Protection)

**Trial Court Holding**: For the State (Texas)

**SCOTUS Holding**: For the State, affirmed Trial Court

**Result**: States are permitted to calculate “persons” as everyone in their population (total population) during redistricting.

**Key Detail**: Unresolved whether total voting age population (TVAP) is also an acceptable measure under “one person, one vote” for redistricting.

- **Issue**: Independent Redistricting Commissions (Elections Clause of U.S. Const.)
- **Trial Court Holding**: For the Comm’n
- **SCOTUS Holding**: For the Comm’n, affirmed
- **Trial Court**
- **Result**: The term “Legislature” in the federal Elections Clause encompasses citizen initiatives in states like AZ where such direct-lawmaking authority is permitted by the state’s constitution.
- **Key Detail**: The creation of a redistricting commission for congressional districts via ballot initiative does not violate the Elections Clause of the U.S. Constitution.
Alabama Legislative Black Caucus v. Alabama (2015) [legislative]

- **Issue:** Racial Gerrymandering (Equal Protection)
- **Trial Court Holding:** For the State (Alabama)
- **SCOTUS Holding:** For the Plaintiffs, reversed and remanded to District Court
- **Result:** Racial gerrymandering claims are analyzed district-by-district, not by the entire plan. Section 5 of the VRA does not require a covered jurisdiction to maintain a specific minority % when redistricting.
- **Key Detail:** Equal population is not merely a “factor to be considered” when redistricting but rather a constitutional mandate that is always required.
**Cooper v. Harris (2017) [congressional]**

- **Issue**: Racial Gerrymandering (Equal Protection)
- **Trial Court Holding**: For the plaintiffs
- **SCOTUS Holding**: For Plaintiffs, affirmed Trial Court
- **Result**: NC’s 1st and 12th Districts ruled unconstitutional because race predominated in line crafting.
- **Key Detail**: Determining which reason—racial or political—predominated in redistricting requires close scrutiny of case-specific details.
Shelby County v. Holder (2013)

- **Issue**: Voting Rights Act Constitutionality
- **Trial Court Holding**: For the DOJ (Upheld VRA)
- **SCOTUS Holding**: Held § 4(b) of VRA Unconst., reversed Trial Court
- **Result**: § 4(b)’s coverage formula was unconstitutional because it was not updated to reflect current conditions and therefore could not justify the Act’s differential treatment of states.
- **Key Detail**: The Court’s ruling left in effect § 2’s nationwide ban on racial discrimination in voting and § 5’s preclearance provisions (although no states are subject thereto).
SUPREME COURT CASES – THIS YEAR

- Lamone v. Benisek
- Rucho v. Common Cause
- Dept. of Commerce v. New York
**Bethune-Hill v. Virginia State Bd. of Elections (2019) [legislative]**

- **Issue**: Racial Gerrymandering (Equal Protection)
- **Trial Court Holding**: For the Plaintiffs
- **SCOTUS Holding**: For the Plaintiffs; Dismissed the House’s appeal for lack of standing
- **Result**: Virginia law vests the state’s litigation authority solely with the Attorney General and therefore the House (intervenor) lacked standing to appeal the lower court’s ruling on their own.
- **Key Detail**: State law controls whether a chamber of a state’s legislature has standing to challenge/appeal a decision in redistricting legislation.
Lamone v. Benisek (2019) [congressional]

- **Issue:** Partisan Gerrymandering (1st Amendment freedom of political association)

- **Key Facts:** Plaintiffs allege MD’s 6th Congressional District was drawn with the predominant intention to give advantage to Democratic voters and to disfavor Republican voters therein.

- **Trial Court Holding:** For the Plaintiffs, granted prelim. injunction blocking further use of the 2011 plan and requiring new maps to be drawn for 2020 elections.

- **SCOTUS Activity:** Granted a stay of the lower court’s ruling pending appeal; heard oral arguments on Mar. 26, 2019.
**Rucho v. Common Cause (2019) [congressional]**

- **Issue:** Partisan Gerrymandering (1st Am. freedom of political association; Equal Protection; Art. I of U.S. Const.)

- **Key Facts:** Plaintiffs allege NC’s remedial districting plan (following Cooper v. Harris ruling) was drawn with the predominant intention to favor Republican voters and to disfavor Democratic voters statewide.

- **Trial Court Holding:** For the Plaintiffs, on all claims.

- **SCOTUS Activity:** Granted a stay of the lower court’s ruling pending appeal; heard oral arguments on Mar. 26, 2019.

- **Issue**: Census Citizenship Question (Admin. Procedure Act; Enumeration Clause of the U.S. Const.; 5th Am. Due Process Clause)

- **Key Facts**: Plaintiffs challenging Sec. of Commerce Wilbur Ross’s inclusion of a citizenship question on the decennial census on the grounds that the decision was arbitrary and capricious and violates various statutory and constitutional provisions.

- **Trial Court Holding**: For the Plaintiffs, enjoined Sec. from including the citizenship question.

- **SCOTUS Activity**: Appeal pending.