

The constitution of State X authorizes a five-member state reapportionment board to redraw state legislative districts every ten years. In the last state legislative reapportionment, the board, by a unanimous vote, divided a greater metropolitan area composed of a city and several contiguous townships into three equally populated state legislative districts. As a result of that districting, 40% of the area's total black population resided in one of those districts, 45% of the area's total black population resided in the second of those districts, and 15% resided in the third district.

A black resident of the greater metropolitan area is a registered voter. He filed suit in the appropriate court against the members of the state reapportionment board, seeking declaratory and injunctive relief that would require the boundary lines of the state legislative districts in the greater metropolitan area to be redrawn. His only claim is that the current apportionment violates the Fifteenth Amendment and the equal protection clause of the Fourteenth Amendment because it improperly dilutes the voting power of blacks who reside in that area.

If no federal statute is applicable, which of the following facts, if proven, would most strongly support the validity of the action of the state reapportionment board?

- A. Although the rate of voter registration among blacks is below that of voter registration among whites in the greater metropolitan area, two minority-preferred legislators were elected from that area during the last 15 years.
- B. In drawing the current district lines, the reapportionment board precisely complied with state constitutional requirements that state legislative districts be compact and follow political subdivision boundaries to the maximum extent feasible.
- C. The reapportionment board was composed of three white members and two black members, and the black board members were satisfied that the plan did not improperly dilute the voting power of blacks residing in that area.
- D. The total black population of the greater metropolitan area amounts to only 15% of the population that is required to comprise a single legislative district.

Explanation:

The **Fourteenth Amendment equal protection** clause ensures that each citizen is given **equal voting power** (ie, one person, one vote) by requiring state legislative districts to have largely equal populations. And the **Fifteenth Amendment** ensures that the right to vote is **not abridged on account of race**. Therefore, race cannot be the **predominant factor** used to draw boundary lines for state legislative districts. If it is, the boundary lines will be strictly scrutinized and likely deemed unconstitutional.

Here, the state reapportionment board created three equally populated state legislative districts. These districts have varying black populations and may improperly dilute the voting power of blacks who reside in those areas. But race would not be the predominant factor behind redistricting if the board drew these boundaries to comply with state constitutional requirements that districts be compact and follow political subdivision boundaries. In that case, the board's action would be valid.

(Choice A) The Voting Rights Act (not the Constitution) requires that jurisdictions maintain a minority's ability to elect preferred candidates. But the question stipulates that this federal statute does not apply. And even if it did, the prior election of minority-preferred legislators could *invalidate* the board's action if the redistricting impaired black voters' ability to continue electing these candidates. But the rate of voter registration is irrelevant.

(Choice C) Had the board been predominantly motivated by the improper dilution of minority voting power (ie, race), neither its composition nor its black members' satisfaction with the plan could validate the redistricting. But an argument that the board was motivated by other, non-racial factors would support its redistricting action.

(Choice D) Although the metropolitan area's black population is only 15% of the population required for a legislative district, the validity of a redistricting plan is not impacted by how the area's minority population compares to the population required for a district. Therefore, this fact has no bearing on the validity of the board's action.

Educational objective:

Race cannot be the predominant factor used to draw boundary lines for state legislative districts. And if it is, those boundary lines will be subject to strict scrutiny and likely invalidated on equal protection grounds.

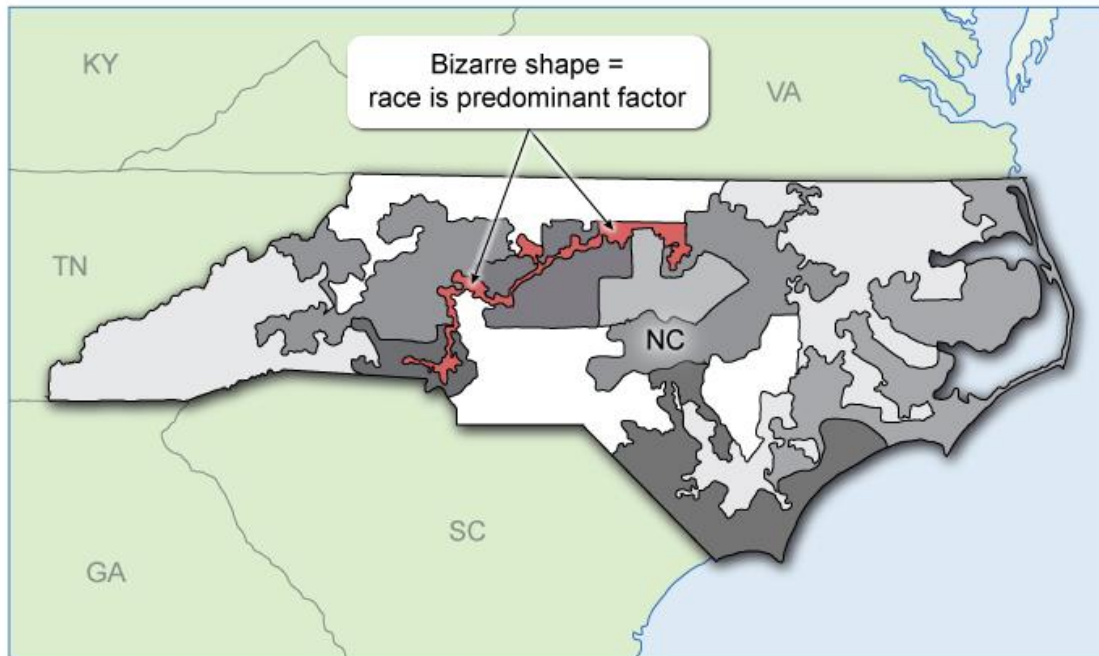
References

- Miller v. Johnson, 515 U.S. 900, 916 (1995) (explaining that the use of race as a predominant factor in drawing state legislative districts should be strictly scrutinized).

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Unconstitutional redistricting under 14th & 15th Amendments



Shaw v. Reno, 509 U.S. 630 (1993)