



Challenged Voting District Lines in Texas Face Review by High Court

By Barbara Leonard

May 26, 2015

The Supreme Court agreed Tuesday to decide whether Texas lawmakers improperly counted noncitizens to dilute the vote in certain districts.

Sue Evenwel is the lead plaintiff in the Voting Rights Act case at hand.

Represented by Consovoy McCarthy, these voters sought relief from the high court after a three-judge panel with the Western District of Texas deferred to lawmakers in ratifying a redistricting plan that they say violates "one-person, one-vote," or OPOV, principle of the 14th Amendment.

The Cato Institute noted in an amicus brief filed with the court that it is difficult to evaluate whether a district violated the OPOV principle since the varied concentrations of undocumented immigrants can wreak havoc on "total population" and "citizens of voting age population" (CVAP) numbers.

For Cato, a quick glance at the Texas state senate redistricting plan "quickly reveals gross malapportionment."

"Although the 31 districts are roughly equal in terms of total population, districts like 1 and 4, where appellants [Evenwal and others] reside, deviate from the CVAP ideal by over 30% (depending on which metrics are used)," the group wrote (parentheses in original). "A vote cast in such a district, where there are a greater concentration of eligible voters, has much less voting power than one cast in a district with a greater concentration of non-eligible residents. Put another way, to win in District 1 or 4, a candidate must get almost twice the votes of a candidate in a district with high concentrations of voting-ineligible residents."

Cato called the CVAP deviations at issue here "unambiguously unconstitutional."

"In short, the inclusion of non-citizen residents in the representational metric violates the equal protection of the laws by diluting citizen residents' relative voting power," the brief states.

"Meanwhile, the residents in the districts with a disproportionately smaller CVAP obtain a disproportionately greater share of representation in clear contravention of the OPOV principle."

Per its custom, the Supreme Court did not issue any comment in taking up the case Tuesday.

The court's order notes probable jurisdiction only.

Tuesday's announcement comes just two months after the sharply divided high court [invalidated](#) Alabama's new district lines that "packed" black voters into certain districts to dilute their effect on elections.