



Supreme Court Bolsters Political Influence of US Latinos

Mark Sherman

April 7, 2016

The Supreme Court unanimously endorsed election maps that bolster the growing political influence of America's Latinos on Monday, ruling that states can count everyone, not just eligible voters, in drawing voting districts.

The decision rejected a challenge from Texas voters that also could have diluted the voting power of urban Democrats, to the benefit of rural Republicans.

The case offered a test of the principle of "one person, one vote," the requirement laid out by the Supreme Court in 1964 that political districts be roughly equal in population. The issue here, though, was what population to consider: everyone or just eligible voters.

All 50 states use total population as their basis for drawing district lines, but the challengers said the rural state Senate districts in which they lived had vastly more eligible voters than urban districts, making their votes count for less, in violation of the Constitution.

In Texas, and other states with large immigrant populations, urban districts include many more people who are too young, not yet citizens, in the country illegally or otherwise ineligible to vote. All of them, recorded by the census, count for the purpose of drawing political districts.

Civil rights groups said forcing states to change their method of constructing districts would have damaged Latino political influence.

"Jurisdictions, we hold, may design state and local legislative districts with equal total populations; they are not obliged to equalize voter populations," Justice Ruth Bader Ginsburg said, summarizing her opinion for the court.

Ginsburg said that "history, our decisions and settled practice in all 50 states and countless local jurisdictions point in the same direction." She also declared that "representatives serve all residents, not just those eligible or registered to vote" and that nonvoters have an important stake in many policy debates.

The court stopped short of saying that states must use total population. And it also did not rule on whether states are free to use a different measure, as Texas had asked.

Ginsburg said the court was not resolving whether states may base maps on voter population.

Richard Hasen, an expert in election law at the University of California at Irvine Law School, said, "A contrary ruling would have shifted power to Republican, rural districts, and away from Democratic, urban areas."

Edward Blum, whose Project on Fair Representation backed the lawsuit, said he was disappointed in the outcome but predicted that "the issue of voter equality in the United States is not going to go away."

Though the justices were unanimous in upholding Texas' use of total population, Justices Clarence Thomas and Samuel Alito declined to join Ginsburg's opinion.

Thomas said the Constitution gives the states the freedom to draw political lines based on different population counts. Referring to the 1964 case of *Reynolds v. Sims*, he said the high court "has never provided a sound basis for the one-person, one-vote principle."

Alito objected to Ginsburg's reliance on the Constitution's prescription for using the once-a-decade census to divvy up seats in the House of Representatives among the states. Alito said the history of congressional representation was the product of political compromise. "It is impossible to draw any clear constitutional command from this complex history," he said.

Ilya Shapiro, a senior fellow at the libertarian Cato Institute, said the court avoided "the elephant in the voting booth. The court failed to fill the gaping hole in its voting-rights jurisprudence: the question whether the venerable 'one-person, one-vote' principle requires equalizing people or voters ... when crafting representational districts."

When the justices heard arguments in the case in December, they seemed open to some of the challengers' arguments, but they also recognized the practical concerns that might result from forcing states to abandon the way they have drawn electoral districts for more than a half century.

The unanimous result came just a week after they split 4-4 in a high-profile case involving labor unions and appeared to be searching for a way to avoid a tie in a dispute over the Obama health care law's contraception mandate.

The current case is *Evenwel v. Abbott*, 14-940.