



## Ignoring race in redistricting could backfire on GOP, scholar says

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Republicans chose to shun race as a consideration in remapping 28 legislative districts federal courts have deemed racial gerrymanders.

Relying so heavily on that strategy might backfire as the case moves forward, a constitutional scholar says. While the GOP's eventual goal is to maintain its supermajority status in both bodies of the General Assembly, courts may reject a plan ignoring race. So far, judges have accepted plaintiffs' arguments that the racial composition of the outlawed districts — nine Senate, 19 House — matters.

“While I think it would be great to have completely colorblind districting, under current jurisprudence it’s a nonstarter,” said Ilya Shapiro, a senior fellow in constitutional studies at the Cato Institute, and editor-in-chief of the *Cato Supreme Court Review*.

“The Voting Rights Act requires consideration of race in certain circumstances so as not to ‘dilute’ the political power of racial minorities,” Shapiro said. In large part, the plaintiffs won using that argument at the U.S. Supreme Court in the *Covington v. North Carolina* case.

“I imagine that Republican legislators — like all legislators — want to maximize their own political power,” Shapiro said. “I could see this case returning to the Supreme Court.”

Republicans would do well to pursue some other strategy to maintain their supermajority, Shapiro said.

But House and Senate deliberations on proposed maps show they intend to exclude race as a factor in drawing districts.

On Friday the Senate passed Senate Bill 691, that body's redistricting plan, by an initial 27-16 vote. Sens. Deanna Ballard, R-Watauga, and Rick Horner, R-Wilson, voted with Democrats against the bill. No Democrats voted for the measure. Seven senators were absent.

The bill is expected to have its final vote and go to the House when the Senate reconvenes Monday at 5 p.m.

The House redistricting committee on Friday passed new districts for that body, House Bill 927. The measure is on Monday's calendar for a floor vote. The vote was 25-16, with Rep. Michael Speciale, R-Craven, the lone crossover.

Legislative leaders restated their starkly divergent approaches on Friday.

“North Carolina is the most racially gerrymandered state in history,” said House Minority Leader Darren Jackson, D-Wake. “I do not believe that totally ignoring race is the way you fix a racial gerrymander.” He said Republicans’ strategy ignores the Voting Rights Act and Constitution.

“It might be that you’re sending a message to this three-judge panel that you don’t take judicial letters very seriously, and that is not a message that I want to be part of,” Senate Minority Leader Dan Blue, D-Wake, said during Senate debate. “If you haven’t solved [the racial gerrymander], the three-judge panel will solve it for you.”

Rep. David Lewis, R-Harnett, House redistricting committee senior chairman, thinks Republicans are on safe ground.

In his view, by ignoring race, Republicans were responding to the three-judge panel, which chided GOP mapmakers for failing to justify moving black voters into “majority-minority” districts where their voting age population would exceed 50 percent of the electorate.

Republicans said they did so to comply with federal Voting Rights Act requirements to provide black voters an opportunity to elect the candidates of their choice. They pointed out the General Assembly has 25 black members, eclipsing the numbers elected when Democrats drew the maps.

The *Covington* plaintiffs said Republicans made the moves to concentrate black voting strength in a few districts while diluting it elsewhere. Democrats argued blacks may be elected in larger numbers, but their voices are muted when Republicans dominate the legislature.

Not considering race at all would answer the court’s question, Lewis said. Neither the court nor anyone else has provided additional evidence why race should be considered, he said.

The legislative debate has highlighted what observers call a growing rural/urban/suburban split in the state. The divide raises the stakes for partisan control of the legislature.

House and Senate Republicans refused to approve any part of an alternative map produced by the *Covington* plaintiffs.

“It sounds like there was some kind of mechanical [racial] target or quota that was used without the supporting evidence to do so, which is in direct violation of what the *Covington* court said we could do,” Lewis said.

GOP members contend the alternative map would create gerrymandered districts that extend Democratic urban centers’ power into small towns where their message is unpopular.

Rep. Bill Brawley, R-Mecklenburg, cited his district as one example. The plaintiffs’ map would split the small, Republican-leaning cities of Mint Hill and Matthews into three Democratic districts with a heavy Charlotte presence.

“My people would go crazy if I sold them out,” he said.