

MEMO

To: Howard Willens
From: Bernard Zimmerman
Subject: Miller v. Abrams
Date: July 11, 1995

Miller v. Abrams, decided June 29, 1995 is not a redistricting case in the sense that it does not involve vote dilution or one person one vote principles. Rather, it involves racial gerrymandering. The court affirmed a trial court finding that Georgia had created its eleventh congressional district with "the intent to racially gerrymander." page 8. Consistent with the philosophy expressed in Adarand, the case involving affirmative action, the Court held that the fact that the gerrymandering was done for the purportedly benign purpose of creating additional minority districts did not save it from strict scrutiny. It then found that the proposed redistricting plan was unconstitutional. Georgia did not claim that the district was necessary to remedy past discrimination but admitted that it had gerry-mandered the district to try to comply with the Justice Department's preclearance requirements under the Voting Rights Act. page 19.

There is little discussion in Miller of the reapportionment problem we face, other than a passing reference to the fact that state legislatures must have discretion in creating electoral districts, to exercise political judgment to balance competing interests such as "compactness, contiguity and respect for political subdivisions or communities defined by actual shared interests." page 14-15.

The most recent view of the Supreme Court on our issue is contained in Voinovich v. Quilter, 113 Sup.Ct. 1149 (1993), in which the Court considered the constitutionality of a plan to redistrict the Ohio state legislature which contained maximum total deviations exceeding 10%. The Supreme Court reversed a trial court ruling which had held that total deviations in excess of 10% could not be justified by a policy of preserving the boundaries of political subdivisions. The Supreme Court instructed the trial court to "decide whether the plan may reasonably be said to advance the rational state policy of preserving county boundaries and, if so, whether the population disparities among the districts that have resulted from the pursuit of the plan exceed constitutional limits." (quotations omitted). The Court relied on its earlier decision in Brown v. Thompson, 462 U.S. 835 (1983), approving a redistricting plan which respected Wyoming's county geographical boundaries.

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