

22-807 ALEXANDER V. SC CONFERENCE OF THE NAACP

DECISION BELOW: 2023 WL 118775

LOWER COURT CASE NUMBER: 3:21-cv-03302-MGL-TJH-RMG

QUESTION PRESENTED:

The three-judge district court never mentioned the presumption of the South Carolina General Assembly's good faith, analyzed Congressional District 1 as a whole, or examined the intent of the General Assembly as a whole. It also disregarded the publicly available election data used to draw District 1 and legislator testimony demonstrating that politics and traditional districting principles better explain District 1 than race. And it never identified an alternative map that achieved the General Assembly's political objectives while similarly adhering to traditional criteria.

The court nonetheless held that a portion of District 1 is racially gerrymandered and discriminatory, and therefore permanently enjoined elections there. After an eight-day trial featuring more than twenty witnesses and hundreds of exhibits, the court rested this holding on its brief questioning of the experienced nonpartisan map drawer and its conclusion that he used a racial target as a proxy for politics in District 1. Plaintiffs did not pursue that theory at trial, and the court never explained why the General Assembly would use race as a proxy to draw lines for political reasons when it could (and did) use election data directly to do the job.

The questions presented are:

1. Did the district court err when it failed to apply the presumption of good faith and to holistically analyze District 1 and the General Assembly's intent?
2. Did the district court err in failing to enforce the alternative-map requirement in this circumstantial case?
3. Did the district court err when it failed to disentangle race from politics?
4. Did the district court err in finding racial predominance when it never analyzed District 1's compliance with traditional districting principles?
5. Did the district court clearly err in finding that the General Assembly used a racial target as a proxy for politics when the record showed only that the General Assembly was aware of race, that race and politics are highly correlated, and that the General Assembly drew districts based on election data?
6. Did the district court err in upholding the intentional discrimination claim when it never even considered whether-let alone found that-District 1 has a discriminatory effect?

JURISDICTION NOTED 5/15/2023