ABA Section of Litigation

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ABA Section of Litigation, 2013 ABA Annual Meeting, August 8-12, 2013:
"Lessons in Leadership from the Civil Rights Movement"

Timeline of Supreme Court School-Desegregation Cases from Brown to Fisher

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Presenter: Judge Bernice B. Donald

1954

Brown v. Board of Education, 347 U.S. 483 (1954)

Class actions originating in the four states of Kansas, South Carolina, Virginia, and Delaware, by which minor Negro plaintiffs sought to obtain admission to public schools on a non-segregated basis. The United States Supreme Court held that the segregation of children in public schools solely on the basis of race, even though the physical facilities and other tangible factors may be equal, deprives the children of the minority group of equal educational opportunities, in contravention of the Equal Protection Clause of the Fourteenth Amendment.

1955

Brown v. Board of Education, 349 U.S. 294 (1955) (*Brown II*)

Class actions by which minor plaintiffs sought to obtain admission to public schools on a non-segregated basis. The Supreme Court held that in proceedings to implement Supreme Court's determination, inferior courts might consider problems related to administration, arising from physical condition of school plant, school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve system of determining admission to public schools on a nonracial basis, and revision of local laws and regulations, and might consider adequacy of any plans school authorities might propose to meet these problems and to effectuate a transition to racially nondiscriminatory school systems.

1958

Cooper v. Aaron, 358 U.S. 1 (1958)

In compliance with *Brown v. Board of Educ.*, a Little Rock, AK. Superintendent of Schools prepared a plan for the desegregation of schools that expected to accomplish the complete desegregation of the school system by 1963.

The Supreme Court held that the governor and legislature of the state were bound by the Supreme Court's prior decision that enforced racial segregation in public schools was an unconstitutional denial of equal protection of laws; and held that, from the point of view of the Fourteenth Amendment, members of the school board and the superintendent of schools stood as agents of state, and that their good faith would not constitute legal excuse for delay in

implementing a plan for desegregating schools where actions of other state officials were responsible for conditions alleged by such school officials to make prompt effectuation of desegregation plan impossible and it was conceded that difficulties could be brought under control by state action.

1964

Griffin v. County School Bd. of Prince Edward County, 377 U.S. 218 (1964)

Black school children who were denied admission to public schools attended by white children brought suit against the County School Board of Prince Edward County and others to enjoin them from refusing to operate an efficient system of public free schools in Prince Edward County and to enjoin payment of public funds to help support private schools which excluded students on account of race. Section 141 of the Virginia Constitution was amended to authorize the General Assembly and local governing bodies to appropriate funds to assist students to go to public or to nonsectarian private schools, in addition to those own by the state or by the locality. The General Assembly enacted legislation to close any integrated public schools, to cut off funding to such schools, to pay tuition grants to children in nonsectarian private schools, and to extend state retirement benefits to teachers in newly created private schools.

The Supreme Court held that the action of the County School Board in closing the public schools of Prince Edward County and meanwhile contributing to the support of private segregated white schools that took their place denied black school children equal protection of the laws.

1968

Green v. County School Board of New Kent County, 391 U.S. 430 (1968)

New Kent County is a rural county in Eastern Virginia with about fifty-percent of the population being black. There is no residential segregation but the county only has two schools. The School Board operates one white combined elementary and high school and one black combined elementary and high school. In order to remain eligible for federal financial aid, the School Board adopted the 'freedom-of-choice' plan for desegregating the schools, which allowed each student to annually choose between the two schools and those who failed to choose were assigned to their previously attended school. The United States District Court for the Eastern District of Virginia entered judgment adverse to plaintiffs. The United States Court of Appeals, Fourth Circuit, affirmed in part and remanded. Certiorari was granted.

The Supreme Court held that where in three years of operation of the 'freedom of choice' plan, not a single white child had chosen to attend a former Negro public school and 85% of Negro children in system still attended that school, the plan did not constitute adequate compliance with school board's responsibility to achieve a system of determining admission to public schools on nonracial basis and board must formulate new plan and fashion steps promising realistically to convert promptly to a desegregated system. Judgment of Court of

Appeals vacated insofar as it affirmed district court and case remanded to district court for further proceedings.

1969

Alexander v. Holmes County Bd. of Ed., 396 U.S. 19 (1969)

The Supreme Court held that the obligation of every school district is to terminate dual school systems at once and to operate now and hereafter only unitary schools, and that school districts operating dual school systems based on race or color must begin immediately to operate unitary school systems within which no person would be effectively excluded from any school because of race or color. Order of Court of Appeals vacated and case remanded with instructions.

1971

Swann v. Charlotte-Mecklenberg Bd. of Ed., 402 U.S. 1 (1971)

This case resulted from a desegregation plan approved by the District Court in 1965. Certiorari was granted to review issues as to duties of school authorities and scope of powers of federal courts under mandates to eliminate racially separate public schools established and maintained by state action.

The Supreme Court held that where dual school system had been maintained by school authorities and school board had defaulted in its duty to come forward with acceptable plan of its own, limited use of mathematical ratios of white to black students, not as an inflexible requirement but as a starting point in the process of shaping a remedy, was within the equitable remedial discretion of the District Court; that pairing and grouping of noncontiguous school zones is permissible tool, to be considered in the light of objective of remedying past constitutional violations; and that where it appeared that assignment of children to the school nearest their home serving their grade would not produce an effective dismantling of the dual system, ordering system of bus transportation, which compared favorably with the transportation plan previously operated in the district, as one tool of school desegregation was within the power of the district court.

1972

Wright v. City of Emporia, 407 U.S. 451 (1972)

In 1967, Emporia successfully sought designation as a city of the second class. As such, it became politically independent from the surrounding county, and undertook a separate obligation under state law to provide free public schooling to children residing within its borders. Eventually, the Emporia City Council sent a letter to the county Board of Supervisors announcing the city's intention to operate a separate school system. Emporia takes the position that since it is a separate political jurisdiction, it is entitled under state law to establish a school system independent of the county. Both before and after it became a city, however, Emporia educated its children in the county schools. Only when it became clear that segregation in the

county system was finally to be abolished, did Emporia attempt to take its children out of the county system.

The Supreme Court held that city which had been part of county school system found in violation of the Constitution would not be permitted to establish a separate school system where the effect of so doing would be to impede the process of dismantling a dual system.

U.S. v. Scotland Neck City Bd. of Ed., 407 U.S. 484 (1972)

Consolidated actions challenging implementation of a North Carolina statute authorizing the creation of a new school district for a city which at the time of enactment, the statute was part of county school district then in the process of dismantling a dual school system. The Supreme Court held that implementation of a statute which would have the effect of carving out of an existing district a new unit in which 57% of students would be white and 43% Negro, while schools remaining in existing district would be 89% Negro, would impede the disestablishment of a dual school system in county and implementation would be enjoined.

1973

Norwood v. Harrison, 413 U.S. 455 (1973)

A three-judge District Court for the Northern District of Mississippi sustained validity of Mississippi statutory program under which textbooks are purchased by state and lent to students in both public and private schools without reference to whether any participating private school has racially discriminatory policies. The complaint alleged that certain of the private schools excluded students on the basis of race and that, by supplying textbooks to students attending such private schools, appellees, acting for the State, have provided direct state aid to racially segregated education. It was also alleged that the textbook aid program thereby impeded the process of fully desegregating public schools, in violation of appellants' constitutional rights.

The Supreme Court held that the Mississippi textbook program was constitutionally weak in that it significantly aided organization and continuation of separate system of private schools, which might discriminate if they so desired.

Keyes v. School Dist. No.1, 413 U.S. 189 (1973)

Suit wherein parents of children attending public schools sued individually, and on behalf of their minor children, and on behalf of class of persons similarly situated, to remedy alleged segregated condition of certain schools and effects of that condition. The Supreme Court, held that finding of intentionally segregative school board actions in meaningful portion of school system created prima facie case of unlawful segregated design on part of school authorities, and shifted to those authorities the burden of proving that other segregated schools within system were not the result of intentionally segregative actions even if it was determined that different areas of school districts should be viewed independently of each other.

San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973)

Class action was brought on behalf of school children, who were said to be members of poor families residing in school districts having low property tax base, challenging reliance by Texas school-financing system on local property taxation. The Court concluded that the Texas system does not operate to the peculiar disadvantage of any suspect class. The further held that this is not a case in which the challenged state action must be subjected to the searching judicial scrutiny reserved for laws that create suspect classifications or impinge upon constitutionally protected rights. A century of Supreme Court adjudication under the Equal Protection Clause affirmatively supports the application of the traditional standard of review, which requires only that the State's system be shown to bear some rational relationship to legitimate state purposes.

1977

Milliken v. Bradley, 433 U.S. 267 (1977)

In school desegregation case, the United States District Court for the Eastern District of Michigan ordered implementation of student assignment plan and included in its decree educational components in the areas of reading, in-service teacher training, testing and counseling. The Court of Appeals affirmed the order concerning the implementation of and cost sharing for the four educational components and certiorari was granted. The Supreme Court held that (1) district court did not abuse its discretion in approving remedial education plan; (2) requirement that state defendants pay one-half the additional costs attributable to the four educational components did not violate the Eleventh Amendment, and (3) the relief order did not violate the Tenth Amendment and general principles of federalism.

1978

Regents of Univ. of California v. Bakke, 438 U.S. 265 (1978)

White male whose application to state medical school was rejected brought action challenging legality of the school's special admissions program under which 16 of the 100 positions in the class were reserved for "disadvantaged" minority students. School cross-claimed for declaratory judgment that its program was legal. The Supreme Court held that: (1) the special admissions program was illegal, but (2) race may be one of a number of factors considered by school in passing on applications, and (3) since the school could not show that the white applicant would not have been admitted even in the absence of the special admissions program, the applicant was entitled to be admitted.

Buchanan v. Evans, 439 U.S. 1360 (1978)

Application was made to Mr. Justice Brennan, as Circuit Justice, to stay judgment affirming district court's order prescribing school desegregation plan. Mr. Justice Brennan held that application for stay would be denied, since record before Court of Appeals was replete with findings justifying, if not requiring, the extensive inter-district remedy ordered by district court, and since both district court and Court of Appeals had concluded that, balancing the equities of the litigation, applicants were not entitled to a stay. Application denied.

1979

Dayton Bd. of Ed. v. Brinkman, 443 U.S. 526 (1979)

Students in the Dayton, Ohio, school system, through their parents, brought suit to desegregate city schools. The United States Supreme Court held that: (1) there was no basis in the record to overturn the Court of Appeals' finding that, in 1954, defendants were intentionally operating a dual school system in violation of the equal protection clause; (2) given the fact that a dual school system existed in 1954, the Court of Appeals also properly held that the school board was thereafter under a continuing duty to eradicate the effects of that system; (3) the Court of Appeals was correct in finding that a sufficient case of current, system-wide effect had been established, and (4) in view of the school board's failure to fulfill its affirmative duty and of its conduct which tended to perpetuate or increase segregation, the current, system-wide segregation was properly traceable to the purposefully dual system of the 1950's and to subsequent acts of intentional discrimination.

Columbus Bd. of Ed. v. Penick, 443 U.S. 449 (1979)

In Columbus, Ohio, school desegregation suit, following trial on the issue of liability, the United States District Court for the Southern District of Ohio, Eastern Division, ordered system-wide desegregation, and school board appealed. The Supreme Court held, inter alia, that: (1) record supported lower courts' findings and conclusions that school board's conduct, at the time of trial and before, not only was animated by an unconstitutional, segregative purpose, but also had current, segregative impact that was sufficiently system-wide to warrant the remedy ordered by the district court, and (2) there was no indication that the judgments below rested on any misapprehension of the controlling law.

1982

Washington v. Seattle School Dist. No. 1, 458 U.S. 457 (1982)

School district sued State of Washington challenging the constitutionality of a statute, adopted through initiative, which prohibited school boards from requiring any student to attend a school other than the school geographically nearest or next nearest his place of residence, but which contained exceptions permitting school boards to assign students away from their neighborhood schools for virtually all purposes required by their educational policies except racial desegregation. The Supreme Court held that the initiative violated the equal protection clause.

Plyler v. Doe, 457 U.S. 202 (1982)

Mexican children who had entered United States illegally and resided in Texas sought injunctive and declaratory relief against exclusion from public schools pursuant to a Texas statute and school district policy. The Supreme Court held that: (1) the illegal aliens who were the plaintiffs could claim the benefit of equal protection clause, which provides that no state shall

deny to any person the benefit of jurisdiction in the equal protection of the laws; (2) the discrimination contained in the Texas statute which withheld from local school district any state funds for the education of children who were not "legally admitted" into the United States and which authorized local school district to deny enrollment to such children could not be considered rational unless it furthered some substantial goal of the state; (3) the undocumented status of the children did not establish a sufficient rational basis for denying the benefits that the state afforded other residents; (4) there is no national policy that might justify the state in denying the children an elementary education; and (5) the Texas statute could not be sustained as furthering its interest in the preservation of the state's limited resources for the education of its lawful residents.

1984

Allen v. Wright, 468 U.S. 737 (1984)

Parents of black children attending public schools in districts undergoing desegregation brought nationwide class action alleging that Internal Revenue Service had not adopted sufficient standards and procedures to fulfill its obligation to deny tax-exempt status to racially discriminatory private schools. The Supreme Court held that: (1) parents did not have standing to prevent the government from violating the law in granting tax exemptions; (2) absent allegation of direct injury, standing could not be predicated on claim of stigmatization caused by racial discrimination; and (3) claim of injury to their children's diminished ability to receive an education in a racially integrated school, although a judicially cognizable injury, failed because the alleged injury was not fairly traceable to the government's conduct that was challenged as unlawful.

1991

Board of Educ. of Oklahoma City Public Schools v. Dowell, 498 U.S. 237 (1991)

Parents of black students filed motion to reopen school desegregation case, which the district court denied. The Court of Appeals for the Tenth Circuit reversed. On remand, the United States District Court for the Western District of Oklahoma dissolved desegregation decree. The Court of Appeals for the Tenth Circuit reversed and certiorari was granted. The Supreme Court held that: (1) school district was not required to show grievous wrong evoked by new and unforeseen conditions in order to have desegregation decree dissolved; (2) desegregation decrees are not intended to operate in perpetuity; and (3) in determining whether to dissolve desegregation decree, court should consider whether school district has complied in good faith with desegregation decree since it was entered and whether vestiges of past discrimination have been eliminated to the extent practicable.

1992

Freeman v. Pitts, 503 U.S. 467 (1992)

On remand from the Court of Appeals in school desegregation case the United States District Court for the Northern District of Georgia withdrew its control over four areas in desegregation case, and plaintiffs appealed. The Court of Appeals for the Eleventh Circuit reversed. The Supreme Court held that district court has authority to relinquish supervision and control over school district in incremental stages before full compliance has been achieved in every area of school operations.

1995

Missouri v. Jenkins, 515 U.S. 70 (1995)

State appealed from orders of the United States District Court for the Western District of Missouri entered in school desegregation case. The Supreme Court held that: (1) orders designed to attract nonminority students from outside the school district into the school district sought inter-district goal which was beyond the scope of intra-district violation identified by District Court; (2) order requiring across-the-board salary increases for teachers and staff in pursuit of desegregative attractiveness was beyond the scope of the court's remedial authority; and (3) whether students in district are at or below national norms is not appropriate test to determine whether previously segregated district has achieved partially unitary status.

2003

Grutter v. Bollinger, 539 U.S. 306 (2003)

Law school applicants who were denied admission challenged race-conscious admissions policy of state university law school, alleging that the admissions policy encouraging student body diversity violated their equal protection rights. The United States Supreme Court held that: (1) law school had a compelling interest in attaining a diverse student body; and (2) admissions program was narrowly tailored to serve its compelling interest in obtaining the educational benefits that flow from a diverse student body, and thus did not violate the Equal Protection Clause.

Gratz v. Bollinger, 539 U.S. 244 (2003)

Rejected Caucasian in-state applicants for admission to University of Michigan's College of Literature, Science and the Arts (LSA) filed class action complaint against, inter alia, board of regents alleging that university's use of racial preferences in undergraduate admissions violated Equal Protection Clause, Title VI, and § 1981 and seeking, inter alia, compensatory and punitive damages for past violations, declaratory and injunctive relief, and order requiring LSA to offer one of them admission as transfer student. The Supreme Court held that: (1) petitioners had standing to seek declaratory and injunctive relief; (2) university's current freshman admissions policy violated Equal Protection Clause because its use of race was not narrowly tailored to achieve respondents' asserted compelling state interest in diversity; and (3) Title VI and § 1981 were also violated by that policy.

2007

Parents Involved in Community Schools v. Seattle School Dist. No. 1, 551 U.S. 701 (2007)

Parents brought action against school district challenging, under Equal Protection Clause, student assignment plan that relied on racial classification to allocate slots in oversubscribed high schools. The Supreme Court held that: (1) parents had standing: (2) allegedly compelling interest of diversity in higher education could not justify districts' use of racial classifications in student assignment plans, abrogating Comfort v. Lynn School Comm., 418 F.3d 1 (1st Cir. 2007); (3) and districts failed to show that use of racial classifications in their student assignment plans was necessary to achieve their stated goal of racial diversity.

2009

Horne v. Flores, 557 U.S. 433 (2009)

English Language–Learner (ELL) students and their parents filed class action alleging that State of Arizona was violating Equal Educational Opportunities Act (EEOA) by failing to take appropriate action to overcome language barriers. The Supreme Court held: (1) Superintendent had standing; (2) Court of Appeals should have inquired whether changed conditions satisfied EEOA; (3) district court abused its discretion on remand by focusing only on increased funding for ELL programs; (4) on remand, district court must consider factual and legal challenges that may warrant relief; (5) State's compliance with No Child Left Behind Act (NCLB) benchmarks did not automatically satisfy EEOA requirements; and (6) statewide injunction was not warranted.

2013

Fisher v. Texas, 2013 WL 315520 (June 24, 2013)

Caucasian applicant who was denied admission to state university brought suit alleging that university's consideration of race in its admissions process violated her right to equal protection. The Supreme Court held that the Court of Appeals did not apply the correct standard of strict scrutiny.

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Supreme Court Voting Rights Case: Where have we been and where are we now?

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2013

Shelby Cnty., Ala. v. Holder, 12-96, 2013 WL 3184629 (U.S. June 25, 2013)

Shelby County, Alabama, brought a declaratory judgment action against United States Attorney General, Eric Holder, seeking a determination that the Voting Rights Act's coverage formula and preclearance requirement, under which covered jurisdictions were required to demonstrate to federal authorities that proposed voting law changes were not discriminatory, was unconstitutional.

The issue was whether sections 4(b) and 5 are facially unconstitutional. The Voting Rights Act has been reauthorized several times, but the coverage formula has not changed. Coverage turned on whether a jurisdiction had a voting test in the 1960s or 1970s, and had low voter registration or turnout at that time. The Supreme Court, Chief Justice Roberts, held that the Voting Rights Act provision setting forth the coverage formula was unconstitutional. The Voting Rights Act imposes current burdens that must be justified by current needs. A departure from equal sovereignty of the states requires a showing that that the geographic coverage of the Voting Rights Act preclearance requirement sufficiently relates to the problem of voter discrimination.

Arizona v. Inter Tribal Council of Arizona, Inc., 133 S. Ct. 2247 (U.S. 2013)

A group of Arizona residents and a group of nonprofit organizations filed separate suits seeking to enjoin provisions of Arizona law requiring voters to present proof of citizenship when they registered to vote and to present identification when they voted on election day. The National Voter Registration Act of 1993 requires states to accept and use a uniform federal form to register voters for federal elections. That Federal Form, developed by the federal Election Assistance Commission, requires only that an applicant aver, under penalty of perjury, that he is a citizen.

The issue was whether Arizona's evidence-of-citizenship requirement, as applied to Federal Form applicants, is preempted by the National Voter Registration Act's mandate that States "accept and use" the Federal Form. The Supreme Court, Justice Scalia, held that the National Voter Registration Act pre-empted Arizona's proof-of-citizenship requirement. The power of the Elections Clause is the power to pre-empt state law. Congress, when acting under the Elections Clause, is always on notice that it is displacing state law, thus it is reasonable to assume that Elections Clause legislation has pre-emptive intent.

2012

Perry v. Perez, 132 S. Ct. 934 (2012)

Various plaintiffs brought action against the State of Texas, alleging that its redistricting plans violated the Constitution and the Voting Rights Act of 1965. The Supreme Court held that: (1) District Court erred to extent that it exceeded its mission to draw interim maps that did not violate Constitution or Voting Rights Act, and substituted its own concept for the Texas Legislature's determination; (2) District Court had no basis to alter districts to achieve de minimis population variations, absent claim that population variations in districts were unlawful; (3)District Court erred in refusing to split **voting** precincts; (4)District Court had no basis for drawing district that resembled neither Texas' newly enacted plan, nor the previous plan, without determination that the relevant aspects of the state plan stood a reasonable probability of failing to gain preclearance;(5) if District Court set out to create a minority coalition district, it had no basis for doing so; and (6) because it was unclear whether District Court followed appropriate standards, remand was appropriate.

2009

Northwest Austin Mun. Utility Dist. No. One v. Holder, 557 U.S. 193 (2009)

Texas municipal utility district, a covered jurisdiction, brought action against the Attorney General, seeking declaratory judgment exempting it from Voting Rights Act's preclearance obligation, and, alternatively, challenging constitutionality of preclearance requirement. The Supreme Court, held that: (1) Supreme Court would apply principle of constitutional avoidance to refrain from deciding whether preclearance requirements were unconstitutional, and (2) utility district was "political subdivision" eligible to file suit to bail out of preclearance requirements.

Barlett v. Strickland, 556 U.S. 1 (2009)

County and county commissioners brought action against the Governor of North Carolina, the Director of the State Board of Elections, and other state officials, alleging that legislative redistricting plan violated Whole County Provision of state constitution. The Supreme Court, announced the judgment of the court and delivered an opinion which held that crossover districts do not meet Gingles requirement that minority is sufficiently large and geographically compact enough to constitute majority in a single-member district, for purpose of claim under Voting Rights Act's vote dilution provision.

2008

Riley v. Kennedy, 553 U.S. 406 (2008)

Order was entered by three-judge panel of the United States District Court for the Middle District of Alabama invalidating the Alabama governor's appointment of county commissioner as unlawful, for failing to comply with preclearance requirement of the Voting Rights Act, and governor appealed. The Supreme Court held that local law which applied only to one county in Alabama, and which purported to allow mid-term vacancies in county commission to be filled by special election rather than by appointment by governor, was never "in force or effect," as required for this local law to constitute "baseline" and to require, when the Alabama Supreme Court struck this law down upon challenge instituted in response to first special election held pursuant thereto and reinstated the gubernatorial appointment process previously in effect, that this appointment process be precleared pursuant to provision of the Voting Rights Act.

Crawford v. Marion Cnty. Election Bd., 553 U.S. 181(2008)

After Indiana enacted an election law requiring citizens voting in person to present government-issued photo identification, the petitioners filed separate suits challenging the law's constitutionality.

The Supreme Court held that the state's interests identified as justifications for Indiana statute requiring government issued photo identification to vote were sufficiently weighty to justify the limitation imposed on voters. Even handed restrictions protecting the integrity and reliability of the electoral process itself are not invidious. Each of Indiana's asserted interests is unquestionably relevant to its interest in protecting the integrity and reliability of the electoral process: deterring and detecting voter fraud and protecting public confidence in elections. The relevant burdens here are those imposed on eligible voters who lack photo identification cards. Because Indiana's cards are free, the inconvenience of gathering required documents and posing for a photograph does not qualify as a substantial burden on most voters' right to vote, or represent a significant increase over the usual burdens of voting. Valid neutral justifications for a nondiscriminatory law should not be disregarded simply because partisan interests may have provided one motivation for the votes of individual legislators.

2006

Purcell v. Gonzalez, 549 U.S. 1 (2006)

The State of Arizona and county officials from four of its counties sought relief from an interlocutory injunction entered by a two-judge motions panel of the Court of Appeals for the Ninth Circuit enjoining operation of Arizona voter identification procedures pending appeal. On applications for stay, the Supreme Court of the United States held that order of the Court of Appeals for the Ninth Circuit enjoining operation of Arizona voter identification procedures would be vacated.

League of United Latin American Citizens v. Perry, 548 U.S. 399 (2006)

City, voters, and interest groups challenged state legislature's mid-decade congressional redistricting plan, which had been implemented to replace judicially created plan, asserting violations of equal protection and the Voting Rights Act.

The Supreme Court held that: (1) state legislature's decision to override a valid, court-drawn redistricting plan mid-decade was not sufficiently suspect to give shape to a reliable standard for identifying unconstitutional political gerrymanders; (2) evidence was sufficient to demonstrate minority cohesion and majority bloc voting among Latino voters in redrawn congressional district; (3) newly-drawn congressional district in which Latinos were majority did not offset loss of potential Latino opportunity district as result of redistricting; and (4) under totality of the circumstances, redistricting plan violated Voting Rights Act's vote dilution provision.

Lance v. Dennis, 546 U.S. 459 (2006)

Registered voters filed action challenging Colorado Supreme Court's decision in separate case, which invalidated state legislature's redistricting plan and ordered use of redistricting plan created by state courts. Secretary moved to dismiss. The Supreme Court held that Rooker–Feldman doctrine did not deprive federal district court of jurisdiction over voters' action.

2004

Vieth v. Jubelirer, 541 U.S. 267 (2004)

Voters brought action against Commonwealth of Pennsylvania, challenging constitutionality of congressional redistricting plan. The Supreme Court held that political gerrymandering claims were nonjusticiable.

2003

Branch v. Smith, 538 U.S. 254(2003)

Following Mississippi's loss of a seat in the United States Congress, suit was brought in federal court seeking to enjoin any redistricting plan developed by a state court and seeking an order for at-large elections.

The Supreme Court, Justice Scalia, held that: (1) Voting Rights Act's 60-day default period for enforceability of state's redistricting plan was never triggered where the state never appealed the District Court's injunction; (2) the District Court could remedy the state's failure to obtain timely preclearance of its redistricting plan by undertaking initial redistricting, and in doing so was required to draw new single-representative districts rather than ordering at-large elections; and (3) the provisional section of federal reapportionment statute providing for at-large elections in specific circumstance was not impliedly repealed by enactment of a statute mandating single-member districts.

Georgia v. Ashcroft, 539 U.S. 461 (2003)

The state of Georgia sought preclearance of its state legislative redistricting plan under the Voting Rights Act. The District Court found a failure to demonstrate lack of retrogressive effect on African-American voters and refused to preclear.

The United States Supreme Court, Justice O'Connor, held that the District Court failed to consider all the relevant factors when it examined whether Georgia's plan resulted in a retrogression of African-American voters' effective exercise of the electoral franchise. A § 2 vote dilution violation is not an independent reason to deny § 5 preclearance. To determine the meaning of "a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise," the statewide plan must first be examined as a whole. The District Court is in a better position to reweigh all the facts in the record in the first instance in light of the Supreme Court's explication of retrogression.

2002

Bartlett v. Stephenson, 535 U.S. 1301 (2002)

North Carolina officials charged with administering the state's elections applied to Chief Justice Rehnquist, as Circuit Justice, seeking a stay of a decision of the North Carolina Supreme Court that invalidated a legislative redistricting plan on state constitutional grounds. The Supreme Court held that there were no grounds for granting a stay.

2000

Bush v. Gore, 531 U.S. 98 (2000)

During the 2000 presidential elections, the Supreme Court of Florida ordered that the Circuit Court of Leon County tabulate by hand 9,000 ballots in Miami–Dade County. Governor Bush and Richard Cheney, Republican candidates for President and Vice President, filed an emergency application for a stay of this mandate.

The Supreme Court held that: (1) manual recounts ordered by Florida Supreme Court, without specific standards to implement its order to discern the "intent of the voter," did not satisfy the minimum requirement for non-arbitrary treatment of voters required by the Equal Protection Clause, to secure the fundamental right to vote for President, and (2) a remand of the case to the Florida Supreme Court for it to order constitutionally proper contest would not be an appropriate remedy.

1999

Hunt v. Cromartie, 526 U.S. 541 (1999)

North Carolina residents brought action against various state officials challenging North Carolina's congressional redistricting plan as racially motivated in violation of the Equal Protection Clause. Parties filed cross motions for summary judgment. The Supreme Court held that triable issues regarding whether state legislature drew congressional redistricting plan with impermissible racial motive precluded summary judgment.

Lopez v. Monterey County, 525 U.S. 266 (1999)

Hispanic voters brought action against county alleging that it had violated § 5 of Voting Rights Act by failing to obtain federal preclearance of consolidation ordinances that resulted in single, countywide municipal court. Following ruling that ordinances were election changes subject to § 5 and unenforceable without preclearance, parties attempted to develop election plan that would be less retrogressive than at-large, countywide election scheme. The Supreme Court held that: (1) county's efforts to implement voting change required by state law were subject to § 5, notwithstanding fact that state was not itself a covered jurisdiction, and (2) preclearance requirement did not unconstitutionally violate state sovereignty.

1997

Foreman v. Dallas Cnty., Tex., 521 U.S. 979 (1997)

Actions were brought alleging that Dallace County, Texas violated the Voting Rights Act by changing its procedures for electing judges without obtaining preclearance. The Supreme Court held that: (1) the fact that the county was exercising its "discretion" pursuant to state statute when it adjusted its procedure for appointing election judges according to party power did not compel a finding that the county could make such change without obtaining preclearance, and (2) the Justice Department's preclearance of recodification of election code for the State of Texas did not operate to preclear the county's use of partisan considerations in the election of judges.

City of Monroe v. U.S., 522 U.S. 34 (1997)

United States brought action claiming that enforcement of majority vote requirement in city mayoral elections violated § 5 of Voting Rights Act. The Supreme Court held that Attorney General precleared majority vote default rule of Georgia's 1968 state-wide election code, such that city which never had plurality vote provision in its charter could enforce default majority vote requirement in mayoral elections.

Lawyer v. Dept. of Justice, 521 U.S. 567 (1997)

Action was brought against United States Department of Justice and State of Florida, challenging configuration of state senate district, and various parties were permitted to intervene. The United States Supreme Court held that: (1) right of state to have adequate opportunity to make its own redistricting choice was satisfied when state elected to be represented in district court action by its attorney general; (2) objecting party could not block settlement, and (3) trial court was not clearly erroneous in approving proposed district.

Abrams v. Johnson, 521 U.S. 74 (1997)

Georgia residents brought action challenging constitutionality of legislative redistricting plan, and also sought injunction against any further use of plan in upcoming congressional elections. The Supreme Court held that: (1) district court was not required to defer to unconstitutional plans previously adopted by Georgia legislature and acted within its discretion in deciding it could not draw two majority-black districts without engaging in racial gerrymandering; (2) district court's failure to create second majority-black district did not result in dilution of black voting strength in violation of Voting Rights Act; (3) district court's plan did not violate Voting Rights Act provision prohibiting plans resulting in retrogression in position of racial minorities; and (4) plan did not violate constitutional guarantee of one person, one vote.

Reno v. Bossier Parish School Bd., 520 U.S. 471 (1997)

Louisiana parish school board sought preclearance under Voting Rights Act for its proposed redistricting plan. The Supreme Court held that: (1) preclearance under Voting Rights Act may not be denied solely on basis that covered jurisdiction's new voting standard, practice, or procedure violates Act section barring states and their political subdivisions from maintaining voting standard, practice or procedure that results in denial or abridgment of right to vote on account of race or color; (2) evidence that covered jurisdiction's redistricting plan dilutes minorities' voting power may be relevant to inquiry whether covered jurisdiction acted with purpose of denying or abridging right to vote on account or race or color under Voting Rights Act preclearance section; and (3) whether district court considered relevant proffered evidence showing that board's redistricting plan diluted minorities' voting power was unclear.

Young v. Fordice, 520 U.S. 273 (1997)

Private citizens brought suit claiming that Mississippi and its officials had implemented changes in voter registration system to comply with National Voter Registration Act (NVRA) without obtaining federal preclearance required by Voting Rights Act (VRA). The Supreme Court held that: (1) state's provisional plan for unitary voter registrations for state and federal elections was never "in force or effect" within meaning of VRA and thus did not become part of baseline against which to judge whether future changes had to be pre-cleared under VRA; (2) state's new plan for separate state and federal voter registration systems included practices and procedures which were significantly different from state's old system, and thus, triggered VRA's requirements for federal preclearance of discretionary changes; and (3) Attorney General's preclearance letter for state's initial submission of NVRA proposal suggesting single registration system did not constitute federal preclearance of state's later plan for separate state and federal registration systems.

1996

Lopez v. Monterey County, 519 U.S. 9 (1996)

Hispanic voters brought action against county alleging that it had violated § 5 of the Voting Rights Act by failing to obtain federal preclearance of consolidation ordinances that resulted in single, countywide municipal court. Following ruling that ordinances were election changes subject to § 5 and unenforceable without preclearance, parties attempted to develop election plan that would be less retrogressive than at-large, countywide election scheme. The Supreme Courtheld that: (1) Court would leave for district court to resolve on remand contentions that changes in state law had transformed county's judicial election scheme into state plan for which § 5 preclearance was not needed, that voters' suit was barred by laches, that it was constitutionally improper to designate county as covered jurisdiction under § 5, and that consolidation ordinances did not alter a voting "standard, practice, or procedure" subject to § 5 preclearance, and (2) district court should not have ordered unprecleared, at-large election, despite concern that leaving injunction in place would leave county without election system.

Shaw v. Hunt, 517 U.S. 899 (1996)

North Carolina residents brought action against the United States Attorney General, Assistant Attorney General, and various state officials and agencies challenging congressional redistricting plan as containing impermissible racial gerrymandering. The Supreme Court held that: (1) voters who lived in allegedly gerrymandered district had standing to challenge that part of redistricting scheme which defined district in which they resided; (2) voters who did not reside in district which they challenged and did not provide evidence they were assigned to district on basis of race lacked standing; and (3) districting plan was not narrowly tailored to serve compelling state interest and violated equal protection clause.

Bush v. Vera, 517 U.S. 952(1996)

Because the 1990 census revealed a population increase entitling Texas to three additional congressional seats, and in an attempt to comply with the Voting Rights Act of 1965, the Texas Legislature promulgated a redistricting plan that created District 30 as a new majority-African-American district and District 29 as a new majority-Hispanic district, and reconfigured District 18 as a majority-African-American district. Registered voters brought an action for injunctive and declaratory relief from Texas' redistricting plan.

The Supreme Court held that: (1) the new district lines were drawn with race as the predominant factor and, thus, the districts were subject to strict scrutiny; (2) the challenged districts could not be upheld under the Voting Rights Act's results test; and (3) one district could not be upheld under the "nonretrogression" principle underlying the Act's preclearance requirement where Texas substantially augmented, and did not just maintain, the African-American population percentage in the district.

Morse v. Republican Party of Virginia, 517 U.S. 186 (1999)

Registered voters wishing to become delegates to a political party's state convention to nominate a candidate for United States Senator brought action challenging the party's requirement that persons wishing to become delegates pay a registration fee. The Supreme Court held that: (1) the party was "acting under authority explicitly or implicitly granted by a covered jurisdiction," for purposes of the regulation making a political party's change that affects voting subject to the preclearance requirement, when it adopted a filing fee for delegates to the state nominating convention; (2) a filing fee for party delegates operates in precisely the same fashion

as other practices covered by the preclearance requirement and, thus, requires preclearance; and (3) a private right of action exists to enforce the Voting Rights Act section that prohibits a poll tax.

1995

U.S. v. Hays, 515 U.S. 737 (1995)

After state of Louisiana's congressional redistricting scheme was found to represent impermissible racial gerrymander that violated Equal Protection State Legislature adopted new redistricting scheme, and the Supreme Court vacated and remanded. A three-judge panel of the United States District Court for the Western District of Louisiana found new redistricting scheme unconstitutional. Louisiana and the United States directly appealed. The Supreme Court held that citizens who did not live in district that was primary focus of racial gerrymandering claim lacked standing to bring suit.

Miller v. Johnson, 515 U.S. 900 (1995)

Georgia residents brought action challenging constitutionality of redistricting legislation in seeking injunction against its further use in congressional elections. The Supreme Court held that: (1) bizarre shape was not threshold requirement of claim of racial gerrymandering under *Shaw*; (2) allegation that race was legislature's dominant and controlling rationale in drawing district lines was sufficient to state claim under *Shaw*; and (3) Georgia's congressional redistricting plan violates the equal protection clause.

1994

Johnson v. DeGrandy, 512 U.S. 997 (1994)

Action was brought challenging Florida legislative districting plan. A three-judge district court in the Northern District of Florida found that there was dilution of hispanic and black voting strength, 875 F.Supp. 1550, and state appealed. The Supreme Court held that: (1) no violation of § 2 of the Voting Rights Act could be found where minority voters formed effective voting majorities in a number of districts roughly proportional to the minority voters' respective shares in the voting age population, even though it might have been possible to create additional districts in which minority voters represented a majority; (2) proportionality is not an affirmative defense which must be pled; and (3) proportionality does not defeat claim of vote dilution in all cases.

Holder v. Hall, 512 U.S. 874 (1994)

Black voters brought action challenging that single county commissioner form of government violated Constitution and Voting Rights Act. The Supreme Courtheld that plaintiff could not maintain vote dilution challenge to government body, such as county commission, under § 2 of Voting Rights Act.

1993

Shaw v. Reno, 509 U.S. 630 (1993)

North Carolina residents brought action against the United States Attorney General, Assistant Attorney General, and various state officials and agencies, challenging North Carolina's congressional redistricting plan. The Supreme Court held that allegation that North Carolina's redistricting legislation was so extremely irregular on its face that it could rationally be viewed only as effort to segregate races for purposes of voting, without regard to traditional

districting principles and without sufficiently compelling justification, was sufficient to state claim upon which relief could be granted under equal protection clause.

Voinvoich v. Quilter, 507 U.S. 146 (1993)

Challenge was brought to validity of Ohio apportionment plan promulgated in 1991 as applied to entire state. The Supreme Court held that: (1) Section 2 of Voting Rights Act prohibiting vote dilution focused on consequences of apportionment and did not contain per se prohibition against majority-minority districts unless necessary to remedy statutory violations; (2) apportionment challengers had burden of proving invalidity of apportionment; (3) challengers were required to show sufficient white majority bloc voting to frustrate election of minority group's candidate of choice in order to prevail on vote dilution claim; (4) holding that board violated Fifteenth Amendment by intentionally diluting minority strength of political reasons was clearly erroneous; and (5) district court failed to accurately consider whether total district size deviations in excess of 10% could be justified by policy of preserving political subdivision boundaries.

Growe v. Emison, 507 U.S. 25 (1993)

Action was brought seeking declaratory and injunctive relief barring use of allegedly fragmented districts for future elections and adoption of new districts. The Supreme Court held that district court had erred in not deferring to state court's timely efforts to redraw legislative and congressional districts, and (2) district court had erred in concluding that state court's legislative plan violated Voting Rights Act.

1992

Presley v. Etowah Cnt'y Comm., 502 U.S. 491 (1992)

Black newly elected county commissioners brought action alleging that their respective counties had violated § 5 of Voting Rights Act by failing to obtain preclearance for either resolution altering prior practice of allowing each commissioner full authority to determine how to spend funds allocated to his own road district or for unit system abolishing individual road districts and transferring responsibility for all road operations to county engineer appointed by commission. The Supreme Court, held that: (1) § 5 does not cover changes other than changes in rules governing voting, and (2) neither change in question effected change in rules governing voting such that preclearance was required.

Burdick v. Takushi, 504 U.S. 428 (1992)

A registered voter brought action against the Hawaii Director of Elections, claiming that Hawaii's prohibition on write-in voting violated his rights of expression and association under the First and Fourteenth Amendments.

The Supreme Court, Justice White, held that Hawaii's prohibition on write-in voting did not unreasonably infringe upon its citizens' rights under First and Fourteenth Amendments. The petitioner erroneously assumed that a law that imposes any burden on the right to vote must be subject to strict scrutiny. A court considering a state election law challenge must weigh the character and magnitude of the asserted injury to the First and Fourteenth Amendment rights that the plaintiff seeks to vindicate against the precise interests put forward by the State as

justification for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights. Hawaii's write-in vote prohibition imposes a very limited burden upon voters' rights to associate politically through the vote and to have candidates of their choice placed on the ballot. Hawaii's asserted interests in avoiding the possibility of unrestrained factionalism at the general election and in guarding against party raiding during the primaries are legitimate and are sufficient to outweigh the limited burden that the write-in voting ban imposes upon voters. A write-in voting prohibition will be presumptively valid, since any burden on the right to vote for the candidate of one's choice will be light and normally will be counterbalanced by the very state interests supporting the ballot access scheme.

1991

Houston Lawyers' Assoc. v. Att'y Gen. of Texas, 501 U.S. 419 (1991)

Action was brought alleging that the at-large method of electing trial court judges in certain Texas counties violated the Voting Rights Act. The Supreme Court held that vote dilution provision of the Voting Rights Act applies to the election of trial judges.

Chisom v. Roemer, 501 U.S. 380(1991)

The Louisiana Supreme Court consisted of seven members, two of whom are elected at large from one multimember district, with the remainder elected from single-member districts. Petitioners represented a class of black registered voters in Orleans Parish, which is the largest of the four parishes in the multimember district and contains about half of the district's registered voters. Although more than one-half of Orleans Parish's registered voters are black, over three-fourths of the voters in the other three parishes are white. Petitioners filed an action alleging that the method of electing justices from their district impermissibly dilutes minority voting strength in violation of § 2 of the Voting Rights Act of 1965.

The Supreme Court, Justice Stevens, held that (a) the Voting Rights Act applied to judicial elections; (b) The results test is applicable to all § 2 claims; (c) The word "representatives" describes the winners of representative, popular elections, including elected judges; (d) sdopting respondents' view of coverage would lead to the anomalous result that a State covered by § 5 would be precluded from implementing a new voting procedure having discriminatory effects with respect to judicial elections, but a similarly discriminatory system already in place could not be challenged under § 2; (e) that the one-person, one-vote rule is inapplicable to judicial elections does not mean that judicial elections are entirely immune from vote dilution claims.

Clark v. Roemer, 500 U.S. 646(1991)

Black registered voters in Louisiana challenged the validity of Louisiana's electoral scheme for judges since certain statutes had not be precleared by the Attorney General.

The Supreme Court, Justice Kennedy, held that: (1) the state should have been enjoined from conducting elections for judicial seats pursuant to voting statutes which had not obtained requisite judicial or administrative preclearance, (2) the Attorney General's preclearance of amendments changing the number of judges in a particular judicial district did not constitute preclearance of prior voting changes incorporated in a newly amended statute, and (3) a request

that the elections held for the seats in question be set aside and the judges be removed is not a proper matter for the Supreme Court to consider in the first instance.

1987

City of Pleasant Grove v. United States, 479 U.S. 462, 107 S. Ct. 794, 93 L. Ed. 2d 866 (1987)

The city of Pleasant Grove, Alabama, brought an action under the Voting Rights Act seeking a declaration that proposed annexations did not have the purpose or effect of denying or abridging the right to vote on account of race or color. Pleasant Grove had a long history of racial discrimination and until recently had an all-white population. Pleasant Grove sought approval by the Attorney General for the annexation of two parcels of land, one of which was added at the request of its inhabitants who wished their children to attend the Pleasant Grove's all-white school system.

The Supreme Court, Justice White, held that: (1) the fact that the city's proposed annexations did not have any present effect on black voters within the city, in that there were no black voters in the city when annexation decisions were made, did not prevent the district court from finding discriminatory purpose forbidden by the Voting Rights Act; and (2) the district court's finding that the city did not carry the burden of proof was not clearly erroneous.

1986

Thornburg v. Gingles, 478 U.S. 30 (1986)

Action was brought challenging use of multimember districts in North Carolina legislative apportionment. The Supreme Court held that: (1) plaintiffs claiming impermissive vote dilution must demonstrate that voting devices resulted in unequal access to electoral process; (2) use of multimember districts does not impede the ability of minority voters to elect representatives of their choice unless a bloc voting majority will usually be able to defeat candidates supported by a politically cohesive, geographically insular minority; (3) District Court applied proper standard in determining whether there was racial polarization and voting; (4) legal concept of racially polarized voting incorporates neither causation nor intent; (5) some electoral success by minority group does not foreclose successful section 2 claim; (6) finding of impermissible dilution was supported by the evidence; but (7) claim of dilution with respect to one multimember district was defeated by evidence that last six elections resulted in proportional representation for black residents.

1985

N.A.A.C.P. v. Hampton Cnt'y Election Comm'n, 470 U.S. 166 (1985)

Two civil rights organizations and several county residents filed suit in the United States District Court for the District of South Carolina seeking to enjoin in election of school district trustees as illegal under the Voting Rights Act. A preliminary injunction was denied, and an election took place as scheduled. The Supreme Court held that use of an August filing period before preclearance in conjunction with March election, and setting of March election itself after Attorney General had approved only a November election date, were changes that should have been submitted to Attorney General for clearance by Voting Rights Act.

1983

City of Lockhart v. United States, 460 U.S. 125(1983)

The Texas city of Lockhart was a "general law" city with all offices being filled in even-numbered years through at-large elections using a "numbered post" system. The city tried to become a "home rule" city, with offices having staggered 2-year terms and at-large elections using the numbered-post system. Numbered posts and staggered terms each have the effect of discriminating against protected minorities, particularly in view of the history of racial bloc voting in the city. The city argued that it's new election rules were necessary to comply with Texas state law.

The Supreme Court, Justice Powell, J., held that: (1) the city's entire election plan was subject to preclearance, and (2) although there may have been no improvement in minorities' voting strength under the new plan, there was no retrogression. The proper comparison for purposes of § 5 is between the new system and the system actually in effect under the old practice, regardless of what state law might have required. Section 5 was intended to halt actual retrogression in minority voting strength without regard for the legality under state law of the practices already in effect.

1982

Blanding v. DuBose, 454 U.S. 393 (1982)

This action was brought to enjoin the county council of Sumter County, South Carolina, from enforcing a referendum approving of at-large elections for the county council. Section 5 of the Voting Rights Act provided that when a covered political subdivision enacts a voting procedure different from that in effect on November 1, 1964, the political subdivision must either seek a declaratory judgment in the United States District Court for the District of Columbia approving the procedure or submit it to the United States Attorney General for preclearance. The Attorney General received a letter from the county advising him of the referendum results. The Attorney General, referring to the county's letter as a "request for reconsideration," refused to withdraw an objection to at-large elections.

The Supreme Court held that a letter to the Attorney General advising him of election results whereby voters in a county approved of electing county commissioners by an at-large system was a reconsideration request and not a new preclearance submission under the Voting Rights Act.

City of Port Arthur v. United States, 459 U.S. 159(1982)

The city of Port Arthur, Texas, sought a declaration upholding the validity of several voting changes occasioned by the expansion of the boundaries of the city. Port Arthur was consolidated with two neighboring cities and annexed an incorporated area, with the result that the percentage of the black population within Port Arthur's borders decreased from 45.21% to 40.56%. All council seats would be governed by a majority-vote rule, requiring run-offs if none of the candidates received a majority of the votes cast. Although concluding that the expansion of Port Arthur's borders could not be denied preclearance as being discriminatory in purpose, the district court held that the electoral plan could not be approved under § 5 because it insufficiently neutralized the adverse impact upon minority voting strength that resulted from the expansion.

The Supreme Court, Justice White, held that the district court properly conditioned preclearance of a new election plan on condition that there be no majority-vote requirement for at-large non-mayoral candidates. Section 5 does not forbid all expansion of municipal borders

that dilute the voting power of particular groups in the community. However, such an expansion can be approved only if modifications in the electoral plan, calculated to neutralize to the extent possible any adverse effect on the political participation of minority groups, are adopted

1981

Ball v. James, 451 U.S. 355 (1981)

This was an action challenging the constitutionality of an Arizona statute providing that voting in elections for directors of agricultural improvement and power district was limited to landowners, with votes essentially apportioned to owned acreage. This issue was whether this statute violated the principle of one-person, one-vote.

The Supreme Court held that the district's purpose is sufficiently specialized and narrow, and its activities bear on landowners so disproportionately, as to release it from the strict demands of the one-person, one-vote principle. The voting scheme for the district is constitutional because it bears a reasonable relationship to its statutory objectives.

1980

City of Mobile, Ala. v. Bolden, 446 U.S. 55 (1980)

Black citizens of Mobile, Alabama, brought a class action alleging that the practice of electing the City Commissioners at large unfairly diluted the voting strength of African Americans in violation of the Fourteenth and Fifteenth Amendments.

The Supreme Court held that the at-large electoral system in Mobile does not violate the rights of the city's Negro voters in contravention of the Fifteenth Amendment, since Negroes in Mobile register and vote without hindrance and their freedom to vote has not been denied or abridged by anyone.

City of Rome v. U. S., 446 U.S. 156 (1980)

The city of Rome, Georgia, filed declaratory judgment action seeking relief from Voting Rights Act to allow the implementation of a number of changes to its electoral system. The Attorney General refused to preclear the electoral changes, concluding that in a city such as Rome, in which the population is predominately white and racial bloc voting has been common, such electoral changes would deprive African American voters of the opportunity to elect a candidate of their choice. Rome appealed, arguing in part that the Voting Rights Act was unconstitutional.

The Supreme Court held that: (1) the city could not use the bailout procedure of the Voting Rights Act; (2) Congress intended that voting practice not be precleared unless both discriminatory purpose and effect were absent; (3) the Voting Rights Act did not exceed Congress' power to enforce Fifteenth Amendment; (4) the Voting Rights Act did not violate principles of federalism; (5) extension of the Voting Rights Act was constitutional method of enforcing Fifteenth Amendment; and (6) district court's findings that city failed to prove that electoral changes in annexations disapproved by Attorney General did not have discriminatory effect were not clearly erroneous.

1978

Dougherty Cnty., Georgia, Bd. of Ed. v. White, 439 U.S. 32 (1978)

Shortly after an African American employee of the Dougherty County Board of Education announced his candidacy for the Georgia House of Representatives, the Board

adopted a requirement that its employees take unpaid leaves of absence while campaigning for elective political office. The African American employee argued this rule was unenforceable because it had not been precleared under § 5 of the Voting Rights Act of 1965.

The Supreme Court held that the rule governing leaves for employee candidates was standard procedure with respect to voting within the meaning of the Voting Rights Act, and thus the county board of education had to seek prior federal approval of the rule.

1977

Briscoe v. Bell, 432 U.S. 404 (1977)

The Governor and Secretary of State of Texas filed suit against the Attorney General of the United States and the Director of the Census, who are responsible for determining whether the preconditions for application of the Voting Rights Act to particular jurisdictions are met.

The Supreme Courtthe provision of Section 4(b) of the Voting Rights Act that a determination of the Attorney General or Director of the Census that a State is covered by the Act "shall not be reviewable in any court" held absolutely to preclude judicial review of such a determination. While the finality of determinations under Section 4(b) may be an uncommon exercise of congressional power, nevertheless in attacking the pervasive evils and tenacious defenders of voting discrimination, Congress acted within its "power to enforce" the Fourteenth and Fifteenth Amendments "by appropriate legislation."

1976

Beer v. U. S., 425 U.S. 130 (1976)

The City of New Orleans instituted suit under the Voting Rights Act of 1965, seeking a judgment declaring that a reapportionment of New Orleans' council districts did not have the purpose or effect of denying or abridging the right to vote on account of race or color.

The Supreme Court held that the reapportionment plan was valid where it had the effect of enhancing the position of racial minorities with respect to their effective exercise of the electoral franchise. Since Section 5's language clearly provides that it applies only to proposed changes in voting procedures, and since the at-large seats existed without change since 1954, those seats were not subject to review under Section 5. A legislative reapportionment that enhances the position of racial minorities with respect to their effective exercise of the electoral franchise cannot violate Section 5 unless the new apportionment itself so discriminates racially as to violate the Constitution.

1973

Associated Enterprises, Inc. v. Toltec Watershed Imp. Dist., 410 U.S. 743 (1973)

The Toltec Watershed Improvement District was established after referendum held pursuant to Wyoming's Watershed Improvement District Act. Toltec sought a right of entry onto lands owned by Associated Enterprises, Inc. for the purpose of carrying out studies to determine the feasibility of constructing a dam and reservoir. When Associated Enterprises resisted, Toltec sought to enforce its right in state court. Associated Enterprises argued that the statute authorizing the referendum violated the Equal Protection Clause since only landowners are entitled to vote.

The Supreme Court held that the statute which authorized only landowners to vote on creation of watershed district and which weighted votes according to acreage did not violate the Equal Protection Clause. The State could rationally conclude that landowners are primarily

burdened and benefited by the establishment and operation of watershed districts and that it may condition the vote accordingly

Burns v. Fortson, 410 U.S. 686 (1973)

In this case, a Georgia statute required registrars to close their voter registration books 50 days prior to general elections, except for those persons who sought to register to vote for President of Vice President. The State offered extensive evidence to establish the need for a 50-day registration cut-off point, given the vagaries and numerous requirements of the Georgia elections laws.

The Supreme Court held that such statutes are not unconstitutional, in light of the evidence that 50 days were necessary to promote the state's important interest in accurate voter lists, though the 50-day registration period approached the outer constitutional limits.

Georgia v. United States, 411 U.S. 526 (1973)

The state of Georgia submitted its House reapportionment plan to the Attorney General for consideration under Section 5 of the Voting Rights Act. The Attorney General, citing a combination of multimember districts, majority runoff elections, and numbered posts, objected to the plan, being unable to conclude that it did not have a discriminatory racial effect on voting.

The Supreme Court held that extensive reorganization of voting districts and the creation of multimember districts in place of single-member districts in certain areas under the reapportionment plan, which had the potential for reducing African American voting power, related to 'standards, practices or procedures with respect to voting,' and thus required administrative or judicial approval.

1972

Dunn v. Blumstein, 405 U.S. 330 (1972)

Tennessee required residence in the state for one year and in the county for three months as prerequisites for registration to vote. Tennessee asserted that the requirements are needed to insure the "purity of the ballot box" and to have knowledgeable voters.

The Supreme Court, Mr. Justice Marshall, J., held that state laws requiring a would-be voter to have been a resident for a year in the state and three months in the county do not further any compelling state interest and violate the equal protection clause of the Fourteenth Amendment. Since the requirements deny some citizens the right to vote, the Court must determine whether the exclusions are necessary to promote a compelling state interest. A period of 30 days appears to be ample to complete whatever administrative tasks are needed to prevent fraud and insure the purity of the ballot box.

1971

Gordon v. Lance, 403 U.S. 1 (1971)

West Virginia had a constitutional and statutory requirement that political subdivisions may not incur bonded indebtedness or increase tax rates beyond those established by the State Constitution without the approval of 60% of the voters in a referendum election.

The United States Supreme Court held that a requirement that 60% of voters in a referendum election approve bonded indebtedness or tax increase does not violate the Equal Protection Clause merely because votes of those who favor issuance of the bonds have

proportionately smaller impact on the outcome of election than votes of those who oppose issuance of the bonds.

1970

City of Phoenix, Ariz. v. Kolodziejski, 399 U.S. 204 (1970)

This was an action by a resident of Phoenix, Arizona, who was otherwise qualified to vote in election to approve issuance of general obligation bonds but who owned no real property, challenging the constitutionality of a restriction of the franchise to owners of real property and attacking the validity of an election approving of the issuance of such bonds.

The Supreme Court held that the Arizona Constitution and statutes, as applied to exclude non-property owners from voting in elections to approve issuance of general obligation bonds, violated equal protection, but the decision would apply only to authorizations for general obligation bonds which were not final as of the date of the decision.

Evans v. Cornman, 398 U.S. 419(1970)

The Permanent Board of Registry of Montgomery County announced that persons living on the grounds of the National Institutes of Health (NIH), a federal enclave located within the geographical boundaries of Maryland, did not meet the residency requirement of the Maryland Constitution. Accordingly, such persons were not qualified to vote in Maryland elections.

The Supreme Court held that individuals living on grounds of the federal enclave were entitled under the Fourteenth Amendment to protect their stake in Maryland electoral decisions by exercising their equal right to vote.

1969

Oden v. Brittain, 396 U.S. 1210 (1969)

Application was made to United States Supreme Court to enjoin city from holding election. Mr. Justice Black, sitting as Circuit Justice, held that citizens were not entitled to injunction to prevent city from holding election to select five members of newly formed city council in accordance with a state law authorizing city to change from commission to council-manager form of government, on ground that election, scheduled to be held in a few days, would violate Voting Rights Act. Application denied without prejudice.

Jenkins v. McKeithen, 395 U.S. 411 (1969)

Action for declaratory or injunctive relief and determination that statute creating Louisiana Labor-Management Commission of Inquiry, which was body limited to investigating certain criminal law violations and suggesting prosecution, and which was alleged to be an executive trial agency designed publicly to condemn without affording traditional trial rights of cross-examination or presentation of evidence, is unconstitutional. The Supreme Court held that the complaint stated a cause of action. Judgment reversed and cause remanded.

Gaston Cnty., N. C. v. United States, 395 U.S. 285 (1969)

Action by county for declaratory judgment to reinstate literacy test for voter registration. The Supreme Court held that District Court's determination that county had not met burden of proving that no such test or device had been used during five years preceding filing of action for

purpose or with effect of denying or abridging right to vote on account of race or color was not clearly erroneous.

McDonald v. Bd. of Election Comm'rs of Chicago, 394 U.S. 802 (1969)

Action was brought by inmates of county jail to enjoin enforcement of statutes excluding them and others similarly situated from that class of persons entitled to cast absentee ballots. The Supreme Court held that Illinois absentee voting statutes providing for furnishing of absentee ballots to persons who for medical reasons cannot go to polls or will be out of the county do not deny equal protection of the laws for failure to make provisions for furnishing of absentee ballots to persons who are held, before trial, in jails in counties of their residence and who are either charged with non-bailable offenses or who are unable to raise necessary bail.

Allen v. State Bd. of Elections, 393 U.S. 544 (1969)

Four cases were consolidated in which states passed new voting laws or issued new voting regulations. The issue was whether these laws and regulations fell within the Voting Rights Act Section 5 prohibition that prevents the enforcement of 'any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting' unless the State first complies with one of the section's approval procedures. For example, functionally illiterate registered voters in Virginia challenged a change in Virginia law that made no provision for assistance to those who wish to write in a name but who are unable to do so because of illiteracy. The Supreme Court held that an amendment to a statute which changes voting for county supervisors from district to at large voting constituted a 'voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting' and was within purview of section of Voting Rights Act of 1965, which requires states and political subdivisions within its coverage formula to litigate the validity of new voting rules in United States District Court for District of Columbia.

Hadnott v. Amos, 394 U.S. 358 (1969)

This was a class action brought by the National Democratic Party of Alabama, mostly African Americans, against Alabama state officials who had refused to include various independent candidates on the ballot for various county and statewide offices. The Supreme Court held that increased barriers placed on independent candidates brought Alabama statutes within the purview of the Voting Rights Act of 1965, and Alabama officials acted unlawfully in disqualifying independent candidates for failure to comply with the statutes.

1968

Williams v. Rhodes, 393 U.S. 23 (1968)

Suits challenging validity of Ohio election laws as applied to Ohio American Independent Party and Socialist Labor Party. The Supreme Court held that the Ohio election laws making it virtually impossible for new political party, even though it has hundreds of thousands of members, or an old party, which has very small number of members, to be placed on state ballots to choose electors pledged to particular candidates for Presidency and Vice-Presidency of United States resulted in denial of equal protection of the laws.

Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968)

Action to recover damages and for injunctive relief because of refusal of defendants to sell home in private subdivision to plaintiffs solely because of race. The United States Supreme Court held that statute providing that all citizens of United States shall have same right, in every state and territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property bars all racial discrimination, private as well as public, in sale or rental of property. The Court further held that statute, so construed, constitutes valid exercise of power of Congress to enforce Thirteenth Amendment.

1967

Kilgarlin v. Hill, 386 U.S. 120 (1967)

Action attacking validity of 1965 Texas reapportionment statute. The United States Supreme Court held that apportionment plan for Texas House of Representatives, by which districts, in addition to inequalities inherent in floterial districts, varied from 14.84% overrepresented to 11.64% underrepresented, with ratio between largest and smallest district being 1.31 to 1, was invalid, in absence of justification, as not conforming to constitutional requirement of apportionment substantially on equal population basis

1966

Cardona v. Power, 384 U.S. 672 (1966)

Action in which prospective voter sought a judicial determination that state English literacy requirement, as applied to deny her the right to vote in all elections, violated the Federal Constitution. The Supreme Court, held that where complaint did not allege that prospective voter had successfully completed the sixth grade of a public school in, or a private school accredited by, the Commonwealth of Puerto Rico, as required by Voting Rights Act, judgment denying relief should be vacated and cause remanded for further proceedings.

Katzenbach v. Morgan, 384 U.S. 641 (1966)

Action by voters of New York City seeking declaratory judgment and injunction restraining compliance with Voting Rights Act of 1965. The Supreme Court held that section of Voting Rights Act of 1965 providing that no person who has successfully completed sixth primary grade in American school in which predominant language is other than English shall be disqualified from voting under any literacy test, as applied to prohibit enforcement of election laws of New York requiring ability to read and write English as condition of voting, was proper exercise of powers granted to Congress by enforcement section of Fourteenth Amendment and, by force of supremacy clause, New York English literacy requirement cannot be enforced to extent that it is inconsistent with Voting Rights Act

Burns v. Richardson, 384 U.S. 73 (1966)

A three-judge panel of the United States District Court for the District of Hawaii declared Hawaii reapportionment plan valid except for provisions relating to apportionment of state senate. Thereafter, the court modified its order to require legislature to enact statutes including statute proposing interim senate apportionment plan. Upon passage of plan and submission to the court, the court disapproved it and reinstated provision of its earlier order requiring immediate

resort to constitutional convention and appeals were taken. The Supreme Court, Mr. Justice Brennan, held that creation of multi-member senatorial districts in apportionment plan did not ipso facto result in invidious discrimination; and that plan wherein number of registered voters was apportionment base satisfied equal protection clause, but only because on record it produced distribution of legislators not substantially different from that which would have resulted from use of permissible population base.

Harper v. Virginia State Bd. of Elections, 383 U.S. 663 (1966)

The Supreme Court held that Virginia's poll tax was unconstitutional as inconsistent with Equal Protection Clause.

State of S.C. v. Katzenbach, 383 U.S. 301, (1966)

Bill in equity for determination of validity of selected provisions of Voting Rights Act of 1965 and for injunction against enforcement of provisions by United States Attorney General. The Supreme Court held that provisions of Voting Rights Act of 1965 pertaining to suspension of eligibility tests or devices, review of proposed alteration of voting qualifications and procedures, appointment of federal voting examiners, examination of applicants for registration, challenges to eligibility listings, termination of listing procedures, and enforcement proceedings in criminal contempt cases were appropriate means for carrying out Congress' constitutional responsibilities under the Fifteenth Amendment and were consonant with all other provisions of the Constitution.

1965

Carrington v. Rash, 380 U.S. 89 (1965)

A Texas constitutional provision prohibited any member of the armed forces of the United States who moved his home to Texas during the course of his military duty from ever voting in any election in that state so long as he is a member of the armed forces. The Supreme Court held that the Texas constitutional provision denied the petitioner, a member of the armed forces who otherwise would be eligible to vote in Texas, a right in violation of the Equal Protection Clause of the Fourteenth Amendment.

Fortson v. Dorsey, 379 U.S. 433 (1965)

Action by registered voters against Secretary of State of Georgia and local election officials seeking decree that voting requirement violated equal protection clause of Fourteenth Amendment. The Supreme Court held that Georgia's 1962 Senatorial Reapportionment Act apportioning 54 seats of Georgia senate among state's 159 counties and providing for county-wide voting in seven multidistrict counties did not on its face deny residents of multidistrict counties a vote approximately equal in weight to that of voters resident in single-member constituencies or deny equal protection.

1964

Anderson v. Martin, 375 U.S. 399 (1964)

This was an action against the Secretary of State of Louisiana to enjoin enforcement of a Louisiana statute providing that in all primary general or special elections, the nomination papers and ballots shall designate the race of candidates for elective office. The Supreme Court held that the compulsory designation of the race of the candidate on a ballot operated as a discrimination against African Americans and therefore violated the Fourteenth Amendment's equal protection clause.

Reynolds v. Sims, 377 U.S. 533 (1964)

The Supreme Court held that the existing and two legislatively proposed plans for apportionment of seats in the two houses of the Alabama Legislature are invalid under the Equal Protection Clause in that the apportionment is not on a population basis and is completely lacking in rationality.

Wesberry v. Sanders, 376 U.S. 1 (1964)

The Supreme Court held that the complaint presented a justiciable controversy, and that apportionment of congressional districts so that single congressman represented from two to three times as many Fifth District voters as were represented by each of congressmen from other Georgia districts grossly discriminated against voters in Fifth District in violation of constitutional requirement that representatives be chosen by people of the several states.

1962

Baker v. Carr, 369 U.S. 186 (1962)

Action under the civil rights statute, by qualified voters of certain counties of Tennessee for a declaration that a state apportionment statute was an unconstitutional deprivation of equal protection of the laws, for an injunction, and other relief. The Supreme Court held that complaint containing allegations that a state statute effected an apportionment that deprived plaintiffs of equal protection of the laws in violation of the Fourteenth Amendment presented a justiciable constitutional cause of action, and the right asserted was within reach of judicial protection under the Fourteenth Amendment, and did not present a non-usticiable political question.

1960

Gomillion v. Lightfoot, 364 U.S. 339, (1960)

Action challenging validity of local act passed by Alabama legislature redefining city boundaries. The Supreme Court held that complaint alleging that local act which altered shape of city from a square to a 28-sided figure and had as its effect the removal from city of all but four or five of its 400 Negro voters although not removing a single white voter or resident, constituted a discrimination against Negro petitioners in violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment and the right to vote as guaranteed in the Fifteenth Amendment, was sufficient to state a cause of action.