SUPREME COURT OF THE UNITED STATES

No. 92–357

RUTH O. SHAW, ET AL., APPELLANTS *v.* JANET RENO, ATTORNEY GENERAL, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA

[June 28, 1993]

JUSTICE O'CONNOR delivered the opinion of the Court.

This case involves two of the most complex and sensitive issues this Court has faced in recent years: the meaning of the constitutional "right" to vote, and the propriety of race-based state legislation designed to benefit members of historically disadvantaged racial minority groups. As a result of the 1990 census, North Carolina became entitled to a twelfth seat in the United States House of Representatives. The General Assembly enacted a reapportionment plan that included one majority-black congressional district. After the Attorney General of the United States objected to the plan pursuant to §5 of the Voting Rights Act of 1965, 79 Stat. 439, as amended, 42 U. S. C. §1973c, the General Assembly passed new legislation creating a second majority-black district. Appellants allege that the revised plan, which contains district boundary lines of dramatically irregular shape, constitutes an unconstitutional racial gerrymander. The question before us is whether appellants have stated a cognizable claim.

The voting age population of North Carolina is approximately 78% white, 20% black, and 1% Native American; the remaining 1% is predominantly Asian. App. to Brief for Federal Appellees 16a. The black population is relatively dispersed; blacks constitute a

majority of the general population in only 5 of the State's 100 counties. Brief for Appellants 57. Geographically, the State divides into three regions: the eastern Coastal Plain, the central Piedmont Plateau, and the western mountains. H. Lefler & A. Newsom, The History of a Southern State: North Carolina 18–22 (3d ed. 1973). The largest concentrations of black citizens live in the Coastal Plain, primarily in the northern part. O. Gade & H. Stillwell, North Carolina: People and Environments 65–68 (1986). The General Assembly's first redistricting plan contained one majority-black district centered in that area of the State.

Forty of North Carolina's one hundred counties are covered by §5 of the Voting Rights Act of 1965, 42 U. S. C. §1973c, which prohibits a jurisdiction subject to its provisions from implementing changes in a "standard, practice, or procedure with respect to voting" without federal authorization. *Ibid.* The jurisdiction must obtain either a judgment from the United States District Court for the District of Columbia declaring that the proposed change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color" or administrative preclearance from the Attorney General. *Ibid.* Because the General Assembly's reapportionment plan affected the covered counties, the parties agree that §5 applied. Tr. of Oral Arg. 14, 27–29. The State chose to submit its plan to the Attorney General for preclearance.

The Attorney General, acting through the Assistant Attorney General for the Civil Rights Division, interposed a formal objection to the General Assembly's plan. The Attorney General specifically objected to the configuration of boundary lines drawn in the south-central to southeastern region of the State. In the Attorney General's view, the General Assembly could have created a second majority-minority district "to give effect to black and Native American voting strength in this area" by using boundary lines "no more irregular than [those] found

elsewhere in the proposed plan," but failed to do so for "pretextual reasons." See App. to Brief for Federal Appellees 10a–11a.

Under §5, the State remained free to seek a declaratory judgment from the District Court for the District of Columbia notwithstanding the Attorney General's objection. It did not do so. Instead, the General Assembly enacted a revised redistricting plan, 1991 N. C. Extra Sess. Laws, ch. 7, that included a second majority-black district. The General Assembly located the second district not in the south-central to southeastern part of the State, but in the north-central region along Interstate 85. See Appendix.

The first of the two majority-black districts contained in the revised plan, District 1, is somewhat hook shaped. Centered in the northeast portion of the State, it moves southward until it tapers to a narrow band; then, with finger-like extensions, it reaches far into the southern-most part of the State near the South Carolina border. District 1 has been compared to a "Rorschach ink-blot test," *Shaw* v. *Barr*, 808 F. Supp. 461, 476 (EDNC 1992) (Voorhees, C. J., concurring in part and dissenting in part), and a "bug splattered on a windshield," Wall Street Journal, Feb. 4, 1992, p. A14.

The second majority-black district, District 12, is even more unusually shaped. It is approximately 160 miles long and, for much of its length, no wider than the I–85 corridor. It winds in snake-like fashion through tobacco country, financial centers, and manufacturing areas "until it gobbles in enough enclaves of black neighborhoods." *Shaw* v. *Barr*, *supra*, at 476–477 (Voorhees, C. J., concurring in part and dissenting in part). Northbound and southbound drivers on I–85 sometimes find themselves in separate districts in one county, only to "trade" districts when they enter the next county. Of the 10 counties through which District 12 passes, five are cut into three different districts; even towns are divided. At one point the district remains contiguous only because it intersects at a single point with two

other districts before crossing over them. See Brief for Republican National Committee as *Amicus Curiae* 14–15. One state legislator has remarked that "`[i]f you drove down the interstate with both car doors open, you'd kill most of the people in the district.'" Washington Post, Apr. 20, 1993, p. A4. The district even has inspired poetry: "Ask not for whom the line is drawn; it is drawn to avoid thee." Grofman, Would Vince Lombardi Have Been Right If He Had Said: "When It Comes to Redistricting, Race Isn't Everything, It's the *Only* Thing"?, 14 Cardozo L. Rev. 1237, 1261, n. 96 (1993) (internal quotation marks omitted).

The Attorney General did not object to the General Assembly's revised plan. But numerous North Carolinians did. The North Carolina Republican Party and individual voters brought suit in Federal District Court alleging that the plan constituted an unconstitutional political gerrymander under *Davis* v. *Bandemer*, 478 U. S. 109 (1986). That claim was dismissed, see *Pope* v. *Blue*, 809 F. Supp. 392 (WDNC 1992), and this Court summarily affirmed, 506 U. S. ___ (1992).

Shortly after the complaint in *Pope* v. *Blue* was filed, appellants instituted the present action in the United States District Court for the Eastern District of North Carolina. Appellants alleged not that the revised plan constituted a political gerrymander, nor that it violated the "one person, one vote" principle, see *Reynolds* v. *Sims*, 377 U. S. 533, 558 (1964), but that the State had created an unconstitutional *racial* gerrymander. Appellants are five residents of Durham County, North Carolina, all registered to vote in that county. Under the General Assembly's plan, two will vote for congressional representatives in District 12 and three will vote in neighboring District 2. Appellants sued the Governor of North Carolina, the Lieutenant Governor, the Secretary of State, the Speaker of the North Carolina House of

Representatives, and members of the North Carolina State Board of Elections (state appellees), together with two federal officials, the Attorney General and the Assistant Attorney General for the Civil Rights Division (federal appellees).

Appellants contended that the General Assembly's revised reapportionment plan violated several provisions of the United States Constitution, including the Fourteenth Amendment. They alleged that the General Assembly deliberately "create[d] two Congressional Districts in which a majority of black voters was concentrated arbitrarily—without regard to any other considerations, such as compactness, contiguousness, geographical boundaries, or political subdivisions" with the purpose "to create Congressional Districts along racial lines" and to assure the election of two black representatives to Congress. App. to Juris. Statement 102a. Appellants sought declaratory and injunctive relief against the state appellees. They sought similar relief against the federal appellees, arguing, alternatively, that the federal appellees had misconstrued the Voting Rights Act or that the Act itself was unconstitutional.

The three-judge District Court granted the federal appellees' motion to dismiss. 808 F. Supp. 461 (EDNC 1992). The court agreed unanimously that it lacked subject matter jurisdiction by reason of §14(b) of the Voting Rights Act, 42 U. S. C. §1973*l*(b), which vests the District Court for the District of Columbia with exclusive jurisdiction to issue injunctions against the execution of the Act and to enjoin actions taken by federal officers pursuant thereto. 808 F. Supp., at 466–467; *id.*, at 474 (Voorhees, C. J., concurring in relevant part). Two judges also concluded that, to the extent appellants challenged the Attorney General's preclearance decisions, their claim was foreclosed by this Court's holding in *Morris* v. *Gressette*, 432 U. S. 491 (1977). 808 F. Supp., at 467.

By a 2-to-1 vote, the District Court also dismissed

the complaint against the state appellees. The majority found no support for appellants' contentions that race-based districting is prohibited by Article I, §4, or Article I, §2, of the Constitution, or by the Privileges and Immunities Clause of the Fourteenth Amendment. It deemed appellants' claim under the Fifteenth Amendment essentially subsumed within their related claim under the Equal Protection Clause. 808 F. Supp., at 468–469. That claim, the majority concluded, was barred by *United Jewish Organizations of Williamsburgh, Inc.* v. *Carey*, 430 U. S. 144 (1977) *(UJO)*.

The majority first took judicial notice of a fact omitted from appellants' complaint: that appellants are white. It rejected the argument that race-conscious redistricting to benefit minority voters is *per se* unconstitutional. The majority also rejected appellants' claim that North Carolina's reapportionment plan was impermissible. The majority read *UJO* to stand for the proposition that a redistricting scheme violates white voters' rights only if it is "adopted with the purpose and effect of discriminating against white voters . . . on account of their race." 808 F. Supp., at 472. The purposes of favoring minority voters and complying with the Voting Rights Act are not discriminatory in the constitutional sense, the court reasoned, and majority-minority districts have an impermissibly discriminatory effect only when they unfairly dilute or cancel out white voting strength. Because the State's purpose here was to comply with the Voting Rights Act, and because the General Assembly's plan did not lead to proportional underrepresentation of white voters statewide, the majority concluded that appellants had failed to state an equal protection claim. *Id.*, at 472–473.

Chief Judge Voorhees agreed that race-conscious redistricting is not *per se* unconstitutional but dissented from the rest of the majority's equal protection analysis. He read JUSTICE WHITE's opinion in

UJO to authorize race-based reapportionment only when the State employs traditional districting principles such as compactness and contiguity. 808 F. Supp., at 475–477 (Voorhees, C. J., concurring in part and dissenting in part). North Carolina's failure to respect these principles, in Judge Voorhees' view, "augur[ed] a constitutionally suspect, and potentially unlawful, intent" sufficient to defeat the state appellees' motion to dismiss. *Id.*, at 477.

We noted probable jurisdiction. 506 U. S. ___ (1992).

"The right to vote freely for the candidate of one's choice is of the essence of a democratic society . . . ." *Reynolds* v. *Sims*, 377 U. S., at 555. For much of our Nation's history, that right sadly has been denied to many because of race. The Fifteenth Amendment, ratified in 1870 after a bloody Civil War, promised unequivocally that "[t]he right of citizens of the United States to vote" no longer would be "denied or abridged . . . by any State on account of race, color, or previous condition of servitude." U. S. Const., Amdt. 15, §1.

But "[a] number of states . . . refused to take no for an answer and continued to circumvent the fifteenth amendment's prohibition through the use of both subtle and blunt instruments, perpetuating ugly patterns of pervasive racial discrimination." Blumstein, Defining and Proving Race Discrimination: Perspectives on the Purpose Vs. Results Approach from the Voting Rights Act, 69 Va. L. Rev. 633, 637 (1983). Ostensibly race-neutral devices such as literacy tests with "grandfather" clauses and "good character" provisos were devised to deprive black voters of the franchise. Another of the weapons in the States' arsenal was the racial gerrymander—"the deliberate and arbitrary distortion of district

boundaries . . . for [racial] purposes." *Bandemer*, 478 U. S., at 164 (Powell, J., concurring in part and dissenting in part) (internal quotation marks omitted). In the 1870's, for example, opponents of Reconstruction in Mississippi "concentrated the bulk of the black population in a `shoestring' Congressional district running the length of the Missis-sippi River, leaving five others with white majorities." E. Foner, Reconstruction: America's Unfinished Revolution, 1863–1877, p. 590 (1988). Some 90 years later, Alabama redefined the boundaries of the city of Tuskegee "from a square to an uncouth twenty-eight-sided figure" in a manner that was alleged to exclude black voters, and only black voters, from the city limits. *Gomillion* v. *Lightfoot*, 364 U. S. 339, 340 (1960).

Alabama's exercise in geometry was but one example of the racial discrimination in voting that persisted in parts of this country nearly a century after ratification of the Fifteenth Amendment. See *South Carolina* v. *Katzenbach*, 383 U. S. 301, 309–313 (1966). In some States, registration of eligible black voters ran 50% behind that of whites. *Id.*, at 313. Congress enacted the Voting Rights Act of 1965 as a dramatic and severe response to the situation. The Act proved immediately successful in ensuring racial minorities access to the voting booth; by the early 1970's, the spread between black and white registration in several of the targeted Southern States had fallen to well below 10%. A. Thernstrom, Whose Votes Count? Affirmative Action and Minority Voting Rights 44 (1987).

But it soon became apparent that guaranteeing equal access to the polls would not suffice to root out other racially discriminatory voting practices. Drawing on the "one person, one vote" principle, this Court recognized that "[t]he right to vote can be affected by a *dilution* of voting power as well as by an absolute prohibition on casting a ballot." *Allen* v.

State Board of Elections, 393 U. S. 544, 569 (1969) (emphasis added). Where members of a racial minority group vote as a cohesive unit, practices such as multimember or at-large electoral systems can reduce or nullify minority voters' ability, as a group, "to elect the candidate of their choice." *Ibid.* Accordingly, the Court held that such schemes violate the Fourteenth Amendment when they are adopted with a discriminatory purpose and have the effect of diluting minority voting strength. See, *e.g.*, *Rogers* v. *Lodge*, 458 U. S. 613, 616–617 (1982); *White* v. *Regester*, 412 U. S. 755, 765–766 (1973). Congress, too, responded to the problem of vote dilution. In 1982, it amended §2 of the Voting Rights Act to prohibit legislation that *results* in the dilution of a minority group's voting strength, regardless of the legislature's intent. 42 U. S. C. §1973; see *Thornburg* v. *Gingles*, 478 U. S. 30 (1986) (applying amended §2 to vote-dilution claim involving multimember districts); see also *Voinovich* v. *Quilter*, 507 U. S. ___, ___ (1993) (slip op., at ___) (single-member districts).

It is against this background that we confront the questions presented here. In our view, the District Court properly dismissed appellants' claims against the federal appellees. Our focus is on appellants' claim that the State engaged in unconstitutional racial gerrymandering. That argument strikes a powerful historical chord: It is unsettling how closely the North Carolina plan resembles the most egregious racial gerrymanders of the past.

An understanding of the nature of appellants' claim is critical to our resolution of the case. In their complaint, appellants did not claim that the General Assembly's reapportionment plan unconstitutionally "diluted" white voting strength. They did not even claim to be white. Rather, appellants' complaint alleged that the deliberate segregation of voters into

separate districts on the basis of race violated their constitutional right to participate in a "color-blind" electoral process. Complaint ¶29; see also Brief for Appellants 31–32.

Despite their invocation of the ideal of a "color-blind" Constitution, see *Plessy* v. *Ferguson*, 163 U. S. 537, 559 (1896) (Harlan, J., dissenting), appellants appear to concede that race-conscious redistricting is not always unconstitutional. See Tr. of Oral Arg. 16–19. That concession is wise: This Court never has held that race-conscious state decisionmaking is impermissible in *all* circumstances. What appellants object to is redistricting legislation that is so extremely irregular on its face that it rationally can be viewed only as an effort to segregate the races for purposes of voting, without regard for traditional districting principles and without sufficiently compelling justification. For the reasons that follow, we conclude that appellants have stated a claim upon which relief can be granted under the Equal Protection Clause. See Fed. Rule Civ. Proc. 12(b)(6).

The Equal Protection Clause provides that "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U. S. Const., Amdt. 14, §1. Its central purpose is to prevent the States from purposefully discriminating between individuals on the basis of race. *Washington* v. *Davis*, 426 U. S. 229, 239 (1976). Laws that explicitly distinguish between individuals on racial grounds fall within the core of that prohibition.

No inquiry into legislative purpose is necessary when the racial classification appears on the face of the statute. See *Personnel Administrator of Massachusetts* v. *Feeney*, 442 U. S. 256, 272 (1979). Accord, *Washington* v. *Seattle School District No. 1*, 458 U. S. 457, 485 (1982). Express racial

classifications are immediately suspect because, "[a]bsent searching judicial inquiry . . . , there is simply no way of determining what classifications are `benign' or `remedial' and what classifications are in fact motivated by illegitimate notions of racial inferiority or simple racial politics." *Richmond* v. *J. A. Croson Co.*, 488 U. S. 469, 493 (1989) (plurality opinion); *id.*, at 520 (SCALIA, J., concurring in judgment); see also *UJO*, 430 U. S., at 172 (Brennan, J., concurring in part) ("[A] purportedly preferential race assignment may in fact disguise a policy that perpetuates disadvantageous treatment of the plan's supposed beneficiaries").

Classifications of citizens solely on the basis of race "are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality." *Hirabayashi* v. *United States*, 320 U. S. 81, 100 (1943). Accord, *Loving* v. *Virginia*, 388 U. S. 1, 11 (1967). They threaten to stigmatize individuals by reason of their membership in a racial group and to incite racial hostility. *Croson, supra*, at 493 (plurality opinion); *UJO, supra*, at 173 (Brennan, J., concurring in part) ("[E]ven in the pursuit of remedial objectives, an explicit policy of assignment by race may serve to stimulate our society's latent race-consciousness, suggesting the utility and propriety of basing decisions on a factor that ideally bears no relationship to an individual's worth or needs"). Accordingly, we have held that the Fourteenth Amendment requires state legislation that expressly distinguishes among citizens because of their race to be narrowly tailored to further a compelling governmental interest. See, *e.g.*, *Wygant* v. *Jackson Bd. of Ed.*, 476 U. S. 267, 277–278 (1986) (plurality opinion); *id.*, at 285 (O'CONNOR, J., concurring in part and concurring in judgment).

These principles apply not only to legislation that contains explicit racial distinctions, but also to those "rare" statutes that, although race-neutral, are, on

their face, "unexplainable on grounds other than race." *Arlington Heights* v. *Metropolitan Housing Development Corp.*, 429 U. S. 252, 266 (1977). As we explained in *Feeney:*

> "A racial classification, regardless of purported motivation, is presumptively invalid and can be upheld only upon an extraordinary justification. *Brown* v. *Board of Education*, 347 U. S. 483; *McLaughlin* v. *Florida*, 379 U. S. 184. This rule applies as well to a classification that is ostensibly neutral but is an obvious pretext for racial discrimination. *Yick Wo* v. *Hopkins*, 118 U. S. 356; *Guinn* v. *United States*, 238 U. S. 347; cf. *Lane* v. *Wilson*, 307 U. S. 268; *Gomillion* v. *Lightfoot*, 364 U. S. 339." 442 U. S., at 272.

Appellants contend that redistricting legislation that is so bizarre on its face that it is "unexplainable on grounds other than race," *Arlington Heights, supra,* at 266, demands the same close scrutiny that we give other state laws that classify citizens by race. Our voting rights precedents support that conclusion.

In *Guinn* v. *United States*, 238 U. S. 347 (1915), the Court invalidated under the Fifteenth Amendment a statute that imposed a literacy requirement on voters but contained a "grandfather clause" applicable to individuals and their lineal descendants entitled to vote "on [or prior to] January 1, 1866." *Id.*, at 357 (internal quotation marks omitted). The determinative consideration for the Court was that the law, though ostensibly race-neutral, on its face "embod[ied] no exercise of judgment and rest[ed] upon no discernible reason" other than to circumvent the prohibitions of the Fifteenth Amendment. *Id.*, at 363. In other words, the statute was invalid because, on its face, it could not be explained on grounds other than race.

The Court applied the same reasoning to the "uncouth twenty-eight-sided" municipal boundary

line at issue in *Gomillion*. Although the statute that redrew the city limits of Tuskegee was race-neutral on its face, plaintiffs alleged that its effect was impermissibly to remove from the city virtually all black voters and no white voters. The Court reasoned:

> "If these allegations upon a trial remained uncontradicted or unqualified, the conclusion would be irresistible, tantamount for all practical purposes to a mathematical demonstration, that the legislation is solely concerned with segregating white and colored voters by fencing Negro citizens out of town so as to deprive them of their pre-existing municipal vote." 364 U. S., at 341.

The majority resolved the case under the Fifteenth Amendment. *Id.*, at 342–348. Justice Whittaker, however, concluded that the "unlawful segregation of races of citizens" into different voting districts was cognizable under the Equal Protection Clause. *Id.*, at 349 (Whittaker, J., concurring). This Court's subsequent reliance on *Gomillion* in other Fourteenth Amendment cases suggests the correctness of Justice Whittaker's view. See, *e.g.*, *Feeney*, *supra*, at 272; *Whitcomb* v. *Chavis*, 403 U. S. 124, 149 (1971); see also *Mobile* v. *Bolden*, 446 U. S. 55, 86 (1980) (STEVENS, J., concurring in judgment) (*Gomillion*'s holding "is compelled by the Equal Protection Clause"). *Gomillion* thus supports appellants' contention that district lines obviously drawn for the purpose of separating voters by race require careful scrutiny under the Equal Protection Clause regardless of the motivations underlying their adoption.

The Court extended the reasoning of *Gomillion* to congressional districting in *Wright* v. *Rockefeller*, 376 U. S. 52 (1964). At issue in *Wright* were four districts contained in a New York apportionment statute. The plaintiffs alleged that the statute excluded nonwhites from one district and concentrated them in the other

three. *Id.*, at 53–54. Every member of the Court assumed that the plaintiffs' allegation that the statute "segregate[d] eligible voters by race and place of origin" stated a constitutional claim. *Id.*, at 56 (internal quotation marks omitted); *id.*, at 58 (Harlan, J., concurring); *id.*, at 59–62 (Douglas, J., dissenting). The Justices disagreed only as to whether the plaintiffs had carried their burden of proof at trial. The dissenters thought the unusual shape of the district lines could "be explained only in racial terms." *Id.*, at 59. The majority, however, accepted the District Court's finding that the plaintiffs had failed to establish that the districts were in fact drawn on racial lines. Although the boundary lines were somewhat irregular, the majority reasoned, they were not so bizarre as to permit of no other conclusion. Indeed, because most of the nonwhite voters lived together in one area, it would have been difficult to construct voting districts without concentrations of nonwhite voters. *Id.,* at 56–58.

Wright illustrates the difficulty of determining from the face of a single-member districting plan that it purposefully distinguishes between voters on the basis of race. A reapportionment statute typically does not classify persons at all; it classifies tracts of land, or addresses. Moreover, redistricting differs from other kinds of state decisionmaking in that the legislature always is *aware* of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors. That sort of race consciousness does not lead inevitably to impermissible race discrimination. As *Wright* demonstrates, when members of a racial group live together in one community, a reapportionment plan that concentrates members of the group in one district and excludes them from others may reflect wholly legitimate purposes. The district lines may be drawn, for example, to provide for compact districts

of contiguous territory, or to maintain the integrity of political subdivisions. See *Reynolds*, 377 U. S., at 578 (recognizing these as legitimate state interests).

The difficulty of proof, of course, does not mean that a racial gerrymander, once established, should receive less scrutiny under the Equal Protection Clause than other state legislation classifying citizens by race. Moreover, it seems clear to us that proof sometimes will not be diffi-cult at all. In some exceptional cases, a reapportionment plan may be so highly irregular that, on its face, it rationally cannot be understood as anything other than an effort to "segregat[e] . . . voters" on the basis of race. *Gomillion, supra,* at 341. *Gomillion*, in which a tortured municipal boundary line was drawn to exclude black voters, was such a case. So, too, would be a case in which a State concentrated a dispersed minority population in a single district by disregarding traditional districting principles such as compactness, contiguity, and respect for political subdivisions. We emphasize that these criteria are important not because they are constitutionally required—they are not, cf. *Gaffney* v. *Cummings*, 412 U. S. 735, 752, n. 18 (1973)—but because they are objective factors that may serve to defeat a claim that a district has been gerrymandered on racial lines. Cf. *Karcher* v. *Daggett*, 462 U. S. 725, 755 (1983) (STEVENS, J., concurring) ("One need not use Justice Stewart's classic definition of obscenity—`I know it when I see it'—as an ultimate standard for judging the constitutionality of a gerrymander to recognize that dramatically irregular shapes may have sufficient probative force to call for an explanation" (footnotes omitted)).

Put differently, we believe that reapportionment is one area in which appearances do matter. A reapportionment plan that includes in one district individuals who belong to the same race, but who are otherwise widely separated by geographical and

political boundaries, and who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid. It reinforces the perception that members of the same racial group—regardless of their age, education, economic status, or the community in which the live—think alike, share the same political interests, and will prefer the same candidates at the polls. We have rejected such perceptions elsewhere as impermissible racial stereotypes. See, *e.g.*, *Holland* v. *Illinois*, 493 U. S. 474, 484, n. 2 (1990) ("[A] prosecutor's assumption that a black juror may be presumed to be partial simply because he is black . . . violates the Equal Protection Clause" (internal quotation marks omitted)); see also *Edmonson* v. *Leesville Concrete Co.*, 500 U. S. ___, ___ (1991) (slip op., at 16) ("If our society is to continue to progress as a multiracial democracy, it must recognize that the automatic invocation of race stereotypes retards that progress and causes continued hurt and injury"). By perpetuating such notions, a racial gerrymander may exacerbate the very patterns of racial bloc voting that majority-minority districting is sometimes said to counteract.

The message that such districting sends to elected representatives is equally pernicious. When a district obviously is created solely to effectuate the perceived common interests of one racial group, elected officials are more likely to believe that their primary obligation is to represent only the members of that group, rather than their constituency as a whole. This is altogether anti-thetical to our system of representative democracy. As Justice Douglas explained in his dissent in *Wright* v. *Rockefeller* nearly 30 years ago:

> "Here the individual is important, not his race, his creed, or his color. The principle of equality is at war with the notion that District A must be represented by a Negro, as it is with the notion

> that District B must be represented by a Caucasian, District C by a Jew, District D by a Catholic, and so on. . . . That system, by whatever name it is called, is a divisive force in a community, emphasizing differences between candidates and voters that are irrelevant in the constitutional sense. . . .
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> . . . . .
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> "When racial or religious lines are drawn by the State, the multiracial, multireligious communities that our Constitution seeks to weld together as one become separatist; antagonisms that relate to race or to religion rather than to political issues are generated; communities seek not the best representative but the best racial or religious partisan. Since that system is at war with the democratic ideal, it should find no footing here." 376 U. S., at 66–67 (dissenting opinion) (internal citations omitted).

For these reasons, we conclude that a plaintiff challenging a reapportionment statute under the Equal Protection Clause may state a claim by alleging that the legislation, though race-neutral on its face, rationally cannot be understood as anything other than an effort to separate voters into different districts on the basis of race, and that the separation lacks sufficient justification. It is unnecessary for us to decide whether or how a reapportionment plan that, on its face, can be explained in nonracial terms successfully could be challenged. Thus, we express no view as to whether "the intentional creation of majority-minority districts, without more" always gives rise to an equal protection claim. *Post*, at 11 (WHITE, J., dissenting). We hold only that, on the facts of this case, plaintiffs have stated a claim sufficient to defeat the state appellees' motion to dismiss.

The dissenters consider the circumstances of this

case "functionally indistinguishable" from multimember districting and at-large voting systems, which are loosely described as "other varieties of gerrymandering." *Post*, at 14 (WHITE, J., dissenting); see also *post*, at 5–6 (SOUTER, J., dissenting). We have considered the constitutionality of these practices in other Fourteenth Amendment cases and have required plaintiffs to demonstrate that the challenged practice has the purpose and effect of diluting a racial group's voting strength. See, *e.g.*, *Rogers* v. *Lodge*, 458 U. S. 613 (1982) (at-large system); *Mobile* v. *Bolden*, 446 U. S. 55 (1980) (same); *White* v. *Regester*, 412 U. S. 755 (1973) (multimember districts); *Whitcomb* v. *Chavis*, 403 U. S. 124 (1971) (same); see also *supra*, at 8–9. At-large and multimember schemes, however, do not classify voters on the basis of race. Classifying citizens by race, as we have said, threatens special harms that are not present in our vote-dilution cases. It therefore warrants different analysis.

JUSTICE SOUTER apparently believes that racial gerry-mandering is harmless unless it dilutes a racial group's voting strength. See *post*, at 6 (SOUTER, J., dissenting). As we have explained, however, reapportionment legis-lation that cannot be understood as anything other than an effort to classify and separate voters by race injures voters in other ways. It reinforces racial stereotypes and threatens to undermine our system of representative democracy by signaling to elected officials that they represent a particular racial group rather than their constituency as a whole. See *supra*, at 15–17. JUSTICE SOUTER does not adequately explain why these harms are not cognizable under the Fourteenth Amendment.

The dissenters make two other arguments that cannot be reconciled with our precedents. First, they suggest that a racial gerrymander of the sort alleged here is functionally equivalent to gerrymanders for nonracial purposes, such as political gerrymanders.

See *post*, at 4 (STEVENS, J., dissenting); see also *post*, at 5–6 (WHITE, J., dissenting). This Court has held political gerrymanders to be justiciable under the Equal Protection Clause. See *Davis* v. *Bandemer*, 478 U. S., at 118–127. But nothing in our case law compels the conclusion that racial and political gerrymanders are subject to precisely the same constitutional scrutiny. In fact, our country's long and persistent history of racial discrimination in voting—as well as our Fourteenth Amendment jurisprudence, which always has reserved the strictest scrutiny for discrimi-nation on the basis of race, see *supra,* at 10–12—would seem to compel the opposite conclusion.

Second, JUSTICE STEVENS argues that racial gerrymandering poses no constitutional difficulties when district lines are drawn to favor the minority, rather than the majority. See *post,* at 3 (STEVENS, J., dissenting). We have made clear, however, that equal protection analysis "is not dependent on the race of those burdened or benefited by a particular classification." *Croson*, 488 U. S., at 494 (plurality opinion); see also *id.*, at 520 (SCALIA, J., concurring in judgment). Accord, *Wygant,* 476 U. S., at 273 (plurality opinion). Indeed, racial classifications receive close scrutiny even when they may be said to burden or benefit the races equally. See *Powers* v. *Ohio*, 499 U. S. ___, ___ (1991) (slip op., at 9–10) ("It is axiomatic that racial classifications do not become legitimate on the assumption that all persons suffer them in equal degree").

Finally, nothing in the Court's highly fractured decision in *UJO*—on which the District Court almost exclusively relied, and which the dissenters evidently believe controls, see *post*, at 7–10 (WHITE, J., dissenting); *post*, at 5–6, and n. 6 (SOUTER, J., dissenting)—forecloses the claim we recognize today. *UJO* concerned New York's revision of a reapportionment plan to include additional majority-minority districts in response to the Attorney

General's denial of administrative preclearance under §5. In that regard, it closely resembles the present case. But the cases are critically different in another way. The plaintiffs in *UJO*—members of a Hasidic community split between two districts under New York's revised redistricting plan—did not allege that the plan, on its face, was so highly irregular that it rationally could be understood only as an effort to segregate voters by race. Indeed, the facts of the case would not have supported such a claim. Three Justices approved the New York statute, in part, precisely because it adhered to traditional districting principles:

> "[W]e think it . . . permissible for a State, *employing sound districting principles such as compactness and population equality*, to attempt to prevent racial minorities from being repeatedly outvoted by creating districts that will afford fair representation to the members of those racial groups who are sufficiently numerous *and whose residential patterns afford the opportunity* of creating districts in which they will be in the majority." 430 U. S., at 168 (opinion of WHITE, J., joined by STEVENS and REHNQUIST, JJ.).

As a majority of the Justices construed the complaint, the *UJO* plaintiffs made a different claim: that the New York plan impermissibly "diluted" their voting strength. Five of the eight Justices who participated in the decision resolved the case under the framework the Court previously had adopted for vote-dilution cases. Three Justices rejected the plaintiffs' claim on the grounds that the New York statute "represented no racial slur or stigma with respect to whites or any other race" and left white voters with better than proportional representation. *Id.*, at 165–166. Two others concluded that the statute did not minimize or cancel out a minority group's voting strength and that the State's intent to comply with the Voting Rights Act, as interpreted by

the Department of Justice, "foreclose[d] any finding that [the State] acted with the invidious purpose of discriminating against white voters." *Id.*, at 180 (Stewart, J., joined by Powell, J., concurring in judgment).

The District Court below relied on these portions of *UJO* to reject appellants' claim. See 808 F. Supp., at 472–473. In our view, the court used the wrong analysis. *UJO*'s framework simply does not apply where, as here, a reapportionment plan is alleged to be so irrational on its face that it immediately offends principles of racial equality. *UJO* set forth a standard under which white voters can establish unconstitutional vote dilution. But it did not purport to overrule *Gomillion* or *Wright*. Nothing in the decision precludes white voters (or voters of any other race) from bringing the analytically distinct claim that a reapportionment plan rationally cannot be understood as anything other than an effort to segregate citizens into separate voting districts on the basis of race without sufficient justification. Because appellants here stated such a claim, the District Court erred in dismissing their complaint.

JUSTICE SOUTER contends that exacting scrutiny of racial gerrymanders under the Fourteenth Amendment is inappropriate because reapportionment "nearly always require[s] some consideration of race for legitimate reasons." *Post*, at 2 (SOUTER, J., dissenting). "As long as members of racial groups have [a] commonality of interest" and "racial bloc voting takes place," he argues, "legislators will have to take race into account" in order to comply with the Voting Rights Act. *Ibid.* JUSTICE SOUTER'S reasoning is flawed.

Earlier this Term, we unanimously reaffirmed that racial bloc voting and minority-group political cohesion never can be assumed, but specifically must be proved in each case in order to establish that a

redistricting plan dilutes minority voting strength in violation of §2. See *Growe* v. *Emison*, 507 U. S. ___, ___ (1993) (slip op., at 15) ("Unless these points are established, there neither has been a wrong nor can be a remedy"). That racial bloc voting or minority political cohesion may be found to exist in *some* cases, of course, is no reason to treat *all* racial gerrymanders differently from other kinds of racial classification. JUSTICE SOUTER apparently views racial gerrymandering of the type presented here as a special category of "benign" racial discrimination that should be subject to relaxed judicial review. Cf. *post*, at 6–7 (SOUTER, J., dissenting). As we have said, however, the very reason that the Equal Protection Clause demands strict scrutiny of all racial classifications is because without it, a court cannot determine whether or not the discrimination truly is "benign." See *supra*, at 11. Thus, if appellants' allegations of a racial gerrymander are not contradicted on remand, the District Court must determine whether the General Assembly's reapportionment plan satisfies strict scrutiny. We therefore consider what that level of scrutiny requires in the reapportionment context.

The state appellees suggest that a covered jurisdiction may have a compelling interest in creating majority-minority districts in order to comply with the Voting Rights Act. The States certainly have a very strong interest in complying with federal antidiscrimination laws that are constitutionally valid as interpreted and as applied. But in the context of a Fourteenth Amendment challenge, courts must bear in mind the difference between what the law permits, and what it requires.

For example, on remand North Carolina might claim that it adopted the revised plan in order to comply with the §5 "nonretrogression" principle. Under that principle, a proposed voting change cannot be precleared if it will lead to "a retrogression in the

position of racial minorities with respect to their effective exercise of the electoral franchise." *Beer* v. *United States*, 425 U. S. 130, 141 (1976). In *Beer*, we held that a reapportionment plan that created one majority-minority district where none existed before passed muster under §5 because it improved the position of racial minorities. *Id.*, at 141–142; see also *Richmond* v. *United States*, 422 U. S. 358, 370–371 (1975) (annexation that reduces percentage of blacks in population satisfies §5 where post-annexation districts "fairly reflect" current black voting strength).

Although the Court concluded that the redistricting scheme at issue in *Beer* was nonretrogressive, it did not hold that the plan, for that reason, was immune from constitutional challenge. The Court expressly declined to reach that question. See 425 U. S., at 142, n. 14. Indeed, the Voting Rights Act and our case law make clear that a reapportionment plan that satisfies §5 still may be enjoined as unconstitutional. See 42 U. S. C. §1973c (neither a declaratory judgment by the District Court for the District of Columbia nor preclearance by the Attorney General "shall bar a subsequent action to enjoin enforcement" of new voting practice); *Allen*, 393 U. S., at 549–550 (after preclearance, "private parties may enjoin the enforcement of the new enactment . . . in traditional suits attacking its constitutionality"). Thus, we do not read *Beer* or any of our other §5 cases to give covered jurisdictions *carte blanche* to engage in racial gerry-mandering in the name of nonretrogression. A reapportionment plan would not be narrowly tailored to the goal of avoiding retrogression if the State went beyond what was reasonably necessary to avoid retrogression. Our conclusion is supported by the plurality opinion in *UJO*, in which four Justices determined that New York's creation of additional majority-minority districts was constitutional because the plaintiffs had failed to demonstrate that the State "did more than the Attorney General was authorized

to *require* it to do under the nonretrogression principle of *Beer*." 430 U. S., at 162–163 (opinion of WHITE, J., joined by Brennan, BLACKMUN, and STEVENS, JJ.) (emphasis added).

Before us, the state appellees contend that the General Assembly's revised plan was necessary not to prevent retrogression, but to avoid dilution of black voting strength in violation of §2, as construed in *Thornburg* v. *Gingles*, 478 U. S. 30 (1986). In *Gingles* the Court considered a multimember redistricting plan for the North Carolina State Legislature. The Court held that members of a racial minority group claiming §2 vote dilution through the use of multimember districts must prove three threshold conditions: that the minority group "is sufficiently large and geographically compact to constitute a majority in a single-member district," that the minority group is "politically cohesive," and that "the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate." *Id.,* at 50–51. We have indicated that similar preconditions apply in §2 challenges to single-member districts. See *Voinovich* v. *Quilter*, 507 U. S., at ___; *Growe* v. *Emison*, *supra,* at ___ (slip op., at 14–15).

Appellants maintain that the General Assembly's revised plan could not have been required by §2. They contend that the State's black population is too dispersed to support two geographically compact majority-black districts, as the bizarre shape of District 12 demonstrates, and that there is no evidence of black political cohesion. They also contend that recent black electoral successes demonstrate the willingness of white voters in North Carolina to vote for black candidates. Appellants point out that blacks currently hold the positions of State Auditor, Speaker of the North Carolina House of Representatives, and chair of the North Carolina State Board of Elections. They also point out that in 1990 a

black candidate defeated a white opponent in the Democratic Party run-off for a United States Senate seat before being defeated narrowly by the Republican incumbent in the general election. Appellants further argue that if §2 did require adoption of North Carolina's revised plan, §2 is to that extent unconstitutional. These arguments were not developed below, and the issues remain open for consideration on remand.

The state appellees alternatively argue that the General Assembly's plan advanced a compelling interest entirely distinct from the Voting Rights Act. We previously have recognized a significant state interest in eradicating the effects of past racial discrimination. See, *e.g.*, *Croson*, 488 U. S., at 491–493 (opinion of O'CONNOR, J., joined by REHNQUIST, C. J., and WHITE, J.); *id.*, at 518 (KENNEDY, J., concurring in part and concurring in judgment); *Wygant*, 476 U. S., at 280–282 (plurality opinion); *id.*, at 286 (O'CONNOR, J., concurring in part and concurring in judgment). But the State must have a "`strong basis in evidence for [concluding] that remedial action [is] necessary.'" *Croson, supra,* at 500 (quoting *Wygant, supra,* at 277 (plurality opinion)).

The state appellees submit that two pieces of evidence gave the General Assembly a strong basis for believing that remedial action was warranted here: the Attorney General's imposition of the §5 preclearance requirement on 40 North Carolina counties, and the *Gingles* District Court's findings of a long history of official racial discrimination in North Carolina's political system and of pervasive racial bloc voting. The state appellees assert that the deliberate creation of majority-minority districts is the most precise way—indeed the only effective way—to overcome the effects of racially polarized voting. This question also need not be decided at this stage of the litigation. We note, however, that only three Justices in *UJO* were prepared to say that States have a

significant interest in minimizing the consequences of racial bloc voting apart from the requirements of the Voting Rights Act. And those three Justices specifically concluded that race-based districting, as a response to racially polarized voting, is constitutionally permissible only when the State "employ[s] sound districting principles," and only when the affected racial group's "residential patterns afford the opportunity of creating districts in which they will be in the majority." 430 U. S., at 167–168 (opinion of WHITE, J., joined by STEVENS and REHNQUIST, JJ.).

Racial classifications of any sort pose the risk of lasting harm to our society. They reinforce the belief, held by too many for too much of our history, that individuals should be judged by the color of their skin. Racial classifications with respect to voting carry particular dangers. Racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters—a goal that the Fourteenth and Fifteenth Amendments embody, and to which the Nation continues to aspire. It is for these reasons that race-based districting by our state legislatures demands close judicial scrutiny.

In this case, the Attorney General suggested that North Carolina could have created a reasonably compact second majority-minority district in the south-central to southeastern part of the State. We express no view as to whether appellants successfully could have challenged such a district under the Fourteenth Amendment. We also do not decide whether appellants' complaint stated a claim under constitutional provisions other than the Fourteenth Amendment. Today we hold only that appellants have stated a claim under the Equal Protection

Clause by alleging that the North Carolina General Assembly adopted a reapportionment scheme so irrational on its face that it can be understood only as an effort to segregate voters into separate voting districts because of their race, and that the separation lacks sufficient justification. If the allegation of racial gerrymandering remains uncontradicted, the District Court further must determine whether the North Carolina plan is narrowly tailored to further a compelling governmental interest. Accordingly, we reverse the judgment of the District Court and remand the case for further proceedings consistent with this opinion.

It is so ordered.

[Appendix containing map of North Carolina Congressional Plan follows this page.]