SUPREME COURT OF THE UNITED STATES

Nos. 94–558 AND 94–627

UNITED STATES, APPELLANT
94–558 *v.*
RAY HAYS ET AL.

LOUISIANA, ET AL., APPELLANTS
94–627 *v.*
RAY HAYS ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA

[June 29, 1995]

JUSTICE STEVENS, concurring in the judgment.

The majority apparently would find standing under *Shaw* v. *Reno*, 509 U. S. ___ (1993), for plaintiffs of all races who resided in an electoral district in which "the legislature[] reli[ed] on racial criteria" to classify all voters, *ante*, at 8, and who could show that they were "`placed into or excluded from a district because of the color of their skin.'" *Ante*, at 10 (citing Brief for Appellees 16). The majority fails to explain coherently how a State discriminates invidiously by deliberately joining members of different races in the same district; why such placement amounts to an injury to members of any race; and, assuming it does, to whom.

The term "gerrymander" has long been understood to mean "any set of districts which gives some advantage to the party which draws the electoral map." P. Musgrove, The General Theory of Gerrymandering 6 (1977). As Justice Powell noted, "a colorable claim of discriminatory gerrymandering presents a justiciable controversy under the Equal Protection Clause." *Davis* v. *Bandemer*, 478 U. S. 109, 185 (1986) (Powell, J., dissenting); see also *Gomillion* v. *Lightfoot*, 364 U. S. 339 (1960). The complaint in this case, however, did not allege a

discriminatory gerrymander. Respondents made no claim that any political or racial majority had drawn district lines to disadvantage a weaker segment of the community. Indeed, the complaint did not even identify the race or the political affiliation of any of the respondents. It simply alleged that every voter in Louisiana was injured by being deprived of the right "to participate in a process for electing members of the House of Representatives which is color-blind and wherein the right to vote is not limited or abridged on account of the designated race or color of the majority of the voters placed in the designated districts." Pet. for Permanent Injunction and Declaratory Judgment in No. CV 92–1522 (WD La.), p. 8, ¶29.

Because the Court does not recognize standing to enforce "`a personal right to a government that does not deny equal protection of the laws,'" *ante*, at 7 (citing *Valley Forge Christian College* v. *Americans United for Separation of Church and State, Inc.*, 454 U. S. 464, 489–490, n. 26 (1982)), it holds that the mere fact of respondents' Louisiana residency does not give them standing. I agree with that conclusion. What I do not understand is the majority's view that these racially diverse respondents should fare better if they resided in black-majority districts instead of white-majority districts. Respondents have not alleged or proved that the State's districting has substantially disadvantaged any group of voters in their opportunity to influence the political process. They therefore lack standing to argue that Louisiana has adopted an unconstitutional gerrymander. See *Davis*, 478 U. S., at 125, 132–133. Even under a standing analysis that applied a more lenient rule for the victims of racial gerrymandering, see *id.*, at 151–152 (O'CONNOR, J., concurring in judgment), respondents could not prevail, because they fail to allege having been "shut out of the political process." *Id.*, at 139 (opinion of White, J.).

Accordingly, I cannot join the Court's opinion. I would simply hold that respondents have not made out the essential elements of a gerrymandering claim for the same reasons set forth in Justice White's dissenting opinion in *Shaw*:

> "Because districting inevitably is the expression of interest group politics, and because `the power to influence the political process is not limited to winning elections,' the question in gerrymandering cases is `whether a particular group has been unconstitutionally denied its chance to effectively influence the political process.'" Thus, `an equal protection violation may be found only where the electoral system *substantially disadvantages certain voters in their*

> *opportunity to influence the political process effectively*.'" *Shaw*, 509 U. S., at ___ (slip op., at 5–6) (quoting *Davis*, 478 U. S., at 132–133) (emphasis in original).

Because these respondents have not alleged any legally cognizable injury, I agree that they lack standing. I therefore concur in the judgment.