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## SUPREME COURT OF THE UNITED STATES

Nos. 94-558 AND 94-627

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

94-627 LOUISIANA, ET AL., APPELLANTS  
RAY HAYS ET AL. v.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF LOUISIANA  
[June 29, 1995]

JUSTICE O'CONNOR delivered the opinion of the Court.  
We held in *Shaw v. Reno*, 509 U. S. \_\_\_ (1993), that a plaintiff may state a claim for relief under the Equal Protection Clause of the Fourteenth Amendment by alleging that a State “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.” *Id.*, at \_\_\_ (slip op., at 26). Appellees Ray Hays, Edward Adams, Susan Shaw Singleton, and Gary Stokley claim that the State of Louisiana's congressional districting plan is such a “racial gerrymander,” and that it violates the Fourteenth Amendment. But appellees do not live in the district that is the primary focus of their racial gerrymandering claim, and they have not otherwise demonstrated that they, personally, have been subjected to a racial classification. For that reason, we conclude that appellees lack standing to bring this lawsuit.

Louisiana has been covered by §4(b) of the Voting Rights Act of 1965, 79 Stat. 438, as amended, 84 Stat. 315, 42 U. S. C. §1973b(b) (VRA), since November 1, 1964, see 28 CFR pt. 51, App. The effect of such coverage is set forth in VRA §5, 42 U. S. C. §1973c: whenever a covered jurisdiction “shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964,” it must first either obtain a declaratory judgment from the United States District Court for the District of Columbia that the 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 receive “preclearance” from the Attorney General to the same effect. Any redistricting plan in Louisiana is subject to these requirements.

Accordingly, in 1991, Louisiana submitted to the Attorney General for preclearance a districting plan for its Board of Elementary and Secondary Education (BESE). Louisiana's BESE districts historically have paralleled its congressional districts, so the submitted plan contained one majority-minority district (that is, a district “in which a majority of the population is a member of a specific minority group,” *Voinovich v. Quilter*, 507 U. S. \_\_\_, \_\_\_ (1993) (slip op., at 1)) out of eight, as did Louisiana's congressional districting plan then in force.<sup>1</sup> The Attorney General refused to

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<sup>1</sup>Between Reconstruction and the early 1980s, all of Louisiana's congressional districts contained a majority of white citizens, and it had not elected any black congressional representatives. In 1983, a three-judge court invalidated Louisiana's 1982 districting plan, on the ground that it diluted minority voting strength in the New Orleans area in violation of VRA §2, 42 U. S. C. §1973, and ordered the legislature to draw up a new plan. See *Major v. Treen*, 574 F. Supp. 325 (ED La. 1983). The new plan contained a majority-black district in the New Orleans

preclear the plan, claiming that Louisiana had failed to demonstrate that its decision not to create a second majority-minority district was free of racially discriminatory purpose. See Defense Exh. 17 in No. 92-1522 (WD La.) (letter from U. S. Dept. of Justice, Assistant Attorney General John Dunne, to Louisiana Assistant Attorney General Angie R. LaPlace, Oct. 1, 1991). The Attorney General subsequently precleared a revised BESE plan, which contained two majority-minority districts. See Brief for Appellants State of Louisiana et al. 3, n. 2.

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area; in 1990, that district elected Louisiana's first black representative since Reconstruction. See Congressional Quarterly, Congressional Districts in the 1990s, pp. 319-320 (1993).

## UNITED STATES v. HAYS

As a result of the 1990 census, Louisiana's congressional delegation was reduced from eight to seven representatives, requiring Louisiana to redraw its district boundaries. Perhaps in part because of its recent experience with the BESE districts, the Louisiana Legislature set out to create a districting plan containing two majority-minority districts. See, e. g., Tr. 11 (Aug. 19, 1993). Act 42 of the 1992 Regular Session, passed in May 1992, was such a plan. One of Act 42's majority-minority districts, District 2, was located in the New Orleans area and resembled the majority-minority district in the previous district map. The other, District 4, was “[a] Z-shaped creature” that “zigzag[ged] through all or part of 28 parishes and five of Louisiana's largest cities.” Congressional Quarterly, *Congressional Districts in the 1990s*, at 323 (1993). A map of Louisiana's congressional districts under Act 42 is attached as Appendix A. The Attorney General precleared Act 42.

Appellees Hays, Adams, Singleton, and Stokley are residents of Lincoln Parish, which is located in the north-central part of Louisiana. According to the complaint, all but Singleton reside in that part of Lincoln Parish that was contained in the majority-minority District 4 of Act 42. See Pet. for Permanent Injunction and Declaratory Judgment in No. CV 92-1522 (WD La.), p. 4. In August 1992, appellees filed suit in state court, challenging Act 42 under the state and federal Constitutions, as well as the VRA. The State removed the case to the United States District Court for the Western District of Louisiana, and, as required by the VRA, a three-judge court convened to hear the case pursuant to 28 U. S. C. §2284. After a two-day trial, the District Court denied appellees' request for a preliminary injunction, denied the state and federal constitutional claims, and took the VRA claims under advisement. While the case was pending, this Court decided *Shaw v. Reno*, whereupon

## UNITED STATES v. HAYS

the District Court revoked its prior rulings and held another two-day hearing. Focusing almost exclusively on the oddly-shaped District 4, the District Court decided that Act 42 violated the Constitution, and enjoined its enforcement. See *Hays v. Louisiana*, 839 F. Supp. 1188 (WD La. 1993) (*Hays I*).

Louisiana, and the United States as defendant-intervenor, appealed directly to this Court, pursuant to 28 U. S. C. §1253. While the appeal was pending, the Louisiana Legislature repealed Act 42 and enacted a new districting plan, Act 1 of the 1994 Second Extraordinary Session. The Attorney General precleared Act 1. We then vacated the District Court's judgment and remanded the case "for further consideration in light of Act 1." 512 U. S. \_\_\_ (1994). A map of Act 1 is attached as Appendix B.

Act 1, like Act 42, contains two majority-minority districts, one of which (District 2) is again located in the New Orleans area. The second majority-minority district in Act 1, however, is considerably different from that in Act 42. While Act 42's District 4 ran in a zigzag fashion along the northern and eastern borders of the State, Act 1's District 4 begins in the northwestern part of the State and runs southeast along the Red River until it reaches Baton Rouge. For present purposes, the most significant difference between the two district maps is that in Act 42, part of Lincoln Parish was contained in District 4, while in Act 1, Lincoln Parish is entirely contained in District 5.

On remand, the District Court allowed appellees to amend their complaint to challenge Act 1's constitutionality. It then held another two-day hearing and concluded, largely for the same reasons that it had invalidated Act 42, that Act 1 was unconstitutional. See *Hays v. Louisiana*, 862 F. Supp. 119 (WD La. 1994) (*Hays II*). The court enjoined the State from conducting any elections pursuant to Act 1, substituted its own districting plan, and denied the State's motion for a stay of judgment pending appeal.

## UNITED STATES v. HAYS

Louisiana and the United States again appealed directly to this Court. We stayed the District Court's judgment, 512 U. S. \_\_\_ (1994), and noted probable jurisdiction, 513 U. S. \_\_\_ (1994).

The District Court concluded that appellees had standing to challenge Act 42, see *Hays I*, 839 F. Supp., at 1192, but did not reconsider standing when faced with Act 1. The question of standing is not subject to waiver, however: "we are required to address the issue even if the courts below have not passed on it, and even if the parties fail to raise the issue before us. The federal courts are under an independent obligation to examine their own jurisdiction, and standing `is perhaps the most important of [the jurisdictional] doctrines.'" *FW/PBS, Inc. v. Dallas*, 493 U. S. 215, 230-231 (1990) (citations omitted).

It is by now well settled that "the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an `injury in fact'—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of . . . . Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560-561 (1992) (footnote, citations, and internal quotation marks omitted); see also, e. g., *Allen v. Wright*, 468 U. S. 737, 751 (1984); *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U. S. 464, 472 (1982). In light of these principles, we have repeatedly refused to recognize a generalized grievance against allegedly illegal governmental conduct as sufficient for standing to

## UNITED STATES v. HAYS

invoke the federal judicial power. See, e. g., *Valley Forge Christian College*, *supra*; *Schlesinger v. Reservists Comm. to Stop the War*, 418 U. S. 208 (1974); *United States v. Richardson*, 418 U. S. 166 (1974); *Ex parte Lévvitt*, 302 U. S. 633 (1937) (*per curiam*). We have also made clear that “it is the burden of the party who seeks the exercise of jurisdiction in his favor, *McNutt v. General Motors Acceptance Corp.*, 298 U. S. 178, 189 (1936), ‘clearly to allege facts demonstrating that he is a proper party to invoke judicial resolution of the dispute.’ *Warth v. Seldin*, 422 U. S. 490, 518 (1975).” *FW/PBS*, *supra*, at 231. And when a case has proceeded to final judgment after a trial, as this case has, “those facts (if controverted) must be supported adequately by the evidence adduced at trial” to avoid dismissal on standing grounds. *Lujan*, *supra*, at 561 (quoting *Gladstone, Realtors v. Village of Bellwood*, 441 U. S. 91, 115, n. 31 (1979)).

The rule against generalized grievances applies with as much force in the equal protection context as in any other. *Allen v. Wright* made clear that even if a governmental actor is discriminating on the basis of race, the resulting injury “accords a basis for standing only to those persons who are personally denied equal treatment’ by the challenged discriminatory conduct.” 468 U. S., at 755 (quoting *Heckler v. Mathews*, 465 U. S. 728, 740 (1984)); see also *Valley Forge Christian College*, *supra*, at 489-490, n. 26 (disapproving the proposition that every citizen has “standing to challenge every affirmative-action program on the basis of a personal right to a government that does not deny equal protection of the laws”). We therefore reject appellees’ position that “anybody in the State has a claim,” Tr. of Oral Arg. 36, and adhere instead to the principles outlined above.

We discussed the harms caused by racial classifications in *Shaw*. We noted that, in general, “[t]hey

## UNITED STATES v. HAYS

threaten to stigmatize individuals by reason of their membership in a racial group and to incite racial hostility.” 509 U. S., at \_\_\_ (slip op., at 11). We also noted “representational harms” the particular type of racial classification at issue in *Shaw* may cause: “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.” *Id.*, at \_\_\_ (slip op., at 16). Accordingly, we held that “redistricting legislation that is so bizarre on its face that it is ‘unexplainable on grounds other than race’ demands the same close scrutiny that we give other state laws that classify citizens by race.” *Id.*, at \_\_\_ (citation omitted) (slip op., at 12). Any citizen able to demonstrate that he or she, personally, has been injured by that kind of racial classification has standing to challenge the classification in federal court.

Demonstrating the individualized harm our standing doctrine requires may not be easy in the racial gerrymandering context, as it will frequently be difficult to discern why a particular citizen was put in one district or another. See *id.*, at \_\_\_ (slip op., at 14) (noting “the difficulty of determining from the face of a single-member districting plan that it purposefully distinguishes between voters on the basis of race”). Where a plaintiff resides in a racially gerrymandered district, however, the plaintiff has been denied equal treatment because of the legislature’s reliance on racial criteria, and therefore has standing to challenge the legislature’s action, cf. *General Contractors v. Jacksonville*, 508 U. S. \_\_\_ (1993). Voters in such districts may suffer the special representational harms racial classifications can cause in the voting context. On the other hand, where a plaintiff does not live in such a district, he or she does not suffer those special harms, and any

## UNITED STATES v. HAYS

inference that the plaintiff has personally been subjected to a racial classification would not be justified absent specific evidence tending to support that inference. Unless such evidence is present, that plaintiff would be asserting only a generalized grievance against governmental conduct of which he or she does not approve.

In this case, appellees have not produced evidence sufficient to carry the burden our standing doctrine imposes upon them. Even assuming (without deciding) that Act 1 causes injury sufficient to invoke strict scrutiny under *Shaw*, appellees have pointed to *no* evidence tending to show that *they* have suffered that injury, and our review of the record has revealed none. Neither Act 1 itself, see App. to Juris. Statement for Louisiana et al. 111-120; Appendix B, *infra*, nor any other evidence in the record indicates that appellees, or any other residents of Lincoln Parish, have been subjected to racially discriminatory treatment. The record does contain evidence tending to show that the legislature was *aware* of the racial composition of District 5, and of Lincoln Parish. We recognized in *Shaw*, however, 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 actors. That sort of race consciousness does not lead inevitably to impermissible race discrimination.” 509 U. S., at \_\_\_ (slip op., at 14). It follows that proof of “[t]hat sort of race consciousness” in the redistricting process is inadequate to establish injury in fact. *Ibid.*

Appellees urge that District 5 is a “segregated” voting district, and thus that their position is no different from that of a student in a segregated school district, see Brief for Appellees 17 (citing *Brown v. Board of Education*, 347 U. S. 483 (1954)); Tr. of Oral Arg. 33. But even assuming *arguendo* that the evidence in this case is enough to state a *Shaw*

## UNITED STATES v. HAYS

claim with respect to District 4, that does not prove anything about the legislature's intentions with respect to District 5, nor does the record appear to reflect that the legislature intended District 5 to have any particular racial composition. Of course, it may be true that the racial composition of District 5 would have been different if the legislature had drawn District 4 in another way. But an allegation to that effect does not allege a cognizable injury under the Fourteenth Amendment. We have never held that the racial composition of a particular voting district, without more, can violate the Constitution. Cf. *Shaw, supra*, at \_\_\_ (slip op., at 10-14); *Mobile v. Bolden*, 446 U. S. 55 (1980).

Appellees insist that they challenged Act 1 in its entirety, not District 4 in isolation. Tr. of Oral Arg. 36. That is true. It is also irrelevant. The fact that Act 1 *affects* all Louisiana voters by classifying each of them as a member of a particular congressional district does not mean—even if Act 1 inflicts race-based injury on *some* Louisiana voters—that *every* Louisiana voter has standing to challenge Act 1 as a racial classification. Only those citizens able to allege injury “as a direct result of having *personally* been denied equal treatment,” *Allen*, 468 U. S., at 755 (emphasis added), may bring such a challenge, and citizens who do so carry the burden of proving their standing, as well as their case on the merits.

Appellees' reliance on *Powers v. Ohio*, 499 U. S. 400 (1991), is unavailing. *Powers* held that “[a]n individual juror does not have a right to sit on any particular petit jury, but he or she does possess the right not to be excluded from one on account of race.” *Id.*, at 409. But of course, where an individual juror is excluded from a jury because of race, that juror has *personally* suffered the race-based harm recognized in *Powers*, and it is the fact of *personal* injury that appellees have failed to establish here. Thus, appellees' argument that “they *do* have a right

## UNITED STATES v. HAYS

not to be placed into or excluded from a district because of the color of their skin,” Brief for Appellees 16, cannot help them, because they have not established that *they* have suffered such treatment in this case.

JUSTICE STEVENS agrees that appellees lack standing, but on quite different grounds: in his view, appellees' failure to allege and prove vote dilution deprives them of standing, irrespective of whether they have alleged and proven the injury discussed in *Shaw*. *Post*, at 2-3; see also *Miller v. Johnson*, *post*, at \_\_\_-\_\_\_ (STEVENS, J., dissenting) (slip op., at 3-4). Justice White's dissenting opinion in *Shaw* argued that position, see *Shaw*, 509 U. S., at \_\_\_ (slip op., at 2) (“Appellants have not presented a cognizable claim, because they have not alleged a cognizable injury”); *post*, at 3 (quoting Justice White's dissent in *Shaw*), but it did not prevail. JUSTICE STEVENS offers no special reason to revisit the issue here.

We conclude that appellees have failed to show that they have suffered the injury our standing doctrine requires. Appellees point us to no authority for the proposition that an equal protection challenge may go forward in federal court absent that showing of individualized harm, and we decline appellees' invitation to approve that proposition in this case. Accordingly, the judgment of the District Court is vacated, and the case is remanded with instructions to dismiss the complaint.

*It is so ordered.*

JUSTICE GINSBURG concurs in the judgment.

94-558 & 94-627—APPENDIX

UNITED STATES *v.* HAYS  
APPENDIX A TO OPINION OF O'CONNOR, J.

94-558 & 94-627—APPENDIX

UNITED STATES *v.* HAYS  
APPENDIX B TO OPINION OF O'CONNOR, J.