SUPREME COURT OF THE UNITED STATES

Nos. 94–631, 94–797 AND 94–929

ZELL MILLER, ET AL., APPELLANTS
94–631 *v.*
DAVIDA JOHNSON ET AL.

LUCIOUS ABRAMS, JR., ET AL., APPELLANTS
94–797 *v.*
DAVIDA JOHNSON ET AL.

UNITED STATES, APPELLANT
94–929 *v.*
DAVIDA JOHNSON ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA

[June 29, 1995]

JUSTICE O'CONNOR, concurring.

I understand the threshold standard the Court adopts—"that the legislature subordinated traditional race-neutral districting principles . . . to racial considerations," *ante*, at 15—to be a demanding one. To invoke strict scrutiny, a plaintiff must show that the State has relied on race in substantial disregard of customary and traditional districting practices. Those practices provide a crucial frame of reference and therefore constitute a significant governing principle in cases of this kind. The standard would be no different if a legislature had drawn the boundaries to favor some other ethnic group; certainly the standard does not treat efforts to create majority-minority districts *less* favorably than similar efforts on behalf of other groups. Indeed, the driving force behind the adoption of the Fourteenth Amendment was the desire to end legal discrimination against blacks.

Application of the Court's standard does not throw into doubt the vast majority of the Nation's 435 congressional districts, where presumably the States have drawn the boundaries in accordance with their customary districting principles. That is so even though race may well have been considered in the redistricting process. See *Shaw* v. *Reno*, 509 U. S. ___, ___ (1993) (slip op., at 14); *ante*, at 14. But application of the Court's standard helps achieve *Shaw*'s basic objective of making extreme instances of gerrymandering subject to meaningful judicial review. I therefore join the Court's opinion.