NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MILLER ET AL. *v.* JOHNSON ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA

No. 94–631. Argued April 19, 1995—Decided June 29, 1995[1]

In *Shaw* v. *Reno,* 509 U. S. ___, this Court articulated the equal protection principles that govern a State's drawing of congressional districts, noting that laws that explicitly distinguish between individuals on racial grounds fall within the core of the Equal Protection Clause's prohibition against race-based decisionmaking, that this prohibition extends to laws neutral on their face but unexplainable on grounds other than race, and that redistricting legislation that is so bizarre on its face that it is unexplainable on grounds other than race demands the same strict scrutiny given to other state laws that classify citizens by race. Georgia's most recent congressional districting plan contains three majority-black districts and was adopted after the Justice Department refused to preclear, under §5 of the Voting Rights Act (Act), two earlier plans that each contained only two majority-black districts. Appellees, voters in the new Eleventh District—which joins metropolitan black neighborhoods together with the poor black populace of coastal areas 260 miles away—challenged the District on the ground that it was a racial gerrymander in violation of the Equal Protection Clause as interpreted in *Shaw.* The District Court agreed, holding that evidence of the State Legislature's purpose, as well as the District's irregular borders, showed that race was the overriding and predominant force in the districting determination. The court assumed that compliance with the Act would be a compelling interest, but found that the plan was not narrowly

[1]Together with No. 94–797, *Abrams et al.* v. *Johnson et al.,* and No. 94–929, *United States* v. *Johnson et al.,* also on appeal from the same court.

tailored to meet that interest since the Act did not require three majority-black districts.

MILLER *v.* JOHNSON

Syllabus

Held: Georgia's congressional redistricting plan violates the Equal Protection Clause. Pp. 8–27.

(a) Parties alleging that a State has assigned voters on the basis of race are neither confined in their proof to evidence regarding a district's geometry and makeup nor required to make a threshold showing of bizarreness. A district's shape is relevant to *Shaw*'s equal protection analysis not because bizarreness is a necessary element of the constitutional wrong or a threshold requirement of proof, but because it may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was a legislature's dominant and controlling rationale in drawing district lines. 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 segregate voters based on race, but where the district is not so bizarre, parties may rely on other evidence to establish race-based districting. The very stereotypical assumptions the Equal Protection Clause forbids underlie the argument that the Clause's general proscription on race-based decisionmaking does not obtain in the districting context because redistricting involves racial consideration. While redistricting usually implicates a political calculus in which various interests compete for recognition, it does not follow that individuals of the same race share a single political interest. Nor can the analysis used to assess the vote dilution claim in *United Jewish Organizations of Williamsburgh, Inc.* v. *Carey,* 430 U. S. 144, be applied to resuscitate this argument. Pp. 8–13.

(b) Courts must exercise extraordinary caution in adjudicating claims that a State has drawn race-based district lines. The plaintiff must show, whether through circumstantial evidence of a district's shape and demographics or more direct evidence of legislative purpose, that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a district. To make this showing, a plaintiff must prove that the legislature subordinated traditional race-neutral districting principles, including but not limited to compactness, contiguity, respect for political subdivisions or communities defined by actual shared interests, to racial considerations. Pp. 14–15.

(c) The District Court applied the correct analysis here, and its finding that race was the predominant factor motivating the Eleventh District's drawing was not clearly erroneous. It need not be decided whether the District's shape, standing alone, was sufficient to establish that the District is unexplainable on grounds other than race, for there is considerable additional evidence showing that the State Legislature was motivated by a

Syllabus

predominant, overriding desire to create a third majority-black district in order to comply with the Justice Department's preclearance demands. The District Court's well-supported finding justified its rejection of the various alternative explanations offered for the District. Appellants cannot refute the claim of racial gerrymandering by arguing the Legislature complied with traditional districting principles, since those factors were subordinated to racial objectives. Nor are there tangible communities of interest spanning the District's hundreds of miles that can be called upon to rescue the plan. Since race was the predominant, overriding factor behind the Eleventh District's drawing, the State's plan is subject to strict scrutiny and can be sustained only if it is narrowly tailored to achieve a compelling state interest. Pp. 15–19.

(d) While there is a significant state interest in eradicating the effects of past racial discrimination, there is little doubt that Georgia's true interest was to satisfy the Justice Department's preclearance demands. Even if compliance with the Act, standing alone, could provide a compelling interest, it cannot do so here, where the District was not reasonably necessary under a constitutional reading and application of the Act. To say that the plan was required in order to obtain preclearance is not to say that it was required by the Act's substantive requirements. Georgia's two earlier plans were ameliorative and could not have violated §5 unless they so discriminated on the basis of race or color as to violate the Constitution. However, instead of grounding its objections on evidence of a discriminatory purpose, the Justice Department appears to have been driven by its maximization policy. In utilizing §5 to require States to create majority-minority districts whenever possible, the Department expanded its statutory authority beyond Congress' intent for §5: to insure that no voting-procedure changes would be made that would lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise. The policy also raises serious constitutional concerns because its implicit command that States may engage in presumptive unconstitutional race-based districting brings the Act, once upheld as a proper exercise of Congress' Fifteenth Amendment authority, into tension with the Fourteenth Amendment. Pp. 19–26.

864 F. Supp. 1354, affirmed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined. O'CONNOR, J., filed a concurring opinion. STEVENS, J., filed a dissenting opinion. GINSBURG, J., filed a dissenting opinion, in which STEVENS and BREYER, JJ., joined, and in which SOUTER, J., joined except as to Part III–B.