Redistricting Goes to Court

Moderator: Jessica Karls-Ruplinger, Wisconsin Legislative Council
Panelist: Abha Khanna, Perkins Coie LLP, Washington
Panelist: Katherine McKnight, Baker Hostetler, Washington, D.C.
Recent Supreme Court Decisions

- **Cooper v. Harris**
- **North Carolina v. Covington**
- **Evenwel v. Abbott**
- **Gill v. Whitford**
- Other important cases?
Cooper v. Harris (2017)

- **Issue**: Racial Gerrymandering (Equal Protection)

- **Trial Court Holding**: For the plaintiffs.

- **SCOTUS Holding**: For Plaintiffs; Trial Court affirmed

- **Result**: NC’s 1st and 12th Congressional Districts ruled unconstitutional because race predominated in line crafting.

- **Key Detail**: Determining which reason—racial or political—predominated in redistricting requires close scrutiny of case-specific details.

▪ **Issue**: Racial Gerrymandering (Equal Protection)

▪ **Trial Court Holding**: For the State (Virginia).

▪ **SCOTUS Holding**: Decision of Trial Court vacated in part; case remanded for further proceedings.

▪ **Result**: the Trial Court must apply a different legal standard when analyzing all but one of the challenged legislative districts.

▪ **Key Detail**: The predominance analysis for improper use of race in redistricting does not only apply when race is in conflict with traditional redistricting principles. Traditional criteria cannot be used to justify predominant use of race.

- **Issue**: Racial Gerrymandering (Equal Protection)

- **Trial Court Holding**: For Plaintiffs

- **SCOTUS Holding**: For Plaintiffs in part; remedy vacated and remanded back to Trial Court for reconsideration

- **Result**: 28 of N.C.’s legislative districts ruled unconstitutional because race predominated in line drawing.

- **Key Detail**: Special elections as a remedy must be justified by case-specific interests, and are not a default legal remedy.
Evenwel v. Abbott (2016)

- **Issue**: One Person, One Vote (Equal Protection)
- **Trial Court Holding**: For the State (Texas)
- **SCOTUS Holding**: For the State
- **Result**: States are permitted to calculate “persons” as everyone in their population (total population) during redistricting.
- **Key Detail**: Unresolved whether total voting age population (TVAP) is also an acceptable measure under “one person, one vote” for redistricting.
Gill v. Whitford (2017-18?)

- **Issue**: Partisan Gerrymandering (1st Amend., Equal Protection).

- **Trial Court Holding**: For Plaintiffs

- **Direct appeal to SCOTUS**


- **Potential Results**
  - Court could adopt the test developed by the Trial Court.
  - Court could adopt another measure of when a plan is too partisan.
  - Court could rule partisan gerrymandering non-justiciable.
  - Court could maintain status quo.
Other Important Cases?