

# The Burger Court Opinion Writing Database

## *Hadley v. Junior College District of Metropolitan Kansas City*

397 U.S. 50 (1970)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



To: Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan ✓  
Mr. Justice Stewart  
Mr. Justice White  
~~Mr. Justice Fortes~~  
Mr. Justice Marshall

1

SUPREME COURT OF THE UNITED STATES

From: The Chief Justice

No. 37.—OCTOBER TERM, 1969

Circulated: 1/30/70

Recirculated: \_\_\_\_\_

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[February —, 1970]

MR. CHIEF JUSTICE BURGER, dissenting.

I concur fully in the opinion of Mr. Justice Harlan. I add this comment to emphasize the "rubbery" and subjective quality of a doctrine of constitutional law which has as its standard "a general rule, [that] whenever a state or local government decides to select persons by popular election . . . ." The Constitution commands that each qualified voter must be given a vote on the office. With all deference I wonder who will decide when this "general rule" of constitutional interpretation is controlling or when it is to be suspended. Obviously, only this Court can finally apply this "general rule" but in the interim all other judges must speculate as best they can when to apply this rule; the Court's opinion today leaves them with no real guidelines.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

To: Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan ✓  
Mr. Justice Stewart  
Mr. Justice White  
~~Mr. Justice Fortas~~  
Mr. Justice Marshall

2

From: The Chief Justice

SUPREME COURT OF THE UNITED STATES

Circulated: \_\_\_\_\_

No. 37.—OCTOBER TERM, 1969

Recirculated: 2/2/70

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[February —, 1970]

MR. CHIEF JUSTICE BURGER, dissenting.

I concur fully in the opinion of Mr. Justice Harlan. I add this comment to emphasize the subjective quality of a doctrine of constitutional law which has as its standard "a general rule, [that] whenever a state or local government decides to select persons by popular election . . .," the Constitution commands that each qualified voter must be given a vote on the office. I wonder who will decide when this "general rule" of constitutional interpretation is controlling or when it is to be suspended. Obviously, only this Court can finally apply this "general rule" but in the interim all other judges must speculate as best they can when to apply it; with all deference I suggest the Court's opinion today fails to give guidelines.

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changes throughout

- to: Mr. Justice Black
- Mr. Justice Douglas
- Mr. Justice Harlan
- Mr. Justice Brennan ✓
- Mr. Justice Stewart
- Mr. Justice White
- ~~Mr. Justice Fortas~~
- Mr. Justice Marshall

**SUPREME COURT OF THE UNITED STATES** *From The Chief Justice*

No. 37.—OCTOBER TERM, 1969

Circulated: \_\_\_\_\_

Recirculated: 2/19/70

Della Hadley et al., Appellants, v. The Junior College District of Metropolitan Kansas City, Missouri, et al.	}	On Appeal from the Supreme Court of Missouri.
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[February —, 1970]

MR. CHIEF JUSTICE BURGER, dissenting.

I concur fully in the opinion of Mr. Justice Harlan. I add this comment to emphasize the subjective quality of a doctrine of constitutional law which has as its primary standard "a general rule, [that] whenever a state or local government decides to select persons by popular election . . .," the Constitution commands that each qualified voter must be given a vote which is equally weighted with the votes cast by all other electors.

The failure to provide guidelines for determining when the Court's "general rule" is to be applied is exacerbated when the Court implies that the stringent standards of "mathematical exactitude" which are ~~applied to the~~ apportionment of federal congressional districts need not be applied to smaller specialized districts such as the junior college district in this case. This gives added relevance to Mr. Justice Harlan's observation that "[t]he need for more flexibility becomes greater as we proceed down the spectrum from the state legislature to the single-purpose local entity." *Ante*, at —. Yet the Court has given almost no indication of which non-population interests may or may not legitimately be considered by a legislature in devising a constitutional apportionment scheme for a local, specialized unit of government.

*Controlling in*

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

To: Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Fortas  
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 37.—OCTOBER TERM, 1969

From: Black, J.  
Circulated: DEC 5 1969

Recirculated:

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[December —, 1969]

MR. JUSTICE BLACK delivered the opinion of the Court.

*apply*

This case involves the extent to which the Fourteenth Amendment and the "one man, one vote" principle applies in the election of local governmental officials. Appellants are residents and taxpayers of the Kansas City School District, one of eight separate school districts that have combined to form the Junior College District of Metropolitan Kansas City. Under Missouri law separate school districts may vote by referendum to establish a consolidated junior college district and elect six trustees to conduct and manage the necessary affairs of that district.<sup>1</sup> The state law also provides for the apportionment of these trustees among the separate school districts on the basis of "school enumeration," defined as a number of persons between the ages of six and 20 years, who reside in each district.<sup>2</sup> In the case of the Kansas City School District this apportionment plan results in the election of three trustees, or 50% of the total number, from that district. Since that district contains approximately 60% of the total school enumeration in the junior college district,<sup>3</sup> appel-

*Mc*  
*1*

<sup>1</sup> Mo. Ann. Stat. §§ 178.800, 178.820 (1965).  
<sup>2</sup> Mo. Ann. Stat. § 167.011 (1965).  
<sup>3</sup> For the years 1963 through 1967, the actual enumeration in the Kansas City School District varied between 63.55% and 59.49%. App., at 38.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

U  
Dear Hugo  
I agree with your  
circulation as modified after  
your discussion with Byron

December 11, 1969

MEMORANDUM FOR THE CONFERENCE

Re: No. 37 - Hadley, et al. v. The Junior College  
District of Metropolitan Kansas City, Mo. et al.

Mr. Justice White and I have discussed several modifications in the opinion prepared for this case. The attached circulation incorporates these changes and some additional stylistic modifications.

Respectfully,

- The Chief Justice
- Mr. Justice Douglas
- Mr. Justice Harlan
- ✓ Mr. Justice Brennan
- Mr. Justice Stewart
- Mr. Justice White
- Mr. Justice Marshall

1, 3-6

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**SUPREME COURT OF THE UNITED STATES**

No. 37.—OCTOBER TERM, 1969

Della Hadley et al., Appellants, v. The Junior College District of Metropolitan Kansas City, Missouri, et al.	}	On Appeal from the Supreme Court of Missouri.
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[December —, 1969]

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<sup>1</sup> Mo. Ann. Stat. §§ 178.800, 178.820 (1965).

<sup>2</sup> Mo. Ann. Stat. § 167.011 (1965).

<sup>3</sup> For the years 1963 through 1967, the actual enumeration in the Kansas City School District varied between 63.55% and 59.49%. App., at 38.

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U.S. DEPARTMENT OF COMMERCE

5-6, 8

To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Black  
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 37.—OCTOBER TERM, 1969

From: Black, J.

Circulated:

DEC 16 1969

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al.

On Appeal from the  
Supreme Court of  
Missouri.

[December —, 1969]

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This case involves the extent to which the Fourteenth Amendment and the "one man, one vote" principle applies in the election of local governmental officials. Appellants are residents and taxpayers of the Kansas City School District, one of eight separate school districts that have combined to form the Junior College District of Metropolitan Kansas City. Under Missouri law separate school districts may vote by referendum to establish a consolidated junior college district and elect six trustees to conduct and manage the necessary affairs of that district.<sup>1</sup> The state law also provides that these trustees shall be apportioned among the separate school districts on the basis of "school enumeration," defined as the number of persons between the ages of six and 20 years, who reside in each district.<sup>2</sup> In the case of the Kansas City School District this apportionment plan results in the election of three trustees, or 50% of the total number, from that district. Since that district contains approximately 60% of the total school enumeration in the junior college district,<sup>3</sup> appel-

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<sup>2</sup> Mo. Ann. Stat. § 167.011 (1965).

<sup>3</sup> For the years 1963 through 1967, the actual enumeration in the Kansas City School District varied between 63.55% and 59.49%... App., at 38.

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STYLISTIC CHANGES THROUGHOUT.

Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Fortas  
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

No. 37.—OCTOBER TERM, 1969

From: Black, J.

Circulated: \_\_\_\_\_

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al.

On Appeal from the  
Supreme Court of  
Missouri.

JAN 29 1970

[February —, 1970]

MR. JUSTICE BLACK delivered the opinion of the Court.

This case involves the extent to which the Fourteenth Amendment and the "one man, one vote" principle applies in the election of local governmental officials. Appellants are residents and taxpayers of the Kansas City School District, one of eight separate school districts that have combined to form the Junior College District of Metropolitan Kansas City. Under Missouri law separate school districts may vote by referendum to establish a consolidated junior college district and elect six trustees to conduct and manage the necessary affairs of that district.<sup>1</sup> The state law also provides that these trustees shall be apportioned among the separate school districts on the basis of "school enumeration," defined as the number of persons between the ages of six and 20 years, who reside in each district.<sup>2</sup> In the case of the Kansas City School District this apportionment plan results in the election of three trustees, or 50% of the total number, from that district. Since that district contains approximately 60% of the total school enumeration in the junior college district,<sup>3</sup> appel-

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P 6-8

To: The Chief Justice  
Mr. Justice DeLoach  
Mr. Justice Harlan  
✓ Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Fortas  
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

From: Black, J.

No. 37.—OCTOBER TERM, 1969

Circulated: \_\_\_\_\_

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al.

On Appeal from the  
Supreme Court of  
Missouri.

Recirculated: FEB 12 1970

[February —, 1970]

MR. JUSTICE BLACK delivered the opinion of the Court.

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<sup>3</sup> For the years 1963 through 1967, the actual enumeration in the Kansas City School District varied between 63.55% and 59.49%. App., at 38.

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To: The Chief Justice  
~~Mr.~~ Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Fortas  
Mr. Justice Marshall

1

SUPREME COURT OF THE UNITED STATES

No. 37.—OCTOBER TERM, 1969

From: Black, J.  
DEC 5 1969  
Circulated: \_\_\_\_\_

Recirculated: \_\_\_\_\_

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[December —, 1969]

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<sup>3</sup> For the years 1963 through 1967, the actual enumeration in the Kansas City School District varied between 63.55% and 59.49%... App., at 38.

*Jones*  
*WJ*

*He*

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

IN THE LIBRARY OF CONGRESS

December 9, 1969

Re: No. 37 - Hadley v. Kansas City

Dear Hugo:

I regret to find myself unable to join your opinion in this case, and in due course will circulate a dissent.

Sincerely,

J.M.H.

Mr. Justice Black

CC: The Conference

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
✓ Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall

2

SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

Circulated: JAN 26 1970

No. 37.—OCTOBER TERM, 1969

Recirculated: \_\_\_\_\_

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[February —, 1970]

MR. JUSTICE HARLAN, dissenting.

Today's decision demonstrates, to a degree that no other case has, the pervasiveness of the federal judicial intrusion into state electoral processes that was unleashed by the "one man, one vote" rule of *Reynolds v. Sims*, 377 U. S. 533 (1964).

*Reynolds* established that rule for the apportionment of state legislatures, thereby denying States the right to take into account in the structuring of their legislatures any historical, geographical, economic, or social considerations, or any of the other many practical and subtle factors that have always been recognized as playing a legitimate part in the practice of politics.

Four years later, in *Avery v. Midland County*, 390 U. S. 494 (1968), the "one man, one vote" rule was extended to many kinds of local governmental units, thereby affecting to an unknown extent the organizational integrity of some 80,000 such units throughout the country, and constricting the States in the use of the electoral process in the establishment of new ones.

And today, the Court holds the "one man, one vote" rule applicable to the various boards of trustees of Missouri's junior college system, and forebodes, if indeed the case does not decide, that the rule is to be applied to every elective public body, no matter what its nature.

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To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
✓ Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall

3

**SUPREME COURT OF THE UNITED STATES**

From: Harlan, J.

Circulated:

JAN 27 1970

Recirculated:

No. 37.—OCTOBER TERM, 1969

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[February —, 1970]

MR. JUSTICE HARLAN, with whom MR. JUSTICE STEWART joins, dissenting.

Today's decision demonstrates, to a degree that no other case has, the pervasiveness of the federal judicial intrusion into state electoral processes that was unleashed by the "one man, one vote" rule of *Reynolds v. Sims*, 377 U. S. 533 (1964).

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REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN M. HARLAN

January 30, 1970

Re: No. 37 - Hadley v. Junior College

Dear Hugo:

Since I shall not be in Court on Monday,  
if your opinion in this case comes down will you please  
announce that I, joined by Justice Stewart, have filed a  
dissenting opinion.

Sincerely,



and the Chief  
Justice,

Mr. Justice Black

*HCB  
please note*

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT

pg. 1, 4

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
✓ Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall

From: Harlan, J.

**SUPREME COURT OF THE UNITED STATES**

Circulated: \_\_\_\_\_

No. 37.—OCTOBER TERM, 1969

Recirculated: JAN 31 1970

Della Hadley et al., Appellants,  
v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
Supreme Court of  
Missouri.

[February 2, 1970]

MR. JUSTICE HARLAN, with whom THE CHIEF JUSTICE and MR. JUSTICE STEWART join, dissenting.

Today's decision demonstrates, to a degree that no other case has, the pervasiveness of the federal judicial intrusion into state electoral processes that was unleashed by the "one man, one vote" rule of *Reynolds v. Sims*, 377 U. S. 533 (1964).

*Reynolds* established that rule for the apportionment of state legislatures, thereby denying States the right to take into account in the structuring of their legislatures any historical, geographical, economic, or social considerations, or any of the other many practical and subtle factors that have always been recognized as playing a legitimate part in the practice of politics.

Four years later, in *Avery v. Midland County*, 390 U. S. 494 (1968), the "one man, one vote" rule was extended to many kinds of local governmental units, thereby affecting to an unknown extent the organizational integrity of some 80,000 such units throughout the country, and constricting the States in the use of the electoral process in the establishment of new ones.

And today, the Court holds the "one man, one vote" rule applicable to the various boards of trustees of Missouri's junior college system, and forebodes, if indeed the case does not decide, that the rule is to be applied to every elective public body, no matter what its nature.

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Pp. 7-11

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
✓ Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Fortas  
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 37.—OCTOBER TERM, 1969

Circulated: \_\_\_\_\_  
Recirculated: FEB 17 1970

Della Hadley et al., Appellants,  
v.  
The Junior College District of } On Appeal from the  
Metropolitan Kansas City, } Supreme Court of  
Missouri, et al. } Missouri.

[February —, 1970]

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*Reynolds* established that rule for the apportionment of state legislatures, thereby denying States the right to take into account in the structuring of their legislatures any historical, geographical, economic, or social considerations, or any of the other many practical and subtle factors that have always been recognized as playing a legitimate part in the practice of politics.

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P 11

To: The Chief Justice  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Fortas  
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 37.—OCTOBER TERM, 1969

Circulated:

FEB 19 1970

Recirculated:

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v.  
The Junior College District of  
Metropolitan Kansas City,  
Missouri, et al. } On Appeal from the  
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[February —, 1970]

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And today, the Court holds the "one man, one vote" rule applicable to the various boards of trustees of Missouri's junior college system, and forebodes, if indeed the case does not decide, that the rule is to be applied to every elective public body, no matter what its nature.

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

December 15, 1969

RE: No. 37 - Hadley, et al. v. Junior  
College, Kansas City.

Dear Hugo:

I am going to join your circulation as modified after your discussions with Byron, but I am pondering whether I should add a concurring opinion. I'll let you know.

Sincerely,

*Paul*  
W. J. B. Jr.

Mr. Justice Black

cc: The Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

January 27, 1970

No. 37 - Hadley v. Junior College District

Dear John,

I am glad to join your dissenting opinion  
in this case.

Sincerely yours,

P.S.  
✓

Mr. Justice Harlan

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

December 15, 1969

Re: No. 37 - Hadley v. The Junior  
College District

Dear Hugo:

Please join me in your opinion  
in this case.

Sincerely,

D. B. G.

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 6, 1970

Re: No. 37 - Hadley v. The Junior  
College District of  
Metropolitan Kansas City

Dear Hugo:

The suggested change in your  
opinion is satisfactory to me.

Sincerely,



Mr. Justice Black

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 15, 1969

Re: No. 37 - Hadley, et al. v. The Junior College  
District of Metropolitan Kansas City

Dear Hugo:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Black

cc: The Conference