The Burger Court Opinion Writing Database

Connor v. Williams

404 U.S. 549 (1972)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 12, 1972

Dear Byron:

I agree to your proposed Per Curiam in No. 71-221 - Connor v. Williams.

W. O. D.

Mr. Justice White

cc: Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 18, 1972

Dear Byron:

Please join me in your Per Curiam in No. 71-221 - Connor v. Williams.

WOD
W. O. D.

Mr. Justice White

cc: Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 19, 1972

RE: No. 71-221 - Connor v. Williams

Dear Byron:

I agree with the Per Curiam you have prepared in the above.

Sincerely,

Bill

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 11, 1972

71-221, Connor v. Williams

Dear Byron,

I agree with your proposed Per Curiam in this case.

Sincerely yours,

P.S.
1.

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 11, 1972

MEMORANDUM TO THE CONFERENCE

Re: No. 71-221 - Connor v. Williams

The three-judge court in this case invalidated the Mississippi statutes apportioning the state legislature and proceeded to devise and implement its own apportionment plan to govern the 1971 elections. These elctions have now been held but appellants, who successfully challenged the Mississippi statutes, now challenge the court-ordered plan and demand new elections. I suggested a per curiam affirmance relying on precedents refusing to invalidate or forbid elections held or to be held under temporary court plans that might not square perfectly with the evolving requirements of the Fourteenth Amendment.

That would still be a feasible course if there were no more to this case. Unfortunately, it is apparent from the rambling opinion of the District Court, which also served as its decree in judgment, that except for switching three counties from multi- to single-member districts as soon as the necessary information was available (the expectation was that this phase of the case would go forward this month), it intended the plan to be final and to control not only the 1971 elections but also those to be held in 1975, unless the legislature adopted its own valid plan.

In this posture of the case, per curiam affirmance would leave intact court-ordered districts with substantially larger variations than the court thought acceptable for congressional districts in Kirkpatrick v. Preisler, 394 U.S. 526 (1969), and Wells v. Rockefeller, 394 U.S. 542 (1969), and unless the legislature itself took further action, the 1975 legislature would be chosen from those districts. The alternatives are obvious. If Preisler and Wells apply equally to state legislative districting, we could summarily vacate and order the preparation of a new

To: The Chief J...
Mr. Justice ...
Mr. Justice B...
Mr. Justice St...
Mr. Justice ...
Mr. Justice ...
Mr. Justice ...
Mr. Justice Re...

1st DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 1-18-

Recirculated: _____

PEGGY J. CONNOR ET AL. *v.* JOHN BELL WILLIAMS, GOVERNOR OF MISSISSIPPI, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

No. 71-221. Decided January —, 1972

PER CURIAM.

After determining that the reapportionment plan for the State Senate and House of Representatives passed by the Mississippi legislature in January 1971, failed to comply with the Equal Protection Clause because of a total variance of 26% between the largest and the smallest senatorial district (a determination which was not appealed),[1] the District Court fashioned its own plan for the quadrennial elections for both Houses scheduled for 1971, and these elections were held under the Court's plan. *Connor* v. *Johnson,* 330 F. Supp. 506 (SD Miss. 1971). Appellants now challenge the constitutionality the Court's plan, contending that a total variance of 18.9% between the largest and smallest Senate district and of 19.7% between the largest and smallest House district require that the court's districting plan be voided, a new plan instituted, and new elections held.[2]

[1] A three-judge court has twice previously voided apportionment plans enacted by the Mississippi legislature because they embodied impermissible population variances. *Connor* v. *Johnson*, 256 F. Supp. 962 (SD Miss. 1966), aff'd, 386 U. S. 483 (1967) (appeal limited to congressional districting). This Court has already considered an interlocutory appeal in the instant case. *Connor* v. *Johnson*, 402 U. S. 690, 403 U. S. 928 (1971).

[2] There are 52 seats in the State Senate and 122 seats in the State House of Representatives. According to the 1970 census, Mississippi has a population of 2,216,912, making the ideal single-member Senate district one containing 42,633 persons and the ideal single-member House district one containing 18,171 persons. Under the court's plan, Senate district 29 (46,719 persons, one Senator) is 9.6% overrepresented, and district 19 (77,320 persons, two Senators) is 9.3% underrepresented. House district 18 (32,772 persons,

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 19, 1972

Re: No. 71-221 - Connor v. Williams

Dear Byron:

Please join me in your per curiam.

Sincerely,

T.M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 13, 1972

Re: <u>No. 71-221 - Connor v. Williams</u>

Dear Byron:

I join your proposed Per Curiam opinion. I would feel a little more comfortable, however, if on page 5, line 11, after the words "should go forward" something like "forthwith and be concluded as soon as possible" could be inserted. This matter has been long delayed and I would like to push it and, if possible, prevent its returning to us just a short time prior to the next election.

Of course I could go along, too, with the alternative you suggest in your memorandum of January 11 that the case be set for argument solely on the prospective validity of the Court's plan.

Sincerely,

HAB.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 18, 1972

Re: No. 71-221 - Connor v. Williams

Dear Byron:

Please join me in your printed circulation of January 18.

Sincerely,

HAB

Mr. Justice White

cc: The Conference

January 20, 1972

No. 71-221 Connor v. Williams

Dear Byron:

Please join me in your per curiam.

Sincerely,

L.F.P.

Mr. Justice White

cc: Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 18, 1972

Re: 71-221 - Connor v. Williams

Dear Byron,

I join in your proposed Per Curiam.

Sincerely,

Bill

Mr. Justice White

Copies to The Conference