

The Burger Court Opinion Writing Database

White v. Regester

412 U.S. 755 (1973)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

June 13, 1973

Re: No. 72-147 - White v. Regester

Dear Byron:

Please join me.

Regards,

WRB

Mr. Justice White

Copies to the Conference

See 71-1476

waiting for
WB dissent but joined
his cord (PTs 1 & 2) 6/11

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 26, 1973

Re: No. 72-147, Bullock v. Regester

Dear Byron,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.
/

Mr. Justice White

Copies to the Conference

WJ

From: White, J.

circulated: 4-25-73

Recirculated: _____

[May —, 1973]

The Texas Constitution requires the state legislature to reapportion the House and Senate at its first regular session following the decennial census. Tex. Const., Art. III, § 28.¹ In 1970, the legislature proceeded to

“The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion to the state into senatorial and representative districts, agreeable to the provisions of Sections 25, 26, and 26-a of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislature Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members,

WD

To: The Chief Justice
 Mr. Justice Douglas
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist

2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

No. 72-147

Recirculated: 5-3-73

Bob Bullock et al., Appellants, } On Appeal from the
 v. } United States District
 Diana Regester et al. } Court for the Western
 } District of Texas.

[May —, 1973]

MR. JUSTICE WHITE delivered the opinion of the Court.

This case raises two questions concerning the validity of the reapportionment plan for the Texas House of Representatives adopted in 1970 by the State Legislative Redistricting Board: First, whether there were unconstitutionally large variations in population among the districts defined by the plan; second, whether the multimember districts provided for Bexar and Dallas Counties were properly found to have been invidiously discriminatory against cognizable racial or ethnic groups in those counties.

The Texas Constitution requires the state legislature to reapportion the House and Senate at its first regular session following the decennial census. Tex. Const., Art. III, § 28.¹ In 1970, the legislature proceeded to

¹ Article III, § 28, of the Texas Constitution provides:

"The Legislature shall, at its first regular session after the publication of each United States decennial census, apportion to the state into senatorial and representative districts, agreeable to the provisions of Sections 25, 26, and 26-a of this Article. In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislature Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members,

B.B. 11.12.13

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 30, 1973

*Waiting
for WJB*

Re: No. 72-147 - Bullock v. Regester

Dear Byron:

Please join me. At conference I indicated concern about Bexar County, for I felt that the appellees had not sustained their burden, particularly in light of the fact that Mexican-Americans now enjoy a county plurality. Your treatment of this, however, is an effective one when it emphasizes the "intensely local appraisal," and I am content to go along with you on your evaluation judgment.

Sincerely,

Harry

Mr. Justice White

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

May 1, 1973

No. 72-147 Bullock v. Regester

Dear Byron:

I wonder if you would consider making changes to accommodate the following suggestions:

1. On p. 12 of your opinion, Barrio (in San Antonio) is described as an area of "poor education". And on p. 13 there is a reference to the Mexican-Americans being "effectively denied access to the political processes" due in part to the "deficient educational system".

This may be read as being contrary, at least implicitly, to the Court's opinion in Rodriguez. There (pp. 32, 33), we said that the educational system provided children with the opportunity to acquire the basic minimal skills necessary to participate in the political process. In Rodriguez, of course, we were speaking explicitly about present levels of educational expenditure, and we had previously emphasized the progress made in recent years. I take it that in Regester you were talking about the history of disadvantaged educational backgrounds. The persons currently disadvantaged may well have found the schools which they attended some years ago to be far less adequate than those now available. The progress in Texas has been most marked in the past decade. Moreover, I suppose a significant number of the persons ~~involved~~^{involved} were born and educated in Mexico or even in rural migratory labor camps in south Texas.

In view of this apparent incompatibility in the two opinions as to education in the same area of San Antonio, would you be willing to make the necessary modest revisions to emphasize that you are talking about the district court's finding of a history of disadvantaged treatment which

is unrelated to the education presently received by young residents. I note that on page 13 you refer to "the residual impact of this history".

2. The first sentence at the top of page 11 might be read, I think, as implying that requirement of a majority vote is in itself a potentially discriminatory election provision. I would suppose that, in most situations, the majority vote requirement is wholesome. This is especially true where there are a number of candidates for an office, none of whom obtains more than a fractional plurality. Perhaps you could drop a footnote along the lines of the enclosed draft.

As these are minor suggestions, I am not sending a copy of this letter to the Conference.

Sincerely,

Mr. Justice White

lfp/ss

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

May 11, 1973

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

No. 72-147 Bullock v. Regester

Dear Byron:

Please join me.

Sincerely,

Lewis

Mr. Justice White

cc: The Conference

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U.S. SUPREME COURT RECORDS