The Burger Court Opinion Writing Database

Escambia County v. McMillan

466 U.S. 48 (1984)

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

HAB

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

CHAMBERS OF
THE CHIEF JUSTICE

April 14, 1983

Re: No. 82-1295, Escambia County, Florida, et al v. Henry T. McMillan

Dear John:

As I was "teetering" on making a 4th by joining your dissent, it emerged that this is an appeal, not a cert. Our options are therefore limited and I concluded I will make a 4th to NPJ.

Regards,

Justice Stevens

Copies to the Conference

HAB

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 13, 1982

Re: No. 82-1295 Escambia County, Florida v. McMillan

Dear John:

Please join me in your dissent.

Sincerely,

WHR

Justice Stevens

cc: The Conference

HAB

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

April 12, 1983

From: Justice Stevens

82-1295 - Escambia County, Florida v. McMillan

Circulated: APR 12 '83

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JUSTICE STEVENS, dissenting.

Today the Court holds that the at-large election system that has been used in Escambia County, Florida since 1954 is unconstitutional. This system makes it more difficult for black citizens, who comprise 17% of the registered voters in the county, to elect county commissioners who are black. The District Court found that the incumbent commissioners' desire to retain the at-large system was "motivated, at least in part, by the possibility single district elections might result in one or more of them being displaced in subsequent elections by blacks." App. to Juris. Statement 98a.[1]

[1]The District Court also considered the factors set forth in Zimmer v. McKeithen, 485 F. 2d 1297 (CA5 1973) (en banc), aff'd sub nom. East Carroll Parish School Bd. v. Marshall, 424 U.S. 636 (1976). The Zimmer factors, according to the Court's opinion in Rogers v. Lodge, ___ U.S. ___, ___ (1982), may provide circumstantial evidence of discriminatory intent. But the District Court's findings on the Zimmer factors were relatively weak. It found racially polarized voting in some local elections and noted that the relatively high candidate filing fee had an exclusionary effect. But the court found that active efforts were made to encourage eligible citizens, both black and white, to register and to vote, and that there was no significant difference between blacks and whites in the percentage of eligible voters who had actually registered. App. to Juris. Statement 80a-84a. Turning to the responsiveness of county government to black community needs, the court found that blacks

Footnote continued on next page.

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: **Justice Stevens**

Circulated: _____

Recirculated: APR 13 '83

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

ESCAMBIA COUNTY, FLORIDA, ET AL. *v.* HENRY T. McMILLAN ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 82-1295. Decided April ——, 1983

The petition for writ of certiorari is denied.

JUSTICE STEVENS, dissenting.

Today the Court holds that the at-large election system that has been used in Escambia County, Florida since 1954 is unconstitutional. This system makes it more difficult for black citizens, who comprise 17% of the registered voters in the county, to elect county commissioners who are black. The District Court found that the incumbent commissioners' desire to retain the at-large system was "motivated, at least in part, by the possibility single district elections might result in one or more of them being displaced in subsequent elections by blacks." App. to Juris. Statement 98a.[1]

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HAB

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 13, 1983

No. 82-1295 Escambia County, Florida
v. McMillan

Dear John,

Please join me in your dissent.

Sincerely,

Sandra

Justice Stevens

Copies to the Conference