

DRAFT MAPS 13A & 14
UNDER THE VOTING RIGHTS LAW
GOVERNING REDISTRICTING FOR
COUNTY OF SAN DIEGO INDEPENDENT
REDISTRICTING COMMISSION

By Bruce L. Adelson, Esq.

Redistricting Overview Recap

Redistricting is a LEGAL process,

With specific laws and rules to follow.

Redistricting Overview Recap

U.S. Supreme Court's Harris v. AIRC

Takeaways:

Show Your Work

Create Strong Record

Objective Expertise



Redistricting Overview Recap

Traditional Redistricting Criteria for the IRC:

- **A: Must comply with the U.S Constitution and the Voting Rights Act**
- B: Equal Population
- C: Contiguous
- **D: Minimize Division of Cities, Neighborhoods and Communities of Interest**
- E: Compactness

- **Bolding = focus of today's presentation**

Redistricting Overview Recap

- **A: Must comply with the U.S Constitution and the Voting Rights Act**
- Prohibits redistricting plans with discriminatory purpose of effect on account of race or membership in a language minority group
- To be entitled to protection, protected class must demonstrate
 - It is sufficiently large and geographically compact to form a majority of the eligible voters in a single member district
 - It is politically cohesive
 - Its chosen candidates are usually defeated by the block vote of White voters

Redistricting, DOJ, & Cautionary Tales Recap

On the other hand:

The Supreme Court has held that Constitution requires skeptical look at redistricting plans when race is the “predominant” reason for putting a significant number of people in or out of a district.

Fourteenth Amendment forbids use of race as predominant district boundary-drawing factor.

ALABAMA LEGISLATIVE BLACK CAUCUS ET AL. v.
ALABAMA ET AL. (2015)

Redistricting, DOJ, & Cautionary Tales Recap

This does not mean that race can't be considered, or that when districts drawn primarily based on race are invalid. It means that there has to be a really good reason for subordinating all other districting considerations to race. Court has repeatedly implied that one such compelling reason is compliance with the Voting Rights Act

Compelling, legally acceptable reason for use of race in redistricting is compliance with the Constitution and Voting Rights Act: *Harris v Arizona Independent Redistricting Commission*, 136 S. Ct. 1301, 194 L. Ed. 2d 497 (2016).

Redistricting, DOJ, & Cautionary Tales Recap

Meaningful number of white voters joined a politically cohesive black community to elect that group's favored candidate. In the lingo of voting law, District 1 functioned, election year in and election year out, as a "crossover" district, in which members of the majority help a "large enough" minority to elect its candidate of choice.

Cooper v. Harris, 137 S. Ct. 1455, 197 L.Ed.2d 837 (2017)



Redistricting, DOJ, & Cautionary Tales Recap

Here, electoral history provided no evidence that a § 2 plaintiff could demonstrate the third Gingles prerequisite—effective white bloc-voting.

For most of the twenty years prior to the new plan's adoption, African–Americans had made up less than a majority of District 1's voters; the district's BVAP usually hovered between 46% and 48%.

Yet throughout those two decades, as the District Court noted, District 1 was "an extraordinarily safe district for African–American preferred candidates."

What Does This All Mean for Maps 13a & 14

District 1:

- Electoral history presented by statistical experts provides no evidence that a § 2 plaintiff could demonstrate the 3rd Gingles prerequisite—effective white bloc-voting.
- Latino voters in District 1 elect their chosen candidates 100% of the time.
- However, a solid record of COIs justify keeping the compact minority communities together

What Does This All Mean for Maps 13a & 14

District 2 (Map 13a)/ District 4 (Map 14):

- No minority group is sufficiently large and geographically compact to form a majority in this district therefore 1st Gingles pre-requisite is not met.
- Statistical experts did not provide evidence of cohesive coalitional voting – 2nd Gingles prerequisite.
- Statistical experts concluded Latino voters in this District elect their chosen candidates 80% of the time demonstrating the 3rd Gingles prerequisite—effective white bloc-voting – not met.
- However, a solid record of COIs can justify keeping the compact minority communities together, but Section 2 does not require that result.

Redistricting Overview Recap re Communities of Interest

Final word about Communities of Interest:

District boundaries should respect not dividing communities of interest.

If a community of interest had a strong policy voice in its current district, splitting it in to two under a new district plan, where that voice will be diluted, should be avoided if possible.

Redistricting Overview

Bruce Adelson is a former Senior Trial Attorney for the U.S. Department of Justice. During Bruce's DOJ career, he was lead attorney responsible for Arizona during the 2000 redistricting cycle.

During the 2010 redistricting cycle, Bruce was Voting Rights Act expert for the Arizona Independent Redistricting Commission and did redistricting consultation with many Arizona counties, cities, school and college districts. Consulting expert in *Harris v. AIRC* 993 F.Supp.2d 1042 (D. Ariz., 2014). In April 2016, the U.S. Supreme Court unanimously upheld the plan's legality 9-0.

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