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U.S. Supreme Court Rejects Unanimous Post-Trial Decision and Long-Settled Precedent, Allows South Carolina’s Racially Discriminatory Congressional Map to Stand

A virtual media briefing with plaintiffs and the legal team will be held at 1 p.m. E.T. TODAY. Please register to attend [here](#).

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WASHINGTON — May 23, 2024 — In a 6-3 vote, the Supreme Court today issued a decision that reversed a [federal trial court’s](#) unanimous finding that Congressional District 1 in South Carolina’s 2022 map is an unconstitutional racial gerrymander. The Court also ruled that the district court applied the incorrect standard to Plaintiffs’ intentional vote dilution claim and returned that claim to the district court for further proceedings.

The decision is a rejection of the historical deference given to the trial court’s factual findings and adds to the already difficult evidentiary burden that plaintiffs must demonstrate to remedy racial discrimination in voting. This **divided** decision underpins efforts nationwide to deny Black voters fair access to the political process to elect their preferred candidates.

The Legal Defense Fund (LDF), American Civil Liberties Union (ACLU), ACLU of South Carolina, and Arnold & Porter tried this case over eight days before a three-judge panel unanimously ruled that there was a racial target on the number of Black South

Carolínians assigned to Congressional District 1; that race more than partisan affiliation explained that assignment; and, the legislature disregarded traditional redistricting principles.

“The highest court in our land greenlit racial discrimination in South Carolina’s redistricting process, denied Black voters the right to be free from the race-based sorting and sent a message that facts, process, and precedent will not protect the Black vote. Today the voices of Black South Carolínians were muted, and if we are not careful the next set of votes denied could be those in your state. Make no mistake, LDF will not yield in the fight to build Black political power that represents the people who contribute mightily to this country and strengthen this democracy,” said **Janai Nelson, president and director-counsel of the Legal Defense Fund (LDF)**. “The voting rights of Black communities remain under attack and the LDF will continue to meet moments like these with the resolve and determination necessary to protect voting rights and enforce key protections of the 14th and 15th Amendments.”

“Today’s decision usurps the authority of trial courts to make factual findings of racial discrimination as the unanimous panel found occurred with South Carolina’s design of Congressional District 1,” said **Leah Aden, senior counsel at LDF who argued before the Supreme Court in *Alexander v. SC NAACP***. “The decision also defies decades of precedent that allows plaintiffs to use a wide variety of evidence to demonstrate racial discrimination in voting and forces plaintiffs to offer a particular form of proof that race more than party explains South Carolina’s line-drawing. As Justice Kagan’s dissent makes clear, today’s decision can only be justified through ‘reworking the law’ and ‘distance’ from the factual record. Despite this unfortunate decision, we will continue, including on remand on a surviving claim from this decision, to create fair redistricting maps and advocate for Black South Carolínian voters.”

“We are deeply disappointed in the Supreme Court’s decision to allow South Carolina’s proposed congressional map to stand for yet another election after a unanimous federal three-judge panel recognized the racial discrimination in that map and ordered that a remedial map be used in upcoming elections beginning this year,” said **plaintiff Taiwan Scott**. “Our battle to fairly represent and account for everyone in our beautiful state doesn’t stop here – we’ll journey onward towards justice.”

“Today, the Supreme Court has failed the American people. Voting rights have taken another gut punch, and the future of democracy in South Carolina is dangling by a thread. Make no mistake – we are not backing down from this fight,” said **Brenda Murphy, president of the South Carolina State Conference of the NAACP**. “Despite today’s news, the South Carolina NAACP will continue to utilize every resource at our disposal to ensure Black South Carolínians have an opportunity to make their voices heard in another pivotal election. This is what advocacy in action looks like.”

Adriel I. Cepeda Derieux, deputy director of the ACLU’s Voting Rights Project, said: “The Supreme Court’s ruling is an affront to Black voters, democracy, and precedent. South Carolina’s Legislature carved Black voters out of Congressional District 1 for the sake of partisan advantage and weakening their voting power. Justice Kagan’s dissent is right: the majority only gets where it does by ‘ignoring and minimizing’ clear evidence that South Carolina racially gerrymandered its map. And the proof that the court now asks of plaintiffs fighting discrimination is ‘unheard of in constitutional litigation.’ We continue to stand with our brave clients in this ongoing fight for voting rights.”

Allen Chaney, legal director for the ACLU of South Carolina, said: “The court violated its precedent and interjected its own, outcome-determinative fact finding for that of the unanimous three-judge court. A term after declaring racial sorting anathema in the college admissions context, the court has allowed the same to go unchecked in redistricting. Democracy is weaker — and the law less just — as a result.” “While today’s decision is unquestionably a disappointing injustice, the fight for equality in South Carolina and across the country must go on,” **said John A. Freedman, Arnold & Porter’s senior pro bono counsel**. “We are proud to stand with our clients and co-counsel in this important fight.”

In 2013, the Supreme Court in *Shelby County Alabama v. Holder* effectively dismantled Section 5 of the Voting Rights Act and the process that since 1965 required states, like South Carolina, with documented histories of racial discrimination in voting practices to seek approval from the federal government before implementing their laws.

In the absence of that protection, South Carolina no longer had the obligation to show that its 2022 congressional map did not racially discriminate against Black voters, requiring plaintiffs to ring the alarm about that harm during the legislative consideration of congressional maps and then file suit in federal court for redress. Today’s ruling is further evidence that racial discrimination in voting has not been eradicated in South Carolina and that Congress must act to restore the full protections of the Voting Rights Act — such as through passage of the John Lewis Voting Rights Advancement Act introduced this term — that have been steadily weakened by the Supreme Court.

The case was filed on behalf of the South Carolina State Conference of the NAACP and Taiwan Scott, a Hilton Head resident and member of the Gullah-Geechee community, represented by the Legal Defense Fund (LDF), American Civil Liberties Union, the ACLU of South Carolina, UMD Law Professor Chris Bryant, Arnold & Porter, and NAACP’s General Counsel’s Office. Aiding in this fight were testimonies from 24 witnesses, of which six were experts, alongside 652 pieces of evidence demonstrating the hallmarks of racial discrimination in the design of the 2022 congressional map.

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A media briefing on Thursday’s decision will be held at 1 p.m.

What: Media Briefing on the U.S. Supreme Court case, *Alexander v. South Carolina State Conference of the NAACP*

When: Thursday, May 23 at 1 p.m. ET

Where: Zoom webinar. Click [here](#) to register.

Media have permission to record the briefing and a video link will be distributed following the event.

The ruling is here:

https://www.supremecourt.gov/opinions/23pdf/22-807_3e04.pdf

About LDF

Founded in 1940, the [Legal Defense Fund](#) (LDF) is the nation's first civil rights law organization. LDF's Thurgood Marshall Institute is a multidisciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.

About ACLU

For more than 100 years, the ACLU has worked in courts, legislatures, and communities to protect the constitutional rights of all people. With a nationwide network of offices and millions of members and supporters, the ACLU takes on the toughest civil liberties fights in pursuit of liberty and justice for all.

About NAACP

The NAACP advocates, agitates, and litigates for the civil rights due to Black America. Our legacy is built on the foundation of grassroots activism by the biggest civil rights pioneers of the 20th century and is sustained by 21st century activists. From classrooms and courtrooms to city halls and Congress, our network of members across the country works to secure the social and political power that will end race-based discrimination. That work is rooted in racial equity, civic engagement, and supportive policies and institutions for all marginalized people. We are committed to a world without racism where Black people enjoy equitable opportunities in thriving communities.

NOTE: The Legal Defense Fund – also referred to as the NAACP-LDF – was founded in 1940 as a part of the NAACP, but now operates as a completely separate entity.

About Arnold & Porter

Arnold & Porter combines sophisticated regulatory, litigation, and transactional capabilities to resolve clients' most complex issues. With over 1,000 lawyers practicing in 15 offices worldwide, we offer deep industry experience and an integrated approach that spans more than 40 practice areas. Through multidisciplinary collaboration and focused industry experience, we provide innovative and effective solutions to mitigate risks, address challenges, and achieve successful outcomes.