

“[T]he record bears out this conclusion.”

*Harris v. Ariz. Indep. Redistricting Comm'n*, 136 S. Ct. 1301, 194 L.Ed.2d 497 (2016)

---

BY BRUCE L. ADELSON, ESQ.

“[T]he record bears out this conclusion.”

---

“We have further made clear that "minor deviations from mathematical equality" do not, by themselves, "make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State....

We believe that attacks on deviations under 10% will succeed only rarely, in unusual cases. And we are not surprised that the appellants have failed to meet their burden here.”

*Harris v. Ariz. Indep. Redistricting Comm'n*, 136 S. Ct. 1301, 194 L.Ed.2d 497  
(2016)

“[T]he record bears out this conclusion.”

---

Draft Plan B - Maximum Deviation – 4.57

What Does the Record Show?

“[T]he record bears out this conclusion.”

---

“We are not surprised that the appellants have failed to meet their burden here.”

Why?

Robust, Transparent, Full Record



“[T]he record bears out this conclusion.”

---

Racially Polarized Voting and Board of Supervisor Elections

**NOT PARTISAN**

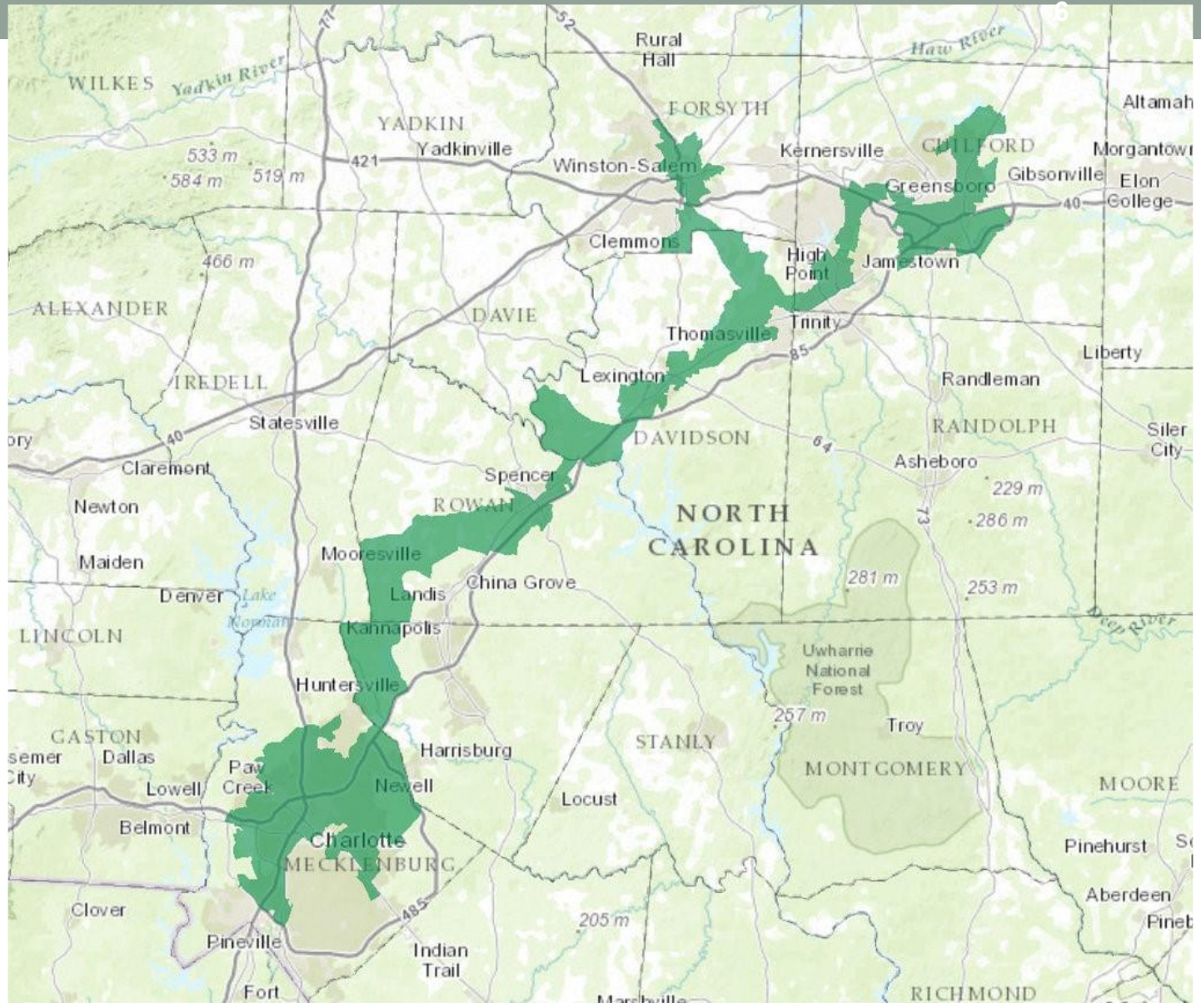
Big Difference with Partisan Elections

“[T]he record bears out this conclusion.”

---

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

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





“[T]he record bears out this conclusion.”

---

“[S]erpentine” district was nothing if not race-centric, and could not be justified as a reasonable attempt to comply with the VRA.”

*Shaw v. Reno (Shaw II)*, 517 U.S. 899, 116 S.Ct. 1894, 135 L.Ed.2d 207.

“[T]he record bears out this conclusion.”

---

HOWEVER.....

**Cannot discriminate against people based on race,  
color, language minority group membership**

**VRA and 14<sup>th</sup> Amendment Prohibit**

“[T]he record bears out this conclusion.”

---

**What Does This Mean??**

**No Packing, No Cracking**

“**Cracking**“ .... splintering minority populations into small pieces across several districts, so that large minority group ends up with a very little chance to impact any single election.

“**Packing**“ .... combining as many minority voters as possible into a few concentrated districts and reducing the population’s voting power from anywhere else.

**Watch out for dilutive effect of combining cities, towns, communities**

“[T]he record bears out this conclusion.”

---

“To have a strong basis in evidence to conclude that [VRA] § 2 demands majority-minority districts], the State must carefully evaluate whether a plaintiff could establish the *Gingles* preconditions—including effective white bloc voting....”

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

“[T]he record bears out this conclusion.”

---

**The VRA DOES NOT** require that California or any state have any majority minority districts.

**The Voting Rights Act does NOT** guarantee, require, or mandate that any state has a certain number of majority minority districts.

Instead, determinations are district by district and functional based on election analysis

“[T]he record bears out this conclusion.”

---

Cannot set arbitrary, mechanical racial population target (e.g., 50%+ Black, Latino, or Asian voting age population) for any or all BOS districts

*Alabama Legislative Black Caucus v. Alabama*

135 S.Ct. 1257 (2015)

# “[T]he record bears out this conclusion.”

---

Commission may keep together historic, compact, and traditional Latino, Black, Asian, and minority language communities

## Traditional Redistricting Criterion

Keeping compact, traditional minority communities and neighborhoods can be constitutional part of redistricting

*League of United Latin Am. Citizens v. Perry* 548 U.S. 399 (2006).

Must justify in the record

Otherwise, potential cracking and discrimination

“[T]he record bears out this conclusion.”

---

**Policy Choices, not specifically required by VRA, but may be  
advisable to avoid discrimination**

**Crossover Districts and Influence Districts**



“[T]he record bears out this conclusion.”

---

Commission will be sued

Redistricting lawsuits are the decennial census thing

**Best Preparation.....**

**“[T]he record bears out this conclusion.”**

*Harris v. Ariz. Indep. Redistricting Comm'n, 136 S. Ct. 1301, 194  
L.Ed.2d 497 (2016)*

“[T]he record bears out this conclusion.”

---

“This conclusion was well supported in the record. And as a result, appellants have not shown that it is more probable than not that illegitimate considerations were the predominant motivation.”

*Harris v. Ariz. Indep. Redistricting Comm'n*, 136 S. Ct. 1301, 194 L.Ed.2d 497 (2016)