

The Latest Supreme Court Ruling on the “Equal Size” of Congressional Districts:

Tennant v. Jefferson County Commission (Docket 11-1184)

The background to this case:

The 2011 redistricting process in West Virginia created Congressional districts that varied in population by 0.79%. Challengers to this plan contended that the legislature could have done much better, given improved the technical capabilities of computer models now used in redistricting. Indeed, one of the plans considered had only one of three districts that did not have the precisely equal size (617,665 persons), and it fell short of that criterion by only one person.

The Supreme Court ruling:

“Reinforcing its view that courts should try to stay mostly out of the way of politicians drawing new election districts, the Supreme Court on Tuesday [September 25, 2012]--by an apparent unanimous vote--told lower-court judges not to insist on close-to-zero differences in the population of each of a state’ districts for choosing members of the U.S. House of Representatives. ‘Zero variance’ in population is not the new constitutional norm for redistricting, the Court made clear. Just because computers can produce almost exactly equal-sized districts, the Constitution does not require it, the decision said.”¹

“Today’s ruling gave state legislators constitutional permission to have some variation in size between congressional districts.... In what appeared to be a novel new declaration, the Court stressed that lower courts should not demand that a state prove specifically how each of those goals would be satisfied by moving away from equally populated districts. And, ini another legal innovation, the Court said that a variation that is not really very big does not become a constitutionally suspect one just because a sophisticated computer program could be used to avoid nearly all such variations. If the difference between a state’s largest House district and its smallest one is small--such as the 0.79% deviation in the West Virginia plan--that does not become unconstitutionally large just because it could be avoided by “technological advances in redistricting and mapping software.”¹

¹ Lyle Denniston, “Hedging on ‘One Person, One Vote,’” www.scotusblog.com/2012/09/opinion-recap-hedging-on-one-person-one-vote/