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7 EAC: *Encyclopedia of the American Constitution*

9 Article ID Number: **241**

11
12 *MILLER v. JOHNSON*
13 515 U.S. 900 (1995)
14

16 In *Miller v. Johnson*, the Supreme Court overturned Georgia's Eleventh Congressional District, which was nowhere
17 near as ill-compact as North Carolina's Twelfth Congressional
18 District challenged in *SHAW v. RENO* (1993) [II] but
19 whose creation could be laid almost entirely to insistence
20 by the U.S. Department of Justice that Georgia create two
21 additional black-majority congressional districts. Writing
22 for the majority, Justice ANTHONY M. KENNEDY [I,II]
23 asserted that the Department of Justice had made
24 improper use of its preclearance authority under section
25 5 of the VOTING RIGHTS ACT OF 1965 [4,II] (as amended) in
26 pursuit of a policy of maximizing the number of black-
27 majority districts, and that racial considerations were pre-
28 dominant in the creation of the Eleventh District. *Miller*
29 demonstrated that even districts that were not especially
30 ill-compact or in blatant violation of traditional districting
31 criteria could be struck down under the *Shaw* standard if
32 the Court majority were convinced that existing irregular-
33 ities could only be explained in racial terms.
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35 *Miller* also showed the importance of the views of
36 Justice SANDRA DAY O'CONNOR [3,I,II] as a pivotal vote.
37 O'Connor, in addition to joining the MAJORITY OPINION [3],
38 wrote a two-paragraph concurring opinion in which she
39 sought to reassure critics of *Shaw* that the Court was not
40 going throw out all use of race as a districting criterion.
41 In particular, she asserted that the *Shaw* test was "a
42 demanding one," and that to invoke STRICT SCRUTINY [4],
43 "a plaintiff must show that the State has relied on race in
44 substantial disregard of customary and traditional district-
45 ing practices." However, what this latter phrase means in
46 practice seems very much in the eyes of the beholder. The
47 DISSENTING OPINION [2], written by Justice RUTH BADER
48 GINSBURG [II] (and joined in whole or part by three other
49 Justices), in effect denied that the district violated this
50 test.

51 BERNARD GROFMAN

52
53 (SEE ALSO: *Electoral Districting, I* [II]; *Electoral Districting, II*
54 [II]; *Voting Rights* [4,II].)

55 Bibliography

57 GROFMAN, BERNARD, ed. 1998 *Race and Redistricting in the*
58 *1990s*. New York: Agathon Press.
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