Holder v. Hall

Facts: Single commissioner in Bleckley County with 20% B

10 other counties use this form.

Issue: Does size of governing authority affect whether there is a violation of

VRA Sec 2

Holding: No, not vote dilution

Judgment: Remanded to find out if discrimination

Justice Kennedy

A. In VRA sec 2 along with Gingles and totality/circumstances test, court must find reasonable alternative practice to benchmark existing voting practice

B. Where there is no objective and workable standard for choosing a reasonable benchmark by which to evaluate a challenged voting practice, it follows that the voting practice cannot be challenged as dilutive under Sec 2.

1. Size case-why one picked over the other

a. Here p's use 5 member but why not 10

b. 3 reasonss

1. Leg authorized if want to do this

2. School Board 5

3. 5 member commission common in state

2. No sense to say challenge if rare but not if common

Other R's irrelevant as well.

C. Covered jurisdiction can't change size without pre clearance

1. Retrogression not inquiry in VRA2

2. Voting practice subject to preclearance in VRA5 not

necessarily subject to a dilution challenge under VRA2

Justice Thomas(read opinion in Hasen book)

Justice Blackmun

A. 5 member commission a good baseline

B. When more difficult we will make the judgments

Justice Ginsburg

A. Responsibility Congress has given to Courts

B. "When courts are confronted with congressionally crafted compromises of this kind, it is not an easy take to remain faithful to the balance Congress struck."

Justice Stevens dissenting

A. Thomas saying early pattern of enforcement is evidence of meaning of statute

B. Gomillion-Congress meant to reach kind of pattern in that case which was dilutive. But Thomas notes it was an access not a weight case

C. Congress's reenactments of Sec 5 suggests it accepted broad interpretation of act.

D. 1982 change to results test from intent test shows was meant to cover non-access claims like those in Bolden and Gomillion

E ...but when Congress has legislated in general terms, judges may not invoke judicial modesty to avoid difficult questions.