

Judicial Redistricting Case Goes to the NC Supreme Court

In *Blankenship v. Bartlett*, citizen voters sued the North Carolina State Board of Elections and the Attorney General alleging that the judicial districting plan for Superior Court in Wake county violated the Equal Protection Clause set forth in our state constitution. The challenged North Carolina General Statute established single-member and multi-member districts for the election of superior court judges assigned to Wake County. This districting plan divided Wake County into four separate districts: 10-A, 10-B, 10-C, and 10-D. District 10-A is comprised of about 64,500 people, and its constituents elect two Superior Court judges. District 10-B is comprised of about 280,000 people; its constituents also elect two Superior Court judges. District 10-C consists of about 160,000 residents and 10-D has about 125,000; they can each elect one Superior Court Judge.

Based on this data, residents of District 10-A have approximately four times the voting power as residents of 10-D, approximately four and a half times as much voting power as residents in 10-B, and approximately five times as much voting power as residents of 10-D. Plaintiffs alleged that because the constituents of District 10-A have significantly greater voting power than those residing in other districts, the districts established by N.C. Gen. Stat. § 7A-41 impermissibly violate the Equal Protection Clause of the North Carolina Constitution.

In the Superior Court of Wake County, the Court held that the judicial districts were indeed unconstitutional. Defendants appealed.

The N.C. Court of Appeals concluded that the one person, one vote principle of the Equal Protection Clause did *not* apply to judicial elections. The appellate court found that the trial court erred in that the legislature's creation of a new judgeship was not arbitrary and capricious because it had consulted with the Administrative Office of the Courts and because the new judgeship was based on heavy caseloads and maintaining minority districts. Plaintiffs subsequently filed a Notice of Appeal and a Petition for Discretionary Review with the N.C. Supreme Court.

On the 9th of October 2008, the Supreme Court allowed the petition for Discretionary Review. Plaintiffs therefore will be permitted to bring the matter before the North Carolina Supreme Court. The date for oral arguments has not been set, but the case will likely be heard in early 2009.