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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

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## RENO, ATTORNEY GENERAL *v.* BOSSIER PARISH SCHOOL BOARD

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

No. 98–405. Argued April 26, 1999– Reargued October 6, 1999– Decided January 24, 2000*

Bossier Parish, Louisiana, a jurisdiction covered by §5 of the Voting Rights Act of 1965, is thereby prohibited from enacting any change in a "voting qualification[,] prerequisite[,] standard, practice, or procedure" without first obtaining preclearance from either the Attorney General or the District Court. When, following the 1990 census, the Bossier Parish School Board submitted a proposed redistricting plan to the Attorney General, she denied preclearance. The Board then filed this preclearance action in the District Court. Section 5 authorizes preclearance of a proposed voting change that "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." Appellants conceded that the Board's plan did not have a prohibited "effect" under §5, since it was not "retrogressive," *i.e.*, did not worsen the position of minority voters, see *Beer* v. *United States*, 425 U. S. 130, but claimed that it violated §5 because it was enacted for a discriminatory "purpose." The District Court granted preclearance. On appeal, this Court disagreed with the District Court's proposition that *all* evidence of a dilutive (but nonretrogressive) effect forbidden by §2 was irrelevant to whether the Board enacted the plan with a retrogressive purpose forbidden by §5. *Reno* v. *Bossier Parish School Bd.*, 520 U. S. 471, 486–487 *(Bossier Parish I)*. This Court vacated and remanded for further proceedings as to the Board's purpose in adopting its plan,

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* Together with No. 98–406, *Price et al.* v. *Bossier Parish School Bd.*, also on appeal from the same court.

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*id.*, at 486, leaving for the District Court the question whether the §5 purpose inquiry ever extends beyond the search for retrogressive intent, *ibid.* On remand, the District Court again granted preclearance. Concluding, *inter alia*, that there was no evidence of discriminatory but nonretrogressive purpose, the court left open the question whether §5 prohibits preclearance of a plan enacted with such a purpose.

*Held:*

1. The Court rejects the Board's contention that these cases are mooted by the fact that the 1992 plan will never again be used because the next scheduled election will occur in 2002, when the Board will have a new plan in place based upon data from the 2000 census. In at least one respect, the 1992 plan will have probable continuing effect: it will serve as the baseline against which appellee's next voting plan will be evaluated for preclearance purposes. Pp. 5–6.

2. In light of §5's language and *Beer*'s holding, §5 does not prohibit preclearance of a redistricting plan enacted with a discriminatory but nonretrogressive purpose. Pp. 7–20.

(a) In order to obtain preclearance, a covered jurisdiction must establish that the proposed change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." The covered jurisdiction bears the burden of persuasion on both points. See, *e.g.*, *Bossier Parish I*, *supra*, at 478. In *Beer*, the Court concluded that, in the context of a §5 vote-dilution claim, the phrase "abridging the right to vote on account of race or color" limited the term "effect" to retrogressive effects. 425 U. S., at 141. Appellants' contention that in qualifying the term "purpose," the very same phrase does *not* impose a limitation to retrogression, but means discrimination more generally, is untenable. See *Bank-America Corp.* v. *United States*, 462 U. S. 122, 129. *Richmond* v. *United States*, 422 U. S. 358, 378–379, distinguished. Appellants argue that subjecting both prongs to the same limitation produces a purpose prong with a trivial reach, covering only "incompetent retrogressors." If this were true– and if it were adequate to justify giving the very same words different meanings when qualifying "purpose" and "effect"– there would be instances in which this Court applied such a construction to the innumerable statutes barring conduct with a particular "purpose or effect," yet appellants are unable to cite a single case. Moreover, the purpose prong has *value and effect* even when it does not cover conduct additional to that of a so-called incompetent retrogressor: the Government need only refute a jurisdiction's *prima facie* showing that a proposed voting change does not have a retrogressive purpose, and need not counter the jurisdiction's evidence regarding actual retrogressive effect. Although virtually

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identical language in §2(a) and the Fifteenth Amendment has been read to refer not only to retrogression, but to discrimination more generally, giving the language different meaning in §5 is faithful to the different context in which in which the term "abridging" is used. Appellants' reading would exacerbate the "substantial" federalism costs that the preclearance procedure already exacts, *Lopez* v. *Monterey County*, 525 U. S. 266, 282, perhaps to the extent of raising concerns about §5's constitutionality, see *Miller* v. *Johnson*, 515 U. S. 900, 926–927. The Court's resolution of this issue renders it unnecessary to address appellants' challenge to the District Court's factual conclusion that there was no evidence of discriminatory but nonretrogressive intent. Pp. 7–16.

(b) The Court rejects appellants' contention that, notwithstanding that *Bossier Parish I* explicitly "le[ft] open for another day" the question whether §5 extends to discriminatory but nonretrogressive intent, 520 U. S., at 486, two of this Court's prior decisions have already reached the conclusion that it does. Dictum in *Beer*, 425 U. S., at 141, and holding of *Pleasant Grove* v. *United States*, 479 U. S. 462, distinguished. Pp. 16–20.

7 F. Supp. 2d 29, affirmed.

SCALIA, J., delivered the opinion of the Court, Part II of which was unanimous, and Parts I, III, and IV of which were joined by REHNQUIST, C. J., and O'CONNOR, KENNEDY, and THOMAS, JJ. THOMAS, J., filed a concurring opinion. SOUTER, J., filed an opinion concurring in part and dissenting in part, in which STEVENS, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion, in which GINSBURG, J., joined. BREYER, J., filed a dissenting opinion.