

No. 20-__

IN THE
Supreme Court of the United States

ZEROOVERZERO101 FOR PRESIDENT,
Petitioner,

v.

THE COMMONWEALTH OF THE CHESAPEAKE,
Respondent.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF CHESAPEAKE*

PETITION FOR A WRIT OF CERTIORARI

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TABLE OF AUTHORITIES

CASES

Bush v. Gore, 531 U.S. 98 (2000)

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Gray v. Sanders, 372 U.S. 368 (1963)

Regents of the Univ. of Cal. v. Bakke, 438 U.S. 265 (1978).

Reynolds v. Sims, 377 U.S. 533 (1964)

Shelley v. Kraemer, 334 U.S. 1 (1948)

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CONSTITUTIONAL PROVISIONS

U.S. Const., amend. XIV

OTHER

Robert L. Stern & Eugene Gressman, *Supreme Court Practice* (10th ed. 2013)

INTRODUCTION

On May 31, 2020, ZeroOverZero101 for President (“Petitioner”) filed a petition for certiorari in the Supreme Court to challenge the validity of the Strengthening Democracy Amendment (“the Amendment”) under the Fourteenth Amendment to the Constitution. Petitioner alleged that the Amendment, which assigns an equal number of the Commonwealth’s electoral votes to the popular vote winner of each of its congressional districts, denies Chesapeake voters of equal protection under the principle of ‘one person, one vote.’

The following day, Petitioner also filed for a preliminary injunction. The application for injunction was voluntarily withdrawn on June 6.

On June 7, the Supreme Court of Chesapeake denied the petition for a writ of certiorari. In a decision on the merits¹, the Court found that “the assembly’s intention in [enacting the Amendment] is to amend how the state allocates so that electoral votes are allocated more equally, and therefore more voters voices are heard.” [Order Denying Cert.](#) Consequently, it held that the Amendment failed to implicate an equal protection right.

The following day, Petitioner moved for reconsideration. On June 15, the motion was denied without dicta.

¹ Although an order denying certiorari ordinarily does not constitute a decision on the merits, it is self-evident from the language of the court below that the instant order is a decision on the merits of Petitioner’s Fourteenth Amendment claim.

ARGUMENT

I. The lower court's application of the Equal Protection Clause is facially incorrect in the face of all precedent and constitutes reversible error.

In holding that the fact that “ensuring more voices are heard” is sufficient to satisfy the constitutional requirement of equal protection, the court below follows the same erroneous line of thinking rejected in a string of cases, namely that an overall increase in group equality can justify discrimination against particular individuals. See *Shelley v. Kraemer*, 334 U.S. 1, 22 (1948), accord *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 295-6 (1978).

The decision of the court below clearly departs from this Court's established equal protection jurisprudence, which requires that “every voter is equal to every other voter in his State when he casts his ballot in favor of one of several competing candidates.” *Gray v. Sanders*, 372 U.S. 368, 380 (1963), accord *Williams v. Rhodes*, 393 U.S. 23, 29-30 (1968). Although this principle, ‘one person, one vote,’ is typically applied to legislative redistricting, see, e.g., *Reynolds v. Sims*, 377 U.S. 533 (1964), it also holds for presidential elections when the legislature has prescribed a democratic election to allocate electoral votes, as Chesapeake has done. See Va. Stat. § 24.2-644.

As this Court has held in *Bush v. Gore*:

When the state legislature vests the right to vote for President in its people, the right to

vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each voter.

531 U.S. at 104.

It is clear that Chesapeake voters do not enjoy equal weight in the presidential election.

Chesapeake's First District has approximately 8,420,000 registered voters, Chesapeake's Second District has approximately 9,294,000 registered voters, and Chesapeake's Third District has approximately 11,020,000 registered voters. There is a 30.9% disparity between the populations of the First and Third Districts, yet the First determines the votes of 31 electors while the Third determines the votes of 32 electors—only one more. The extreme disparity causes serious injury to the interests of individual voters in the Third District and the Commonwealth fails to cite any interest that would justify this severe unequal treatment of electoral votes across districts.

Consequently, the Amendment clearly implicates an important equal protection interest and the Court should review its constitutionality.

II. Summary reversal is appropriate to control the lower court's clearly erroneous application of the law.

This Court has in the past understood “that summary disposition is appropriate to correct clearly

erroneous decisions of lower courts.” Robert L. Stern & Eugene Gressman, *Supreme Court Practice* 352 (10th ed. 2013); see, e.g., *detecting_guru v. GuiltyAir*, 101 M.S.Ct. 105 (2018) (reversing Saca. Supreme Court’s clearly incorrect application of federal copyright law); *Caetano v. Massachusetts*, 136 S.Ct. 1027 (2016) (reversing Mass. Supreme Judicial Court’s decision which plainly contradicted *Heller* and *McDonald* and remanding for further proceedings).

The Chesapeake Supreme Court has clearly erred by failing to consider the equal protection interests of individual voters. The fact that, broadly, “more voters voices are heard,” Order Denying Cert., cannot extinguish the equal protection claims of any individual voter in the Third District whose vote is unfairly weighed less than that of a voter in the First or Second District. The decision of the court below fails to apply nearly a century of clear and nearly indistinguishable precedent from this Court and cannot be reconciled with the doctrine of ‘one person, one vote.’

Petitioner suggests that summary reversal followed by remand would serve to control the lower court’s error while furthering the interests of judicial economy and comity by ensuring that the lower court develops a full trial record before the consideration of an appeal, if any is to be made.

If the Court deems it improvident to issue such order, Petitioner requests that the Court review the Amendment de novo for violations of the Equal Protection Clause as stated above.

CONCLUSION

For the reasons stated above, the Court should grant the petition for a writ of certiorari. Petitioner further suggests that the Court may want to consider summary reversal.

Respectfully submitted,

HURRICANEOF LIES
Counsel to ZeroOverZero101
for President

Dated: June 15, 2020