Syllabus

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

Syllabus

COOPER, GOVERNOR OF NORTH CAROLINA, ET AL. *v.* HARRIS ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

No. 15–1262. Argued December 5, 2016—Decided May 22, 2017

The Equal Protection Clause of the Fourteenth Amendment prevents a State, in the absence of "sufficient justification," from "separating its citizens into different voting districts on the basis of race." *Bethune-Hill* v. *Virginia State Bd. of Elections*, 580 U. S. ___, ___. When a voter sues state officials for drawing such race-based lines, this Court's decisions call for a two-step analysis. First, the plaintiff must prove that "race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district." *Miller* v. *Johnson*, 515 U. S. 900, 916. Second, if racial considerations did predominate, the State must prove that its race-based sorting of voters serves a "compelling interest" and is "narrowly tailored" to that end, *Bethune-Hill*, 580 U. S., at ___. This Court has long assumed that one compelling interest is compliance with the Voting Rights Act of 1965 (VRA or Act). When a State invokes the VRA to justify race-based districting, it must show (to meet the "narrow tailoring" requirement) that it had "good reasons" for concluding that the statute required its action. *Alabama Legislative Black Caucus* v. *Alabama*, 575 U. S. ___, ___. A district court's factual findings made in the course of this two-step inquiry are reviewed only for clear error. See Fed. Rule Civ. Proc. 52(a)(6); *Easley* v. *Cromartie*, 532 U. S. 234, 242 (*Cromartie II*).

This case concerns North Carolina's redrawing of two congressional districts, District 1 and District 12, after the 2010 census. Prior to that redistricting, neither district had a majority black voting-age population (BVAP), but both consistently elected the candidates preferred by most African-American voters. The new map significantly altered both District 1 and District 12. The State needed to add al-

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most 100,000 people to District 1 to comply with the one-person-one-vote principle, and it chose to take most of those people from heavily black areas of Durham—increasing the district's BVAP from 48.6% to 52.7%. The State also reconfigured District 12, increasing its BVAP from 43.8% to 50.7%. Registered voters in those districts (here called "the plaintiffs") filed suit against North Carolina officials (collectively, "the State" or "North Carolina"), complaining of impermissible racial gerrymanders. A three-judge District Court held both districts unconstitutional. It found that racial considerations predominated in the drawing of District 1's lines and rejected the State's claim that this action was justified by the VRA. As for District 12, the court again found that race predominated, and it explained that the State made no attempt to justify its attention to race in designing that district.

Held:

1. North Carolina's victory in a similar state-court lawsuit does not dictate the disposition of this case or alter the applicable standard of review. Before this case was filed, a state trial court rejected a claim by several civil rights groups that Districts 1 and 12 were unlawful racial gerrymanders. The North Carolina Supreme Court affirmed that decision under the state-court equivalent of clear error review. The State claims that the plaintiffs are members of the same organizations that brought the earlier case, and thus precluded from raising the same questions anew. But the State never satisfied the District Court that the alleged affiliation really existed. And because the District Court's factual finding was reasonable, it defeats North Carolina's attempt to argue for claim or issue preclusion here.

The State's backup argument about the proper standard of review also falls short. The rule that a trial court's factual findings are reviewed only for clear error contains no exception for findings that diverge from those made in another court. See Fed. Rule Civ. Proc. 52(a)(6). Although the state court's decision is certainly relevant, the premise of clear error review is that there are often "two permissible views of the evidence." *Anderson* v. *Bessemer City*, 470 U. S. 564, 574. Even assuming that the state court's findings capture one such view, the only question here is whether the District Court's assessment represents another. Pp. 7–10.

2. The District Court did not err in concluding that race furnished the predominant rationale for District 1's redesign and that the State's interest in complying with the VRA could not justify that consideration of race. Pp. 10–18.

(a) The record shows that the State purposefully established a racial target for the district and that the target "had a direct and significant impact" on the district's configuration, *Alabama*, 575 U. S.,

at ___, subordinating other districting criteria. Faced with this body of evidence, the District Court did not clearly err in finding that race predominated in drawing District 1; indeed, it could hardly have concluded anything but. Pp. 10–12.

(b) North Carolina's use of race as the predominant factor in designing District 1 does not withstand strict scrutiny. The State argues that it had good reasons to believe that it had to draw a majority-minority district to avoid liability for vote dilution under §2 of the VRA. *Thornburg* v. *Gingles*, 478 U. S. 30, identifies three threshold conditions for proving such a vote-dilution claim: (1) A "minority group" must be "sufficiently large and geographically compact to constitute a majority" in some reasonably configured legislative district, *id.,* at 50; (2) the minority group must be "politically cohesive," *id.,* at 51; and (3) a district's white majority must "vote[ ] sufficiently as a bloc" to usually "defeat the minority's preferred candidate," *ibid*. If a State has good reason to think that all three of these conditions are met, then so too it has good reason to believe that §2 requires drawing a majority-minority district. But if not, then not.

Here, electoral history provided no evidence that a §2 plaintiff could demonstrate the third *Gingles* prerequisite. For nearly 20 years before the new plan's adoption, African-Americans made up less than a majority of District 1's voters, but their preferred candidates scored consistent victories. District 1 thus functioned as a "crossover" district, in which members of the majority help a "large enough" minority to elect its candidate of choice. *Bartlett* v. *Strickland*, 556 U. S. 1, 13 (plurality opinion). So experience gave the State no reason to think that the VRA required it to ramp up District 1's BVAP.

The State counters that because it needed to substantially increase District 1's population, the question facing the state mapmakers was not whether the *then-existing* District 1 violated §2, but whether the *future* District 1 would do so if drawn without regard to race. But that reasoning, taken alone, cannot justify the State's race-based redesign of the district. Most important, the State points to no meaningful legislative inquiry into the key issue it identifies: whether a new, enlarged District 1, created without a focus on race, could lead to §2 liability. To have a strong basis to conclude that §2 demands race-based measures to augment a district's BVAP, the State must evaluate whether a plaintiff could establish the *Gingles* preconditions in a new district created without those measures. Nothing in the legislative record here fits that description. And that is no accident: The redistricters believed that this Court's decision in *Strickland* mandated a 50%-plus BVAP in District 1. They apparently reasoned that if, as *Strickland* held, §2 does not *require* crossover districts (for

groups insufficiently large under *Gingles*), then §2 also cannot be *satisfied by* crossover districts (for groups meeting *Gingles*' size condition). But, as this Court's §2 jurisprudence makes clear, unless *each* of the three *Gingles* prerequisites is established, "there neither has been a wrong nor can be a remedy." *Growe* v. *Emison*, 507 U. S. 25, 41. North Carolina's belief that it was compelled to redraw District 1 (a successful crossover district) as a majority-minority district thus rested on a pure error of law. Accordingly, the Court upholds the District Court's conclusion that the State's use of race as the predominant factor in designing District 1 does not withstand strict scrutiny. Pp. 12–18.

3. The District Court also did not clearly err by finding that race predominated in the redrawing of District 12. Pp. 18–34.

(a) The district's legality turns solely on which of two possible reasons predominantly explains its reconfiguration. The plaintiffs contended at trial that North Carolina intentionally increased District 12's BVAP in the name of ensuring preclearance under §5 of the VRA. According to the State, by contrast, the mapmakers moved voters in and out of the district as part of a "strictly" political gerrymander, without regard to race. After hearing evidence supporting both parties' accounts, the District Court accepted the plaintiffs'.

Getting to the bottom of a dispute like this one poses special challenges for a trial court, which must make "'a sensitive inquiry'" into all "'circumstantial and direct evidence of intent'" to assess whether the plaintiffs have proved that race, not politics, drove a district's lines. *Hunt* v. *Cromartie*, 526 U. S. 541, 546 (*Cromartie I*). This Court's job is different—and generally easier. It affirms a trial court's factual finding as to racial predominance so long as the finding is "plausible"; it reverses only when "left with the definite and firm conviction that a mistake has been committed." *Anderson,* 470 U. S., at 573–574. In assessing a finding's plausibility, moreover, the Court gives singular deference to a trial court's judgments about the credibility of witnesses. See Fed. Rule Civ. Proc. 52(a)(6). Applying those principles here, the evidence at trial—including live witness testimony subject to credibility determinations—adequately supports the District Court's conclusion that race, not politics, accounted for District 12's reconfiguration. And contrary to the State's view, the court had no call to dismiss this challenge just because the plaintiffs did not proffer an alternative design for District 12. Pp. 18–21.

(b) By slimming the district and adding a couple of knobs to its snakelike body, North Carolina added 35,000 African-Americans and subtracted 50,000 whites, turning District 12 into a majority-minority district. State Senator Robert Rucho and State Representative David Lewis—the chairs of the two committees responsible for

preparing the revamped plan—publicly stated that racial considerations lay behind District 12's augmented BVAP. Specifically, Rucho and Lewis explained that because part of Guilford County, a jurisdiction covered by §5 of the VRA, lay in the district, they had increased the district's BVAP to ensure preclearance of the plan. Dr. Thomas Hofeller, their hired mapmaker, confirmed that intent. The State's preclearance submission to the Justice Department indicated a similar determination to concentrate black voters in District 12. And, in testimony that the District Court found credible, Congressman Mel Watt testified that Rucho disclosed a majority-minority target to him in 2011. Hofeller testified that he had drawn District 12's lines based on political data, and that he checked the racial data only *after* he drew a politics-based line between adjacent areas in Guilford County. But the District Court disbelieved Hofeller's asserted indifference to the new district's racial composition, pointing to his contrary deposition testimony and a significant contradiction in his trial testimony. Finally, an expert report lent circumstantial support to the plaintiffs' case, showing that, regardless of party, a black voter in the region was three to four times more likely than a white voter to cast a ballot within District 12's borders.

The District Court's assessment that all this evidence proved racial predominance clears the bar of clear error review. Maybe this Court would have evaluated the testimony differently had it presided over the trial; or then again, maybe it would not have. Either way, the Court is far from having a "definite and firm conviction" that the District Court made a mistake in concluding from the record before it that racial considerations predominated in District 12's design. Pp. 21–28.

(c) Finally, North Carolina argues that when race and politics are competing explanations of a district's lines, plaintiffs must introduce an alternative map that achieves a State's asserted political goals while improving racial balance. Such a map can serve as key evidence in a race-versus-politics dispute, but it is hardly the *only* means to disprove a State's contention that politics drove a district's lines. In this case, the plaintiffs' introduction of mostly direct and some circumstantial evidence gave the District Court a sufficient basis, sans any map, to resolve the race-or-politics question. Although a plaintiff will sometimes need an alternative map, as a practical matter, to make his case, such a map is merely an evidentiary tool to show that an equal protection violation has occurred; neither its presence nor its absence can itself resolve a racial gerrymandering claim.

North Carolina claims that a passage of this Court's opinion in *Cromartie II* makes an alternative map essential in cases like this

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