Caselaw Definitions of "Compact" and "Compactness"
and Other Terms Relating to Legislative Districts

Highlights

The Jackson County Charter provides that county legislative districts must be "compact, of contiguous territory, and as nearly of contiguous population as is practicable." Art. II, sec. 18.

The Missouri Supreme Court has defined some of these terms in its caselaw.

- Definition
  - Compact
    - "…the word 'compact' means 'closely united,' and that the provision that districts shall be formed of contiguous and compact territory means that the counties or subdivisions of counties (when counties may be divided) when combined to form a district, must not only touch each other, but must be closely united territory. The requirement of contiguousness was contained in the Constitution of 1848; and it was evidently the intention of the people, in adding the requirement of compactness in the Constitution of 1870, to guard, as far as practicable, under the system of representation adopted, against a legislative evil, commonly known as the 'gerrymander,' and to require the Legislature to form districts, not only of contiguous, but of compact or closely united, territory." State ex rel. Barrett v. Hitchcock, 241 Mo. 433, 146 S.W. 40, 61 (1912)
  - As may be (as is)
    - The "as may be" standard also recognizes that there are other recognized factors that affect the ability to draw district boundaries with closely united territory. These factors include the impact of the standards for contiguous territory and population equality. *See* Mo. Const. art. III, sec. 45; *see also* Pearson v. Koster, 359 S.W.3d 35, 38 (Mo. 2012)

- Test
  - The test to determine adherence to the phrase "as compact… as may be" involves a determination of whether there is a departure from the principle of compactness in the challenged district and, if there are minimal and practical deviations, whether the district is nonetheless "as compact... as may be" under the circumstances. Pearson v. Koster, 367 S.W.3d 36 (Mo. 2012)
  - Because the word "compact" does not refer solely to physical shape or size, a visual observation, although relevant, is not the decisive factor in determining whether a district departs from the principle of compactness. In fact, scholars have recognized that "compactness" is a vague standard and have developed various statistical measures to be utilized in determining compactness, as shown by two articles that were admitted into evidence. One article states that "multiple measures should be used whenever possible," and that there is no threshold level that can be shown by statistics. Richard G. Niemi, et al., *Measuring Compactness and the Role of a Compactness Standard in a Test for Partisan and Racial Gerrymandering,* 52 J. Pol. 1155, 1176–77 (1990).

"Possible"

- By operation of the Supremacy Clause, the nonpartisan reapportionment commission must comply with the Equal Protection Clause of the United States Constitution and the Voting Rights Act in determining what population equality is "possible." The Equal Protection Clause of the Fourteenth Amendment protects against racial gerrymandering in reapportioning districts. Shaw v. Reno, 509 U.S. 630, 641, 113 S.Ct. 2816, 125 L.Ed.2d 511 (1993).
- The definition of "being within or up to the limits of one's ability or capacity as determined by nature, authority, circumstances, or other controlling factors," WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1771 (1993), permits compliance with the mandatory requirements of federal law and is consistent with use of "possible" as a synonym for "practicable" in the dictionary definition set out above. Johnson v. State, 366 S.W.3d 11, 27 (Mo. 2012)
- In this regard, in determining the meaning of "possible" for the reapportionment of House districts, this Court also considers the identical language used for the reapportionment of Senate districts. Mo. Const. art. III, sec. 7 says the commission "shall establish each district so that the population of that district shall, *as nearly as possible, equal* that figure" yet also says that, where county lines must be crossed in the case of a multi-district county, the resulting cross-county district must be "*as nearly equal as practicable* in population." (emphasis added). Mo. Const. art. III, sec. 5, similarly to its House counterpart, says that "the state shall be divided into convenient districts of contiguous territory, as compact and nearly equal in population as may be." The use of all three terms "practicable," "possible" and "as may be" in sections 5 and 7 of article III in referring to the population requirement for Senate districts, along with the fact that "practicable" is a synonym of "possible," WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1771 (1993), both reinforce the conclusion that the term "possible" is not used in the strict sense of equal to the absolute degree. Johnson v. State, 366 S.W.3d 11, 27 (Mo. 2012)
- As provided in these cases, the language used in the constitutional requirements implicitly permits consideration in the redistricting process of population density; natural boundary lines; the boundaries of political subdivisions, including counties municipalities, and precincts; and the historical boundary lines of prior redistricting maps. This Court recently affirmed the continued propriety of recognized, unenumerated factors in *Pearson v. Koster. See* 359 S.W.3d at 40 (recognizing the importance of preservation of "the integrity of the existing lines of our various political subdivisions." despite not expressly stated as a separate consideration in the constitution). Johnson v. State, 366 S.W.3d 11, 28–29 (Mo. 2012)
- As with this Court, the United States Supreme Court recognizes that legitimate considerations include recognition of natural boundary lines, recognition of historical district boundary lines, and respect for boundaries of political subdivisions. Swann v. Adams, 385 U.S. 440, 444,

87 S.Ct. 569, 17 L.Ed.2d 501 (1967); Karcher v. Daggett, 462 U.S. 725, 740, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983).

- The Supreme Court also identifies other factors that may justify variances, which this Court does not recognize, such as maintaining communities of interest and avoiding contests between incumbents. Karcher v. Daggett, 462 U.S. at 740, 103 S.Ct. 2653.