



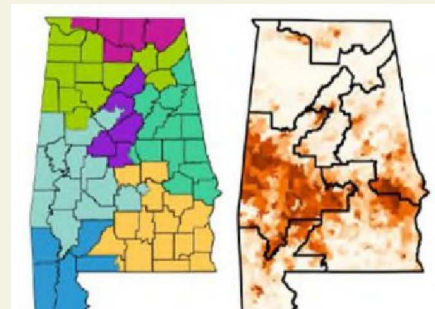
The Case of Gerrymandering

The Facts of Allen v. Milligan:

Unless prohibited by state law, the process most often used for the redrawing of congressional districts is the **gerrymander**. When districts are gerrymandered, the party in control of the state legislature will create districts that benefit their electoral chances over that of the other party.

When drawing congressional districts, state legislatures must follow these constitutional, federal and state regulations:

- all congressional districts must be as equal in population as possible,
- that they steer clear of intentional racial discrimination when drawing these maps,
- that the drawn districts are compact and not overly large, and
- that the district is contiguous in nature, meaning that the lines making up the district continuously touch one another



The map on the left reflects the new districts. The darker shading in the map on the right reflects voting precincts with a higher Black voting-age population share

At issue in this case is whether or not the Alabama legislature steered clear of intentional racial discrimination when it **redrew** its congressional map for its seven seats in the U.S. House of Representatives following the 2020 census. Evan Milligan, the Executive Director of **Alabama Forward**, along with other registered voters and state organizations think not, and challenged the new map in federal court, claiming it “[split] two of the State’s principal majority-Black communities of interest—the Black Belt and the City of Montgomery” and “prioritized keeping together White people of ‘French and Spanish colonial heritage’ in Baldwin and Mobile Counties” ([Brief for the Appellees](#) pg. 1).



President Lyndon Johnson signs the Voting Rights Act of 1965

The challengers argue that the map illegally **gerrymanders** Black voters into one single district while it divides other pockets of Black voters across multiple districts. They allege that this creates a situation in which Black voters are denied an “equal opportunity to participate in the political process and to elect representatives of their choice” ([Brief for the Appellees](#), pg. 1) They claim the Alabama legislature engaged in “voter dilution under [Section 2 of the [Voting Rights Act of 1965](#)] and racial gerrymandering and intentional discrimination under the [Fourteenth Amendment](#)” ([Brief for the Appellees](#), pg. 13).

The U.S. District Court for the Northern District of Alabama Southern Division **agreed** and issued an **injunction** that ordered the Alabama legislature to draw a new map. Alabama requested that the order be put on hold while it appealed, but the request was **denied**. Alabama appealed directly to the U.S. Supreme Court in an attempt to freeze the district court’s injunction until their case could be heard. On February 7, 2022, in a 5-4 **decision**, the Court put the lower court’s ruling on hold and allowed Alabama to proceed with using the new map until a merits decision could be rendered. The Court heard oral argument in this case on October 4, 2022.

The Court is being asked to address one question:

1. Does Alabama’s 2021 redistricting plan for its seven U.S. House seats violate Section 2 of the Voting Rights Act? ([Brief for the Appellants](#), pg.i)

Supreme Court Precedent Used in this Case:

- [Thornburg v Gingles](#) (1986) - The Court unanimously ruled that North Carolina’s redistricting plan violated Section 2 of the Voting Rights Act by unlawfully discriminating against cohesive blocs of Black voters by diluting their voting strength and preventing them from electing the candidates of their choosing.
- [Shaw v Reno](#) (1993) - The Court ruled that race may be a factor in the creation of congressional districts, but that must be balanced with other considerations so as to not violate the Equal Protections Clause of the 14th Amendment and comply with the Voting Rights Act of 1965.
- [Bush v. Vera](#) (1996) - The Court ruled racially gerrymandered congressional districts, where race alone was the predominant factor in its creation, is a violation of the 14th Amendment’s Equal Protection clause.
- [League of United Latin American Citizens v. Perry](#) (2006) - The Court ruled that the Texas legislature’s redistricting map was a violation of the Voting Rights Act of 1965, and not The Constitution, because Texas District 23 was drawn to dilute Latino voters’ strength and their ability to elect a candidate of their choosing.
- [Bartlett v Strickland](#) (2009) - The Court ruled that Section 2 of the Voting Rights Act [prevention of voter dilution] only applies if a minority group makes up a mathematical majority in an area that would require a minority-majority legislative district be created.

To Think and To Do: In the landmark opinion of [Reynolds v Sims](#) (1964), Chief Justice Earl Warren wrote, “as long as ours is a representative form of government, and our legislatures are those instruments of government elected directly by and directly representative of the people, the right to elect legislators in a free and unimpaired fashion is a bedrock of our political system.” Given Chief Justice Warren’s words and the precedents used in this case, how do you think the Supreme Court will rule? Explain.

to **Learn MORE** about this case, view the [Brief for the Appellant](#), John H. Merrill and the [Brief for the Appellees](#), Evan Milligan.