



Written by [Steve Byas](#) on June 23, 2018

Supreme Court Rejects Challenge to Wisconsin's Legislative Districts

In a stunning defeat for those who wanted to overturn Wisconsin's legislative district plan adopted following the 2010 federal decennial census, the U.S. Supreme Court ruled 9-0 last week that the plaintiffs in *Gill v. Whitford* have not demonstrated standing. Standing is a legal standard required to bring a case to court, by demonstrating that the person has suffered harm, or as the justices put it, "concrete and particularized injuries."



The plaintiff, University of Wisconsin Professor William Whitford, had argued that the Wisconsin Legislature's redistricting maps had purposely diluted Democratic-registered voters so that they would be "wasted" votes — organizing a small number of districts to pack in a large number of Democratic voters to limit the number of seats the party could win.

But the Court ruled that Whitford could not demonstrate individual harm, and sent the case back to District Court to give him another shot at proving that he had so suffered. Justice Clarence Thomas concurred in the ruling for the defendant (the State of Wisconsin), but wrote a separate opinion taking issue with the decision of the Court to let Whitford have a mulligan.

"I do not join Part III," Thomas wrote, "which gives the plaintiffs another chance to prove their standing on remand. When a plaintiff lacks standing, our ordinary practice is to remand the case with instructions to dismiss for lack of jurisdiction." No doubt sensing some partisan favoritism in this case, Thomas added, "The Court departs from our usual practice because this is supposedly 'not the usual case.' But there is nothing unusual about it."

Actually it a pretty typical court case in the modern era: the Left attempts to win through the courts what it has failed to win at the ballot box. When reduced to its essence, the present arguments over congressional redistricting, as well as this case with legislative redistricting in Wisconsin, the stark reality is that the Left simply does not like our form of government, or even what our founding documents considered the very purpose of government.

Think Progress, a strongly left-wing website, wrote in March why "progressives" on the Left are so active in redistricting cases. Put bluntly, they want Democrats to win more seats in Congress and in the state legislatures, and they desire to alter our form of government, transforming us from a federal republic into a unitary democracy.

According to the article, a report by the Brennan Center for Justice, a left-wing think tank, asserts that congressional races are "heavily rigged in favor of Republicans." The upshot of their analysis is that, to win a bare majority of seats in the U.S. House, Democrats "would likely have to win the national popular vote by nearly 11 points."

Of course, members of the House of Representatives are not selected by a "national popular vote." But,



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as we have predicted in previous articles, while many have focused on the “national popular vote” in the *presidential* race, with many, mostly on the Left, arguing that the Electoral College system is “undemocratic,” the reality is that progressives do not like our system of choosing members of the House and Senate, either.

Progressives at least as far back as then-Princeton Professor Woodrow Wilson have expressed disgust at the legislative system as it was established in our Constitution, arguing that a parliamentary system such as that used by the United Kingdom would be superior.

In the United States, our Constitution provides that we use “single-member districts.” This means that the national vote has no impact on what a specific congressional district decides. Each district’s vote has no impact on the outcome of the other’s election. In the United States, a person is elected to represent the people of his or her district, not the country as a whole, and certainly not a particular party.

In this particular case, Wisconsin’s Solicitor General Misha Tseytlin warned the justices that should they side with the plaintiffs against Wisconsin, “redistricting would become heavily influenced by social science metrics, and that it would shift districting from elected public officials to the courts.” Of course, that is exactly what the Left desires.

Michael Barone responded to the argument that Democratic votes (mainly in large urban areas and liberal college towns) are “wasted,” saying, “There are some obvious problems here. Some candidates, even in this straight-ticket era, run well ahead of their parties. And over the 10-year period between censuses, some voters switch parties.” One could add, and some voters move and others die.

“More fundamentally,” Barone noted, “requiring courts to attempt to equalize each party’s number of ‘wasted’ votes amounts to saying the Constitution requires proportionate representation of the sort specifically imposed in many countries.”

Countries that use a proportional system include Sweden, Russia, and Denmark. Perhaps those on the Left would prefer that the United States be more like those countries, but those of us who think the Constitution of the United States got it right, disagree.

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