Note

Judicial Embrace of Racial Gerrymandering Cases

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This Note seeks to explore the way courts engage with claims of racial gerrymandering. The Supreme Court has described judicial oversight of redistricting as an "unwelcome obligation." These complex cases are both highly politicized and often require the Court to engage with the mathematical analysis underscoring arguments about the traditional districting criteria of compactness—an area where the courts lack expertise. Do these two factors influence courts to avoid deciding gerrymandering cases on the merits? Two recent Supreme Court decisions removed previously erected barriers to plaintiffs bringing gerrymandering claims, arguably inviting increased judicial oversight of redistricting. Moreover, a survey of 141 post-2010 redistricting lawsuit decisions revealed none of the expected judicial aversion to grappling with racial gerrymandering claims. In line with recent decisions of the Supreme Court, lower courts resolved the majority of the redistricting litigation brought since the 2010 census on the merits, rather than on procedural grounds.

Each of the two factors for avoidance was counterbalanced by other pressures on the courts. First, compactness is of decreasing importance in the Court's analysis, thus the factor of "lack of expertise" exerts less influence. Second, democratic ideas about protecting the right to vote seem to counterbalance worries about tarnishing the court's legitimacy by engaging in these highly political cases. Many of the decisions surveyed expressed a cognizance of the duty of the courts to safeguard voting equality. As a result, courts do not shy away from the merits of racial gerrymandering cases—they embrace them.

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INTRODUCTION

Gerrymandering is as old as America (if not older), but remains an area of developing law today. Modern technology gives legislatures access to a mass of data points that they use to draw district maps more precisely than ever. In two 2017 Supreme Court cases, the Court reviewed allegations that congressional districts were unconstitutional racial gerrymanders.[1] In its holdings, the Court removed barriers to plaintiffs bringing racial gerrymandering cases that had been erected in prior decisions. In this way, the Supreme Court has arguably invited increased judicial oversight in racial gerrymandering cases. This Note seeks to explore whether courts want to see more gerrymandering cases on their dockets. I focus on two factors that might cause courts to be inclined to avoid deciding gerrymandering cases on the merits: first, the lack of judicial expertise in the

1. *See* Cooper v. Harris, 137 S. Ct. 1455, 1463 (2017); Bethune-Hill v. Va. State Bd. of Elections, 137 S. Ct. 788, 801 (2017).

mathematical analysis underscoring arguments about compactness; second, the highly politicized nature of gerrymandering lawsuits.

I surveyed 141 redistricting lawsuits filed following the 2010 census to see how many cases were decided on the merits and how many were decided on procedural grounds. I found that the "lack of expertise" factor exerts less influence than expected because compactness is of decreasing importance in the courts' analysis. Regarding the second factor, it seems that democratic ideas about protecting the right to vote counterbalance concerns about tarnishing the courts' legitimacy by engaging with these political cases. As a result, courts are not shying away from the merits of racial gerrymandering cases.

The scope of this inquiry is limited to racial gerrymandering claims, in part, because the future of partisan gerrymandering is unclear.[2] The Supreme Court has been clear, though, that claims of racial gerrymandering are justiciable.[3]

I. BACKGROUND

A. HISTORY AND PREVALENCE OF GERRYMANDERING

"The Constitution entrusts States with the job of designing congressional districts. But it also imposes an important constraint: A State may not use race as the predominant factor in drawing district lines unless it has a compelling reason."[4]

The United States has a long history of political manipulation of congressional districts as a means of gaining a political advantage or otherwise diluting the voting power of minority communities.[5] While the quest for political advantage has, perhaps, always motivated politicians who draw district lines, it should be subordinate to traditional districting principles such as compactness, contiguity of territory, and respect for communities of interest.

The traditional districting principle of compactness holds that an ideal district has a compact, simple shape. Most states have placed some kind of

2. Indeed, the recent retirement of Justice Anthony M. Kennedy "Could Threaten Efforts to End Partisan Gerrymandering." Michael Wines, *Kennedy's Retirement Could Threaten Efforts to End Partisan Gerrymandering*, N.Y. TIMES (June 30, 2018), https://www.nytimes.com/2018/06/30/us/kennedy-scotus-gerrymandering.html. The Supreme Court had an opportunity to decide whether partisan gerrymandering claims are non-justiciable under the political question doctrine in 2018. *See* Gill v. Whitford, 138 S. Ct. 1916 (2018). Rather than address that question, the Court unanimously held that the plaintiffs had not established standing, and remanded the case for further proceedings. *Id.* at 1923. Two additional cases raised the same question in 2019, neither of which has been decided as of this writing. *See* Lamone v. Benisek, No. 18-726 (U.S. filed Dec. 6, 2018); Rucho v. Common Cause, No. 18-422 (U.S. filed Oct. 3, 2018).

3. Davis v. Bandemer, 478 U.S. 109, 119 (1986) ("Our past decisions . . . make clear that . . . racial gerrymandering presents a justiciable equal protection claim.").

4. *Cooper*, 137 S. Ct. at 1463.

5. *See generally* ELMER C. GRIFFITH, THE RISE AND DEVELOPMENT OF THE GERRYMANDER (1907); Stephen Ansolabehere & Maxwell Palmer, *A Two Hundred-Year Statistical History of the Gerrymander*, 77 OHIO ST. L.J. 741 (2016) (assessing the compactness of every congressional district in United States history).

explicit compactness requirement on their redistricting processes (by statute, or in some cases by amendment to the state constitution), but not all do.[6] The Supreme Court in *Shaw v. Reno* emphasized that the United States Constitution does not impose a requirement of compactness per se, but that "bizarre" district shapes raise a red flag in conjunction with allegations of impermissible race-conscious districting.[7] Indeed, "dramatically irregular shapes may have sufficient probative force to call for an explanation."[8] In many of the lawsuits examined here, the explanation is alleged to be racial gerrymandering.

In his 1907 dissertation tracing the development of gerrymandering, Elmer Griffith defines a gerrymander as "the formation of election districts, on another basis than that of single and homogeneous political units as they existed previous to the apportionment, with boundaries arranged for partisan advantage."[9] The term "gerrymander" was coined in 1812 in reference to what was at the time a particularly egregious example of the manipulation of district lines into a non-compact shape.[10] A Boston newspaper printed a political cartoon comparing the shape of the district to a salamander, labeling it a "Gerry-mander" after Massachusetts Governor Elbridge Gerry, who approved the redistricting bill.[11] A year later, the same newspaper noted that the word was by then a universal synonym for deception, commenting that "[w]hen a man has been swindled out of his rights by a villain, he says he has been gerrymandered."[12]

6. *See* Richard H. Pildes & Richard G. Niemi, *Expressive Harms, "Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After* Shaw v. Reno, 92 MICH. L. REV. 483, 529 (1993).

7. 509 U.S. 630, 647 (1993).

8. Karcher v. Daggett, 462 U.S. 725, 755 (1983) (Stevens, J., concurring).

9. GRIFFITH, *supra* note 5, at 21.

10. *See id.* at 16–17, 62.

11. *Id.* at 16–18.

12. *Id.* at 19 (internal quotation marks omitted) (quoting BOS. GAZETTE, Apr. 8, 1813).

FIGURE I:

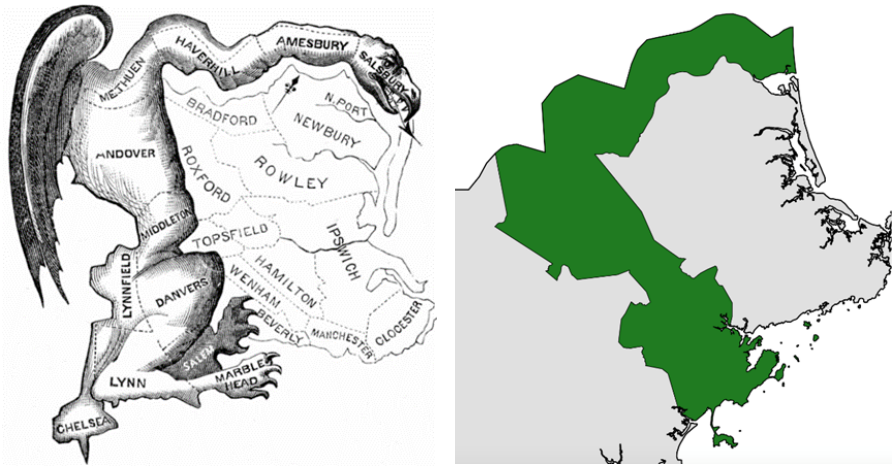

Figure I. Left: original Gerry-mander Cartoon; right: actual map of the Massachusetts district.[13]

There are three common gerrymandering techniques for diluting minority voting strength: "cracking," "packing," and "stacking."[14] "Cracking" occurs when legislators draw district lines to break up concentrations of one type of voter into multiple districts so that the group cannot achieve a majority in any of their districts.[15] "Packing" occurs when legislators concentrate as many voters of a particular type into as few districts as possible to reduce their overall influence by minimizing the total number of districts in which that voting group can achieve a majority.[16] "Stacking" occurs when concentrations of one type of voter are drawn into the same district as a larger concentration of another type of voter, so that the targeted group cannot attain a majority.[17]

There is no simple or universally accepted way to measure whether a district is compact.[18] Mathematically, the most compact shape is a circle,[19] but

13. Ansolabehere & Palmer, *supra* note 5.

14. AM. CIVIL LIBERTIES UNION, EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT REDISTRICTING 6, 7 (2001), http://www.aclu.org/FilesPDFs/redistricting_manual.pdf.

15. *Id.*

16. *Id.*

17. *Id.*

18. *See* 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, 1157 (1990).

19. *See* Joseph E. Schwartzberg, *Reapportionment, Gerrymanders, and the Notion of "Compactness,"* 50 MINN. L. REV. 443, 444 (1966) ("No other geometric figure has as low a ratio between its perimeter and area.").

the United States physically cannot be divided into circular districts so some deviation is necessary. Popular methods for measuring compactness quantify deviations from the ideal shape, but the question remains, "how compact is compact enough?"

In a 2016 study, Ansolabehere and Palmer offer the original gerrymander as a standard for "what constitutes a minimum acceptable level of compactness."[20] As they observed, "significant deviations from compactness are taken as indicative of other forms of political manipulation of election laws, such as favoring one of the political parties or interfering with the representation of one social group or interest."[21] Thus, the less compact a district is, the more likely it has been impermissibly gerrymandered. Ansolabehere and Palmer use the original gerrymander as the benchmark against which to measure other districts, arguing that if a district is less compact than the original gerrymander, it too was gerrymandered.[22] After all, "[i]f there is a district whose shape defines a gerrymander, it is the original beast itself."[23]

Ansolabehere and Palmer use four popular methods for calculating compactness: Reock, convex hull, Polsby-Popper, and Schwartzberg.[24] These methods are commonly used by litigants and courts in redistricting suits.[25] Reock and convex hull both quantify dispersion. The Reock measure is the ratio of the area of a district to the area of the minimum bounding circle that encloses that district.[26] The convex hull ratio compares the area of the district to the minimum bounding convex polygon.[27] The other two methods measure perimeter, quantifying how contorted a district's borders are. The Polsby-Popper measure is the ratio of the area of the district to the area of a circle with the same perimeter.[28] Schwartzberg is the ratio of the perimeter of the district to the perimeter of a circle with the same area.[29] Experts suggest that a combination of methods be used, because "no one district . . . has all of the characteristics of compactness."[30]

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20. Ansolabehere & Palmer, *supra* note 5, at 742.

21. *Id.*

22. *Id.* at 742–43.

23. *Id.* at 743.

24. *Id.* at 746.

25. *See, e.g.*, Cooper v. Harris, 137 S. Ct. 1455, 1475 (2017) (referring to a district's Reock Score as "expert-speak" for compactness).

26. Ernest C. Reock, Jr., *Measuring Compactness as a Requirement of Legislative Apportionment*, 5 MIDWEST J. POL. SCI. 70, 71 (1961).

27. AZAVEA, REDRAWING THE MAP ON REDISTRICTING 2010: A NATIONAL STUDY 10 (2009), https://cdn.azavea.com/com.redistrictingthenation/pdfs/Redistricting_The_Nation_White_Paper_2010.pdf.

28. Daniel D. Polsby & Robert D. Popper, *The Third Criterion: Compactness as a Procedural Safeguard Against Partisan Gerrymandering*, 9 YALE L. & POL'Y REV. 301 (1991).

29. Schwartzberg, *supra* note 19.

30. Niemi et al., *supra* note 18, at 1177.

FIGURE II:

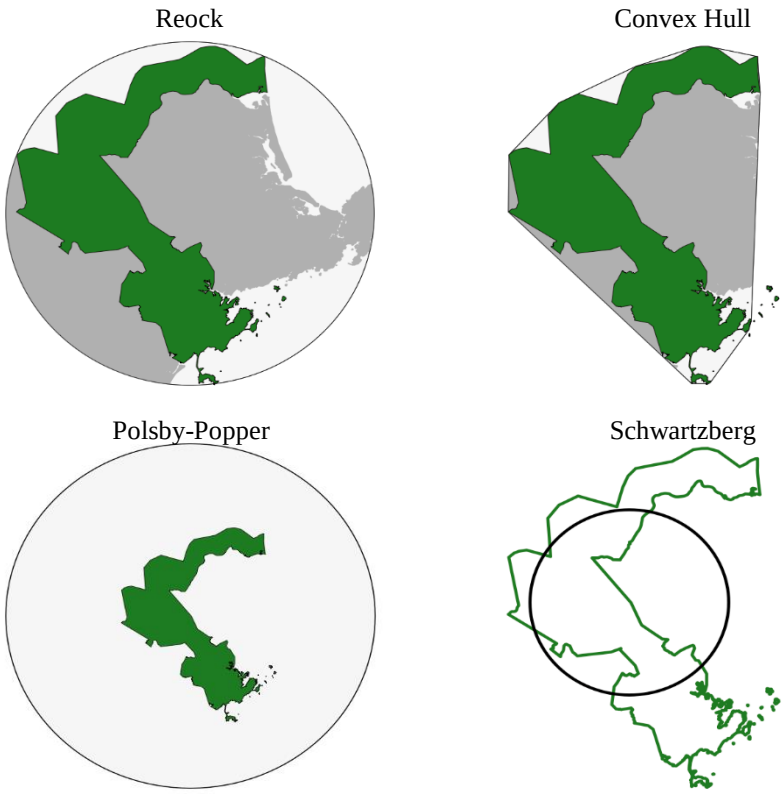

Figure II. Visual representation of analysis of original gerrymander under each of the four methods.[31]

Using the original gerrymander as the benchmark, and employing these four measures of compactness, Ansolabehere and Palmer analyzed every congressional district in United States history.[32] They concluded that twenty percent of all United States districts ever drawn are less compact than the original gerrymander, with the frequency of non-compact districts increasing "somewhat since the mid-1960s" due to changes in legal rules for redistricting.[33] This suggests that non-compact districts are quite common, and that gerrymandering has long been a prevalent practice.

31. Ansolabehere & Palmer, *supra* note 5, at 751.
32. *Id.* at 746.
33. *Id.* at 743.

B. LEGAL FRAMEWORK FOR RESOLVING RACIAL GERRYMANDERING SUITS

Gerrymandering is not illegal per se. Under the U.S. Constitution, state legislatures have "the initial power to draw districts for federal elections."[34] The Constitution reserves to state legislatures the power to prescribe "The Times, Places and Manner of holding Elections for Senators and Representatives," subject to Congress's authority to "make or alter such Regulations, except as to the Places of [choosing] Senators."[35]

The United States Constitution has been interpreted to impose two important limitations on those who draw district lines. The first constitutional requirement on redistricting is the "one person, one vote" standard. In a line of cases culminating in 1964, the Supreme Court interpreted Article 1 Section 2 and the Fourteenth Amendment's Equal Protection Clause to require equality of voting power between citizens within a state.[36] Thus, state districts must have as close to equal populations as practicable, to avoid diluting the voting power of residents in overpopulated districts or enhancing the voting power of residents in underpopulated districts.[37] After 1964, each state must adjust their district map if the decennial census reveals a significant shift in population across district lines.[38]

Second, the state legislators must exercise their districting power in conformity with the Equal Protection Clause's "central mandate [of] racial neutrality in governmental decisionmaking."[39] This means that "effort[s] to separate voters into different districts on the basis of race" must satisfy strict scrutiny.[40] To trigger strict scrutiny, it is necessary that legislators considered race in making redistricting decisions, but consideration alone is not sufficient.[41] There must also be direct evidence of legislative discriminatory intent or circumstantial evidence of intent, such as a failure to follow traditional districting principles.[42]

Another important source of law governing racial gerrymandering is the Voting Rights Act of 1965. Sections 2 and 5 of the Voting Rights Act prohibit the use of voting practices or procedures, including redistricting plans, that dilute the power of minority voters on the basis of race.[43] Section 2 provides that a voting practice is unlawful if it "results" in discrimination—if, based on the

34. Vieth v. Jubelirer, 541 U.S. 267, 275 (2004) (plurality opinion) (citing U.S. CONST. art. 1, § 4).

35. U.S. CONST. art. I, § 4.

36. Gray v. Sanders, 372 U.S. 368, 380–81 (1963); Wesberry v. Sanders, 376 U.S. 1, 7–9 (1964); Reynolds v. Sims, 377 U.S. 533, 568 (1964).

37. *Id.*

38. *See Reynolds*, 377 U.S. at 583–84.

39. Miller v. Johnson, 515 U.S. 900, 904 (1995).

40. Shaw v. Reno, 509 U.S. 630, 649, 653 (1993).

41. *Miller*, 515 U.S. at 916.

42. *Id.*

43. 52 U.S.C. § 10301 (2012) ("Section 2"); *id.* § 10304 ("Section 5").

totality of the circumstances, it provides minorities with "less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice."[44]

The Supreme Court has identified three factors to consider when the racial makeup of an electoral district is challenged under Section 2, known as the "*Gingles* factors": (1) whether "the minority group . . . is sufficiently large and geographically compact to constitute a majority in a single-member district;" (2) whether "the minority group . . . is politically cohesive," i.e., tends to vote as a bloc; and (3) whether "the white majority votes sufficiently as a bloc to enable it—in the absence of special circumstances . . . usually to defeat the minority's preferred candidate."[45] "If a State has good reason to think that all the '*Gingles* preconditions' are met, then so too it has good reason to believe that [section] 2 requires drawing a majority-minority district. But if not, then not."[46] The court must decide whether, in light of the *Gingles* factors and the totality of the circumstances, a challenged practice dilutes minority voting strength.[47]

A lawsuit alleging racial gerrymandering typically implicates the Fourteenth Amendment and Section 2 of the Voting Rights Act.[48] When a voter sues state officials for drawing race-based lines, the court employs 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."[49] And second, if racial considerations predominated, the map must survive strict scrutiny—the State must prove that its race-based sorting of voters serves a "compelling interest" and is "narrowly tailored" to that end.[50]

Challenges to the constitutionality of congressional districts are tried by a "district court of three judges," where at least one of the three is a Circuit Court judge.[51] From there, the parties have a right of direct appeal to the Supreme Court.[52] The district court's findings of fact—most notably, as to whether racial considerations predominated in drawing district lines—are subject to review only for clear error.[53] The Supreme Court may not reverse just because it "would

44. *Id.* § 10301.

45. Thornburg v. Gingles, 478 U.S. 30, 50–51 (1986).

46. Cooper v. Harris, 137 S. Ct. 1455, 1470 (2017) (citing Bush v. Vera, 517 U.S. 952, 978 (1996) (plurality)).

47. Johnson v. De Grandy, 512 U.S. 997 (1994).

48. Evan Gerstmann & Christopher Shortell, *The Many Faces of Strict Scrutiny: How the Supreme Court Changes the Rules in Race Cases*, 72 U. PITTSBURG L. REV. 1, 6 (2010).

49. Miller v. Johnson, 515 U.S. 900, 916 (1995).

50. Bethune-Hill v. Va. State Bd. of Elections, 137 S. Ct. 788, 801 (2017).

51. 28 U.S.C. § 2284(a), (b)(1) (2012).

52. *Id.* § 1253.

53. *See* FED. R CIV. P. 52(a)(6); Easley v. Cromartie, 532 U.S. 234, 242 (2001) (*Cromartie II*).

have decided the [matter] differently."[54] "A finding that is 'plausible' in light of the full record—even if another is equally or more so—must govern."[55]

C. POTENTIAL REASONS FOR JUDICIAL AVOIDANCE OF GERRYMANDERING CASES

This Note examines two integral features of racial gerrymandering cases that might influence courts to avoid deciding gerrymandering cases on the merits: (1) complexity and lack of judicial expertise, and (2) the politically-charged nature of redistricting litigation.

First, gerrymandering cases are undeniably complex. The Supreme Court has described gerrymandering cases as raising "the most complex and sensitive issues this Court has faced in recent years."[56] The redistricting process itself involves many competing interests advocated by competing parties, overlaid on rapidly advancing technology to assist in map-drawing using a high volume of data points. "The standards of [the Voting Rights Act] are complex; they often require evaluation of controverted claims about voting behavior; the evidence may be unclear; and . . . judges may disagree about the proper outcome."[57]

Additionally, redistricting cases raise issues in which courts lack expertise—they often require the court to do math. A district's compactness can play a key evidentiary role, but compactness arguments turn on mathematical calculations. Lawyers, including judges, are notoriously, "peculiarly averse to math and science."[58] As Judge Posner observed, "[t]he discomfort of the legal profession, including the judiciary, with science and technology is not a new phenomenon. Innumerable are the lawyers who explain that they picked law over a technical field because they have a 'math block' . . . ."[59]

The second factor is that gerrymandering cases are inherently political. The Supreme Court has described judicial oversight of redistricting as an "unwelcome obligation."[60] Because redistricting is a task constitutionally assigned to state legislatures, courts are wary that any overstep by the judiciary will offend notions of separation of powers and federalism. As Justice Alito recently protested in his *Cooper* dissent: "[I]f a court mistakes a political gerrymander for a racial gerrymander, it illegitimately invades a traditional domain of state authority, usurping the role of a State's elected representatives. This does violence to both the proper role of the Judiciary and the powers

54. Anderson v. City of Bessemer City, 470 U.S. 564, 573 (1985).

55. Cooper v. Harris, 137 S. Ct. 1455, 1465 (2017) (quoting *Anderson*, 470 U.S. at 574).

56. Shaw v. Reno, 509 U.S. 630, 633 (1993).

57. Ala. Legislative Black Caucus v. Alabama, 135 S. Ct. 1257, 1273 (2015).

58. *See, e.g.*, DAVID L. FAIGMAN ET AL., MODERN SCIENTIFIC EVIDENCE: STANDARDS, STATISTICS, AND RESEARCH METHODS (student ed. 2008).

59. Jackson v. Pollion, 733 F.3d 786, 788 (7th Cir. 2013) (citing FAIGMAN ET AL., *supra* note 58, at v).

60. Connor v. Finch, 431 U.S. 407, 415 (1977).

reserved to the States under the Constitution."[61] This balance looms large in redistricting lawsuits.

This complexity and political charge are not unique to racial gerrymandering—they are just as prevalent in partisan gerrymandering claims (if not more so). While the Supreme Court has grappled with the question of whether partisan gerrymandering cases are non-justiciable political questions,[62] there is no dispute that claims of racial gerrymandering fall outside the scope of the political question doctrine.[63] Thus, complete judicial avoidance of racial gerrymandering claims should not be expected. Even so, judicial avoidance could manifest in other ways. These two factors could reasonably motivate judges to dispose of gerrymandering cases on procedural grounds wherever possible, rather than on the merits.[64]

II. COMPARING EXPECTATIONS OF AVOIDANCE TO TRENDS IN RECENT CASES

As discussed above, courts could reasonably avoid the merits of racial gerrymandering cases whenever possible. But do they? I examine recent decisions for insight into how the courts behave in the face of these problems. First, I examine recent Supreme Court decisions on racial gerrymandering. Second, I survey district court decisions in challenges to districts drawn since the 2010 census.

A. RECENT SUPREME COURT DECISIONS INVITE INCREASED JUDICIAL INVOLVEMENT BY LOWERING THE BAR FOR PLAINTIFFS

The Supreme Court's two most recent gerrymandering decisions, *Bethune-Hill v. Virginia State Board of Election*[65] and *Cooper v. Harris*,[66] seem to invite redistricting litigation by removing obstacles for plaintiffs erected in prior decisions. In an article published on SCOTUSblog, Andrew Brasher, Solicitor General of Alabama, argues that the decisions are a "recipe for continued

61. Cooper v. Harris, 137 S. Ct. 1455, 1490 (2017) (Alito, J., concurring in the judgment in part and dissenting in part).

62. *See generally* Gill v. Whitford, 138 S. Ct. 1916, 1923 (2018) (rather than address the justiciability of partisan gerrymandering claims, the Court reversed and remanded on standing grounds); Vieth v. Jubelirer, 541 U.S. 267 (2004) (plurality would have overruled *Bandemer*, but five Justices left the door open for courts to review partisan-gerrymandering cases in the future, if a workable standard could be found); Davis v. Bandemer, 478 U.S. 109 (1986) (holding that partisan gerrymandering claims are not political questions).

63. *Bandemer*, 478 U.S. at 119 ("Our past decisions . . . make clear that . . . racial gerrymandering presents a justiciable equal protection claim.").

64. I do not suggest that courts would dispose of these cases improperly or search out procedural defects, only that they might gravitate toward a procedural resolution if one is available.

65. 137 S. Ct. 788 (2017).

66. 137 S. Ct. 1455 (2017).

confusion and more judicial involvement in redistricting," because of two key changes from prior precedent.[67]

First, Brasher argues that the Supreme Court lowered the bar for plaintiffs to show that race predominates in a district, which triggers strict scrutiny.[68] *Bethune-Hill* rejected the lower court's standard for predomination as overly burdensome, holding that an "*actual* conflict between traditional redistricting criteria and race" is "not a threshold requirement or a mandatory precondition in order for a challenger to establish a claim of racial gerrymandering."[69] *Cooper* affirmed the lower court's rejection of the redistricters' partisan explanation for a challenged district, holding that strict scrutiny was appropriate even if race was used by redistricters as a proxy for political party.[70] Brasher argues that *Cooper* departed from the line of cases beginning with *Shaw v. Reno*,[71] as "the court is suggesting that any serious consideration of race in the redistricting process may be enough for a lower court to find that race predominated in a district."[72]

Second, Brasher argues that the Supreme Court in *Cooper* removed an obstacle for plaintiffs by rejecting the alternative map requirement established in prior precedent.[73] In *Easley v. Cromartie* ("*Cromartie II*"), the Supreme Court held that plaintiffs in racial gerrymandering cases must offer evidence of an alternative district map to demonstrate that the state could have achieved their political goals with less impact on the racial composition of the redrawn districts.[74] The Court in *Cooper* expressly declined to throw out the case on the ground that the plaintiffs failed to offer an alternative map, noting that such a requirement would "create a special evidentiary burden" for plaintiffs in gerrymandering cases.[75] *Cooper* interpreted *Cromartie II* as discussing the strength of alternative-map evidence, but not imposing a requirement that plaintiffs use such evidence in every case.[76] Because the plaintiffs in *Cooper* had

67. Andrew Brasher, *Symposium: A Recipe for Continued Confusion and More Judicial Involvement in Redistricting*, SCOTUSBLOG (May 23, 2017, 1:08 PM), http://www.scotusblog.com/2017/05/symposium-recipe-continued-confusion-judicial-involvement-redistricting.

68. *Id.*

69. *Bethune-Hill*, 137 S. Ct. at 794 (internal quotation marks omitted) (quoting Bethune-Hill v. Va. State Bd. of Elections, 141 F. Supp. 3d 505 (E.D. Va. 2015), *aff'd in part and vacated in part*, 137 S. Ct. 788); *Bethune-Hill*, 137 S. Ct. at 799. As the Court points out, a State could easily construct a district that is sufficiently compact, contiguous, and otherwise meets traditional redistricting criteria, while also intentionally including or excluding voters on the basis of race. *Id.*

70. *See Cooper*, 137 S. Ct. at 1473.

71. 509 U.S. 630 (1993).

72. Brasher, *supra* note 67.

73. *Id.*

74. Easley v. Cromartie, 532 U.S. 234, 257–58 (2001). North Carolina's District 12 was the subject of both *Cromartie II* and *Cooper*. In fact, the challenge in *Cooper* is "the *fifth time* that North Carolina's 12th Congressional District has come before [the Supreme] Court since 1993 . . . ." *Cooper*, 137 S. Ct. at 1490.

75. *Cooper*, 137 S. Ct. at 1480 n.15.

76. *Id.* at 1479–81.

strong direct evidence that race was impermissibly considered, the circumstantial evidence of an alternative map was unnecessary.[77]

Regardless of whether Brasher is correct that these changes in the jurisprudence will result in "continued confusion" because redistricters and lower courts still lack a bright-line rule,[78] the Court does seem to be inviting increased judicial involvement in the redistricting process by clearing the path for plaintiffs.

A common thread in *Cooper* and *Bethune-Hill* is that the Court rejects arbitrary evidentiary barriers for plaintiffs. Each case holds that a specific kind of circumstantial evidence, although persuasive, must not be required of every plaintiff. *Bethune-Hill* overruled the lower court's "actual conflict" requirement, observing that "[o]f course, a conflict or inconsistency [with traditional districting criteria] may be persuasive circumstantial evidence tending to show racial predomination, but there is no rule requiring challengers to present this kind of evidence in every case."[79]

Likewise, *Cooper* specifically eliminated the alternate map requirement as an unnecessary "special evidentiary burden" on plaintiffs.[80] The Court observed that

> [u]nderlying the dissent's view that we should [implement an alternative-map requirement] is its belief that "litigation of this sort" often seeks to "obtain in court what [a political party] could not achieve in the political arena," . . . [so] little is lost by making suits like this one as hard as possible.[81]

The majority disapproved of such barriers, commenting that "whatever the possible motivations for bringing such suits . . . they serve to prevent legislatures from taking unconstitutional districting action—which happens more often than the dissent must suppose."[82] Thus, the Supreme Court is signaling to lower courts that redistricting lawsuits are too important to be arbitrarily dismissed.

Brasher argues that the alternative map requirement "helps courts avoid disputes that are essentially political in nature" and, as a result, the "decision to minimize *Cromartie II*'s alternative plan requirement will make it much harder for courts to avoid being entangled in political disputes."[83] But the Court in *Cooper* refused to place an extra burden on plaintiffs for the sake of more easily avoiding political entanglements. *Cooper* notes that "unconstitutional districting action" could be caused by legislators' misunderstanding of the requirements imposed by the Voting Rights Act, their desire to "leverag[e] the strong

77. *Id.*
78. Brasher, *supra* note 67.
79. Bethune-Hill v. Va. State Bd. of Elections, 137 S. Ct. 788, 799 (2017).
80. *Cooper*, 137 S. Ct. at 1480 n.15.
81. *Id.* (third alteration in original) (citation omitted).
82. *Id.*
83. Brasher, *supra* note 67.

correlation between race and voting behavior to advance their partisan interests," or the invidious desire to "suppress the electoral power of minority voters."[84] Regardless of the underlying cause, the Court cannot tolerate unconstitutional state action.[85] Perhaps the Court is signaling that politicians will not be allowed to create racial gerrymanders under the pretense of partisan politics. Either way, the Court is eliminating two options lower courts might have used to avoid resolving gerrymandering cases on the merits.

B. SURVEY OF REDISTRICTING LITIGATION SINCE THE 2010 CENSUS

Since the 2010 census, there have been well over one hundred lawsuits filed regarding redistricting.[86] To test the premise that the two factors of (1) lack of expertise and (2) political charge might motivate judges to dispose of gerrymandering cases on procedural grounds, I reviewed 141 redistricting cases.[87] For each case, I noted what issues the case raised; whether the case involved a claim of gerrymandering (and if so, whether racial gerrymandering, partisan, or both), how the case was resolved, and whether that resolution was based on procedural rules or on the merits; whether there was an appeal and, if so, the outcome of the appeal.

Because I am interested in whether lack of expertise in the mathematical calculations relevant to arguments about compactness acts as a deterrent to courts, I also noted for each racial gerrymandering case whether the compactness of the challenged districts played an important role in the court's resolution of the case. Relevant to the potential deterrent value of the highly political nature of gerrymandering cases, I noted which cases raised issues of both partisan and racial gerrymandering. Relatedly, the Supreme Court in *Cooper* describes in passing the perceived trend that "the more usual case alleging a racial gerrymander" is one where the defendants do *not* raise a partisanship defense.[88] To test the accuracy of this observation, I also noted for each racial gerrymandering case whether the defendants claimed that the challenged district lines were drawn because of party affiliation, not race.

The 141 cases I examined were resolved in several ways. Eighteen cases were procedural suits in which states sought preclearance of their new district

84. *Cooper*, 137 S. Ct. at 1480 n.15.

85. *Id.*

86. Professor Justin Levitt of Loyola Law School maintains a website that catalogs most (if not all) redistricting cases filed since 2010, and includes key filings from each case. *See Litigation in the 2010 Cycle*, LOYOLA L. SCH. (last visited May 3, 2019), http://redistricting.lls.edu/cases.php. This was a helpful resource in my survey.

87. I do not know that I reviewed *every* case filed since 2010, but the 141 cases I reviewed represents at least the vast majority of cases that have been resolved in that time frame. For cases that were consolidated by the courts, I only counted the main case, not each individual suit included in the consolidation. I created a spreadsheet with notes on each case.

88. *Cooper*, 137 S. Ct. at 1473.

lines per section 5 of the Voting Rights Act,[89] resulting in voluntary dismissal after preclearance was given. Twelve cases were voluntarily dismissed by the plaintiffs for various reasons. Twenty-two cases were decided on entirely procedural grounds. Seventy-four cases were resolved by the court on the merits; this tally includes cases where some claims were dismissed on procedural grounds, but at least one claim survived for merits resolution. Eleven cases were still pending as of the time of my review. Finally, four of the cases I reviewed fall under the category "other," because I was not able to assess whether the resolution was procedural or on the merits.

Eighty-one of the cases I reviewed did not raise claims of impermissible gerrymandering. Suits seeking preclearance per section 5 were common, as well as suits challenging the unequal population of current districts, often based on legislative inability to agree on a new district plan after the census showed that redistricting was required. Several suits were also based on state constitutional and statutory requirements, such as specific compactness requirements or rules governing the redistricting process.

Sixty of the 141 cases filed since 2010 raised a claim of impermissible gerrymandering. Of these, thirty-six were resolved on the merits while eleven were decided on procedural grounds only. The remaining thirteen cases were voluntarily dismissed or are currently pending. Thirty-seven of the sixty cases alleged racial gerrymandering and thirty-one alleged partisan gerrymandering, with eight cases (included in these totals) alleging both racial and partisan gerrymandering. Twenty-four of the thirty-seven racial gerrymandering cases were resolved on the merits, with only four disposed of on procedural grounds. The remaining nine cases were voluntarily dismissed or are currently pending.

89. *See* 52 U.S.C. § 10304 (2012) ("Section 5"). The preclearance formula that determined which jurisdictions needed preclearance was struck down by the Court in 2013. *See* Shelby County v. Holder, 133 S. Ct. 2612, 2613 (2013). Because suits seeking preclearance do not raise allegations of gerrymandering, this decision did not impact my survey.

FIGURE III:

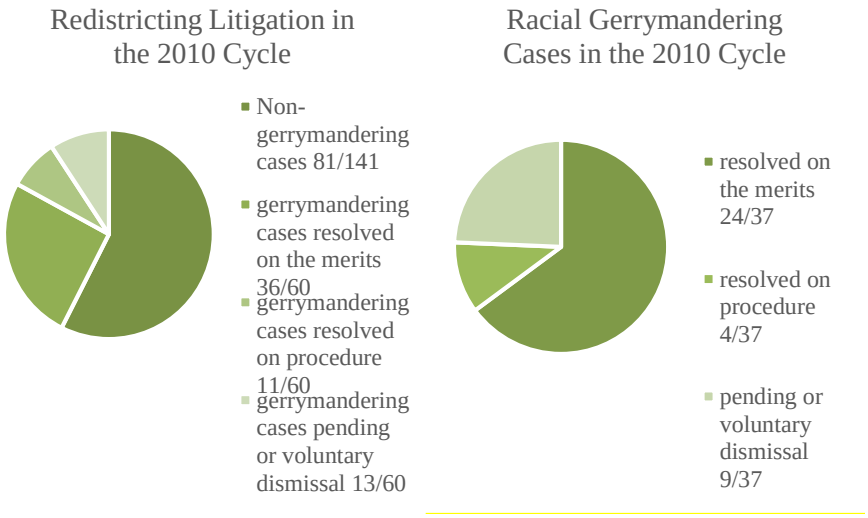

Figure III. Statistical breakdown of cases surveyed.[90]

Based on this data, lower courts do not seem to avoid resolving redistricting litigation on the merits. Both the overall figures and the data limited to gerrymandering claims show that merits resolutions outnumber purely procedural resolutions by far.

The lack of judicial expertise and the undeniable complexity of these cases did not deter courts from merits resolutions as anticipated. In fact, most courts grappling with claims of racial gerrymandering seemed to embrace this daunting task. Most courts not only decided the cases on the merits, but decided them in written orders frequently longer than one hundred pages. The average page length of the racial gerrymandering orders I reviewed was 127 pages long; the median length was 101.3 pages.[91] These orders were written after ingesting an incredible volume of information. One North Carolina court noted in the introduction of its 171-page order, "[t]he court has carefully considered the positions advocated by each of the parties and the many appellate decisions governing this field of law, and the court has pored over thousands of pages of legal briefs, evidence and supporting material."[92]

90. I compiled these charts.

91. The winner by far of the page length contest is the district court's 457-page order in *Alabama Legislative Black Caucus v. Alabama*, following remand by the Supreme Court. 231 F. Supp. 3d 1026 (M.D. Ala. 2017).

92. Dickson v. Rucho, No. 11-6896, 2013 WL 3376658, at *2 (N.C. Super. Ct. July 8, 2013).

I observed that the court often disposed of as many issues as possible on procedural grounds before deciding the remaining claims on the merits. Given the complexity of redistricting litigation, that result is not surprising. Rather than avoid gerrymandering cases altogether, courts seem to narrow the case as much as possible while preserving the heart of the case for merits resolution. For many cases raising both partisan and racial gerrymandering claims, this meant disposing of the partisan claim but resolving the racial one on the merits. Perhaps this is the manifestation of a tendency towards judicial avoidance, tempered by the need for merits-based resolutions.

Determinations of the compactness of challenged districts did not seem to play a central role in the resolution of the redistricting litigation I reviewed. Numerous suits challenged districts for failure to comport with state compactness requirements, but compactness was not determinative of any racial gerrymandering claim. Courts typically discussed and evaluated the compactness of the challenged districts, but as one court observed, "compactness is surprisingly ethereal given its seemingly universal acceptance as a guiding principle for districting. All of the expert testimony provided reveals one deep conceptual dilemma: no one can agree what [compactness] is or, as a result, how to measure it."[93] The court summarized its use of the evidence regarding compactness, saying that "compactness is not important for its own sake. . . . the key is whether compactness deviations are attributable to something meaningful, such as other neutral criteria or a legitimate use of non-neutral criteria."[94] On the whole, this is representative of the cases I reviewed.

The hyper-politicization of redistricting did not seem to encourage procedural resolution of racial gerrymandering cases; if anything, lower courts were more likely to resolve cases on the merits when the political charge was at its height. The Court's observation in *Cooper* that a partisanship defense is unusual[95] seems to miss the mark. In slightly more than half of the racial gerrymandering cases I reviewed, the defendants *did* raise a partisanship defense. I wonder if this is a recent trend, or if the partisanship defense has always been popular in racial gerrymandering cases. The most politically charged racial gerrymandering cases are ones brought in tandem with allegations of partisan gerrymandering, or ones where the State injects an extra dose of politics by raising a partisanship defense to a racial gerrymandering allegation. Yet even in these cases, the lower courts tackled the merits of the racial gerrymandering claims. Of the eight cases I reviewed that alleged both types of gerrymandering, the lower courts in all eight resolved the claim of racial gerrymandering on the merits. The same is true for racial gerrymandering cases with a partisanship defense—all were resolved on the merits.

93. Bethune-Hill v. Va. State Bd. of Elections, 141 F. Supp. 3d 505, 535 (E.D. Va. Oct. 22, 2015), *aff'd in part and vacated in part*, 137 S. Ct. 788, 799 (2017).

94. *Id.* at 535–36.

95. Cooper v. Harris, 137 S. Ct. 1455, 1473 (2017).

III. RESULTS: COURTS GENERALLY DO NOT AVOID GERRYMANDERING CASES

Both the Supreme Court's recent decisions and the trends in lower court adjudications show none of the expected avoidance. The Supreme Court's two recent decisions removed barriers for plaintiffs that lower courts might have used to easily resolve any case in which the plaintiff failed to clear the evidentiary hurdle. The district courts not only engage with the merits of these cases, but seem to embrace their role in the proper adjudication of them, as evidenced by the prolific nature of the orders in these cases.[96]

My research has revealed that, for both of the factors that could motivate avoidance, there seems to exist another factor which acts as a counterweight spurring the courts to the merits. First, offsetting the impact of the lack of judicial expertise is the nebulous nature and decreasing weight of a compactness determination for gerrymandering cases. Second, counterbalancing the political charge is a judicial duty to protect the fundamental right to vote.

A. COMPACTNESS IS OF DECREASING VALUE IN CHALLENGES UNDER THE FEDERAL LAW

In 1990, Niemi et al. argued that disputes about the compactness of legislative districts were likely to increase and take on greater importance from the 1990s onward.[97] If that trend did manifest, it seems to be waning now in challenges to districts under Federal law. As discussed above, many states have statutory or constitutional requirements for compactness, and of course compactness arguments continue to be central to lawsuits based on those state requirements. The trends described here affect cases brought under Section 2 of the Voting Rights Act or the Equal Protection Clause of the Fourteenth Amendment.

Compactness arguments in the 2010 decade seem to be of little practical use to courts. In 1983 the Supreme Court noted that compactness requirements had been of limited use because of vague definitions and imprecise application.[98] After all this time, even after the development of all the measuring techniques currently available, including those discussed in Subpart I.A above, compactness is still nebulous. As one district court observed, the judicial determination of compactness is "a difficult task because of the subjective nature of [this concept]."[99] The court notes, "'compactness' has been described as 'such a hazy and ill-defined concept that it seems impossible to apply it in any rigorous sense in matters of law.'"[100] Compactness is perhaps so vague as to be practically meaningless.

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96. *See supra* Subpart III.B (average order length was 127 pages, median order length 101.3 pages); *see also supra* text accompanying note 87 (longest district court order clocks in at 457 pages).

97. Niemi et al., *supra* note 18, at 1177.

98. Karcher v. Daggett, 462 U.S. 725, 756 (1983) (Stevens, J., concurring).

99. Dickson v. Rucho, No. 11-16896, 2013 WL 3376658, at *19 (N.C. Super. Ct. July 8, 2013).

100. *Id.* (citing Johnson v. Miller, 864 F. Supp. 1354, 1388 (S.D. Ga. 1994)).

The impact of compactness is further diminished by the prevalence of the partisanship defense to allegations of racial gerrymandering. The Supreme Court in *Cooper* described this phenomenon, noting that, where the state has *not* raised a partisanship defense, the lower court "can make real headway by exploring the challenged district's conformity to traditional districting principles, such as compactness and respect for county lines," but evidence of non-compactness "loses much of its value when the State asserts partisanship as a defense."[101] This is because "political and racial reasons are capable of yielding similar oddities in a district's boundaries. . . . because, of course, 'racial identification is highly correlated with political affiliation.'"[102] When the State raises such a defense, it may as well concede that the challenged district is less compact than ideal. For such a defense, the State need not dispute that the district was drawn somewhat inconsistently with traditional districting principles. Rather, it argues that the reason for drawing a non-compact district was because of voters' partisan affiliation, not their race.

The Supreme Court in *Cooper* described a racial gerrymandering case *without* a partisanship defense as the "more usual case."[103] This observation is not consistent with my survey of gerrymandering cases since the 2010 census—the more common case is one *with* a partisanship defense. Perhaps if the Supreme Court reaffirms that partisan gerrymandering is not a political question,[104] and endorses a workable standard for deciding such claims, this defense will be less prevalent and compactness will make a resurgence.

In sum, compactness is not as central to resolving these cases as it might seem at first blush. For example, North Carolina's bizarre District 12, challenged in *Cooper*, is the modern prototypical at-a-glance example of a non-compact gerrymander, as shown in Figure 4, below. And yet, the dissent in *Cooper* argues fiercely for reversal of the lower court's holding that District 12 is an unconstitutional racial gerrymander.[105] If District 12 is up for debate, despite its obviously non-compact shape, then compactness must not pull much weight.

101. Cooper v. Harris, 137 S. Ct. 1455, 1473 (2017) (citing Easley v. Cromartie, 532 U.S. 234, 243 (2001)).
102. *Id.*
103. *Id.*
104. *See supra* note 59.
105. *Cooper*, 137 S. Ct. at 1504 (Alito, J., concurring in the judgment in part and dissenting in part).

FIGURE IV:

Figure 4. North Carolina's Congressional District 12 (Enacted 2011).[106]

Gerrymandering suits are undeniably complex, but the compactness of challenged districts is merely one factor among many that the courts consider. Because compactness is of diminishing importance in more recent "usual" racial gerrymandering cases, courts are not deterred from merits resolutions by their own lack of expertise in the underlying mathematical arguments.

106. *Id.* at 1485.

B. THE FUNDAMENTAL IMPORTANCE OF VOTING RIGHTS COUNTERBALANCES COURT WORRIES ABOUT POLITICIZATION AND LEGITIMACY

Although "[r]edistricting is an incredibly complex and difficult process that is fraught with political ramifications and high emotions,"[107] the political charge of racial gerrymandering cases does not seem to have deterred courts from merits resolutions. Counterbalancing the political charge is a judicial duty to protect the right to vote. One Florida court described the redistricting case before it as one "of the highest importance, going, as it does, to the very foundation of our representative democracy."[108] After all, "[u]ndoubtedly, the right of suffrage is a fundamental matter in a free and democratic society."[109]

In the orders I reviewed, courts seem to embrace the importance of their unpleasant task. The courts often echoed a common refrain: first, they lamented that political actors could not resolve redistricting disputes outside the courthouse, and next, they described the unparalleled importance of ensuring the right to vote and the protections of the U.S. Constitution. For example, a Colorado court noted that "[j]udicial redistricting is truly an 'unwelcome obligation.'"[110] "Nevertheless, once it becomes clear that the General Assembly is unable or unwilling to amend constitutionally infirm boundaries, the task must necessarily be completed by the judiciary."[111] Another court noted that a line from a 1992 decision "remains just as true today: 'representative democracy cannot be achieved merely by assuring population equality across districts.'"[112]

The court takes its role as a guard against unconstitutional state action seriously. The judiciary has a strong respect for the state legislatures' constitutionally assigned role in redistricting, arising from the ideals of both federalism and separation of powers. Nevertheless, deciding whether state laws violate the constitution is squarely within the role of the courts. The fact that the courts referenced their role in preserving representative democracy so often in deciding racial gerrymandering cases suggests that these concerns outweigh the risks of becoming entangled in political disputes.

The Supreme Court has expressed a similar sentiment. The dissent in *Cooper* lamented the loss of the alternative-map requirement, arguing it was "a logical response to the difficult problem of distinguishing between racial and political motivations."[113] The dissent argued that any court that mistakes a

107. Hall v. Moreno, 270 P.3d 961, 963 (Colo. 2012).

108. Romo v. Detzner, No. 2012-CA-000412, 2014 WL 3797315, at *5 (Fla. Cir. Ct. July 10, 2014).

109. Reynolds v. Sims, 377 U.S. 533, 561–62 (1964).

110. *Hall*, 270 P.3d at 963 (quoting Connor v. Finch, 431 U.S. 407, 415 (1977)).

111. *Id.* (citing Beauprez v. Avalos, 42 P.3d 642, 648–49 (Colo. 2002)).

112. Baldus v. Brennan, 849 F. Supp. 2d 840, 843–44, 850 (E.D. Wis. 2012) (citing Prosser v. Elections Bd., 793 F. Supp. 859, 863 (W.D. Wis. 1992)).

113. Cooper v. Harris, 137 S. Ct. 1455, 1489–90 (Alito, J., concurring in the judgment in part and dissenting in part).

partisan gerrymander for a racial one "does violence" to the court's legitimacy and proper role by overstepping onto the state legislatures' duties.[114] The majority responded that fears of overstepping cannot prevent the courts from upholding the U.S. Constitution. Racial gerrymandering lawsuits "serve to prevent legislatures from taking unconstitutional districting action," and if plaintiffs meet their burden without the alternative map, they are constitutionally entitled to a remedy.[115] This suggests that both lower courts and the Supreme Court consider the right to vote so fundamental that avoiding legitimate claims of unconstitutional racial gerrymandering would hurt the judiciary's legitimacy more than getting entangled in politically charged disputes.[116]

CONCLUSION

In two recent cases, the Supreme Court invited increased judicial involvement by removing barriers to plaintiffs bringing racial gerrymandering cases that had been erected in prior decisions. I examined two factors that might influence courts to avoid deciding gerrymandering cases on the merits: first, the lack of judicial expertise in the mathematical analysis underscoring arguments about compactness; second, the highly politicized nature of gerrymandering lawsuits. Neither factor resulted in judicial avoidance of gerrymandering cases. In line with the Supreme Court, lower courts resolved the majority of the redistricting litigation brought since the 2010 census on the merits, rather than on procedural grounds.

Each of the two factors for avoidance was counterbalanced by other pressures on the courts. Regarding the first factor, compactness is of decreasing importance in the court's analysis, thus the factor of 'lack of expertise' exerts less influence. The impact of compactness on the resolution of cases is diminished by both the nebulous nature of the compactness measure, and the prevalence of the partisanship defense to allegations of racial gerrymandering, which excuses non-compact districts to some extent. Regarding the second factor, democratic ideas about protecting the right to vote counterbalance the worries about tarnishing the court's legitimacy by engaging in these highly political cases. Courts see it as their role to preserve representative democracy against racial gerrymandering, despite the risks of becoming entangled in political disputes. As a result, courts do not shy away from the merits of racial gerrymandering cases. They embrace their role as guardians of the U.S. Constitution.

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114. *Id.*

115. *Id.* at 1480 n.15.

116. At this juncture, the same cannot be said for judicial involvement in partisan gerrymandering cases. The Supreme Court entirely avoided the merits and justiciability of partisan gerrymandering in *Gill v. Whitford* by reversing the case on standing grounds. *See* 138 S. Ct. 1916, 1923 (2017).

APPENDIX

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
In re 2011 Redistricting Cases, No. 4FA-11-02209CI (Alaska Super. Ct. 4th Dec. 23, 2011)	No (state const req)	appealed twice	Merits	alleged failure to maintain Fairbanks in a compact, relatively integrated socio-economic area. state constitutional requirements of compactness, contiguity, and communities of interest
In re 2011 Redistricting Cases (III), No. 4FA-11-02209CI (Alaska Super. Ct. 4th July 14, 2013)	No (unequal pop)	SJ for D	Merits	After two appeals, govt. finally submitted a districting plan that was approved by court
Alaska v. Holder, No. 1:12-cv-01376 (D.D.C. Oct. 3, 2013)	No (preclearance)	voluntary dismissal after preclearance given	preclear-ance	preclearance
Samuelsen v. Treadwell, No. 3:12-cv-00118 (D. Alaska June 27, 2012)	No (preclearance)	voluntary dismissal after preclearance given	preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Sexton v. Bentley, No. CV-2012-00503 (Ala. Cir. Ct. Aug. 15, 2012)	No (other)	voluntary dismissal	neither (vol dis)	challenging the legislature's authority to draw state districts after the end of the regular legislative session
Alabama v. Holder, No. 1:11-CV-01628 (D.D.C. Nov. 21, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	requesting preclearance. After the plan was precleared, plaintiffs dismissed the complaint
Alabama v. Holder II, No. 1:12-cv-01232 (D.D.C. Oct. 5, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	requesting preclearance. After the plan was precleared, plaintiffs dismissed the complaint
Ala. Legislative Black Caucus v. Alabama, 989 F. Supp. 2d 1227 (M.D. Ala. 2013)	Yes (Both)	SJ on partisan, Judgement for D after trial on racial	Both: P re Dem party (standing), Merits for other plaintiffs (not predomina nt, even if it was, narrowly tailored)	One count racial gerrymander, another partisan gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Ala. Legislative Black Caucus v. Alabama (II), 231 F. Supp. 3d 1026 (M.D. Ala. 2017)	Yes (Racial)	Judgement for P on some districts, D on others	Merits	racial gerrymander
Chestnut v. Merrill, No. 2:18-cv-00907 (N.D. Ala. 2018)	Yes (Racial)	pending	pending	racial gerrymander
Jeffers v. Beebe, 395 F. Supp. 920 (E.D. Ark. 2012)	Yes (Racial)	Judgement for D	Merits	racial gerrymander
Larry v. Arkansas, No. 4:18-cv-00116 (E.D. Ark. Aug. 3, 2018)	Yes (Racial)	dismissed for lack of standing	Procedural	racial gerrymander (pro se)

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Leach v. Ariz. Indep. Redistricting Comm'n, No. CV 2012-007344 (Ariz. Super. Ct. Maricopa Cty. Oct. 15, 2012)	No (other)	Dismissed	Merits	challenge AZ commission's allegedly improper process, alleging commission considered an improper grid as the starting point for the congressional map, improperly advertised a draft map, and technical consultants were improperly chosen
Ariz. State Legislature v. Ariz. Indep. Redistricting Comm'n, 997 F. Supp. 2d 1047 (D. Ariz. 2014)	No (other)	Dismissed 12b6	Merits	Voter initiative amended AZ Const. to create Commission that'd draw district lines. Legislature challenging commission's authority to draw districts, rather than legislature per US const.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Harris v. Ariz. Indep. Redistricting Comm'n, No. 2:12-cv-00894 (D. Ariz. Apr. 29, 2014)	Yes (Partisan)	Judgement for D - deviations were effort to comply w/VRA	Merits	unequal population, based on partisan bias
Vandermost v. Bowen, 269 P.3d 446 (Cal. 2012)	No (state const req)	petition denied	Merits	alleged violations of state constitutional criteria and the federal Voting Rights Act.
California v. Ross, No. 3:18-cv-01865 (N.D. Cal. Dec. 14, 2018)	No (ballot/census language)	pending	pending	challenge re census questions
Connerly v. California, No. 34-2011-80000966 (Cal. Super. Ct. Sacramento Cty. Dec. 21, 2012)	No (other)	Dismissed (grant demurrer)	Procedural	challenge in the state courts to the selection of redistricting commissioners reflecting the state's diversity, including racial, ethnic, and gender diversity
Radanovich v. Bowen, No. S196852 (Cal. Oct. 26, 2011)	Yes (Racial)	petition denied	Merits	racial gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Radanovich v. Bowen, No. 2:11-cv-09786 (C.D. Cal. Feb. 9, 2012)	Yes (Racial)	Dismissed (12b6 b/c res judicata)	Procedural	racial gerrymander
Moreno v. Gessler, No. 11CV3461 (Colo. Dist. Ct. Denver Cty. Nov. 10, 2011)	No (unequal pop)	Court adopted maps proposed by P	Merits	Legislature unable to pass a new districting scheme after census, P's sued to enjoin use of old malapportioned districts.
In re Reapportionment of the Colo. Gen. Assembly, No. 11SA282 (Colo. Nov. 15, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	statutorily required review/approval of redistricting plan
In re Petition of Reapportionment Comm'n, 36 A.3d 661 (Conn. 2012)	No (unequal pop)	Court adopted maps proposed by Special Master	Merits	request that the state supreme court draw lines, based on the failure of the state's backup commission to do so
NAACP v. Merrill, No. 3:18-cv-01094 (D. Conn. filed June 28, 2018)	No (unequal pop)	pending	pending	challenging size of state legislature districts

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Shelby County v. Holder, 811 F. Supp. 2d 424 (D.D.C. 2011)	No (challenging preclearance process)	SJ for D	Merits	challenging constitutionality of preclearance req. of VRA
Calvin v. Jefferson Cty. Bd. of Comm'rs, No. 4:15-cv-00131 (N.D. Fla. Mar. 19, 2016)	No (unequal pop)	SJ for P	Merits	on equal population grounds, based on the inclusion of incarcerated individuals who are not county residents.
In re 2012 Joint Resolution of Apportionment, 83 So. 3d 597 (Fla. 2012)	No (preclearance)	Some districts struck, some approved	Preclear-ance	statutorily required review/approval of redistricting plan
Florida v. United States, No. 1:12-cv-00380 (D.D.C. May 1, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Romo v. Detzner, No. 2012-CA-000412 (Fla. Cir. Ct. Leon Cty. July 10, 2014)	Yes (Both)	Judgement for P, map struck. Partisan unconst in Fl, and racial	Merits	partisan and racial gerrymandering, and requirements of compactness and adherence to political boundaries in violation of FL Const.
League of Women Voters of Fla. v. Detzner, No. 2012-CA-002842 (Fla. Cir. Ct. Leon Cty. July 28, 2015)	Yes (Partisan)	Settled, D admits & agrees to redraw	Merits	violations of state prohibitions on partisan gerrymandering
Brown v. Detzner, No. 4:15-cv-00398 (N.D. Fla. Apr. 18, 2016)	Yes (Racial)	Judgement for D	Merits	racial gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Hill v. Detzner, No. 3:15-cv-00380 (N.D. Fla. Nov. 10, 2015)	Yes (Partisan)	voluntary dismissal	neither (vol dis)	challenging the state constitution's prohibition on partisan gerrymandering as an infringement of the freedom of speech under the First Amendment.
Warinner v. Detzner, No. 6:13-cv-01860 (M.D. Fla. Aug. 10, 2015.)	Yes (Racial)	voluntary dismissal following order in Romo	neither (vol dis)	racial gerrymander
Norris v. Detzner, No. 3:15-cv-00343 (N.D. Fla. Oct. 13, 2015)	Yes (Partisan)	Dismissed lack of standing (no IIF)	Procedural	challenging the state constitution's prohibition on partisan gerrymandering as an infringement of the freedom of speech under the First Amendment.
Georgia v. Holder, No. 1:11-CV-01788 (D.D.C. Jan. 3, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Howard v. Augusta-Richmond County, No. 1:14-cv-00097 (S.D. Ga. May 13, 2014)	No (other)	Dismissed 12b6	Procedural	alleges change in the election date of Augusta-Richmond elections could not be enforced, pre Shelby
Ga. State Conference of the NAACP v. Georgia, No. 1:17-cv-01427 (N.D. Ga. 2017)	Yes (Both)	pending	pending	racial and partisan gerrymander
Dwight v. Kemp, No. 1:18-cv-02869 (N.D. Ga. 2018)	Yes (Racial)	pending	pending	racial gerrymander
Kostick v. Nago, No. 1:12-cv-00184 (D. Haw. July 11, 2013)	No (unequal pop)	SJ for D	Merits	equal population of Hawaii's state legislative plan, based on the allegedly improper removal of nonresident persons from the apportionment base

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Twin Falls County v. Idaho Comm'n on Redistricting, 271 P.3d 1202 (Idaho 2012)	No (state const req)	Judgement for P, map struck.	Merits	allegedly insufficient attention to county boundaries
Radogno v. Illinois State Board of Elections, 836 F. Supp. 2d 759 (N.D. Ill. Dec. 7, 2011)	Yes (Both)	Partisan claims dismissed 12b6, Racial SJ for D	both: P re partisan, M re racial	racial and partisan gerrymander
Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections, 835 F. Supp. 2d 563 (N.D. Ill. Dec. 15, 2011)	Yes (Both)	Partisan claims dismissed 12b6, Racial SJ for D	both: P re partisan, M re racial	racial and partisan gerrymander
League of Women Voters v. Quinn, No. 1:11-cv-05569 (N.D. Ill. Oct. 28, 2011)	Yes (Partisan)	Dismissed 12b6	Merits	partisan gerrymandering challenge on free speech grounds

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Essex v. Kobach, 874 F. Supp. 2d 1069 (D. Kan. June 7, 2012)	No (unequal pop)	Court drew map	Merits	unequal population of current congressional and state legislative districts, based on the legislature's failure to draw new lines.
Brown v. Kentucky, No. 2:13-cv-00068 (E.D. Ky. Aug. 16, 2013)	No (unequal pop)	SJ for P	Merits	unequal population of current congressional and state legislative districts, based on the legislature's failure to draw new lines.
Frost v. Grimes, No. 12-CI-00180 (Ky. Cir. Ct. Franklin Cty.)	No (unequal pop)	voluntary dismissal	neither (vol dis)	asking the court to draw congressional districts, based on the legislature's failure to do so

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Fischer v. Grimes, No. 12-CI-00109 (Ky. Cir. Ct. Franklin Cty. Feb. 7 2012)	Yes (Partisan)	Judgement for P on equal pop grounds, reserved Judgement on partisan gerrymander	Merits	violations of equal population, partisan gerrymandering
La. House of Representatives v. Holder, No. 1:11-cv-00770 (D.D.C. June 21, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance
Hall v. Louisiana, No. 3:12-cv-00657 (M.D. La. June 9, 2015)	Yes (Racial)	Judgement for D (but only b/c court is bound by precedent)	Merits	equal population and racial gerrymander
Buckley v. Schedler, No. 3:13-cv-00763 (M.D. La. Dec. 16, 2013)	Yes (Racial)	voluntary dismissal	neither (vol dis)	racial gerrymander
Johnson v. Ardoin, No. 3:18-cv-00625 (M.D. La. 2018)	Yes (Racial)	pending	pending	racial gerrymander
Ceasar v. Jindal, No. 6:12-cv-02198 (W.D. La. Mar. 18, 2013)	Yes (Racial)	Dismissed (failure to pay filing fees, P previously sanctioned)	Procedural	racial gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Martin v. Maryland, No. 1:11-cv-00904, (D. Md. Oct. 27, 2011)	No (other)	Dismissed 12b6 political Q	Procedural	challenging the number of representatives MD has…
Fletcher v. Lamone, 831 F. Supp. 2d 887 (D. Md. Dec. 23, 2011)	Yes (Both)	SJ for D	Merits	racial and partisan gerrymander
Shapiro v. McManus (II), No. 1:13-cv-03233 (D. Md. Nov. 7, 2018)	Yes (Partisan)	pending, stayed until *Gill v. Whitford*. Now moving towards trial	pending	partisan gerrymander
Parrott v. Lamone, No. 1:15-cv-1849 (D. Md. Aug. 24, 2016)	Yes (Partisan)	Dismissed: lack of standing (no violation of legally protected interest)	Procedural	partisan gerrymander, allegedly unconstitutional lack of compactness
Bouchat v. Maryland, No. 1:15-cv-02417 (D. Md. Sept. 7, 2016)	Yes (Partisan)	Dismissed (12b6 b/c res judicata)	Procedural	partisan gerrymander
Gorrell v. O'Malley, No. 1:11-CV-02975 (D. Md. Jan. 19, 2012)	Yes (Partisan)	Dismissed 12b6 - comm. of interest is goal, not right	Procedural	partisan gerrymander, dividing community of interest (farmers).

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Bouchat v. Maryland, No. 06-C-15-068061 (Md. Cir. Ct. Carroll Cty. May 1, 2015)	Yes (Partisan)	Dismissed lack of jurisdiction	Procedural	partisan gerrymander
Shapiro v. McManus, 203 F. Supp. 3d 579 (D. Md. Aug. 24, 2016)	Yes (Partisan)	Dismissed: before 3 judge panel appointed: no good standard proposed	Procedural	partisan gerrymander
Desena v. Maine, 793 F. Supp. 2d, 456 (D. Me. June 21, 2011)	No (unequal pop)	for P	Merits	unequal population of Maine's congressional districts after census, asking they be redrawn BEFORE elections in 2012. granted
Turcotte v. LaPage, No. 1:11-cv-00312 (D. Me. Jan. 13, 2012)	No (other)	dismissed as moot	Procedural	moved for injunction against redistricting committee, challenging member selection process as partisan. But some districts were adopted, so case moot.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Michigan v. United States, No. 1:11-cv-01938 (D.D.C Feb. 28, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance
Detroit Branch of the NAACP v. Snyder, 879 F. Supp. 2d 662 (E.D. Mich. Apr. 6, 2012)	Yes (Racial)	Dismissed 12b6	Merits	racial gerrymander
League of Women Voters v. Johnson, No. 2:17-cv-14148 (E.D. Mich. 2017)	Yes (Partisan)	pending	pending	partisan gerrymander
Britton v. Ritchie, No. 0:11-CV-00093 (D. Minn. Aug. 22, 2012)	No (unequal pop)	dismissed after plan resolved in state court	Procedural	unequal population of current congressional and state legislative districts, based on the legislature's failure to draw new lines.
Pearson v. Koster (II), No. 11AC-CC00624 (Mo. Cir. Ct. Cole Cty. Feb. 3, 2012)	No (state const req)	Judgement for D	Merits	alleged deviations from state constitutional compactness requirements

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Missouri *ex rel.* Teichman v. Carnahan, 357 S.W.3d 601 (Mo. 2012)	No (state const req)	Judgement for P, map struck.	Merits	alleged violations of the state constitution, body that revised map lacked authority to do so
Johnson v. Missouri, No. 12AC-CC00056 (Mo. Cir. Ct. Cole Cty. Feb. 14, 2012)	No (unequal pop)	Judgement for D	Merits	Challenge on state constitutional grounds, including alleged equal population, contiguity, and compactness violations.
Ehlen v. Carnahan, No. 6:12-cv-03122 (W.D. Mo. Mar. 13, 2012)	No (unequal pop)	voluntary dismissal	neither (vol dis)	challenge to draft state Senate plan, on equal population grounds
Pearson v. Koster, No. 11AC-CC00624 (Mo. Cir. Ct. Cole Cty. Dec. 12, 2011)	Yes (Partisan)	Dismissed	Procedural ? summary order	alleged partisan gerrymandering and deviations from state constitutional compactness requirements

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Smith v. Hosemann, 852 F. Supp. 2d 757 (S.D. Miss. Dec. 30, 2011)	No (unequal pop)	Court drew map	Merits	unequal population of current congressional and state legislative districts
Clemons v. U.S. Dep't of Commerce, No. 3:09-cv-00104 (N.D. Miss. July 8, 2010)	No (unequal pop)	SJ for D	Merits	challenging the unequal population of congressional districts between states. Several states included as plaintiffs
Miss. NAACP v. Barbour, No. 3:11-cv-00159, 2011 WL 1870222 (S.D. Miss. May 16, 2011)	No (unequal pop)	Dismissed (don't need new plan until 2012 elections)	Procedural	unequal population of current congressional and state legislative districts, based on the legislature's failure to draw new lines before 2011 elections
Thomas v. Bryant, No. 3:18-cv-00441 (S.D. Miss. 2018)	Yes (Racial)	pending	pending	racial gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Willems v. Montana, No. ADV-2013-509 (Mont. 1st Lewis & Clark Cty. Dec. 6, 2013)	No (other)	SJ for D	Merits	challenge to the way in which a district was designated a "holdover" district for State Senate representation in a staggered election system
North Carolina v. Holder, No. 1:11-CV-01592 (D.D.C. Nov. 8, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance
League of Women Voters of N.C. v. Rucho (I), 279 F. Supp. 3d 587 (M.D.N.C. Jan. 9, 2018)	Yes (Partisan)	Judgment for P	Merits	partisan gerrymander
League of Women Voters of N.C. v. Rucho (II), 318 F. Supp. 3d 777 (M.D.N.C. Aug. 27, 2018)	Yes (Partisan)	Judgment for P	Merits	partisan gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Dickson v. Rucho, No. 11-CVS-16896 (N.C. Super Ct. Wake Cty. July 8, 2013)	Yes (Racial)	Dismissed partisan Gerry claims; Judgement for D on racial after trial	Merits	racial & partisan gerrymandering, improper purpose, unnecessary division of counties and precincts. 171 page order.
Covington v. North Carolina, No. 1:15-cv-00399 (M.D.N.C. Aug. 11, 2016)	Yes (Racial)	Judgement for P	Merits	racial gerrymander. 167 page order.
Harris v. McCrory, No. 1:13-cv-00949 (M.D.N.C. Feb. 5, 2016)	Yes (Racial)	Judgement for P	Merits	racial gerrymander. 100 page order.
New Hampshire v. Holder, 293 F.R.D. 1 (D.D.C. Mar. 1, 2013)	No (preclearance)	consent decree granted	Preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
City of Manchester v. Gardner, No. 216-2012-CV-00366 (N.H. Super. Ct. Hillsborough N.D. Sept. 17, 2012).	No (state const req)	Judgement for D	Merits	state constitutional challenges to the state legislative plan for dividing towns. Several cases consolidated into this one.
Lavergne v. Bryson, No. 3:11-cv-07117 (D.N.J. Dec. 16, 2011)	No (other)	Dismissed	Procedural	challenging electoral college and apportionment of house reps as unconstitutional, seeking show cause order
Gonzalez v. N.J. Apportionment Comm'n, No. L-001173-11 (N.J. Super. Ct. Mercer Cty. Aug. 31, 2011)	Yes (Partisan)	Dismissed	Merits	Tea Party alleges partisan gerrymandering and flaws in map drafting procedure

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Egolf v. Duran, No. D-101-cv-2011-02942 (N.M. 1st Dist. Ct. Dec. 29, 2011)	No (asking court to draw map)	Court drew map	Merits	all of the litigation challenging New Mexico districts was consolidated under this case, requesting court draw districts
Chavez-Hankins v. Duran, No. 1:12-cv-00140 (D.N.M. Apr. 13, 2012)	Yes (Racial)	voluntary dismissal after show cause order why the case should not be dismissed	neither (vol dis)	alleging equal population violations and racial gerrymandering, seeking review of recent NM S Ct decision
Guy v. Miller, No. 11-OC-00042-1B (Nev. Dist. Ct. 1st Oct. 27, 2011)	No (unequal pop)	Court adopted maps proposed by Special Master	Merits	unequal population of current districts, based on legislative inability to agree on a new district plan.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Teijeiro v. Schneider, No. 3:11-cv-00330 (D. Nev. Dec. 2, 2011)	No (unequal pop)	voluntary dismissal	neither (vol dis)	unequal population of current districts, based on legislative inability to agree on a new district plan.
Leib v. Walsh, 992 N.Y.S.2d 637 (N.Y. Sup. Ct. Albany Cty. Sept. 17, 2014)	No (ballot/census language)	Judgement for P, misleading language removed	Merits	challenge in state court to the ballot language summarizing New York's proposed state constitutional amendment to the redistricting process.
Cohen v. Cuomo, 945 N.Y.S.2d 857 (N.Y. Sup. Ct. N.Y. Cty. Apr. 13, 2012)	No (other)	Dismissed	Merits	challenging addition of a 63rd Senate seat filed after the state legislative map was passed.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Little v. N.Y. State Legislative Task Force on Demographic Research & Reapportionment, No. 2310-2011 (N.Y. Sup. Ct. Albany Cty. Dec. 1, 2011)	No (unequal pop)	SJ for D	Merits	challenge to NY law adjusting the basis for state legislative districts to count incarcerated persons at their residential address prior to incarceration
New York v. U.S. Dep't of Commerce, No. 1:18-cv-02921 (S.D.N.Y. 2018)	No (ballot/census language)	pending	pending	challenge re census questions
New York v. United States, No. 1:12-cv-00413 (D.D.C. Apr. 27, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance
New York v. United States II, No. 1:12-cv-00500 (D.D.C. May 18, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Cohen v. N.Y. State Legislative Task Force on Demographic Research & Reapportionment, 940 N.Y.S.2d 851 (N.Y. Sup. Ct. N.Y. Cty. Mar. 9, 2012)	No (other)	dismissed (unripe/standing)	Procedural	challenging proposal to add a 63rd Senate seat. Dismissed as not ripe, merely speculative at that date
Favors v. Cuomo, No. 1:11-cv-05632 (E.D.N.Y. May 22, 2014)	Yes (Racial)	SJ for D on gerrymandering claims; Court adopted maps proposed by Special Master	Merits	racial gerrymandering claims, and unequal population of current districts, based on legislative inability to agree on a new district plan.
Ohio *ex rel.* Voters First v. Ohio Ballot Bd., 978 N.E.2d 119 (Ohio 2012)	No (ballot/census language)	Judgement for P, misleading language removed	Merits	challenge to the ballot language summarizing proposed change to the redistricting process.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
State *ex rel.* Ohioans for Fair Dists. v. Husted, 957 N.E.2d 277 (Ohio 2011)	No (other)	Judgement for P	Merits	challenge to the law containing the congressional plan, re limits on referendum process
Wilson v. Kasich, 963 N.E.2d 1282 (Ohio 2012)	No (state const req)	Judgement for D	Merits	alleged violations of state constitutional procedure/open meetings requirement
Ohio A. Philip Randolph Inst. v. Kasich, No. 1:18-cv-00357 (S.D. Ohio 2018)	Yes (Partisan)	pending	pending	partisan gerrymander
Wilson v. Oklahoma, No. CJ-2011-6249 (Okla. Dist. Ct. Okla. Cty. Oct. 25, 2011)	No (state const req)	Dismissed	Merits	challenge in state court to the state Senate reapportionment, on state constitutional grounds.
Duffee v. State Question 748, No. O-109127 (Okla. Sup. Ct. Feb. 28, 2011)	No (state const req)	Dismissed for lack of Jx (trial court has orig. jx	Procedural	challenging language in statute re districting process, filed directly in State Supreme court.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Wilson v. Fallin, O-109652 (Okla. Sup. Ct. Sept. 1, 2011)	No (state const req)	Dismissed for lack of Jx (trial court has orig. jx	Procedural	challenge in state court to the state Senate reapportionment, on state constitutional grounds, filed directly in State Supreme court.
Meeker v. Kitzhaber, No. CV 110197 (Or. Cir. Ct. July 12, 2011)	No (unequal pop)	Dismissed	other	unequal population of current districts, based on legislative inability to agree on a new district plan.
Holt v. 2011 Legislative Reapportionment Comm'n, 38 A.3d 711 (Pa. 2012)	No (state const req)	Judgement for P, map struck.	Merits	state constitutional grounds: requirements of compactness and adherence to the integrity of political subdivisions

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Smith v. Aichele, No. 2:12-cv-00488 (E.D. Pa. May 31, 2012)	No (unequal pop)	voluntary dismissal	neither (vol dis)	unequal population of current districts. 2011 plan rejected by court, court order 2001 plan to be used b/c no time to draw new map.
Garcia v. 2011 Legislative Apportionment Comm'n, 938 F. Supp. 2d 542 (E.D. Pa. Apr. 8, 2013)	No (unequal pop)	Dismissed (suit too near elections for relief)	Procedural	unequal population of current districts. 2011 plan rejected by court, court order 2001 plan to be used b/c no time to draw new map.
In re Petitions for Review Challenging the Final 2011 Reapportionment Plan Dated June 8, 2012, No. 126-134-MM-2012 (Pa. Sup. Ct. May 8, 2013)	Yes (Partisan)	Judgement for D, map upheld	Merits	partisan gerrymander; various challenges to new map based on compactness and other state const. requirements

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
League of Women Voters of Pa. v. Pennsylvania, 178 A.3d 737 (Pa. 2018)	Yes (Partisan)	Judgement for P	Merits	partisan gerrymander
Agre v. Wolf, 284 F. Supp. 3d 591 (E.D. Pa. Jan 10, 2018)	Yes (Partisan)	Judgment for D	Merits	partisan gerrymander
Puyana v. Rhode Island, No. PC-2012-1272 (R.I. Super. Ct. May 29, 2013)	No (state const req)	Judgement on the pleadings	Merits	state constitutional grounds: requirements of compactness
Davidson v. City of Cranston, No. 1:14-cv-00091 (D.R.I. May 24, 2016)	No (unequal pop)	SJ for P	Merits	unconstitutional dilution of equal representation stemming from the city's failure to adjust for the imprisoned population when drawing districts.
Harrell v. Holder, No. 1:11-CV-01454 (D.D.C. Oct. 13, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Harrell v. Holder II, No. 1:11-CV-01566 (D.D.C. Oct. 31, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance
Backus v. South Carolina, No. 3:11-cv-03120 (D.S.C. Mar. 9, 2012)	Yes (Racial)	Judgement for D	both: P for some districts (standing), M for remaining	racial gerrymander
Moore v. Tennessee, No. 12-0402-III (Tenn. Ch. Ct. Feb. 19, 2013)	No (state const req)	Dismissed	other	alleged violations of the state constitution's requirement that county lines be preserved where possible.
Davis v. Perry, 991 F. Supp. 2d 809 (W.D. Tex. Jan. 8, 2014)	No (asking court to draw map)	Court drew map	Merits	after preclearance denied, court drew map.
Evenwel v. Perry, No. 1:14-cv-00335 (W.D. Tex. Nov. 5, 2014)	No (unequal pop)	Dismissed 12b6	Merits	arguing that districts must be drawn with approximatel y equal numbers of voting-age citizens in each district, not total population.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Teuber v. Texas, No. 4:11-cv-00059 (E.D. Tex.)	No (unequal pop)	voluntary dismissal	neither (vol dis)	challenge to the population distribution of Texas state and federal districts, based on the inclusion of undocumented immigrants in population counts
Evenwel v. Abbott, 136 S. Ct. 1120 (2016)	No (other)		other	
Perez v. Abbott, No. 5:11-cv-00360 (W.D. Tex. Mar. 10, 2017)	Yes (Both)	Judgement for P on some districts, D on others	both: P re partisan, M re racial	racial and partisan gerrymander; counting incarcerated people in wrong location. 194 page order.
Harding v. County of Dallas, 336 F. Supp. 3d 677 (N.D. Tex. Aug. 23, 2018)	Yes (Racial)	Judgement for D	Merits	alleges racial discrimination against, and diluting the votes of, the Anglo minority.

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Abbott v. Perez, 274 F.Supp.3d 624, (W.D. Tex. Aug. 17, 2017)	Yes (Racial)	Judgment for P	Merits	racial gerrymander
Mexican Am. Legislative Caucus v. Texas, No. 5:13-cv-00261 (W.D. Tex. Dec. 18, 2013)	Yes (Racial)	Remand, no SMJ (no FQ, only state claims)	Procedural	racial gerrymandering claims under TX const, removed from state to federal court
Utah Democratic Party v. Legislative Records Comm., No. 120906505 (Utah Dist. Ct. 3d Jud. Dist. May 15, 2013)	No (other)	Most issues moot, otherwise Judgement for P.	Merits	allegedly excessive fees for a records request regarding the 2011-2012 redistricting cycle.
Vesilind v. Va. State Bd. of Elections, No. CL15-3886 (Va. Cir. Ct. Jan. 29, 2016)	No (state const req)	Judgement for D	Merits	compactness requirements of state const.
Virginia v. Holder, No. 1:12-cv-00148 (D.D.C. Mar. 15, 2012)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Virginia v. Holder, No. 1:11-cv-00885 (D.D.C. June 20, 2011)	No (preclearance)	voluntary dismissal after preclearance given	Preclear-ance	preclearance
Bethune-Hill v. Va. State Bd. of Elections, 141 F. Supp. 505 (E.D. Va. 2015)	Yes (Racial)	Judgement for D	Merits	racial gerrymander. 176 page order.
Personhuballah v. Alcorn, No. 3:13-cv-00678 (E.D. Va. Oct. 7, 2014)	Yes (Racial)	Judgement for P	Merits	racial gerrymander. 102-page order.
Personhuballah v. Alcorn II, No. 3:13-cv-00678 (E.D. Va. June 5, 2015)	Yes (Racial)	Judgement for P, map struck. After legislative failure to fix map, Court approved map drawn by special master.	Merits	racial gerrymander. 105 page order.
Bethune-Hill v. Va. State Bd. of Elections (II), 326 F. Supp. 3d 128 (E.D. Va. 2018)	Yes (Racial)	Judgment for P	Merits	racial gerrymander

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Langhorne v. Va. State Bd. of Elections, No. 3:13-cv-00702 (E.D. Va. Nov. 23, 2013)	Yes (Racial)	voluntary dismissal	neither (vol dis)	racial gerrymander
In re 2012 Wash. State Redistricting Plan, No. 86976-6 (Wash. Sup. Ct. Nov. 2, 2012)	No (unequal pop)	voluntary dismissal	neither (vol dis)	alleged violations of several state criteria, including unequal population, insufficient attention to political boundaries, and inadequate competition
Baldus v. Brennan, No. 2:11-cv-00562 (E.D. Wis. Mar. 22, 2012)	Yes (Both)	Judgement for P on some districts, D on others	Merits	racial and partisan gerrymander
Whitford v. Gill, 218 F. Supp. 3d 837 (W.D. Wis. 2016)	Yes (Partisan)	Judgement for P	Merits	partisan gerrymander. 159 page order (single spaced).

Case	Gerrymandering Claim? (Racial, Partisan, or both?)	Resolution	Resolved on Procedure or Merits?	Notes
Jefferson Cty. Comm'n v. Tennant, 876 F. Supp. 2d 682 (N.D. W.Va. 2012)	No (unequal pop)	Judgment for P, map struck. New map drawn by court	Merits	unequal population and allegedly insufficient attention to compactness under state law.
West Virginia *ex rel.* Andes v. Tennant, No. 11-1447 (W.Va. Sup. Ct. Nov. 23, 2011)	Yes (Partisan)	Judgement for D on partisan g claims, no standard	Merits	partisan gerrymandering, allegedly insufficient attention to preserving county boundaries, and unequal representation to certain counties
Hunzie v. Maxfield, No. 179-562 (Wyo. Dist. Ct. Laramie Cty.)	No (state const req)	unknown	other	alleged violations of the state and federal constitution, including allegedly insufficient attention to county representation.