★ SPECIAL VOTING RIGHTS EDITION ★

Respect

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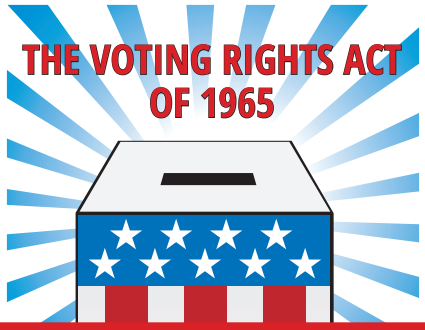
Appeals Court Ruling Weakens Federal Voting Rights Act *by Michael Barbella*

For nearly 60 years, private groups and ordinary citizens were legally permitted to file voter discrimination lawsuits under the 1965 Voting Rights Act (VRA).

In November 2023, a divided three-judge panel of the U.S. Court of Appeals for the Eighth Circuit put that right in jeopardy when it **upheld** a lower federal district court decision that ruled "Section 2 [of the VRA] does not confer a private right of action." A private right of action is simply the right of a private person or a private group, such as the NAACP, to take legal action against another person or entity, such as the government.

In *Arkansas State Conference NAACP v. Arkansas Board of Apportionment*, the U.S. District Court for the Eastern District of Arkansas held that only the U.S. Attorney General can sue to enforce Section 2 of the Voting Rights Act.



What is the Voting Rights Act?

Signed into law in 1965 by President Lyndon Johnson, the VRA prohibits discrimination in voting nationwide on the basis of race or being a member of a language minority group. A special provision of the VRA was Section 5, which required certain

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Manipulating Boundaries with Gerrymandering *by Sylvia Mendoza*

Gerrymandering is almost as old as the United States itself. Even before it had a name, Patrick Henry tried to draw a congressional map in Virginia that would have denied a seat to his rival James Madison, according to the Brennan Center for Justice, a nonpartisan law and policy organization.

The definition of gerrymandering is the manipulation of boundaries in congressional or legislative districts to favor one political party over another. It is a **bipartisan** issue, as both Republicans and Democrats use the tactic in an effort to keep their party in power.

"In 1810, when Massachusetts governor Elbridge Gerry drew a district in the shape of a salamander to corral his rivals and neutralize their influence...The term 'gerrymander' became a descriptive and ongoing part of the American political lexicon and life," Carol Anderson wrote in her book *One Person, No Vote: How Voter Suppression is Destroying Our Democracy*. "By the late 19th century, gerrymandering was so pervasive and disruptive that President Benjamin Harrison called it nothing but 'political robbery.'"

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The Battle Over Voting Rights in America Continues *by Emily Pecot*

Across the country, concerns over voting rights and the integrity of the electoral process have led to a surge in legal actions ahead of Election Day 2024. Fueled by the false claims of election fraud in the 2020 election, lawmakers in multiple states enacted laws restricting voter eligibility and changing voting procedures.

In response, civil rights organizations like the American Civil Liberties Union (ACLU) and the NAACP filed lawsuits nationwide, alleging violations of the Voting Rights Act of 1965, which prohibits discrimination in voting nationwide on the basis of race or being a member of a language minority group. These legal challenges are rapidly reshaping the voting rights landscape, with the potential to significantly impact state, local, and national elections.

Tyler Sterling, the NAACP's national mobilization director, told *The New York Times*, "It is appalling and unfortunate that state-sanctioned voter suppression continues in a time when we have seen some of our safest elections across the country."

Georgia Election Board makes new rules

In Georgia, the Democratic National Committee and the Democratic Party of Georgia is suing the Georgia Election Board over election measures it approved in August 2024. One of these measures allows the Georgia Election Board to "demand reasonable inquiries" if any member has questions about the outcome of an election, thereby delaying certification of Georgia's election results.

According to the lawsuit, "These novel requirements introduce substantial uncertainty in the postelection process and—if interpreted as their drafters have suggested—invite chaos by establishing new processes at odds with existing **statutory** duties."

In a statement regarding the measures passed in August 2024, Georgia Secretary of State Brad Raffensperger said, "Activists seeking to impose last-minute changes in election procedures outside of the legislative process undermine voter confidence and burden election workers. Misguided attempts by the State Election Board will delay election results and undermine chain of custody safeguards. Georgia voters reject this 11th-hour chaos, and so should the unelected members of the State Election Board."

At press time, a hearing was scheduled on the matter for October 1, 2024.

On September 20, 2024, coming less than two months before the election and three weeks before early voting starts in the state, the Georgia Election Board approved another rule that would require all ballots in all districts to be hand-counted.

"Military ballots have already been issued," Ethan Compton, elections supervisor in southern Georgia's Irwin County told *The Washington Post*. "The election has begun. This is not the time to change the rules. That will only lower the integrity of our elections."

The Georgia Election Board had been warned by Georgia's Attorney General's Office that the hand-counting rule would run afoul of state law, which doesn't allow local election workers to hand-count ballots before the votes are officially counted.

"These proposed rules are not tethered to any **statute**—and are, therefore, likely the precise type of impermissible legislation that agencies cannot do," the Georgia Attorney General's office said in a statement. "The Board runs substantial risk of intruding upon the General Assembly's constitutional right to legislate. When such intrusion occurs, the Board rule is highly likely to be ruled invalid should it be challenged."

While the Georgia Election Board passed rules, Georgia's State Legislature passed a law after the 2020 election allowing any registered voter to file unlimited challenges to other voters' eligibility. According to the Brennan Center for Justice, a nonpartisan law and policy organization, approximately half a million challenges have been filed in Georgia since January 2021.

In July 2024, the Republican Party chair in Bibb County, Georgia challenged the eligibility of 243 voters, placing 45 of them in "challenged status," which required those voters to take additional steps to prove they are legitimately registered to vote in order to make sure their ballots are counted in November. Also in July 2024, one individual submitted approximately 34,000 voter challenges based on possible address changes. The county elections supervisor began notifying these voters but clarified that non-responses would not result in removal.

Critics of the law, which requires hearings for

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Jodi L. Miller
Editor

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all challenges, argue that it burdens election officials and intimidates voters.

"Even when denied, voter challenges present major problems. They make election officials waste countless hours. A 2022 challenge to 37,000 voters in Gwinnett County, Georgia forced 5 to 10 election staffers to work 'all day, every day, six days a week' for multiple weeks and did not turn up a single ineligible voter," according to the Brennan Center.

Kansas says 'no right to vote' in its constitution

In May 2024, the Kansas Supreme Court ruled on the constitutionality of three election laws passed in 2021. The laws were challenged by the League of Women Voters of Kansas, as well as four other civic engagement groups. The cases were combined into one—League of Women Voters of *Kansas v. Schwab*.

One law restricts the number of ballots that can be returned on behalf of voters, which voting advocates say affects disabled voters who rely on civic groups to deliver ballots for them. Another law made it a crime to "give the appearance of being an election official." The Kansas League of Women Voters claimed the law was vague, forcing them to limit their work in registering voters for fear of being arrested. The third law dealt with signature verification, requiring election officials to match the signature on advance mail ballots to voter registration records. The civic groups in that case claimed the law penalized disabled and older voters, whose signatures may not match due to age or infirmity.

The Kansas Supreme Court ruled in the League of Women Voters favor on the impersonation law, saying it "criminalizes honest speech." The court sent the case back to the trial court for further consideration. The lower court had refused to issue an **injunction** on the law at the League of Women Voters' request. The law remains blocked until the trial court issues a final decision.

The Kansas Supreme Court **upheld** the limiting of ballot collection to 10 ballots, but it was the court's decision on the signature verification that garnered the most controversy. In upholding the verification law, Justice Caleb Stegall, writing for the majority, claimed that there was no "fundamental right to vote" in the Kansas Bill of Rights. "It "simply is not there," Justice Stegall wrote.

In a **dissenting opinion**, Justice Eric Rosen, one of three justices that dissented, wrote, "It staggers my imagination to conclude Kansas citizens have no fundamental right to vote under their state constitution. I cannot and will not condone this betrayal of our constitutional duty to safeguard the foundational rights of Kansans."

According to the Brennan Center, the Kansas Supreme Court's majority found that voting is a political right—one that allows citizens to influence the government—not a fundamental right.

"This distinction is crucial because it means that laws that interfere with voting face a lower form of scrutiny from courts," Andrew Garber, counsel with the Brennan Center's Voting Rights and Elections Program, wrote in the organization's *State Court Report*. "In civil rights litigation, the standard of review applied by courts—how closely they scrutinize government action—is often the decisive factor in whether a law is upheld."

For example, in Kansas, according to the Brennan Center, laws that infringe on a fundamental right face strict scrutiny by the courts. Strict scrutiny is the highest standard that a court uses to evaluate the constitutionality of a law. If Kansas now finds that voting is a political right, laws that protect voting rights will face less scrutiny when challenged in the courts.

Montana strikes down voting restrictions

The Montana Supreme Court struck down several voter restriction laws in March 2024, ruling them unconstitutional. The laws, passed in 2021, included stricter identification requirements, limits on third-party ballot collection, and the elimination of Election Day voter registration.

The court found that the state failed to provide sufficient evidence that these restrictions were justified, particularly given that voter fraud is extremely rare. The restrictive provisions were invalidated, and previous procedures were reinstated.

The majority opinion of the Montana Supreme Court said, "If the Legislature passes a measure that impacts 'the free exercise of the right of **suffrage**,' it must be held to demonstrate that it did not choose the way of greater interference."

The ruling is particularly significant for Native American voters in Montana, many of whom live in remote areas. With no easy access to polling places, they rely on third-party ballot collection. In addition, members of Native American tribes often don't have the necessary identification that the law had required.

Challenging at-large election systems in Kansas and Maryland

At-large election systems were challenged in Kansas and Maryland, with differing results. At-large voting is prevalent in local elections, allowing an entire town to vote for town council members, rather than dividing the city into districts for localized representation.

Aseem Mulji, legal counsel for redistricting at the Campaign Law Center in Washington, D.C., wrote in an article posted to the nonpartisan organization's website that "the practice of silencing voters of color through at-large election systems was a common vote dilution tactic of the Jim Crow era." Research from LaGrange College in Georgia, published in 2019, stated that "at-large election systems have shown that they are ineffective in promoting a diverse body of election officials when minority groups are overwhelmed by the voting power of the majority."

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jurisdictions with a history of discrimination to obtain preclearance from the U.S. Attorney General before implementing any changes to voting laws. Preclearance simply means that these jurisdictions had to obtain approval from the U.S. Department of Justice before instituting any laws related to voting.

Jurisdictions covered by Section 5 included nine states in their entirety (Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia), as well as parts of six other states. This provision was meant to expire after five years; however, Section 5 was renewed five times by the U.S. Congress, the last time in 2007.

In 2013, the U.S. Supreme Court struck down Section 4 of the VRA with its decision in *Shelby v. Holder*. Section 4 dealt with the formula used to determine which jurisdictions are subject to preclearance. The Court ruled the formula "was based on 40-year-old facts having no logical relation to the present day."

Striking down Section 4 essentially left Section 5 of the Act unenforceable. Before the Court's *Shelby* decision, jurisdictions covered by Section 5 were required to prove to the federal government that a proposed voting law was not discriminatory. After the Court's decision, the burden shifted to voters who had to rely on Section 2 of the VRA to challenge discriminatory voting laws.

According to the Congressional Research Service (CRS), a **nonpartisan** public policy research institute serving the U.S. Congress, Section 2 of the VRA "prohibits discrimination in voting based on race, color, or membership in an enumerated language minority group. The **statute** provides a right of action for the federal government to challenge state discriminatory voting practices or procedures, including those alleged to diminish or weaken minority voting power. Courts have also assumed that Section 2 suits can properly be brought by private citizens and organizations and have considered such suits."

More on the Arkansas case

The 2023 Eighth Circuit decision stems from a 2021 lawsuit challenging Arkansas's newly drawn state legislative map. Filed by the Arkansas State Conference of the NAACP and Arkansas Public Policy Panel, the suit claimed the redistricting map diluted Black voting strength by creating an insufficient number of majority Black districts. Testimony in the district court case revealed the approved 2021 map contained 11 Black majority districts, one fewer than the 2011 map despite a nearly 4% rise in Arkansas's total Black population since the 2010 U.S. Census. The **plaintiffs** in the case argued that of the 100 legislative districts in Arkansas, at least four additional Black majority voting districts were needed to adequately reflect the demographic change.

Although the district court found merit with the plaintiffs' challenge, it disagreed with the groups' interpretation of VRA's Section 2. U.S. District Judge Lee P. Rudofsky also noted that Section 12 of the VRA includes a remedial provision for reporting voting rights violations that is enforceable by the U.S. Attorney General.

"The question is not whether the court believes that sometime in the last fifty-seven years Congress should have expressly included a private right of action in the Voting Rights Act (I do)," Judge Rudofsky wrote in the district court's opinion, issued in February 2022. "The narrow question before the court is only whether, under current Supreme Court precedent, a court should imply a private right of action to enforce [Section 2] of the Voting Rights Act where Congress has not expressly provided one. The answer to this narrow question is no. Only the Attorney General of the United States can bring a case like this one."

In affirming the lower court's ruling, the Eighth Circuit stated, "It is unclear whether [Section 2] creates an individual right...If the 1965 Congress 'clearly intended' to create a private right of action, then why not say so in the statute? If not then, why not later, when Congress amended [Section 2]? Perhaps the answer lies in the legislative process itself. One possibility is that no one thought the issue was important enough at the time, especially because Congress's attention was on how states and political subdivisions could violate Section 2, not who could sue. **Precedent** provides a little more guidance but like legislative history, no firm answer."

According to Nicholas O. Stephanopoulos, a professor at Harvard Law School who teaches Election Law and has written or co-written several books on the subject, amending Section 2 would be "an easy, obvious fix."

Professor Stephanopoulos says, "Because the Eighth Circuit's ruling is entirely **statutory**, it would take just a single sentence in a new law to override the case. Congress would just have to say, explicitly, that private parties are authorized to enforce Section 2."

After the ruling from the three-judge panel of the Eighth Circuit, the plaintiffs in the case requested that it be reheard by all 11 judges of the Eighth Circuit. In January 2024, the Court declined that request, issuing an opinion that said the three-judge panel's opinion "mostly speaks for itself."

Judge Steven M. Colloton and Judge Jane Kelly of the Eighth Circuit opposed the denial, calling the panel's decision unprecedented and flawed. They also said the panel majority "seems oblivious to the risk of **anachronistic** error and the disruption of settled expectations."

Richard J. Perr, a former adjunct professor at Rutgers Law School in Camden where he taught Election and Political Campaign law, notes that the dissenting opinion of the Eighth Circuit cited the fact that out of 182 successful Section 2 cases

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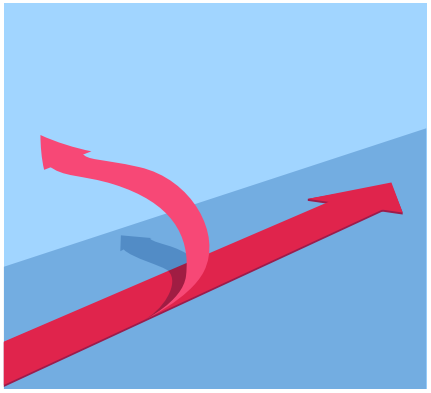
in the past 40 years, only 15 were brought by the U.S. Attorney General. So, while there may be no express right of action in the VRA, there is an implied private right of action.

"The dissent in the January 2024 rehearing denial claimed that it disregarded past legal decisions along with the legislative history of the VRA," Perr says. "Leaving only the government with the ability to enforce Section 2 would hamstring the VRA."

In fact, the U.S. Department of Justice, according to the Congressional Research Service, issued a statement at the time of the district court case asserting that they had "limited federal resources," which impedes them from enforcing Section 2, "thereby necessitating enforcement by private entities."

A split decision

Before the Eighth Circuit's three-judge panel made its ruling, the U.S. Court of Appeals for the Fifth Circuit made the opposite ruling in a similar case—*Robinson v. Ardoin*. Robinson challenged a Louisiana congressional map, claiming it denied Black voters a second majority Black district. In its ruling, which upheld a lower court decision, the Fifth Circuit said that private citizens do have "a right" to bring claims under Section 2 of the VRA.



The two rulings create what is known as a "split" between the two courts, making it more likely that the U.S. Supreme Court would consider the issue if the challengers in the Arkansas case decide to **appeal**, according to the Congressional Research Service.

In February 2024, the Congressional Research Service issued a report titled, *Recent Developments in the Rights of Private Individuals to Enforce Section 2 of the Voting Rights Act*. In the report they note that since the district court's 2022 ruling in *Arkansas State Conference NAACP*, other appeals courts, including the U.S. Court of Appeals for the Sixth Circuit and for the Eleventh Circuit "have determined or assumed without deciding, that Section 2 does confer a private right of action."

States step up

The Eighth Circuit ruling in *Arkansas State Conference NAACP* applies only to states in that court's jurisdiction—Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. But the decision has nevertheless prompted lawmakers in other states to draft or enact voting rights protection legislation, also known as state VRAs.

"State VRAs allow states to go above and beyond the floor set by the federal VRA to protect and serve their voters," Lata Nott, senior legal counsel for Campaign Law Center in Washington, D.C., wrote in an article posted to the nonpartisan organization's website. "For example, the Virginia VRA criminalizes voter intimidation, and the New York VRA expands language access for voters with limited English proficiency."

California was the first state to enact a VRA in 2001. Other states like Connecticut, New York, Oregon, Virginia, and Washington followed. The most recent state to add a VRA to its books is Minnesota in May 2024. The Minnesota Voting Rights Act prohibits voter suppression and vote dilution and restores the public's right to sue over alleged voter discrimination.

In the Garden State

Introduced in March 2024, the John R. Lewis Voter Empowerment Act of New Jersey is currently pending in the New Jersey State Legislature. Named after the late John Lewis, a Georgia Congressman and civil rights icon, the legislation would, among other things, create a preclearance program requiring local governments with histories of discrimination to prove that certain voting process changes will not harm voters of color before implementing them.

"New Jersey has a historic chance to pass the John R. Lewis Voter Empowerment Act of New Jersey—a state VRA that provides critical legal tools to protect ballot access and eradicate racial discrimination in voting," says Liza Weisberg, a staff attorney with the American Civil Liberties Union of New Jersey.

According to Weisberg, the bill would establish a New Jersey-specific preclearance program, offer new legal mechanisms for challenging discriminatory voting rules and procedures in court, expand language assistance for voters with limited English proficiency, and enshrine an express private right of action.

"Seven states have enacted similar voting rights acts," Weisberg says. "It's time for New Jersey to join them." •

1. The federal Voting Rights Act was signed into law in 1965. How is society different in terms of discrimination and access to the ballot box now than it was then? How is it the same?
2. What do you think of New Jersey's proposed VRA? If you were writing the law, what would you include? Explain in detail.

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In her book, Anderson said that two types of gerrymandering resulted—racial and **partisan**. "Both were lethal," she wrote.

Some background

Redistricting or the redrawing of district boundaries occurs every 10 years following the U.S. Census. The purpose is to make sure that the U.S. Congress and state legislatures have adequate representation as the demographics of states shift. Two types of maps are drawn—congressional and legislative. Congressional maps determine the districts for representation in the U.S. House of Representatives and legislative maps determine representation in state legislatures.

When maps are drawn to favor one political party over another it is called partisan gerrymandering. The other form of gerrymandering is referred to as racial gerrymandering, and it is defined as manipulating district lines to under-represent racial minorities.

Racial gerrymandering is accomplished in two ways—packing and cracking. Packing is when those creating the voting map draw district lines to pack as many racial or ethnic minority voters as possible into one district. The marginalized voters will be able to elect their preferred candidate in that district, as a result of packing, but their voting strength is weakened in other districts. Cracking is when racial and ethnic minority voters are divided up among many districts so they can never obtain a majority of votes in any district to elect their preferred candidate. The purpose of packing and cracking is to dilute the political influence of racial and ethnic minority voters.

The U.S. Supreme Court ruled that racial gerrymandering is illegal, violating the Voting Rights Act of 1965 and the U.S. Constitution. The Court also ruled, however, that partisan gerrymandering is permitted.

In its 2019 decision in *Rucho v. Common Cause*, the Court acknowledged that partisan gerrymandering may be "incompatible with democratic principles." However, the Court still determined that "partisan gerrymandering claims present political questions beyond the reach of the federal courts." In other words, it would be left to the states to decide whether to permit partisan gerrymandering.

In a post to the Brennan Center's website titled, "Gerrymandering Explained" Michael Li, senior democracy counsel for the Brennan Center and an expert on redistricting, wrote that the Court's decision in *Rucho v. Common Cause* made gerrymandering worse.

"The Voting Rights Act and the U.S. Constitution prohibit racial discrimination in redistricting," wrote Li. "But because there often is correlation between party preference and race, *Rucho* opens the door for Republican-controlled states to defend racially discriminatory maps on grounds that they were permissibly discriminating against Democrats rather than impermissibly discriminating against Black, Latino, or Asian voters."

Li also points out that gerrymandering has come a long way since the days of Elbridge Gerry.

"Today, intricate computer **algorithms** and sophisticated data about voters allow map drawers to game redistricting on a massive scale with surgical precision," Li wrote. "Where gerrymanderers once had to pick from a few maps drawn by hand, they now can create and pick from thousands of computer-generated maps."

Who draws the lines?

The rules for who is responsible for redistricting or redrawing voting maps vary from state to state. In 39 states legislators draw the lines, giving whichever party is in power at the state level primary control over their own district lines. Eleven states use independent commissions. States that only have one seat in the U.S. House of Representatives—Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming —do not draw congressional maps, just state legislative maps.

Nick Seabrook, a political science professor at the University of North Florida and author of *One Person, One Vote: A Surprising History of Gerrymandering*, told *The Los Angeles Times* that the national media should pay more attention to the gerrymandering of state legislative maps.

"Look at Wisconsin," Professor Seabrook said. "Republicans' margin in the state legislature has barely dipped below two-thirds since 2010 despite elections where the Democrats won the popular vote overall. So, that's worse in terms of its anti-democratic implications. You have entire state governments uncompetitive for a decade."

What happens in New Jersey

In New Jersey, two separate commissions draw its electoral maps. Members of the New Jersey Redistricting Commission, made up of six Democrats, six Republicans and one independent, draw the map for congressional seats in the U.S. House of Representatives. The New Jersey Apportionment Commission, made up of five Democrats and five Republicans, draw the legislative map for the Garden State's 40 districts for the State Legislature.

In 2021, after New Jersey's congressional map was drawn, the Republican members of the Redistricting Commission brought a lawsuit against the Commission challenging the map. According to the American Redistricting Project, a nonpartisan,

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nonprofit organization dedicated to educating the public on redistricting, the **plaintiffs** in *Steinhardt v. New Jersey Redistricting Commission* took issue with the decision of the independent member of the Commission, whose tie-breaking vote adopted the Democratic congressional redistricting plan. The independent Commissioner stated that "fairness" required him to take that position "because the Republicans' map was selected during the last redistricting cycle."

In February 2022, the New Jersey State Supreme Court unanimously dismissed the lawsuit. In the order that dismissed the complaint, the New Jersey Supreme Court said, "It is not the Court's task to decide whether one map is fairer or better than another. We review redistricting plans only to determine if the map selected is 'unlawful.' So long as the final map is constitutional, the Court cannot grant any relief."

Challenges to voting maps

As of August 2024, according to the Brennan Center, the maps in 28 states had been challenged after the redistricting process. There were 49 challenges to congressional maps and 51 challenges to legislative maps.

According to ABC News, "More than a half-dozen states face the prospect of having to go through the redistricting process again, mostly due to federal and/or state litigation over racial or partisan gerrymandering concerns." As the 2024 presidential election neared, the courts issued rulings on the constitutionality of some of those maps.

For example, the congressional map for Alabama was challenged because it contained just one majority Black district out of seven even though the Black voting population in Alabama is approximately 26%. In June 2023, the U.S. Supreme Court issued a 5-4 ruling stating that Alabama diluted the power of Black voters when it drew the state's congressional map. The Alabama State Legislature was ordered to redraw the district lines to give Black voters a second majority district.

In May 2024, the U.S. Supreme Court restored a congressional map in Louisiana that includes two majority Black districts. The Court's narrow ruling only determined what map would be used for the 2024 election. It allows **appeals** objecting to the map to move forward.

Also in May 2024, the U.S. Supreme Court allowed South Carolina to use a congressional map that a lower court had ruled weakened the voting rights of Black voters. According to reporting from *The Washington Post*, "The Supreme Court called the evidence that race motivated lawmakers [in drawing the map] weak and said courts needed to presume they acted in good faith."

Justice Samuel A. Alito Jr.'s **majority opinion** noted that many predominantly Black precincts in Charleston were moved out of one district and into another. However, Justice Alito wrote, "Because of the tight correlation between race and partisan preferences, this fact does little to show that race, not politics drove the legislature's choice."

In Justice Elena Kagan's **dissenting opinion**, joined by Justices Sonia Sotomayor and Ketanji Brown Jackson, she noted that those who draw these maps use racial data to shape the partisan makeup of districts and the Court's majority is saying that's okay.

"Go right ahead, this Court says to States today," Justice Kagan wrote. "Go ahead, though you have no recognized justification for using race, such as to comply with statutes ensuring equal voting rights. Go ahead, though you are (at best) using race as a short-cut to bring about partisan gains—to elect more Republicans in one case, more Democrats in another. It will be easy enough to cover your tracks in the end: Just raise a 'possibility' of non-race-based decision-making, and it will be '**dispositive**.'"

In a podcast interview, Professor Seabrook said, "Gerrymandering is why our government is so dysfunctional." He reiterated the power of civic engagement and voting in elections to hold elected representatives accountable for what they do. "There's a lack of that in America right now. The voters are supposed to choose the politicians. The politicians are not supposed to choose the voters." •

1. Why do you think the U.S. Supreme Court ruled that racial gerrymandering is illegal but partisan gerrymandering is permitted?
2. In *Rucho*, the U.S. Supreme Court acknowledged that partisan gerrymandering may be "incompatible with democratic principles." Do you agree or disagree? Explain your answer.
3. Professor Seabrook believes voting and civic engagement is important to hold elected officials accountable. Do you agree or disagree with that statement? Explain your answer.

Battle CONTINUED FROM PAGE THREE

A 2018 survey by the International City/County Management Association, an organization for local government professionals, found that 68% of council members across the country are elected through at-large systems.

Latino residents in Dodge City, Kansas challenged the city's at-large election system in a federal district trial. In *Coca v. City of Dodge City*, the plaintiffs, represented by the ACLU, argued that Dodge City's at-large method of electing local officials dilutes Latino voters' opportunity to elect the candidate of their choice. Although 63% of Dodge City's population is Latino, the system effectively blocks Latino candidates from being elected, the lawsuit claimed.

The federal lawsuit was filed in December 2022, and finally went to trial in February 2024. In July 2024, the U.S. District Court for the District of Kansas issued a ruling rejecting the ACLU's argument.

In April 2024, the town of Federalsburg, Maryland, reached a final settlement for a lawsuit that challenged its at-large election system. The case, initiated by the NAACP and other civil rights groups in 2022, argued the town **disenfranchised** Black voters. The lawsuit stated that Federalsburg has a "white stranglehold on municipal power" with its long-standing use "of a racially dilutive at-large, staggered term election system, rather than a racially fair system that would afford Black Federalsburg voters an equal opportunity to elect candidates of their choice." Although the town's population is 43% Black, no Black candidate had been elected to the town council in the Federalsburg's 200-year history.

Last summer, as part of the settlement, the town's leaders, under the supervision of a judge, changed its election system from at-large to a two-district system. As a result, in October 2023, two Black candidates—Brandy James and Darlene Hammond—won town council elections.

Also, as part of the settlement, Federalsburg issued a public apology to its Black residents, which said in part that the town, "formally acknowledges responsibility and expresses its deep regret for actions and inactions contributing to racial discrimination and exclusion of Black residents, including its use of an election system that prevented any Black person from holding a position on the Town Council for over 200 years. As officials of the Town, we accept moral accountability for the harms these actions inflicted upon Black residents, their families and ancestors before them."

The apology will be framed and posted in the Federalsburg Town Hall. •

1. The Kansas Supreme Court ruled that voting is not a fundamental right under its state constitution. Do you think voting is a fundamental right? Why or why not?
2. What do you think about the new rules passed by the Georgia Election Board? How might these rules impede Georgia on Election Day?
3. Select one of the laws mentioned in the article that was either upheld or struck down by the Montana Supreme Court or the Kansas Supreme Court. Explain in detail why you agree or disagree with that court's decision.

Glossary

algorithm — a set of rules to be followed in calculations. **anachronistic** — out-of-date, old fashioned. **appeal** — a complaint to a higher court regarding the decision of a lower court. **bipartisan** — supported by two political parties. **disenfranchise** — to deprive of a privilege or right, such as the right to vote. **dispositive** — to bring about the settlement of an issue. **dissenting opinion** — a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues. **injunction** — an order of the court that compels someone to do something or stops them from doing something. **jurisdiction** — authority to interpret or apply the law. **majority opinion** — a statement written by a judge or justice that reflects the opinion reached by the majority of their colleagues. **nonpartisan** — not adhering to any established political group or party. **partisan** — someone who supports a party or cause with great devotion. **plaintiff** — person or persons bringing a civil lawsuit against another person or entity. **precedent** — a legal case that will serve as a model for any future case dealing with the same issues. **statute** — legislation that has been signed into law. **statutory** — enacted by statute. **suffrage** — the right to vote. **upheld** — supported; kept the same.