

Partisan Gerrymandering

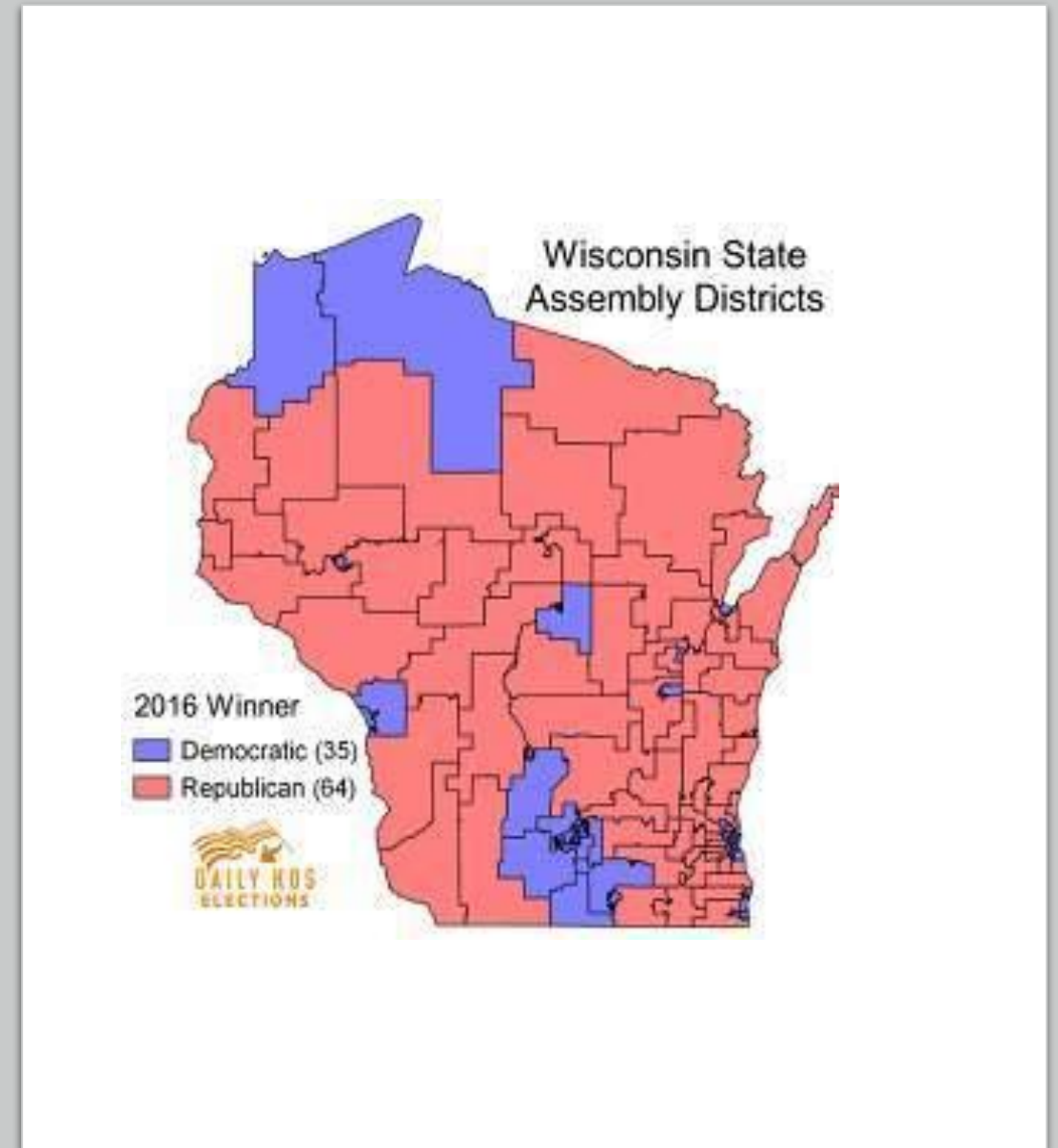
- Courts stayed out of redistricting until the 1960s
- *Baker v. Carr* (1962) – federal courts can hear state redistricting cases
 - Tennessee hadn't redrawn districts for 60 years
- *Wesberry v. Sanders & Reynolds v. Sims* (1964) – “one person, one vote”
 - Alabama also hadn't redrawn districts for 60 years
- Voting Rights Act of 1965 – courts involved with redistricting challenges based on discrimination against racial minorities

Partisan Gerrymandering

- *Gaffney v. Cummings* (1973) – Connecticut legislative districts drawn to achieve proportionality was deemed constitutional
- *Davis v. Bandemer* (1986) – partisan gerrymandering is justiciable under the Equal Protection Clause but need to prove discrimination
 - No maps thrown out for partisan bias due to lack of legal standard or measurement
- *Vieth v. Jubelirer* (2004) – party affiliation not protected under the 14th Amendment → not justiciable via Equal Protection but possibly under 1st Amendment rights (right of association via political party)

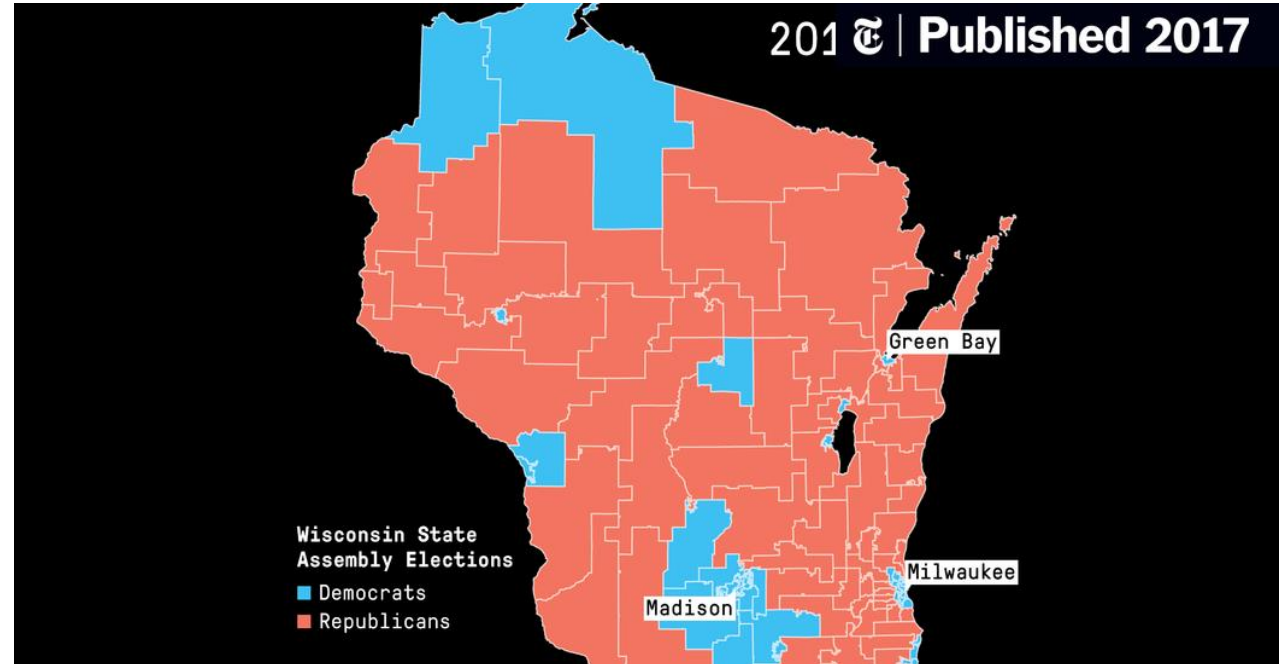
Gill V. Whitford

- The supreme court case Gill v. Whitford was brought by 12 residents of Wisconsin who challenged the 2011 redistricting plan enacted by the state legislator on the basis of partisan gerrymandering.
- Their argument was that democratic votes were diluted by a biased map created by a majority Republican state legislator.
- The Wisconsin state assembly argued that geographical reasons explain why the map wasn't proportional to the population.



Ruling

- The supreme court ruled unanimously that the plaintiffs lacked standing to file an appeal.
- They ruled that the plaintiffs did not prove there had been an "invasion of a legally protected interest." (Plaintiffs did not prove individual harm only statewide harm)
- As a result, the court sidestepped hearing the case and did not make a ruling on partisan gerrymandering. The Wisconsin redistricting map did not change as a result of the case.



League of Women voters of PA v Pennsylvania Commonwealth

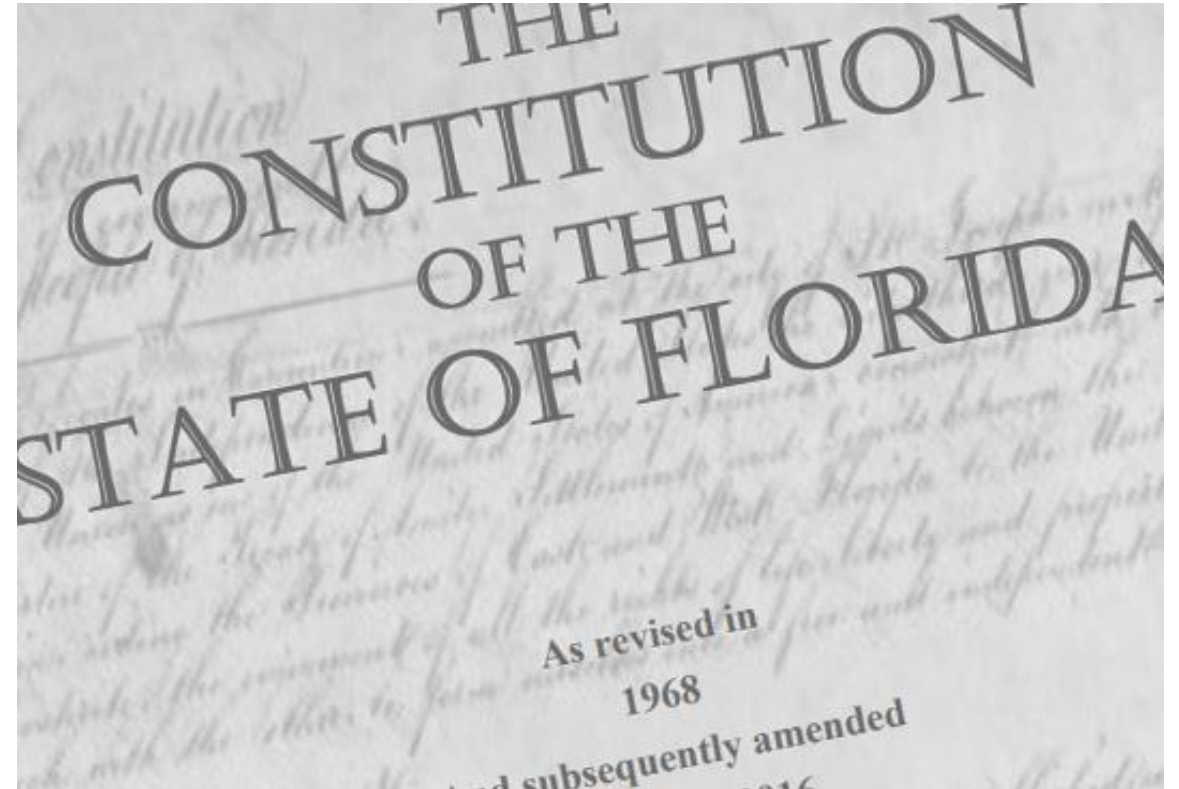
- Filed by the League of Women Voters and a group of democrats against Pennsylvania's 2011 congressional maps as unconstitutional partisan gerrymandering
- The plaintiffs argued that the new Congressional map discriminated against democratic voters by diluting the value of their votes. This violates the free expression and associational rights guaranteed by Article I, sections 7 and 20 of the Pennsylvania Constitution.
- Following the results of Gill v. Whitford, the plaintiffs were allowed to present their case to the Pennsylvania Supreme court

Ruling

- On January 22, 2018, the Pennsylvania supreme court ruled that the new map was unconstitutional and ordered the map to be redraw within 24 days
- The new Republican drawn map was rejected again since it did not abide by the Jan 22 ruling nor the state constitution
- The Supreme court then create its own map and ordered that the state use the one they provided
- New maps were proposed in appellate courts three more times afterwards, all which were denied

League of Women Voters of FL v. Detzner - Overview

- The plaintiffs in this case were the League of Women Voters and the Defendants were the Florida State legislature. Their arguments were heard in state court.
- The League of Women Voters claimed that the redistricting plans that the state legislature had adopted violated the state constitution that states that district boundaries should not be drawn to favor any incumbents or political parties.



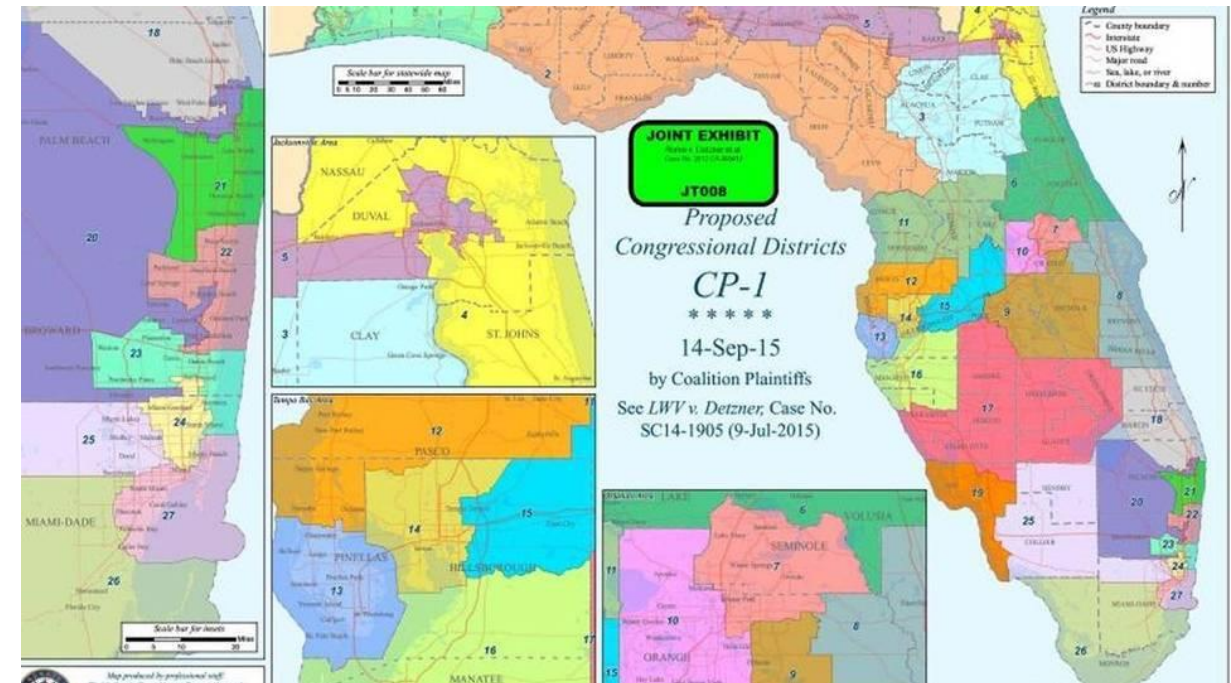
LWV of FL v. Detzner – Deleted Email Scandal

- The State Court found that the Republican legislature had deleted most of their emails and documents related to the redistricting process, likely because they knew their map would be controversial
- This itself is not a violation of any laws, but the destruction of evidence in reasonable anticipation of litigation is definitely questionable

LWV of FL v. Detzner - Ruling

-The intentional destruction of evidence by the Republican party lead the court to have adverse inference against them

-By a 5-2 ruling, the state court determined that 8 districts had to be redrawn due to violating the Florida State Constitution



New Congressional map proposed by LWV

Rucho v. Common Cause

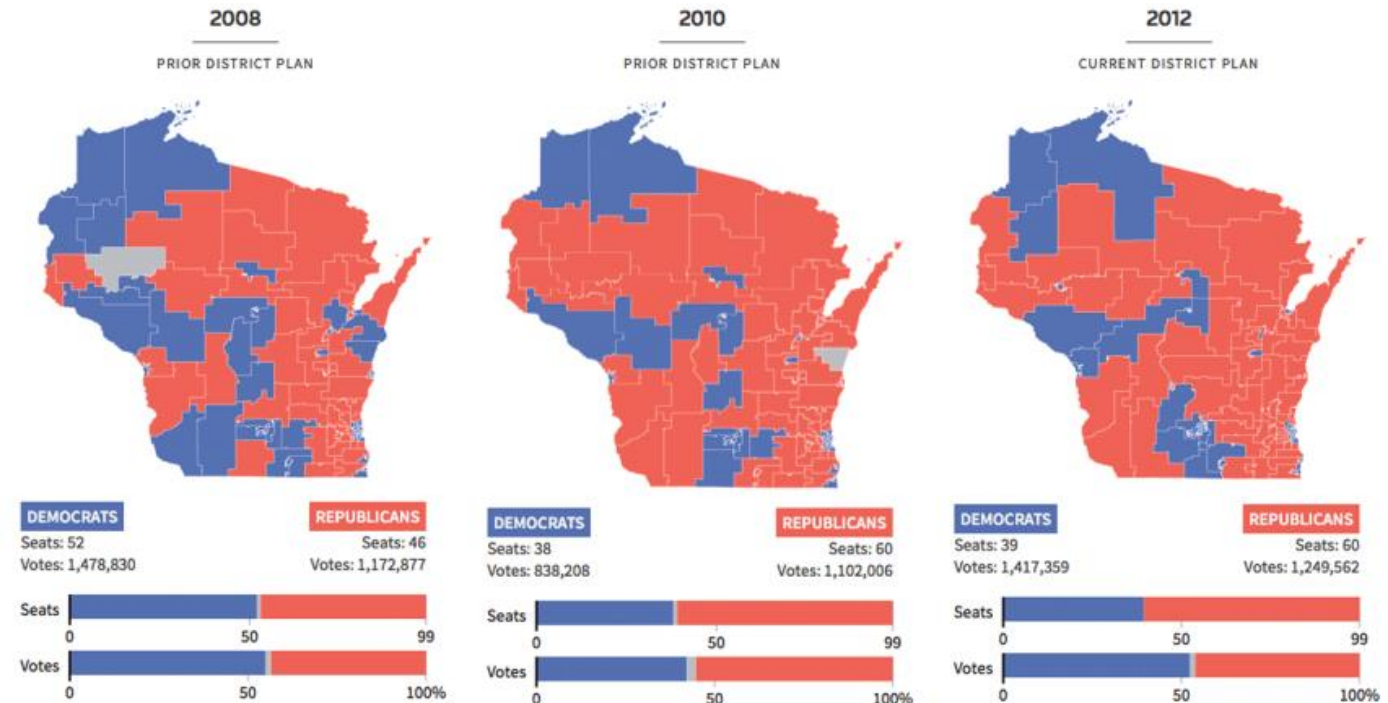
Rachel, Thursday, Kellie

Facts of the Case:

- August 5, 2016, Common Clause filed suit in U.S. District Court for the Middle District of North Carolina, arguing that NC's congressional map had illegal partisan gerrymandering.
 - Violating First Amendment, the Equal Protection Clause, and Article 1, sections 2 and 4 of the U.S. Constitution.
- 3 Judge District court struck down North Carolina's 2016 congressional map and banned use of it.
- North Carolina Republican's, led by Robert Rucho (Senator, Head of Redistricting committee), appealed decision to the Supreme Court
- **Plaintiff:** Robert A. Rucho, among other North Carolina voters
- **Plaintiff Argument:** Plaintiffs argued that the map favored some voters and penalized others for their political affiliations which in turn affects the state government's ability to maintain political neutrality when distributing political representation.
- **Defendant:** Common Cause
- **Defendant Argument:** The defendants argued that the plaintiffs have no standing to press partisan gerrymandering claims, and the question of whether partisan gerrymandering claims are justiciable.

Rucho v. Common Cause

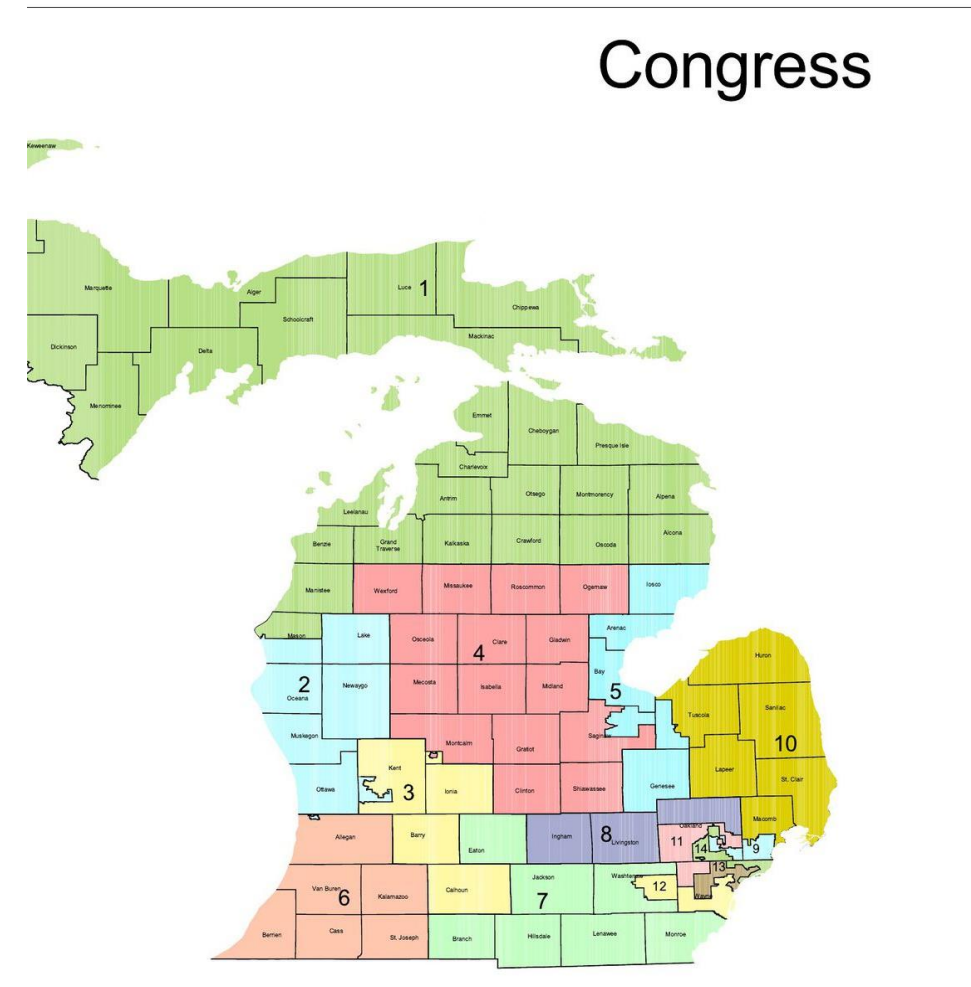
- **Rule:** partisan gerrymandering is beyond the scope of the federal courts, as judicial action must be governed by standard, by rule, and must be principled, rational, and based upon reasoned distinctions found in the Constitution or laws.
 - Judicial review of partisan gerrymandering does not meet those basic requirements.



LWV of Michigan v. Benson - Overview

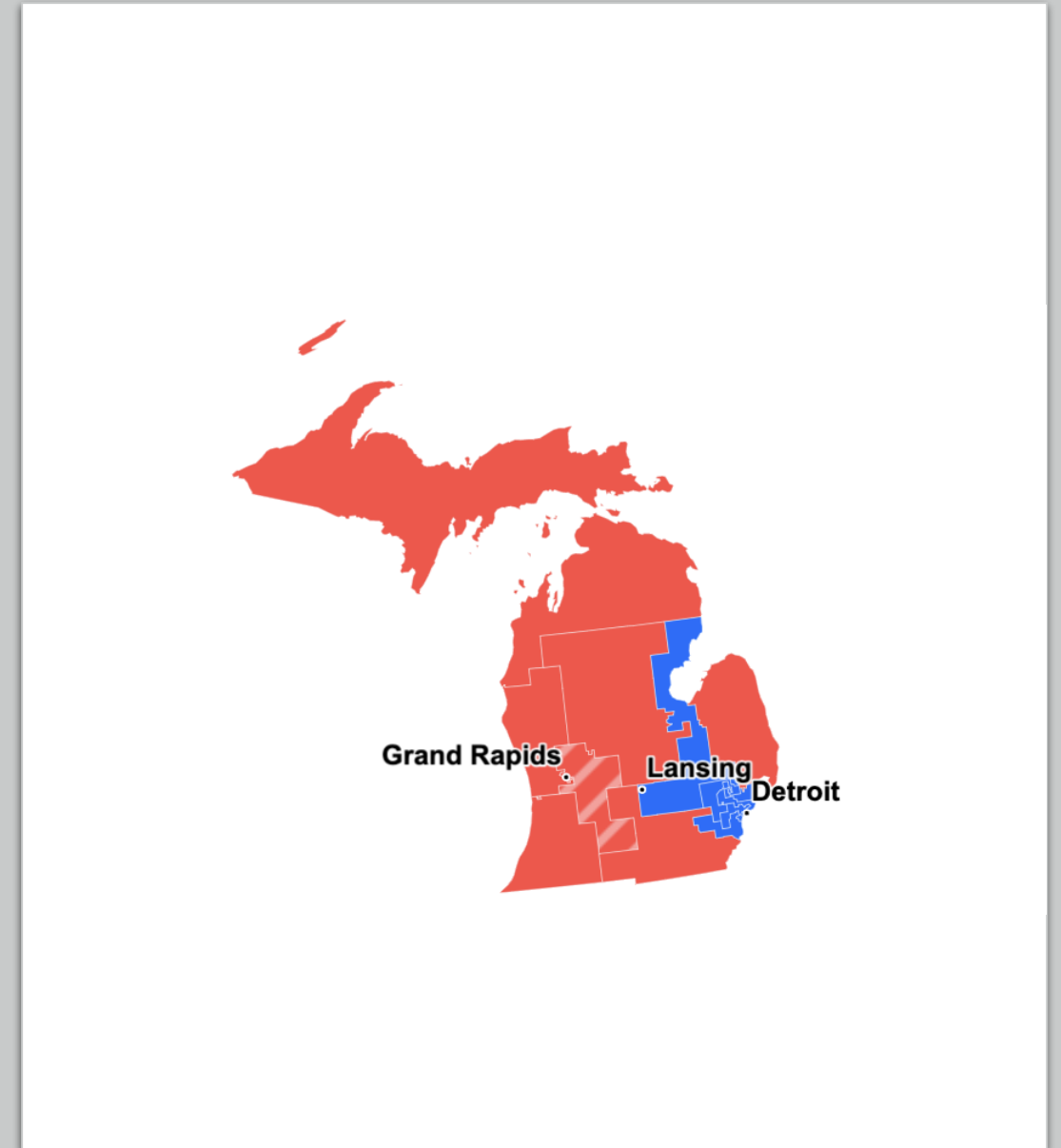
Jake and Mike

- This League of Women Voters, along with eleven Democratic voters from Michigan, filed suit against the state of Michigan claiming they had created Republican partisan gerrymanders in both their Legislative and Congressional maps from 2011. They made an argument that Democratic voters had been cracked and packed while Republican voters were more spread out to their advantage. The Republican law makers claimed this was not the case, and that the maps were drawn fairly without any partisan gerrymandering. The initial case was partially thrown out due to a lack of standing for the state level, but a case remained for the district levels.
- Following appeals to the U.S. Court of Appeals for the Sixth Circuit, Republican members of Michigan's congressional delegation, state legislators, and a few senators were allowed entry into the case to defend themselves. After a rejected settlement by Benson (secretary of state), the case went to trial, and was eventually repealed multiple times all the way up to the Supreme Court.



LWV of Michigan v Benson-Outcome

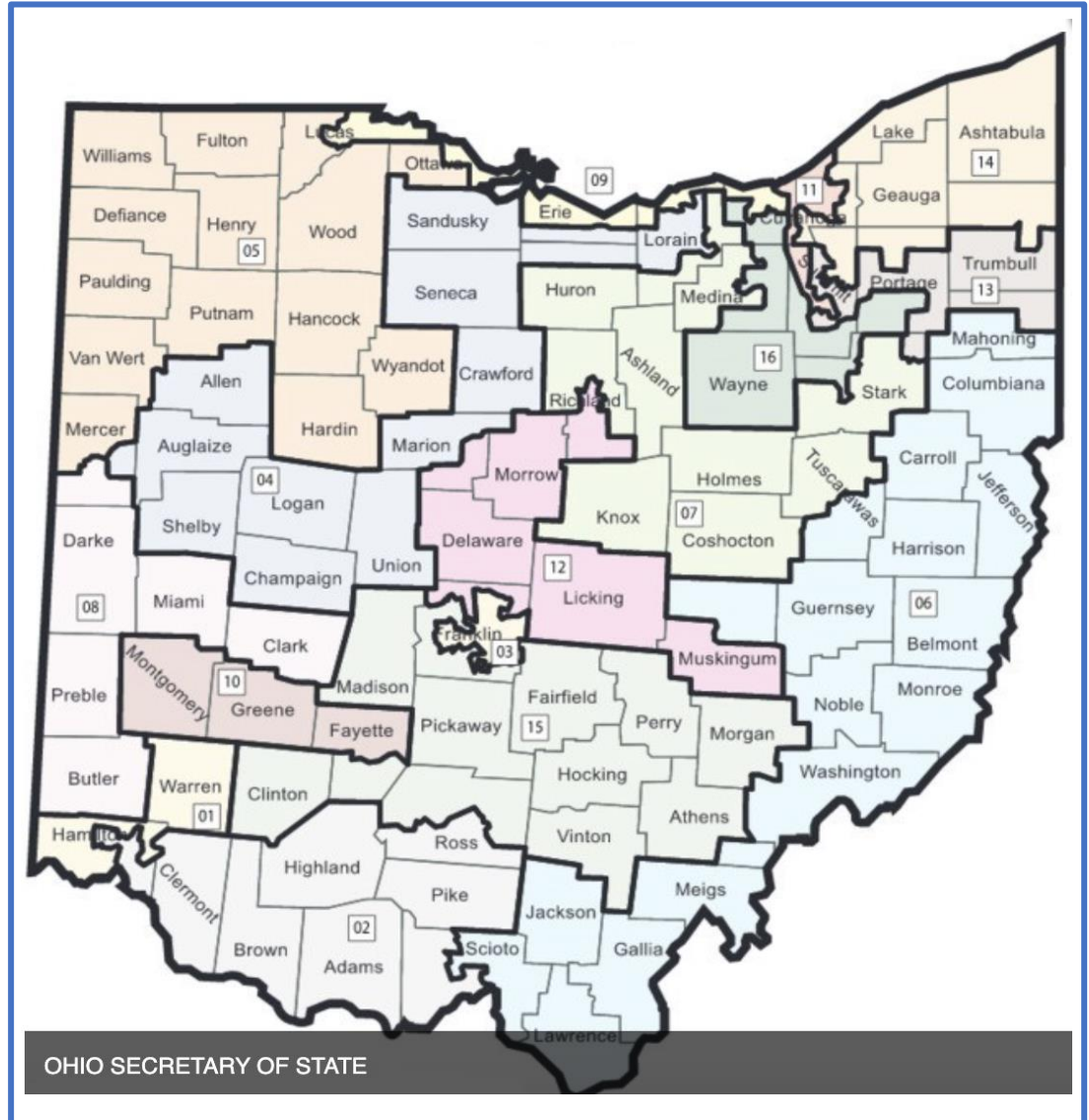
- The Supreme Court deliberated on the districts and decided that they were not fit and should be replaced with new districts for the upcoming 2020 election cycle. However, the decision was appealed and the Court allowed for a stay of drawing the districts. As such, the Michigan districts remained the same during the 2020 election. Though the challenge was valid, the gerrymander turned out to be a 'dummymander' anyway, as the 9-5 majority earlier in the decade shrunk to 7-7 after the 2020 election, in line with the close results in Michigan.



Ohio A. Philip Randolph Institute v. Householder

Context

- Since the map was created in 2011, Ohio Congressional outcome was 75% Republican control despite Republicans consistently obtaining less than 60% of the Ohio vote
- Supreme Court previously ruled partisan gerrymandering can be struck down by courts



Ohio A. Philip Randolph Institute v. Householder

Plaintiffs

**Ohio A. Philip Randolph Institute +
League of Women Voters of Ohio + 17
Ohio residents et al.**

[5 Non-partisan and Democrat Organizations +
17 Democrat Voters]

Argue that:

- *State and national Republican operatives – not state mandated bipartisan task force – drew Ohio's 2012 congressional districts.*
- *Districts were drawn to elect Republican supermajority (12R, 4D).*
- *Districts were unconstitutional – they violated the First and Fourteenth Amendments*

Defendants

**Larry Householder (once Republican
Speaker of Ohio House of
Representatives) et al.**

Argue that:

- *Plaintiff claims are nonjusticiable (cannot be decided by a court of law).*
- *The plaintiffs do not have standing (sufficient legal interest) in the case.*
- *First Amendment claim not to have to testify as part of discovery.*

Ohio A. Philip Randolph Institute v. Householder

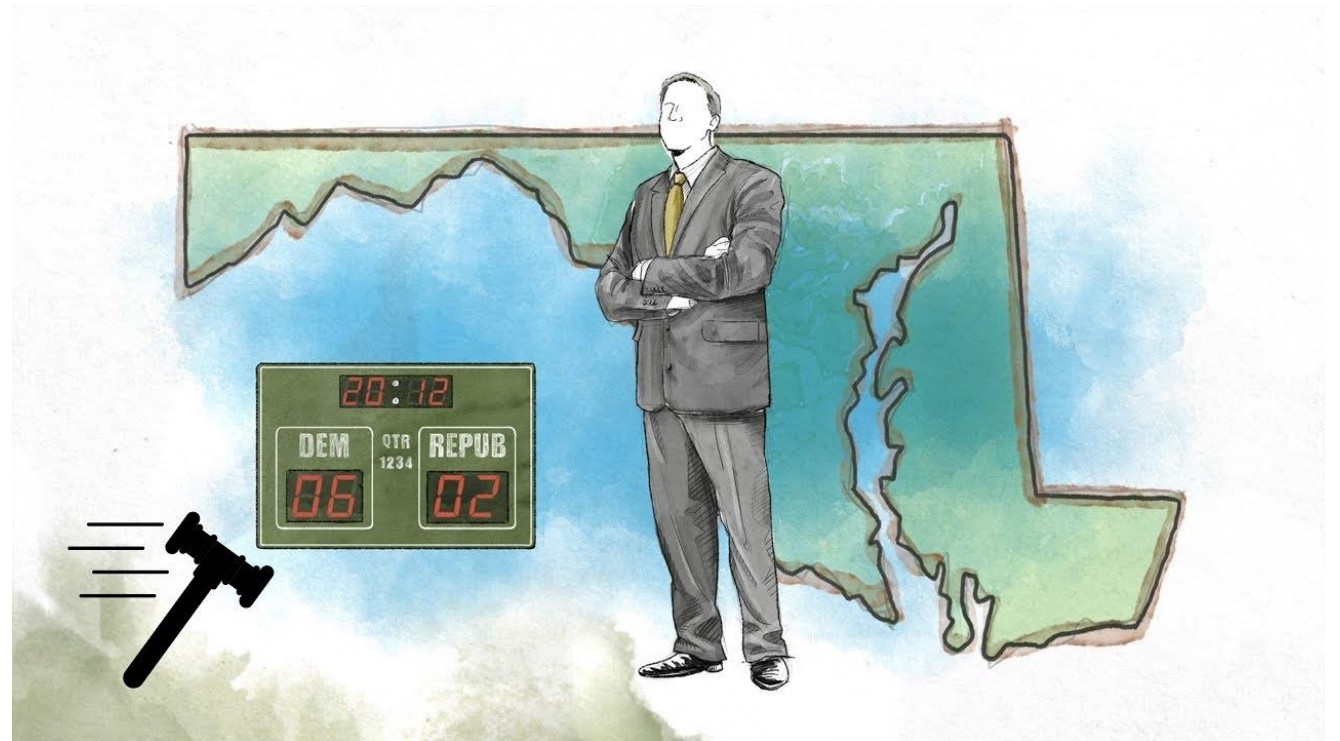
Outcome

- Three-judge pannel rules map an unconstitutional partisan gerrymander.
- Require Ohio general assembly to make new map by June 14, 2019.
- Appealed to Supreme Court – stay granted by Justice Sotomayor on new map drawing.
- *Rucho v. Common Cause (2019)* – Supreme Court rules partisan gerrymandering cannot be decided by federal courts.
- Sixth Circuit dismisses the case as not under jurisdiction anymore – ***the ruling that map was unconstitutional was dismissed.***
- Decisions on map are left to state courts and legislature.
- ***Map remains in effect between 2012-2022.***

Benisek v. Lamone

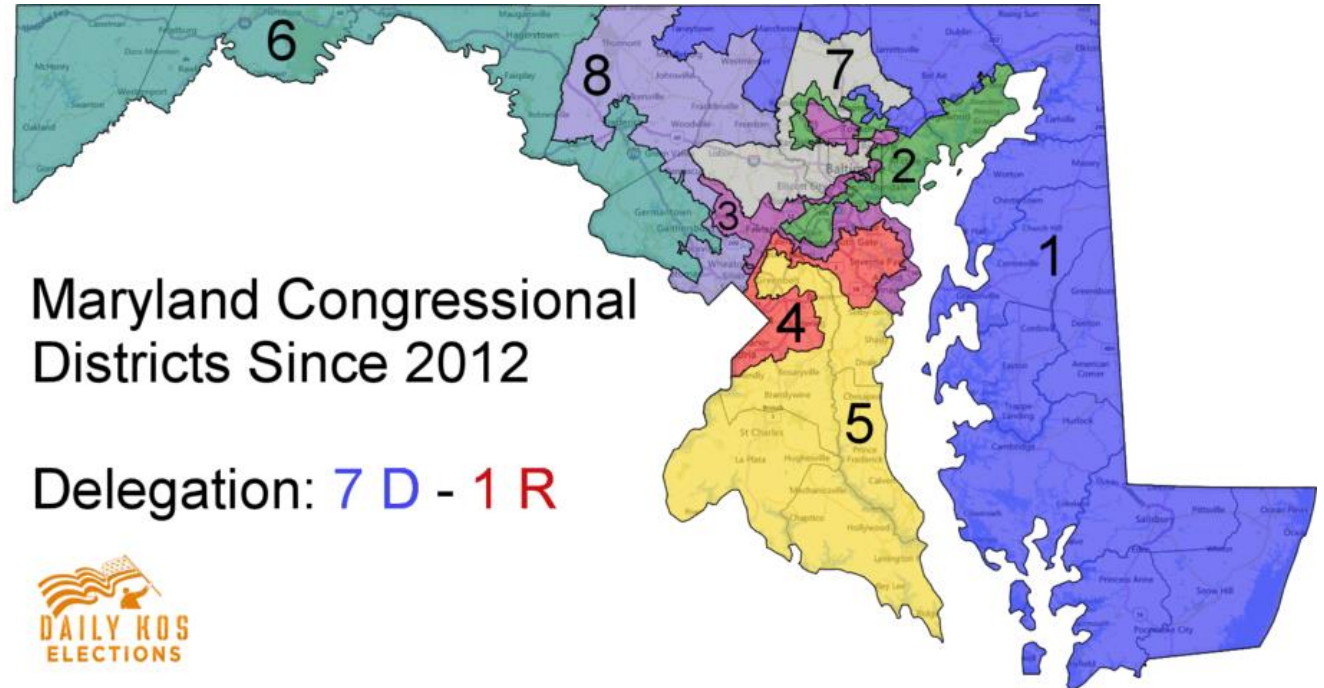
(Maryland)

- The case stemmed after 7 republican voters claimed state lawmakers had redistricted 2010 cycle that would diminish republican vote.
- Fought for an injunction towards the state lawmakers proving their 1st amendment rights were being violated.



Benisek v. Lamone

- On the republican side they argued Maryland's government intentionally redrew district 6 in favor of Democrats.
- The plaintiffs sought a preliminary injunction barring the State from enforcing the 2011 redistricting plan and requiring the State to implement a new map in advance of the 2018 midterm elections. Most of the district court panel denied the motion



Benisek V. Lamone

- June 18th, 2018 Supreme Court came to unanimous decision
"The district court did not abuse its discretion in denying the plaintiffs' motion for preliminary injunction"
- Court ruling stated that Maryland had not abused their power in redistricting
- It was determined that the plaintiffs and their district would not suffer irreparable harm without the intervention of the court
- Concluded that the plaintiffs did not show that the requested injunction would serve the public interest
- This conclusion was limited to this case and did not address the legality of partisan gerrymandering as a whole