

## Narrow Majority Largely Upholds Texas Redistricting Plan Against Gerrymandering Challenge

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[Abbott v. Perez](#) presented the third opportunity for the Court to address gerrymandering claims under the Voter Rights Act, this time examining plans approved by the Texas legislature in 2013 that were largely in accordance with interim plans created by a three-judge Texas court. The 2013 plans evolved from earlier 2011 plans that did not meet with any court's approval. In 2017, the Texas court held that the state had failed to prove that the 2013 plan cured the taint of the legislature's discriminatory intent in its 2011 plan, and that certain districts were racial gerrymanders in violation of the Act. While the Court declined to reach the merits in the two other gerrymandering cases, Justice Alito authored an opinion for a five-member majority that largely affirmed the 2013 plan, while finding that one particular district was an impermissible racial gerrymander. First, the Court held that it had jurisdiction to hear the case because although the Texas court did not describe its orders as injunctions, they had the practical effect of being injunctions, and thus provided the Court with appellate jurisdiction. Next, the majority held that the Texas court erred in placing the burden of proof on the state to prove lack of discriminatory intent—such burden always rests with the challenger. Finally, the Court held that of four districts challenged on alternative bases, only one, which was created through input from one of the challengers, was a racial gerrymander in violation of the Act. Justice Thomas, joined by Justice Gorsuch, filed a concurrence arguing that the Act did not apply to redistricting. Justice Sotomayor, joined by Justices Ginsburg, Breyer, and Kagan, filed a dissent, arguing that the Court lacked jurisdiction over the orders, the Texas court did not shift the burden of proof, and that the result of the decision was to preserve a discriminatory election map.

**TAGGED:** [scotus](#), [Gerrymandering](#), [Redistricting](#), [Abbott v. Perez](#), [Voter Rights Act](#)