

Plaintiffs Lacked Standing To Bring Gerrymandering Claims

18 Jun 2018

In [Gill v. Whitford](#), twelve Democratic voters brought claims arguing that the redrawing of Wisconsin's districts after the 2010 census was an unconstitutional gerrymandering that made it harder for Democratic candidates to get elected. Specifically, the redrawing allegedly "cracked" Democratic voters into other districts where they could not reap a majority, and "packed" Democratic voters into a few districts where Democratic candidates already won by large margins. The state election commission moved to dismiss on the basis that the voters had not demonstrated standing to challenge the redistricting as a whole—they could only challenge based on their individual interests in each district. The district court denied the motion, and after a trial enjoined the new districting plan. On direct appeal, the Court, in a unanimous decision by Chief Justice Roberts, reversed, holding that the individual defendants had not satisfactorily proved their respective particularized burdens that would grant standing. Arguing a statewide injury to Wisconsin Democrats and their candidates was not sufficient. The Court then remanded the case back to the district court to allow the plaintiffs to prove their concrete and particularized injuries. Justice Kagan, joined by Justices Ginsburg, Breyer, and Sotomayor, filed a concurrence outlining what kinds of proof might grant standing in such a case, and what theories the voters might advance at the second trial. Justice Thomas, joined by Justice Gorsuch, also filed a concurrence agreeing with the result but disagreeing that the cause should be remanded—he would have dismissed the case entirely for lack of standing.

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