

Dept. of Justice: Joins coalition urging Supreme Court not to weaken Voting Rights Act protections in Alabama redistricting case

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21 Attorneys General Argue that Alabama's Congressional Maps Unlawfully Dilute Minority Voting Power and Should Be Redrawn

MADISON, Wis. – The Wisconsin Department of Justice (DOJ) joined a coalition of 21 attorneys general urging the Supreme Court not to undo four decades of legal precedent that protects the voting power of minority communities.

In a brief filed in *Merrill v. Milligan*, the attorneys general argue that the Supreme Court should affirm a lower court's ruling that Alabama's congressional district maps violate the Voting Rights Act and must be redrawn. The coalition urges the Supreme Court to maintain the established, straightforward standard used to determine whether a plaintiff has a viable claim of unlawful vote dilution. The brief further argues that the court should reject Alabama's proposed new standard for judging whether such a claim can proceed because it is unnecessary, untested, and unmanageable.

"This case is yet another attack on voting rights," said Attorney General Josh Kaul. "The Supreme Court should reject this attempt to further undermine the Voting Rights Act."

Under the Voting Rights Act, states may not draw legislative districts that dilute minority voting power and prevent communities of color from having a chance to elect their preferred candidates. The Supreme Court established standards for

assessing the fairness of districts in the 1986 case *Thornburg v. Gingles*, and states have relied on that framework ever since.

Nearly 30% of Alabama's population is Black, but under districts drawn by the state after the 2020 census, only one of the state's seven congressional districts is majority-Black. Civil rights groups and Black Alabama voters filed suit against the state seeking to have the maps redrawn. In these suits, they argue that Alabama violated the Voting Rights Act by unlawfully drawing maps that "pack" Black voters into one majority-Black district.

A three-judge panel unanimously ruled that Alabama's maps violated the Voting Rights Act and ordered the state to redraw them. Alabama appealed to the Supreme Court and is urging the Court to change the long-established framework used to determine whether districts are drawn fairly or whether they harm minority communities and violate the Voting Rights Act. Under settled law, a plaintiff begins by showing that a minority group is sufficiently large and geographically compact to constitute a majority in a reasonably configured district. Alabama seeks to jettison this settled test and to require plaintiffs to prove at the outset that the state's map deviates too far from supposedly "neutral" maps produced through computer algorithms.

In this brief, the states urge the Supreme Court to rule that Alabama's congressional districts must be redrawn and maintain the existing framework for judging whether districts are drawn fairly because:

- **The existing standard is straightforward and states rely on it:** For decades, states have relied on this settled understanding of the first-step inquiry into potential vote dilution. It requires applying principals traditionally used to draw legislative districts and asking whether it is possible to draw reasonable maps that would give minorities greater voting power. If so, then the vote-dilution claim is allowed to move forward and be heard in full. States have considered this inquiry for decades to help draw districts that do not dilute minority voting power and to defend their legislative maps in litigation. It has been applied by federal and state courts in hundreds of cases across the country.
- **Alabama's proposed new standard is unworkable and depends on complex untested technology:** Alabama has proposed a radical new standard to judge whether a vote-dilution claim can even get off the ground. Claiming that it is unlawful to consider race at all in the first step of the process

of assessing district maps, Alabama suggests that plaintiffs should be forced to use computer algorithms to generate numerous “neutrally drawn” maps and then prove that a state’s actual map differs too much from those supposedly “neutral” examples. However, this new standard is unnecessary and unmanageable. The computer technology involved is new and continues to evolve, and there is no settled definition of a “neutrally drawn” map or a clear standard for determining how similar a state’s map would need to be in order to be considered lawful. There is no reason to inject these complex new questions into vote-dilution cases.

In their brief, the states also correct misrepresentations Alabama makes about vote dilution claims under the Voting Rights Act.

A copy of the amicus brief is available [here](#).

In filing the amicus brief Attorney General Josh Kaul joins the Attorneys General of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

View the press release [here](#).