

WILL: Joins redistricting appeal to U.S. Supreme Court

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The News: The Wisconsin Institute for Law & Liberty (WILL) joined an [appeal](#) by the Wisconsin Legislature to the U.S. Supreme Court arguing the maps submitted by Governor Tony Evers and selected by a majority on the Wisconsin Supreme Court, are a racial gerrymander that violates the Constitution's equal protection guarantees. The U.S. Constitution makes clear that any government action based on race is subject to strict scrutiny.

The Quote: WILL President and General Counsel, Rick Esenberg, said, "The issue here goes well beyond whether the maps favor Democrats or Republicans. Our government may not make decisions based on race, save for the most extreme circumstances. The Governor's maps establish legislative districts in the Milwaukee-area that violate this fundamental principle."

Background: WILL filed an [original action](#) to the Wisconsin Supreme Court on August 23, 2021 urging the court to accept jurisdiction and declare the current state legislative and congressional districts unconstitutional. A majority on the Wisconsin Supreme Court [agreed](#) to take WILL's original action and accept jurisdiction over Wisconsin's redistricting process on September 22, 2021.

In November, the legislature voted to approve maps and sent them to Governor Evers. Then, Governor Evers quickly vetoed the maps. This moved the process to the Wisconsin Supreme Court where the court had to establish criteria for adopting new maps.

WILL made arguments that the Court should not consider political partisanship and should make the "least changes" when adopting new maps. In the split [decision](#) issued in November, a majority on the Court agreed with WILL. The parties submitted new maps in accordance with the Court-adopted criteria.

On March 3, a 4-3 majority on the Wisconsin Supreme Court [selected](#) the maps submitted by Governor Evers. Their reasoning was that the maps best met the 'least changes' criteria as well as requirements of the federal Voting Rights Act and

other legal requirements.

The Appeal: The Wisconsin Legislature's [appeal](#) to the U.S. Supreme Court, joined by WILL, insists that, in selected maps proposed by the Governor, the Wisconsin Supreme Court adopted racially gerrymandered maps with the goal of "spreading" black voters among several legislative districts seeking a bare majority in each. The U.S. Constitution makes clear that any government action based on race is subject to strict scrutiny. The Wisconsin Supreme Court did not and could not have concluded that drawing districts based on race was required by federal law and satisfied strict scrutiny.

The appeal asks the Supreme Court to immediately stay the Wisconsin Supreme Court's order adopting the Governor's proposed maps and instead order adoption of the Legislature's maps while the Supreme Court reviews the merits of the case. Ultimately, the appeal seeks reversal of the Wisconsin Supreme Court's decision as inconsistent with the Equal Protection Clause.

Read More:

- [Emergency Application for Stay and Injunctive Relief and Alternative Petition for Writ of Certiorari and Summary Reversal](#), March 7, 2022
- [Appendix for Emergency Application to Stay - Vol. 1](#), March 7, 2022
- [Appendix for Emergency Application to Stay - Vol. 2](#), March 7, 2022
- [Certificate of Service](#), March 7, 2022

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