

Wisconsin Institute for Law & Liberty: U.S. Supreme Court reverses WI Supreme Court, Gov. Evers' maps unconstitutional

Posted on Wednesday, Mar 23, 2022

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Majority decision says state court “committed legal error” in adopting maps

The News: The United States Supreme Court issued a [7-2 decision](#) reversing the Wisconsin Supreme Court’s selection of Governor Tony Evers’s legislative maps. The per curiam decision said, “We agree that the court committed legal error in its application of decisions of this Court regarding the relationship between the constitutional guarantee of equal protection and the VRA.”

The Wisconsin voters represented by the Wisconsin Institute for Law & Liberty (WILL) joined the Wisconsin Legislature in an [appeal to the U.S. Supreme Court](#) on March 7. The appeal argued 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 U.S. Supreme Court affirmed that Governor Evers’ legislative maps violate the equal protection guarantees of the U.S. Constitution by racially gerrymandering districts in the Milwaukee-area. It made clear that this was not justified under the Voting Rights Act. This is a critical victory to ensure that our government not make decisions on the basis of race.”

The Appeal: On March 3, a 4-3 majority on the Wisconsin Supreme Court [selected](#) new 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.

On March 7, the Wisconsin Legislature and WILL [appealed](#) the maps to the U.S. Supreme Court. The appeal argued that Governor Evers’ maps are a racial gerrymander 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 asked 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.

The U.S. Supreme Court [decision](#) reversed the Wisconsin Supreme Court’s selection of the Governor’s state legislative maps. In doing so, it once again made clear that race-based decision making is highly disfavored and can only be countenanced in extremely narrow circumstances. The case is remanded back to the Wisconsin Supreme Court for further proceedings.