

# US Supreme Court restores Alabama's anti-democratic electoral redistricting plan

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The US Supreme Court ruled in a 5–4 decision Monday to block a lower-court ruling ordering the redrawing of congressional districts in Alabama.

A panel of three federal judges, two of whom were appointed by former President Donald Trump, ruled in January that Alabama's new congressional district map violated Section Two of the 1965 Voting Rights Act (VRA), which bans racial gerrymandering. The ruling mandated the Alabama state legislature to redraw its map so as to create a second majority-African American district in advance of upcoming primaries and the November midterm elections.

Monday's Supreme Court action was particularly notable for its blatantly partisan political character. The five-person faction consisting of the most right-wing Republican justices intervened to block the lower-court ruling, at least until after the 2022 midterm elections, using the expedited procedures known in legal circles as the "shadow docket." This process, for the purpose of "staying" the implementation of prior rulings, forgoes full briefing and signed decisions.

Alabama has seven congressional districts (CDs), all but one represented by a Republican in the US House of Representatives. The single Democrat in the Alabama delegation to the US House, Terri Sewell, represents the 7th CD, which includes parts of the Birmingham, Montgomery and Tuscaloosa/Northport urban areas. The 7th CD is the only majority-black CD in the state and is considered the state's only Democratic Party stronghold.

A new congressional map had to be adopted based on the results of the 2020 Census, which showed an increase in the African American portion of the state population to 27 percent from the 2010 Census figure of 26.8 percent. The Republican-controlled state legislature largely retained the previous map,

maintaining the single majority-black and reliably Democratic district, the 7th CD.

The technique of grouping voters according to race or ethnicity, known as "packing," is used by both major political parties to concentrate opposition votes in a limited number of districts, thereby granting themselves an advantage in state and federal elections.

The application of such redistricting methods to discriminate against a racial group has been outlawed since the passage of the Voting Rights Act. However, gerrymandering on the basis of partisan advantage is not explicitly outlawed, and the VRA has been under attack by the US Supreme Court for years.

In 2013, the court ruled in *Shelby v. Holder* to gut Section 5 of the VRA, which required states and counties with a history of racial discrimination to have changes to election law approved by the US Department of Justice or a federal court. Section 5 was the main enforcement mechanism of the VRA.

*Shelby* was followed by *Abbott v. Perez* (2018) and *Brnovich v. DNC* (2021), both of which weakened protections against discriminatory and restrictive voting laws.

Following the adoption of the new state redistricting map in November 2021, the NAACP and the Greater Birmingham Ministries filed suit in federal court, arguing that the packing of black voters into a single district diluted their vote and restricted their right to representatives of their choice. They urged the court to order the establishment of a second majority-black district.

The district court and the three-judge panel sided with the plaintiffs, ruling that "Black voters as a group are sufficiently large 'and geographically compact' to constitute a majority in a second congressional district."

In response, the Republicans filed an emergency brief with the Supreme Court calling for a stay against the lower-court order. Posturing as opponents of racial apportionment, they argued that the lower-court decision was an order to conduct race-based redistricting and was therefore itself a violation of the Constitution.

The Supreme Court agreed to hear the Alabama state appeal of the federal court ruling during its upcoming term, which begins in October. But it also met the demand of the state Republicans to block the implementation of the lower-court decision.

Only justices Brett Kavanaugh and Samuel Alito offered written explanations, arguing that a change in the electoral districts would come too close to the election date. Kavanaugh wrote that “The Court’s stay order is not a decision on the merits,” but merely an attempt to prevent disruption to the electoral process.

Kavanaugh’s claim is not credible, as the lower courts had already approved an alternate redistricting plan. By issuing the stay, the Supreme Court effectively intervened against existing precedent to uphold a partisan line in favor of the Republican Party.

Such a blatantly partisan ruling was too much even for conservative Chief Justice John Roberts, who sided with the three Democratic justices in their dissent.

Roberts is a thoroughly reliable and right-wing instrument of corporate America. Under his leadership, the court has systematically weakened the VRA, chipping away at the limited protections against electoral discrimination it contained.

But he is an “institutionalist.” He is concerned that the transparently partisan actions of the five-person far-right faction on the court are discrediting the court and shattering its carefully assembled façade of impartially standing above partisan, sectional and class interests.

Steve Vladeck, professor at the University of Texas School of Law, wrote in *Slate* on Tuesday:

Roberts’ short opinion expressed sympathy for Alabama’s claims on the merits, but also stressed the fundamental problem with the court’s use of the shadow docket: That ruling for Alabama will require the court to make *new* law, because “the District Court properly applied *existing* law in an extensive opinion

with no apparent errors for our correction” (emphasis mine). In other words, Roberts voted against staying the lower-court rulings because they were correct under the law as it exists today, even if he’s perfectly willing to change those laws tomorrow.

The blatant gerrymandering of Alabama and many other states will continue to suppress the democratic rights of the working class regardless of the court’s final decision. The monopolization of the electoral process by the two major parties of US imperialism allows no genuinely democratic or progressive outlet and effectively excludes the working class—black and white—from the decisions that impact its existence.

Today, those are literally life and death questions, as both parties impose “herd immunity” policies that mean mass death for the working population in order to prop up corporate profits and the stock market. Add to this, the growing danger of nuclear war as the government uses lies and propaganda to threaten war against Russia and China, and the danger of fascism and dictatorship as embodied in the January 6 attempted coup.

The Democrats, who falsely present themselves as the defenders of minority populations, are concerned only with the acquisition of another seat in the House of Representatives for themselves. The creation of a new Black majority district will not be an advance for the working class. It is part of the efforts of the Democratic Party to promote racial identity politics to divide and undermine the growing opposition of workers to social inequality, war and repression.

The staggering levels of social inequality in capitalist society are incompatible with democratic rights. The fight to oppose racial discrimination and defend democratic rights can be advanced only on the basis of a socialist perspective and the broadest mobilization of the working class.



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