



Whitford v. Gill:

Setting the Legal Standard for Partisan Gerrymandering

WISCONSIN'S PARTISAN GERRYMANDER

Partisan gerrymandering, or the drawing of electoral district lines to benefit one political party, is a serious problem in our democracy. In jurisdictions nationwide, legislators have drawn legislative maps so that they can choose their voters, instead of voters being able to choose their representatives. In 2011, Republican legislators in Wisconsin redrew the state Assembly districts to maintain Republican control. They did this in a secret office – away from the Capitol, the public, and the press – and then rushed the passage of their plan through the Assembly. Their strategy paid off, with Republicans gaining 60 percent of the seats in the State Assembly, despite receiving only 49 percent of the statewide vote in 2012.

THE INCREASING NEED FOR A LEGAL STANDARD

It's clear the current redistricting process is undermining our democracy and partisan gerrymandering has become the political weapon of choice for legislators to maintain political power. The U.S. Supreme Court held that it has the authority and responsibility to decide partisan gerrymandering claims, and in 2006, all nine justices agreed that excessive partisan gerrymandering violates the Constitution.

However, the Court has yet to adopt a standard for determining whether a redistricting plan constitutes a partisan gerrymander. Every proposed test to date has been deemed unworkable by the courts – too ambiguous and subjective to reliably identify the most objectionable plans. Without a legal standard, voters are free to challenge politically motivated maps in court, but judges, without clear guidance, ordinarily dismiss these cases out of hand. The result is voters, like those in Wisconsin, are unable to hold their representatives accountable and reign in extreme partisan gerrymanders.

A LEGAL CHALLENGE TO STOP PARTISAN GERRYMANDERS NATIONWIDE

The Campaign Legal Center is part of a litigation team representing 12 Wisconsin voters who have challenged the state's Assembly district lines as an unconstitutional partisan gerrymander in *Whitford v. Nichol*. Our case is the first purely partisan gerrymandering case to go to trial in 30 years. Through this litigation, the plaintiffs seek to establish for the first time a manageable standard by which courts nationwide can analyze partisan gerrymandering claims. The plaintiffs now await a ruling from the three judge federal court for the Western District of Wisconsin. Whichever side is unsuccessful has an automatic, and direct, right of appeal to the United States Supreme Court.