

The Supreme Court Messes with Texas's Voting Map

The ruling leaves Texans voting using a racially discriminatory congressional map in 2026.



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An increasingly familiar story played out earlier this month when the Supreme Court issued yet another after-hours “shadow docket” [order](#) [\[link-1\]](#) undermining voting rights.

This time, the order put a hold on a 160-page lower court ruling that had struck down Texas’s congressional map, which was controversially gerrymandered last

summer in a bid to secure new Republican House seats through racially discriminatory means.

The high court’s decision means that Texans will vote in the 2026 midterms using a map that the trial court found had been aggressively redrawn to target the seats of five Black and Latino members of Congress.

Here are key takeaways from the Supreme Court's [ruling](#) [\[link-2\]](#) and what comes next.

The 2026 midterms could see an unprecedented loss of representation for Black and Latino communities in Texas.

With the new discriminatory map in place for 2026, Black and Latino communities in Texas are on track to see the first legislatively enacted reduction in their electoral power since the passage of the Voting Rights Act in 1965, though the magnitude of losses could be tempered somewhat by midterm dynamics.

Over the years, voters of color in Texas have not always been victorious when bringing litigation seeking new congressional districts where their communities can elect their preferred representatives. Last decade, for example, courts rejected claims seeking a new Latino-majority district in the

Dallas-Fort Worth area. But never in the state's history has a federal court allowed Texas to dismantle *existing* districts where Black and Latino voters have been successful in electing candidates — in some cases, for decades.

This dilution of Black and Latino political power in one of the most diverse and fastest-growing states in the country is all the more troubling given that even before the newest round of mid-decade redistricting, Texas's congressional map already vastly underrepresented communities of color.

Texas has a larger Black population than any state and a larger Latino population than any state other than California. And more than ever, it's communities of color who are powering Texas's turbocharged growth. Last decade, when Texas was the fastest-growing state in the nation, non-white Texans accounted

for [95 percent](#) [\[link-3\]](#) of the state's population gains. Recent census estimates [suggest](#) [\[link-4\]](#) that this decade, that figure could end up being even closer to 100 percent.

Yet, when Texas lawmakers redrew the rapidly diversifying state's congressional map after the 2020 census, they adopted a map that added no new districts where non-white voters had a reasonable chance of electoral success — despite gaining two seats in reapportionment on the strength of non-white population growth. Voters of color sued, contending that the map needed several more minority districts. But before that case could be decided, Texas, with the Supreme Court's blessing, replaced that unfair map with one that was even worse for voters of color.

Unfortunately, this could be a harbinger of things to come. In Florida, Gov. Ron DeSantis (R) has

already [said](#) [\[link-5\]](#) he will call a special session to redraw the state's congressional map to eliminate Black and/or Latino districts if the Supreme Court guts or weakens the Voting Rights Act in a pending Louisiana case. Other states seeking a pretext for a redraw could well follow.

Politics is becoming a more powerful than ever get-out-of-jail-free card for racial discrimination.

In 2019, the Supreme Court ruled in *Rucho v. Common Cause* that partisan gerrymandering claims were “political questions” that were too charged for federal judges to decide.

The *Rucho* decision was a green light for states to engage in partisan shenanigans, and to no one's surprise, they responded with gusto. But the Supreme Court's granting of a stay in the Texas case also shows how the fallout from

Rucho goes well beyond partisan gerrymandering.

When Texas lawmakers first started the process of redrawing the state's congressional map over the course of the summer, they said they were doing so for racial reasons — namely, to address assertions in a letter from the Trump administration Justice Department that five majority non-white districts were unconstitutional racial gerrymanders. But when it became clear that the Trump DOJ's theory of why the districts were racial gerrymanders was weak and would likely prove problematic in court (even the Texas attorney general [called](#) [\[link-6\]](#) the DOJ letter “erroneous,” “ham-fisted,” and “a mess”), lawmakers simply pivoted and said all they were doing in making changes to the districts identified in the letter was maximizing Republican Party advantage.

Using politics to defend against charges of racial discrimination is nothing new, and courts have long struggled to discern whether race or politics predominated when lawmakers make line-drawing decisions. But in 2016, the Supreme Court *seemed* to have finally figured out how to resolve the issue in *Cooper v. Harris*, with Justice Clarence Thomas in the majority.

In an apparent epiphany moment, the Court decided that lawmaker motivations maybe didn't matter that much after all. Instead, the Court explained in *Cooper* that, “the sorting of voters on the grounds of race remains suspect even if race is meant to function as a proxy for other (including political) characteristics.” In other words, even if your goals are explicitly partisan (and in *Cooper*, race was an especially useful stand-in for partisanship), you can't use racial line drawing as the means to get there.

But for all the relevance *Cooper* would seem to have to the Texas case, it gets no mention in the majority's five-paragraph stay order. For all intents and purposes, it seems to have been quietly abandoned.

In its place, the order beefs up and makes nearly unassailable the “presumption of good faith” that legislatures enjoy in redistricting cases. To overcome this now fortified presumption, voters of color must show through an alternative map that it would have been possible to achieve a state's partisan objectives by targeting white voters — a hard task in southern states like Texas where race and partisanship closely align. Never mind that the trial court in the Texas case found that the plaintiffs had presented mountains of direct and circumstantial evidence supporting their claims

that lawmakers made decisions based on the illegal use of race.

States now have a road map for how to game the process.

The ruling in favor of Texas is also an illustration of how states, with the help of the Supreme Court, are now able to game the redrawing of maps to take advantage of election deadlines.

In the past, when voters of color challenged discriminatory maps, courts in Texas and elsewhere routinely moved filing deadlines and, in some cases, even primary elections to accommodate litigation over maps. In 1996, courts even voided the results of primaries and [ordered](#) [\[link-7\]](#) Texas to hold special primary elections in 13 districts to make sure representatives were selected using new fairly drawn, court-ordered maps.

But prioritization of the interest of voters in redistricting cases has largely ended in recent years as the Supreme Court has increasingly restrictively applied a rule against making changes too close to an election that it first enunciated in *Purcell v. Gonzalez*.

As originally formulated by the Court, the *Purcell* principle was designed to prevent lower courts from ordering significant election law changes too close to an election. The reason was a laudatory one: avoiding voter confusion and headaches for busy election administrators on the eve of an election. But the *Purcell* principle has since evolved from a rule applied only to exceedingly rare changes made days or weeks before an election into a hard and fast rule that refuses to countenance even the smallest alternation or adjustment of a state's often many months long pre-election schedule.

This, in turn, has made it easier for states like Texas to strategically drag their feet to make it hard for plaintiffs to challenge discriminatory maps. Because the Texas legislature did not adopt a new map until late August, voters of color had only a scant two-and-a-half-month span after passage of the map to file lawsuits and try to get it blocked — a painfully short time given the complexity of redistricting cases and lawmakers regular use of legislative privileges and other delay tactics to slow down cases.

Nonetheless, voters of color did their best. As explained by Justice Elena Kagan in her [dissent](#) [\[link-8\]](#) from the Texas order, “The plaintiffs could not have moved any faster: They requested an injunction before the new law was even signed. And to speed the litigation, they declined discovery. . . . The District Court moved expeditiously too, issuing its 160-page opinion (on

November 18) just a month after post-hearing briefing concluded.”

When the district court’s ruling came down, Texas’s candidate-filing period had just barely begun. In the past, the remedy would have been a short extension of the filing deadline for congressional candidates. However, even that was too much for the Supreme Court, which [said](#) [\[link-9\]](#) the district court had “improperly inserted itself into an active primary campaign, causing much confusion and upsetting the delicate federal-state balance in elections.”

The outcome is a dramatic reworking of the *Purcell* principle in an even more sharply anti-voter direction. Notably, the trial court’s order did not require Texas to use a radically reconfigured new map for the first time. Nor did it impose a map drawn by courts. It merely ordered Texas to go back to using a congressional map that the

Republican-controlled legislature itself drew in 2021 and that voters and election administrators had already used for two elections in a row.

Indeed, as Kagan’s dissent points out, this was the very map that everyone in Texas — from candidates to election administrators on down — was ready to use in 2026 until Texas’s last-minute decision to do a mid-decade redraw.

Under these facts, the harm to Texas voters should have easily outweighed the nonexistent or minimal risk of voter confusion and the at best slight burdens placed on election administrators. It once would have. But now, the Supreme Court has made clear that it doesn’t.

The case is not over yet.

The Supreme Court’s order means that Texas can use its new map for

the 2026 midterms, but the fight over the map continues.

In coming weeks, Texas will file another brief asking the Court to hear this case on the merits, and the plaintiffs will respond. The Court will then decide whether to hear the case sometime in the spring. If it takes the case, as expected given the stay order, oral argument will happen in the Court's

fall 2026 term, with a ruling sometime before the end of June 2027.

In short, Texas has a new map for 2026, but it may yet have a different one for 2028. But this is likely cold comfort for voters of color in Texas who have been fighting for a fair map since 2021 and won't see relief until 2028 at the earliest.

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Links

link-1: order https://www.supremecourt.gov/opinions/25pdf/25a608_7khn.pdf?inline=1

link-2: ruling https://www.supremecourt.gov/opinions/25pdf/25a608_7khn.pdf?inline=1

link-3: 95 percent <https://www.texastribune.org/2021/08/12/texas-2020-census/>

link-4: suggest <https://www.census.gov/newsroom/press-kits/2025/2024-population-estimates-characteristics.html>

link-5: said <https://floridaphoenix.com/2025/12/03/desantis-says-florida-will-be-forced-to-redistrict-because-of-pending-u-s-supreme-court-decision/>

link-6: called <https://www.cnn.com/2025/11/18/politics/texas-redistricting-trump-court-ruling>

link-7: ordered <https://redistricting.capitol.texas.gov/history>

link-8: dissent https://www.supremecourt.gov/opinions/25pdf/25a608_7khn.pdf?inline=1

link-9: said https://www.supremecourt.gov/opinions/25pdf/25a608_7khn.pdf?inline=1