

OPPONENT TESTIMONY OF:

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Ohio Redistricting Commission Hearing: **Toledo, Ohio, August 26, 2021**

NOT IN SUPPORT OF:

OHIO'S REDISTRICTING/MAPPING PROCESS

“Lopsided Representation on the Commission Means Business As Usual For Gerrymandering”

Public Testimony:

I testify before you today in *opposition* to the inherently unfair composition of the 2021 Ohio Redistricting Commission, currently dominated by Republican members! Ohio voters on both the Left *and* the Right voted *overwhelmingly* to enact bipartisan map redistricting by a 25% margin in 2018 (75% For, and 25% Opposed). In current political vernacular, having just *one* person from the opposite party is considered *bipartisan*¹. What a cynical interpretation *that* is? If you polled voters, and asked them what the definition of the word “bipartisan” is, they’d tell you something akin to “equal representation”, or close to it. In other words, a large percentage of participation by both parties is most people’s idea of bipartisanship. That’s a far cry from the one or two-member minority representation that we call bipartisan efforts in American politics.

What most Ohioans *thought* they were voting for in 2015 and 2018 was a *nonpartisan*² drawing of the maps that didn’t favor *either* party. This issue of bipartisan control vs. nonpartisan oversight is a policy debate that states are grappling with all across the country. Nonpartisan redistricting is what the voters expected in the Issue 1 referendums of 2015 and 2018. And, nonpartisan oversight of this commission is the issue before us today.

Issue 1 (2015) was written such that only *two* representatives from Ohio’s minority party were to be impaneled on this Commission, with five members of the majority party in complete control of the process. Essentially, the minority members (the Democrats in this case), have the power to provide as much input as they can. But, their ideas don’t have to be included in the final product. Then, they can either rubber stamp the Republicans’ gerrymandered *partisan* district maps, or they can balk. If the Dems *don’t* approve the map, the majority party will enjoy even *fewer* constraints as to how they can draw the maps, but for only a four year cycle instead of ten!^{3d} This virtually *ensures* that many of the non-competitive districts which favor incumbency, created in secret by Republicans in 2011,⁴ are likely to remain unchanged.

Look at the lack of attendance by Commission members at the hearings. If they cared about accountability, they would *all* attend these opportunities to hear from the general public, and to allow public input as to how our state’s maps should be drawn. But if Republicans in the majority were *worried* about losing seats or controlling the state, don’t you think they’d be here taking the

pulse of grass roots anger and momentum that could unseat them. They're not here because they're not worried. They're protected by the process, and thumbing their noses at the voters.

So where does this lack of accountability come from? Republicans control the entire political process in Ohio, including redistricting and oversight. That means there's no way to *enforce* any accountability because the Supreme Court said (in "Husted v. A. Philip Randolph Institute") that they're no longer the watchdog of voting rights for minorities and the unheard, as was the case during Justice Thurgood Marshall's days in the 1960s. Chief Justice Roberts (a Republican) wrote that the federal courts are *unable* [statutorily] to stop them, no matter *how* badly gerrymandered our maps are.⁵

In an article published in The Atlantic, the sea change in the Supreme Court, vis-à-vis these Roberts Court rulings in the Husted case, the "Shelby County v. Holder" case and the "Abbott v. Perez" case "... furthered Roberts's mandate to distance the federal judiciary from Thurgood Marshall's vision of those bodies as active watchdogs for the Fourteenth [Amendment] and arbiters for America's racial injustices.' "

"... the Court has established that not only are the legacies of Jim Crow no longer a valid justification for proactive restrictions on states, but the Court doesn't necessarily have a role in advancing the spirit of the franchise. Furthermore, with Alito's gerrymandering decision [Abbott v. Perez⁶], the Court holds that past discrimination by states—even at its boldest and most naked—is not really a consideration in assessments of current policies." "... in an era where crafty state politicians have moved toward race-neutral language that clearly still seeks to disenfranchise people of color [and their white allies in the Democrat Party], a certain default suspicion by federal courts and the Department of Justice based on those state politicians' histories has been the main protective force for the minorities' voting rights. That suspicion is gone now, as are all vestiges of Marshall's intended vigilance."⁵

Make no mistake, former Sec. Jon Husted's case (enacted under the auspices of then Gov. John Kasich) was a landmark *anti*-civil rights decision, in terms of *removing* the previous protections afforded by the Supreme Court to minority groups and minority opinions in this country. In 2012, Sec. Husted was scheduled as a featured speaker at a conference held by the Right Wing extremist group True the Vote. However, MSNBC's Rachel Maddow and Rev. Al Sharpton did exposés on their shows that blew the whistle on his public affiliation with voter intimidation groups and he withdrew from the program. Ohio Sen. Seitz replaced him as a featured speaker at the conference.⁷

With favorable court decisions in-hand, Lt. Gov. Husted and the Republican leadership in Columbus (under the auspices of current Gov. DeWine) feel *emboldened* to enact whatever Machiavellian plot to disenfranchise voters they can come up with. These silver-tongued anti-democratic politicians talk as if they have the purest of intentions in upholding the *letter* of the law. But, their racial motivation and the "surgical precision" with which they've systematically disenfranchised voters of color violates the *spirit* of the law, eviscerating the protections previously afforded by hard-fought civil and voting rights laws. Worse yet, the Roberts Court has shown its unwillingness to enforce those protections that remain (e.g., the Sec. 5 "Preclearance" statute of the '65 NVRA, or to

provide oversight and accountability in implementing key provisions of Ohio Issues 1 (2015 and 2018).

Turning over control of redistricting and *fair* representation of voters is *not* on the majority party's agenda; unless they're *required* to include it. And, that sets the "...stage for a new era of white hegemony!"⁵ Blatant racial discrimination and voter disenfranchisement, the likes of which we haven't seen since the end of Reconstruction and the start of Jim Crow in the South is taking place all over the country, thanks in large part to the partisan Supreme Court precedent set by the Husted case! As Stacey Abrams, founder of Fair Fight, from battleground state Georgia says, its "Jim Crow 2.0"!

Districts 9 and District 1

Nobody has given a reasonable, legitimate reason why the district for Cong. Kaptur (D) spreads from fragments of her previous district in Toledo, along the lakefront, and all the way over to fragments of Western Cleveland - the now infamous "Snake Along the Lake" district. It's clearly not compact, and there's little correlation between the communities of Toledo, the lakefront, and Cleveland's Western suburbs.

Republicans redrew the map in such a way that Cleveland Cong. Dennis Kucinich (D) would be representing the same district as Cong. Kaptur, forcing them to run against each other in the 2012 Democratic primary.⁸ Clearly, Republicans' clandestine map drawing scheme was designed to jerry rig the system in favor of Republicans, and to weaken the Democratic Party in Washington. It worked! Kucinich lost, the Dems lost a representative in Congress, and Northern Ohio voters lost a representative in the halls of Congress. The only thing that showed any gains was Republicans' stranglehold on Ohio politics.

On the flip side, Ohio Republicans redrew the Southern map in 2011 to save one of their own. Cong. Steve Chabot (R) in District 1 (Hamilton Co. - Cincinnati) was in a purple county, having lost his seat to a Democrat in 2008, then regained it in 2010. "...the state Republican party shored up Chabot's reelection chances by joining Hamilton Co. with heavily Republican Warren County. Chabot has remained in office ever since."⁹

It is clear that these artificially-constructed district maps in Ohio are *less* responsive to the voters because elected officials don't have to compete for their seats. They can become complacent, unaccountable and self-serving because the system is designed to insulate them from being voted out. Incumbents rule!⁸ I've personally called Sen. Portman's office several times with concerns. They ask me where I live, first thing. Being in Lucas Co. (not known as a Portman stronghold), they take my information with minimal conversation, thank me for the call and quickly shoo me off the phone, never hearing from them again!

Lopsided Representation on the Redistricting Commission

By statute, this Commission is comprised of the Governor (a Republican), the Lt. Governor (also a Republican), the State Auditor (another Republican), and a Republican member of both the Ohio House of Representative and the Ohio Senate. Democrats (the current minority party) have only 2 seats on the Commission; one each from the Ohio House and Ohio Senate. That's *five* Republican votes out of seven members of the Commission! And, there's *zero* representation from any of Ohio's smaller political parties (e.g., the Green Party)!

In this contentious political landscape, even a 5th grader could see how inherently biased and unbalanced this Commission is before they even start. In view of the history of racial bias and animus displayed by Republican leaders toward minority voters and the minority party, Ohioans should expect nothing more to come from this Commission than what we've seen the past 10 years, Jim Crow 2.0..... the same old "if we have to let you vote, we'll make sure your vote don't count" policies they've been using since the passage of the Fifteenth Amendment. As long as Republicans' refuse to compete for votes in fair fights in the arena of ideas and civic discourse, we shall remain slaves to the majority party and their racially biased policies. The *people* should choose their politicians, not politicians choosing their voters.

[Note: Lt. Gov. Husted should be *recused* from sitting on this panel! The impact of his racially-motivated policies as Secretary of State, the "surgical precision" (it was noted) with which he disenfranchised thousands of largely minority and Democrat voters, his association with extremist hate groups that practice voter intimidation, and being the inspiration behind the voter disenfranchisement movement that we see playing out in Republican-controlled states (in preparation for an attempt by Republicans to steal the 2022 midterms and 2024 general elections) means he is unfit to sit on this Commission! At a time when his job was to protect and *ensure* the franchise of *all* Ohio voters, Sec. Husted initiated a successful reign of terror among voting rights groups and voters alike. He planned to meet with Right Wing extremist and voter intimidation groups. And, he should be recused from this Commission *immediately!* (More on this subject later.)]

Public Oversight of the Redistricting Process

The Republican Party in Ohio, as represented by its members on this Commission have shown by their actions in recent years to be in league with Right Wing extremist ideology, and therefore in violation of the First Amendment, the Equal Protection Clause of the Fourteenth Amendment, as well as the Voting Rights of hundreds of thousands of minority voters, as those rights were originally conceived in the Constitution and the NVRA of '65. Even though Republicans have continuously sought to diminish and gut both civil rights and voting rights laws since inception, the moral imperative to *protect* such rights for *all* our citizens remains the same.

As stated by the lower court's three-judge panel that heard the gerrymandering case, "either the Republicans were exceedingly lucky, or their map drawers made exceedingly

expert use of political data to manipulate district lines to secure the most seats and the least amount of competition possible," the judges wrote. "The evidence in this case points to the latter conclusion."¹⁰

The rulings issued by Comrade Trump's illicitly-stacked Supreme Court bench don't change the facts of the three cases that ultimately changed the landscape of voting rights in America. In fact, Justice Roberts didn't actually argue the *merits* of "gerrymandering". He argued that the state's case was technically legal because they used two separate verification instruments to determine whether a registered voter on the books was legitimate or not. And, the law talks about singular instruments of harm, of which it has determined this was not, even though both methods were inherently biased to begin with.

Where is the nonpartisan public oversight of this Commission that voters were promised when we were sold these redistricting reforms in 2015 and 2018? The lopsided make-up of this panel doesn't look much different than it did before Issue 1. It appears to be business as usual, with a little bit of minority input added for show. But with the Republican Party's recent history of racially-motivated attacks against voting rights, and policies that have harmed the minority party's voters, we must assume that representatives of the majority party *cannot* be expected to police themselves. Its the Tony Robbins theory - to keep doing the same thing and expect a different outcome is foolhardy! Allowing Republicans to have a majority influence in how new maps will be drawn, without oversight, is like asking the fox to guard the hen house!

Even the manner with which this hearing was announced shows malintent by the Commission. They've known these proceedings needed to happen for two-and-a-half years. The high court allowed them to continue rigging the 2020 election before fixing the gerrymandered districts they'd created in 2011. And yet, the schedule and location for this meeting has been a closely-guarded secret until just a few weeks ago, to force any opposition voices to have to scramble around at the last minute to get their people here.

In fact, even after the date and time was announced, they *still* moved the location at the last minute to further confuse and eliminate the free exchange of ideas. What is it that the Republican Party is afraid of? It's these very same "black ops" tactics that were used to draw the current map in secrecy that Ohioans voted to *eliminate* with Issue 1. These underhanded tactics have become all too commonplace in Ohio, and show that the Republican Party *cannot* be trusted to administer this Commission in good faith. We need oversight, and *accountability* to ensure that fair maps are drawn.

Renewal of the National Voting Rights Act of '65

"Of the people, by the people" *fair* representative democracy should be a federal *mandate*. And, non-partisan commissions should be established in Ohio, as they were in California and a number of other states.¹¹ They should be added to the John Lewis Voting Rights Act which suffers an uncertain future in the U.S. Senate, despite being

passed along party lines in the House. Representative district maps should be a *guaranteed* protection under the law, rather than votes being manipulated as a system of control and disenfranchisement as has historically been the case.

Similar battles are being fought all over the country between Republicans who are trying to hold on to power by any means necessary using their white male-dominated, apartheid-like autocratic governing style, versus an ever-changing and awakening diverse electorate. I never thought I'd see Ohio succumb to such "Old South" Jim Crow tactics as those being sponsored by State Senator Bill Seitz¹² in H.B. 294¹³. Yet, there it is on the House floor.

States and territories must universally create *fair* electoral maps that are compact and reasonable for our democracy to live up to its creed; maps that neither favor nor *disfavor* either party. Without such statutory constitutional protections, the "will of the people" will not be protected. In addition, these new amendments should be assured in perpetuity; not with sunset clauses that require us to keep reliving these same old fights (like Groundhog Day), as we're currently doing with these laws from the 60s. Ohioans and the rest of the nation will forever be subject to the whims of the political party in charge, if these rights are not guaranteed by federal law. In Ohio, that party is the anti-democratic wing of the Grand Old

1. The legislature has totally ignored the people's vote on TWO past referendums AGAINST Republican Party!^{8x}

Lack of Adequate Economic Representation

Ohioans voted TWICE in favor of legalizing cannabis, as they did in Colorado. It could help to improve our economy, and bolster our failing family farms. However, our conservative legislature ignored the will of the people, and instead initiated a tightly-controlled licensed system similar to state liquor licenses; owned by well-connected and highly financed entrepreneurs. As poor as this state is, with two of its seven larger cities in the top ten of poorest large cities in America (including the #1 poorest city - Cleveland), the burgeoning cannabis industry could be a *boon* to our state's economy, including the lucrative cannabis tourism industry. Let the *voters* choose our collective fate in this regard!

Why is it that every time Northwest Ohio gets a pot of money for jobs, its for shovel-ready union jobs only, as if none of the rest of us work or matter?!? That money doesn't trickle down very far when many of the companies we hire for these jobs are from out of town. What happened to the IT corridor we were building 20 years ago? What happened to the renewable energy industry we were supposed to be building? The only industries we seem to focus on are automotive production (Jeep) and medical (mostly The Toledo Hospital). Where's our representation advocating for other opportunities for employment in this new economy?

I find it ironic that the Republican Party has been in charge of this state for five of the last seven gubernatorial administrations (since 1975). And yet, as of October 2020,

Cleveland was the *poorest* big city in the nation. (Detroit was a close second. But, Cleveland was still embarrassingly first.) Cincinnati was #6 among poor big cities. And, Ohio was the *only* state in the union with *two* major cities in the top 10 of poor cities!¹³ Its no wonder Republican legislators have to cheat to stay in power, and gerrymander themselves away from the voters they've failed to take care of. Its a *disgrace*, and high time Ohio returns to its previous "Purple" state status, allowing the free flow of ideas and opinions to once again guide our legislature by majority rule, and elevate us to that "heart of it all" status in this nation that we once were!

Additional Grievances from Lack of Representation:

1. As stated previously, this is hardly a true "bipartisan" (nonpartisan) commission, in the spirit of the people's voice as voted on State Issues 1 of 2015 and 2018. The voters of Ohio sent a resounding 75-to-25 percent in Favor to all sides of the political spectrum. This should have ended partisan gerrymandering in Ohio! Instead, the U.S. Supreme Court voted "white" instead of right, and Republicans will likely ignore the people's choice once again in 2022.
2. We have neighborhoods such as in Sylvania where districts are divided down the middle of a neighborhood, sometimes dividing streets. This divides the political voting strength of fellow neighbors and impedes their ability to band together for services and reforms.
3. Years ago, the Ohio Supreme Court ruled that red light cameras were unconstitutional. Nevertheless, cities around the state continued installing them and reaping huge financial rewards from traffic tickets. In June of 2020, the Ohio General Assembly decided that cities' use of these devices to bolster their annual budgets had gotten out of hand and needed to be reigned in. Cleveland and Cincinnati banned the cameras altogether. Yet, Toledoans are still subject to them. It's maddening that our representatives in Columbus don't fight for a statewide ban on these cameras!
4. Property taxes have been declared inherently unfair as a means of determining public school funding. Yet nothing has been done for decades to end this separate and unequal method of funding schools. The problem is further exacerbated by school funds being leaked to private charter schools with the students who enroll there. Representation doesn't fight for the rights of public school students, particularly poor and racial minority students who need the most educational resources.
5. State of Ohio University of Toledo Medical Center was allowed/ordered to stop being the "transfer hospital" of record for area abortion clinics, effectively side-stepping the voters and fulfilling the Republican agenda to eliminate a woman's right to choose without having to fight it out at the ballot box. Regardless of you feel about this issue, safe and clinical abortions are still *legal* in this country, and in the state! In fact, MCO had worked closely with Planned Parenthood of Northwest Ohio since the school's inception.

This taxpayer funded institution (which started out as a community-based hospital and teaching facility for poor and underserved citizens in our community) should be allowed to receive proper medical care regardless of the patient's race, creed, color or political ideology. UTMC has performed voluntary abortion procedures. And as a Level 1 Trauma Center, they should not be allowed to deny services to patients who receive services elsewhere. This sounds like some more Republican hijinx! Where was the local representation when *that* underhanded decision was made?

6. On another issue involving the Univ. of Toledo, how was it allowed to mysteriously acquire the Medical University of Toledo (MCO/MUO), under the cloak of darkness, and without a ballot initiative or public referendum to decide if the matter was what the voters wanted? For the past 30 years, both the University of Toledo and The Toledo Hospital have made overtures to acquire the teaching hospital and put it under their banner as a feather in their cap. They would also be eliminating a significant competitor in the process.

MCO was conceived and had always been the central medical training hub for hospitals, clinics and healthcare facilities throughout Northwest Ohio and Southeastern Michigan, serving clinics and hospitals as far away as Lima. MCO faculty and administrators were historically adamant that such a merger was not in the best interest of the taxpayers, and fought hard for fifty years to maintain their independence as a free-standing university, providing the clinical training component for many other schools' medical programs. With whatever back room deal that was cooked up between UT and the Board of Regents, the citizens and educational programs at other area schools were dealt a serious blow (i.e., BGSU, Lourdes and Mercy, etc.).

Also, the so-called merger between The Toledo Hospital and UT meant that *both* institutions would benefit from the "fire sale" on MCO assets and staff; ripping off and taking everything of value that they didn't have or wanted more of, but had been unable to acquire for decades (including key medical personnel). They picked over the college like vultures, leaving only the unprofitable bones of to languish and bleed money, until this valuable community asset was seriously being considered for the auction block by UT administrators. Who ever heard of a major university hospital going out of business? Where were our local representatives when *that* shady business deal went down?

7. Where was the referendum or State Issue allowing Ohio voters to choose whether or not we want open carry laws in this state? And now, Republican legislators in Columbus are considering the *second* phase of so-called "Kill-a-Negro laws" (a. open carry licenses, and b. stand your ground laws, neither of which can black folks use as a get-out-of-jail free card to get away with the murder of white folks the way white folks can use them against blacks). I don't recall these issues being up for a vote. But, they affect every citizen of Ohio. The voters should be allowed to decide these matters, not some politician who's not accountable to the voters.

Conclusion

I call on good faith elected officials from both parties, in conjunction with fair districting groups from around the state and in Washington to file an injunction to *halt* these proceedings; to file a class action lawsuit if necessary whose relief from harm is the establishment of *nonpartisan* citizen-controlled oversight of this Commission, as the voters expected, to hold this Commission accountable in how it draws Ohio's electoral maps!

Citations:

1. Definition *bipartisan* - adjective

"Involving the agreement or cooperation of two political parties that usually oppose each other's policies."

Lexico (powered by Oxford)

2. Definition *nonpartisan* - adjective

"Not biased or partisan, especially toward any particular political group."

Lexico (powered by Oxford)

3. "Issue 1 enacted the following process for congressional redistricting in Ohio:

a. The state legislature would adopt a 10-year congressional redistricting plan with 60 percent of members in each chamber voting in favor and 50 percent of Republicans and 50 percent of Democrats (or whichever two parties have the most members in the legislature) voting in favor.

b. Should the state legislature fail to meet these vote requirements, then the seven-member Ohio Redistricting Commission, established via Issue 1 in 2015, would get a chance to adopt a 10-year congressional redistricting plan, with support from at least two members of the minority party.

c. Should the commission fail to adopt a plan, the legislature would get a second opportunity to adopt a 10-year plan, but with a lesser requirement of one-third of the members from the two major parties supporting the proposal.

d. Failure at this stage would result in the legislature adopting a plan through a simple majority vote, with no bipartisan vote requirement but stricter criteria, and with the plan lasting two general election cycles (four years), rather than 10 years.

Ohio Issue 1, Congressional Redistricting Procedures Amendment (May 2018), Ballotpedia.

4. "Beginning in July 2011, the redistricting operations were based out of a secretly rented hotel room at the DoubleTree Hotel in Columbus, Ohio, rather than in the offices of the General Assembly. The national operatives and state officials driving the redistricting process referred to it as "the bunker."

The operatives and Ohio Republican officials often used their personal, rather than official, email addresses to conduct and discuss the state business of drawing Ohio's congressional map. The draft map was kept from the public, the full task force, and

even from members of the General Assembly until just two days before the full Ohio House would vote on it in September 2011.

The map passed. Democratic leaders and advocacy groups quickly sought a referendum to allow the public an opportunity to repeal the map. Under threat of repeal, Republicans moved quickly to pass a slightly revised version. However, the revisions did nothing to change the partisan make-up of any of the proposed districts or the dramatic advantage it provided the Republicans.”

Why Ohio’s Congressional Map Is Unconstitutional, ACLU, May 23, 2018.

5. “Journalist Vann R. Newkirk II asserted in July 2018 that the [Roberts Court](#) with its [Shelby County v. Holder](#) decision along with the 2018 Supreme Court decisions in [Husted v. Randolph Institute](#)⁴¹⁵ and [Abbott v. Perez](#)²⁷ has “set the stage for [a new era of white hegemony](#)”, because these cases “furthered Roberts’s mandate to distance the federal judiciary from [Thurgood Marshall](#)’s vision of those bodies as active watchdogs for the [Fourteenth](#) and arbiters for America’s racial injustices.”¹²⁸ With the three cases together “the Court has established that not only are the legacies of [Jim Crow](#) no longer a valid justification for proactive restrictions on states, but the Court doesn’t necessarily have a role in advancing the spirit of the franchise. Furthermore, with [Alito](#)’s gerrymandering decision, the Court holds that past discrimination by states—even at its boldest and most naked—is not really a consideration in assessments of current policies. This part is crucial, because in an era where crafty state politicians have moved toward race-neutral language that clearly still seeks to disenfranchise people of color, a certain default suspicion by federal courts and the [Department of Justice](#) based on those state politicians’ histories has been the main protective force for the minorities’ voting rights. That suspicion is gone now, as are all vestiges of Marshall’s intended vigilance.”

Politics: How Shelby County v. Holder Broke America, [The Atlantic](#), July 10, 2018 (as archived from [the original](#) on Wikipedia, May 2, 2020).

6. “In a 5-4 ruling issued Monday in the [Abbott v. Perez](#) case, the court’s conservative justices found that a lower court “erred” in its findings that several districts were racially gerrymandered, and left them in place. Just one district at issue in the case, they found, was an impermissible racial gerrymander.

The four liberals, however, disagreed, with a scathing dissent written by Justice Sonia Sotomayor. The ruling, Sotomayor wrote, “comes at serious costs to our democracy,” and means that “minority voters in Texas” will remain underrepresented despite “undeniable proof of intentional discrimination” in map-drawing. “The fundamental right to vote is too precious to be disregarded in this manner,” Sotomayor writes. But in an opinion written by Justice Sam Alito, the court’s conservatives — including Justice Anthony Kennedy, often a swing vote in matters of gerrymandering — did not agree.

The ruling is complex, as is the chain of events that led to this case being before the Supreme Court in the first place: There have been multiple proposed maps and court rulings about those maps in Texas over the past decades.

The gist, however, is that the conservative justices thought the challengers did not sufficiently show that these particular modified versions of Texas's maps were "tainted" by "discriminatory intent" — even if earlier, largely similar versions of the maps had been tainted. Furthermore, the justices refused to strike down two state legislative and one congressional district on grounds of alleged discrimination in effect (rather than intent).

The big political takeaway, though, seems to be that the majority on the Supreme Court wants to set a high bar before federal courts can step in and block states' district maps on racial grounds."

The Supreme Court has never yet seen fit to intervene and block a state map on grounds of partisan gerrymandering — drawing district lines to benefit one *party* over another. And that trend continued last week, when the justices declined to rule on the merits in the [*Gill v. Whitford case*](#)."

Racial gerrymandering, however, is different — there's ample precedent for the courts stepping in to stop it. For decades, the courts have held that the Equal Protection Clause of the 14th Amendment forbids gerrymandering on racial grounds. The Voting Rights Act of 1965, meanwhile, requires states to consider the impact on racial minority representation when redrawing districts."

[Supreme Court splits 5-4 on Texas racial gerrymandering case](#), June 25, 2018, Vox.

7. "Ohio Secretary of State Jon Husted ...pulled out of his scheduled appearance as a featured speaker at the True the Vote Ohio State Summit. Husted's withdrawal comes after Voting Rights Watch 2012 released an investigative report about the dangerous far-right-wing network that True the Vote built itself into, and its record of drawing voter intimidation complaints." The story went national after exposés on The Rachel Maddow Show and Al Sharpton's Politics Nation on MSNBC.

[Ohio Secretary of State Jon Husted Withdraws From True the Vote Summit](#), The Nation, Aug. 25, 2012.

8. "Using partisan indices to draw the districts, the operatives designed a map that would allow Democrats to win four districts, while ensuring Republican wins in the state's other 12 districts."

"As a result of the new map, Republican candidates earned 51 percent of the statewide vote in 2012, but secured 75 percent of the state's congressional seats. In 2014, they earned 59 percent of the vote, and again held onto 75 percent of the seats. In 2016, the Ohio GOP took 57 percent of the vote, and — yet again — kept 75 percent of the Congressional seats."

"Ohioans who had voted as Democrats in past elections were "packed" into four irregularly shaped, barely contiguous districts, reducing their political power throughout the state. This resulted in unusually large margins of victory for Democrats in all four districts."

"A prime example of packing is District 9, referred to as the "Snake on the Lake" because of how it ingests portions of five counties but contains none in their entirety. (See the map below.)"

“District 9 includes fragments of two of Ohio’s major cities: Cleveland and Toledo. After the 2011 redistricting, two Democratic candidates for U.S. House of Representatives — Marcy Kaptur of Toledo and Dennis Kucinich of Cleveland — were forced into a primary election, where only one would survive.”

“One of our plaintiffs, Chitra Walker, lives in Lakewood, a city that is part of the Cleveland area in District 9. Instead of belonging to the same district as others living in Cleveland, she shares a district with people living in Toledo, which is 108 miles away.”

“Ohio’s map also splits the Democratic vote in the remaining districts to dilute their votes — a tactic known as ‘cracking.’ For example, District 1 encompasses two barely connected wings of Hamilton County and Warren County. It includes part of Cincinnati, but not the whole city. Prior to the 2011 redistricting process, District 1 was competitive — it swung back and forth between Republicans and Democrats, including in 2008 when a Democrat won the district. Then in 2011, heavily Republican Warren County was added to the district, and it has been Republican ever since.”

“Is partisan gerrymandering unconstitutional? Partisan gerrymandering like Ohio’s contradicts the core principle of a representative democracy — that voters should choose their elected officials, and not the other way around. Rather than reflecting voters’ dynamic or evolving preferences, elections under gerrymandered systems systematically lock in candidates from the legislators’ preferred party, and discourage electoral competition.

When state officials intentionally skew electoral outcomes to inoculate their party against changes in voter preferences, they undermine that right.”

“Partisan gerrymandering also deprives voters of the opportunity to cast a “meaningful ballot” — a substantial burden on the constitutional right to vote — and violates voters’ 14th Amendment right to equal protection and treatment under the law.”

“In Ohio’s case, the map was clearly enacted with intent to disfavor Democratic voters on basis of their political affiliation. As a result, Democratic voters in Ohio have less power to effect change or demand representation on issues that are central to their lives.”

“Do both parties engage in partisan gerrymandering? Absolutely — and it’s unconstitutional whichever party does it.”

“Prior to bringing this suit, the ACLU filed amicus briefs in two partisan gerrymandering cases currently before the Supreme Court. In [Benisek v. Lamone](#), we supported Republican voters in Maryland who are contesting congressional redistricting lines drawn by the Democrats.”

“In [Gill v. Whitford](#), we supported Wisconsin Democratic voters challenging the legislative redistricting drawn by the majority Republicans. Ironically, so did Governor

John Kasich, who signed Ohio's rigged map into law and is a named defendant in our suit."

"In his amicus [brief](#), Governor Kasich wrote, "Partisan gerrymanders are unconstitutional, are harming our republican government, and readily can be identified and addressed by courts."

[Why Ohio's Congressional Map Is Unconstitutional](#), ACLU, 5-23-18.

9. On the opposite end of the spectrum from Democrats, Cong. Kaptur and Kucinich in the Northern part of Ohio is Republican Cong. Steve Chabot in the Southern part of the state. Having been defeated in 2008 and winning back his Hamilton Co. (Cincinnati) seat in 2010, the state Republican party shored up Chabot's reelection chances by joining Hamilton Co. with heavily Republican Warren County. Chabot has remained in office ever since.

Regarding the 3-judge panel's decision about Ohio gerrymandering, "The decision could be a game-changer for Democrats in the state, especially in Hamilton County.

Democrats have long decried how the legislature drew the current map to help Steve Chabot, R-Westwood.

Chabot was ousted by a Democrat in 2008 and won the seat back in 2010.

Republicans then came to his rescue by adding heavily Republican Warren County to a district that had previously included Cincinnati and its western suburbs. "If this stands, Chabot is out of office," Ohio Democratic Party Chairman David Pepper said. "He's done. Chabot won't win in a fair district."

[Court to Ohio: Congressional map is gerrymandered. Draw a new one](#), Cincinnati Enquirer, May 4, 2019.

10. [Court to Ohio: Congressional map is gerrymandered. Draw a new one.](#), Cincinnati Enquirer, May 3, 2019.

11. As of 2018, Ohio was one of 37 states where state legislatures are responsible for adopting congressional district maps. Of those 37, Connecticut and Maine required a two-thirds vote in each legislative chamber in order to approve a redistricting plan. Issue 1 made Ohio the first state to require a certain level of support from the two major parties to approve a congressional redistricting plan in the state legislature. Six states had independent commissions or politician commissions.

[Ohio Issue 1, Congressional Redistricting Procedures Amendment \(May 2018\)](#), Ballotpedia, May 2018.

12. Seitz was the featured speaker at the right-wing extremist group True the Vote's 2012 conference, filling the slot for then Ohio Sec. of State Jon Husted who bowed out due to public scrutiny from several exposés on MSNBC that *excoriated* him for entertaining such hate groups while still an elected official.^{13]}

[Ohio Secretary of State Jon Husted Withdraws From True the Vote Summit](#), The Nation, August 25, 2012.

13. Ohio H.B. 294, the Election Modernization and Security Act is co-sponsored by Ohio State Senator Bill Seitz. The bill would restrict official ballot box locations to only County elections board offices. Ballot boxes were widely used for the first time in Ohio

during the 2020 election to facilitate voting amidst the pandemic. And, they were seen by Republicans as one of the reasons the White House and Congress flipped to Democrats. In reality, the boxes were used by *both* party's voters. The bill would limit the drop boxes in which voters can leave completed absentee ballots, including making them available for 20 fewer days compared to the November election, while also eliminating early, in-person voting on the Monday before Election Day. Ohio Democrats see the bill as a blatant attack on voter freedoms in the state, along the lines of similar voter suppression initiatives in Arizona, Texas and other Republican-controlled states across the nation.

Ohio bill to overhaul voting laws would only allow ballot drop boxes at county boards of elections, Cleveland.com, May 6, 2021.

Additional Resources:

- Sixty percent of the members of *both* State House chambers must approve any proposed map. If they don't, Democrat representatives on the commission must *both* agree to whatever map the Republican members propose, or else *more* penalties kick in which favor the *majority* party. As a result, it is very *unlikely* that these unconstitutional policies, enacted in *secret* by Republicans in 2011 will be overturned in the foreseeable future, especially with a heavily Republican legislature, executive branch and Supreme Court legislature. Democrats will likely continue to be "packed" in a minority of districts (currently four), and "cracked" throughout the rest of the Republican-dominated state.

- "In writing the majority opinion in the U.S. Supreme Court's decision against Ohio changing its district maps before the 2020 election, as mandated by 2018's Issue 1, Chief Justice Roberts noted there are two ways to remedy partisan gerrymandering:

- States can enact changes, either putting the process in the hands of an independent commission or specifying criteria maps must follow.
- Congress can change the redistricting process, as allowed by the Constitution's Elections Clause.'

However, those remedies are limited by the will of the Legislature to fix partisan maps, said ACLU of Ohio attorney Freda Levenson.

'The court is leaving it in the hands of the legislature, but the legislature is where the problem is originating,' she said.

Ohio voters have twice in recent years overwhelmingly voted to reform Ohio's redistricting process: for Statehouse districts in 2015 and congressional districts in 2018.

Those changes are good steps, Levenson said, but they won't stop the majority party from controlling the map-making process in Ohio.”

- Politicians still craft both types of maps, but maps will need greater approval from minority party members and have to follow new rules aimed at keeping districts compact.

The new map-making process has ‘very serious limitations,’ Levenson said and still allows for the drawing of a gerrymandered map.”

No new maps for Ohio till 2022 after U.S. Supreme Court gerrymandering decision, Cincinnati Enquirer, June 27, 2019.

- “We declare Ohio’s 2012 map an unconstitutional partisan gerrymander, enjoin its use in the 2020 election, and order the enactment of a constitutionally viable replacement,” a trio of federal judges wrote in a 301-page opinion released Friday.”
Court to Ohio: Congressional map is gerrymandered. Draw a new one., Cincinnati Enquirer, May 4, 2019.

- “Gill v. Whitford” precedent-setting Supreme Court case -” Locking up the political process for the purpose of disabling competition among partisan viewpoints is at odds with the proper role of government in administering elections. It is inconsistent with democratic values and constitutional precedent holding that government must function as a neutral referee in administering elections. This constitutional obligation of government neutrality stems from the First Amendment (and the Equal Protection Clause). It is the same principle that circumscribes government regulation of access to public fora and facilities.” [Ergo, partisan gerrymandering schemes by either party violates the First Amendment, making them unconstitutional!]
Gill v Whitford, ACLU, September 6, 2017.

- “The 2011 redistricting process was in many ways “business as usual.’ The party in power used the process to gain maximum political advantage. The minority party was shut out. Public input was ignored. The result was the approval of new districts that will provide for largely predetermined elections where we will know which party will win before we even know who the candidates are.”
Ohio’s Gerrymandering Problem, League of Women Voters.

- “A deeply divided Supreme Court ruled Thursday that federal courts may not intervene to block even the most partisan election maps drawn by state lawmakers, a decision that allows such gerrymandering to continue unabated.
The 5-4 opinion by Chief Justice John Roberts, who was joined by the court's other conservatives, said partisan election maps drawn by North Carolina Republicans and Maryland Democrats are constitutional despite their one-sided nature.”
“The high court has never declared unconstitutional an election map drawn for blatant partisan advantage. Justices reasoned that elected officials are expected to joust for power in that fashion, while courts should be reluctant to intercede.”
Supreme Court says federal courts cannot strike down partisan gerrymandering, Cincinnati Enquirer, June 27, 2019.

- "...the 2020 results show how well the GOP mapmakers packed Democrats into just four districts: More than a third of the Democratic congressional votes statewide came from that quartet."

Ohio Democrats did so badly they undercut key anti-gerrymandering point, The Columbus Dispatch, 12-6-2020.

- Issue 1 of 2015 tackled gerrymandering at the Ohio House and Ohio Senate Districts and won in all 88 counties with 71% of all Ohio voters! Issue 1 of May 2018 again won in all 88 counties, with 74.85% of the vote in support of changes to Ohio's gerrymandering process in federal house and senate districts. That's overwhelming support, and in a mid-term election!

HISTORY OF REDISTRICTING, Fair Districts Ohio.

- Former Sec. Husted has claimed that his tactics are an effort to "make it easy to vote and hard to cheat". Yet, "Loyola Law School professor Justin Levitt studied voter impersonation, the major type of fraud that strict voter ID laws and voter purges in part aim to curtail. Levitt found 35 total credible accusations between 2000 and 2014, constituting a few hundred ballots at most. During this 15-year period, more than 800 million ballots were cast in national general elections and hundreds of millions more were cast in primary, municipal, special, and other elections." In addition, "Republican leaders have also embraced other tactics that limit people's ability to vote, including purging voter rolls, going after voter registration groups, and closing down polling places. These efforts were all emboldened by a separate Supreme Court ruling from 2013 that weakened the Voting Rights Act, which banned discrimination at the voting booth, by limiting federal oversight of changes certain states make to their voting laws." Supreme Court's conservative justices uphold Ohio's voter purge system, VOX, 6-11-18.

- Expecting former Sec. of State Jon Husted to uncover instances of voter suppression and to police unfair voting practices is like asking the fox to guard the hen house. Ohio is in no different situation in 2021 than the South was in 1965 when Congress (ratified by the Supreme Court) stepped in to redress what was never going to be upheld at the State or local level when it came to voting rights for discriminated groups of individuals. In this case, the Klan comes wearing a suit and tie, and brandishing a State flag instead of the Confederate Battle flag, or the Blood Drop Cross. But, the effects are just as insidious. Former Ohio State Senator Nina Turner co-sponsored and issued a report in 2013 showing thousands of documented cases of voter suppression in the 2012 General Election. The report revealed 34,299 [voters] denied provisional ballots, 13,190 denied absentee ballots, 2,188 voter suppression incidents documented by Ohio voter protection lawyers, 122 incidents of voter suppression and possible voter suppression in the 98th House District Election Contest, plus 680 incidents uncovered by staff at the 866-OUR-VOTE hotline. This is not zero cases of voter suppression, as Secretary of State Husted's report claimed.

Dems Document Thousands of cases of Voter Suppression Missed by Secretary Husted, Democrat News - Ohio House of Representatives, June 6, 2013.

- "Under the 1993 National Voter Registration Act, states are supposed to have maintenance programs to keep their voter rolls up to date. The idea is to remove voters

who have died or relocated. Ohio's program, by contrast, has removed qualified voters who neither moved nor died. Like other Republican-led efforts to restrict voting, Ohio's purge strikes hardest the poor and people of color—voters likely to support Democrats. In its 5-to-4 decision, the Supreme Court ruled that Ohio's policy is reasonable, even though the National Voter Registration Act prohibits canceling registrations for not voting. The conservative majority said that because Ohio sent out a mailing to previous non-voters, the failure to vote was not the sole criterion for being dropped from the rolls—giving Ohio a constitutional pass.

In her dissent, Justice Sonia Sotomayor said the policy disenfranchises minority and low-income voters. She pointed to a “friend of the court” brief that showed a predominantly black neighborhood in downtown Cincinnati had 10 percent of its voters removed since 2012, compared with only 4 percent of voters in a suburban, white-majority neighborhood.

According to the ACLU and other voting advocates, about two million Ohio registered voters have been purged under what the state calls “the supplemental process” since Husted took office in 2011. It's not entirely clear how many Ohio voters are in the crosshairs this time around. About 835,000 Ohio registered voters haven't voted in two years, according to an election data analysis this summer by Cleveland.com.”

Article by Harlan Spector, The American Prospect, Fall 2018.

- “When the U.S. Supreme Court upheld by a narrow 5-4 victory in “Husted v. A. Philip Randolph Institute“ (2018-06-11), it found that the former Ohio Secretary of State was *technically* right in purging voters, based on the voter roll “maintenance” mandates added to the NVRA in 1993. However, in Justice Sotomayor’s dissenting opinion, it was clear that Sec. Husted violated the legislative *spirit* of Sec. 5 in the ‘65 Voting Rights Rights Act, the ‘preclearance’ statute which prohibits legislators and voting officials from taking any action which might unfairly be used to discriminate against voters, especially voters of color and minorities.”

Wikipedia.