



A Funder Collaborative for Fair Districts

## Summary of Redistricting Cases

January 22, 2024

This document provides a summary of redistricting litigation impacting congressional and state legislative maps that Fair Representation in Redistricting is monitoring. The status of each case is current as of January 22, 2024, but the courts are very active on redistricting cases in advance of upcoming candidate filing deadlines, so details are subject to change daily.

For more information, please see the Brennan Center for Justice's [Redistricting Litigation Roundup](#).

### Alabama

#### Congressional map – Won; map redrawn but new challenge filed

In a landmark decision, *Allen v. Milligan*, the U.S. Supreme Court upheld Section 2 of the Voting Rights Act and affirmed the need to create two Black majority districts in Alabama. The Legislature drew new maps that increased the Black voting age population in a second district but fell well short of creating a Black majority district. The legislative-drawn maps were rejected by the court, and maps drawn by a special master were adopted on October 5, 2023. Although the court-imposed maps will be used for the 2024 elections, a February trial in the case will determine whether these maps will remain in place for future elections.

#### State Senate map – Pending in district court

*Chandler v. Allen*, a case brought on behalf of Greater Birmingham Ministries, Alabama State Conference of the NAACP, and several individuals, originally challenged the constitutionality of the state Senate map but was recently narrowed to Voting Rights Act challenges of two seats in the Birmingham and Huntsville area. The case is scheduled to go to trial in October 2024.

### Arkansas

#### State House map – Pending potential *en banc* review in the 8<sup>th</sup> Circuit

On November 20, the 8th Circuit Court of Appeals issued a devastating ruling in *Arkansas State Conference NAACP v. Board of Apportionment* holding that only the Department of Justice can bring enforcement actions under the federal Voting Rights Act. This was a radical move by a three-judge panel, upending decades of settled case law in which civil rights groups and private individuals have brought the majority of Section 2 claims. Plaintiffs appealed the case to the full 8th Circuit (*en banc* review). Notably, Lavenski Smith, one of the judges on the three-judge panel and the first Black chief judge of the circuit (and appointed by a Republican president), wrote the original dissent that arguing that until the Supreme Court rules, or Congress amends the statute, existing precedent should prevail. The 8<sup>th</sup> Circuit has not indicated whether it will rehear the case *en banc*.

### Florida

#### Congressional map – Pending potential review in state Supreme Court

In early December, Florida's First District Court of Appeal sided with the DeSantis administration in *Black Voters Matter Capacity Building Inst., Inc. v. Byrd*, a case brought under the fair districts

provisions in the state constitution. The state appellate court overturned the trial court decision that the legislatively-approved congressional plan, which eliminated a Black majority district in northern Florida, violates the constitution. Plaintiffs have appealed the decision to the Florida Supreme Court.

#### Congressional map – Pending decision from three-judge panel

Another Florida case, *Common Cause et al v. Byrd*, is a federal challenge to the elimination of a Black majority district spanning Tallahassee and parts of northern Florida on intentional discrimination grounds. During the 2022 redistricting cycle, the state Legislature passed a map that preserved the northern 5<sup>th</sup> congressional district. Governor Ron DeSantis vetoed that map on the grounds that it illegally protected Black voters, believing the state Supreme Court had erred when it upheld the district earlier in the decade and expecting the U.S. Supreme Court to overturn Section 2 of the Voting Rights Act. The plaintiffs argued that DeSantis intentionally interjected himself into the process to dilute Black voting power. The trial concluded in early October and plaintiffs are awaiting a decision.

### **Georgia**

#### Congressional map – Legal win; maps still a problem

In consolidated cases *Alpha Phi Alpha Fraternity v. Raffensberger* and *Pendergrass v. Raffensperger*, federal district court judge Steve Jones ruled in October that Georgia's congressional and state legislative maps violated Section 2 of the Voting Rights Act by diluting the power of Black voters and ordered the Legislature to draw new maps. In a special session that began in late November, the Legislature quickly passed maps that created those districts but offset those gains for communities of color by eliminating multiracial coalition districts, thereby weakening the ability of Latino and Asian American communities to elect candidates of their choice. Plaintiffs immediately challenged these new maps, but the district court judge held that the treatment of multiracial coalition districts was not before the court and would need to be challenged in a different proceeding. In the meantime, Georgia is appealing the ruling that the maps violated Section 2 of the Voting Rights Act to the 11<sup>th</sup> Circuit. No further changes are expected, however, before the 2024 elections.

### **Louisiana**

#### Congressional map – Won!

In a set of consolidated cases including *Robinson v. Landry*, *Galmon v. Ardoin* and *Nairne v. Ardoin*, a three-judge panel of the 5<sup>th</sup> Circuit Court of Appeals affirmed a lower court decision that the congressional maps in Louisiana violate the Voting Rights Act and must be redrawn to include a second Black majority district. On January 19, state lawmakers passed maps that created that district, and the plan was signed into law by Governor Jeff Landry on January 22. It will now be submitted to the Court for final review. The new map has the support of the Black plaintiffs who brought the case as well as voting rights advocates on the ground in Louisiana.

#### State legislative maps – Pending decision from a district court judge

A weeklong trial in a separate federal case challenging the state legislative maps under the VRA, *Nairne v. Ardoin*, concluded in December and is awaiting a decision by the same U.S. district court judge that ruled the congressional maps were unlawful. Louisiana elects its Legislature for a four-year term in odd-numbered years, with the last election in 2023, so new maps, if any, would not be used until 2027.

### **Michigan**

#### State legislative maps – 7 state House and 6 Senate districts are being redrawn

*Agee v. Benson* is an unusual case initiated by a number of Black former state legislators but supported

by Republican Party funders. On December 22, a federal three-judge panel declared thirteen of Michigan's House and Senate legislative districts unconstitutional and ordered them redrawn. The judges concluded that when the Michigan Independent Citizens Redistricting Commission (MICRC) approved maps, race unconstitutionally predominated in the drawing of a number of districts in and around Detroit. The court has given the MICRC until February 2<sup>nd</sup> to produce state house maps for a three week public comment period and has simultaneously appointed two special masters, one to review the maps adopted by the MICRC and one to be prepared to draw maps in case the MICRC is unable to meet the court-ordered deadline or draws illegal maps. Senate maps will be redrawn ahead of the 2026 elections. Although the plaintiffs also brought claims under Section 2 of the Voting Rights Act, the court did not rule on those claims.

## **New York**

### Congressional map – Being redrawn

New York's highest court ordered new congressional maps ahead of the 2024 elections, concluding that maps drawn by a special master for the 2022 election were intended to be temporary. The New York Independent Redistricting Commission (IRC), an advisory commission, will have the responsibility to draw new maps, which the state Legislature will then consider. The Court required the IRC to send the Legislature the new maps for approval no later than Feb. 28, a date *after* the current candidate filing opens and just days before the April 4 deadline, which might result in the primary being moved from June to August. If the Legislature rejects the IRC's proposed maps, the Legislature can subsequently adopt its own map.

## **North Carolina**

### Congressional and state Legislative maps – VRA challenges recently filed

In late October, the North Carolina Republican-controlled Legislature approved new congressional and state legislative maps, creating some of the most partisan gerrymandered districts in the country. The new maps also significantly reduce the ability of Black voters to elect candidates of their choice. Three new cases have been filed challenging a mixture of congressional and state legislative maps including *North Carolina NAACP v. Berger*, *Williams v Hall* and *Pierce v. North Carolina State Board of Elections*. Any changes to the maps as a result of litigation would not take effect until the 2026 election cycle.

## **North Dakota**

### State Legislative map – Won but being challenged again

In November, the Native American Rights Fund (NARF) won two significant decisions in North Dakota to protect the voting rights of Native communities. Representing the Mandan, Hidatsa and Arikara (MHA) Nation, NARF won a summary judgment in a case that challenged a new sub-district in the Legislature as a violation of the equal protection clause of the Fourteenth Amendment. They also won a federal court case arguing that the current legislative maps illegally diluted the voting strength of communities along the Spirit Lake and Turtle Mountain Chippewa reservations. After the state Legislature failed to meet a deadline for drawing new maps, the court ordered use of the map introduced during the litigation by plaintiffs. State officials also appealed the decision, citing the recent Arkansas decision that prohibits voting rights groups from bringing VRA challenges against redistricting maps, but the 8th Circuit declined to stay the district court's decision or the implementation of the new maps for the 2024 election cycle. The merits of the state's appeal are still pending.

## South Carolina

### Congressional map – Pending decision

*Alexander v. South Carolina State Conference of the NAACP* was argued before the U.S. Supreme Court on October 11, challenging one of the districts as a racial gerrymander. A three-judge trial court ruled that redrawing of the state’s 1st congressional district was an unconstitutional racial gerrymander. The state appealed that ruling, stopping any redraw until after the Supreme Court makes a decision. South Carolina argued that Black voters had been moved from one district to another for “partisan” not “racial” reasons, and the defendants are asked to raise the standard of proof for racial gerrymandering claims when race and partisanship are intertwined. Both sides have asked for an expedited decision to allow for new maps, if necessary, to be implemented in time for the state’s June congressional primary.

## Tennessee

### State Senate map – Pending decision

On November 22, a three-judge state court panel ruled in *Wygant v. Lee* that the state’s Senate map violates the Tennessee constitution and that the General Assembly needs to redraw the map by January 31. The court concluded that the Senate map failed to follow a provision in the Tennessee Constitution that requires Senate districts in counties with several districts be numbered consecutively. The map numbered Senate districts in Davidson County (which includes Nashville) 17, 19, 20 and 21. The effect of this numbering is that most of the Nashville Senate seats are up every four years in the midterm election rather than the presidential election, which would typically see higher turnout. The state has appealed the decision.

### Congressional and state Senate maps – Awaiting trial

A federal lawsuit, *Tennessee State Conference of the NAACP, et.al v. Lee*, alleges that the congressional map and one state Senate district intentionally targeted Black voters and illegally diluted the voting power of communities of color. The case is not scheduled to go to trial until after the 2024 election.

## Texas

### Congressional and State legislative maps – Pending trial

A number of cases have been consolidated in federal court under *LULAC v. Abbott*, the first case challenging the maps filed by Mexican American Legal Defense and Educational Fund (MALDEF). The MALDEF plaintiffs are challenging both the dismantling of pre-existing, performing Latino-majority districts and the refusal to create new Latino-majority districts despite the huge relative growth of the Texas Latino population over the last decade. Other cases are challenging the dismantling of multiracial coalition congressional and legislative districts. The cases have varying focus because of the assorted communities represented and the different geographies, and there is potential overlap and conflict to the extent that the shape of districts in one part of Texas may impact the shape of surrounding districts. At present there is no trial date scheduled due to ongoing pretrial disputes. It is also unclear whether the cases will ultimately be tried together or separately. The earliest some of the claims could be tried is the fall of 2024.

### Galveston County Commissioners Court districts – Pending 5<sup>th</sup> Circuit *en banc* review

Following a significant victory in the federal district court upholding the rights of a coalition of Black and Latino voters under the VRA, later re-affirmed by a three-judge panel of the 5<sup>th</sup> U.S. Circuit Court of Appeals, the 5<sup>th</sup> Circuit has granted a petition for review by the full panel of appellate court judges (*en banc* review). At issue is whether current legal precedent in the 5<sup>th</sup> Circuit allowing a coalition of minority

voters to bring a joint vote dilution claim (i.e., protection of “coalition districts” under the VRA) is still legally sound. Argument is scheduled for May 2024; the lower court ruling is stayed pending appeal.

## Utah

### Congressional map – Pending decision

*The League of Women Voters v. Utah State Legislature* challenges the state’s congressional map as a partisan gerrymander due to its division of Salt Lake County among all four congressional districts. The Utah Supreme Court heard oral argument in the case on July 13, 2023, but has not yet issued an opinion. At this juncture, it is likely that it would not be possible to implement new maps in time for the 2024 election without moving the June primary.

## Wisconsin

### State Legislative maps - Being redrawn

On December 22, the Wisconsin Supreme Court ruled in *Rebecca Clarke v. Wisconsin Elections Commission* that the state’s legislative maps are unconstitutional because they lack contiguity, and ordered parties involved in the litigation to submit new maps by January 12, knowing that final maps must be set by mid-March if they are to be used in the 2024 elections. The court allowed interested parties to submit maps and listed criteria it would use to evaluate the remedial maps, initially reviewed by a special master team of Bernie Grofman and Jonathan Cervas. Five sets of maps have been submitted and the special master report on the maps is due by February 1, with legal briefs responding to the special masters due a week later. At this point, it is expected new maps will be in effect for 2024. However, the state has appealed the December 22 decision to the U.S. Supreme Court.