

Biden Versus Trump Judges: Voting Rights and Democracy

Federal courts often become involved in disputes about voting rights and democracy. The Supreme Court has a number of such cases on its docket this year, including cases that could directly affect the fairness of the 2024 election. Previously, Trump judges have written or cast key votes in rulings that have harmed these important interests, while Biden judges have generally sought to protect them.

Trump justices and judges have seriously harmed the protection of minority voting rights afforded by the Voting Rights Act. In addition, particularly before the 2020 election, they have often made it more difficult for all citizens to cast a vote that counts. A few examples include:



- The three Trump justices (Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett) cast [deciding votes](#) to uphold Arizona practices that harm minority voters and make it harder to challenge such practices under Section 2 of the Voting Rights Act.
- Kavanaugh and Gorsuch cast the [deciding votes](#) in a 5-4 ruling that federal courts cannot consider challenges to partisan gerrymandering.
- In one of numerous similar cases around the country Trump judge Steven Graszo cast the deciding vote to effectively [block](#) the counting of many mail-in votes in Missouri before the 2020 election.
- Trump judge Elizabeth Branch wrote a 2-1 decision that [upheld](#) an Alabama voter ID law, even though it was undisputed that minority voters were twice as likely as whites to lack required ID.
- Trump judge David Stras wrote a [devastating 2-1 opinion](#) ruling that civil rights groups and other private plaintiffs cannot bring lawsuits charging voter discrimination under Section 2 of the Voting Rights Act. For now, the decision applies only in the Eighth Circuit, including Arkansas, Minnesota, Missouri, Iowa, Montana, and North and South Dakota.



Since Biden became President, democracy has faced new threats from the attempted January 6 rebellion and efforts to overturn the results of the 2020 election. In addition to other voting matters, Biden judges have played an important role in several such cases, including one where a Trump judge dissented and the Supreme Court will hear the case. Specifically:



- Biden judge Florence Pan reversed a Trump district judge and [ruled](#) that January 6 rioters can be prosecuted for obstruction of official proceedings—the Congressional vote count after the 2020 election. The convictions of hundreds of other January 6 rioters, as well as a key count in the case against Donald Trump in DC, are at stake. Trump judge Greg Katsas dissented, and the Supreme Court will hear the case this year.
- Biden judges Pan and Michelle Childs rejected a delay request and [ordered](#) a Trump attorney to produce immediately a number of documents sought by special counsel Jack Smith in his probe of Donald Trump.
- Biden judge Toby Heytens [overturned](#) a Trump district judge and ruled that citizens and states can seek to bar participants in a rebellion against the US, as on January 6, from running for office under the Fourteenth Amendment. The Colorado Supreme Court recently disqualified Trump from running for president in Colorado under this theory and the US Supreme Court agreed to review the case on an expedited basis, with oral arguments scheduled for February 8th.
- Biden judge Lydia Kay Griggsby [issued](#) a preliminary injunction against a Baltimore County redistricting plan that she found harmed Black voters in violation of Section 2 of the Voting Rights Act. She later approved a revised plan that remedied the problem.

The Supreme Court has and likely will play a crucial role in critical issues on voting rights and our democracy. As illustrated above, lower courts play an important role concerning these issues as well. Whether Donald Trump or Joe Biden nominate future justices and judges will be critical to whether federal courts undermine or protect our voting rights and democracy.

