Nearly two years after a federal judge said that Louisiana's congressional map diluted Black voting power, Black voters are at risk of voting for a second time in an election under a plan that likely violates the Voting Rights Act.

In response to the judge's ruling, the state's Republican legislature had created a second majority-African American district in the state's six district congressional plan. But now, a different federal court has said that adding the second majority-Black district is unconstitutional.

The new ruling, issued Tuesday by two judges appointed by former President Donald Trump, leaves the state without a congressional map six months before the election and has fueled complaints of political gamesmanship from critics on the left who fret that the clash could provide another opening for opponents of the nation's premier civil rights law to attack one of its remaining pillars.

The legal fight may influence which party controls the US House next year as the second majority-Black district would likely vote for a Democrat.

Some Louisiana officials, meanwhile, contend that the ongoing legal fight over the congressional map has put them in a tough spot - caught between the Voting Rights Act's demands for empowering minority voters and the Constitution's limits on the government's ability to consider race at all.

They say the Supreme Court must clear up what they contend is an ambiguous legal landscape - despite the justices reaffirming their position only last year in an [*unexpected 5-4 decision that sided with Black voters*](https://www.cnn.com/2023/09/08/politics/supreme-court-voting-rights-kavanaugh-alabama/index.html) in Alabama.

The Louisiana federal court that struck down the most recent congressional map held a hearing Monday on next steps. The court ordered briefs to be filed by close of business Tuesday that address whether it is feasible for the legislature to draw a new map in time for November's elections. State officials have said they need to know the contours of the district by May 15.

In a statement posted on social media, Louisiana Attorney General Liz Murrill said the state should be allowed to implement the map passed by the state legislature that allows for two Black-majority districts - or failing that, revert to the map used in the 2022 election with a single district in which African American voters are in the majority.

She said the dispute appears headed to the Supreme Court this week. The Black voters who are defending the second majority-Black district have also signaled they will likely seek an emergency intervention from the Supreme Court.

The current turmoil reflects a larger pattern of courts striking down redistricting plans as discriminating against voters of color, only for those plans to remain in place for elections because of procedural delays and other litigative gambits. How the high court handles the dispute will signal the degree with which the justices will tolerate legal maneuvers that prolong the resolution of redistricting disputes that crop every decade after the census.

"Right now, Louisiana has no map," said state Sen. Cleo Fields, a Black Democrat and former member of Congress, who is one of the candidates running in the new 6th Congressional District created by the state legislature.

"The courts can't say, 'Comply with the law. You have the right to draw the lines,' but then say, 'We don't like the way you complied with the law,'" he said.

Although Black residents make up roughly a third of Louisiana's population, the state has just one Black lawmaker - who is also the lone Democrat - in its six-member US House delegation.

Claims of 'affirmative action in redistricting'

In the current phase of the dispute, a three-judge trial judge panel sided with a group of 12 self-described "non-African American" voters who alleged that their "personal dignity" had been injured because the new map with two Black-majority districts "racially stigmatizes," "racially stereotypes" and "racially maligns" them.

Their lawsuit said that the congressional plan amounted "to the application of affirmative action in redistricting, unseen in previous racial gerrymandering" cases and violated the Constitution's equal protection clause.

Last week, the two Trump-appointed judges in the majority rejected arguments from the state that the lawmakers had other reasons besides race for drawing the plan the way they did. The state had pointed to the desires by state lawmakers to protect certain congressional incumbents.

The new district slashes diagonally from Shreveport in the northwest of the state to Baton Rouge in the southeast for some 250 miles to create a district where Black residents make up some 54% of the district's voters - up from about 24% under the old lines. The court majority knocked the redistricting plan both for its shape and how it divided cities and parishes "along racial lines."

The majority - US District Judges Robert Summerhays and David Joseph - said that even if the lawmakers had an obligation to comply with the Voting Rights Act, that requirement did not override the mandate that they adhere to traditional redistricting principles, like geographical compactness and reasonable configurations.

In a dissent, Bill Clinton-appointed Circuit Judge Carl Stewart said that the court should have let the most recent map stand. Stewart, who is Black, noted that "none of the plaintiffs in this case demonstrated that (the map) had a discriminatory effect on them based on their race," nor did they share their racial identities with the court hearing the case.

A lawyer for the challengers, Paul Hurd, told CNN that the harm the map was doing to his clients was that of "racial stigmatization."

Hurd declined to comment when asked about the racial identities of his clients, but the list includes prominent White Republicans in the state.

Louisiana lawmakers drew the contested plan this year in order to resolve a lawsuit brought by Black voters that challenged the state's initial congressional plan after the 2020 census - a map with only one majority Black district - as a violation of the Voting Rights Act.

"Our case is a really good example of a situation where you're damned if you do, you're damned if you don't," [*Murrill told WBRZ 2*](https://www.wbrz.com/news/ag-discusses-next-steps-in-congressional-map-debacle/) in Baton Rouge after Tuesday's ruling.

She has said she will be asking the court to allow her to implement the map drawn by the legislature in the coming election, as she also appeals the ruling to the Supreme Court.

"The jurisprudence and litigation involving redistricting has made it impossible to not have federal judges drawing maps," Murrill said. "It's not right and they need to fix it."

Hurd - who has spearheaded successfully racial gerrymandering cases in the past - doesn't believe there is a lack of clarity that the Supreme Court must address.

"The law is not that unsettled," he said.

State lawmakers say map was designed to keep most incumbents safe

Supporters of the map argue that political decisions - not just race - shaped the actions of state lawmakers and Louisiana's recently elected Republican Gov. Jeff Landry, who backed the new lines.

During a special session to craft congressional map in January, legislators said they aimed to protect their incumbents, including the two most powerful Republicans in the US House of Representatives: Speaker Mike Johnson and Majority Leader Steve Scalise.

Lawmakers said they also sought to preserve a seat held by GOP Rep. Julia Letlow, the only woman in the state's congressional delegation.

The map lawmakers approved carved up the district of one Republican, Rep. Garret Graves, who had endorsed Landry's opponent in the 2023 gubernatorial primary.

Not surprisingly, he welcomed the latest ruling. "The court's ruling speaks for itself," Graves said. "It's the most powerful statement."

Republicans involved in national redistricting issues scoff at the idea that the lawmakers' push to protect incumbents - and punish Graves - somehow proves that ***politics*** drove their actions.

"All this talk of ***politics*** and everything else in this Louisiana case is secondary to the reason they had a special session," Adam Kincaid, president of the National Republican Redistricting Trust, told CNN. "The reason they had a special session wasn't to get rid of Garret Graves. The reason they had a special session was to draw a second Black majority district because they didn't want (the) judge ... to draw it for them."

Allegations of 'gamesmanship' and running down the clock

Regardless of whether the Supreme Court decides to take up the case, the ongoing court fight shows how "gamesmanship" can undermine the Voting Rights Act protections, said Justin Levitt, a Loyola Law School professor specializing in elections and constitutional law.

"You don't need to strike (the law) down for it not to work," said Levitt, who also did stints in the Obama and Biden administrations.

The Black voters who initially sued the state over its 5-1 map secured a ruling in their favor in June 2022. US District Judge Shelly Dick - a Barack Obama appointee who is the chief judge of the district court for the Middle District of Louisiana, in Baton Rouge - issued a preliminary order finding that the state likely violated the VRA by drawing only one Black majority district.

She gave the legislature a chance to redraw the maps by June 15 of that year. The 5th Circuit denied the state's efforts to pause her ruling, but at Louisiana's request, the Supreme Court ultimately intervened. The high court took the dispute up but said it would be putting the litigation on hold while it considered an Alabama redistricting case teeing up similar legal questions. The 2022 congressional elections in Louisiana took place under the 5-1 map.

Once the justices handed down their Alabama ruling last year - which upheld its previous precedents for applying the Voting Rights Act to redistricting cases - the Louisiana case went back down to the 5th Circuit. Rather than letting Judge Dick move forward with her previous preliminary order, the appeals court wiped it away and said that the state should be given more time to redraw its map, prompting the special session in January where the latest map was adopted.

But when the non-Black voters challenged the new map, they went to a different federal court - the district court of Louisiana's Western District. The court allowed the Black voters who sued over the original map to play only a limited role in the proceedings and denied their request to insert into the record the original Baton Rouge proceedings.

Marina Jenkins, executive director of the National Democratic Redistricting Committee, said the latest challenge to the map was a clear "example of forum-shopping" by the voters challenging the map. A nonprofit arm of Jenkins' group helped fund the initial litigation decided by Dick.

Within days of the legislature approving the second-Black majority district, "you get these non-Black voters immediately running to a super-conservative court in the Western District of Louisiana because they didn't like the decision in a Baton Rouge-based court," she said.

Some of Louisiana's critics have questioned why the legislature, when it met in the special session this year to redraw the map, rejected other proposals that would have drawn the new districts in a more compact way to comply with traditional redistricting principles.

"Plenty of maps that were suggested had a little bit of disruption to the incumbent-protection scheme, but sometimes complying with the law means you don't get everything you want," Levitt said.

Fields - the former Democratic congressman who had proposed a different map in an earlier round of the redistricting fight than the one ultimately approved by lawmakers - said the state needs resolution.

"Was this the map that was my preference? No," he said. "But it's the desire and will of the legislature."

And the longer the current impasse lasts means more delay and uncertainty for candidates - and Black Louisianians, he contended. "At the end of the day, Black people should have the opportunity to elect the candidate of their choice to the US Congress," he said.