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| Claim | Categories for what constitutes a gerrymander | Justices and their vote – Const or not | Definition of gerrymandering | Who drew the plan | Const restriction? |
| FLORIDA (2015) League of Women Voters of Fla. V. Detzner, 172 So.3d 363 (Fla. 2015) | | | | | |
| 1 | -prohibiting partisan intent  -compactness (regular in shape)  -utilization of political/geographical boundaries (influences compactness) | UNCONST.  J. Pariente (D) issued 5-2 opinion, Chief J. Labarga (R) and J. Quince (D) and J. Perry (R) concurred; J. Lewis (D) concurred  J. Canady (R) dissented, J. Polston (R) concurred | Not explicit – if a plan violates the state constitution/amend then it is a partisan gerrymander | (R) legislature  Had to redraw map | Express – prohibits drawing a plan/district with **intent** to favor or disfavor a political party or incumbent |
| KANSAS (2022) Rivera v. Schwab, 512 P.2d 168 (Kan. 2022) | | | | | |
| I? | * Political intent in drawing maps is constitutionally permitted – the question is when it becomes too much (at 899) * No cases or controversies requirement – “stems from separation of powers doctrine embodied in KS const framework” (at 902) | NONJUSTICIABLE  J. Stegall (R) issued 4-3 decision, Chief J. Luckert (R) and J. Wall (D) and J. Wilson (D) joined  J. Rosen (D) conc in part, dissented in part  J. Biles (D) concurred in part, dissented in part, joined by J. Rosen (D) and J. Standridge (D) | When partisan factors are used “too much” (at 899) | (R) legislature | None – followed Rucho, no Const, state law, or caselaw provision that prohibits partisan gerrymandering |
| NEW JERSEY (2022) Matter of Congressional Districts by New Jersey Redistricting Comm’n, 268 A.3d 299 (N.J. 2022) | | | | | |
| 2 | - standing, no case or controversy – separation of powers for PQ  - geographic contiguity accounting for total population, compliance with VRA, sufficient numbers of min/maj dist; don’t split political subdivision boundaries and communities of interest unless necessary to comply with above standards, competitive dist favored, no dist may be formed solely to favor or disfavor any political party or the election of any person (partisan fairness), dist may include cores of existing dist to assist voters in assessing incumbents and minimizing voter confusion, compactness/regular shape unless necessary to comply with above (at 572-73) | FAILURE TO STATE A CLAIM  J. Rabner (D) issued 5-0 decision, joined by J. Albin (D), J. Patterson (R), J. Solomon (R), J. Fuentes (D)  J. Fernandez-Vina (R) and J. Pierre-Louis (D) didn’t participate | n/a | NJ Redist Comm – 6(d) 6(R) appointed by Pres of Senate, Speaker of Assembly, min leaders of Senate and Assembly, chairs of State committees of political parties who received largest/next largest votes in recent Gov election (at 566)  13th (D) tie-breaking member selected by NJ court, members failed to agree | Redist Comm relies on partisan fairness test  NJ State Const has EPC and DP provisions  No express/implied const or legisl policies that guide Commission’s work (577) |
| NEW YORK (2022) Matter of Harkenrider v. Hochul, 38 N.Y.3d 494 (Ct. of App. 2022) | | | | | |
| 4 | - one-party process to enact map  - comparison of 2012 and 2022 map  - drawn to discourage competition and favor D | UNCONST  J. Di Fiore (D; R SENATE; D leaning) issued 4-3 decision, J. Garcia (D gov R senate; R leaning), J. Singas (D) and J. Cannataro (D) concurred  J. Troutman (D) dissented in part  J. Wilson (GUBERNATORIAL) (D) dissented  J. Rivera (D R SENATE; D leaning) dissented | Petitioner bears “burden of proving beyond a reasonable doubt that the congressional districts were drawn with a particular impermissible intent or motive – that is, to ‘discourage competition’ or to ‘favor[ ] or disfavor[ ] incumbents or other particular candidates or political parties’” (at 519 quoting NY Const, art III, § 4 [c] [5])  Can be proved by “proof of a partisan process excluding participation by the minority party” or “evidence of discriminatory results” (519) | (D) legislature  Independent Redistricting Commission  Legisl is free to offer amend to maps created by IRC only after rejection of a second set of IRC maps (503-04) | Express prohibition in Constitution |
| NORTH CAROLINA (2022) Harper v. Hall, 868 S.E.2d 499 (N.C. 2022) | | | | | |
| 1 | * Criteria adopted by Comm: * Equal population, contiguity, counties/groupings/traversals, racial data (not used), voting dist split only when necessary, compactness, municipal boundaries, election data, member residence, community consideration * Partisan evid: * Simulation programming * Cracking and packing * Algorithm/outlier * Couldn’t explain R advantage via other traditional criteria   Generally, look at # of reps a group of voters of one partisan affiliation can plausibly elect with the # of reps a similar sized group of voters of another partisan affiliation can plausibly elect … OR comparing relative chances of voters from each party electing a supermaj or maj of reps under possible electoral conditions (547) | UNCONST.  J. Hudson (D) issued 4-3 decision, joined by J. Morgan (D), J. Ervin (D) and J. Earls (D)  J. Morgan (D) conc with J. Earls  J. Newby (R) dissented, joined by J. Berger (R) and J. Barringer (R) | “When a districting plan systematically makes it harder for individuals because of their party affiliation to elect a governing majority than individuals in a favored party of equal size – the General Assembly deprives on the basis of partisan affiliation a voter of his or her right to equal voting power” (546-47)  Look at partisan intent and effects  Partisan gerrymander actionable under the free elections clause, free speech clause, freedom of assembly clause, and EPC | (R) Legisl  Joint Redistricting Committee | Implied – all elections shall be free, emphasized equality and popular sovereignty (546)  Declaration of Rights of Const guarantees “equal power of each person’s voice in the government through voting in elections that matter” (508-09) |
| PENNSYLVANIA (2018) League of Women Voters of Pa v. Commonwealth, 178 A.3d 737 (Pa. 2018) | | | | | |
| 2 | * Vote dilution violates const * Cracking and packing dilutes votes, violates Const. (814) * Neutral criteria: a) compact and contiguous territory b) nearly equal in pop as practicable c) do not divide county/city/incorp town/borough, township, ward except where necessary to ensure equal pop (816) * If dist map subordinates traditional neutral criteria in favor of partisan advantage (e.g. diluting particular group’s vote for partisan advantage) then it violates Const. (817) | J. Todd (D) issued 5-2 opinion, joined by J. Donohue (D), J. Dougherty (D), J. Wecht (D).  J. Baer (D) filed concurring and dissenting opinion  Chief J. Saylor (R) dissented, joined by J. Mundy (R) | Partisan gerrymandering occurs when traditional neutral criteria are subordinated in favor of partisan advantage (817) | (R) legislature | Implied – free and equal elections |
| PENNSYLVANIA (2022) Carter v. Chapman 270 A.3d 444 (Pa. 2022) | | | | | |
| 1,2 | Traditional core criteria   * Compact territory * Contiguous territory * Do not divide county/city/incorp town/borough/township/ward except where necessary to ensure equality of population * Nearly equal in population as practicable (456)   Additional factors (subordinate to traditional factors at 457)   * Preservation of prior dist lines * Protecting incumbents * Maintenance of previously existing political balance * Preservation of communities of interest (457)   Partisan Fairness metrics   * Map’s responsiveness to voters * Whether a party with a majority of votes is likely to win a majority of seats, or produce anti-majoritarian results without focus on exact proportionality of representation * Whether and to what extent a map favors one party (470) | UNCONST.  J. Baer (D) issued 4-3 opinion, joined by J. Donohue (D), Dougherty (D), and Wecht (D)  J. Todd (D), J. Brobson (R) and J. Mundy (R) dissented | Subordination of traditional criteria to extraneous considerations, such as partis gerrymandering, is unconstitutional (457)  Partisan fairness should be considered when selecting a plan among several that meet traditional core criteria (459) | Gov and GA failed to enact a map after loss of a congressional dist.  Judiciary appointed Special Master to pick a plan | Implied – free and equal elections |
| OHIO Adams v. DeWine, 167 Ohio St. 3d 499 (Sup. Ct. 2022) | | | | | |
| 1,2 | Const. requires, if plan passed by simple majority,   * Plan that doesn’t unduly favor or disfavor political party/incumbent * Doesn’t split dist – counties, then townships, then municipal corporations * Compact dist (at 501)   Evaluated several expert reports looking at competitiveness of dist based on previous elections and computer-simulated plans that compared the current plan to simulated plans based on neutral criteria (at 511-14)  Efficiency gap, mean-median gap, declination, partisan symmetry also used (514) | UNCONST.  J. Donnelly (D) issued 4-3 opinion  J. Stewart (D) and J. Brunner (D) concur.  J. O’Connor (R) concurs separately  J. Kennedy (R), J. Fischer (R), J. DeWine (R) dissent | Plan with partisan advantage that is unwarranted by valid considerations – redistricting criteria set forth in Art. XIX (at 509) and does so in excess of the degree that results from application of neutral criteria (at 510) | General Assembly  3 part test | Express |

Four categories:

1. Failure of maps to satisfy traditional good gov criteria
2. Statistical tests of partisan bias/partisan vote dilution
3. Process grounds for failure to comply with requirements for public comment, or votes on passage that are entirely along partisan lines
4. Specific changes made in the proposed map via the const map from last decade – draw inference of deliberate partisan advantage

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| Case | Justices | Reason | E/I |
| FL (R)  Unconstitutional | Canady (R) | * Beyond a reasonable doubt, reviewing question of fact * Separation of powers (court and legisl) | E |
| KS (R)  Nonjusticiable | Rosen (D) part  Biles (D) part, joined Rosen (D) and Standridge (D) | * Separation of powers (court and const. amend) * State EPC broader than Fed EPC | None |
| NJ (partisan)  Failure to state a claim | No dissent |  |  |
| NY (D)  Unconstitutional | Troutman (D) part  Wilson (D)  Rivera (D) | * Advisory opinion; correct to determine procedurally unconst, but not that map failed to comport with requirements (T) * Evid doesn’t reach beyond a reasonable doubt; question of law (W); some favoritism allowed * Plan didn’t procedurally violate const, constitution construction (R) | I |
| NC (R)  Unconst. | Newby (R) joined by Berger (R) and Barringer (R) | * Separation of powers const. amend; policymaker * Beyond a reasonable doubt is the standard | I |
| PA 2018 (R)  Unconst | Baer (D)  Saylor (R) joined by Mundy (R) | * Agrees that Free and Equal Election Clause protects against extreme partisan gerrymandering; separation of powers w/ court-mandated dist criteria on Legisl (B) * Overextended jurisd, coterminous with fed EPC; agrees with Baer (S) | I |
| PA 2022 (judiciary) | Todd (D)  Brobson (R)  Mundy (R) | * Factually rejected selected plan (T) * Failed Karcher test – more than 2-person deviation; only excessive partisanship, not fairness (B) * Carter plan not best according to analysis (M) | I |
| OH (R)  Unconst. | Kennedy (R) joined by Fischer (R) and DeWine (R) | * Separation of power (policymakers) * Proportional representation guideline * Beyond a reasonable doubt standard | E |