
Dow Jones Newswires**US High Crt Reverses Florida Supreme Crt**

By Scott Ritter

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WASHINGTON -(Dow Jones)- A divided U.S. Supreme Court Tuesday said a Florida court erred when it ordered the recount of thousands of presidential ballots in the state, handing George W. Bush a potentially decisive victory in his quest for the White House.

Seven of the justices concluded that the statewide ballot count ordered Friday by the Florida Supreme Court had constitutional problems that "demand a remedy."

However, the justices disagreed on what that remedy should be. Five justices concluded that a recommendation by Justice Stephen Breyer - ordering a "constitutionally proper" recount with a Dec. 18 deadline, would violate Florida election law.

Instead, the majority's decision, in Breyer's words, was "simply to reverse the lower court and halt the recount entirely."

"The judgment of the Supreme Court of Florida is reversed, and the case is remanded for further proceedings not inconsistent with this opinion," the court wrote.

Tuesday's ruling came in the form of an unsigned declaration from the court, along with five written opinions.

The high court's ruling marks a major - and perhaps fatal - political blow to Vice President Al Gore's presidential hopes. The Democrats have other legal challenges pending, but with time running short they appear to be long shots.

Tuesday is the date for naming Florida's 25 electors under a provision of federal law that shields them from a challenge in Congress. The Electoral College casts votes for president Dec. 18.

The candidate who wins Florida will become the nation's 43rd president.

In the ruling, the justices said the recount ordered by the Florida court lacked uniform standards. That meant voters would likely be treated differently depending on which county they lived in, a violation of the U.S. Constitution's equal protection clause, they said.

"The recount mechanisms implemented in response to the decisions of the Florida Supreme Court do not satisfy the minimum requirement for non-arbitrary treatment of voters necessary to secure the fundamental right," the unsigned portion of the ruling said.

"The want of those rules here has led to unequal evaluation of ballots in various respects," the court added.

The issue before the justices was a decision from the Florida Supreme Court, which on a 4-3 vote Friday ordered statewide manual recounts of thousands of presidential ballots. Barely 24 hours later, the U.S. Supreme Court halted the counting and announced it would hear a Bush challenge to the state court ruling.

When the counting stopped Saturday, an unofficial tally by the Associated Press put Bush's lead at 177 votes statewide. Six million Florida voters cast ballots on Nov. 7.

The ruling broke down like this: Chief Justice William H. Rehnquist and Justices Antonin Scalia, Clarence Thomas, Sandra Day O'Connor and Anthony M. Kennedy made up a majority that found a constitutional problem - but one that had no remedy.

Justice Breyer and Souter also had concerns with the court-ordered recount, but said those problems could be cured by setting uniform standards and allowing the recount to proceed until Dec. 18, when the Electoral College meets.

Justices John Paul Stevens, Ruth Bader Ginsburg, David H. Souter and Stephen Breyer filed dissents, which made up most of Tuesday's opinion.

Indeed, Stevens wrote a blistering appraisal of the majority's ruling, saying it showed a unstated lack of confidence in the impartiality of state judges who decide whether recounts should be held.

"Time will one day heal the wound to that confidence that will be inflicted by today's decision," Stevens wrote, joined by Ginsburg and Breyer.

"One thing, however, is certain. Although we may never know with complete certainty the identity of the winner of this year's presidential election, the identity of the loser is perfectly clear," he added. "It is the nation's confidence in the judge as an impartial guardian of the rule of law."

Chief Justice Rehnquist and Justices Scalia and Thomas filed a separate concurring opinion, concluding that they had even more problems with the Florida recount.

They contended that the state high court's interpretation of Florida election statutes "distorted them beyond what a fair reading required, in violation of Article II" of the constitution, which says legislatures have the authority to select electors.

They also argued that it violated federal law that provides electors a "safe harbor" from congressional challenge if the vote is held under laws enacted before election day.

The Florida court "significantly departed from the statutory framework in place on November 7, and authorized open-ended further proceedings which could not be completed by December 12, thereby preventing a final determination by that date," they said.

Gore attorney David Boies argued Monday that the state court was simply interpreting the Florida election law "according to the legislature's designated 'manner' " for choosing the state's 25 electors.

While the justices sent the case back to the Florida high court for further proceedings, it appeared that the order was simply boilerplate language that would have no practical impact.

In a dissent, Justices Breyer and Souter said the court should have sent the case back to Florida with instructions to set uniform procedures for a recount.

"To recount these manually would be a tall order, but before this court stayed the effort to do that the courts of Florida were ready to do their best to get that job done," Souter wrote. "There is no justification for denying the state the opportunity to try to count all the disputed ballots now."

The U.S. Supreme Court on Saturday halted the recount while it considered Gov. Bush's appeal. The justices heard arguments in the case barely 48 hours before issuing Tuesday's ruling.

Justice Ginsburg also filed a dissent, in which Stevens, Souter and Breyer joined in part.

"The extraordinary setting of this case has obscured the ordinary principle that dictates its proper resolution: Federal courts defer to state high courts' interpretations of their states' own laws," she wrote.

Justice Breyer, in a separate dissent, worried that the appearance of the court's split decision in the highly politicized case could undermine the public's confidence in the court itself.

"That confidence is a public treasure," Breyer wrote. "It has been built slowly over many years, some of which were marked by a Civil War and the tragedy of segregation. It is a vitally necessary ingredient of any successful effort to protect basic liberty and, indeed, the rule of law itself."

The case is Bush vs. Gore, 00-949.

U.S. Supreme Court website: <http://supremecourtus.gov>

-Scott Ritter, Dow Jones Newswires, 202 862-6687; scott.ritter@dowjones.com

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