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Election Showdown Returns To A Divided US Supreme Court

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Of DOW JONES NEWSWIRE

614 words

11 December 2000

08:44

Dow Jones News Service

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English

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WASHINGTON -(Dow Jones)- The topsy-turvy legal battle for the White House returns to a sharply divided U.S. Supreme Court Monday morning, where attorneys for George W. Bush and Al Gore will square off over ballot recounts in Florida.

The stakes are extraordinary: A ruling may well decide which man will be the nation's 43rd president.

At issue is 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.

Bush's attorney, Theodore Olson, will get 35 minutes to argue the Texas governor's case. Olson made his points in a 50-page legal brief filed Sunday afternoon.

"The Florida Supreme Court's decision is a recipe for electoral chaos," he said, calling it a "crazy-quilt ruling" that fails to set uniform standards for ballot reviews. "The legislature provided for canvassing boards, not courts, to count votes."

But Gore attorney David Boies will argue 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.

He said that's perfectly in keeping with Article II, Section 1 of the U.S. Constitution, which says that each state shall appoint its electors "in such a manner as the legislature thereof may direct."

Moreover, he argued, intervention by the U.S. Supreme Court "would run an impermissible risk of tainting the result of the election in Florida --and thereby the nation."

A ruling in the case, Bush vs. Gore, 00-949, is expected quickly, perhaps even later Monday.

Boies faces uncertain prospects during the 45 minutes he's allotted to argue Gore's case. Five of the high court's nine justices voted Saturday to halt the recount, and Justice Antonin Scalia said that the majority "believe that the petitioner (Bush) has a substantial probability of success."

Scalia was joined by the court's more conservative-leaning justices: Clarence Thomas, Anthony M. Kennedy, Sandra Day O'Connor and Chief Justice William H. Rehnquist.

Justices John Paul Stevens, David H. Souter, Stephen Breyer and Ruth Bader Ginsburg dissented.

"The Florida court's ruling reflects the basic principle, inherent in our Constitution and our democracy, that every legal vote counts," Stevens wrote.

Indeed, the court seemed just as divided earlier this month, when it first considered a Bush appeal. In that case, the justices set aside a Florida Supreme Court ruling that extended the deadline for hand count and ordered the state court to explain its reasoning.

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 Nov. 7. Whoever wins the state's 25 Electoral College votes will capture the White House.

The justices will also hear from Miami attorney Joseph Klock, who has 10 minutes to argue in support of the Bush appeal on behalf of Florida Secretary of State Kathleen Harris and the state Elections Canvassing Commission.

Klock will argue that the state high court did "significant violence to the legislative scheme" when it ordered the recounts.

Outside the courtroom, dozens of people began lining up Sunday afternoon to try to get a seat for Monday's argument session, setting up tents and rolling out sleeping bags to brave a cold, drizzly Washington night.

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