

Redistricting ruling could help, hurt both parties

[Patrick Marley](#) , [Milwaukee Journal Sentinel](#) 6:03 p.m. EST November 22, 2016

Madison — The ruling striking down Wisconsin's legislative maps was a victory for Democrats, but if it holds it could help Republicans in other states.

Katherine Gehl said she helped fund the lawsuit because it could transform the way states draw political maps — not because it helped Democrats.

"Historically, Democrats and Republicans have engaged in this process relatively equally," Gehl said of lawmakers drawing political lines to maximize their advantage. "It is bad for everyone when politicians choose their voters instead of voters their politicians."

Every 10 years, states must redraw their congressional and legislative boundaries to account for changes in population. Republicans won control of all of Wisconsin's government in 2010 and were able to use their majorities to draw lines that greatly benefited them.

A group of Democrats sued in 2015 and a panel of federal judges [ruled 2-1 Monday](#) that Wisconsin Republicans violated the U.S. Constitution by drawing lopsided districts that all but guaranteed them of controlling the state Assembly for a decade.

The panel will rule later on how to fix the maps. It could establish its own maps or tell lawmakers to draw new lines.

Republican Attorney General Brad Schimel has promised to appeal. Redistricting appeals go directly to the U.S. Supreme Court without getting reviewed by an appeals court.

The Supreme Court is short one member because of the February death of Justice Antonin Scalia. The Wisconsin case likely won't get to the Supreme Court until well into 2017 and by then Scalia's replacement may be seated.

Whether there are eight or nine members on the court, most eyes will be on Justice Anthony Kennedy. In past cases, he has determined that lawmakers could go too far in trying to press their partisan advantage but did not know how to measure whether that was happening.

The Wisconsin lawsuit proposed a new test that the plaintiffs designed to try to get Kennedy's vote.

Rick Esenberg of the conservative [Wisconsin Institute for Law & Liberty](#) said he was surprised by Monday's decision and did not believe the Supreme Court would go along with it.

"It's hard to see how they could prevail without somebody changing his or her opinion," Esenberg said.

The panel adopted a test created by the plaintiffs that measures "wasted votes" — votes that are not needed to elect a candidate. Under the GOP-drawn maps, Democratic voters are packed into a small number of districts instead of being spread into more of them.

Esenberg said the test is similar to ones rejected by the Supreme Court that contended the total votes a party gets should be roughly proportional to the number of legislative seats they get.

"Kennedy really has rejected this proportional and symmetry thing," he said. "I don't think there's really any way to get around the fact that the decision is premised on some kind of proportionality. I don't know how you decide how much is too much."

If the Supreme Court agrees with the panel, Wisconsin's maps would have to be redrawn and other states would have to abide by the same test when they drew new districts after the 2020 U.S. Census.

That would help parties that were out of power, whether they were Republicans or Democrats.

That's what attracted [Gehl](#), the former president of Gehl Foods, to the case. She donated \$10,000 toward the lawsuit and raised about \$60,000 from others, she said.

One-sided districts result in lawmakers and members of Congress who are less likely to make compromises, she said.

Gehl has been involved in the [No Labels](#) movement aimed at finding bipartisan solutions to the country's problems.

"I think that both parties have, over time, basically changed the system and rigged the rules of the game together to enhance their power, in many cases jointly," she said.

"I think our system is a duopoly and the Republicans and Democrats collude together to protect the duopoly."

Gehl has donated to Democratic candidates and been mentioned as a possible candidate for governor. But on Tuesday she wouldn't say who she voted for in the presidential election because she is focused on bipartisan efforts.

She said she had essentially ruled out running for governor in 2018 but would weigh whether to run in a future election.

QUESTION: DOES IT MATTER IF GERRYMANDERING IS DONE ON THE BASIS OF RACE OR PARTISANSHIP?