High Stakes for Democrats in Redistricting Case

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The U.S. Supreme Court will hear oral arguments Tuesday in a case that could have far-reaching implications for the way legislative districts in Texas — and across the country — are drawn. A coalition of Texas legislators, mostly Democrats, fears that if voters suing the state succeed, minority communities will have significantly reduced political power.

The case, Evenwel v. Abbott, centers around the legality of Texas' current method for drawing the lines dividing state Senate districts. As it stands, Texas draws its districts so they are roughly equal in population. Even those who can't vote — such as children, non-citizens and felons— get equal representation in the Senate.

The Texans suing the state, Sue Evenwel of Mount Pleasant and Edward Pfenninger of Montgomery County north of Houston, say this method leads to "gross malapportionment" of the value of their votes. Because there are a larger number of potential voters in Pfenninger's district than there are in Evenwel's district, Pfenninger says his ballot counts for less.

Dozens of state legislators, mostly Democrats, have signed on to briefs with thecourt defending the legality of Texas' current policy — that all Texans, regardless of their eligibility to vote, should have equal representation. Among the briefs are one by the House of Representative's Mexican American Legislative Caucus — a group of 41 state representatives, all but five of whom are Democrats — and the Texas Senate Hispanic Caucus, made up of 11 Democratic senators. Those same 11 senators filed another brief presenting further arguments in the state's favor.

"This case represents a direct attack on our constituents," said Sen. José R. Rodríguez, D-El Paso, who chairs the Senate Hispanic Caucus. "The implications could not be larger for minority voting rights and for Texas as a whole."

Lawyers at the conservative Cato Institute, who are siding with the voters suing the state, said they disagree with the idea that the non-voters are being represented by the current system in the first place. Given that they aren't voting, it's hard to know what their policy preferences would be, the lawyers wrote in a brief to the court.

"Aliens are not 'virtually represented' by voters who happen to live near them," they wrote. "Allowing Texas to assume that its ineligible voters will share the political preferences of eligible voters of the same race would," they added, "be the first time this Court has endorsed a belief that homogenous racial-bloc political preferences are inevitable and need no empirical verification."

Cato and other conservative groups stand in opposition to Gov. Greg Abbott, who is defending the state's policy. That puts the Republican governor in an unusual alignment with the coalition of Democrats.

It's not that the Democrats love the districts as they are now; in fact, they sued in federal court over the state's Republican-drawn maps. But they believe that to draw the districts in the way Evenwel and Pfenninger are proposing would be worse.

If the Supreme Court rules against the state, districts would be drawn along dramatically different lines in order to equally divide the population of eligible voters — and that isn't a partisan issue, according to Sen. Rodney Ellis, D-Houston.

The ruling would mean "lopsided, overcrowded urban districts packed with non-voters," and "much smaller districts in rural areas where people are older and there are far fewer non-citizens," he said. "The overall effect would be grossly unequal access to legislators, resources, and services."

That would adversely impact anyone in those larger districts, Ellis added.

"When you pack people into overcrowded, unequal districts, everyone in them suffers – Democrats and Republicans alike. All of them have less access to their senators, regardless of their political persuasion," he said. "We help people in our districts with all kinds of problems — eligibility for Medicaid, veterans' benefits, issues in schools, you name it. If we have to serve thousands of extra constituents while other senators serve much smaller populations, the people we represent will inevitably suffer."

The ability to provide constituent services is significant, according to Sen. Sylvia Garcia, D-Houston. But if districts with large communities of children and non-citizens were stretched to include more eligible voters, the overall demographics of those districts would change significantly, she added. That would have a major impact on the politics of the state.

Garcia, who represents Senate District 6 — the district with the lowest proportion of eligible voters — said the demographics of her own district would shift in a way that reduced the power of minority groups' votes.

"Quite frankly, it would maybe result in it not being my district anymore," Garcia said. "If you look at Texas and look at who represents the minority populations of Texas, it's Democrats. This is just another way to dilute our vote and dilute our strength."

If the Supreme Court rules to divide districts by eligible voters, rather than by total population, Garcia — who will be traveling to Washington, D.C. to watch the oral arguments — said despite the high stakes, she is "cautiously optimistic" the court will rule in Texas' favor.

"I think this really just is a complete change of philosophy on how we interpret 'one person, one vote,'" Garcia said.