

MEDIA RELEASE
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NM Supreme Court's redistricting decision provides a victory for fair democracy

State's highest court holds that Republican claims can proceed under legal standard proposed by U.S. Supreme Court's liberal justices

SANTA FE, July 6, 2023 – Wednesday's New Mexico Supreme Court ruling provides needed guidance on how a lower court should consider a case alleging unconstitutional partisan gerrymandering. Instead of declining to have New Mexico courts review redistricting maps for partisan gerrymandering, the court offered guidance to the state's Fifth District Court on how to gauge if New Mexico's newest congressional district map is fair. In a cross-partisan twist, the court deployed a standard authored by one of the U.S. Supreme Court's more liberal justices to advise Clovis District Judge Fred Van Soelen how to assess the Republicans' claims of unfairness.

"Some people are declaring yesterday's decision a victory for New Mexico Republicans, who are challenging in court the state's redrawn congressional map," said Hannah Burling co-President of the League of Women Voters of New Mexico and Project Leader of Fair Districts for New Mexico. "But no one knows what the final decision on that question will be. Instead, yesterday's decision is a victory for voters who believe the courts can – and must – protect voters' constitutional rights by considering cases alleging partisan gerrymandering."

In its ruling, the New Mexico Supreme Court said that claims of partisan gerrymandering under the state constitution are reviewable by the state courts. This differs from the current U.S. Supreme Court doctrine that held that federal courts cannot decide constitutional challenges to partisan gerrymanders.

"The New Mexico Supreme Court order signals the importance of courts being fair and impartial, by upholding the state constitution and laws unconstrained by political pressure, uninfluenced by the status of the parties—essentially deciding the case on its merits without fear or favor," said former New Mexico Supreme Court Chief Justice Edward Chavez. "This does not mean that the underlying case has merit, it means that the checks and balances of our democracy are alive and well in New Mexico."

Heather Balas, Vice President of the Election Reformers Network, pointed out that the New Mexico Supreme Court's order positions the state to be an example nationally. "What makes this ruling so fascinating is that the state court adopted a standard offered by the liberal wing of the U.S. Supreme Court to advise a Clovis judge how to assess Republican claims of partisan gerrymandering. It is a case study in nonpartisanship," said Balas. "Further, New Mexico's court rightly joins a growing number of other state supreme courts in holding what the U.S. Supreme Court once recognized and what every voter knows to be true: that extreme partisan gerrymandering is incompatible with democratic principles and causes constitutional harms. Such cases must be at least heard."

Mason Graham, Policy Director for Common Cause New Mexico noted that New Mexicans deserve a fair and transparent process for redistricting. "This process was flawed from the outset. When elected officials from either party meet in secret to manipulate maps and protect their political power, voters

lose faith in our institutions and in democracy itself. In that way, gerrymandering harms us all. Ensuring the courts retain the power to protect the interests of voters is an essential safeguard.” The newly adopted standard that the NM Supreme Court ordered the district court to adopt comes from Justice Kagen's dissent in *Rucho v. Common Cause*.

Burling said, “As New Mexicans we are proud that on the day following Independence Day, the New Mexico Supreme Court affirmed the balance of power enshrined in our state constitution and respected by the U.S. Constitution. This is not a win for any political party; this is a victory for all New Mexicans.”

About Fair Districts New Mexico

Fair Districts New Mexico is a statewide coalition convened by the League of Women Voters of New Mexico. It is comprised of over 40 organizations that support fair, transparent and trusted redistricting following the 2020 census. Its primary policy goal is to see New Mexico establish an independent redistricting commission. New Mexico redistricting information is available at www.fairdistrictsnm.org and RedistrictNM.org.

