

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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WILLIAM WHITFORD, et al.,

Plaintiffs,

v.

Case No. 15-CV-421-bbc

GERALD NICHOL, et al.,

Defendants.

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**DEFENDANTS' SPECIAL VERDICT FORM**

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For our special verdict, we find as follows

**Question No. 1:** Do the plaintiffs have Article III standing to bring this lawsuit?

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(Yes or No)

If your answer to Question No. 1 was "No," STOP HERE and do not answer any more questions. If your answer on Question No. 1 was "Yes," answer Question No. 2.

**Question No. 2:** Is there a basis in the Constitution for the purported right of political parties "to translate . . . popular support into legislative representation with approximately equal ease."

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(Yes or No)

If your answer to Question No. 2 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 2 was “Yes,” answer Question No. 3.

**Question No. 3:** As part of a prima facie case, does the proposed showing of the mere presence of a partisan motive provide a judicially discernable and manageable standard that is consistent with the prevailing U.S. Supreme Court precedent?

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(Yes or No)

If your answer to Question No. 3 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 3 was “Yes,” answer Question No. 4.

**Question No. 4:** Assuming the concept is discernable, manageable, and legally available, have the plaintiffs proven a level of the unlawful motive of partisan intent that rises to the level of a constitutional violation?

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(Yes or No)

If your answer to Question No. 4 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 4 was “Yes,” answer Question No. 5.

**Question No. 5:** Is the plaintiffs' proposed use of the efficiency gap a judicially discernible and manageable standard for judging partisan gerrymanders under the Constitution?

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(Yes or No)

If your answer to Question No. 5 was "No," STOP HERE and do not answer any more questions. If your answer on Question No. 5 was "Yes," answer Question No. 6.

**Question No. 6:** Does the proposed efficiency gap standard and threshold offer a proper measure from which it can be determined how much partisanship is present and, if so, how much is "too much"?

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(Yes or No)

If your answer to Question No. 6 was "No," STOP HERE and do not answer any more questions. If your answer on Question No. 6 was "Yes," answer Question No. 7.

**Question No. 7:** In light of the fact that an EG similar to the ones seen in Act 43 existed in court-drawn plans prior to Act 43, have the plaintiffs proven that the EG under Act 43 was caused by partisanship attributable to Act 43, as opposed to other factors or its preexistence?

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(Yes or No)

If your answer to Question No. 7 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 7 was “Yes,” answer Question No. 8.

**Question No. 8:** Is plaintiffs’ proposed application of the EG limited and precise as called for by Justice Kennedy’s concurrence in *Vieth*?

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(Yes or No)

If your answer to Question No. 8 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 8 was “Yes,” answer Question No. 9.

**Question No. 9:** Did the plaintiffs have the burden to allege and prove more than intent and a certain EG to make out a prima facie case and, if so, have the plaintiffs failed to plead and support a showing beyond intent and a certain EG?

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(Yes or No)

If your answer to Question No. 9 was “Yes,” STOP HERE and do not answer any more questions. If your answer on Question No. 9 was “No,” answer Question No. 10.

**Question No. 10:** Have the plaintiffs proven that Act 43 is a radical departure from both traditional districting principles and past Wisconsin plans?

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(Yes or No)