

Opinion of BREYER, J.

SUPREME COURT OF THE UNITED STATES

Nos. 05–204, 05–254, 05–276 and 05–439

LEAGUE OF UNITED LATIN AMERICAN CITIZENS,
ET AL., APPELLANTS
05–204 *v.*
RICK PERRY, GOVERNOR OF TEXAS, ET AL.

TRAVIS COUNTY, TEXAS, ET AL., APPELLANTS
05–254 *v.*
RICK PERRY, GOVERNOR OF TEXAS, ET AL.

EDDIE JACKSON, ET AL., APPELLANTS
05–276 *v.*
RICK PERRY, GOVERNOR OF TEXAS, ET AL.

GI FORUM OF TEXAS, ET AL., APPELLANTS
05–439 *v.*
RICK PERRY, GOVERNOR OF TEXAS, ET AL.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS

[June 28, 2006]

JUSTICE BREYER, concurring in part and dissenting in part.

I join Parts II–A and III of the Court’s opinion. I also join Parts I and II of JUSTICE STEVENS’ opinion concurring in part and dissenting in part.

For one thing, the timing of the redistricting (between census periods), the radical departure from traditional boundary-drawing criteria, and the other evidence to which JUSTICE STEVENS refers in Parts I and II of his opinion make clear that a “desire to maximize partisan

advantage” was the “sole purpose behind the decision to promulgate Plan 1374C.” *Ante*, at 12. Compare, *e.g.*, App. 176–178; *ante*, at 7–9, 13 (STEVENSON, J., concurring in part and dissenting in part), with *Vieth v. Jubelirer*, 541 U. S. 267, 366–367 (2004) (BREYER, J., dissenting).

For another thing, the evidence to which JUSTICE STEVENSON refers in Part III of his opinion demonstrates that the plan’s effort “to maximize partisan advantage,” *ante*, at 13 (STEVENSON, J., concurring in part and dissenting in part), encompasses an effort not only to exaggerate the favored party’s electoral majority but also to produce a majority of congressional representatives even if the favored party receives only a *minority* of popular votes. Compare *id.*, at 20–22 (STEVENSON, J., concurring in part and dissenting in part), App. 55 (plaintiffs’ expert); *id.*, at 216 (State’s expert), with *Vieth*, *supra*, at 360.

Finally, because the plan entrenches the Republican Party, the State cannot successfully defend it as an effort simply to *neutralize* the Democratic Party’s previous political gerrymander. Nor has the State tried to justify the plan on nonpartisan grounds, either as an effort to achieve legislative stability by avoiding legislative exaggeration of small shifts in party preferences, see *Vieth*, *supra*, at 359, or in any other way.

In sum, “the risk of entrenchment is demonstrated,” “partisan considerations [have] render[ed] the traditional district-drawing compromises irrelevant,” and “no justification other than party advantage can be found.” 541 U. S., at 367. The record reveals a plan that overwhelmingly relies upon the unjustified use of purely partisan line-drawing considerations and which will likely have seriously harmful electoral consequences. *Ibid.* For these reasons, I believe the plan in its entirety violates the Equal Protection Clause.