

CBS News Special Report

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MAJOR GARRETT: The Supreme Court just issued a ruling on a potentially ground-breaking redistricting case that could impact for many years to come the power of minority voters in this country it focuses on the constitutionality of Louisiana's congressional map and how it was redrawn. The justices determined if Louisiana lawmakers properly balanced constitutional and voting rights act protections. I want to get straight to CBS News chief legal correspondent, Jan Crawford, who has been reading through the opinion. Jan?

JAN CRAWFORD: Well, Major, we just got this ruling within the last couple minutes. The justices and a 6-3 vote decision written by Justice Samuel Alito for the other five conservatives are striking down a second majority black district in Louisiana ruling that state officials focused on race and that amounted to an unconstitutional racial gerrymandered. Now, this decision is a major one under the Voting Rights Act. It will go well beyond Louisiana. It's going to make it based on what we're seeing so far. It will make it harder for state officials to draw up these so-called majority minority districts, which have been used for decades and have increased black representation and minority representation in Congress. And it also, I think, will call into question about a dozen or so existing majority minority districts, mostly in the South. Now, those districts, as you know, Major, have been away for Democrats to pick up seats in some of those states, those red states in the South. So, this ruling is a win, I think we can say, for Republicans. But legally, this is a Supreme Court that going back 20 years or more has been saying in case after case, a consistent line of cases, that the Constitution is colorblind. And that's why we've seen the Supreme Court do things like throw out affirmative action in college admissions. This line, this line of cases, very consistent with the Courts ruling today. What about the midterms? I think this ruling coming today, six months after his argument back in October, what may come too late to have an impact on these upcoming midterm elections? I think the focus will be going forward, limiting states from considering race when they're trying to consciously and intentionally draw up districts to increase minority representation. That means, Major, that you might not have as many of those kind of ink blocked states or states that have districts that zigzag like a Z where they go from — like this one did, from Shreveport all the way down 250 miles to Baton Rouge scooping up black voters along the way to, again, pick up voters to get enough black voters there to have that majority. So, I think, you know, that will restrict some of those case, those districts for sure. Speaking of this decision, it's 37 pages long. There is a dissent by liberal Justice Elena Kagan that appears to be longer than the majority and it looks like a barn burner. She is saying that today's ruling will gut — is gutting the Voting Rights Act and will call into peril some of the accomplishments that we've seen over that historic 1965 law that really dismantled a Jim Crow and systemic barriers to voting for black people in the South. Of course, the Supreme Court today, as they have in recent decisions on voting rights, is saying the country has moved past that. It's time to stop intentionally focusing on race and as Chief Justice John Roberts said in a case back in 2007, the way to end discrimination — race discrimination based on race is to stop discriminating based on race. And this Supreme Court with those six conservative justices believes that racial preferences, whether it's an affirmative action, whether

it's in redistricting, that can amount to unconstitutional race discrimination, Major.

GARRETT: Jan, let you continue to read the opinion, if there's anything else that strikes you, please let me know. In the meantime, I'm going to bring in Jessica Levinson, CBS News legal contributor and Loyola Law School professor. So this is Section II, Jessica of the Voting Rights Act. And then in 1982, Congress also passed an amendment to the Voting Rights Act, making it clear that some voters could, if they felt that the district lines were extremely discriminatory to their interests, bring legal action. So, there's two aspects of congressional intent here. Yet the Supreme Court said, we've taken that into consideration, but we still believe that process violates the Constitution and the Voting Rights Act section two has gone a bit too far.

JESSICA LEVINSON: That's exactly right. And I want to echo what Jan said, which is that this is a case where the Supreme Court once again, a majority has said, don't use race. We've seen this when it comes to admissions and higher education. We've seen it in other circumstances. And here again, we have the Court saying in order to comply in this case with the Voting Rights Act, and you just mentioned major Section II, which prohibits diluting somebody's ability to vote on the basis of race and other categories. In this case, the Court is saying, the way to ensure that we can satisfy the Voting Rights Act is not to make these race-based lines. As Jan said, we have a serious division in the Court in the sense that we have Justice Kagan saying that this is the incorrect interpretation of the Voting Rights Act. And then, in fact, when you think about this landmark piece of civil rights legislation, that one of the ways to ensure that you are complying with this legislation is to allow the use of race when you draw lines, when you draw these legislative lines. I think Jan was exactly right to point out this could have implications potentially not for the midterms, but certainly going forward where you're going to see that states can draw these district lines. I think using slightly different criteria and frankly, being less worried about complying with section two, because I think that the big takeaway here is that it's going to be hard to bring successful challenges under section two, again, of that landmark civil rights legislation, the Voting Rights Act.

GARRETT: It is worth pointing out that section two, unlike other parts of the Voting Rights Act were permanent and national in scope, some elements of the Voting Rights Act, which much more geographically specific to remedy past abuses in certain areas. Section II applied permanently and nationwide, that's why this is such an important ruling. I want to turn out our Chief White House correspondent Nancy Cordes. Nancy, Jan referred to some of the potential political implications of this, pick it up from there.

NANCY CORDES: Sure. So, I think that there is a concern or a question about whether this ruling is going to kick off chapter two, if you will, of the gerrymandering arms race that we've been watching play out across the country since last year when President Trump first said that he thought that Texas should redraw its legislative maps. And the reason that that was controversial is because typically states only redraw their maps once every 10 years after census figure come out. We're right now in the middle of that cycle, but Texas said yes, and that kind of led to a cascade of other states, both controlled by Democrats and Republicans, saying they were going to do the same, looking for an advantage in the 2026 midterm elections. Now, those elections are just six months away at this point. And so it's really tight, very difficult to redraw maps in any

particular state with enough time for them to survive any potential legal challenges and train poll workers and get ready for that election in November. But already, Major, Mississippi's governor has said he just said on Friday that he is going to call a special session of the legislature 21 days after this ruling comes down and the clock starts now because the ruling has just been handed down to take a look at Mississippi's maps and determine whether they should be redrawn. Right now, Mississippi has four congressional seats, three are controlled by Republicans, one is controlled by a Democrat, and ostensibly the goal would be to redraw those maps in such a way that you would then have four Republican controlled seats in a Republican-controlled state. So, that's the kind of thing that we could now see play out in a handful of states like Mississippi, like Florida, that weren't really part of that first round of gerrymandering where we saw states like California, Ohio, Utah, Missouri, all scramble to redraw their maps over the last 12 months. Virginia just had an election about that very issue last week, but now we could see a handful of new states try to tackle their, their maps based on this new ruling.

GARRETT: Nancy Cordes at the White House. I want to return to Jan Crawford in our Washington D.C. newsroom. So, what does this say about the future of section two of the Voting Rights Act? Because we have two tranches of congressional intent when it was — back was originally propounded. And then when it was amended in 1982 and Jan, as you've often taught me, this Court pays very close attention to congressional intent.

CRAWFORD: Well, this Court is saying that I think we're going to need intentional race discrimination before we can bring some of those challenges, which would really kind of put the brakes on a lot of these redistricting efforts, which were designed around the idea that even if it wasn't intentional discrimination, it had a discriminatory impact. It was diluting the power of black voters to elect candidates of their choice. Like, that would be enough. That's not going to be enough anymore. That's what this Court is saying. But I think it's important to point out that the Court could have gone a lot further. The state of Louisiana and other states like Alabama were arguing that they should just basically strike down Section II of the Voting Rights Act. The Court is not doing that. They're taking a kind of a more middle ground, but still nonetheless a very broad ruling that even as Justice Thomas says and his concurrence should largely put an end to this "disastrous misadventure in voting rights jurisprudence." Justice Thomas being the voice going back since he joined that Court in the early 90s, calling for the Court to rethink how it's doing these districts, saying that it divides people into silos based on their race. So, he is — right enough for him in this case, Major.

GARRETT: Jan Crawford, thank you very much to recap 6-3 voting United States Supreme Court strikes down majority minority district in Louisiana, the decision weakens some aspects of the Voting Rights Act. It is a win broadly speaking politically for Republicans. But it is probably coming too late to impact in any material sense in November midterm elections.