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In historic ruling, Florida Supreme Court says lawmakers can testify in redistricting case

A dissent in the 5-2 decision says the ruling is a first "in the recorded history of our Republic"

By Matt Dixon Fri, Dec 13, 2013 @ 6:17 pm

Tallahassee | In a historic decision, the Florida Supreme Court has ruled that lawmakers and legislative staff can give depositions in an ongoing lawsuit challenging Florida's 2012 redistricting process.

Those maps were challenged by a coalition of groups that argued the redistricting favored Republicans, which is at odds with the Fair District amendments. Passed in 2010, those amendments aimed to, in part, remove politics from the redistricting process.

Traditionally, legislative redistricting has been highly political everywhere. In each state, the party in power gets to draw the election boundaries, often to create politically safe districts for favored state legislators and to boost the chances of its party in federal Congressional races.

Many analysts have blamed such safe districts for the political gridlock in Washington, D.C., because many U.S. House members are unlikely to face consequences back home, despite historically low approval ratings for Congress as a whole.

"Voters, through the passage of the Fair Districts Amendments, demanded an open and transparent redistricting process," said Adam Schachter, an attorney representing the coalition. "With this ruling, the public can finally learn the truth."

After the coalition, which includes the League of Women Voters of Florida, uncovered emails between legislative staff and third-party political groups, it attempted to depose state redistricting staff.

Attorneys for the House and Senate filed a motion arguing legislative staff and lawmakers are protected by "legislative privilege," or the legal philosophy that staff can't be taken to court or face deposition for actions taken conducting state business.

A Leon County court sided with the coalition, an opinion that was overturned the First District Court of Appeals.

The 5-2 Supreme Court decision, released Friday, came with strongly worded dissent from Justice Charles Canady.

"For the first time in the recorded history of our Republic, a court has ruled that state legislators are required to submit to interrogation ... concerning their legislative activities," he wrote.



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Chief Justice Ricky Polston sided with Canday. Justices Fred Lewis, Peggy Quince, Jorge Labarga, James Perry and Barbara Pariente formed the majority.

The majority opinion, penned by Pariente, said that because of the separation of powers, legislative privilege exists in Florida, but it's "not absolute."

In this case "there is no unbending right for legislators and legislative staff members to hide behind a broad assertion of legislative privilege," Pariente wrote.

The opinion is a defeat for House Speaker Will Weatherford of Wesley Chapel and Senate President Don Gaetz of Niceville. So far, the Legislature has spent \$1.5 million on the case this fiscal year, and both have been vocal defenders of legislative privilege.

Attorneys for the Legislature said because they had already turned over 16,000 communications covered by Florida public records laws, they have been compliant. It's an assertion the majority rejected.

It "does not make depositions sought any less important to the critical issue of intent that is the focus," the majority opinion read.

Media representatives from both the House and Senate said they are reviewing the ruling and would not have a comment Friday.

Matt Dixon: (352) 233-0777

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Saturday, December 14, 2013 @ 9:40 am

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This is a long time coming. Politicians should be forced to sit as witnesses and examined for what they know. Maybe this is will make them walk the strait and narrow and expose collusion - that we all know runs rampant in government.

