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## Partisan gerrymandering arguments in North Carolina map on trial

By Gary D. Robertson

RALEIGH (AP) - The redistricting practices of North Carolina Republicans are getting scrutinized yet again in court, this time in a trial in which federal judges must decide whether mapmakers can go too far drawing boundaries that favor their party.

A three-judge panel began hearing evidence Oct. 16 in litigation filed by election advocacy groups, the state Democratic Party and voters who allege unlawful partisan gerrymandering in the state's current congressional map, which favors the GOP. Those who sued want the map redone.

Several lawsuits this decade challenging districts drawn by the GOP-dominated General Assembly focused on alleged racial gerrymandering, which federal courts agreed existed. Legislative districts had to be redrawn in August, and another federal panel is deciding now whether those problems were fixed.

The plaintiffs in the congressional case, however, argue the U.S. House boundaries redrawn by the GOP in 2016 are so politically uncompetitive that they violate the free speech and equal-protection constitutional rights of voters whose partisan viewpoints are in the minority, while perhaps not so statewide.

While redrawing the congressional maps last year, a legislative committee directed that the new lines help maintain the Republicans' 10-3 seat advantage in the state.

Plaintiffs "are represented by a congressional delegation that unfairly silences their viewpoint, and their efforts to engage their fellow citizens and elected representatives are thwarted by the plan's extreme bias," lawyers representing the League of Women Voters of North Carolina and some individuals wrote in their opening statement for the trial, filed Oct. 13 with the court.

In a comment which the plaintiffs cite often to bolster their case, Rep. David Lewis, one of the defendants, said last year that the map would give a 10-3 partisan advantage only "because I do not believe it's possible to draw a map with 11 Republicans and two Democrats."

In their opening statement, the GOP legislative leaders contend the plaintiffs don't offer a manageable standard for courts to decide what makes for "balanced" districts and should leave resolutions over redistricting to voters, who elect legislators that approve maps.

"The remedy for concerns over political map-drawing rests with the people, not with the courts," lawyers for the Republicans wrote. "This court should avoid entangling itself in the highly partisan, hotly disputed and inherently political process of redistricting."

The Greensboro trial, expected to last four or five days, begins two weeks after the U.S. Supreme Court heard oral arguments in a Wisconsin case in which a lower court ruled that Republicans packed Democrats into some districts and spread them across others to entrench GOP control in the Legislature. The justices haven't yet ruled that illegal partisan gerrymandering exists in a specific case. The phrase hasn't been well defined.

But the plaintiffs argue that's changed with statistical tools and a three-pronged test described in the Wisconsin arguments. Among the metrics is an "efficiency gap" that attempts to compare the statewide average share of the vote a party receives in each district with the statewide percentage of seats it wins.

North Carolina's gap for its congressional districts was the worst in the country during the 2016 election, according to the League of Women Voters' opening statement, saying the GOP won more seats than they should have compared to its share of the statewide vote. They'll offer a mathematician and a political scientist as expert witnesses at trial.

### Mural planned near Brown historic site in Topeka

TOPEKA, Kan. (AP) - An arts group is planning a mural for a wall adjacent to the Brown v. Board of Education National Historic Site.

The Topeka Capital-Journal reports that about 50 people turned out over the weekend to kick off the project at the former all-black school that tells the story of the U.S. Supreme Court ruling that ended legal segregation in public schools. ARTSConnect executive director Sarah Fizell says the project has "the potential to be a really transformative experience for our city and is an excellent example of what public art can do for all of our lives."

Youths and adults will submit designs, with a committee selecting stories that form a message. Painting is scheduled for next spring and summer.

The GOP lawyers wrote these and other calculations are based on "flawed social science" and that the 2016 congressional map followed traditional redistricting guidelines better than any congressional map in state history.

Last month, the three-judge panel declined to delay the North Carolina case until after the U.S. Supreme Court's ruling in the Wisconsin case, saying there were legal and factual differences.



### Baltimore-based artist to paint Michelle Obama's portrait

BALTIMORE (AP) - A Baltimore-based artist has been chosen by Michelle Obama to paint a portrait of the former first lady.

Mrs. Obama chose Amy Sherald, whose painting "Miss Everything (Unsuppressed Deliverance)" won first place in the National Portrait Gallery's 2016 Outwin Boochever Portrait Competition, to paint her official portrait. Sherald received her MFA in painting from Maryland Institute College of Art in Baltimore.

Former President Barack Obama chose Los Angeles-based artist Kehinde Wiley to paint his portrait.

The National Portrait Gallery partners with the White House at the end of each presidency to commission one official portrait of the president and the first lady.

### Black history museum moving to larger space in Omaha

OMAHA, Neb. (AP) - The Great Plains Black History Museum is leaving a shopping mall for a larger location in northeast Omaha.

The Omaha World-Herald reports the museum has been occupying 800 square feet in Crossroads Mall. Its new location has about 1,400 square feet. An open house is scheduled for later this week.

Museum executive director Eric Ewing says the extra space is still not sufficient to display all of the museum's collection, which he estimates is about 100,000 pieces. He plans to rotate exhibits in an effort to attract visitors to see fresh material.

**New DSS Director, William "Ben" Rose f points to his welcome sign at his office window. The sign welcoming him on his first day on the job after Durham County new employee orientation. See story on page 3.**



FILE - In this Oct. 16, 2016, file photo, San Francisco 49ers quarterback Colin Kaepernick talks with the media after an NFL football game against the Buffalo Bills in Orchard Park, N.Y. What started as a protest against police brutality has mushroomed a year later into a divisive debate over the future of Kaepernick who refused to stand for the national anthem and now faces what his fans see as blackbaling for speaking out in a country roiled by racial strife. The once-rising star and Super Bowl quarterback has been unemployed since March, when he opted out of his contract and became a free agent who could sign with any team. (AP Photo/Jeffrey T. Barnes, File)

### Legal experts split on if NFL can punish for anthem protests

By Jesse J. Holland

WASHINGTON (AP) - Jerry Jones may want to bench Dallas Cowboy players who don't stand for the national anthem, but NFL owners could find themselves facing a First Amendment lawsuit if they punish football players or coaches for their protests after taking government money into the private business of professional football.

The NFL is a private business - and the First Amendment only protects Americans from free speech abuses from the government. But legal experts differ on whether pro teams who play in publicly-funded stadiums or who accepted government money in exchange for patriotic displays like the national anthem could find themselves legally exposed if they punish kneeling players.

The money exchanged between governments and pro football teams could mean that discipline enforced by the team could be "fairly attributed to a government entity, meaning the employer could not discipline someone for taking a political position," Harvard Law School professor Mark Tushnet said.

A judge could find it "relevant that some of the stadiums have been constructed with public support and may get continuing public subsidies," Tushnet said. "It may be relevant that some of these practices were instituted in cooperation with the national military."

"If the government pays for the patriotic display and the firing is a result of the behavior being deemed insufficiently patriotic, it is conceivable that that a claim could then be articulated," said Floyd Abrams, a First Amendment attorney in New York.

The NFL has been embroiled in controversy over players using the national anthem before games as a platform for protest. Former 49ers quarterback Colin Kaepernick started the movement last season when he refused to stand during the anthem to protest racial inequality and police brutality. Kaepernick remains unsigned and wants to resume his career, but other NFL players have picked up his cause and knelt, sat or made other gestures during "The Star Spangled Banner."

Jones, one of the NFL's most powerful owners, has said the NFL can't leave the impression that it tolerates players disrespecting the flag and said any Cowboys doing so will not play.

"If you do not honor and stand for the flag in a way that a lot of our fans think that you should, if that's not the case, then you won't play," Jones said Oct. 10 on a Dallas radio station.

Public money is inextricably linked with the NFL. The vast majority of NFL stadiums were constructed or renovated with public money, including the Cowboys' home in Arlington, Texas. The Taxpayer Protection Alliance rated AT&T Stadium as one of the most egregious abuses of taxpayer money, saying the cost to taxpayers has been about \$444 million.

And the NFL was paid by the military for at least four seasons for its patriotic displays during pregame, as part of defense spending to market to potential recruits. After complaints from Arizona Sens. Jeff Flake and John McCain, the NFL in 2016 repaid the government more than \$700,000 covering payments from four NFL seasons, 2012-2015, for activities including performances of the national anthem, full-field flag details and on-field color guard performances.

There is no guarantee that a First Amendment lawsuit would succeed against pro teams even if they have accepted government money, Tushnet said. Other legal experts dismiss the idea of any kind First Amendment lawsuit against NFL teams being successful. Rules for NFL player conduct are also spelled out in the league's rulebook, personal conduct policy and the collective bargaining agreement.

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