**Landmark U.S. Supreme Court Case Study**

*Bush v. Gore* | 2000 | Page One

Adapted from Oyez.org <http://www.oyez.org/cases/1970-1979/1974/1974_73_1766>, PBS.org <http://www.pbs.org/wnet/supremecourt/future/landmark_bush.html>,

and Kids.Law.com <http://kids.laws.com/bush-v-gore>

**Essential Questions of the Case:**

Did the Florida Supreme Court violate Article II Section 1 Clause 2 of the U.S. Constitution by making new election law? Do manual recounts, without consistent standards, violate the Equal Protection and Due Process clauses of the Constitution?

**Background**

In 2000, Vice President Al Gore faced Texas Governor George W. Bush in the presidential election. A winner in the election could not be determined until Florida’s Electoral Vote was decided. The morning after Election Day, Governor Bush led Vice President Gore by about 1,800 votes in Florida. Due to the fact that the returns were so close, Florida law called for an automatic machine recount of ballots. When this recount was complete, Bush had only a 327-vote lead out of almost 6 million ballots cast. With the race so close, Florida law allowed Gore the option of a manual (by hand) recount of votes in the counties of his choosing. Gore chose four counties with many complaints of voting machine issues: Broward, Miami-Dade, Volusia, and Palm Beach. Florida law also required that the state's election results had to be finalized by the Secretary of State, Katherine Harris, within seven days of the election (by November 14, 2000). Three of the four counties were unable to complete the recount process by the deadline.

On November 14, the 2nd Judicial Circuit Court ruled that Secretary Harris could legally accept election results after the 14th from any of the counties still completing a manual vote recount. Harris announced that she would consider late recount totals only if the county could justify their lateness in writing by 2 p.m. the following day (November 15). The three counties-Miami-Dade, Palm Beach, and Broward-immediately sent an explanation for the delay. Secretary Harris, however, rejected their explanations and announced that the final Florida vote count would be announced Saturday, November 18, 2000. On November 16, both Vice President Gore and Palm Beach County filed a request to the Florida Supreme Court to prevent Secretary Harris from finalizing the election until the three counties could finish their recounts. On November 21, the Florida Supreme Court ruled that Secretary Harris must allow the counties until November 26 to finish their recounts.

On November 26, Secretary Harris certified the election for Bush. The next day, Gore sued the secretary, alleging that the certified results were not valid because the recount process was not finished in Miami-Dade County. After a local court rejected the suit, Gore appealed to the Florida Supreme Court, which ruled on December 8 that Florida ballots cast, but not counted by voting machines, must be manually recounted if they had not been already. Governor Bush appealed this decision to the U.S. Supreme Court, which reviewed the case on December 9. Bush argued that the manual recount went against the 14th Amendment because the recount violated the equal administration of voting laws in Florida.

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**Constitutional Principles Related to the Case**

**Article II, SECTION. 1. Clause 2** Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

**14th Amendment (1868)**

**SECTION. 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Decision & Impact**

On December 12, 2000, the Supreme Court, in a 5-4 decision, ruled that the Florida Supreme Court's recount order was unconstitutional because it granted more protection to some ballots than to others, violating the Fourteenth Amendment’s Equal Protection Clause. This clause forbids states from denying "to any person within their jurisdiction the equal protection of the laws." The Court argued that voting for a president constituted a "fundamental right" guarded by the Equal Protection Clause, and that the Florida Supreme Court's recount order violated this right because it was not applied to all ballots. The Court alleged that the Florida Supreme Court’s decision contained unequal processes and were above and beyond the processes required by Florida election law. The Court also argued that the recount was also unconstitutional because the Florida Supreme Court's decision made new election law, which only the state legislature may do.

December 12, 2000 was also the state deadline for selecting Electoral College members whose names would be formally submitted to Congress to represent Florida's choice for president. With no time left to recount votes consistent with the Court's ruling, George W. Bush was declared the winner. Some people believed that this case was a win for equal rights; others believed that the decision was motivated by political bias. This was due to the fact that the five justices of the majority opinion were appointed by Republican presidents and George W. Bush was also a Republican.

This case is considered a landmark due to the fact that the U.S. Supreme Court had a large impact in determining a winner for the 2000 presidential election. This case also impacted election laws and procedures throughout the nation.