

# Recount and the u.s. supreme court

[History](#)



29 May Bush v. Gore: Analysis of U. S. Supreme Court's verdict November 2000 – The United States held one of the most controversial presidential elections in history as the republican George W. Bush won over the democrat Al Gore. The controversy spread as Bush's triumph in the State of Florida gained less than 0.5 percentile margin of victory mandating the state for an automatic machine recount. Throughout the process, the republicans and democrats fought head on tossing arguments with each other by the rule of the law making it a situation that necessitated the intervention of the highest courts. This has been a political battle ended by the federal courts as the Florida Supreme Court ordered for a state-wide recount which is later on brought to an end by the U. S. Supreme Court.

In this case, the Supreme Court resolved whether the recount is constitutional and identified a remedy once deemed unconstitutional. Within the American Judiciary, a writ of certiorari could be granted only for compelling reasons but of judicial discretion. One of the grounds cited by the judges, as per asserted in Rule 10, was the occurrence of discrepancy on the decision of Florida Supreme Court for ballot recounts. It could be recalled that in December of the same year, the Florida Supreme Court stated multiple court decisions regarding the presidential election and the process of manual recount which was mandated to be statewide and even with the appeal of Bush, were ordered for stay. Justice Scalia argued that the petitioner Gore has a substantial probability of success and a manual recount was granted in order to count the legally casted votes that may not be counted by the machine such as in cases of dimpled chad. Moreover, it was accounted by the justice that halting the process of recounting votes will inevitably shed a confusion of the legitimacy of the election. Yet the issue <https://assignbuster.com/recount-and-the-us-supreme-court/>

remains, why did the U. S. Supreme Court overturn the decision of Florida Supreme Court on its mandated recount?

The majority of the justices elected that the decision of Florida Supreme Court for state-wide manual recounting was unconstitutional as they reckon that the Florida Legislature aimed to utilize the “ safe-harbor” benefits of “ determination of controversy as to appointment of electors” as stated in Title 3 of the United States Code § 5. Three justices, Rehnquist, Scalia and Thomas, claimed that the Florida Supreme Court’s decision violated the intent of Florida legislature while seven of them concurred that there was a defiance of the Equal Protection Clause in manual counting as there has been variance in standards on counting among the countries. As they argued, one voted may be legally counted in one state but can be considered null on the other. Furthermore, two justices desired to remand the case back to Florida Supreme Court for a formulation of electoral standards prior to manual recounting. Unfortunately for Gore, they lack time for recounts as five justices concluded that the deadline of December 12 was final and must not be further extended.

Political analysts may view this case as an act of activism or a decision haphazardly concluded to put an end to a political chaos of that moment. This concept of probable activism could be accounted from personal identity and political affiliation of the justices of the U. S. Supreme Court. But when the U. S. Supreme Court’s decision is closely analyzed and its points considered, one may agree that there has been some sort of judicial restraint that transpired. This was reflected on the Court’s statement, specifically noted in the movie, that the justices’ consideration and decision is limited to the present circumstances only which triggered queries and uncertainties

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among the critics. As Justice Stevens stated, “ Although we may never know with complete certainty the identity of the winner of this Presidential election, the identity of the loser is perfectly clear.”

Work Cited

“ Recount.” Dir. Jay Roach. Kevin Spacey. HBO, United States. 2008. Movie.