

554 Law Professors Say

By Stopping the Vote Count in Florida, The U.S. Supreme Court Used Its Power To Act as Political Partisans, Not Judges of a Court of Law

We are Professors of Law at 120 American law schools, from every part of our country, of different political beliefs. But we all agree that when a bare majority of the U.S. Supreme Court halted the recount of ballots under Florida law, the five justices were acting as political proponents for candidate Bush, not as judges.

It is Not the Job of a Federal Court to Stop Votes From Being Counted

By stopping the recount in the middle, the five justices acted to suppress the facts. Justice Scalia argued that the justices had to interfere even before the Supreme Court heard the Bush team's arguments because the recount might "cast a cloud upon what [Bush] claims to be the legitimacy of his election." In other words, the conservative justices moved to avoid the "threat" that Americans might learn that in the recount, Gore got more votes than Bush. This is presumably "irreparable" harm because if the recount proceeded and the truth once became known, it would never again be possible to completely obscure the facts. But it is not the job of the courts to polish the image of legitimacy of the Bush presidency by preventing disturbing facts from being confirmed. Suppressing the facts to make the Bush government seem more legitimate is the job of propagandists, not judges.

**By taking power from the voters,
the Supreme Court has tarnished its
own legitimacy. As teachers whose lives
have been dedicated to the rule of law,
we protest.**

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