



## Supreme Court CASES TO DEBATE

review when it wants to clarify the meaning of the Constitution with respect to an important issue. This happened with the presidential election recount in Florida. Disputes over recounting ballots led the Court to address a question involving the Fourteenth Amendment: did all votes being recounted have to be treated equally?

### Background of the Case

The outcome of the 2000 presidential election hinged on Florida's 25 electoral votes. When the polls closed November 7, Democrat Al Gore had captured 267 of the 270 votes needed, and Republican George W. Bush had won 246. The vote in Florida was so close – Bush led by 1,784 out of more than 6 million votes cast – that it triggered an automatic recount to ensure an accurate result.

When ballots were again run through tabulation machines, Bush's margin shrank to fewer than 200 votes. Gore requested hand recounts of ballots in four predominantly Democratic counties where thousands of punch-card ballots had recorded no vote for president. Bush asked a U.S. District Court to block any further recounts, and a legal battle for votes began, involving lawyers representing both candidates, the Florida Secretary of State, Florida District Courts, the Florida Supreme Court, and eventually the U.S. Supreme Court.

While the manual recount was still in progress, the Florida Secretary of State certified Bush the winner by 537 votes. Gore appealed first to the Florida circuit court and then to the Florida Supreme Court,

## George W. Bush et al. v. Albert Gore, Jr., et al., 2000

*The Supreme Court sometimes takes a case for*



George W. Bush



Albert Gore

which authorized manual recounts of disputed ballots to begin immediately. Bush appealed the ruling to the U.S. Supreme Court, which ordered the recount to stop.

### The Constitutional Issue

The Florida Supreme Court ordered any recounts to use a general standard set forth in Florida law to discern "the intent of the voter." The ballots required voters to punch out small squares called "chads." On some ballots, the chad remained attached when punched, resulting in an uncounted vote when tabulated by machine. By what standard would a hand recount judge a voter's intent when a chad is left hanging by one or two corners but has not been cleanly removed?

Lawyers for Gore argued that examining ballots by hand inevitably requires personal judgments about a voter's intent. Lawyers for Bush argued that such a general standard violates the Fourteenth Amendment guarantee of equal protection. Without uniform standards of what constitutes a legal vote, it is impossible to ensure that each person's vote is treated the same.

## Debating the Case

### Questions to Consider

1. Did the Florida Supreme Court's standard for recounting disputed punch-card ballots result in one person's vote being valued more than another's?
2. What might be the consequences of using a very specific standard to determine which votes count?

### You Be the Judge

Review the meaning of the Fourteenth Amendment. In your opinion, did the Florida Supreme Court's method for recounting votes violate the Fourteenth Amendment's guarantee of equal protection under the law? Explain.