
It has been almost two decades since Gerald Wetlaufer (1990) argued that the rhetoric of law "relies, above all else, upon the denial that it is rhetoric that is being done" (p. 1555), that courts depend on the myth that their decisions aren't rhetorical creations but rather are the product of deductive application of the law to the facts. In that time, there has scarcely been a more notorious--or arguably transparent--case study of this myth than the U. S. Supreme Court's Bush v. Gore decision, which effectively ended the 2000 presidential campaign more than five weeks after election day. In Judging the Supreme Court, Clarke Rountree uses a Burkean lens to construct his analysis of the "judicial myth" as well as Bush v. Gore and the events surrounding it.

Rountree argues that for a decision to be consistent with the judicial myth, it must "embody proper judicial motives" (p. 5). Drawing upon his previous works, Rountree's first chapter sets forth his framework, grounded in Kenneth Burke's pentad, for analyzing judicial motives. Since scholars of law, history, and political science are likely to be a significant portion of this book's audience, it is useful that the elements of the pentad and applications of pentadic ratios to judicial rhetoric are well explained for newcomers to this form of analysis. The purpose-agent ratio, for example, is explained by illustrating how a plaintiff (agent) must have standing (purpose) in order to pursue a lawsuit. The second chapter summarizes the events leading up to the Bush v. Gore decision, including the media's election-night confusion over who won...

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Bush v. Gore, 531 U.S. 98 (2000), was a decision of the United States Supreme Court on December 12, 2000, that settled a recount dispute in Florida’s 2000 presidential election between George W. Bush and Al Gore. On December 8, the Florida Supreme Court had ordered a statewide recount of all undervotes, over 61,000 ballots that the vote tabulation machines had missed. The Bush campaign immediately asked the U.S. Supreme Court to stay the decision and halt the recount. Justice Antonin Scalia, convinced WASHINGTON — The Supreme Court’s decision in Bush v. Gore 20 years ago was supposed to work like the tape recorder in “Mission: Impossible.” It was meant to produce a president and then self-destruct. “Our consideration is limited to the present circumstances,” the majority wrote. She noted that he had criticized what he called a “federal-judges-know-best vision of election administration” when federal judges altered state election rules but had endorsed “an important federal judicial role in reviewing state-court decisions about state law.” “It is hard to know,” Justice Kagan wrote, “how to reconcile those two views about the federal judiciary’s role in voting-rights cases.” This volume questions the motives of Supreme Court justices in a landmark case: The Supreme Court’s intervention in the presidential election of 2000, and its subsequent decision in favor of George W. Bush, elicited immediate, heated, and widespread debate. InBush v. Gore, Rountree concludes, the judges of the majority opinion were not motivated by judicial concerns about law and justice, but rather by their own political and personal motives. eISBN: 978-1-60917-093-6. Subjects: Language & Literature. In one of the closest presidential elections in history, Bush won the Electoral College and the presidency with 271 electoral votes to Gore’s 266, while Gore won the popular vote by more than half a million votes.