

# Sample Pages

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V.

## The U.S. Supreme Court Justice Votes on Each ACLU Case from 1925 to 2019 (Date Order)

The following \_\_\_-page chart could be a Rorschach test for ACLU / U.S. Supreme Court cases and the Justices who opined on each as it shows the individual votes of the 51 Supreme Court Justices on each of the 1,118 cases. Tying the Justices to specific votes on each case brought out some interesting information.

For example, in assembling this work I learned about *per curiam* cases, which translated from Latin means *by the Court*. Many *per curiam* opinions do not show how the Justices voted on those cases, except for the names of the Justices writing dissenting and concurring opinions. However, in unanimous *per curiam* decisions, or when there is a concurring or dissenting *per curiam* opinion, it's easy to see which Justice voted which way by simple subtraction.

*Per curiam* tie votes, 3 to 3 and 4 to 4, are published by the Court without disclosing how the Justices voted (see Methodology on page \_\_\_). In such *per curiam* tie votes, the Court does however include the name(s) of the Justice(s) not voting on such cases, and also publishes which prior Justice seat may be vacant at that time.

In part because it is not clear which Justice voted on which side of the 3 to 3 and 4 to 4 *per curiam* opinions, the nine such cases – one 3 to 3 vote (*Reagan v. Abourezk*, 484 U.S. 1) and eight 4 to 4 votes – are not included in this work.

Those nine cases are 1. *Hyum v. Landon* (350 U.S. 990); 2. *School Board of the City of Richmond, Virginia v. State Board of Education* (412 U.S. 92); 3. *Common Cause v. Schmitt* (455 U.S. 129); 4. *Reagan v. Abourezk* (484 U.S. 1), the only 3 to 3 *per curiam* vote located; 5. *Tompkins v. Texas* (490 U.S. 754); 6. *Flores-Villar v. U.S.* (564 U.S. 210); 7. *Friedrichs v.*

*California Teachers Ass'n* (136 S.Ct. 1083; 578 U.S. \_\_\_); 8. *Dollar General Corp. v. Mississippi Band of Choctaw Indians* (136 S.Ct. 2159; 579 U.S. \_\_\_); and 9. *U.S. v. Texas* (136 S.Ct. 2271; 579 U.S. \_\_\_).

I hope you will find the following chart and the Justices' votes of interest.

	Case Name	Date Decided	Case #	Justices and Their Votes (W = ACLU Win; L = ACLU Loss)									
				A.	B.	C.	D.						
				Holmes	Brandeis	Sanford	Taft	Van Devanter	McReynolds	Sutherland	Butler	Stone	
1	<i>Gitlow v. New York</i>	June 8, 1925	268 U.S. 652	W	W	L	L	L	L	L	L	L	
2	<i>Whitney v. California</i>	May 16, 1927	274 U.S. 357	L	L	L	L	L	L	L	L	L	
3	<i>Stromberg v. California</i>	May 18, 1931	283 U.S. 359	W	W	Roberts W	Hughes W	W	L	W	L	W	
4	<i>Powell v. Alabama</i>	Nov. 7, 1932	287 U.S. 45	Cardozo W	W	W	W	W	L	W	L	W	
5	<i>Patterson v. Alabama</i>	April 1, 1935	294 U.S. 600	W	W	W	W	W	Took no part in decision	W	W	W	
6	<i>De Jonge v. Oregon</i>	January 4, 1937	299 U.S. 353	W	W	W	W	W	W	W	W	Took no part in decision	
7	<i>Senn v. Tile Layers Protective Union</i>	May 24, 1937	301 U.S. 468	W	W	W	W	L	L	L	L	W	
				Cardozo	Brandeis	Roberts	Hughes	Van Devanter	McReynolds	Sutherland	Butler	Stone	