

Justices' Positions in Supreme Court Cases in which the ADL filed briefs (1993-2008)

	Roberts	Stevens	Alito	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
<i>District of Columbia v. Heller</i> (2008): upheld the D.C. Circuit's ruling that the Washington, D.C. handgun possession ban violated the Second Amendment to the Constitution, 5-4	upheld	reversed	upheld	upheld	upheld	reversed	upheld	reversed	reversed
<i>Boumediene v. Bush</i> (2008): determined that foreign detainees have a right to bring habeas challenges against their detention, reversing the D.C. Circuit's ruling, 5-4	upheld	reversed	upheld	upheld	reversed	reversed	upheld	reversed	reversed
<i>CBOCS v. Humphries</i> (2008): Upheld the Seventh Circuit's determination that Section 1981 encompasses retaliation claims, 7-2	upheld	upheld	upheld	reversed	upheld	upheld	reversed	upheld	upheld
<i>Parents Involved in Community Schools v. Seattle School District</i> and <i>Meredith v. Jefferson County Board of Education</i> (2007): Struck down school districts' plans for integration of public schools 5-4	reversed	upheld	reversed	reversed	reversed (conc. in part)	upheld	reversed	upheld	upheld
<i>Hein v. Freedom From Religion Foundation, Inc.</i> (2007): Held that taxpayers lacked standing to bring Establishment Clause challenge of Faith-Based Initiative-funded conferences 5-4	against	for	against	against (conc.)	against (conc.)	for	against	for	for
<i>Gonzales v. Carhart</i> (2007): Upheld constitutionality of the Partial Birth Abortion Ban Act of 2003 5-4	upheld	struck down	upheld	upheld	upheld	struck down	upheld (conc.)	struck down	struck down
	Roberts	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
<i>Ayotte v. Planned Parenthood of Northern New England</i> (2006): remanded for decision on the issue of remedy 9-0	vacated and remanded	vacated and remanded	vacated and remanded	vacated and remanded	vacated and remanded	vacated and remanded	vacated and remanded	vacated and remanded	vacated and remanded
	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
<i>McCreary County, Ky. v. ACLU</i> (2005): Struck down Ten Commandments in courthouses 5-4	upheld	struck down	struck down (conc.)	upheld	upheld	struck down	upheld	struck down	struck down
<i>Van Orden v. Perry</i> (2005): Upheld Ten Commandments on grounds of state Capitol 5-4	upheld	struck down	struck down	upheld (conc.)	upheld	struck down	upheld	struck down	upheld (conc.)
<i>Cutter v. Wilkinson</i> (2005): Upheld constitutionality of RLUIPA 9-0	upheld	upheld	upheld	upheld	upheld	upheld	upheld (conc.)	upheld	upheld
<i>Jackson v. Birmingham Board of Education</i> (2005): Upheld private right of action in Title IX sex discrimination cases 5-4	struck down	upheld	upheld	struck down	struck down	upheld	struck down	upheld	upheld
<i>Rasul v. Bush</i> and <i>Al-Odah v. Bush</i> (2004): Upheld due process rights for U.S. detainees 6-3	struck down	upheld	upheld	struck down	upheld	upheld	struck down	upheld	upheld
<i>Elk Grove Unified School District v. Newdow</i> (2004) [1]: Held that Newdow lacked standing 8-0	upheld	upheld	upheld	recused	upheld	upheld	upheld	upheld	upheld

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<i>Tennessee v. Lane</i> (2004): Upheld right of disabled persons to sue states under the ADA 5-4	struck down	upheld	upheld	struck down	struck down	upheld	struck down	upheld	upheld
<i>Locke v. Davey</i> (2004): Upheld right of states to deny scholarships for religious instruction 7-2	upheld	upheld	upheld	struck down	upheld	upheld	struck down	upheld	upheld
<i>Lawrence v. Texas</i> (2003): Struck down sodomy statute 6-3	upheld	struck down	struck down (conc.)	upheld	struck down	struck down	upheld	struck down	struck down
<i>Gratz v. Bollinger</i> (2003) [5]: Struck down University of Michigan undergraduate affirmative action program 6-3	struck down	upheld	struck down (conc.)	struck down	struck down	upheld	struck down (conc.)	upheld	struck down (conc.)

Key: ADL position wrote opinion

	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
<i>Grutter v. Bollinger</i> (2003) [6]: Upheld Univ. of Michigan Law School affirmative action program 5-4	struck down	upheld	upheld	struck down	struck down	upheld	struck down	upheld (conc.)	upheld
<i>Nevada Dept. of Human Resources v. Hibbs</i> (2003): Upheld ability for State employees to sue in federal court under FMLA 6-3	upheld	upheld (conc.)	upheld	reversed	reversed	upheld (conc.)	reversed	upheld	upheld
<i>Virginia v. Black</i> (2003) [2]: Upheld statute banning cross-burning when done to intimidate 8-1	upheld	upheld (conc.)	upheld	upheld (conc.) [3]	upheld (conc.)	upheld	struck down	upheld	upheld
<i>Zelman v. Simmons-Harris</i> (2002): Upheld Cleveland, Ohio school voucher program 5-4	upheld	struck down	upheld (conc.)	upheld	upheld	struck down	upheld (conc.)	struck down	struck down
<i>Good News Club v. Milford</i> (2001): Upheld religious student group's right to meet on school grounds after hours 6-3	upheld	struck down	upheld	upheld (conc.)	upheld	struck down	upheld	struck down	upheld (conc.)
<i>Alexander (Hagan) v. Sandoval</i> (2001) Struck down challenge to Alabama's English-only drivers license test 5-4	struck down	upheld	struck down	struck down	struck down	upheld	struck down	upheld	upheld
<i>Board of Trustees of the Univ. of Ala. v. Garrett</i> (2001): Struck down the right for individuals to sue states in federal court under the ADA 5-4	struck down	upheld	struck down	struck down	struck down (conc.)	upheld	struck down	upheld	upheld
<i>Solid Waste Agency Northern Cook County v. US ACE</i> (2001) [3]: Found no commerce clause authority for Congress to regulate intrastate waters 5-4	against	for	against	against	against	for	against	for	for
<i>Boy Scouts v. Dale</i> (2000): Allowed ban on hiring homosexuals as troop leaders 5-4	upheld	struck down	upheld	upheld	upheld	struck down	upheld	struck down	struck down
<i>Mitchell v. Helms</i> (2000): Upheld ability to allocate indirect funds to religious schools 6-3	upheld	struck down	upheld (conc.)	upheld	upheld	struck down	upheld	struck down	upheld (conc.)
<i>Stenberg v. Carhart</i> (2000): Struck down Nebraska's late-term abortion ban 5-4	upheld	struck down (conc.)	struck down (conc.)	upheld	upheld	struck down	upheld	struck down (conc.)	struck down

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<i>Apprendi v. New Jersey</i> (2000): Penalty enhancement for crimes beyond the statutory max must go before a jury rather than a judge 5-4	for	against	for	against (conc.)	for	against	against (conc.)	against	for (conc.)
<i>Santa Fe Independent School District v. Doe</i> (2000): Struck down student-led prayer at football games 6-3	upheld	struck down	struck down	upheld	struck down	struck down	upheld	struck down	struck down
<i>US v. Morrison</i> (2000): Struck down VAWA as outside of congressional commerce power 5-4	struck down	upheld	struck down	struck down	struck down	upheld	struck down (conc.)	upheld	upheld
<i>Board of Regents of Univ. of Wisc. v. Southworth</i> (2000): Upheld public school's ability to charge activity fee that funds religious groups among others 9-0	upheld	upheld (conc.)	upheld	upheld	upheld	upheld (conc.)	upheld	upheld	upheld (conc.)

Key: ADL position wrote opinion

	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
<i>City of Boerne v. Flores</i> (1997): Struck down congressional authority to define religious rights under RFRA 6-3	struck down	struck down (conc.)	upheld	struck down (conc.)	struck down	upheld	struck down	struck down	upheld
	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
<i>Agostini v. Felton</i> (1997): Upheld ability for public school teachers to work in parochial schools 5-4	upheld	reversed	upheld	upheld	upheld	reversed	upheld	reversed	reversed
<i>US v. Lanier</i> (1997): Determined appellate court-applied notice standard for state judge accused of federal civil rights violations was incorrect 9-0	against	against	against	against	against	against	against	against	against
<i>Romer v. Evans</i> (1996): Struck down Colorado law banning anti-discrimination protections for homosexuals 6-3	upheld	struck down	struck down	upheld	struck down	struck down	upheld	struck down	struck down
<i>US v. Virginia</i> (1996): Struck down VMI's male only admissions policy 7-1	struck down (conc.)	struck down	struck down	upheld	struck down	struck down	NA	struck down	struck down
<i>Capitol Square Review Board v. Pinette</i> (1995): Upheld the right for KKK to display a cross in a "traditional public forum" 7-2	upheld	reversed	upheld (conc.)	upheld	upheld	upheld (conc.)	upheld (conc.)	reversed	struck down
<i>Miller v. Johnson</i> (1995): Struck down racial gerrymandering 5-4	struck down	upheld	struck down (conc.)	struck down	struck down	upheld	struck down	upheld	upheld
<i>Rosenberger v. Rector and Visitors of UVA</i> (1995): Upheld the right for religious student groups to receive funding 5-4	upheld	reversed	upheld (conc.)	upheld	upheld	reversed	upheld (conc.)	reversed	reversed
<i>Hurley v. Irish-American GLB Group of Boston</i> (1995): Upheld right of private group organizing a parade to deny participation to another group based on sexual orientation 9-0	upheld	upheld	upheld	upheld	upheld	upheld	upheld	upheld	upheld
	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Blackmun
<i>Johnson v. DeGrandy</i> (1994): Upheld purpose of Voting Rights Act as ensuring equality of opportunity, not majority minority districts 7-2	upheld	upheld	upheld (conc.)	struck down	upheld (conc.)	upheld	struck down	upheld	upheld

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<i>Madsen v. Women's Health Center</i> (1994): Upheld portions of an injunction against anti-abortion protesters at health center 6-3	upheld	upheld (conc.)	upheld	struck down	struck down	upheld (conc.)	struck down	upheld	upheld
<i>Board of Ed. of Kiryas Joel v. Grumet</i> (1994): Struck down NY state law creating a school district specifically for a religious community 6-3	upheld	struck down (conc.)	struck down (conc.)	upheld	struck down (conc.)	struck down	upheld	struck down	struck down
<i>Landgraf v. USI Film Production</i> (1994): Denied retrospective application of Civil Rights Act to pending appeals 8-1	denied	denied	denied	denied (conc.)	denied	denied	denied	denied	allowed

Key: ADL position **wrote opinion**

	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	White	Blackmun
<u><i>Church of Lukumi Babalu Aye v. City of Hialeah</i></u> (1993): Struck down city ordinance prohibiting ritual animal sacrifice 9-0	struck down (conc.)	struck down	struck down (conc.)	struck down (conc.)	struck down	struck down (conc.)	struck down	struck down	struck down
	Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	White	Blackmun
<u><i>Wisconsin v. Mitchell</i></u> (1993): Upheld penalty enhancement for hate motivated crimes 9-0	upheld	upheld	upheld	upheld	upheld	upheld	upheld	upheld	upheld

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If the brief is available online, we have provided a link.

[1] In *Newdow*, the Court did not decide the religious freedom issue on which the ADL had filed. Rather, the Court decided the case on standing grounds. A vote to uphold indicates that the Justice did not vote that the statute was unconstitutional.

[2] In *Virginia v. Black*, the ADL filed on behalf of neither party, but agreed with those Justices in the majority, who voted to uphold the underlying statute, but to strike out the part of the statute that created a presumption that cross-burning is prima facie evidence of a hate crime.

[3] In *Solid Waste Agency of Northern Cook County v. ACE*, the Court did not decide the civil rights issue on which the ADL was advocating. Rather, the Court decided the case on technical grounds.

[4] In *Ayotte*, the Court vacated and remanded for narrower declaratory and injunctive relief.

Chart prepared by the Washington Office, Anti-Defamation League. Updated June, 2008.