

# ACLU

Landmark Supreme Court decisions in which the ACLU played a major role, either as direct counsel or as friend-of-the-court.



# 100 GREATEST HITS

## Key to Civil Liberties Icons



freedom of association



right to fair procedures



right to privacy



freedom of the press



checks and balances



freedom of expression



separation of church & state



equality under the law



free exercise of religion

### 1 1925 *GITLOW V. NEW YORK*



Gitlow's conviction for distributing a pamphlet calling for the overthrow of the government was upheld. But the ACLU's first Supreme Court landmark established that the 14th Amendment "incorporates" the First Amendment's free speech clause and therefore applies to the states.

### 2 1927 *WHITNEY V. CALIFORNIA*



Whitney's conviction for membership in a group advocating the overthrow of the state was upheld. But Justice Brandeis laid the groundwork for modern First Amendment law in a separate opinion, in which he argued that under a "clear and present danger" test, the strong presumption should be in favor of "more speech, not enforced silence."

### 3 1931 *STROMBURG V. CALIFORNIA*



A California law leading to the conviction of a communist who displayed a red flag was overturned on the grounds that the law was vague, in violation of the First Amendment.

### 4 1932 *POWELL V. ALABAMA*



This appeal by the "Scottsboro Boys"—eight African Americans wrongfully accused of raping two white women—was the first time constitutional standards were applied to state criminal proceedings. The poor performance of their lawyers at the trial deprived them of their 6th Amendment right to effective counsel.

### 5 1935 *PATTERSON V. ALABAMA*



A second "Scottsboro Boys" decision held that excluding black people from the jury list denied the defendant a fair trial.

### 6 1937 *DEJONGE V. OREGON*



A conviction under a state criminal syndicalism statute for merely attending a peaceful Communist Party rally was deemed a violation of free speech rights.

### 7 1938 *LOVELL V. GRIFFIN*



In this case on behalf of Jehovah's Witnesses, a Georgia ordinance prohibiting the distribution of "literature of any kind" without a city manager's permit, was deemed a violation of religious liberty.

### 8 1941 *HAGUE V. CIO*



In invalidating the repressive actions of Jersey City's anti-union Mayor, "Boss" Hague, the Supreme Court ruled that freedom of assembly applies to public forums, such as "streets and parks."

### 9 1941 *EDWARDS V. CALIFORNIA*



An "anti-Okie" law that made it a crime to transport poor people into California was struck down as a violation of the right to interstate travel.

### 10 1943 *WEST VIRGINIA V. BARNETTE*



Compelling Jehovah's Witness children to salute the American flag against their religious beliefs was unconstitutional.

### 11 1944 *SMITH V. ALLWRIGHT*



This early civil rights victory invalidated Texas' "white primary" as a violation of the right to vote under the 15th Amendment.

### 12 1946 *HANNEGAN V. ESQUIRE*



In a blow against censorship, this decision limited the postmaster general's power to withhold mailing privileges for magazines containing "offensive" material.

### 13 1947 *EVERSON V. BOARD OF EDUCATION*



Justice Black's pronouncement that, "In the words of Jefferson, the Clause...was intended to erect a 'wall of separation' between church and State..." was the Court's first major utterance on the meaning of the Establishment Clause.

### 14 1948 *SHELLEY V. KRAEMER*



This major civil rights victory invalidated restrictive covenants, or contractual agreements among white homeowners not to sell their houses to people of color.

### 15 1949 *TERMINIELLO V. CHICAGO*



In this exoneration of a priest convicted of disorderly conduct for giving a racist, anti-semitic speech, Justice William O. Douglas stated, "the function of free speech under our system of government is to invite dispute."

### 16 1951 *KUNZ V. NEW YORK*



The Supreme Court ruled that a permit to speak in a public forum could not be denied because a person's speech had, on a former occasion, resulted in civil disorder.

### 17 1952 *ROCHIN V. CALIFORNIA*



Reversing the conviction of a man whose stomach had been forcibly pumped for drugs by police, the Court ruled that the 14th Amendment's Due Process Clause outlaws "conduct that shocks the conscience."

### 18 1952 *BURSTYN V. WILSON*



Overturning its 1915 decision, the Supreme Court decided New York State's refusal to license the film *The Miracle* because it was sacrilegious violated the First Amendment.

### 19 1954 *BROWN V. BOARD OF EDUCATION*



One of the century's most significant Court decisions declared racially segregated schools unconstitutional, wiping out the "separate but equal" doctrine announced in the infamous 1896 *Plessy v. Ferguson* decision.

### 20 1957 *WATKINS V. UNITED STATES*



The investigative powers of the House Un-American Activities Committee were curbed on First Amendment grounds when the Court reversed a labor leader's conviction for refusing to answer questions about membership in the Communist Party.

### 21 1958 *KENT V. DULLES*



The State Department overstepped its authority in denying a passport to artist Rockwell Kent, who refused to sign a "noncommunist affidavit," since the right to travel is protected by the Fifth Amendment's Due Process Clause.



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**22 1958 SPEISER V. RANDALL**  
 ACLU lawyer Lawrence Speiser successfully argued his challenge to a California law requiring that veterans sign a loyalty oath to qualify for a property tax exemption.

**23 1958 TROP V. DULLES**  
 Stripping an American of his citizenship for being a deserter in World War II was deemed cruel and unusual punishment, in violation of the Eighth Amendment.

**24 1959 SMITH V. CALIFORNIA**  
 A bookseller could not be found guilty of selling obscene material unless it was proven that he or she was familiar with the contents of the book.

**25 1961 MAPP V. OHIO**  
 The Fourth Amendment's Exclusionary Rule—barring the introduction of illegally seized evidence in a criminal trial—first applied to federal law enforcement officers in 1914, applied to state and local police as well.

**26 1961 POE V. ULLMAN**  
 This unsuccessful challenge to Connecticut's ban on the sale of trial contraceptives set the stage for the 1965 Griswold decision. Justice John Harlan argues in dissent that the law was "an intolerable invasion of privacy in the conduct of one of the most intimate concerns of an individual's private life."

**27 1962 ENGEL V. VITALE**  
 In striking down the New York State Regent's "nondenominational" school prayer, the Court declared "it is no part of the business of government to compose official prayers."

**28 1963 ABINGDON SCHOOL DISTRICT V. SCHEMPP**  
 Building on Engel, the Court struck Pennsylvania's in-school Bible-reading law as a violation of the First Amendment.

**29 1963 GIDEON V. WAINWRIGHT**  
 An indigent drifter from Florida made history when, in a handwritten petition, he persuaded the Court that poor people charged with a felony had the right to a state-appointed lawyer.

**30 1964 ESCOBEDO V. ILLINOIS**  
 Invoking the Sixth Amendment right to counsel, the Court threw out the confession of a man whose repeated requests to see his lawyer, throughout many hours of police interrogation, were ignored.

**31 1964 NEW YORK TIMES V. SULLIVAN**  
 Public officials cannot recover damages for defamation unless they prove a newspaper impugned them with "actual malice." A city commissioner in Montgomery, Alabama, sued over publication of a full-page ad paid for by civil rights activists.

**32 1964 JACOBELLIS V. OHIO**  
 The Court overturned a theater owner's conviction for showing the film *The Lovers*, by Louis Malle, and Justice Potter Stewart admitted that although he could not define "obscenity," he knew it when he saw it.

**33 1964 REYNOLDS V. SIMS**  
 This historic civil rights decision, which applied the "one person, one vote" rule to state legislative districts, was regarded by Chief Justice Earl Warren as the most important decision of his tenure.

**34 1964 BAGGETT V. BULLITT**  
 A Washington State loyalty oath required of state employees was held void for vagueness, in violation of the First Amendment.

**35 1964 CARROLL V. PRINCESS ANNE COUNTY**  
 A county's decision to ban a rally without notifying the rally organizers of the injunction proceeding was invalidated on free speech grounds.

**36 1965 U.S. V. SEEGER**  
 One of the first anti-Vietnam War decisions extended conscientious objector status to those who do not believe in a supreme being, but who oppose war based on sincere beliefs that are equivalent to religious objections.

**37 1965 LAMONT V. POSTMASTER GENERAL**  
 Struck down a Cold War-era law that required the postmaster general to detain and destroy all unsealed mail from abroad deemed to be "communist political propaganda"—unless the addressee requested delivery in writing.

**38 1965 GRISWOLD V. CONNECTICUT**  
 Invalidated a Connecticut law forbidding the use of contraceptives on the grounds that a right of "marital privacy," though not specifically guaranteed in the Bill of Rights, is protected by "several fundamental constitutional guarantees."

**39 1966 MIRANDA V. ARIZONA**  
 The Court held that a suspect in police custody has a Sixth Amendment right to counsel and a Fifth Amendment right against self-incrimination, and established the "Miranda warnings" requirement that police inform suspects of their rights before interrogating them.

**40 1966 BOND V. FLOYD**  
 The Georgia state legislature was ordered to seat State Senator-Elect Julian Bond who had been denied his seat for publicly supporting Vietnam War draft resisters. Criticizing U.S. foreign policy, said the Court, does not violate a legislator's oath to uphold the Constitution.

**41 1967 KEYISHIAN V. BOARD OF REGENTS**  
 Struck down a Cold War-era law that required public school teachers to sign a loyalty oath. Public employment is not a "privilege" to which government can attach whatever conditions it pleases.

**42 1967 IN RE GAULT**  
 Established specific due process requirements for state delinquency proceedings and stated, for the first time, the broad principle that young persons have constitutional rights.

**43 1967 LOVING V. VIRGINIA**  
 Invalidated the anti-miscegenation laws of Virginia and 15 southern states. Criminal bans on interracial marriage violate the 14th Amendment's Equal Protection Clause and "the freedom to marry," which the Court called "one of the basic civil rights of man" (sic).

**44 1968 EPPERSON V. ARKANSAS**  
 Arkansas' ban on teaching "that mankind ascended or descended from a lower order of animals" was a violation of the First Amendment, which forbids official religion.

**45 1968 LEVY V. LOUISIANA**  
 Invalidated a state law that denied an illegitimate child the right to recover damages for a parent's death. The ruling established the principle that the accidental circumstance of a child's birth does not justify discrimination.

**46 1968 KING V. SMITH**  
 Invalidated the "man in the house" rule that denied welfare to children whose unmarried mothers lived with men. The decision benefited an estimated 500,000 poor children who had previously been excluded from aid.

**47 1968 WASHINGTON V. LEE**  
 Alabama statutes requiring racial segregation in the state's prisons and jails were declared unconstitutional under the Fourteenth Amendment.

**48 1969 BRANDENBURG V. OHIO**  
 The ACLU achieved victory in its 50-year struggle against laws punishing political advocacy. The Court agreed that the government could only penalize direct incitement to imminent lawless action, thus invalidating the Smith Act and all state sedition laws.

**49 1969 TINKER V. DES MOINES**  
 Suspending public school students for wearing black armbands to protest the Vietnam War was unconstitutional since students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

**50 1969 GREGORY V. CHICAGO**  
 The Court unanimously overturned a conviction of disorderly conduct against Dick Gregory and others who picketed Chicago's Mayor Daley. When disorder is created by a hostile audience, peaceful demonstrators cannot be arrested because of a "heckler's veto."

**51 1969 STREET V. NEW YORK**  
 A state law under which a man was convicted for burning the American flag to protest the assassination of civil rights leader Medgar Evers was unconstitutional.

**52 1969 WATTS V. U.S.**  
 Threats against the life of the President of the U.S., if they were no more than "political hyperbole," are protected by the First Amendment.

**53 1970 GOLDBERG V. KELLY**  
 Setting in motion what has been called the "procedural due process revolution," the Court ruled that welfare recipients were entitled to notice and a hearing before the state could terminate their benefits.

**54 1971 COHEN V. CALIFORNIA**  
 Convicting an anti-war protester of disturbing the peace for wearing a jacket that bore the words, "Fuck the draft," was unconstitutional. The government cannot prohibit speech just because it is "offensive."

**55 1971 U.S. V. NEW YORK TIMES**  
 Enjoining the press from publishing the Pentagon Papers, leaked by a former Defense Department official, was an unconstitutional prior restraint which was not justified by national security interests.

**56 1971 REED V. REED**  
 Struck down a state law that gave automatic preference to men over women as administrators of decedents' estates. This was the Court's first ruling that sex-based classifications violated the Equal Protection Clause of the 14th Amendment.

**57 1971 U.S. V. VUITCH**  
 Although the Court upheld a statute used to convict a doctor who had performed an illegal abortion, it expanded the "life and health of the woman" concept to include "psychological well-being," thereby allowing more women to obtain legal "therapeutic" abortions.

**58 1972 EISENSTADT V. BAIRD**  
 In an extension of the Court's evolving privacy doctrine, the conviction of a reproductive rights activist who had given an unmarried Massachusetts woman a contraceptive device was reversed.

**59 1972 FURMAN V. GEORGIA**  
 This decision led to a four-year halt to executions nationwide when the Court ruled that existing state death penalty statutes were "arbitrary and capricious" in violation of the Eighth Amendment.

**60 1973 FRONTIERO V. RICHARDSON**  
 Struck down a federal law that allowed a woman in the armed forces to claim her husband as a "dependent" only if he depended on her for more than half of his support, while a serviceman could claim "dependent" status for his wife regardless of actual dependency.

**61 1973 HOLTZMAN V. SCHLESINGER**  
 The ACLU took on Rep. Elizabeth Holtzman's lawsuit to halt the bombing of Cambodia as an unconstitutional Presidential usurpation of Congress' authority to declare war. Although a federal order to stop the bombing was eventually overturned, the bombing was halted for a few hours.

**62 1973 ROE V. WADE/DOE V. BOLTON**  
 Recognizing a woman's constitutional right to terminate a pregnancy, Roe erased all existing criminal abortion laws. Its companion case, Doe, established that it is attending physician who determines, in light of all factors relevant to a woman's well-being, whether an abortion is "necessary."

**63 1974 SMITH V. GOGUEN**  
 A Massachusetts state law that made it a crime to treat the American flag "contemptuously" was found by the Court to be void for vagueness.

**64 1974 U.S. V. NIXON**  
 In the only amicus brief filed in this critical case, the ACLU argued: "There is no proposition more dangerous to the health of a constitutional democracy than the notion that an elected head of state is above the law and beyond the reach of judicial review." The Court agreed, and ordered Nixon to hand over crucial Watergate tapes to the Special Prosecutor.

**65 1975 GOSS V. LOPEZ**  
 Invalidated a state law authorizing a public school principal to suspend a student for up to ten days without a hearing. Students are entitled to notice and a hearing before a significant disciplinary action can be taken against them.

**66 1975 O'CONNOR V. DONALDSON**  
 In its first "right to treatment" decision, the Court ruled that mental illness alone did not justify "simple custodial confinement" on an indefinite basis in the case of a non-violent patient who had been involuntarily held in a mental institution for 15 years.

**67 1976 BUCKLEY V. VALEO**  
 This challenge to the limits on campaign spending imposed by amendments to the Federal Elections Campaign Act represented a partial victory for free speech, as the Court struck down the Act's restrictions on spending "relative to a candidate."

**68 1977 WOOLEY V. MAYNARD**  
 A New Hampshire law that prohibited a Jehovah's Witness from covering up the license plate slogan "Live Free or Die" was invalidated by the Court as a denial of the "right not to speak."

**69 1978 SMITH V. COLLIN**  
 A Nazi group wanted to march through a Chicago suburb, Skokie, where many Holocaust survivors lived. The ACLU's controversial challenge to the village's ban on the march was ultimately successful.

**70 1978 IN RE PRIMUS**  
 An ACLU cooperating attorney had been reprimanded for "improper solicitation" by the state supreme court for encouraging poor women to challenge the state's sterilization of welfare recipients. The Court distinguished between lawyers who solicit "for pecuniary gain" and those who do so to "further political and ideological goals through associational activity."

**71 1980 PRUNE YARD SHOPPING CENTER V. ROBINS**  
 Shopping mall owners appealed a California state court ruling that a shopping center allow distribution of political pamphlets on its premises. The Court rejected the owners' property rights claim, and ruled that a mall was comparable to streets and sidewalks.

**72 1982 BOARD OF EDUCATION, ISLAND TREES SCHOOL DISTRICT V. PICO**  
 Students successfully sued their school board on First Amendment grounds for removing certain "objectionable books" from the school library. While acknowledging a school's right to remove material that was "pervasively vulgar" or "educationally unsuitable," the Court held that in this case, the students' First Amendment "right to know" had been violated.

**73 1983 BOB JONES UNIVERSITY V. UNITED STATES**  
 Two fundamentalist Christian colleges that practiced racial discrimination lost their tax exempt status. The IRS can set rules enforcing a "settled public policy" against racial discrimination in education.

**74 1985 WALLACE V. JAFFREE**  
 Alabama's "moment of silence" law, which required public school children to take a moment "for meditation or voluntary prayer," violated the First Amendment's Establishment Clause.

**75 1986 EDWARD V. AGUILLARD**  
 In a case reminiscent of the 1925 Scopes "monkey" trial, the Court struck down a Louisiana law that required public school science teachers to give "equal time" to so-called creation science if they taught students about the theory of evolution.



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## 76 1989 TEXAS V. JOHNSON

 In invalidating the Texas flag desecration statute, the Court provoked President Bush to propose a federal ban on flag burning or mutilation. Congress swiftly obliged, but the Court struck down that law a year later in *United States v. Eichman*—in which the ACLU also filed a brief.

## 77 1990 CRUZAN V. DIRECTOR OF THE MISSOURI DEPARTMENT OF HEALTH

 In the Court's first right-to-die case, the ACLU represented the family of a woman who had been in a persistent vegetative state for more than seven years. Although the Court did not go as far as the ACLU urged, it did recognize living wills as clear and convincing evidence of a patient's wishes.

## 78 1992 R.A.V. V. WISCONSIN

 A unanimous Court struck down as overly broad a local law banning the display, on public or private property, of any symbol "that arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender."

## 79 1992 PLANNED PARENTHOOD V. CASEY

 Although the Court upheld parts of Pennsylvania's restrictive abortion law, it also reaffirmed the "central holding" of *Roe v. Wade* that abortions performed prior to viability cannot be prohibited by the state.

## 80 1992 LEE V. WEISMAN

 The inclusion of a prayer at the beginning of a public high school graduation ceremony violated the Establishment Clause.

## 81 1993 J.E.B. V. T.B.

 A prosecutor could not use peremptory challenges to disqualify potential jurors based solely on their gender.

## 82 1993 CHURCH OF THE LUKUMI BABLU AYE V. HIALEAH

 A city's ban on the ritual slaughter of animals as practiced by the Santeria religion was overturned as a violation of religious liberty since the city did permit such secular activities hunting and fishing.

## 83 1993 WISCONSIN V. MITCHELL

 Wisconsin's "hate crime" statute, providing for additional criminal penalties if a jury found that a defendant "intentionally selected" a victim based on "race, religion, color, disability, sexual orientation, national origin or ancestry," did not violate the First Amendment because the statute punished acts, not thoughts or speech.

## 84 1994 LADUE V. GILLES

 A Missouri town's ordinance that barred a homeowner from posting a sign in her bedroom window that said, "Say No to War in the Gulf—Call Congress Now!" was deemed to violate the First Amendment.

## 85 1995 MCINTYRE V. OHIO ELECTIONS COMMISSION

 A state prohibition against the anonymous distribution of political campaign literature violated the right to anonymous free speech.

## 86 1995 CAPITOL SQUARE REVIEW BOARD V. PINETTE

 Upheld the right of the KKK to put up a cross in an area in front of the Ohio State Capitol building that was a traditional public forum used by many other groups, rejecting Ohio's argument that allowing the display violated the separation of church and state.

## 87 1995 HURLEY V. IRISH AMERICAN GAY, LESBIAN AND BISEXUAL GROUP OF BOSTON

 Upheld the right of private groups to exclude participants from their parades who do not share the values and message the parade sponsors wish to communicate.

## 88 1996 ROMER V. EVANS

 In this first gay rights victory, the Court invalidated a state constitutional amendment, passed by public referendum in Colorado, that prohibited the state and its municipalities from enacting gay rights laws.

## 89 1997 RENO V. ACLU

 The Court struck down Congress' Communications Decency Act, which was an attempt to censor the Internet by banning "indecent" speech, ruling that "the interest in encouraging freedom of expression in a democratic society outweighs any theoretical but unproven benefit of censorship."

## 90 1997 CHANDLER V. MILLER

 Struck down a Georgia law requiring candidates for political office to take a urine drug test on the grounds that it violated the candidates' Fourth Amendment right to privacy.

## 91 1998 BRAGDON V. ABBOTT

 The anti-discrimination provisions of the Americans with Disabilities Act were interpreted to apply to persons in the early stages of HIV infection, even if they did not have any overt symptoms of AIDS.

## 92 1998 ONCALE V. SUNDOWNER OFFSHORE SERVICES

 Title VII of the Civil Rights Act, which prohibits sexual discrimination and harassment in the workplace, applies to same-sex as well as opposite sex harassment.

## 93 1999 CHICAGO V. MORALES

 Struck down Chicago's anti-gang loitering law which disproportionately targeted African American and Latino youth who were not engaged in criminal activity, and resulted in the arrest of 45,000 innocent people.

## 94 1999 SAENZ V. ROE

 Invalidated California's 12-month residency requirement for welfare applicants new to the state as a violation of the constitutional right to travel, and reaffirmed the principal that citizens select states; states do not select citizens.

## 95 2000 STENBERG V. CARHART

 A ban on so-called "partial-birth" abortions was struck down as unconstitutional because it did not adequately protect women's health and because its broad wording threatened to outlaw many common methods of abortion.

## 96 2000 SANTA FE INDEPENDENT SCHOOL DISTRICT V. DOE

 The Court ruled that a school district policy permitting its student body to vote at the beginning of each school year whether to have prayers before football games violated the Establishment Clause.

## 97 2001 ATKINS V. VIRGINIA

 Reversing its 1999 decision, the Court ruled that execution of the mentally retarded is unconstitutional under the Eighth Amendment.

## 98 2001 INS V. ST. CYR

 The Court ruled that immigrants are entitled to challenge their deportation orders through habeas corpus proceedings, rejecting the Attorney General's claim that Congress had stripped the courts of jurisdiction and reversing retroactive application of the deportation statute.

## 99 2002 GRUTTER V. BOLLINGER/GRATZ V. BOLLINGER

 Providing a strong endorsement of affirmative action in higher education, the Court held that public universities have a compelling interest in creating a diverse student body and that race may be treated as a "plus" factor in the admissions process.

## 100 2002 LAWRENCE V. TEXAS

 The Court struck down a Texas sodomy statute that criminalized private acts of sexual intimacy between same-sex couples, expanding the privacy rights of all Americans and promoting the right of lesbians and gay men to equal treatment under the law.

Special note: The ACLU has more than 100 national and affiliate staff attorneys, who collaborate with more than 2,000 volunteer attorneys to handle more than 6,000 cases annually - makin the ACLU, in effect, the largest public interest firm in the nation. The ACLU appears before the U.S. Supreme Court more than any other organization except the U.S. Department of Justice.

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