

The Supreme Court and the 2020 Election

A Nonpartisan Guide



Who wins the 2020 [presidential election](#) will shape the Supreme Court's political balance and profoundly affect our laws, constitutional rights, and everyday lives. Not counting Ruth Bader Ginsburg's now-open seat, five current Justices were appointed by Republican presidents and three by Democrats. And several Justices' advanced age mean that either Joe Biden or Donald Trump will likely fill more seats—either heightening or changing the Court's current direction.

[US Senate races](#) also affect the Court: The day Antonin Scalia died, in February 2016, Republican Majority Leader Mitch McConnell said, "[this vacancy should not be filled until we have a new President](#)," to reflect the voters' will. McConnell later refused to hold hearings on Obama nominee Merrick Garland, and the Senate eventually confirmed Trump nominee Neil Gorsuch. Replacing Ginsburg is different, [McConnell now says](#), because voters kept the Senate's Republican majority in 2016, and expanded it in 2018, to support Trump's agenda.

Here are recent Supreme Court rulings that could change depending on whether Biden or Trump fills the Court's next vacancies. *Justices are listed as R if appointed by a Republican, and as D if appointed by a Democrat.*

Abortion [June Medical Services v. Russo \(2019\)](#)

Majority: 4 D, 1 R; Minority: 4 R

Struck down a Louisiana law that would require doctors performing abortions to gain the right to admit patients to a nearby hospital. Upheld a lower-court finding that the law would force at least two of the state's three abortion clinics to close, women would have to wait longer and drive farther for abortions, and only one doctor would likely be left for 10,000 women seeking abortions in Louisiana each year.

Campaign Finance [Citizens United v. FEC \(2010\)](#)

Majority: 5 R; Minority: 4 D

Ruled that limits on independent political spending by unions and corporations are unconstitutional. This led to the creation of "superPACs," which can accept unlimited money from donors to support a candidate.

Climate Change [Massachusetts v. EPA \(2007\)](#)

Majority: 4 D, 1 R; Minority: 4 R

Ruled that under the 1970 Clean Air Act, the Environmental Protection Agency (EPA) must regulate greenhouse gases if they threaten human health, regardless of the regulations' cost.

Contraceptives [Burwell v. Hobby Lobby \(2014\)](#)

Majority: 5 R; Minority: 4 D

Ruled that a for-profit company can deny employees healthcare coverage for contraceptives based on the religious beliefs of the company's owners.

Gay/Same-Sex Marriage [Obergefell v. Hodges \(2012\)](#)

Majority: 4 D, 1 R; Minority: 4 R

Ruled that marriage is a fundamental right, so states can't stop same-sex couples from marrying.

Gun Rights [District of Columbia v. Heller \(2008\)](#)

Majority: 5 R; Minority: 4 D

Struck down Washington DC's law banning handgun ownership. Ruled the Second Amendment guarantees individuals the right to own firearms, so it's unconstitutional for DC to ban any specific kind of gun.

Healthcare [*National Federation of Independent Businesses v. Sebelius \(2012\)*](#)**Majority: 4 D, 1 R; Minority: 4 R**

Ruled Obamacare's tax on individuals who didn't buy health insurance as constitutionally valid. Also let states opt out of expanding federally covered Medicaid to more low-income citizens, without losing government funding. This led many states not to expand health insurance as the law originally mandated.

Healthcare [*California v. Texas \(Now in argument stage\)*](#)

Texas and other states say the Affordable Care Act (ACA, or Obamacare) is unconstitutional now that Congress has removed the tax penalty for not buying health insurance. ACA opponents say the mandate is so integral to Obamacare that the whole law should be struck down.

Immigration [*Dept. of Homeland Security v. Regents of Univ. of California \(5-4\) \(2019\)*](#)**Majority: 4 D, 1 R; Minority: 4 R**

Blocked President Trump's attempt to strike down the Obama Administration's DACA program. The program gives temporary legal status to "Dreamers" whose parents immigrated illegally and brought them to the US as children, if recipients graduated from high school or had honorable military discharges. The majority didn't make the President keep the program forever, but said he didn't follow proper steps in trying to dismantle it.

Redistricting [*Rucho v. Common Cause \(2019\)*](#) **Majority: 5 R; Minority: 4 D**

Upheld "gerrymandered" legislative and congressional district boundaries in North Carolina and Maryland. Despite acknowledging that politicians explicitly drew the boundaries to benefit their particular parties, the Court ruled that judges can't address this issue. The ruling lets legislators and governors draw legislative and congressional district lines to get their preferred political outcomes.

Union and Workplace Issues [*Janus v. AFSCME \(2018\)*](#) **Majority: 5 R; Minority: 4 D**

Ruled mandatory public-sector union fees unconstitutional, overturning various state laws and 1977 precedent. Now a public employee's decision to pay union dues is entirely voluntary, while unions must represent all members, including those who choose not to pay dues. This threatens these unions' economic base.

Voting Rules [*Husted v. A Philip Randolph Institute \(2017\)*](#) **Majority: 5 R; Minority: 4 D**

Held that Ohio didn't violate the Voting Rights Act by striking voters from the registration rolls if they didn't vote for four years and failed to return a mailed address confirmation form. This policy has been shown to disproportionately affect voters who move more often. The Court said that this was legal because Ohio gave voters the chance to mail back an address confirmation form, but that it would be illegal to strike voters from the registration rolls solely for not voting.

Voting Rules [*Republican National Committee vs. Democratic National Committee \(2020\)*](#)**Majority: 5 R; Minority: 4 D**

Wisconsin's statewide election was scheduled for April 7, amid COVID's initial US outbreak. Absentee ballots surged due to concern about in-person health risk. With the sudden rise in demand, the state couldn't mail all the ballots in time, forcing many people to choose between the risk of voting in person or forgoing their right to vote. A lower court extended the deadline to accept absentee ballots, and the Supreme Court blocked this.

Voting Rules [*Shelby County v. Holder \(2013\)*](#) **Majority: 5 R; Minority: 4 D**

Section 4 of the Voting Rights Act made states with a history of racial discrimination get federal permission to change their voting laws. This made it harder to create hurdles to voting for minority groups. The Court ruled this unconstitutional because the formula for deciding which states it applied to no longer applies to current conditions. Since the law's removal, most formerly covered states have passed more restrictive voting laws.

If you want to contact your U.S. Senator on any potential nomination, you can do so [here](#).