



1996

Statistics on the Texas Supreme Court and the Texas Court of Criminal Appeals

Clark Thomas

Anthony Champagne

Follow this and additional works at: <https://scholar.smu.edu/smulr>

Recommended Citation

Clark Thomas, et al., *Statistics on the Texas Supreme Court and the Texas Court of Criminal Appeals*, 49 SMU L. Rev. 1413 (1996)
<https://scholar.smu.edu/smulr/vol49/iss4/26>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in SMU Law Review by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

STATISTICS ON THE TEXAS SUPREME COURT AND THE TEXAS COURT OF CRIMINAL APPEALS

Clark Thomas*
Anthony Champagne**

INTRODUCTION

The purpose of this brief article is to provide for the fourth year¹ statistical information on the state's highest courts, much like the HARVARD LAW REVIEW provides statistical information on the Supreme Court of the United States. With the exception of publications of the Office of Court Administration and Texas Judicial Council and a yearly bloc analysis of the Texas Supreme Court by the TEXAS LAWYER, no publication has on a regular basis attempted to provide a statistical review of the Texas high courts' productivity.

The data used for these statistics consist of all authored opinions decided between October 1, 1994 and September 30, 1995. Per curiam opinions are excluded from the analysis.

* Clark Thomas recently received his Ph.D. in Political Economy from The University of Texas at Dallas.

** Anthony Champagne has a Ph.D. degree in Political Science from the University of Illinois and is a Professor of Government & Politics and of Political Economy at The University of Texas at Dallas.

1. Our first presentation was for the period October 1, 1991 through September 30, 1992. See Clark Thomas and Anthony Champagne, *Statistics on the Texas Supreme Court and the Texas Court of Criminal Appeals, Annual Survey of Texas Law*, 46 SMU L. REV. 1879-86 (1993). The second presentation of statistics was for the period from October 1, 1992, through September 30, 1993. See Clark Thomas and Anthony Champagne, *Statistics on the Texas Supreme Court and the Texas Court of Criminal Appeals, Annual Survey of Texas Law*, 47 SMU L. REV. 1771-79 (1994). The third statistical presentation was for October 1, 1993 through September 30, 1994. That appeared in Clark Thomas and Anthony Champagne, *Statistics on the Texas Supreme Court and the Texas Court of Criminal Appeals, Annual Survey of Texas Law*, 48 SMU L. REV. 1655-1663 (1995). In this presentation of statistics, there are 10 justices listed on the Texas Supreme Court. That is because Justice Doggett did not seek re-election to the Court and he was replaced on January 1, 1995 by Justice Owen. Eleven judges are listed on the Court of Criminal Appeals. Judge Miller did not seek re-election. He was replaced by Judge Keller on January 1, 1995. Judge Campbell was defeated for re-election. The victor in that election contest was Judge Mansfield who took office on January 1, 1995.

TABLE 1
ACTIONS OF INDIVIDUAL JUSTICES ON THE SUPREME COURT OF TEXAS

	Opinions Written			Dissenting Opinions				Not Participating
	Wrote Majority Opinion	Wrote & Concurred in Majority Opinion ²	Concurred Majority Opinion	Wrote Dissenting Opinion	Wrote & Concurred Dissenting Opinion ³	Concurred in Dissent	Concurred & Dissent ⁴	
Phillips	7 ⁵	0	53	1	0	6	2	0
Gonzalez	9	5	43	5	0	4	1	2
Hightower	7	2	51	3	0	3	3	0
Hecht	6	3	52	1	0	5	2	0
Doggett	0	0	6	0	0	0	1	0
Cornyn	10	1	50	2	0	4	2	0
Gammage	3	0	43	9	1	6	6	1
Enoch	12	4	43	3	0	2	2	0
Spector	6	1	45	4	1	9	3	0
Owen	6	0	50	3	0	1	1	8

²Wrote a concurring opinion which agreed in the judgment of the court. The length of the concurrence is not considered so if a judge adds even one sentence of comment in concurrence with the opinion of the court, it is considered a concurring opinion.

³Wrote a dissenting opinion which concurred with another dissenting opinion.

⁴In a few cases, a judge concurred with the majority in part and dissented in part.

⁵Numbers in the table are numbers of opinions, concurrences, or dissents.

TABLE 2
ACTIONS OF INDIVIDUAL JUDGES ON THE COURT OF CRIMINAL APPEALS OF TEXAS

	Opinions Written				Dissenting Opinions				Not Participating
	Wrote Majority Opinion	Wrote & Concurred in Majority Opinion ⁶	Concurred Majority Opinion	Wrote Dissenting Opinion	Wrote & Concurred Dissenting Opinion ⁷	Concurred in Dissent	Concurred & Dissent ⁸		
McCormick	18 ⁹	2	61	9	0	7	3	0	
Clinton	4	20	48	11	4	10	3	0	
Miller	2	0	22	0	0	5	0	71	
Campbell	5	2	16	1	0	2	0	74	
White	7	1	71	0	0	17	2	2	
Baird	8	22	52	9	1	7	1	0	
Overstreet	12	1	75	1	1	9	1	0	
Maloney	15	10	56	10	3	5	1	0	
Meyers	9	4	68	7	4	6	1	1	
Mansfield	6	6	50	4	1	1	1	31	
Keller	4	1	51	1	0	7	1	35	

⁶Supra note 2.
⁷Supra note 3.
⁸Supra note 4.
⁹Supra note 5.

TABLE 3
SUBJECT MATTER OF DISPOSITIONS OF THE
SUPREME COURT OF TEXAS

Tax	3
Against Local Entity/Officer ¹⁰	4
Private Litigation ¹¹	7
Writ ¹²	7
Procedure ¹³	12
Workers Compensation	2
Constitution	1
Education	1
Product Liability	3
Define/Interpret ¹⁴	1
Liability/Injury/Death ¹⁵	14
Due Process	1
Insurance ¹⁶	4
Medical Malpractice	5
Legal Malpractice	1
Public Utility	1
Trade Practices	2
Total	69

TABLE 4
SUBJECT MATTERS OF DISPOSITIONS OF THE
COURT OF CRIMINAL APPEALS OF TEXAS

Capital Punishment	24
Right to Counsel	1
Ineffective Counsel	4
Writ ¹⁷	4
Sufficient Evidence	7
Admission/Exclusion ¹⁸	6
Timeliness ¹⁹	1
Jury Instruction	5
Discretionary Review/General	36
Double Jeopardy	5
Procedural Error/General	5
Jury Action	1
Search and Seizure	1
Total	100

¹⁰Involves litigation against governmental entities.

¹¹Purely private litigation involving corporations or individuals.

¹²Issues involving writs (i.e., mandamus).

¹³Issues involving proper legal procedure.

¹⁴Issues involving the application of or the interpretation of words in statutes.

¹⁵Cases that are not workman's compensation cases that involve wrongful death or injury.

¹⁶Involves interpretation of insurance policies.

¹⁷Issues involving writs (i.e., habeas corpus).

¹⁸Admissibility of evidence issues that are not search and seizure issues such as admissibility of testimony or outbursts in the courtroom.

¹⁹Questions involving whether motions or appeals were filed in a timely manner.

TABLE 5
 CONCURRENCES AND DISSENTS BY TEXAS SUPREME COURT JUSTICES ACCORDING TO
 ISSUE AREA²⁰

	Phillips	Gonzalez	Enoch	Spector	Hightower	Hecht	Doggett	Cornyn	Gammage	Owen
Tax	3/0 ²¹	1/2	1/2	2/1	2/1	2/1	1/0	3/0	3/0	2/0
Against Local Entity	4/0	4/0	4/0	3/1	4/0	4/0	0/0	3/1	4/0	4/0
Private Litigation	7/0	7/0	5/1	6/1	5/2	7/0	1/0	6/0	4/2	5/0
Writ	5/2	5/2	5/1	6/1	7/0	5/2	1/0	5/2	5/2	4/2
Procedure	11/1	9/3	11/1	10/2	10/2	11/1	2/0	10/2	8/4	10/0
Workers Comp	2/0	1/1	2/0	1/0	1/0	2/0	0/0	2/0	1/0	2/0
Medical										
Malpractice	4/1	5/0	4/1	5/0	5/0	4/1	1/0	5/0	5/0	3/1
Legal Malpractice	0/1	0/0	1/0	0/1	1/0	1/0	0/0	1/0	0/1	1/0
Constitution	1/0	0/0	1/0	1/0	1/0	1/0	0/0	1/0	0/0	1/0
Education	1/0	1/0	0/0	0/1	1/0	0/0	0/0	1/0	1/0	0/0
Product Liability	3/0	3/0	3/0	2/1	3/0	3/0	0/0	3/0	3/0	3/0
Define/Interpret Liability/Injury/	1/0	1/0	1/0	1/0	1/0	0/0	0/0	0/0	1/0	1/0
Death	11/2	13/1	14/0	10/3	12/0	3/1	0/0	13/1	5/6	12/1
Due Process	1/0	1/0	1/0	1/0	1/0	1/0	0/0	1/0	1/0	1/0
Insurance	3/0	4/0	4/0	2/1	3/1	4/0	0/0	4/0	3/1	4/0
Trade Practices	2/0	2/0	1/0	2/0	2/0	2/0	0/0	2/0	2/0	2/0
Utilities	1/0	0/0	1/0	1/1	1/0	1/0	0/0	1/0	0/0	1/0

²⁰See *supra* notes 10-16 for explanations of the issue areas.

²¹The numerator is the total number of cases in which the judge wrote or concurred with the majority opinion. The denominator is the total number of cases in which the judge wrote a dissenting opinion or concurred in a dissenting opinion. Cases are excluded in which the judge did not participate or in which the judge concurred in part with the majority and dissented in part.

TABLE 6
 CONCURRENCES AND DISSENTS BY COURT OF CRIMINAL APPEALS JUDGES
 ACCORDING TO ISSUE AREA²²

	McCormick	Clinton	Miller	Campbell	White	Baird	Overstreet	Maloney	Meyers	Mansfield	Keller
Capital Punishment	20/4 ²³	13/10	5/19	7/0	21/3	19/5	23/1	19/5	23/1	17/0	16/1
Rt. Counsel	0/0	1/0	0/1	0/0	0/1	1/0	1/0	1/0	1/0	0/0	0/1
Ineffective Counsel	4/0	4/0	1/3	0/0	4/0	3/1	3/1	3/1	4/0	3/0	3/0
Writ	3/0	3/1	0/4	0/0	2/1	4/0	4/0	4/0	2/1	3/0	1/1
Sufficient Evidence	6/1	7/0	1/6	1/0	6/1	7/0	7/0	6/1	4/3	5/0	2/1
Admission of Evidence	4/2	5/1	4/2	2/1	3/2	5/1	5/1	5/1	5/1	2/0	1/0
Timeliness	1/0	1/0	0/1	0/0	1/0	0/1	0/1	7/0	0/1	1/0	1/0
Jury Instructions	4/1	3/2	3/2	3/0	4/1	4/1	4/1	4/1	5/0	1/1	2/0
Discretionary Review	29/6	26/8	6/30	6/2	30/5	27/8	29/6	9/6	30/5	24/3	24/2
Double Jeopardy	4/1	4/1	3/2	3/0	4/1	5/0	5/0	4/1	3/2	2/0	2/0
Procedural Error	4/1	4/1	1/4	1/0	2/2	5/0	5/0	4/1	3/2	2/2	2/2
Jury Action	1/0	1/0	0/1	0/0	1/0	1/0	1/0	7/1	0/1	1/0	1/0
Search & Seizure	1/0	0/1	0/1	0/0	1/0	1/0	1/0	1/0	1/0	1/0	1/0

²² See *supra* notes 17-19 for explanations of the issue areas.

²³ *Supra* note 21.

TABLE 8
 AGREEMENT & DISAGREEMENT²⁵ AMONG TEXAS COURT OF CRIMINAL APPEALS JUDGES

	Clinton		Miller		Campbell		White		Baird		Overstreet		Maloney		Meyers		Mansfield		Keller		
	C	D	C	D	C	D	C	D	C	D	C	D	C	D	C	D	C	D	C	D	
McCormick	54	24	15	4	15	1	77	2	63	17	70	11	62	18	69	10	58	3	54	3	
	D	1	8	1	7	2	2	14	16	0	16	0	16	0	10	5	3	3	2	5	
Clinton			19	3	16	3	51	17	60	11	66	5	63	9	58	12	42	6	37	8	
	D		5	2	7	0	25	0	20	5	19	6	17	8	20	5	17	0	16	0	
Miller			19	3	14	8	14	8	23	1	23	0	21	3	17	7	0	0	0	0	
	D		4	0	4	0	4	1	3	2	4	1	4	1	5	0	0	0	0	0	
Campbell							14	7	21	2	21	1	19	4	18	5	0	0	0	0	
	D						1	2	3	0	3	0	3	0	1	2	0	0	0	0	
White									61	17	68	11	60	18	68	10	57	2	55	0	
	D								17	0	17	0	14	0	10	7	4	3	1	7	
Baird											79	2	72	9	64	16	47	6	41	8	
	D										8	9	8	9	16	1	14	0	14	0	
Overstreet													75	11	71	15	52	6	46	8	
	D												5	6	2	10	0	10	0	0	
Maloney															67	12	47	6	41	8	
	D														13	5	14	0	14	0	
Meyers																	51	6	49	5	
	D																8	0	7	3	
Mansfield																					4
	D																				3
Keller																					4

²⁵ See *id.* for an explanation of the matrix and cross-tabulation of pairings of judges. As an example of how to read this table, Judge McCormick and Judge Clinton agreed in 54 judgments of the court. In 15 cases Judge McCormick dissented from the majority; whereas, Judge Clinton concurred with the majority. In 24 cases Judge Clinton dissented and Judge McCormick concurred with the majority. In 1 case, both Judge McCormick and Judge Clinton dissented from the judgment of the court.