

AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 2008*

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Unlike the United States Supreme Court, there is generally no means of predicting how a justice of the Indiana Supreme Court will vote in a given case based on ideological doctrine or political worldview. As this Article has shown over a number of years, there are no clear, predictable voting blocks on the court and no template for determining how a particular justice or group of justices will vote in any particular case or type of case. This lack of voting blocks typically means that the court's statistics in any given year will be driven by the particular cases that come before it during that year. The court's voting statistics therefore can sway in unexpected ways from year to year. In that vein, 2008 was no exception. The court's caseload for 2008 serves as another good example of the lack of ideological voting blocks on the court and the uncertainty that litigants that come before the court can face because of the justice's lack of dogma.

First, the primary lesson practitioners should learn from the swings in the court's voting patterns in 2008 is that they likely cannot predict the result of a case simply because the court granted transfer. It has typically been true that if the court grants transfer, it is likely to reverse. For instance, in 2007 it affirmed only 6.4% of civil transfer cases and reversed all other civil cases. In 2008, this assumption did not hold true. Instead, the court affirmed 20% of its civil transfer cases. In many of these cases, the court appeared to exercise its discretion to take transfer to place its own stamp on an area of law despite the court's agreement with the result reached by the lower courts. The obvious purpose of transfer in these cases was not necessarily to reverse a bad result, but to allow the court to speak on important issues. These cases are an important lesson for practitioners seeking transfer from the court, as they demonstrate that focus on the result

* The Tables presented in this Article are patterned after the annual statistics of the U.S. Supreme Court published in the *Harvard Law Review*. An explanation of the origin of these Tables can be found at Louis Henkin, *The Supreme Court, 1967 Term*, 82 HARV. L. REV. 63, 301-02 (1968). The *Harvard Law Review* granted permission for the use of these Tables by the *Indiana Law Review* this year; however, permission for any further reproduction of these Tables must be obtained from the *Harvard Law Review*.

We thank Barnes & Thornburg for its gracious willingness to devote the time, energy, and resources of its law firm to allow a project such as this to be accomplished. As is appropriate, credit for the idea for this project goes to Chief Justice Shepard. Many thanks to Kevin Betz, who initially developed this article and worked hard to bring it to fruition in years past. The authors also must recognize Donald Glick (Mr. Stephenson's father-in-law) who spent Thanksgiving Day writing the spreadsheet that compiled the statistics.

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below is not the only (or even main) consideration the court will give in exercising its power to grant transfer.

Second, the court's lack of voting blocks means the more sensitive issues that come before the court are addressed with intellectual rigor but do not devolve into the sniping that can often occur in courts of last resort. This is true even when the court ultimately enters a fractured opinion with different justices reaching very different results. For instance, in 2008, the court handed down scores of opinions that addressed questions of first impression on sensitive, divisive legal and social issues. These include issues such as the scope of liability under Indiana's RICO statute;¹ the claimed constitutional right to a court-financed interpreter;² the high-profile, politically tinged dispute regarding the effectiveness of arrests made after merger of the Indianapolis police department with the Marion County sheriff;³ the amount of force a parent may use in disciplining a child;⁴ the scope of premise liability as applied to children;⁵ whether a criminal defendant can waive the right to appeal a discretionary sentence as part of a plea deal;⁶ and whether postings on Myspace.com could amount to harassment and subject a juvenile to a delinquency finding.⁷ In almost all of these cases, at least one justice issued a concurring or dissenting opinion. Although these issues were hotly contested, the tone of the court's opinions never wavered from the statesmanship the justices typically employ.

Third, the lack of voting blocks means the level alignment between the individual justices can experience wild swings from year to year. The justices showed a remarkable lack of agreement in 2008, as only two justices agreed more than 80% of time in civil cases. In 2007, there were only three pairings of justices that agreed with each other *less* than 80% of the time. A similar swing occurred in criminal cases. In 2008, no two justices agreed more than 86% of the time in criminal cases, and several justices agreed less than 75% of the time. However, just one year ago, *every* justice agreed with all others in at least 86% of the time in criminal cases. Perhaps most tellingly, 2008 presented a wild swing in the alignments among the justices when considering both criminal and civil cases together. In 2008, there were only two pairs of justices who agreed in more than 80% of all cases. In 2007, *all* of the justices agreed with all other justices more than 80% of the time for all cases.

The same swings exist when looking at the alignment between individual justices. For instance, in 2007, Justices Sullivan and Rucker were the most aligned in civil cases at 91.4%. In 2008, they were among the least aligned at 78.4%. Similarly, in prior years this Article has commented on the somewhat consistent alignment between Chief Justice Shepard, Justice Boehm, and Justice

1. Keesling v. Beegle, 880 N.E.2d 1202 (Ind. 2008).

2. Arrieta v. State, 878 N.E.2d 1238 (Ind. 2008).

3. State v. Oddi-Smith, 878 N.E.2d 1245 (Ind. 2008).

4. Willis v. State, 888 N.E.2d 177 (Ind. 2008).

5. Kopczyński v. Barger, 887 N.E.2d 928 (Ind. 2008).

6. Creech v. State, 887 N.E.2d 73 (Ind. 2008).

7. A.B. v. State, 885 N.E.2d 1223 (Ind. 2008).

Sullivan in civil cases. That alignment was certainly less apparent in 2008, as Chief Justice Shepard and Justice Sullivan agreed in only 73.1% of cases, their lowest level of agreement in more than five years and the second lowest pairing of justices for 2008. Justices Boehm and Sullivan similarly were not as aligned as they have been in civil cases in prior years. In 2008, they agreed in 76.5% of civil cases, their lowest percentage of agreement since 2002.

These swings in the level of agreement between individual justices can exist even within the same year when comparing criminal and civil cases. For instance, Justices Dickson and Rucker were the most aligned in civil cases in 2008, agreeing 80.4% of the time. However, these same justices voted together only 67.4% of the time in criminal cases in 2008, the *lowest* percentage on the year. The alignment in criminal cases between these two justices has seesawed over the past several years depending on the issues before the court, going from 71.7% in 2006 to a high of 86% in 2007 and now back to a low of 67.4%.

Fourth, the lack of ideological voting blocks is evident in the swings in the number of dissenting and concurring opinions the court hands down. For instance, only 62% of the court's opinions were unanimous in 2008, down from 74.4% in 2007 and 67% in 2006. That percentage marks a low point since 2003, when the justices were unanimous only 61% of the time. Similarly, 24% of the court's opinions in 2008 were "split," meaning a change of a single vote one way or the other would have changed the result. This percentage was a marked increase over 2007 and 2006, where only 12 and 10% of cases were split opinions.

One other important development occurred in 2008 in the form of an appreciable drop in the number of petitions for transfer filed by litigants. In 2008, the number of petitions dropped to 858, almost 100 fewer petitions than were filed in 2007. It is unclear whether this is an anomaly or the start of a trend, but merits watching in future years.

Table A. The number of opinions the Indiana Supreme Court issued rose to 96 in 2008. Since the effects of the change in the court's jurisdiction began to be felt in 2003 and it could be more selective with its docket, it has averaged 103 opinions per year. In 2007, the number of opinions dipped to 78. Given the spike back to its normal level this year, it is likely that 2007 was an anomaly caused by the particularly complex cases before the court at that time. The court also returned to form as to the number of civil opinions it handed down. In 2007, the court handed down more criminal opinions than civil for the first time since 2002, when many mandatory criminal appeals remained on the docket under the court's old jurisdictional rules. In 2008, the court returned to form, handing down 52 civil opinions and 44 criminal opinions. That balance was typical for years prior to 2007. Justice Sullivan had the most productive year, handing down the most opinions at 22 (almost a quarter of the court's opinions.) Chief Justice Shepard followed closely with 21 opinions and Justice Rucker had the least, at nine opinions.

Table B-1. Justices Dickson and Rucker were the most aligned in civil cases and were the only two justices in agreement more than 80% of the time in civil cases.

The next highest percentage was 78.4% of agreement, as Chief Justice Shepard agreed with both Justices Rucker and Boehm at that rate in 2008. Although it was the second highest level of agreement in 2008, this 78.4% of agreement would have been the second and third *lowest* in 2007 and 2006, respectively. Justices Sullivan and Dickson had the least amount of agreement at 67.3%.

Table B-2. Chief Justice Shepard and Justice Boehm were the most aligned in criminal cases at 86.4%. Justice Boehm and Justice Rucker were next with 81.8%. However, Justice Rucker did not agree with any of the other justices more than 73% of the time.

Table B-3. Justices Sullivan and Dickson were the least aligned when considering voting for all cases. The two justices agreed in only 69.8% of all cases, the least amount of alignment between any two justices since 2003, when Chief Justice Shepard and Justice Rucker agreed in only 69.2% of all cases. There are no other instances where two justices agreed in less than 70% of all cases during that time period. The lack of alignment between Justices Sullivan and Dickson is consistent with prior years, as Justices Dickson and Sullivan have been among the least aligned of all justices going back to 2002. In fact, in 2002 and 2007 they were the least aligned in all cases, agreeing in only 75.7 and 83.3% of all cases in those years, respectively.

Table C. The percentage of unanimous opinions dipped from 74.4% in 2007 to 62% in 2008. That is the lowest since 2003, when the justices were unanimous only 61% of the time. Almost all of the separate opinions in these cases were dissents. The justices had 34 dissenting opinions but only three concurring opinions. This development might be part of a trend worth watching. In each of the past three years, the number of concurring opinions has dropped while the number of dissenting opinions rises. For instance, the percentage of cases with concurring opinions has steadily dropped from 9.5% in 2005 to 3% in 2008. Conversely, the percentage of dissenting opinions has gone from 26.2% in 2005 to 34% in 2008. These numbers could indicate either that the justices are less likely to agree in the more complicated cases that come before them or that the justices are understandably more inclined to use their limited time and resources on fleshing out written dissenting opinions than they would be for opinions in which they at least concur in the result.

Table D. The raw number of split decisions was up sharply in 2008, rising to 23. The court only issued 10 and 11 split decisions in 2007 and 2006, respectively. The percentage of the court's opinions that were a 3-2 split spiked as well. In 2008, the court was split in 24% of cases, almost a full quarter of the opinions it handed down. The percentage was 12 and 10 for 2007 and 2006.

Table E-1. While the court affirmed in a high percentage of civil cases, the percentage of reversals for all cases remained steady. The court reversed in 76% of all cases in 2008, as compared to 78% in 2005, 76.3% in 2006, and 74% in 2007. As for criminal appeals, the court reversed in 81.6% of all criminal cases

in which it had granted transfer. This percentage is another area where the court shows some unpredictability. In 2007, the court reversed only 74.2% of criminal cases while in 2006 it reversed 82.1% of them. In 2005, the court went in the opposite direction and reversed only 64.8% of those cases. This variance in the court's results in criminal transfer cases makes it difficult to predict how those cases will be resolved once transfer is granted and indicates that the results are largely driven by the nature of the cases that come before the court in a given year.

Table E-2. Although the number of petitions for transfer has steadily grown for years, 2008 saw a surprising drop in the number of petitions filed. In 2008, the number of petitions to transfer dropped to 858, almost 100 fewer petitions than were filed in 2007. In fact, the year marked the first time since 2004 that fewer than 900 petitions were filed and was the second lowest total since the court's jurisdiction changed in 2002. The court granted 16% of the civil petitions filed, which was the highest percentage of civil petitions granted since 2004. It continues to be more difficult to obtain transfer in criminal cases, as the court granted only 8.5% of the criminal petitions filed.

Table F. The Indiana Supreme Court's cases continue to cover a broad scope of topics, including 23 different areas of law in 2008. As the court of last resort for Indiana state constitutional issues, it is not surprising that state constitutional issues dominate the court's attention. In 2008, the court addressed the state constitution in 17 different cases, about 18% of its total workload. This is consistent with previous years, as the court has handed down at least 13 opinions addressing state constitutional issues in every year since 2004, when it only addressed those issues in 2 cases. As has been stated in this Article in previous years, the court has a tendency to return to areas of law after not addressing them over a period of years. That was certainly true again in 2008, as the court handed down 9 different cases that reviewed or applied Indiana's statutes of limitation and repose but had only addressed those topics in a single case in 2004 through 2007. However, in 2003 it handed down four opinions on the statute of limitations and repose. In this vein, one area of law that might be ripe for review are issues associated with the public access to governmental records and meetings, as the court has not handed down an opinion in this area in more than five years.

TABLE A
OPINIONS^a

	OPINIONS OF COURT ^b			CONCURRENCES ^c			DISSENTS ^d		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	7	12	19	0	1	1	1	4	5
Dickson, J.	10	5	15	0	0	0	4	9	13
Sullivan, J.	12	10	22	0	1	1	6	5	11
Boehm, J.	7	14	21	1	1	2	4	3	7
Rucker, J.	7	3	10	1	0	1	8	2	10
Per Curiam	1	8	9						
Total	44	52	96	2	3	5	23	23	46

^a These are opinions and votes on opinions by each justice and in per curiam in the 2008 term. The Indiana Supreme Court is unique because it is the only supreme court to assign each case to a justice by a consensus method. Cases are distributed by a consensus of the justices in the majority on each case either by volunteering or nominating writers. The chief justice does not have any power to control the assignments other than as a member of the majority. See Melinda Gann Hall, *Opinion Assignment Procedures and Conference Practices in State Supreme Courts*, 73 JUDICATURE 209, 209, 213 (1990). The order of discussion and voting is started by the most junior member of the court and follows reverse seniority. See *id.* at 209-10.

^b This is only a counting of full opinions written by each justice. Plurality opinions that announce the judgment of the court are counted as opinions of the court. It includes opinions on civil, criminal, and original actions.

^c This category includes both written concurrences, joining in written concurrence, and votes to concur in result only.

^d This category includes both written dissents and votes to dissent without opinion. Opinions concurring in part and dissenting in part or opinions concurring in part only and differing on another issue are counted as dissents.

TABLE B-1
VOTING ALIGNMENTS FOR CIVIL CASES^e

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		39	38	40	40
	S		1	0	0	0
	D	---	40	38	40	40
	N		52	52	51	51
	P		76.9%	73.1%	78.4%	78.4%
Dickson, J.	O	39		35	38	38
	S	1		0	2	3
	D	40	---	35	40	41
	N	52		52	51	51
	P	76.9%		67.3%	78.4%	80.4%
Sullivan, J.	O	38	35		39	39
	S	0	0		0	1
	D	38	35	---	39	40
	N	52	52		51	51
	P	73.1%	67.3%		76.5%	78.4%
Boehm, J.	O	40	38	39		39
	S	0	2	0		0
	D	40	40	39	---	39
	N	51	51	51		50
	P	78.4%	78.4%	76.5%		78.0%
Rucker, J.	O	40	38	39	39	
	S	0	3	1	0	
	D	40	41	40	39	---
	N	51	51	51	50	
	P	78.4%	80.4%	78.4%	78.0%	

^e This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only civil cases. For example, in the top set of numbers for Chief Justice Shepard, 39 is the number of times Chief Justice Shepard and Justice Dickson agreed in a full majority opinion in a civil case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE B-2
VOTING ALIGNMENTS FOR CRIMINAL CASES^f

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		36	36	38	31
	S		0	0 0	0	
	D	---	36	36	38	31
	N		44	44	44	44
	P		81.8%	81.8%	86.4%	70.5%
Dickson, J.	O	36		32	35	29
	S	0		0	1	0
	D	36	---	32	36	29
	N	44		44	44	43
	P	81.8%		72.7%	81.8%	67.4%
Sullivan, J.	O	36	32		33	31
	S	0	0		0	1
	D	36	32	---	33	32
	N	44	44		44	44
	P	81.8%	72.7%		75.0%	72.7%
Boehm, J.	O	38	35	33		29
	S	0	1	0		1
	D	38	36	33	---	30
	N	44	44	44		44
	P	86.4%	81.8%	75.0%		68.2%
Rucker, J.	O	31	29	31	29	
	S	0	0	1	1	
	D	31	29	32	30	---
	N	44	43	44	44	
	P	70.5%	67.4%	72.7%	68.2%	

^f This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only criminal cases. For example, in the top set of numbers for Chief Justice Shepard, 36 is the number of times Chief Justice Shepard and Justice Dickson agreed in a full majority opinion in a criminal case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE B-3
VOTING ALIGNMENTS FOR ALL CASES[§]

		Shepard	Dickson	Sullivan	Boehm	Rucker
Shepard, C.J.	O		75	74	78	71
	S		1	0	0	0
	D	---	76	74	78	71
	N		96	96	95	95
	P		79.2%	77.1%	82.1 %	74.7 %
Dickson, J.	O	75		67	73	67
	S	1		0	3	3
	D	76	---	67	76	70
	N	96		96	95	94
	P	79.2%		69.8%	80.0 %	74.5 %
Sullivan, J.	O	74	67		72	70
	S	0	0		0	2
	D	74	67	---	72	72
	N	96	96		95	95
	P	77.1%	69.8%		75.8 %	75.8 %
Boehm, J.	O	78	73	72		68
	S	0	3	0		1
	D	78	76	72	---	69
	N	95	95	95		94
	P	82.1%	80.0 %	75.8%		73.4 %
Rucker, J.	O	71	67	70	68	
	S	0	3	2	1	
	D	71	70	72	69	--
	N	95	94	95	94	
	P	74.7%	74.5%	75.8 %	73.4%	

[§] This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for all cases. For example, in the top set of numbers for Chief Justice Shepard, 65 is the total number of times Chief Justice Shepard and Justice Dickson agreed in all full majority opinions written by the court in 2008. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE C
UNANIMITY
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES^h

Unanimous ⁱ			Unanimous with Concurrence ^j			Opinions with Dissent			Total
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
26	34	60 (62.0%)	0	3	3 (3.0%)	16	18	34 (35.0%)	97

^h This Table tracks the number and percent of unanimous opinions among all opinions written. If, for example, only four justices participate and all concur, it is still considered unanimous. It also tracks the percentage of overall opinions with concurrence and overall opinions with dissent.

ⁱ A decision is considered unanimous only when all justices participating in the case voted to concur in the court's opinion as well as its judgment. When one or more justices concurred in the result, but not in the opinion, the case is not considered unanimous.

^j A decision is listed in this column if one or more justices concurred in the result, but not in the opinion of the court or wrote a concurrence, and there were no dissents.

TABLE D
3-2 DECISIONS^k

Justices Constituting the Majority	Number of Opinions^l
1. Shepard, C.J., Dickson, J., Sullivan, J.	1
2. Shepard, C.J., Dickson, J., Boehm, J.	6
3. Shepard, C.J., Dickson, J., Rucker, J.	1
4. Shepard, C.J., Sullivan, J., Boehm, J.	6
5. Shepard, C.J., Sullivan, J., Rucker, J.	2
6. Shepard, C.J., Boehm, J., Rucker, J.	1
7. Dickson, J., Sullivan, J., Rucker, J.	2
8. Dickson, J., Boehm, J., Rucker, J.	1
9. Sullivan, J., Boehm, J., Rucker, J.	2
10. Boehm, J., Sullivan, J.	1
Total^m	23

^k This Table concerns only decisions rendered by full opinion. An opinion is counted as a 3-2 decision if two justices voted to decide the case in a manner different from that of the majority of the court.

^l This column lists the number of times each three-justice group constituted the majority in a 3-2 decision.

^m The 2008 term's 3-2 decisions were:

1. Shepard, C.J., Dickson, J., Sullivan, J.: *Norris v. State*, 896 N.E.2d 1149 (Ind. 2008) (Dickson, J.).
2. Shepard, C.J., Dickson, J., Boehm, J.: *In re Benkie*, 892 N.E.2d 1237 (Ind. 2008) (per curiam); *Bowles v. State*, 891 N.E.2d 30 (Ind. 2008) (Boehm, J.); *State v. Jackson*, 889 N.E.2d 819 (Ind. 2008) (Dickson, J.); *Belvedere v. State*, 889 N.E.2d 296 (Ind. 2008) (Boehm, J.); *Membres v. State*, 889 N.E.2d 265 (Ind. 2008) (Boehm, J.), *reh'g denied*; *Villas W. II of Willowridge Homeowners Ass'n v. McGlothlin*, 885 N.E.2d 1274 (Ind. 2008) (Shepard, C.J.), *cert. denied*, 129 S. Ct. 1527 (2009).
3. Shepard, C.J., Dickson, J., Rucker, J.: *Queerey & Harrow, Ltd. v. Transcon. Ins. Co.*, 885 N.E.2d 1235 (Dickson, J.).
4. Shepard, C.J., Sullivan, J., Boehm, J.: *Overton v. Grillo*, 896 N.E.2d 499 (Ind. 2008) (Boehm, J.), *reh'g denied*; *Walden v. State*, 895 N.E.2d 1182 (Ind. 2008) (Sullivan, J.); *Smith v. State*, 889 N.E.2d 261 (Ind. 2008) (Sullivan, J.); *Ind. State Univ. v. LaFief*, 888 N.E.2d 184 (Ind. 2008) (Shepard, C.J.); *State Farm Mut. Auto. Ins. Co. v. D.L.B.*, 881 N.E.2d 665 (Ind. 2008) (Sullivan, J.); *Keesling v. Beegle*, 880 N.E.2d 1202 (Ind. 2008) (Sullivan, J.).
5. Shepard, C.J., Sullivan, J., Rucker, J.: *Sweatt v. State*, 887 N.E.2d 81 (Ind. 2008) (Shepard, C.J.); *Auto-Owners Ins. Co. v. Bank One*, 879 N.E.2d 1086 (Ind. 2008) (Sullivan, J.).
6. Shepard, C.J., Boehm, J., Rucker, J.: *In re Fieger*, 887 N.E.2d 87 (Ind. 2008) (per curiam).
7. Dickson, J., Sullivan, J., Rucker, J.: *600 Land, Inc. v. Metro. Bd. of Zoning Appeals of Marion County*, 889 N.E.2d 305 (Ind. 2008) (Sullivan, J.); *Watts v. State*, 885 N.E.2d 1228 (Ind. 2008) (Sullivan, J.).
8. Dickson, J., Boehm, J., Rucker, J.: *Newton v. State*, 894 N.E.2d 192 (Ind. 2008) (Dickson, J.).
9. Sullivan, J., Boehm, J., Rucker, J.: *In re Coleman*, 885 N.E.2d 1238 (Ind. 2008) (per curiam); *Cent. Ind. Podiatry, P.C. v. Krueger*, 882 N.E.2d 723 (Ind. 2008) (Boehm, J.).
10. Boehm, J., Sullivan, J.: *Herron v. Anigbo*, 897 N.E.2d 444 (Ind. 2008) (Boehm, J.).

TABLE E-1
DISPOSITION OF CASES REVIEWED BY TRANSFER
AND DIRECT APPEALSⁿ

	Reversed or Vacated ^o	Affirmed	Total
Civil Appeals Accepted for Transfer	35 (80.0%)	9 (20.0%)	44
Direct Civil Appeals	1 (100.0%)	0 (0%)	1
Criminal Appeals Accepted for Transfer	31 (81.6%)	7 (18.4%)	38
Direct Criminal Appeals	0 (0%)	5 (100%)	5
Total	67 (76.1%)	21 (23.9%)	88 ^p

ⁿ Direct criminal appeals are cases in which the trial court imposed a death sentence. *See* IND. CONST. art. VII, § 4. Thus, direct criminal appeals are those directly from the trial court. A civil appeal may also be direct from the trial court. *See* IND. APP. R. 56, 63 (pursuant to Rules of Procedure for Original Actions). All other Indiana Supreme Court opinions are accepted for transfer from the Indiana Court of Appeals. *See* IND. APP. R. 57.

^o Generally, the term “vacate” is used by the Indiana Supreme Court when it is reviewing a court of appeals opinion, and the term “reverse” is used when the court overrules a trial court decision. A point to consider in reviewing this Table is that the court technically “vacates” every court of appeals opinion that is accepted for transfer, but may only disagree with a small portion of the reasoning and still agree with the result. *See* IND. APP. R. 58(A). As a practical matter, “reverse” or “vacate” simply represents any action by the court that does not affirm the trial court or court of appeals’s opinion.

^p This does not include one attorney discipline opinion. This opinion did not reverse, vacate, or affirm any other court’s decision.

TABLE E-2
DISPOSITION OF PETITIONS TO TRANSFER
TO SUPREME COURT IN 2008^q

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil ^r	247 (84.0%)	47 (16.0%)	294
Criminal ^s	475 (91.5%)	44 (8.5%)	519
Juvenile	42 (93.3%)	3 (6.7%)	45
Total	764 (89.0%)	94 (11.0%)	858

^q This Table analyzes the disposition of petitions to transfer by the court. *See* IND. APP. R. 58(A).

^r This also includes petitions to transfer in tax cases and workers' compensation cases.

^s This also includes petitions to transfer in post-conviction relief cases.

TABLE F
SUBJECT AREAS OF SELECTED DISPOSITIONS
WITH FULL OPINIONS¹

Original Actions	Number
• Certified Questions	0
• Writs of Mandamus or Prohibition	0
• Attorney Discipline	8 ^u
• Judicial Discipline	0
Criminal	
• Death Penalty	2 ^v
• Fourth Amendment or Search and Seizure	4 ^w
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	4 ^x
Trusts, Estates, or Probate	2 ^y
Real Estate or Real Property	9 ^z
Personal Property	0
Landlord-Tenant	2 ^{aa}
Divorce or Child Support	5 ^{bb}
Children in Need of Services (CHINS)	0
Paternity	1 ^{cc}
Product Liability or Strict Liability	1 ^{dd}
Negligence or Personal Injury	4 ^{ee}
Invasion of Privacy	0
Medical Malpractice	5 ^{ff}
Indiana Tort Claims Act	0
Statute of Limitations or Statute of Repose	9 ^{gg}
Tax, Department of State Revenue, or State Board of Tax Commissioners	1 ^{hh}
Contracts	5 ⁱⁱ
Corporate Law or the Indiana Business Corporation Law	0
Uniform Commercial Code	1 ^{jj}
Banking Law	1 ^{kk}
Employment Law	3 ^{ll}
Insurance Law	6 ^{mm}
Environmental Law	2 ⁿⁿ
Consumer Law	0
Workers' Compensation	2 ^{oo}
Arbitration	0
Administrative Law	3 ^{pp}
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	0
Eleventh Amendment	0
Civil Rights	0
Indiana Constitution	17 ^{qq}

¹ This Table is designed to provide a general idea of the specific subject areas upon which the court ruled or discussed and how many times it did so in 2008. It is also a quick-reference guide to court rulings for practitioners in specific areas of the law. The numbers corresponding to the areas of law reflect the number of cases in which the court substantively discussed legal issues about these subject areas. Also, any attorney discipline case resolved by order (as opposed to an opinion) was not considered in preparing this Table.

^u *In re* Anonymous, 896 N.E.2d 916 (Ind. 2008); *In re* Powell, 893 N.E.2d 729 (Ind. 2008); *In re* Benkie, 892 N.E.2d 1237 (Ind. 2008); *In re* Patterson, 888 N.E.2d 752 (Ind. 2008); *In re* Fieger, 887 N.E.2d 87 (Ind. 2008); *In re* Colman, 885 N.E.2d 1238 (Ind. 2008); *In re* Cueller, 880 N.E.2d 1209 (Ind. 2008); *In re* Bash, 880 N.E.2d 1182 (Ind. 2008).

^v *Jeter v. State*, 888 N.E.2d 1257 (Ind. 2008); *Sholes v. State*, 878 N.E.2d 1232 (Ind. 2008).

^w *Bowles v. State*, 891 N.E.2d 30 (Ind. 2008); *Belvedere v. State*, 889 N.E.2d 286 (Ind. 2008); *Membres v. State*, 889 N.E.2d 265 (Ind. 2008); *Campos v. State*, 885 N.E.2d 590 (Ind. 2008).

^x *Marion County Election Bd. v. Schoettle*, 899 N.E.2d 642 (Ind. 2008); *Wagler v. W. Boggs Sewer Dist., Inc.*, 898 N.E.2d 815 (Ind. 2008); *State v. Am. Family Voices, Inc.*, 898 N.E.2d 293 (Ind. 2008); *State v. Oddi-Smith*, 878 N.E.2d 1245 (Ind. 2008).

^y *Carlson v. Sweeney, Dabagia, Donoghue, Thorne, Janes & Pagos*, 895 N.E.2d 1191 (Ind. 2008); *McPeck v. McCordle*, 888 N.E.2d 171 (Ind. 2008).

^z *Wagler v. W. Boggs Sewer Dist., Inc.*, 898 N.E.2d 815 (Ind. 2008); *600, Land Inc. v. Metro. Bd. of Zoning Appeals*, 889 N.E.2d 305 (Ind. 2008); *Brenwick Assoc., LLC v. Boone County Redev. Comm'n*, 889 N.E.2d 289 (Ind. 2008); *Pflanz v. Foster*, 888 N.E.2d 756 (Ind. 2008); *McPeck v. McCordle*, 888 N.E.2d 171 (Ind. 2008); *Kopczynski v. Barger*, 887 N.E.2d 928 (Ind. 2008); *Nu-Sash of Indianapolis, Inc. v. Carter*, 887 N.E.2d 92 (Ind. 2008); *Villas W. II of Willowridge Homeowners Ass'n v. McGlothlin*, 885 N.E.2d 1274 (Ind. 2008); *State v. Universal Outdoor, Inc.*, 880 N.E.2d 1188 (Ind. 2008).

^{aa} *Morton v. Ivacic*, 898 N.E.2d 1196 (Ind. 2008); *Pinnacle Props. Dev. Group, Inc. v. City of Jeffersonville*, 893 N.E.2d 726 (Ind. 2008).

^{bb} *Bailey v. Mann*, 895 N.E.2d 1215 (Ind. 2008); *Young v. Young*, 891 N.E.2d 1045 (Ind. 2008); *In re Marriage of Huss*, 888 N.E.2d 1238 (Ind. 2008); *Stewart v. Vulliet*, 888 N.E.2d 761 (Ind. 2008); *Baxendale v. Raich*, 878 N.E.2d 1252 (Ind. 2008).

^{cc} *In re Marriage of Huss*, 888 N.E.2d 1238 (Ind. 2008).

^{dd} *Technisand, Inc. v. Melton*, 898 N.E.2d 303 (Ind. 2008).

^{ee} *Travelers Cas. & Sur. Co. v. U.S. Filter Corp.*, 895 N.E.2d 1172 (Ind. 2008); *Kopczynski v. Barger*, 887 N.E.2d 928 (Ind. 2008); *Nichols v. Minnick*, 885 N.E.2d 1 (Ind. 2008); *Filip v. Block*, 879 N.E.2d 1076 (Ind. 2008).

^{ff} *Newkirk v. Bethlehem Woods Nursing & Rehab. Ctr., LLC*, 898 N.E.2d 299 (Ind. 2008); *Herron v. Anigbo*, 897 N.E.2d 444 (Ind. 2008); *Overton v. Grillo*, 896 N.E.2d 499 (Ind. 2008); *Chi Yun Ho v. Frye*, 880 N.E.2d 1192 (Ind. 2008); *Brinkman v. Bueter*, 879 N.E.2d 549 (Ind. 2008).

^{gg} *Technisand, Inc. v. Melton*, 898 N.E.2d 303 (Ind. 2008); *Newkirk v. Bethlehem Woods Nursing & Rehab. Ctr., LLC*, 898 N.E.2d 299 (Ind. 2008); *Herron v. Anigbo*, 897 N.E.2d 444 (Ind. 2008); *Overton v. Grillo*, 896 N.E.2d 499 (Ind. 2008); *Pflanz v. Foster*, 888 N.E.2d 756 (Ind. 2008); *Jewell v. State*, 887 N.E.2d 939 (Ind. 2008); *Auto-Owners Ins. v. Bank One*, 879 N.E.2d 1086 (Ind. 2008); *Filip v. Block*, 879 N.E.2d 1076 (Ind. 2008); *Brinkman v. Bueter*, 879 N.E.2d 549 (Ind. 2008).

^{hh} *Young v. Young*, 891 N.E.2d 1045 (Ind. 2008).

ⁱⁱ *Ind. Dep't of Envtl. Mgmt. v. Raybestos Prods. Co.*, 897 N.E.2d 469 (Ind. 2008); *Roberts v. Community Hosps. of Ind., Inc.*, 897 N.E.2d 458 (Ind. 2008); *Reuille v. E.E. Brandenberger Constr., Inc.*, 888 N.E.2d 770 (Ind. 2008); *Nu-Sash of Indianapolis, Inc. v. Carter*, 887 N.E.2d 92 (Ind. 2008); *Cent. Ind. Podiatry P.C. v. Krueger*, 882 N.E.2d 723 (Ind. 2008).

^{jj} *Auto-Owners Ins. Co. v. Bank One*, 879 N.E.2d 1086 (Ind. 2008).

^{kk} *Auto-Owners Ins. Co. v. Bank One*, 879 N.E.2d 1086 (Ind. 2008).

^{ll} *Barnett v. Clark*, 889 N.E.2d 281 (Ind. 2008); *Ind. State Univ. v. LaFief*, 888 N.E.2d 184 (Ind. 2008); *Cent. Ind. Podiatry P.C. v. Krueger*, 882 N.E.2d 723 (Ind. 2008).

^{mm} *Travelers Cas. & Sur. Co. v. U.S. Filter Corp.*, 895 N.E.2d 1172 (Ind. 2008); *Querrey & Harrow, Ltd. v. Transcon. Ins. Co.*, 885 N.E.2d 1235 (Ind. 2008); *Elliot v. Allstate Ins. Co.*, 881 N.E.2d 662 (Ind. 2008); *State Farm Mut. Auto. Ins. Co. v. D.L.B. ex rel. Brake*, 881 N.E.2d 665 (Ind. 2008); *State Farm Mut. Auto. Ins. Co. v. Jakpuko*, 881 N.E.2d 654 (Ind. 2008); *Filip v. Block*, 879 N.E.2d 1076 (Ind. 2008).

ⁿⁿ Ind. Dep't of Envtl. Mgmt. v. Raybestos Prods. Co., 897 N.E.2d 469 (Ind. 2008); Pflanz v. Foster, 888 N.E.2d 756 (Ind. 2008).

^{oo} Christopher R. Brown, D.D.S., Inc. v. Decatur County Mem'l Hosp., 892 N.E.2d 642 (Ind. 2008); Mayes v. Second Injury Fund, 888 N.E.2d 773 (Ind. 2008).

^{pp} Ind. Dep't of Envtl. Mgmt. v. Raybestos Prods. Co., 897 N.E.2d 469 (Ind. 2008); Brenwick Assocs., LLC v. Boone County Redev. Comm'n, 889 N.E.2d 289 (Ind. 2008); Ind. State Univ. v. LaFief, 888 N.E.2d 184 (Ind. 2008).

^{qq} State v. Washington, 898 N.E.2d 1200 (Ind. 2008); Harris v. State, 897 N.E.2d 927 (Ind. 2008); Herron v. Anigbo, 897 N.E.2d 444 (Ind. 2008); Cardwell v. State, 895 N.E.2d 1219 (Ind. 2008); Bassett v. State, 895 N.E.2d 1201 (Ind. 2008); Lee v. State, 892 N.E.2d 1231 (Ind. 2008); Christopher R. Brown, D.D.S., Inc. v. Decatur County Mem'l Hosp., 892 N.E.2d 642 (Ind. 2008); Bowles v. State, 891 N.E.2d 30 (Ind. 2008); Membres v. State, 889 N.E.2d 265 (Ind. 2008); Campos v. State, 885 N.E.2d 590 (Ind. 2008); Higgason v. State Dep't of Corr., 883 N.E.2d 816 (Ind. 2008); Higgason v. Ind. Dep't of Corr., 883 N.E.2d 814 (Ind. 2008); Higgason v. Ind. Dep't of Corr., 883 N.E.2d 812 (Ind. 2008); Smith v. Ind. Dep't of Corr., 883 N.E.2d 802 (Ind. 2008); City of Carmel v. Martin Marietta Materials, Inc., 883 N.E.2d 781 (Ind. 2008); Gauvin v. State, 883 N.E.2d 99 (Ind. 2008); Brinkman v. Bueter, 879 N.E.2d 549 (Ind. 2008).