

# AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 2010\*

MARK J. CRANDLEY\*\*  
P. JASON STEPHENSON\*\*\*  
JEANINE KERRIDGE\*\*\*\*  
JEFF PEABODY\*\*\*\*\*

Few people would wish to be judged based on their first two and a half months on a job. Justice Steven David became Indiana's 106th justice when he was sworn in on October 18, 2010. Those few months cannot possibly give a complete indication of what Justice David's judicial tenure will entail. However, given the natural interest in Indiana's first new justice in more than a decade,<sup>1</sup> a look at Justice David's early experience on the bench is inevitable.

Justice David participated in 16 opinions in 2010. Even this small sample reveals a significant amount of judicial independence on Justice David's part. For instance, he agreed with Justices Dickson and Sullivan in only 71.4% of the seven criminal cases handed down after he joined the court. This was by far the highest level of disagreement among any of the justices. No other pair of justices agreed in less than 80% of criminal cases. Justice David's vote proved crucial, as he was in the majority in each of the criminal cases in which he participated in 2010.

In civil cases, Justice David was more in line with the other justices. While he agreed with Chief Justice Shepard in all of the nine civil cases in which he participated, his agreement with each of the other justices was a fairly standard

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\* 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 (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.

\*\* Partner, Barnes & Thornburg LLP, 2005-present; Assistant Corporation Counsel, City of Indianapolis, 2004-05; law clerk for Justice Frank Sullivan, Jr., Indiana Supreme Court, 2000-2001; B.A., 1995, Indiana University; J.D., 2000, Indiana University Maurer School of Law—Bloomington.

\*\*\* Partner, Barnes & Thornburg LLP, 1999-present; B.A., 1996, Taylor University; J.D., 1999, Indiana University School of Law—Indianapolis.

\*\*\*\* Associate, Barnes & Thornburg LLP, 2007-present; B.A., 2000, University of Evansville; J.D., 2005, Harvard Law School.

\*\*\*\*\* Associate, Barnes & Thornburg LLP, 2008-present; B.A., 2003, University of California, Davis; J.D., 2008, Indiana University Maurer School of Law—Bloomington.

1. Before Justice David, Justice Robert Rucker was the most recent justice to join the high court. Justice Rucker's term began in November of 1999. See IND. COURTS, SUPREME COURT JUSTICES, <https://mycourts.in.gov/JR/Default.aspx> (last visited Aug. 13, 2011).

88.8%.

Justice David's presence was also felt in the three split decisions handed down after he took the bench. Those cases ran the gamut from the insanity defense<sup>2</sup> to the IHSAA transfer rule<sup>3</sup> to the double jeopardy clause.<sup>4</sup> Despite the diversity of these issues, Justice David was in the majority in all of them. No other judge was in the majority of all three cases, providing an early hint of how crucial the new justice's views might be going forward.

Although on the bench for just over two months, Justice David was able to hand down two majority opinions in 2010. His first opinion came in *Sanchez v. State*,<sup>5</sup> in which the court revised a sentence downward. That case drew a dissent from Justice Dickson.<sup>6</sup> The second opinion came in the context of the court's mandatory jurisdiction over the direct appeal of a sentence of life without parole. In *Delarosa v. State*,<sup>7</sup> Justice David continued the court's tradition of giving the most care and attention to cases involving the death penalty or sentences of life without parole, where so much is at stake. *Delarosa* is worth reading for any practitioners who may want a preview of what a Justice David opinion will look like.

**Table A.** The court handed down a total of 108 cases in 2010, an increase over the past two years and the first time the court's caseload has topped 100 since 2006. The court has averaged 102 cases per year since the effects of the change in the court's jurisdiction began to be felt in 2003. This number continues to exceed that of the United States Supreme Court, which typically hands down fewer than 80 opinions per year despite more Justices, more clerks, and more resources. The court also handed down 12 per curiam opinions, the most since 19 in 2005.

The court yet again handed down more civil cases than criminal cases, as 61% of the court's opinions came in civil cases. In fact, since the jurisdictional change began to have an impact in 2003, civil cases have outnumbered criminal cases in every year except 2007.

Chief Justice Shepard handed down the most opinions with 30, which amounted to 28% of the court's total caseload.

**Table B-1.** The most noteworthy development in civil cases for 2010 was the alignment between Justice Rucker and the other members of the court. Over the past several years, Justice Rucker has stood out more than any other justice in terms of his lack of alignment with the other members of the court. In 2009, for instance, he authored more dissents than majority opinions.<sup>8</sup> In 2008, he did not

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2. Galloway v. State, 938 N.E.2d 699 (Ind. 2010).

3. Ind. High Sch. Athletic Ass'n v. Watson, 938 N.E.2d 672 (Ind. 2010).

4. Nicoson v. State, 938 N.E.2d 660 (Ind. 2010).

5. 938 N.E.2d 720 (Ind. 2010).

6. *Id.* at 723 (Dickson, J., dissenting).

7. 938 N.E.2d 690 (Ind. 2010).

8. See Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket*,

agree with any other justice in more than 80% of all cases.<sup>9</sup>

However, Justice Rucker showed a remarkable amount of alignment with the rest of the court in 2010, agreeing with all other justices (excluding Justice David) in an average of 84% of all cases. Whether this is the start of a trend or a one-year phenomenon remains to be seen. Interestingly, Justice Rucker had his highest level of disagreement in civil cases with Justice Dickson. This marks a departure from prior years, as Justice Dickson was the justice with whom Justice Rucker most agreed in every year since 2007.

**Table B-2.** The justices exhibited a high level of agreement in criminal cases, despite Justice David's lower percentages of concurrence with Justices Sullivan and Dickson in criminal cases. Three different pairs of justices (Chief Justice Shepard and Justice Dickson, Justice Sullivan and Justice Rucker, and Justice Rucker and Justice Boehm) were aligned in more than 90% of cases, and Justice Boehm came close with 88.9% agreement with both Justice Dickson and Justice Sullivan. The last time there were three pairs of justices aligned in more than 90% of criminal cases was 2007.<sup>10</sup> By contrast, in 2009, *no* two pairs of justices were aligned in more than 90% of all cases.<sup>11</sup> In fact, on multiple occasions in the past three years, some of the justices had agreed in less than 70% of criminal cases.

**Table B-3.** The highest level of agreement between two justices in all cases—again exempting Justice David because of the smaller sample size—was between Justice Sullivan and Justice Rucker at 89.4%. That is the opposite of 2009, when Justice Sullivan and Justice Rucker were the *least* aligned overall at 74%.<sup>12</sup> Justice Sullivan and Justice Rucker agreed in more than 80% only once in the five years prior to 2007. The second highest level of agreement in 2010 was between Chief Justice Shepard and Justice Sullivan at 85.5%.

**Table C.** The percentage of unanimous opinions increased to 78% in 2010. That marks another reversal from past experience, as the percentage of unanimous opinions had been steadily dropping since the time the court's jurisdiction changed. In 2009, the number of dissents in criminal cases exceeded those in civil cases, which has been a rare occurrence for the court.<sup>13</sup> That trend also reversed course in 2010, as dissents in civil cases more than doubled those in

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*Dispositions, and Voting in 2009*, 43 IND. L. REV. 541, 542 (2010) (discussing Justice Rucker's role as "a modern Great Dissenter").

9. For a more detailed description of 2008 voting, see generally Mark J. Crandley & P. Jason Stephenson, *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2008*, 42 IND. L. REV. 773 (2009).

10. See Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2007*, 41 IND. L. REV. 839, 845 (2008).

11. See generally Crandley et al., *supra* note 8.

12. *Id.* at 550.

13. *Id.* at 545.

criminal cases.

**Table D.** The percentage of the court's decisions that were split 3-2 dropped in 2010, as only 13% of all cases were divided 3-2. In 2009, 19% of all cases were split decisions.<sup>14</sup> The average percentage of split decisions over the past five years is 15.6%, a number dragged upward by an anomalous year in 2008, where 24% of all cases were split decisions.<sup>15</sup>

**Table E-1.** The number of reversals dropped for the second straight year, as the court reversed in only 63.5% of all cases in 2010. In 2009, the court reversed in 67.4% of all cases.<sup>16</sup> These numbers mark a decrease from prior years, as the court reversed in an average of 76% of its cases from 2005 through 2008. The reversal rate remains much higher for discretionary civil cases, as the court reversed 70% of those cases as compared with 61.5% of criminal cases coming to the court after transfer. While it remains true that the grant of transfer likely means the court will reverse a civil case, that truism is less certain than in prior years.

**Table E-2.** The number of petitions to transfer continues to drop. In 2010, litigants filed only 603 petitions to transfer, a departure of more than 190 from 2009. This marks the third straight year in which the number of petitions to transfer has dropped by more than 50 petitions, as 858 were filed in 2008, and only 795 were filed in 2009.<sup>17</sup> More than 900 petitions were filed in each year between 2004 and 2008, so the decreasing number of petitions filed is a marked contrast to prior practice. There is no obvious explanation for this trend. One factor might be that the bar has become more educated about the chances that transfer will be granted, and lawyers have therefore become more selective in seeking transfer. The percentage of petitions granted was 11.1%, a higher percentage than in prior years. For instance, over the past five years, the court has granted about 9% of petitions to transfer.

**Table F.** The court's cases continue to cover a broad scope of topics. Not surprisingly, the Indiana Constitution was foremost among those topics in 2010 with 11 separate opinions. The court answered two certified questions from the federal courts after not having done so since 2006.<sup>18</sup>

In the past two years, this Article has predicted that free speech might be a topic the court would come back to address, given that the court had not handed an opinion in that area in more than five years. That did not change in 2010.

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14. *Id.*

15. Crandley & Stephenson, *supra* note 9, at 776.

16. Crandley et al., *supra* note 8, at 546.

17. *Id.* (noting the comparison between 2008 and 2009).

18. Mark J. Crandley et al., *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 2006*, 40 IND. L. REV. 659, 671 (2007).

**TABLE A**  
**OPINIONS<sup>a</sup>**

	OPINIONS OF COURT <sup>b</sup>			CONCURRENCES <sup>c</sup>			DISSENTS <sup>d</sup>		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	9	21	30	0	0	0	2	4	6
David, J.	2	0	2	0	0	0	0	0	0
Dickson, J.	8	6	14	0	0	0	2	7	9
Sullivan, J.	7	12	19	0	0	0	2	3	5
Boehm, J.	8	7	15	0	1	1	2	4	6
Rucker, J.	5	11	16	0	1	1	1	1	2
Per Curiam	3	9	12						
<b>Total</b>	<b>42</b>	<b>66</b>	<b>108</b>	<b>0</b>	<b>2</b>	<b>3</b>	<b>9</b>	<b>19</b>	<b>28</b>

<sup>a</sup> These are opinions and votes on opinions by each justice and in per curiam in the 2010 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 (1990). The order of discussion and voting is started by the most junior member of the court and follows reverse seniority. See *id.* at 210.

<sup>b</sup> 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.

<sup>c</sup> This category includes both written concurrences, joining in written concurrence, and votes to concur in result only.

<sup>d</sup> 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<sup>e</sup>**

	Shepard	David	Dickson	Sullivan	Boehm	Rucker	
Shepard, C.J.	O		9	48	54	41	53
	S		0	2	0	0	0
	D	---	9	50	54	41	53
	N		9	63	61	52	62
	P		100%	79.4%	88.5%	78.8%	85.5%
David, J.	O	9		8	8		8
	S	0		0	0		0
	D	9	---	8	8	---	8
	N	9		9	9		9
	P	100%		88.9%	88.9%		88.9%
Dickson, J.	O	48	8		47	39	50
	S	2	0		0	0	1
	D	50	8	---	47	39	51
	N	63	9		62	53	63
	P	79.4%	88.9%		75.8%	73.6%	81.0%
Sullivan, J.	O	54	8	47		42	53
	S	0	0	0		0	0
	D	54	8	47	---	42	53
	N	61	9	62		51	61
	P	88.5%	88.9%	75.8%		82.4%	86.9%
Boehm, J.	O	41		39	42		43
	S	0		0	0		0
	D	41	---	39	42	---	43
	N	52		53	51		52
	P	78.8%		73.6%	82.4%		82.7%
Rucker, J.	O	53	8	50	53	43	
	S	0	0	1	0	0	
	D	53	8	51	53	43	---
	N	62	9	63	61	52	
	P	85.5%	88.9%	81.0%	86.9%	82.7%	

<sup>e</sup> 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, 9 is the number of times Chief Justice Shepard and Justice David 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<sup>f</sup>**

	Shepard	David	Dickson	Sullivan	Boehm	Rucker	
Shepard, C.J.	O		6	37	35	31	36
	S		0	2	0	0	0
	D	---	6	39	35	31	36
	N		7	43	43	36	43
	P		85.7%	90.7%	81.4%	86.1%	83.7%
David, J.	O	6		5	5		6
	S	0		0	0		0
	D	6	---	5	5	---	6
	N	7		7	7		7
	P	85.7%		71.4%	71.4%		85.7%
Dickson, J.	O	37	5		35	32	35
	S	2	0		0	0	0
	D	39	5	---	35	32	35
	N	43	7		43	36	43
	P	90.7%	71.4%		81.4%	88.9%	81.4%
Sullivan, J.	O	35	5	35		32	38
	S	0	0	0		0	2
	D	35	5	35	---	32	40
	N	43	7	43		36	43
	P	81.4%	71.4%	81.4%		88.9%	93.0%
Boehm, J.	O	31		32	32		32
	S	0		0	0		1
	D	31	---	32	32	---	33
	N	36		36	36		36
	P	86.1%		88.9%	88.9%		91.7%
Rucker, J.	O	36	6	35	38	32	
	S	0	0	0	2	1	
	D	36	6	35	40	33	---
	N	43	7	43	43	36	
	P	83.7%	85.7%	81.4%	93.0%	91.7%	

<sup>f</sup> 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, 6 is the number of times Chief Justice Shepard and Justice David 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<sup>8</sup>**

	Shepard	David	Dickson	Sullivan	Boehm	Rucker	
Shepard, C.J.	O	15	85	89	72	89	
	S	0	4	0	0	0	
	D	---	15	89	89	72	89
	N		16	106	104	88	105
	P		93.8%	84.0%	85.6%	81.8%	84.8%
David, J.	O	15	13	13		14	
	S	0		0		0	
	D	15	---	13	13	---	14
	N	16		16	16		16
	P	93.8%		81.3%	81.3%		87.5%
Dickson, J.	O	85	13		82	71	85
	S	4	0		0	0	1
	D	89	13	---	82	71	86
	N	106	16		105	89	106
	P	84.0%	81.3%		78.1%	79.8%	81.1%
Sullivan, J.	O	89	13	82		74	91
	S	0	0	0		0	2
	D	89	13	82	---	74	93
	N	104	16	105		87	104
	P	85.6%	81.3%	78.1%		85.1%	89.4%
Boehm, J.	O	72		71	74		75
	S	0		0	0		1
	D	72	---	71	74	---	76
	N	88		89	87		88
	P	81.8%		79.8%	85.1%		86.4%
Rucker, J.	O	89	14	85	91	75	
	S	0	0	1	2	1	
	D	89	14	86	93	76	---
	N	105	16	106	104	88	
	P	84.8%	87.5%	81.1%	89.4%	86.4%	

<sup>8</sup> 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, 15 is the total number of times Chief Justice Shepard and Justice David agreed in all full majority opinions written by the court in 2010. 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<sup>h</sup>**

Unanimous <sup>i</sup>			Unanimous with Concurrence <sup>j</sup>			Opinions with Dissent			Total
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
34	44	78 (72.9%)	0	2	2 (1.9%)	8	19	27 (25.2%)	107

<sup>h</sup> 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.

<sup>i</sup> 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.

<sup>j</sup> 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**  
**SPLIT DECISIONS<sup>k</sup>**

<b>Justices Constituting the Majority</b>	<b>Number of Opinions<sup>l</sup></b>
1. Shepard, C.J., Dickson, J., Sullivan, J.	1
2. Shepard, C.J., Dickson, J., Boehm, J.	2
3. Shepard, C.J., Dickson, J., David, J.	1
4. Shepard, C.J., Sullivan, J., Rucker, J.	4
5. Shepard, C.J., Boehm, J., Sullivan, J.	1
6. Dickson, J., Boehm, J., Rucker, J.	2
7. Boehm, J., Rucker, J.	1
8. Sullivan, J., Boehm, J., Rucker, J.	1
9. Sullivan, J., Rucker, J., David, J.	1
<b>Total<sup>m</sup></b>	<b>14</b>

<sup>k</sup> This Table concerns only decisions rendered by full opinion. An opinion is counted as a split decision if two or more justices voted to decide the case in a manner different from that of the majority of the court.

<sup>l</sup> This column lists the number of times each group of justices constituted the majority in a split decision.

<sup>m</sup> The 2010 term's split decisions were:

1. Shepard, C.J., Dickson, J., Sullivan, J.: *Whatley v. State*, 928 N.E.2d 202 (Ind. 2010) (Sullivan, J.).
2. Shepard, C.J., Dickson, J., Boehm, J.: *State v. Hobbs*, 933 N.E.2d 1281 (Ind. 2010) (Boehm, J.); *Reiswerg v. Statom*, 926 N.E.2d 26 (Ind. 2010) (Boehm, J.).
3. Shepard, C.J., Dickson, J., David, J.: *Nicson v. State*, 938 N.E.2d 660 (Ind. 2010) (Shepard, C.J.).
4. Shepard, C.J., Sullivan, J., Rucker, J.: *Ind. Dep't of State Revenue v. Belterra Resort Ind., LLC*, 935 N.E.2d 174 (Ind. 2010) (Rucker, J.); *Caesars Riverboat Casino, LLC v. Kephart*, 934 N.E.2d 1120 (Ind. 2010) (Rucker, J.); *Knight v. State*, 930 N.E.2d 20 (Ind. 2010) (Rucker, J.); *St. Joseph Cnty. Comm'rs v. Nemeth*, 929 N.E.2d 703 (Ind. 2010) (Sullivan, J.).
5. Shepard, C.J., Boehm, J., Sullivan, J.: *In re Lauter*, 933 N.E.2d 1258 (Ind. 2010) (per curium).
6. Dickson, J., Boehm, J., Rucker, J.: *Sheehan Constr. Co. v. Cont'l Cas. Co.*, 935 N.E.2d 160 (Ind. 2010) (Rucker, J.); *Baugh v. State*, 933 N.E.2d 1277 (Ind. 2010) (Dickson, J.).
7. Bohm, J., Rucker, J.: *Ind. Family & Soc. Servs. Admin. v. Meyer*, 927 N.E.2d 367 (Ind. 2010) (Boehm, J.).
8. Sullivan, J., Boehm, J., Rucker, J.: *Hopper v. State*, 934 N.E.2d 1086 (Ind. 2010) (Boehm, J.).
9. Sullivan, J., Rucker, J., David, J.: *Galloway v. State*, 938 N.E.2d 699 (Ind. 2010) (Sullivan, J.).

**TABLE E-1**  
**DISPOSITION OF CASES REVIEWED BY TRANSFER**  
**AND DIRECT APPEALS<sup>n</sup>**

	Reversed or Vacated <sup>o</sup>	Affirmed	Total
Civil Appeals Accepted for Transfer	28 (70.0%)	12 (30.0%)	40
Direct Civil Appeals	1 (33.3%)	2 (66.7%)	3
Criminal Appeals Accepted for Transfer	24 (61.5%)	15 (38.5%)	39
Direct Criminal Appeals	1 (33.3%)	2 (66.7%)	3
Total	54 (63.5%)	31 (36.5%)	85 <sup>p</sup>

<sup>n</sup> 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.

<sup>o</sup> 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.

<sup>p</sup> This does not include 17 attorney discipline opinions, 2 judicial discipline opinions, and 5 original action. These opinions did not reverse, vacate, or affirm any other court’s decision.

**TABLE E-2**  
**DISPOSITION OF PETITIONS TO TRANSFER**  
**TO SUPREME COURT IN 2010<sup>a</sup>**

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil <sup>r</sup>	148 (81.3%)	34 (18.7%)	182
Criminal <sup>s</sup>	358 (92.0%)	31 (8.0%)	389
Juvenile	30 (93.8%)	2 (6.3%)	32
Total	536 (88.9%)	67 (11.1%)	603

<sup>a</sup> This Table analyzes the disposition of petitions to transfer by the court. *See* IND. APP. R. 58(A).

<sup>r</sup> This also includes petitions to transfer in tax cases and workers' compensation cases.

<sup>s</sup> This also includes petitions to transfer in post-conviction relief cases.

**TABLE F**  
**SUBJECT AREAS OF SELECTED DISPOSITIONS**  
**WITH FULL OPINIONS<sup>t</sup>**

<b>Original Actions</b>	<b>Number</b>
• Certified Questions	2 <sup>u</sup>
• Writs of Mandamus or Prohibition	3 <sup>v</sup>
• Attorney Discipline	17 <sup>w</sup>
• Judicial Discipline	2 <sup>x</sup>
<b>Criminal</b>	
• Death Penalty	1 <sup>y</sup>
• Fourth Amendment or Search and Seizure	7 <sup>z</sup>
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	0
Trusts, Estates, or Probate	2 <sup>aa</sup>
Real Estate or Real Property	3 <sup>bb</sup>
Personal Property	0
Landlord-Tenant	1 <sup>cc</sup>
Divorce or Child Support	2 <sup>dd</sup>
Children in Need of Services (CHINS)	4 <sup>ee</sup>
Paternity	3 <sup>ff</sup>
Product Liability or Strict Liability	1 <sup>gg</sup>
Negligence or Personal Injury	6 <sup>hh</sup>
Invasion of Privacy	2 <sup>ii</sup>
Medical Malpractice	2 <sup>jj</sup>
Indiana Tort Claims Act	2 <sup>kk</sup>
Statute of Limitations or Statute of Repose	3 <sup>ll</sup>
Tax, Department of State Revenue, or State Board of Tax Commissioners	2 <sup>mm</sup>
Contracts	3 <sup>nn</sup>
Corporate Law or the Indiana Business Corporation Law	1 <sup>oo</sup>
Uniform Commercial Code	2 <sup>pp</sup>
Banking Law	0
Employment Law	4 <sup>qq</sup>
Insurance Law	3 <sup>rr</sup>
Environmental Law	1 <sup>ss</sup>
Consumer Law	0
Workers' Compensation	4 <sup>tt</sup>
Arbitration	1 <sup>uu</sup>
Administrative Law	3 <sup>vv</sup>
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	1 <sup>ww</sup>
Eleventh Amendment	0
Civil Rights	3 <sup>xx</sup>
Indiana Constitution	11 <sup>yy</sup>

<sup>t</sup> 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 2010. 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.

- <sup>u</sup> *In re* ITT Derivative Litig., 932 N.E.2d 664 (Ind. 2010); *Storie v. Randy's Auto Sales, LLC*, 926 N.E.2d 487 (Ind. 2010).
- <sup>v</sup> *State ex rel. Combs v. Decatur Cir. Ct.*, 935 N.E.2d 173 (Ind. 2010); *State ex rel. Center B v. Marion Super. Ct.*, 930 N.E.2d 1137 (Ind. 2010); *Varner v. Ind. Parole Bd.*, 922 N.E.2d 610 (Ind. 2010).
- <sup>w</sup> *In re* Cotton, 939 N.E.2d 619 (Ind. 2010); *In re* McCarthy, 938 N.E.2d 698 (Ind. 2010); *In re* Rawls, 936 N.E.2d 812 (Ind. 2010); *In re* Lauter, 933 N.E.2d 1258 (Ind. 2010); *In re* Anonymous, 932 N.E.2d 1247 (Ind. 2010); *In re* Evans, 932 N.E.2d 676 (Ind. 2010); *In re* Eley, 932 N.E.2d 675 (Ind. 2010); *In re* Anonymous, 932 N.E.2d 671 (Ind. 2010); *In re* Beal, 930 N.E.2d 1130 (Ind. 2010); *In re* Anonymous, 929 N.E.2d 778 (Ind. 2010); *In re* Admission of Atkinson, 929 N.E.2d 208 (Ind. 2010); *In re* Bowlin, 928 N.E.2d 199 (Ind. 2010); *In re* Russell, 928 N.E.2d 198 (Ind. 2010); *In re* DePrez, 928 N.E.2d 198 (Ind. 2010); *In re* Hasler, 927 N.E.2d 366 (Ind. 2010); *State ex rel. State Bar Ass'n v. United Fin. Sys. Corp.*, 926 N.E.2d 8 (Ind. 2010); *In re* Sniadecki, 924 N.E.2d 109 (Ind. 2010).
- <sup>x</sup> *In re* Moreland, 924 N.E.2d 107 (Ind. 2010); *In re* Koethe, 922 N.E.2d 613 (Ind. 2010).
- <sup>y</sup> *Kubsch v. State*, 934 N.E.2d 1138 (Ind. 2010).
- <sup>z</sup> *State v. Hobbs*, 933 N.E.2d 1281 (Ind. 2010); *Meister v. State*, 933 N.E.2d 875 (Ind. 2010); *Duran v. State*, 930 N.E.2d 10 (Ind. 2010); *Brown v. State*, 929 N.E.2d 204 (Ind. 2010); *State v. Richardson*, 927 N.E.2d 379 (Ind. 2010); *State v. Schlechty*, 926 N.E.2d 1 (Ind. 2010); *Shotts v. State*, 925 N.E.2d 719 (Ind. 2010).
- <sup>aa</sup> *In re* Estate of Rickert v. Taylor, 932 N.E.2d 726 (Ind. 2010); *St. Joseph Cnty. Comm'rs v. Nemeth*, 929 N.E.2d 703 (Ind. 2010).
- <sup>bb</sup> *Neu v. Gibson*, 928 N.E.2d 556 (Ind. 2010); *Murray v. City of Lawrenceburg*, 925 N.E.2d 728 (Ind. 2010); *Carter v. Nugent Sand Co.*, 925 N.E.2d 356 (Ind. 2010).
- <sup>cc</sup> *Hamilton Cnty. Prop. Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654 (Ind. 2010).
- <sup>dd</sup> *Bingley v. Bingley*, 935 N.E.2d 152 (Ind. 2010); *Johnson v. Johnson*, 920 N.E.2d 253 (Ind. 2010).
- <sup>ee</sup> *In re* L.D., 938 N.E.2d 666 (Ind. 2010); *In re* I.A., 934 N.E.2d 1127 (Ind. 2010); *In re* I.B., 933 N.E.2d 1264 (Ind. 2010); *In re* N.E., 919 N.E.2d 102 (Ind. 2010).
- <sup>ff</sup> *In re* P.S.S., 934 N.E.2d 737 (Ind. 2010); *In re* N.L.P., 926 N.E.2d 20 (Ind. 2010); *In re* N.E., 919 N.E.2d 102 (Ind. 2010).
- <sup>gg</sup> *TRW Vehicle Safety Sys. v. Moore*, 936 N.E.2d 201 (Ind. 2010).
- <sup>hh</sup> *Id.*; *Caesars Riverboat Casino, LLC v. Kephart*, 934 N.E.2d 1120 (Ind. 2010); *Kroger Co. v. Plonski*, 930 N.E.2d 1 (Ind. 2010); *U.S. Bank, N.A. v. Integrity Land Title Corp.*, 929 N.E.2d 742 (Ind. 2010); *Indianapolis-Marion Cnty. Pub. Library v. Charlier Clark & Linard, P.C.*, 929 N.E.2d 722 (Ind. 2010); *Sibbing v. Cave*, 922 N.E.2d 594 (Ind. 2010).
- <sup>ii</sup> *West v. Wadlington*, 933 N.E.2d 1274 (Ind. 2010); *Dugan v. Mittal Steel USA Inc.*, 929 N.E.2d 184 (Ind. 2010).
- <sup>jj</sup> *Eads v. Cmty. Hosp.*, 932 N.E.2d 1239 (Ind. 2010); *Ind. Patient's Comp. Fund v. Patrick*, 929 N.E.2d 190 (Ind. 2010).
- <sup>kk</sup> *Wilson v. Isaacs*, 929 N.E.2d 200 (Ind. 2010); *Bules v. Marshall Cnty.*, 920 N.E.2d 247 (Ind. 2010).
- <sup>ll</sup> *Eads v. Cmty. Hosp.*, 932 N.E.2d 1239 (Ind. 2010); *Reiswerg v. Statom*, 926 N.E.2d 26 (Ind. 2010); *Murray v. City of Lawrenceburg*, 925 N.E.2d 728 (Ind. 2010).
- <sup>mmm</sup> *Hamilton Cnty. Prop. Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654 (Ind. 2010); *Ind. Dep't of State Revenue v. Belterra Resort Ind., LLC*, 935 N.E.2d 174 (Ind. 2010).
- <sup>nn</sup> *In re* ITT Derivative Litig. v. ITT Corp., 932 N.E.2d 664 (Ind. 2010).
- <sup>oo</sup> *U.S. Bank, N.A. v. Integrity Land Title Corp.*, 929 N.E.2d 742 (Ind. 2010); *Indianapolis-Marion Cnty. Pub. Library v. Charlier Clark & Linard, P.C.*, 929 N.E.2d 722 (Ind. 2010); *Found. of E. Chi., Inc. v. City of E. Chi.*, 927 N.E.2d 900 (Ind. 2010).
- <sup>pp</sup> *Indianapolis-Marion Cnty. Pub. Library v. Charlier Clark & Linard, P.C.*, 929 N.E.2d 722 (Ind. 2010); *Storie v. Randy's Auto Sales, LLC*, 926 N.E.2d 487 (Ind. 2010).

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<sup>qq</sup> Ghosh v. Ind. State Ethics Comm'n, 930 N.E.2d 23 (Ind. 2010); Dugan v. Mittal Steel USA Inc., 929 N.E.2d 184 (Ind. 2010); Beckingham v. Review Bd. of the Ind. Dep't of Workforce Dev., 927 N.E.2d 913 (Ind. 2010); Giovanoni v. Review Bd. of the Ind. Dep't of Workforce Dev., 927 N.E.2d 906 (Ind. 2010).

<sup>rr</sup> Nat'l Union Fire Ins. Co. v. Std. Fusee Corp., 940 N.E.2d 810 (Ind. 2010); Sheehan Constr. Co. v. Cont'l Cas. Co., 935 N.E.2d 160 (Ind. 2010); Everett Cash Mut. Ins. v. Taylor, 926 N.E.2d 1008 (Ind. 2010).

<sup>ss</sup> Nat'l Union Fire Ins. Co. v. Std. Fusee Corp., 940 N.E.2d 810 (Ind. 2010).

<sup>tt</sup> Travelers Indem. Co. of Am. v. Jarrells, 927 N.E.2d 374 (Ind. 2010); Everett Cash Mut. Ins. v. Taylor, 926 N.E.2d 1008 (Ind. 2010); Smith v. Champion Trucking Co., 925 N.E.2d 362 (Ind. 2010); Wash. Twp. Fire Dep't v. Beltway Surgery Ctr., 921 N.E.2d 825 (Ind. 2010).

<sup>uu</sup> Ghosh v. Ind. State Ethics Comm'n, 930 N.E.2d 23 (Ind. 2010).

<sup>vv</sup> *Id.*; Ind. Family & Soc. Servs. Admin. v. Meyer, 927 N.E.2d 367 (Ind. 2010); Carter v. Nugent Sand Co., 925 N.E.2d 356 (Ind. 2010).

<sup>ww</sup> Shotts v. State, 925 N.E.2d 719 (Ind. 2010).

<sup>xx</sup> Koenig v. State, 933 N.E.2d 1271 (Ind. 2010); Murphy v. Fisher, 932 N.E.2d 1235 (Ind. 2010); League of Women Voters of Ind., Inc. v. Rokita, 929 N.E.2d 758 (Ind. 2010).

<sup>yy</sup> Sample v. State, 932 N.E.2d 1230 (Ind. 2010); Duran v. State, 930 N.E.2d 10 (Ind. 2010); League of Women Voters of Ind., Inc. v. Rokita, 929 N.E.2d 758 (Ind. 2010); Brown v. State, 929 N.E.2d 204 (Ind. 2010); Found. of E. Chi., Inc. v. City of E. Chi., 927 N.E.2d 900 (Ind. 2010); State v. Richardson, 927 N.E.2d 379 (Ind. 2010); State v. Schlechty, 926 N.E.2d 1 (Ind. 2010); Shotts v. State, 925 N.E.2d 719 (Ind. 2010); Jackson v. State, 925 N.E.2d 369 (Ind. 2010); Beattie v. State, 924 N.E.2d 643 (Ind. 2010); Treadway v. State, 924 N.E.2d 621 (Ind. 2010).

