

PUBLICATION

Justice Scalia's Sudden Death: What Does It Mean for You?

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The news of Justice Antonin Scalia's death at a hunting lodge in Texas on February 13th rocked the country over Valentine's weekend. The timing and suddenness of the staunch conservative's death during President Obama's last year in office opens up a host of issues and questions to be resolved. Justice Scalia's absence on the Supreme Court will affect several high profile cases, resulting in significant impacts on several different segments of the population. In losing a frequent fifth vote for the conservative end of the ideological spectrum, the Supreme Court will be left with an ideological tie of a 4-4 split between conservatives and liberals.

What does this mean for pending cases? In cases where the Justices are evenly divided, the Court may automatically affirm the pending Court of Appeals decision without creating a precedent or writing a lengthy opinion in the case. Another option for the Court would be to schedule reargument for next term when perhaps a new Justice can take the bench. Currently on the court's docket for this term are important cases relating to public unions, abortion, contraception and the interpretation of the Affordable Care Act, voting rights and affirmative action. On January 11th, the Court heard oral arguments involving whether to overturn a nearly forty year precedent allowing public unions to require employees who are not members of the union to pay fees to support the union's political activities. Following oral argument, it appeared that the five conservative Justices might overrule that precedent, but Justice Scalia's death will likely mean that the ruling favoring public unions will stand, resulting in a surprise liberal win. There's a catch, however, as the ruling will not apply outside of the Ninth Circuit, so there may be additional nationwide fights over the issue. Other important rulings may be affected as well, and it remains to be seen if the Republican-controlled Congress will act on any new Supreme Court nominee from President Obama, so stay tuned to this somewhat unusual circumstance affecting us all.