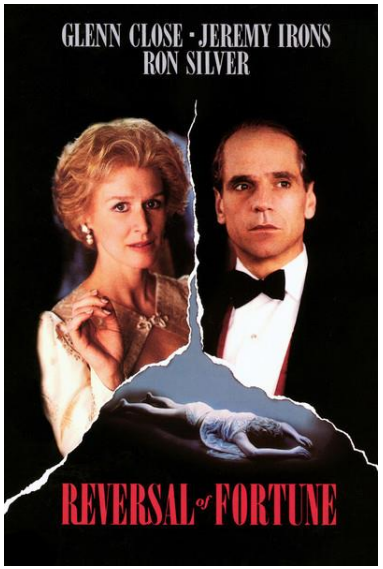
REVERSALS OF FORTUNE



Reversal of Fortune (1990)

Marshall H. Tanick

MINNESOTA SUPREME COURT

OVERRULING PRECEDENT IN MINNESOTA:

Spring 2026

Presented By:
Marshall H. Tanick
Meyer Njus Tanick Linder Robbins, P.A.

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SUPREME SUITS

U.S. Supreme Court Building

Precedents In
U.S. Supreme Court
Some 200-plus Reversals by
High Court
Ranging from *Brown v. Board of Education*, 345 U.S. 483 (1954), racial overturning "separate but equal" doctrine of Plessey v. Ferguson, 163 U.S. 537 (1896), to *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), overturning reproductive rights of *Roe v. Wade*, 410 U.S. 113 (1973) and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

SUPREME SUITS (cont.)

Shelley v. Kraemer, 334 U.S. 1 (1948), overturning permissibility of racial housing covenants in ***Corrigan v. Buckley***, 27 U.S. 323 (1926); ***Gideon v. Wainwright,*** 372 U.S. 335 (1963); Criminal right to counsel overturning Brady v. Betts, 316 U.S. 455 (1942) and many others.

Mapp v. Ohio, 367 U.S. 643 (1961), Exclusionary for meaningful evidence regarding ***Wolf v. Colorado***, 338 U.S. 25 (1949); West ***Virginia State Bd. of Education v. Barrette***, 319 U.S. 624 (1943), voluntary pledge of allegiance overturning mandatory requirements in ***Minersville Sch. Dist. v. Gobitis,*** 310 U.S. 586 (1940).

SUPREME SUITS (CONT.)

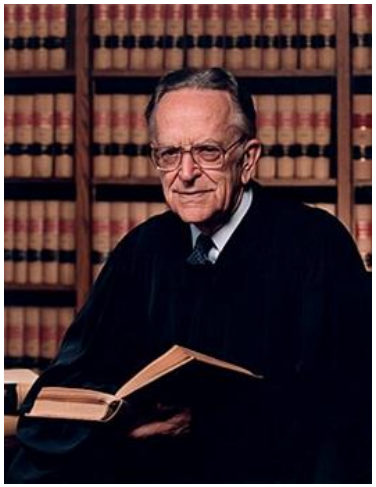
U.S. Supreme Court Justices

Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024) overturning "Chevron" administrative deference doctrine in ***Chevron v. Natural Resources Defense Council***, 467 U.S. 837 (1988); ***Janus v. AFSCME***, 585 U.S. 878 (2018), setting aside ***Abood v. Detroit Board of Education***, 431 U.S. 209 (1979) (compulsory union dues) ***Lawrence v. Texas***, 539 U.S. 558 (2003), overruling ***Bowers v. Hardwick***, 478 U.S. 186 (1996)(sodomy prohibition).

REVERSALS REFRAINED

Curt Flood

But High Court also has refrained from overruling precedent in some cases that it felt were wrong, deeming Stare decisis more compelling than getting it right. ***Flood v. Kuhn***, 407 U.S. 258 (1972) Justice Harry Blackmun follows ***Federal Baseball Club v. National League***, 259 U.S. 250 (1922) that baseball is not an interstate "business" subject to anti-trust "restraint of trade" law.



Justice Harry Blackmun

Blackmun: "Unrealistic, inconsistent or illogical" … but it has been with us now for a half a century and fully entitled to the benefit of *stare decisis* to avoid "confusion and retroactivity problems."

REVERSALS REFRAINED (cont.)

Mackey v. NFL, 543 F.2d 606 (8th Cir. 1977) affirming 407 F. Supp. 1000 (1975) (Larson, J.) invalidating Rozelle Rule in football and other sports, too.

Upshot is arbitration rulings demolishing "reserve clause" and leads to "free agency in professional sports," NIL in colleges

Alston v. NCAA, 594 U.S. 69 (2021).

REVERSALS REFRAINED (CONT.)

Dickerson v. United States, 530 U.S. 428 (2000) Anti-Miranda Chief Justice William Rehnquist refusing to overturn 5th Amendment "warnings" of ***Miranda v. Arizona***, 384 U.S. 436 (1966) as part of "our national culture."

Chief Justice William Rehnquist

MINNESOTA MATTERS

One of the 200-plus reversals was a Minnesota case.

Baker v. Nelson, 409 U.S. 810 (1972), the "same sex"

marriage case from Hennepin County, 291 Minn. 310,

191 N.W.2d 188 (1971).

The High Court refused to hear the appeal of the dismissal of the lawsuit by the Hennepin County District Court and the affirmance by the state Supreme Court based, in part, upon a portion of the Biblical book of *Genesis*. The High court dismissed the appeal "for want of a substantial Federal question."

MINNESOTA MATTERS (cont.)

But the Justices by a 5-4 vote in ***Obergefell v. Hodges***, 576 U.S. 644 (2015) invalidated state prohibitions on Equal Protection grounds and ended by saying "***Baker v. Nelson*** is overruled."

Then, this Term it denied certiorari to review the ***Obergefell*** ruling, despite the concurrence of Justice Clarence Thomas in his concurrence in the ***Dobbs*** case, rejecting certiorari in ***Davis v. Ermold***, No. 205-25 (Nov. 10, 2025).

* * * * * * * * * * * * * * * *

The Minnesota Supreme Court has departed from precedents on several occasions or outright overruled them.

Cooper v. USA Powerlifting, 26 N.W.3d 604 (Minn. 2025) (exclusion of transgender weightlifters from women's competition deemed violation of Human Rights Act, Minn. Stat. § 363.03, subd. (2) *stepping* away from ***Goins v. West Group***, 635 N.W.2d 717 (Minn. 2001)(workplace restroom gender differential permissible.)

MINNESOTA MATTERS (cont.)

- The exclusivity provision of the workers compensation law was the source of reversal of a 30-year precedent in ***Daniel v. City of Minneapolis,*** 923 N.W.2d 637 (Minn. 2019). Reversing its three-decade old ruling in ***Karst v. F.C. Hayes Co.,*** 447 N.W.2d 180 (1989), the Court held that the bar in Minn. Stat. § 176.031 does not preclude a disability discrimination claim for the same injury underlying a workers compensation claim. Over two dissents, the justices allowed the disability claim to proceed, but warned that the employee cannot obtain "double recovery" for the same injury. The claimant, an injured Minneapolis firefighter, then received a $750,000 settlement.

MINNESOTA MATTERS (CONT.)

Lake v. Walmart Stores, Inc., 582 N.W.2d 231 (Minn. 1998) (recognizing right of privacy after years of lower court refusals). ***House v. Sports Films & Talents, Inc***., 351 N.W.2d 684 (Minn. App. 1984). Remand, trial: No liability, unauthorized tortious conduct.

But later limited to "widespread distribution" in ***Bodah v. Lakeville Motor Express***, 663 N.W.2d 580 (Minn. 2002).

Hook & Ladder Apartments v. Nolewaja

25 N.W.3d 867 (Minn. 2025): Departure

from 30-year old Appellate Court ruling

from Hennepin County allows a tenant to avoid eviction of landlord accepts late rent payments departing from ***Westminster v. Anderson***, 538 N.W.2d 340 (Minn. App. 1995), Supreme Court adopts new "waiver by acceptance" claim.

Oanes v. Allstate Ins. Co., 617 N.W.2d 401 (Minn. 2000) Limitations period for Underinsured Motorist (UIM) claim in Hennepin County runs from date of settlement or judgment with tortfeasor, not date of accident.

Johnson v. Chicago B&Q RR Co., 243 Minn. 58, 66 N.W.2d 763 (1954): Overruling precedent barring former non convenience for venue change from ***Boright v. Chicago R.I. & P. Ry. Co.***, 230 N.W.2d 457 (1930).

HENNEPIN HERE (CONT.)

Nieting v. Blondell, 235 N.W.2d 597 (Minn. 1975): Overrules sovereign immunity in vehicle accident in St. Paul after upholding it six years earlier in ***Johnson v. Callisto***, 176 N.W.2d 754 (Minn. 1970) in deferring to legislation. But Minn. Stat. § 3.76 sets damages limitations.

Anderson v. Stream, 295 N.W.2d 596 (Minn. 1980). Abolition of parental immunity in nearby Victoria Street automobile accident.

PRECEDENT PROCEDURES

Rule 11, Minn. Stat. § 549.21 “Good faith modification of existing law” when challenging precedent.

Rule 117, Minnesota Rules of Civil Appellate Procedure: Petition for Review, granted 14%, Does case call for “application of a new principle or policy” or bound by precedent.

WHY FOLLOW PRECEDENT

FROM THE ***JANUS*** CASE:

1. Even Handed
2. Predictable
3. Consistency
4. Stability
5. Planning

… AND WHY NOT …

AND ***DOBBS,*** TOO

1. Constitutional Issues
2. Quality of Reasoning
3. Workability/feasibility
4. Consistency with Related Decisions
5. New Developments
6. Reliance


That's all Folks!