

## SCOTUS Opinion: Judges Cannot Vote On Cases After Death

25 Feb 2019

In [Yovino v. Rizo](#), the Ninth Circuit heard the case en banc (with 11 then-sitting judges) to restate that circuit's interpretation of the [Equal Pay Act](#). Judge Stephen Reinhardt authored the majority opinion that was joined by six of the judges, including Reinhardt himself. The other five judges filed concurrences that reached a similar result but under different rationales. Therefore, Reinhardt's view became the new, binding interpretation. However, 11 days before the opinions were released, Reinhardt died. On appeal, the question was whether Reinhardt's opinion and vote survived his death. The Court, in a unanimous per curiam decision (Justice Sotomayor concurred in the result only), reversed, holding that Reinhardt was "appointed for life, not for eternity," and thus he had no power to issue a vote or any opinion upon his death. The Court noted that even though the Circuit judges had voted on the issue and drafted their opinions prior to his death, nothing rendered those positions "immutable" prior to public release, as a judge is free to change his or her position at any time prior to such a release. The case was therefore remanded to the Ninth Circuit for reconsideration, presumably with another judge taking Reinhardt's place. A link to the decision is [here](#).

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**TAGGED:** scotus, Yovino v. Rizo, Equal Pay Act, appointed for life



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