

# The Lexicon Remains a Fortress: An Update

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**I**N EARLY 1999, we comprehensively analyzed the United States Supreme Court's reliance on dictionaries.<sup>1</sup> Since that time, the biggest newsworthy use of definitions apart from the dispute over "what the meaning of the word 'is' is,"<sup>2</sup> was the *Oxford English Dictionary* adding the term "doh!" as used by wordsmith Homer Simpson in *The Simpsons* cartoon series.<sup>3</sup> Additionally, the Supreme Court confirmed our predictions about judicial reliance on dictionaries.

## OUR PREDICTIONS

Our Article reported that, in the 1960s, the Supreme Court relied on dictionaries in just 16 opinions to define 23 terms.<sup>4</sup> Since that time, however, dictionary use had exploded and we found that, from the year 1990 through the 1997-98 Term, the Court had relied on dictionaries in nearly 180 opinions to define more than 220 terms.<sup>5</sup> We observed that, in the 1990s, the Court was on a pace to

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1 Samuel A. Thumma & Jeffrey L. Kirchmeier, *The Lexicon Has Become a Fortress: The United States Supreme Court's Use of Dictionaries*, 47 *BUFF. L. REV.* 227 (1999).

2 *Nation Sees Combative President's Testimony*, *San Francisco Examiner*, Sept. 21, 1998, at A-1.

3 Oliver Libaw, *Doh! Oxford Dictionary Takes Homer Simpson*, [http://dailynews.yahoo.com/h/abc/20010614/en/dictionary010614\\_1.html](http://dailynews.yahoo.com/h/abc/20010614/en/dictionary010614_1.html) (June 14, 2001) ("'Doh' is now defined as 'Expressing frustration at the realization that things have turned out badly or not as planned, or that one has just said or done something foolish,' according to the new entry in the [Oxford English D]ictionary. ... *The Simpsons* ... only popularized the term; it was actually used extensively in the 1950s, the OED found."). At the same time, the OED also added "some 250 new words and senses across the alphabet," including ".com," "control freak," "deejay," "FAQ," "gangsta rap," "genetic engineering," "protocol," "Internet," "peace dividend," "serial killer," "student loan," "24-7" and "urban legend." 17 *Oxford English Dictionary News*, Series 2 (June 2001).

4 Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 251-52.

5 *Id.* at 256.

cite dictionaries in 210 opinions to define 260 terms over the course of the decade.<sup>6</sup> Given this extraordinary expansion in usage, we predicted that: “At the Court’s present rate, the decade of the 1990s will give rise to nearly half of all the opinions in the Court’s two-century history where a Justice has relied on a dictionary.”<sup>7</sup>

### THE COURT’S USE OF DICTIONARIES IN THE 1990S (AND BEYOND)

Our Article reviewed cases decided through the end of the 1997-98 Term. Since that time through the remainder of the 1990s, the Court relied upon dictionaries in 23 different opinions to define 28 words and phrases.<sup>8</sup> Thus, our predictions were correct: the 1990s alone accounted for nearly half of all the opinions in Supreme Court history in which the Court relied on a dictionary.

In addition, the three Terms since the 1997-98 Term generally provided a continuation of what we observed. Our Article reported that Justices Scalia and Thomas were the current members of the Court who most frequently rely on dictionaries, with Justice Scalia, on

average, citing a dictionary in 4.17 opinions per year to define 5.42 terms and Justice Thomas citing a dictionary in 3.57 opinions per year to define 4.14 terms.<sup>9</sup> In the three Terms following our Article, Justice Scalia cited the dictionary in an average of 4.0 opinions per Term to define 4.33 terms, while Justice Thomas cited the dictionary in 3.66 opinions per Term to define 4.0 terms.<sup>10</sup> With few exceptions, the remaining Justices cited dictionaries in the last three Terms at rates comparable to the usage we reported through the 1997-98 Term.<sup>11</sup>

There have been even fewer changes in the specific dictionaries used.<sup>12</sup> Various versions of *Webster’s* continue to be the most frequently cited general usage dictionaries, while various versions of *Black’s* continue to be the most frequently cited law dictionaries.<sup>13</sup> Interestingly, notwithstanding widespread availability, no opinion expressly cited or relied upon a definition obtained on the Internet.<sup>14</sup>

### RECENT DECISIONS SHOW SOME SKEPTICISM REGARDING THE USE OF DICTIONARIES

Our Article argued that the Court should rely

6 *Id.* at 256-60.

7 *Id.* at 260.

8 See Appendices A & B.

9 Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 262.

10 See Appendix B.

11 Compare Appendix B with Thumma & Kirchmeier, 47 *BUFF. L. REV.* Appendix B. The rates are not identical and there are a few notable changes, particularly for Justice Souter. Through the 1997-98 Term, we noted that, after Justices Scalia and Thomas, Justice Souter was the “current member[] of the Court who rel[ied] on dictionaries most frequently.” 47 *BUFF. L. REV.* at 262. In the past three Terms, however, Justice Souter has relied upon dictionaries in a total of just three opinions to define three terms. Appendix B. During this same period, Justices Stevens (2.0 opinions per Term to define 3.33 terms) and Justices Kennedy and O’Connor (both citing dictionaries in 2.33 opinions per Term to define 3.0 terms) have used dictionaries more frequently than Justice Souter. *Id.*

12 Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 262-63 & Appendix C (discussing dictionaries cited by the Court through the 1997-98 Term).

13 Appendix C.

14 E.g., <http://www.m-w.com/>; <http://www.oed.com/>; <http://www.dictionary.com/>; <http://www.constitution.org/bouv/bouvier.htm/> (containing Bouvier’s Law Dictionary (rev. 6th ed. 1856)).

less on bare dictionary definitions and place more emphasis on “context, conduct, purpose, history and other relevant sources.”<sup>15</sup> Since then, the Court has at times exhibited some skepticism about the use of dictionaries in legal analysis.

*Duncan v. Walker* decided whether the phrase “State post-conviction or other collateral review” included federal habeas corpus review.<sup>16</sup> Interestingly, the Court did not refer to the dictionary in trying to define that phrase. In a dissenting opinion, however, Justice Breyer correctly observed:

Language, dictionaries, and canons, unilluminated by purpose, can lead courts into blind alleys, producing rigid interpretations that can harm those whom the statute affects. If generalized, the approach, bit by bit, will divorce law from the needs, lives, and values of those whom it is meant to serve – a most unfortunate result for a people who live their lives by law’s light.<sup>17</sup>

In *Booth v. Churner*, the Court noted how both parties in a civil rights action used

different dictionary definitions to support their arguments regarding the interpretation of the statutory terms “remedies” and “available.”<sup>18</sup> Consistent with Justice Breyer’s dictum in *Duncan*, because the definitions differed depending upon which dictionaries were consulted, the Court rejected such definitions, finding that “[c]learer clues” as to meaning were to be found in “the broader statutory context” used by Congress and “statutory history.”<sup>19</sup>

The approach in *Booth* was comparatively bold but appropriate. The Court might consider applying such skepticism in general but also, in particular, to cases where different Justices use different dictionaries to support different conclusions. That issue, discussed and criticized in our Article,<sup>20</sup> has arisen with some frequency in recent cases such as *Williams v. Taylor*,<sup>21</sup> *Stenberg v. Carhart*,<sup>22</sup> *Davis v. Monroe County Board of Education*,<sup>23</sup> *Johnson v. United States*,<sup>24</sup> and *Buckhannon Board and Care Home, Inc. v. West Virginia Department of Health and Human Resources*,<sup>25</sup> as well as in

15 Thumma & Kirchmeier, 47 BUFF. L. REV. at 298.

16 121 S. Ct. 2120 (2001) (construing 28 U.S.C. § 2244(d)(2) (1996)).

17 121 S. Ct. at 2135 (Breyer, J., dissenting).

18 121 S. Ct. 1819, 1822-23 (2001) (construing 42 U.S.C. § 1997e(a)).

19 121 S. Ct. at 1820.

20 See Thumma & Kirchmeier, 47 BUFF. L. REV. at 269-72.

21 529 U.S. 362, 389 (2000) (Stevens, J.) (defining “contrary to” using *Webster’s Ninth New Collegiate Dictionary* (1983)); 529 U.S. at 405 (O’Connor, J.) (opinion of the Court) (defining “contrary to” using *Webster’s Third New International Dictionary* (1976)).

22 530 U.S. 914, 944 (2000) (Breyer, J.) (defining “deliver” and “delivery” using, inter alia, the *Oxford English Dictionary* (2d ed. 1989) and *Webster’s Third New International Dictionary* (1993)); 530 U.S. at 990-91 (Thomas, J., dissenting) (defining “deliver” using, inter alia, *Webster’s Ninth New Collegiate Dictionary* (1991)).

23 526 U.S. 629, 645 (1999) (O’Connor, J.) (defining “under” using *Webster’s Third New International Dictionary* (1961) and *Random House Dictionary of the English Language* (1966)); 526 U.S. at 659 (Kennedy, J., dissenting) (defining “under” using *Webster’s Third New International Dictionary* (1981); *American Heritage Dictionary* (New College ed. 1981) and *Random House Dictionary of the English Language* (2d ed. 1987)).

24 529 U.S. 694, 704-06 n.9 (2000) (Souter, J.) (defining “revoke” using *Webster’s Third New Int’l Dictionary* (1981) and *Oxford English Dictionary* (2d ed. 1989)); 529 U.S. at 715, 719 n.4 (Scalia, J., dissenting) (defining “revoke” using those and numerous other dictionaries).

25 121 S. Ct. 1835, 1839 (2001) (Rehnquist, C.J.) (defining “prevailing party” using *Black’s Law Dictionary* (7th ed. 1999)); 121 S. Ct. at 1855 (Ginsburg, J., dissenting) (defining “prevail” using *Webster’s Third New International Dictionary* (1976)).

numerous older cases.<sup>26</sup> Even more troubling is that the Justices continue to use a variety of different dictionaries to make their points without discussing why certain dictionaries are used.

Earlier this year, however, several of the Justices discussed the issue of dictionary selection. Our Article observed that the Court has never come close to selecting an “official Court dictionary,” although one of the most-used dictionaries is *Black’s Law Dictionary*.<sup>27</sup> In *Buckhannon*, the Justices addressed whether a *Black’s Law Dictionary* definition should carry more weight than definitions in other dictionaries. They did so, however, in three different and somewhat opaque opinions.

*Buckhannon* addressed the meaning of the phrase “prevailing parties” in two cost- and fee-shifting statutes.<sup>28</sup> The majority opinion by Chief Justice Rehnquist used *Black’s Law Dictionary*, without any comment on the

reason for the choice.<sup>29</sup> Justice Ginsburg’s dissent (joined by Justices Stevens, Souter and Breyer) criticized the majority’s conclusion, stated that the Court had never treated *Black’s Law Dictionary* “as preclusively definitive” and advocated looking at the context of the term, prior cases, and *Webster’s Third New International Dictionary*.<sup>30</sup> Justice Scalia’s concurrence (joined by Justice Thomas) stated that prior cases rejecting *Black’s Law Dictionary* definitions did so only because such definitions were inconsistent with case law, which was not the case in *Buckhannon*.<sup>31</sup> When there is no such inconsistency, Justice Scalia stated, the Court does not “simply reject a relevant definition of a word tailored to judicial settings in favor of a more general definition from another dictionary.”<sup>32</sup>

Notwithstanding these divergent statements, in the 170 years that the Court has relied upon dictionaries,<sup>33</sup> no Court opinion has ever stated the proposition set forth in

26 See, e.g., *Browning-Ferris Indus. of Vermont, Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 274-76 (1989) (defining “fines for offenses” using *Bouvier, Law Dictionary* (4th ed. 1852) and other dictionaries); 492 U.S. at 297 (O’Connor, J., concurring in part & dissenting in part) (defining “fine” using *Black’s Law Dictionary* (5th ed. 1979) and other dictionaries); *Farmer v. Brennan*, 511 U.S. 825, 854-55 (1994) (Blackmun, J., concurring) (defining “punishment” using *Webster’s Third New Int’l Dictionary* (1961) and *Webster’s New Int’l Dictionary of the English Language* (1923)); 511 U.S. at 859 (Thomas, J., concurring) (defining “punishment” using *Black’s Law Dictionary* (6th ed. 1990) and *Sheridan, A General Dictionary of the English Language* (1780)); *McI Telecommunications Corp. v. American Telephone and Telegraph Co.*, 512 U.S. 218, 225, 226-28 n.2 (1994) (Scalia, J.) (defining “modify” using *Black’s Law Dictionary* (6th ed. 1990) and other dictionaries); 512 U.S. at 240-42 (Stevens, J., dissenting) (defining “modify” using *Oxford English Dictionary* (2d ed. 1989) and other dictionaries).

27 See Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 262-63, 269-72.

28 *Buckhannon*, 121 S. Ct. at 1838 (construing 42 U.S.C. § 3613(c)(2) and 42 U.S.C. § 12205).

29 121 S. Ct. at 1839.

30 *Id.* at 1853-55 (Ginsburg, J., dissenting). Although Justice Ginsburg did not expressly state why that dictionary was selected, *Webster’s Third New International Dictionary* is “the Court’s most popular general usage dictionary.” Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 262-63.

31 *Buckhannon*, 121 S. Ct. at 1846 (Scalia, J., concurring).

32 *Id.*


33 Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 290 (noting Court had “relied on dictionaries to define words and phrases for nearly 170 years, and yet there are few real guidelines for when such use is proper or how the dictionary should be used generally. Rather, the Court’s approach in using dictionaries has varied and is inconsistent on many levels. Opinions relying upon a dictionary have differed in several major respects in determining the appropriate definition, in selecting the proper dictionary, in selecting the proper edition and even in agreeing on the proper word to be defined.”) (footnote omitted).

Justice Scalia's concurrence that there is a preference for legal dictionaries. Moreover, Justice Scalia (and Justice Thomas as well) frequently rely on dictionaries other than *Black's Law Dictionary* and have relied on both *Black's* and *Webster's* to define the same term in the same opinion.<sup>34</sup> Given *Buckhannon*, however, *Black's Law Dictionary* may be the presumptive dictionary used by Justices Scalia and Thomas, at least for words and phrases "tailored to judicial settings."

An express indication by the Court that certain dictionaries will be given priority could create more consistency in its use of dictionaries. Perhaps Justice Scalia's analysis – that *Black's Law Dictionary* should be relied upon for interpreting legal terms unless contrary to prior case law – will help add predictability. However, the force of any such express endorsement by the entire Court (and the resulting adverse reactions by publishers of disfavored lexicons) would be extraordinarily limited. Even if a single edition of a single dictionary were used by the Court for all purposes in all opinions – a position never advocated by any Justice in the history of the Court – such a practice would not justify blind reliance on dictionary definitions. Although dictionaries may be an appropriate starting

point, "the Court should use other factors such as context, conduct, purpose and history to determine the appropriate meaning" of a term or phrase at issue.<sup>35</sup> Although dicta confirm the importance of this approach, nothing the Court has done since our Article has changed the force of this proposition that oftentimes goes unheeded.



The Court's varied and inconsistent debate about words and dictionaries that began in the 1800s and grew throughout the 1900s continues into the new century. In these more recent cases, the Court still shows a tendency to rely upon dictionaries, but the Justices are more expressly debating the benefits of such reliance and have a growing understanding that "dictionaries ... unilluminated by purpose, can lead courts into blind alleys."<sup>36</sup> Although we were correct in our previous predictions about trends in the Court using dictionaries, some of these more recent cases suggest the Court will take a more skeptical and logical approach in using dictionaries – and perhaps, in the process, even apply the analysis set forth in our Article. 



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<sup>34</sup> Thumma & Kirchmeier, 47 *BUFF. L. REV.* at 442-50, 460-63.

<sup>35</sup> *Id.* at 301.

<sup>36</sup> *Duncan v. Walker*, 121 S. Ct. 2120, 2135 (2001) (Breyer, J., dissenting).

**APPENDIX A:**  
**TERMS DEFINED BY THE UNITED STATES SUPREME COURT**  
**(1998 TERM THROUGH 2000 TERM)**

**Abridge**

*Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320, 333-34 (2000)  
(Scalia, J.)  
Webster's New Int'l Dictionary (2d ed. 1950)  
American Heritage Dictionary (3d ed. 1992)

**Administer**

*Lopez v. Monterey County*, 525 U.S. 266, 277-78 (1999)  
(O'Connor, J.)  
Webster's Third New Int'l Dictionary (1961)  
Random House Dictionary of the English Language  
(2d ed. 1987)  
Black's Law Dictionary (6th ed. 1990)

**Arrest**

*Atwater v. City of Lago Vista*, 121 S. Ct. 1536, 1545 (2001)  
(Souter, J.)  
Cunningham, A New and Complete Law Dictionary  
(1771)  
Jacob, The Law Dictionary (1st Am. ed. 1811)

**Arrive**

*Nat'l Federation of Fed. Employees v. Dept. of Interior*, 526  
U.S. 86, 102 (1999) (O'Connor, J., dissenting)  
Webster's Third New Int'l Dictionary (1976)

**Associate**

*Cedric Kushner Promotions, Ltd. v. King*, 121 S. Ct. 2087,  
2090 (2001) (Breyer, J.)  
Webster's Third New Int'l Dictionary (1993)  
  
*City of Erie v. Pap's A.M.*, 529 U.S. 277, 355 n.8 (2000)  
(Stevens, J., dissenting)  
Webster's Third Int'l Dictionary (1966)

**Atrocious**

*I.N.S. v. Aguirre-Aguirre*, 526 U.S. 415, 430 (1999)  
(Kennedy, J.)  
Webster's Third New Int'l Dictionary (1971)

**Automatic**

*Miller v. French*, 530 U.S. 327, 359 (2000) (Breyer, J.,  
dissenting)  
Webster's Third New Int'l Dictionary (1993)

**Benefit**

*Fischer v. United States*, 529 U.S. 667, 677 (2000)  
(Kennedy, J.)  
Webster's Third New Int'l Dictionary (1971)  
  
*Fischer v. United States*, 529 U.S. 667, 682 (2000) (Thomas,  
J., dissenting)  
Webster's Third New Int'l Dictionary (1971)

**Civil Conspiracy**

*Beck v. Prupis*, 529 U.S. 494, 504 (2000) (Thomas, J.)  
Ballentine's Law Dictionary (3d ed. 1969)  
Black's Law Dictionary (4th ed. 1968)

**Coal**

*Amoco Production Co. v. Southern Ute Indian Tribe*, 526 U.S.  
865, 874 (1999) (Kennedy, J.)  
Century Dictionary and Cyclopedia (1906)  
Webster, American Dictionary of the English Language  
(1889)  
New English Dictionary on Historical Principles  
(J. Murray ed. 1983)  
Webster's New Int'l Dictionary of the English Language  
(W. Harris & F. Allen eds. 1916)

**Contrary**

*Williams v. Taylor*, 529 U.S. 362, 389 (2000) (Stevens, J.)  
Webster's Ninth New Collegiate Dictionary (1983)  
  
*Williams v. Taylor*, 529 U.S. 362, 405 (2000) (O'Connor, J.,  
concurring)  
Webster's Third New Int'l Dictionary (1976)

**Corruption**

*Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377,  
422 (2000) (Thomas, J., dissenting)  
Oxford English Dictionary (2d ed. 1989)  
Webster's Third New Int'l Dictionary (1976)

**Decision**

*Williams v. Taylor*, 529 U.S. 362, 385 (2000) (Stevens, J.)  
Black's Law Dictionary (6th ed. 1990)

**Deliver**

*Stenberg v. Carhart*, 530 U.S. 914, 944 (2000) (Breyer, J.)  
Oxford English Dictionary (2d ed. 1989)

*Stenberg v. Carhart*, 530 U.S. 914, 990-91 (2000) (Thomas, J., dissenting)  
Webster's Ninth New Collegiate Dictionary (1991)  
Stedman's Medical Dictionary (26th ed. 1995)  
Oxford English Dictionary (2d ed. 1989)  
Maloy, Medical Dictionary for Lawyers (2d ed. 1989)

**Delivery**

*Stenberg v. Carhart*, 530 U.S. 914, 944 (2000) (Breyer, J.)  
Maloy, Medical Dictionary for Lawyers (3d ed. 1960)  
Webster's Third New Int'l Dictionary (1993)

**Demonstrate**

*Hill v. Colorado*, 530 U.S. 703, 721 (2000) (Stevens, J.)  
Webster's Third New Int'l Dictionary (1993)

**Determining**

*Department of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 342 (1999) (O'Connor, J.)  
Webster's Ninth Collegiate Dictionary (1983)

**Disclosure**

*Bartnicki v. Vopper*, 121 S. Ct. 1753, 1771 (2001) (Rehnquist, C. J., dissenting)  
Black's Law Dictionary (7th ed. 1999)

**Discrimination**

*Olmstead v. Zimring*, 527 U.S. 581, 616 (1999) (Thomas, J., dissenting)  
Random House Dictionary (2d ed. 1987)  
Webster's Third New Int'l Dictionary (1981)

**Dismissal Without Prejudice**

*Semtek Int'l Inc. v. Lockheed Martin Corp.*, 121 S. Ct. 1021, 1026-27 (2001) (Scalia, J.)  
Black's Law Dictionary (7th ed. 1999)

**Employ**

*Cedric Kushner Promotions, Ltd., v. King*, 121 S. Ct. 2087, 2090 (2001) (Breyer, J.)  
Webster's Third New Int'l Dictionary (1993)

**Enumerate**

*Department of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 347 (1999) (Scalia, J., concurring)  
Webster's American Dictionary of the English Language (1828)  
Johnson Dictionary of the English Language (4th ed. 1773)  
Sheridan, Complete Dictionary of the English Language (6th ed. 1976)

**Fail**

*Williams v. Taylor*, 529 U.S. 420, 431-32 (2000) (Kennedy, J.)  
Webster's New Int'l Dictionary (2d ed. 1939)  
Webster's New Int'l Dictionary (3d ed. 1993)  
Black's Law Dictionary (6th ed. 1990)

**Felonious**

*Carter v. United States*, 530 U.S. 255, 279 (2000) (Ginsburg, J., dissenting)  
Black's Law Dictionary (5th ed. 1979)

**File**

*Artuz v. Bennett*, 121 S. Ct. 361, 363-64 (2000) (Scalia, J.)  
Black's Law Dictionary (7th ed. 1999)

**Fire-damp**

*Amoco Production Co. v. Southern Ute Indian Tribe*, 526 U.S. 865, 874 (1999) (Kennedy, J.)  
Century Dictionary and Cyclopedia (1906)

**Impair**

*Humana Inc. v. Forsyth*, 525 U.S. 299, 309-10 (1999) (Ginsburg, J.)  
Black's Law Dictionary (6th ed. 1990)

**Intent**

*Apprendi v. New Jersey*, 530 U.S. 466, 492 n.17 (2000) (Stevens, J.)  
Black's Law Dictionary (4th ed. 1968)

*Holloway v. United States*, 526 U.S. 1, 13 (1999) (Scalia, J., dissenting)  
Black's Law Dictionary (6th ed. 1990)

**Invocation**

*Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290, 307 (2000) (Stevens, J.)  
Webster's Third New Int'l Dictionary (1993)

**Legislation**

*Whitman v. American Trucking Associations, Inc.*, 121 S. Ct. 903, 920 (2001) (Stevens, J., concurring)  
Black's Law Dictionary (6th ed. 1990)

**Les cas prévus a l'article 17**

*El Al Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155, 167-68 n.10 (1999) (Ginsburg, J.)  
New Cassell's French Dictionary (1973)  
Oxford-Hachette French Dictionary (1994)

**Malice**

*Kolstad v. American Dental Ass'n*, 527 U.S. 526, 535 (1999) (O'Connor, J.)  
Black's Law Dictionary (6th ed. 1990)

**Medical**

*Cedar Rapids Community School District v. Garret F.*, 526 U.S. 66, 81 (1999) (Thomas, J., dissenting)  
Webster's Third New Int'l Dictionary (1986)

**Mens Rea**

*Apprendi v. New Jersey*, 530 U.S. 466, 492 n.17 (2000) (Stevens, J.)  
Black's Law Dictionary (4th ed. 1968)

**Mutatis Mutandis**

*Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 17 (2000) (Breyer, J.)  
Black's Law Dictionary (7th ed. 1999)

**On Account Of**

*Bank of America Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. Partnership*, 526 U.S. 434, 460 (1999) (Thomas, J., concurring)  
Random House Dictionary of the English Language (2d ed. 1987)  
Webster's Third New Int'l Dictionary (1976)

**Operations**

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 660 (1999) (Kennedy, J., dissenting)  
Black's Law Dictionary (6th ed. 1990)

**Picket**

*Hill v. Colorado*, 530 U.S. 703, 721 (2000) (Stevens, J.)  
Webster's Third New Int'l Dictionary (1993)

**Plan**

*Pegram v. Herdrich*, 530 U.S. 211, 223 (2000) (Souter, J.)  
Webster's New Int'l Dictionary (2d ed. 1957)

**Prevail**

*Buckhannon Board and Care Home, Inc. v. West Virginia Dept of Health and Human Resources*, 121 S. Ct. 1835, 1855 (2001) (Ginsburg, J., dissenting)  
Webster's Third New Int'l Dictionary (1976)

**Prevailing Party**

*Buckhannon Board and Care Home, Inc. v. West Virginia Dept of Health and Human Resources*, 121 S. Ct. 1835, 1839 (2001) (Rehnquist, C. J.)  
Black's Law Dictionary (7th ed. 1999)

**Process**

*Nevada v. Hicks*, 121 S. Ct. 2304, 2312 (2001) (Scalia, J.)  
Black's Law Dictionary (5th ed. 1979)

**Public Health**

*Whitman v. American Trucking Ass'n, Inc.*, 121 S. Ct. 903, 908-909 (2001) (Scalia, J.)  
Webster's New Int'l Dictionary (2d ed. 1950)  
Webster's Third New Int'l Dictionary (1981)

**Purpose**

*Apprendi v. New Jersey*, 530 U.S. 466, 492 n.17 (2000) (Stevens, J.)  
Black's Law Dictionary (4th ed. 1968)

**Reckless**

*Kolstad v. American Dental Ass'n*, 527 U.S. 526, 535 (1999) (O'Connor, J.)  
Black's Law Dictionary (6th ed. 1990)

**Release**

*United States v. Johnson*, 529 U.S. 53, 57 (2000) (Kennedy, J.)  
Webster's New Int'l Dictionary (2d ed. 1949)

**Remaining**

*City of Chicago v. Morales*, 527 U.S. 41, 92-93 (1999) (Scalia, J., dissenting)  
American Heritage Dictionary (1992)

**Representative**

*National Aeronautics and Space Admin. v. Federal Labor Relations Auth.*, 527 U.S. 229, 253-54 (1999) (Thomas, J., dissenting)  
Webster's Third Int'l Dictionary (1976)  
Webster's New Int'l Dictionary (2d ed. 1957)

**Revision**

*New York Times Co., Inc. v. Tasini*, 121 S. Ct. 2381, 2391 (2001) (Ginsburg, J.)  
Webster's Third New Int'l Dictionary (1976)



**Revoke**

*Johnson v. United States*, 529 U.S. 694, 704-06 & n.9 (2000) (Souter, J.)  
Webster's Third New Int'l Dictionary (1981)  
Oxford English Dictionary (2d ed. 1989)

*Johnson v. United States*, 529 U.S. 694, 715, 719 & n.4 (2000) (Scalia, J., dissenting)  
Webster's Third New Int'l Dictionary (1981)  
Oxford English Dictionary (2d ed. 1989)  
American Heritage Dictionary (3d ed. 1992)  
New Shorter Oxford English Dictionary (1993)  
Webster's New Int'l Dictionary (2d ed. 1942)  
Chambers English Dictionary (1988)  
Cassell Concise English Dictionary (1992)  
Funk and Wagnalls New Standard Dictionary (1957)  
American Heritage Dictionary (3d ed. 1992)

**Scienter**

*City of Chicago v. Morales*, 527 U.S. 41, 111 (1999) (Thomas, J., dissenting)  
Black's Law Dictionary (6th ed. 1990)

**Search**

*Kyllo v. United States*, 121 S. Ct. 2038, 2043 n.1 (2001) (Scalia, J.)  
Webster's American Dictionary of the English Language (1828) (reprint 6th ed. 1989)

**Seek**

*Lopez v. Monterey County*, 525 U.S. 266, 288 (1999) (Kennedy, J., concurring)  
Oxford English Dictionary (2d ed. 1989)

**Subject**

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 645 (1999) (O'Connor, J.)  
Random House Dictionary of the English Language (1966)  
Webster's Third New Int'l Dictionary (1961)

**Substantial**

*Stenberg v. Carbart*, 530 U.S. 914, 997 (2000) (Thomas, J., dissenting)  
Webster's Ninth New Collegiate Dictionary (1991)  
  
*Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 491 (1999) (O'Connor, J.)  
Webster's Third New Int'l Dictionary (1976)  
Oxford English Dictionary (2d ed. 1989)

**Substantially**

*Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 491 (1999) (O'Connor, J.)  
Webster's Third New Int'l Dictionary (1976)

**Suspend**

*I.N.S. v. St. Cyr*, 121 S. Ct. 2271, 2299 (2001) (Scalia, J., dissenting)  
Webster's American Dictionary of the English Language (1828)  
Bailey, An Universal Etymological English Dictionary (1789)  
Johnson, A Dictionary of the English Language (1773)

**Terminate**

*Johnson v. United States*, 529 U.S. 694, 717 (2000) (Scalia, J., dissenting)  
American Heritage Dictionary (3d ed. 1992)  
Webster's New Int'l Dictionary (2d ed. 1942)

**To Make**

*Tyler v. Cain*, No. 00-5961, 2001 WL 720703, at \*5 (U.S. June 28, 2001) (Thomas, J.)  
Webster's Ninth New Collegiate Dictionary (1991)

**Unbundle**

*AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366, 394 (1999) (Scalia, J., concurring)  
Webster's Ninth New Collegiate Dictionary (1988)

**Under**

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 645 (1999) (O'Connor, J.)  
Webster's Third New Int'l Dictionary (1961)  
Random House Dictionary of the English Language (1966)

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 659 (1999) (Kennedy, J., dissenting)  
Webster's Third New Int'l Dictionary (1981)  
American Heritage Dictionary (New College ed. 1981)  
Random House Dictionary of the English Language (2d ed. 1987)

**Usufructuary**

*Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 220 (1999) (Rehnquist, C. J., dissenting)  
Black's Law Dictionary (6th ed. 1990)

**Violation**

*Richardson v. United States*, 526 U.S. 813, 818 (1999) (Breyer, J.)  
Black's Law Dictionary (6th ed. 1990)

**Witness**

*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas, J., concurring)  
Jacob, *A New Law-Dictionary* (8th ed. 1762)  
Cunningham, *New & Complete Law-Dictionary* (2d ed. 1771)

Potts, *A Compendious Law Dictionary* (1803)  
Jacob, *The Law Dictionary* (1st Amer. ed. 1811)  
Kersey, *A New English Dictionary* (1702)  
Webster's *American Dictionary of the English Language* (1828)



**APPENDIX B:**  
**UNITED STATES SUPREME COURT JUSTICES CITING DICTIONARIES**  
(1998 TERM THROUGH 2000 TERM)

**Associate Justice Stephen Breyer**

5 cases (1.67/Court Term) and  
7 terms (2.33/Court Term)

*Cedric Kushner Promotions, Ltd. v. King*, 121 S. Ct. 2087, 2090 (2001)  
(Associate)  
(Employ)  
Webster's Third New Int'l Dictionary (1993)

*Stenberg v. Carhart*, 530 U.S. 914, 944 (2000)  
(Deliver)  
Oxford English Dictionary (2d ed. 1989)  
(Delivery)  
B. Maloy, *Medical Dictionary for Lawyers* (3d ed. 1960)  
Webster's Third New Int'l Dictionary (1993)

*Miller v. French*, 530 U.S. 327, 359 (2000) (Breyer, J., dissenting)  
(Automatic)  
Webster's Third New Int'l Dictionary (1993)

*Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 17 (2000)  
(Mutatis Mutandis)  
Black's Law Dictionary (7th ed. 1999)

*Richardson v. United States*, 526 U.S. 813, 818 (1999)  
(Violation)  
Black's Law Dictionary (6th ed. 1990)

**Associate Justice Ruth Bader Ginsburg**

5 cases (1.67/Court Term) and  
5 terms (1.67/Court Term)

*New York Times Co., Inc. v. Tasini*, 121 S. Ct. 2381, 2391 (2001)  
(Revision)  
Webster's Third New Int'l Dictionary (1976)

*Buckhannon Board and Care Home, Inc. v. West Virginia Dept of Health and Human Resources*, 121 S. Ct. 1835, 1855 (2001) (Ginsburg, J., dissenting)  
(Prevail)  
Webster's Third New Int'l Dictionary (1976)

*Carter v. United States*, 530 U.S. 255, 279 (2000)  
(Ginsburg, J., dissenting)  
(Felonious)  
Black's Law Dictionary (5th ed. 1979)

*Humana Inc. v. Forsyth*, 525 U.S. 299, 309-10 (1999)  
(Impair)  
Black's Law Dictionary (6th ed. 1990)

*El Al Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155, 167-68 n.10 (1999)  
(Les cas prévus à l'article 17)  
New Cassell's French Dictionary (1973)  
Oxford-Hachette French Dictionary (1994)

*The Lexicon Remains a Fortress: An Update*

**Associate Justice Anthony Kennedy**

7 cases (2.33/Court Term) and  
9 terms (3.0/Court Term)

*Fischer v. United States*, 529 U.S. 667, 677 (2000)  
(Benefit)  
Webster's Third New Int'l Dictionary (1971)

*Williams v. Taylor*, 529 U.S. 420, 431-32 (2000)  
(Fail)  
Webster's New Int'l Dictionary (2d ed. 1939)  
Webster's New Int'l Dictionary (3d ed. 1993)  
Black's Law Dictionary (6th ed. 1990)

*United States v. Johnson*, 529 U.S. 53, 57 (2000)  
(Release)  
Webster's New Int'l Dictionary (2d ed. 1949)

*Amoco Production Co. v. Southern Ute Indian Tribe*, 526 U.S.  
865, 874 (1999)  
(Fire-damp)  
Century Dictionary and Cyclopedia (1906)  
(Coal)  
Century Dictionary and Cyclopedia (1906)  
Webster, American Dictionary of the English Language  
(1889)  
New English Dictionary on Historical Principles (J.  
Murray ed. 1983)  
Webster's New Int'l Dictionary of the English Language  
(W. Harris & F. Allen eds. 1916)

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 659, 660  
(1999) (Kennedy, J., dissenting)  
(Under)  
Webster's Third New Int'l Dictionary (1981)  
American Heritage Dictionary (New College ed. 1981)  
Random House Dictionary of the English Language (2d  
ed. 1987)  
(Operations)  
Black's Law Dictionary (6th ed. 1990)

*I.N.S. v. Aguirre-Aguirre*, 526 U.S. 415, 430 (1999)  
(Atrocious)  
Webster's Third New Int'l Dictionary (1971)

*Lopez v. Monterey County*, 525 U.S. 266, 288 (1999)  
(Kennedy, J., concurring)  
(Seek)  
Oxford English Dictionary (2d ed. 1989)

**Associate Justice Sandra Day O'Connor**

7 cases (2.33/Court Term) and  
9 terms (3.0/Court Term)

*Williams v. Taylor*, 529 U.S. 362, 405 (2000) (O'Connor, J.,  
concurring)  
(Contrary)  
Webster's Third New Int'l Dictionary (1976)

*Kolstad v. American Dental Ass'n*, 527 U.S. 526, 535 (1999)  
(Malice)  
(Reckless)  
Black's Law Dictionary (6th ed. 1990)

*Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 491 (1999)  
(Substantial)  
Webster's Third New Int'l Dictionary (1976)  
Oxford English Dictionary (2d ed. 1989)  
(Substantially)  
Webster's Third New Int'l Dictionary (1976)

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 645  
(1999)  
(Subject)  
(Under)  
Random House Dictionary of the English Language  
(1966)  
Webster's Third New Int'l Dictionary (1961)

*Nat'l Federation of Fed. Employees v. Dept. of Interior*, 526  
U.S. 86, 102 (1999) (O'Connor, J., dissenting)  
(Arrive)  
Webster's Third New Int'l Dictionary (1976)

*Department of Commerce v. U.S. House of Representatives*, 525  
U.S. 316, 342 (1999)  
(Determining)  
Webster's Ninth Collegiate Dictionary (1983)

*Lopez v. Monterey County*, 525 U.S. 266, 277-78 (1999)  
(Administer)  
Webster's Third New Int'l Dictionary (1961)  
Random House Dictionary of the English Language (2d  
ed. 1987)  
Black's Law Dictionary (6th ed. 1990)

**Chief Justice William Rehnquist**

3 cases (1.0/Court Term) and 3 terms (1.0/Court Term)

*Buckhannon Board and Care Home, Inc. v. West Virginia Dept of Health and Human Resources*, 121 S. Ct. 1835, 1839 (2001)  
(Prevailing Party)  
Black's Law Dictionary (7th ed. 1999)

*Bartnicki v. Vopper*, 121 S. Ct. 1753, 1771 (2001) (Rehnquist, C. J., dissenting)  
(Disclosure)  
Black's Law Dictionary (7th ed. 1999)

*Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 220 (1999) (Rehnquist, C. J., dissenting)  
(Usufructuary)  
Black's Law Dictionary (6th ed. 1990)

**Associate Justice Antonin Scalia**

12 cases (4.0/Court Term) and  
13 terms (4.33/Court Term)

*I.N.S. v. St. Cyr*, 121 S. Ct. 2271, 2299 (2001) (Scalia, J., dissenting)  
(Suspend)  
Webster's American Dictionary of the English Language (1828)  
Bailey, An Universal Etymological English Dictionary (1789)  
Johnson, A Dictionary of the English Language (1773)

*Nevada v. Hicks*, 121 S. Ct. 2304, 2312 (2001)  
(Process)  
Black's Law Dictionary (5th ed. 1979)

*Kyllo v. United States*, 121 S. Ct. 2038, 2043 n.1 (2001)  
(Search)  
Webster's American Dictionary of the English Language (1828) (reprint 6th ed. 1989)

*Semteck Int'l Inc. v. Lockheed Martin Corp.*, 121 S. Ct. 1021, 1026-27 (2001)  
(Dismissal Without Prejudice)  
Black's Law Dictionary (7th ed. 1999)

*Whitman v. American Trucking Ass'n, Inc.*, 121 S. Ct. 903, 908-909 (2001)  
(Public Health)  
Webster's New Int'l Dictionary (2d ed. 1950)  
Webster's Third New Int'l Dictionary (1981)

*Artuz v. Bennett*, 121 S. Ct. 361, 363-64 (2000)  
(File)  
Black's Law Dictionary (7th ed. 1999)

*Johnson v. United States*, 529 U.S. 694, 715, 717, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)  
Webster's Third New Int'l Dictionary (1981)  
Oxford English Dictionary (2d ed. 1989)  
American Heritage Dictionary (3d ed. 1992)  
New Shorter Oxford English Dictionary (1993)  
Webster's New Int'l Dictionary (2d ed. 1942)  
Chambers English Dictionary (1988)  
Cassell Concise English Dictionary (1992)  
Funk and Wagnalls New Standard Dictionary (1957)  
American Heritage Dictionary (3d ed. 1992)  
(Terminate)  
American Heritage Dictionary (3d ed. 1992)  
Webster's New Int'l Dictionary (2d ed. 1942)

*Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320, 333-34 (2000)  
(Abridge)  
Webster's New Int'l Dictionary (2d ed. 1950)  
American Heritage Dictionary (3d ed. 1992)

*City of Chicago v. Morales*, 527 U.S. 41, 92-93 (1999) (Scalia, J., dissenting)  
(Remaining)  
American Heritage Dictionary (1992)

*Holloway v. United States*, 526 U.S. 1, 13 (1999) (Scalia, J., dissenting)  
(Intent)  
Black's Law Dictionary (6th ed. 1990)

*AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366, 394 (1999) (Scalia, J., concurring)  
(Unbundle)  
Webster's Ninth New Collegiate Dictionary (1988)

*Department of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 347 (1999) (Scalia, J., concurring)  
(Enumerate)  
Webster's American Dictionary of the English Language (1828)  
Johnson Dictionary of the English Language (4th ed. 1773)  
Sheridan, Complete Dictionary of the English Language (6th ed. 1976)

**Associate Justice David Souter**

3 cases (1.0/Court Term) and 3 terms (1.0/Court Term)

*Atwater v. City of Lago Vista*, 121 S. Ct. 1536, 1545 (2001)  
(Arrest)

Cunningham, A New and Complete Law Dictionary  
(1771)

Jacob, The Law Dictionary (1st Am. ed. 1811)

*Pegram v. Herdrich*, 530 U.S. 211, 223 (2000)  
(Plan)

Webster's New Int'l Dictionary (2d ed. 1957)

*Johnson v. United States*, 529 U.S. 694, 704-06 & n.9 (2000)  
(Revoke)

Webster's Third New Int'l Dictionary (1981)

Oxford English Dictionary (2d ed. 1989)

**Associate Justice John Paul Stevens**

6 cases (2.0/Court Term) and

10 terms (3.33/Court Term)

*Whitman v. American Trucking Associations, Inc.*, 121 S. Ct.  
903, 920 (2001) (Stevens, J., concurring)

(Legislation)

Black's Law Dictionary (6th ed. 1990)

*Hill v. Colorado*, 530 U.S. 703, 721 (2000)

(Demonstrate)

(Picket)

Webster's Third New Int'l Dictionary (1993)

*Apprendi v. New Jersey*, 530 U.S. 466, 492 n.17 (2000)

(Intent)

(Purpose)

(Mens Rea)

Black's Law Dictionary (4th ed. 1968)

*Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290, 307  
(2000)

(Invocation)

Webster's Third New Int'l Dictionary (1993)

*Williams v. Taylor*, 529 U.S. 362, 385, 389 (2000)

(Decision)

Black's Law Dictionary (6th ed. 1990)

(Contrary)

Webster's Ninth New Collegiate Dictionary (1983)

*City of Erie v. Pap's A.M.*, 529 U.S. 277, 355 n.8 (2000)  
(Stevens, J., dissenting)

(Associate)

Webster's Third Int'l Dictionary (1966)

**Associate Justice Clarence Thomas**

11 cases (3.66/Court Term) and

12 terms (4.0/Court Term)

*Tyler v. Cain*, No. 00-5961, 2001 WL 720703, at \*5 (U.S.  
June 28, 2001)

(To Make)

Webster's Ninth New Collegiate Dictionary (1991)

*Stenberg v. Carhart*, 530 U.S. 914, 990-91, 997 (2000)  
(Thomas, J., dissenting)

(Deliver)

Webster's Ninth New Collegiate Dictionary (1991)

Stedman's Medical Dictionary (26th ed. 1995)

Oxford English Dictionary (2d ed. 1989)

Maloy, Medical Dictionary for Lawyers (2d ed. 1989)

(Substantial)

Webster's Ninth New Collegiate Dictionary (1991)

*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas,  
J., concurring)

(Witness)

Jacob, A New Law-Dictionary (8th ed. 1762)

Cunningham, New & Complete Law-Dictionary (2d ed.  
1771)

Potts, A Compendious Law Dictionary (1803)

Jacob, The Law Dictionary (1st Amer. ed. 1811)

Kersey, A New English Dictionary (1702)

Webster's American Dictionary of the English Language  
(1828)

*Fischer v. United States*, 529 U.S. 667, 682 (2000) (Thomas,  
J., dissenting)

(Benefit)

Webster's Third New Int'l Dictionary (1971)

*Beck v. Prupis*, 529 U.S. 494, 504 (2000)

(Civil Conspiracy)

Ballentine's Law Dictionary (3d ed. 1969)

Black's Law Dictionary (4th ed. 1968)

*Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377,  
422 (2000) (Thomas, J., dissenting)

(Corruption)

Oxford English Dictionary (2d ed. 1989)

Webster's Third New Int'l Dictionary (1976)

*Olmstead v. Zimring*, 527 U.S. 581, 616 (1999) (Thomas, J.,  
dissenting)

(Discrimination)

Random House Dictionary (2d ed. 1987)

Webster's Third New Int'l Dictionary (1981)

*National Aeronautics and Space Admin. v. Federal Labor Relations Auth.*, 527 U.S. 229, 253-54 (1999) (Thomas, J., dissenting)  
(Representative)  
Webster's Third Int'l Dictionary (1976)  
Webster's New Int'l Dictionary (2d ed. 1957)

*City of Chicago v. Morales*, 527 U.S. 41, 111 (1999) (Thomas, J., dissenting)  
(Scienter)  
Black's Law Dictionary (6th ed. 1990)

*Bank of America Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St. Partnership*, 526 U.S. 434, 460 (1999) (Thomas, J., concurring)  
(On Account Of)  
Random House Dictionary of the English Language (2d ed. 1987)  
Webster's Third New Int'l Dictionary (1976)  
*Cedar Rapids Community School District v. Garret F.*, 526 U.S. 66, 81 (1999) (Thomas, J., dissenting)  
(Medical)  
Webster's Third New Int'l Dictionary (1986)



APPENDIX C:  
DICTIONARIES RELIED UPON BY THE  
UNITED STATES SUPREME COURT TO DEFINE TERMS  
(1998 TERM THROUGH 2000 TERM)

**American Heritage Dictionary (3d ed. 1992)**  
*Johnson v. United States*, 529 U.S. 694, 715, 717, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)  
(Terminate)  
*Reno v. Bossier Parish Sch. Bd.*, 528 U.S. 320, 333-34 (2000) (Scalia, J.)  
(Abridge)  
*City of Chicago v. Morales*, 527 U.S. 41, 92-93 (1999) (Scalia, J., dissenting)  
(Remaining)

**American Heritage Dictionary (New College ed. 1981)**  
*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 659 (1999) (Kennedy, J., dissenting)  
(Under)

**Bailey, An Universal Etymological English Dictionary (1789)**  
*I.N.S. v. St. Cyr*, 121 S. Ct. 2271, 2299 (2001) (Scalia, J., dissenting)  
(Suspend)

**Ballentine's Law Dictionary (3d ed. 1969)**  
*Beck v. Prupis*, 529 U.S. 494, 504 (2000) (Thomas, J.)  
(Civil Conspiracy)

**Black's Law Dictionary (7th ed. 1999)**  
*Bartnicki v. Vopper*, 121 S. Ct. 1753, 1771 (2001) (Rehnquist, C. J., dissenting)  
(Disclosure)  
*Semtek Int'l Inc. v. Lockheed Martin Corp.*, 121 S. Ct. 1021, 1026-27 (2001) (Scalia, J.)  
(Dismissal Without Prejudice)  
*Artuz v. Bennett*, 121 S. Ct. 361, 363-64 (2000) (Scalia, J.)  
(File)  
*Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 17 (2000) (Breyer, J.)  
(Mutatis Mutandis)

**Black's Law Dictionary (6th ed. 1990)**  
*Buckhannon Board and Care Home, Inc. v. West Virginia Dep't of Health and Human Resources*, 121 S. Ct. 1835, 1839 (2001) (Rehnquist, C. J.)  
(Prevailing Party)  
*Whitman v. American Trucking Associations, Inc.*, 121 S. Ct. 903, 920 (2001) (Stevens, J., concurring)  
(Legislation)  
*Williams v. Taylor*, 529 U.S. 420, 431-32 (2000) (Kennedy, J.)  
(Fail)  
*Williams v. Taylor*, 529 U.S. 362, 385 (2000) (Stevens, J.)  
(Decision)

*The Lexicon Remains a Fortress: An Update*

*Kolstad v. American Dental Ass'n*, 527 U.S. 526, 535 (1999)  
(O'Connor, J.)  
(Malice)  
(Reckless)  
*City of Chicago v. Morales*, 527 U.S. 41, 111 (1999) (Thomas, J., dissenting)  
(Scienter)  
*Richardson v. United States*, 526 U.S. 813, 818 (1999) (Breyer, J.)  
(Violation)  
*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 660 (1999) (Kennedy, J., dissenting)  
(Operations)  
*Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172, 220 (1999) (Rehnquist, C.J., dissenting)  
(Usufructuary)  
*Holloway v. United States*, 526 U.S. 1, 13 (1999) (Scalia, J., dissenting)  
(Intent)  
*Humana Inc. v. Forsyth*, 525 U.S. 299, 309-10 (1999)  
(Ginsburg, J.)  
(Impair)  
*Lopez v. Monterey County*, 525 U.S. 266, 277-78 (1999)  
(O'Connor, J.)  
(Administer)

**Black's Law Dictionary (5th ed. 1979)**  
*Nevada v. Hicks*, 121 S. Ct. 2304, 2312 (2001) (Scalia, J.)  
(Process)  
*Carter v. United States*, 530 U.S. 255, 279 (2000)  
(Ginsburg, J., dissenting)  
(Felonious)

**Black's Law Dictionary (4th ed. 1968)**  
*Apprendi v. New Jersey*, 530 U.S. 466, 492 n.17 (2000)  
(Stevens, J.)  
(Intent)  
(Mens Rea)  
(Purpose)  
*Beck v. Prupis*, 529 U.S. 494, 504 (2000) (Thomas, J.)  
(Civil Conspiracy)

**Cassell Concise English Dictionary (1992)**  
*Johnson v. United States*, 529 U.S. 694, 715, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)

**Century Dictionary @ Cyclopedia (1906)**  
*Amoco Production Co. v. Southern Ute Indian Tribe*, 526 U.S. 865, 874 (1999) (Kennedy, J.)  
(Coal)  
(Fire-damp)

**Chambers English Dictionary (1988)**  
*Johnson v. United States*, 529 U.S. 694, 715, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)

**Cunningham, A New @ Complete Law Dictionary (1771)**  
*Atwater v. City of Lago Vista*, 121 S. Ct. 1536, 1545 (2001)  
(Souter, J.)  
(Arrest)  
*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas, J., concurring)  
(Witness)

**Funk @ Wagnalls New Standard Dictionary (1957)**  
*Johnson v. United States*, 529 U.S. 694, 715, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)

**Jacob, The Law Dictionary (1st Am. ed. 1811)**  
*Atwater v. City of Lago Vista*, 121 S. Ct. 1536, 1545 (2001)  
(Souter, J.)  
(Arrest)  
*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas, J., concurring)  
(Witness)

**Jacob, A New Law-Dictionary (8th ed. 1762)**  
*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas, J., concurring)  
(Witness)

**Johnson, Dictionary of the English Language (4th ed. 1773)**  
*I.N.S. v. St. Cyr*, 121 S. Ct. 2271, 2299 (2001) (Scalia, J., dissenting)  
(Suspend)  
*Department of Commerce v. U.S. House of Representatives*, 525 U.S. 316, 347 (1999) (Scalia, J., concurring)  
(Enumerate)

**Kersey, A New English Dictionary (1702)**  
*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas, J., concurring)  
(Witness)

**Maloy, Medical Dictionary for Lawyers (2d ed. 1989)**  
*Stenberg v. Carhart*, 530 U.S. 914, 990-91 (2000) (Thomas, J., dissenting)  
(Deliver)

**Maloy, Medical Dictionary for Lawyers (3d ed. 1960)**  
*Stenberg v. Carhart*, 530 U.S. 914, 944 (2000) (Breyer, J.)  
(Delivery)

**New Cassell's French Dictionary (1973)**

*El Al Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155, 167-68 n.10 (1999) (Ginsburg, J.)  
(Les cas prévus a l'article 17)

**New English Dictionary on Historical Principles (J. Murray ed. 1983)**

*Amoco Production Co. v. Southern Ute Indian Tribe*, 526 U.S. 865, 874 (1999) (Kennedy, J.)  
(Coal)

**Oxford English Dictionary (2d ed. 1989)**

*Stenberg v. Carhart*, 530 U.S. 914, 944 (2000) (Breyer, J.)  
(Deliver)  
*Stenberg v. Carhart*, 530 U.S. 914, 990-91 (2000) (Thomas, J., dissenting)  
(Deliver)  
*Johnson v. United States*, 529 U.S. 694, 704-06 & n.9 (2000) (Souter, J.)  
(Revoke)  
*Johnson v. United States*, 529 U.S. 694, 715, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)  
*Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 422 (2000) (Thomas, J., dissenting)  
(Corruption)

*Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 491 (1999) (O'Connor, J.)  
(Substantial)

*Lopez v. Monterey County*, 525 U.S. 266, 288 (1999) (Kennedy, J., concurring)  
(Seek)

**New Shorter Oxford English Dictionary (1993)**

*Johnson v. United States*, 529 U.S. 694, 715, 719 & n.4 (2000) (Scalia, J., dissenting)  
(Revoke)

**Oxford-Hachette French Dictionary (1994)**

*El Al Israel Airlines, Ltd. v. Tseng*, 525 U.S. 155, 167-68 n.10 (1999) (Ginsburg, J.)  
(Les cas prévus a l'article 17)

**Potts, A Compendious Law Dictionary (1803)**

*United States v. Hubbell*, 530 U.S. 27, 50 (2000) (Thomas, J., concurring)  
(Witness)

**Random House Dictionary of the English Language (2d ed. 1987)**

*Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 659 (1999) (Kennedy, J., dissenting)  
(Under)  
*Bank of America Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle St.*

*Partnership*, 526 U.S. 434, 460 (1999) (Thomas, J., concurring)  
(On Account Of)  
*Lopez v. Monterey County*, 525 U.S. 266, 277-78 (1999) (O'Connor, J.)  
(Administer)

**Random House Dictionary (2d ed. 1987)**

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(To Make)

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(Search)

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dissenting)

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(Witness)

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U.S. 316, 347 (1999) (Scalia, J., concurring)

(Enumerate)