



The Supreme Court led by Chief Justice John G. Roberts Jr., the conventional wisdom goes, is exceptionally supportive of free speech. Leading scholars and practitioners have called the Roberts court the most pro-First Amendment court in American history.

A recent study challenges that conclusion. It says that a comprehensive look at data from 1953 to 2011 tells a different story, one showing that the court is hearing fewer First Amendment cases and is ruling in favor of free speech at a lower rate than any of the courts led by the three previous chief justices.

In its first six terms, from 2005 to 2011, the Roberts court issued 29 free speech decisions in argued cases, and it ruled for the free speech claim in 10 of them, or 34.5 percent of the time. The three prior courts issued 506 such decisions and ruled for the free speech side 54 percent of the time. The difference is statistically significant.

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