

Per Curiam Opinions In The Sixth Circuit

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In a [recent post](#), we noted that per curiam opinions made up 14% of the Sixth Circuit's opinions over the past five years. This post analyzes the types of legal issues addressed by those per curiam opinions over the past year. We would expect that per curiam opinions would be used primarily for run of the mill, uncontroversial cases. Some law review articles have criticized the Supreme Court for issuing per curiam opinions in precedential cases too often, which, they argue, diminishes accountability. We were curious to see whether the Sixth Circuit followed the same pattern, and whether other common perceptions about per curiam opinions held true.

Over the past year, the Sixth Circuit has released 188 per curiam opinions. Only 5.8% of those were published. The publishing rate is much lower for per curiam opinions than signed opinions, of which 21.7% were published over the past year. This is not surprising, since per curiam opinions are not typically used in precedent-setting cases. In fact, all of the eleven published per curiam opinions dealt with standard procedural questions. One case, however, was a little more complicated as it dealt with free speech, campaign buffer zones, and a well-known politician. See *Russell v. Lundergan-Grimes*, 769 F.3d 919 (6th Cir. 2014). It may be the decision was issued per curiam more because it was issued quickly during an election cycle (a la *Bush v. Gore*) than whether it involved a novel legal question.

The unpublished per curiam opinions covered a wide range of issues, from the First Amendment to bankruptcy, though a few categories stood out. Criminal sentencing cases represented the largest category, with over 40% of the total. After that were immigration cases at 16%, criminal procedure at 13.8%, and civil cases (often dealing with procedural questions) with 13.3%. These numbers are a significant percentage of the total for some types of cases: no less than 33% of immigration cases and 29% of all sentencing appeals resulted in per curiam opinions. On the other side, only 1.6% of decisions mentioning the First Amendment were per curiam.

Defying a common perception, the data also showed that pro se appeals are not more likely to result in an unsigned opinion, as pro se cases made up about 8.5% of both signed and per curiam opinions. However, per curiam opinions do result in affirmances more frequently than signed opinions. Only 2.1% of per curiam opinions resulted in reversals, but the Sixth Circuit had a reversal rate of 7.2% for all cases before it in 2014, according to the 2014 [Judicial Business Report](#).

In short, the Sixth Circuit issues per curiam opinions exactly as we would expect: in non-controversial, non-precedential cases. And immigration and sentencing decision are far more likely

to result in a per curiam affirmance than any other type of case.

This post was written by Lauren Maynard.

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