

TOMPKINS *v.* TEXAS

CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF TEXAS

No. 87-6405. Argued December 6, 1988—Decided June 5, 1989

774 S. W. 2d 195, affirmed by an equally divided Court.

Emmett B. Lewis argued the cause for petitioner. With him on the briefs were *Robert K. Huffman* and *James B. Altman*.

Charles A. Palmer, Assistant Attorney General of Texas, argued the cause for respondent. With him on the brief were *Jim Mattox*, Attorney General, *Mary F. Keller*, First Assistant Attorney General, *Lou McCreary*, Executive Assistant Attorney General, and *Michael P. Hodge* and *Margaret Portman Griffey*, Assistant Attorneys General.*

PER CURIAM.

The judgment below is affirmed by an equally divided Court.

JUSTICE O'CONNOR took no part in the consideration or decision of this case.

*Briefs of *amici curiae* urging reversal were filed for the American Civil Liberties Union et al. by *Steven R. Shapiro*, *John A. Powell*, *Julius LeVonne Chambers*, and *Charles Stephen Ralston*; and for the Lawyers' Committee for Civil Rights Under Law by *Robert E. Montgomery, Jr.*, *Conrad K. Harper*, *Stuart J. Land*, *Norman Redlich*, *William L. Robinson*, and *Judith A. Winston*.