



## **Supreme Court death could play a role in affirmative action decision**

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Supreme Court Justice Antonin Scalia's death can lead to a 4-4 decision in some major issues before the Supreme Court in this term which could uphold the ruling of lower courts.

But at least one top case could still be decided---affirmative action.

The case, Fisher vs the University of Texas challenged the affirmative action of that school's admissions policy. The lower courts upheld U-T's program.

When it came to the high court, Judge Scalia angered his critics in December with a scathing review of affirmative action. With liberal Justice Elena Kagan already recused from the case, that leaves 7-Supreme Court Judges. All eyes are now on Justice Anthony Kennedy who has rendered unpredictable decisions in the past.

Trevor Burrus is an expert on the U.S. Supreme Court from the Cato Institute in Washington D.C. "Anthony Kennedy is likely going to vote for the majority in this, which would be a 4-3 majority to do something to affirmation action," says Burrus. "Now the question is what will be done? That would be the big question."

Burrus says the Supreme Court ruling could only affect the University of Texas, demand more transparency for many universities nationwide on their affirmative action policies or outright ban affirmative action as unconstitutional.

"That is probably less likely going to happen just because it'd be a pretty big change. But it could happen," says Burrus.

With a written decision on affirmative action expected in this term, Burrus says its back to the drawing board for the remaining 7 Supreme Court Justices.

"Very few leaks come out of the Supreme Court, which is a good thing about what actually goes on behind the scenes," says Burrus. "But this clearly changes everything."