

5-4 Cases

Alignment of the Majority

Majority*	Total (8)	Cases
Roberts, Scalia, Kennedy, Thomas, Alito	2	<i>McCutcheon v. FEC, Town of Greece v. Galloway</i>
Kennedy, Ginsburg, Breyer, Sotomayor, Kagan	2	<i>Hall v. Florida, Abramski v. United States</i>
Roberts, Kennedy, Thomas, Breyer, Alito	1	<i>Navarette v. California</i>
Roberts, Scalia, Kennedy, Ginsburg, Kagan	1	<i>Scialabba v. Cuellar de Osorio</i>
Roberts, Kennedy, Breyer, Sotomayor, Kagan	1	<i>Michigan v. Bay Mills</i>
Kennedy, Ginsburg, Breyer, Alito, Kagan	1	<i>Paroline v. United States</i>

Term	Number of 5-4 Opinions**	Percentage of Total Opinions	Percentage of 5-4 Split Ideological	Conservative Victory (Percentage of Ideological)	Conservative Victory (Percentage of All 5-4)	Number of Different Alignments
OT05	11	12%	73%	63%	45%	7
OT06	24	33%	79%	68%	54%	6
OT07	12	17%	67%	50%	33%	6
OT08	23	29%	70%	69%	48%	7
OT09	16	19%	69%	73%	50%	7
OT10	16	20%	88%	71%	63%	4
OT11	15	20%	67%	50%	33%	7
OT12	23	29%	17%	50%	9%	6
OT13	8	11%	50%	67%	25%	6
Average	16	21%	64%	62%	40%	6

* This table features cases that were decided by a 5-3 margin, but were reclassified for our purposes as 5-4 decisions.

** For the purposes of this chart, the total number of 5-4 opinions is the number of cases that split 5-4 *on a major issue*. It may differ from the number of cases that split 5-4 elsewhere in this Stat Pack.

*** For the purposes of this chart, a “Conservative Win” occurs whenever the majority consists of Chief Justice Roberts and Justices Scalia, Kennedy, Thomas, and O’Connor or Alito.

5-4 Cases

Membership in a Five-to-Four Majority

Justice	Cases Decided	Frequency in Majority		OT12	OT11	OT10	OT09	OT08	OT07
Kennedy	8	8	100%	87%	80%	88%	69%	78%	67%
Roberts	8	5	63%	61%	67%	63%	56%	48%	58%
Breyer	8	5	63%	48%	47%	31%	38%	39%	45%
Kagan	8	5	63%	43%	40%	38%	-	-	-
Ginsburg	8	4	50%	43%	33%	38%	25%	52%	50%
Alito	8	4	50%	57%	60%	63%	63%	52%	50%
Scalia	8	3	38%	60%	60%	69%	69%	70%	58%
Thomas	8	3	38%	65%	67%	75%	69%	65%	67%
Sotomayor	8	3	38%	39%	47%	38%	43%	-	-

Five-to-Four Majority Opinion Authorship

These percentages consider how often a Justice authors the majority opinion *when that Justice is in the majority*.*

Justice	Cases Decided	Frequency in the Majority	Opinions Authored	Frequency as Author	OT12	OT11	OT10	OT09	OT08	OT07
Kagan	8	5	3	60%	10%	17%	0%	-	-	-
Kennedy	8	8	3	38%	20%	33%	21%	22%	28%	50%
Thomas	8	3	1	33%	13%	0%	33%	9%	13%	13%
Roberts	8	5	1	20%	14%	10%	30%	22%	18%	14%
Scalia	8	3	0	0%	23%	0%	9%	18%	33%	29%
Ginsburg	8	4	0	0%	10%	0%	33%	50%	27%	0%
Breyer	8	5	0	0%	18%	43%	20%	25%	0%	40%
Alito	8	4	0	0%	46%	33%	0%	40%	8%	17%
Sotomayor	8	3	0	0%	22%	29%	17%	0%	-	-

* Percentages represent the number of majority opinions authored divided by the number of times a Justice was in the majority for a *signed* opinion.