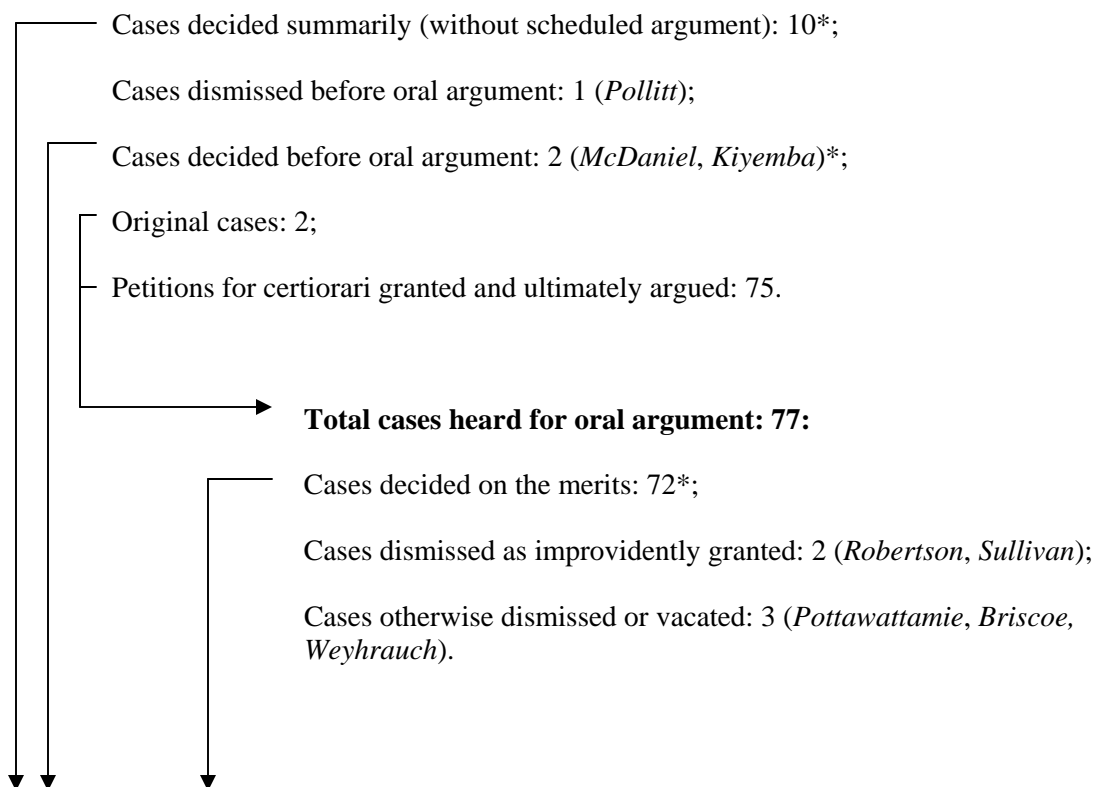


Summary of the Court's Workload, October Term 2009

Total cases granted or probable jurisdiction noted: 90:



Total merits opinions (total marked *): 84:

Signed merits opinions: 72;

Unsigned merits opinions: 12.

†Notes: We count the unsigned opinions in *McDaniel v. Brown* and *Kiyemba v. Obama* as merits decisions. We do not regard the following opinions, which are published on the Court's website, as decisions on the merits: *Briscoe v. Virginia*, *Weyhrauch v. United States*, *Robertson v. United States ex rel. Watson*, and *Sullivan v. Florida*.

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Decisions by Final Vote

| 9-0 (or Unanimous) | 8-1 (or 7-1) | 7-2 | 6-3 | 5-4 |
|---|--------------------------------------|----------------------------------|---------------------------------|------------------------------------|
| 39 (46%) | 8 (10%) | 13 (15%) | 9 (11%) | 15 (18%)*† |
| <i>Corcoran v. Levenhagen</i> (PC) | <i>NRG v. Maine Public Utilities</i> | <i>Michigan v. Fisher</i> (PC) | <i>Hemi Group v. NYC</i> (5-3) | <i>Wellons v. Hall</i> (PC) |
| <i>Bobby v. Van Hook</i> (PC) | <i>Alvarez v. Smith</i> | <i>Bloate v. United States</i> | <i>Renico v. Lett</i> | <i>S. Carolina v. N. Carolina</i> |
| <i>Wong v. Belmontes</i> (PC) | <i>United States v. Stevens</i> | <i>Johnson v. United States</i> | <i>Abbott v. Abbott</i> | <i>Shady Grove Ortho.</i> |
| <i>Porter v. McCollum</i> (PC) | <i>United States v. Marcus</i> (7-1) | <i>Padilla v. Kentucky</i> | <i>Graham v. Sullivan</i> | <i>Conkright v. Fromm.</i> (5-3) |
| <i>Beard v. Kindler</i> (8-0) | <i>Hamilton v. Lanning</i> | <i>Wood v. Allen</i> | <i>Carr v. United States</i> | <i>Perdue v. Kenny A.</i> |
| <i>Union Pacif. RR v. Loc. Enginrs</i> | <i>Dillon v. United States</i> (7-1) | <i>Florida v. Powell</i> | <i>Barber v. Thomas</i> | <i>Stolt-Nielson</i> (5-3) |
| <i>Mohawk v. Carpenter</i> | <i>Monsanto v. Geertson</i> (7-1) | <i>Graham Cty v. U.S./Wilson</i> | <i>Schwab v. Reilly</i> | <i>Salazar v. Buono</i> |
| <i>McDaniel v. Brown</i> (PC) | <i>Doe v. Reed</i> | <i>Presley v. Georgia</i> (PC) | <i>Kawasaki v. Regal Beloit</i> | <i>Berghuis v. Thompkins</i> |
| <i>Smith v. Spisak</i> | | <i>Jerman v. Carlisle</i> | <i>Humanitarian Law Project</i> | <i>Dolan v. United States</i> |
| <i>Kucana v. Holder</i> | | <i>U.S. v. Comstock</i> | | <i>New Process Steel v. NLRB</i> |
| <i>Wilkins v. Gaddy</i> (PC) | | <i>Jefferson v. Upton</i> (PC) | | <i>Rent-A-Center v. Jackson</i> |
| <i>Thaler v. Haynes</i> (PC) | | <i>Alabama v. N. Carolina</i> | | <i>Magwood v. Patterson</i> |
| <i>Hertz Corp. v. Friend</i> | | <i>Holland v. Florida</i> | | <i>McDonald v. Chicago</i> |
| <i>Maryland v. Shatzer</i> | | | | <i>Christian Legal v. Martinez</i> |
| <i>Kiyemba v. Obama</i> (PC) | | | | <i>Free Enterprise v. PCAOB</i> |
| <i>Reed Elsevier v. Muchnick</i> (8-0) | | | | |
| <i>Mac's Shell Service v. Shell</i> | | | | |
| <i>Milavetz v. United States</i> | | | | |
| <i>United Student Aid v. Espinosa</i> | | | | |
| <i>Berghuis v. Smith</i> | | | | |
| <i>Jones v. Harris Associates</i> | | | | |
| <i>Merck & Co. v. Reynolds</i> | | | | |
| <i>Hui v. Castaneda</i> | | | | |
| <i>American Needle v. NFL</i> | | | | |
| <i>Lewis v. Chicago</i> | | | | |
| <i>United States v. O'Brien</i> | | | | |
| <i>Hardt v. Standard Reliance</i> | | | | |
| <i>Samantar v. Yousuf</i> | | | | |
| <i>Levin v. Commerce Energy</i> | | | | |
| <i>Krupski v. Costa Crociere</i> | | | | |
| <i>Astrue v. Ratliff</i> | | | | |
| <i>Carachuri-Rosendo v. Holder</i> | | | | |
| <i>Stop the Beach v. FL Dept.</i> (8-0) | | | | |
| <i>City of Ontario v. Quon</i> | | | | |
| <i>Morrison v. Australia Bank</i> (8-0) | | | | |
| <i>Skilling v. United States</i> | | | | |
| <i>Black v. United States</i> | | | | |
| <i>Granite Rock v. Teamsters</i> | | | | |
| <i>Bilski v. Kappos</i> | | | | |

Vacated After Argument

Briscoe v. Virginia

Dismissed

Health Care Service v. Pollitt (settled before argument)
Pottawattamie County v. McGhee (settled after argument)
Sullivan v. Florida (improvidently granted)
Robertson v. U.S. ex rel. Watson (improvidently granted)

Past Terms

| | 9-0 (unan.) | 8-1 | 7-2 | 6-3 | 5-4 |
|-------------------|-------------|---------|----------|----------|----------|
| Final OT08 | 26 (33%) | 4 (5%) | 13 (16%) | 13 (16%) | 24 (30%) |
| Final OT07 | 21 (30%) | 6 (8%) | 20 (28%) | 10 (14%) | 14 (20%) |
| Final OT06 | 28 (38%) | 9 (12%) | 9 (12%) | 3 (4%) | 24 (33%) |

**Citizens United* is included in the OT08 total. †*Conkright v. Frommert* and *Stolt-Nielson S.A. v. AnimalFeeds International* are both classified as 5-4 because it seems very likely that, had all nine Justices participated, the vote would have split that way.

Frequency in the Majority

The charts below measure how frequently each Justice has voted with the majority in October Term 2009 cases decided on the merits thus far. They do not include dismissed cases (*Pottawattamie County v. McGhee*, *Health Care Service Corp. v. Pollitt*, *Sullivan v. Florida*, *Robertson v. United States ex rel. Watson*); *Briscoe v. Virginia* and *Weyhrauch v. United States*, which were vacated after oral argument in one-sentence opinions; or *Citizens United v. Federal Election Commission*, which we classify as an October Term 2008 case. They do include twelve *per curiam* opinions: ten summary dispositions (*Corcoran*, *Bobby*, *Wong*, *Porter*, *Fisher*, *Presley*, *Wellons*, *Thaler*, *Wilkins*, and *Jefferson*); the reversal before oral argument in *McDaniel v. Brown*; and *Kiyemba v. Obama*, which was vacated before oral argument, with an opinion.

The first chart includes votes in all cases, the second only in divided cases with at least one dissent.

| Justice | Majority Votes | Total Votes | Percent in the Majority | OT08 Final | OT07 Final |
|-----------|----------------|-------------|-------------------------|---------------|---------------|
| Roberts | 77 | 84 | 92% | 81% | 90% |
| Kennedy | 76 | 84 | 90% | 92% | 86% |
| Scalia | 74 | 84 | 88% | 84% | 81% |
| Alito | 72 | 82 | 88% | 81% | 82% |
| Thomas | 70 | 84 | 83% | 81% | 75% |
| Sotomayor | 65 | 78 | 83% | ----- | ----- |
| Ginsburg | 67 | 84 | 80% | 70% | 75% |
| Breyer | 64 | 83 | 77% | 75% | 79% |
| Stevens | 61 | 83 | 73% | 65% | 75% |

| Justice | Majority Votes | Total Votes | Percent in the Majority | OT08 Final | OT07 Final |
|-----------|----------------|-------------|-------------------------|---------------|---------------|
| Roberts | 38 | 45 | 84% | 72% | 73% |
| Kennedy | 37 | 45 | 82% | 89% | 79% |
| Scalia | 35 | 45 | 78% | 76% | 65% |
| Alito | 34 | 44 | 77% | 72% | 75% |
| Thomas | 31 | 45 | 69% | 72% | 85% |
| Sotomayor | 28 | 41 | 68% | ----- | ----- |
| Ginsburg | 28 | 45 | 62% | 55% | 65% |
| Breyer | 25 | 44 | 57% | 62% | 68% |
| Stevens | 23 | 45 | 51% | 47% | 65% |

†Chief Justice Roberts and Justice Breyer each wrote a concurrence in part and dissent in part in *Alabama v. North Carolina*; Justice Thomas joined the Chief Justice's opinion. For these charts, all three of their votes are counted as dissents. For this chart and all others in this document, the case's vote is listed as 7-2, as all substantive parts of the opinion had 7 votes.

Opinion Author Versus Vote Split

The chart below displays the number of majority opinions each Justice has written during this Term, excluding *Citizens United* (which Justice Kennedy authored), according to the size of the majority he or she captured. The unsigned, or *per curiam*, opinions are listed at the bottom, excluding *Briscoe v. Virginia*, *Weyhrauch v. United States*, and the opinions dismissing a case as improvidently granted (*Sullivan v. Florida* and *Robertson v. United States ex rel. Watson*).

| Opinion Author | 5-4 | 6-3 (or 5-3) | 7-2 | 8-1 (or 7-1) | 9-0 (or unan.) | Total |
|----------------|-----|--------------|-----|--------------|----------------|-------|
| Roberts | 2 | 3 | 0 | 2 | 1 | 8 |
| Stevens | 1 | 0 | 2 | 0 | 3 | 6 |
| Scalia | 2 | 0 | 2 | 0 | 4 | 8 |
| Kennedy | 2 | 3 | 0 | 0 | 3 | 8 |
| Thomas | 1 | 1 | 1 | 0 | 5 | 8 |
| Ginsburg | 1 | 0 | 1 | 1 | 6 | 9 |
| Breyer | 1 | 1 | 2 | 2 | 3 | 9 |
| Alito | 4 | 0 | 0 | 2 | 2 | 8 |
| Sotomayor | 0 | 1 | 2 | 1 | 4 | 8 |
| Per Curiam | 1 | 0 | 3 | 0 | 8 | 12 |

Separate Opinion Authorship

This chart shows each Justice's concurring opinions, concurring votes, dissenting opinions, and dissenting votes. Dissents and concurrences to all *per curiam* opinions are included, except when the main opinion dismissed the case as improvidently granted (so far, only *Robertson v. United States ex rel. Watson*). Chief Justice Roberts and Justice Breyer each wrote a concurrence in part and dissent in part in *Alabama v. North Carolina*; these are counted as dissents only in the chart below.

| Opinion Author | Concurrences Authored | Total Concurring Votes | Dissents Authored | Total Dissenting Votes |
|----------------|-----------------------|------------------------|-------------------|------------------------|
| Roberts | 2 | 3 | 3 | 7 |
| Stevens | 12 | 16 | 12 | 22 |
| Scalia | 13 | 17 | 5 | 10 |
| Kennedy | 8 | 9 | 4 | 8 |
| Thomas | 13 | 18 | 4 | 14 |
| Ginsburg | 3 | 8 | 3 | 17 |
| Breyer | 3 | 5 | 8 | 19 |
| Alito | 9 | 9 | 7 | 10 |
| Sotomayor | 3 | 7 | 4 | 13 |

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Justice Agreement—All Cases

| | | Stevens | | Scalia | | Kennedy | | Thomas | | Ginsburg | | Breyer | | Alito | | Sotomayor | | Total Cases |
|-----------|----|---------|----|--------|----|---------|----|--------|----|----------|----|--------|----|-------|----|-----------|----|-------------|
| Roberts | 44 | 53% | 55 | 65% | 66 | 79% | 56 | 67% | 58 | 69% | 51 | 61% | 64 | 78% | 52 | 67% | 84 | |
| | 53 | 64% | 67 | 80% | 71 | 85% | 66 | 79% | 63 | 75% | 58 | 70% | 69 | 84% | 58 | 74% | | |
| | 57 | 69% | 74 | 88% | 74 | 88% | 71 | 85% | 67 | 80% | 61 | 73% | 72 | 88% | 61 | 78% | | |
| | 26 | 31% | 10 | 12% | 10 | 12% | 13 | 15% | 17 | 20% | 22 | 27% | 10 | 12% | 17 | 22% | | |
| Stevens | | | 30 | 36% | 48 | 58% | 30 | 36% | 56 | 67% | 55 | 67% | 35 | 43% | 56 | 73% | 83 | |
| | | | 45 | 54% | 57 | 69% | 43 | 52% | 62 | 75% | 63 | 77% | 43 | 53% | 62 | 81% | | |
| | | | 53 | 64% | 61 | 73% | 50 | 60% | 64 | 77% | 67 | 82% | 50 | 62% | 64 | 83% | | |
| | | | 30 | 36% | 22 | 27% | 33 | 40% | 19 | 23% | 15 | 18% | 31 | 38% | 13 | 17% | | |
| Scalia | | | 50 | 60% | 62 | 74% | 39 | 46% | 36 | 43% | 50 | 61% | 35 | 45% | 84 | | | |
| | | | 62 | 74% | 74 | 88% | 50 | 60% | 50 | 60% | 60 | 73% | 48 | 62% | | | | |
| | | | 68 | 81% | 77 | 92% | 57 | 68% | 55 | 66% | 67 | 82% | 54 | 69% | | | | |
| | | | 16 | 19% | 7 | 8% | 27 | 32% | 28 | 34% | 15 | 18% | 24 | 31% | | | | |
| Kennedy | | | 48 | 57% | 59 | 70% | 54 | 65% | 60 | 73% | 55 | 71% | 84 | | | | | |
| | | | 58 | 69% | 64 | 76% | 61 | 73% | 66 | 80% | 58 | 74% | | | | | | |
| | | | 63 | 75% | 67 | 80% | 63 | 76% | 70 | 85% | 60 | 77% | | | | | | |
| | | | 21 | 25% | 17 | 20% | 20 | 24% | 12 | 15% | 18 | 23% | | | | | | |
| Thomas | | | 41 | 49% | 37 | 45% | 53 | 65% | 37 | 47% | 84 | | | | | | | |
| | | | 52 | 62% | 49 | 59% | 63 | 77% | 49 | 63% | | | | | | | | |
| | | | 58 | 69% | 54 | 65% | 69 | 84% | 54 | 69% | | | | | | | | |
| | | | 26 | 31% | 29 | 35% | 13 | 16% | 24 | 31% | | | | | | | | |
| Ginsburg | | | 66 | 80% | 50 | 61% | 66 | 85% | 84 | | | | | | | | | |
| | | | 70 | 84% | 55 | 67% | 70 | 90% | | | | | | | | | | |
| | | | 72 | 87% | 61 | 74% | 70 | 90% | | | | | | | | | | |
| | | | 11 | 13% | 21 | 26% | 8 | 10% | | | | | | | | | | |
| Breyer | | | 45 | 56% | 62 | 81% | 83 | | | | | | | | | | | |
| | | | 52 | 64% | 68 | 88% | | | | | | | | | | | | |
| | | | 57 | 70% | 69 | 90% | | | | | | | | | | | | |
| | | | 24 | 30% | 8 | 10% | | | | | | | | | | | | |
| Alito | | | 43 | 57% | 82 | | | | | | | | | | | | | |
| | | | 48 | 63% | | | | | | | | | | | | | | |
| | | | 53 | 70% | | | | | | | | | | | | | | |
| | | | 23 | 30% | | | | | | | | | | | | | | |
| Sotomayor | | | | | | | | | | | | | | | | | 78 | |

KEY

| |
|---------------------------------------|
| Fully Agree |
| Agree in Full or Part |
| Agree in Full, Part, or Judgment only |
| Disagree in Judgment |

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Justice Agreement—Non-Unanimous Cases

| | Stevens | | Scalia | | Kennedy | | Thomas | | Ginsburg | | Breyer | | Alito | | Sotomayor | | Total Cases |
|-----------|---------|-----|--------|-----|---------|-----|--------|-----|----------|-----|--------|-----|-------|-----|-----------|-----|-------------|
| Roberts | 14 | 31% | 28 | 62% | 31 | 69% | 29 | 64% | 24 | 53% | 18 | 41% | 30 | 68% | 20 | 49% | 45 |
| | 17 | 38% | 33 | 73% | 32 | 71% | 31 | 69% | 26 | 58% | 20 | 45% | 33 | 75% | 22 | 54% | |
| | 19 | 42% | 35 | 78% | 35 | 78% | 32 | 71% | 28 | 62% | 22 | 50% | 34 | 77% | 24 | 59% | |
| | 26 | 58% | 10 | 22% | 10 | 22% | 13 | 29% | 17 | 38% | 22 | 50% | 10 | 23% | 17 | 41% | |
| Stevens | 9 | 20% | 20 | 44% | 9 | 20% | 24 | 53% | 24 | 55% | 9 | 20% | 24 | 59% | | | 45 |
| | 14 | 31% | 22 | 49% | 12 | 27% | 25 | 56% | 27 | 61% | 11 | 25% | 27 | 66% | | | |
| | 15 | 33% | 23 | 51% | 12 | 27% | 26 | 58% | 29 | 66% | 13 | 30% | 28 | 68% | | | |
| | 30 | 67% | 22 | 49% | 33 | 73% | 19 | 42% | 15 | 34% | 31 | 70% | 13 | 32% | | | |
| Scalia | 23 | 51% | 32 | 71% | 14 | 31% | 11 | 25% | 24 | 55% | 11 | 27% | | | | | 45 |
| | 27 | 60% | 38 | 84% | 17 | 38% | 15 | 34% | 27 | 61% | 16 | 39% | | | | | |
| | 29 | 64% | 38 | 84% | 18 | 40% | 16 | 36% | 29 | 66% | 17 | 41% | | | | | |
| | 16 | 36% | 7 | 16% | 27 | 60% | 28 | 64% | 15 | 34% | 24 | 59% | | | | | |
| Kennedy | 21 | 47% | | | 26 | 58% | 21 | 48% | 27 | 61% | 22 | 54% | | | | | 45 |
| | 23 | 51% | | | 27 | 60% | 23 | 52% | 30 | 68% | 22 | 54% | | | | | |
| | 24 | 53% | | | 28 | 62% | 24 | 55% | 32 | 73% | 23 | 56% | | | | | |
| | 21 | 47% | | | 17 | 38% | 20 | 45% | 12 | 27% | 18 | 44% | | | | | |
| Thomas | 17 | 38% | | | 13 | 30% | 27 | 61% | 14 | 34% | | | | | | | 45 |
| | 19 | 42% | | | 15 | 34% | 30 | 68% | 17 | 41% | | | | | | | |
| | 19 | 42% | | | 15 | 34% | 31 | 70% | 17 | 41% | | | | | | | |
| | 26 | 58% | | | 29 | 66% | 13 | 30% | 24 | 59% | | | | | | | |
| Ginsburg | 30 | 68% | | | 19 | 43% | 32 | 78% | | | | | | | | | 45 |
| | 32 | 73% | | | 21 | 48% | 33 | 80% | | | | | | | | | |
| | 33 | 75% | | | 23 | 52% | 33 | 80% | | | | | | | | | |
| | 11 | 25% | | | 21 | 48% | 8 | 20% | | | | | | | | | |
| Breyer | 14 | 33% | | | 28 | 70% | | | | | | | | | | | 44 |
| | 17 | 40% | | | 31 | 78% | | | | | | | | | | | |
| | 19 | 44% | | | 32 | 80% | | | | | | | | | | | |
| | 24 | 56% | | | 8 | 20% | | | | | | | | | | | |
| Alito | 13 | 33% | | | | | | | | | | | | | | | 44 |
| | 15 | 38% | | | | | | | | | | | | | | | |
| | 17 | 43% | | | | | | | | | | | | | | | |
| | 23 | 58% | | | | | | | | | | | | | | | |
| Sotomayor | | | | | | | | | | | | | | | | | 41 |

KEY

| |
|---------------------------------------|
| Fully Agree |
| Agree in Full or Part |
| Agree in Full, Part, or Judgment only |
| Disagree in Judgment |

Circuit Scorecard

| Court | Total | #Aff'd | %Aff'd | #Rev'd | %Rev'd | #Rev'd in Part | %Rev'd in Part |
|--------------|-----------|-----------|------------|-----------|------------|-------------------|-------------------|
| CA1 | 2 | 1 | 50% | 0 | 0% | 1 | 50% |
| CA2 | 7 | 1 | 14% | 6 | 86% | 0 | 0% |
| CA3 | 5 | 3 | 60% | 2 | 40% | 0 | 0% |
| CA4 | 5 | 1 | 20% | 4 | 80% | 0 | 0% |
| CA5 | 4 | 0 | 0% | 3 | 75% | 1 | 25% |
| CA6 | 7 | 0 | 0% | 7 | 100% | 0 | 0% |
| CA7 | 11* | 1 | 9% | 10 | 91% | 0 | 0% |
| CA8 | 3* | 0 | 0% | 2 | 67% | 1 | 33% |
| CA9 | 15* | 4 | 27% | 9 | 60% | 2 | 13% |
| CA10 | 2 | 2 | 100% | 0 | 0% | 0 | 0% |
| CA11 | 10 | 2 | 20% | 8 | 80% | 0 | 0% |
| CADC | 3* | 0 | 0% | 1 | 33% | 2 | 67% |
| CAFC | 1 | 1 | 100% | 0 | 0% | 0 | 0% |
| | | | | | | | |
| State Courts | 7* | 1 | 14% | 6 | 86% | 0 | 0% |
| | | | | | | | |
| Original | 2 | N/A | N/A | N/A | N/A | N/A | N/A |
| | | | | | | | |
| Total | 84 | 17 | 21% | 58 | 71% | 7 | 9% |

Summary reversals with substantive opinions are counted (10 total—for the full list, see the Frequency in the Majority chart). Orders to vacate the lower court's decision are counted as reversals. Consolidated cases are counted together. Percentages are out of decided cases only; percentages of total cases exclude original cases.

*These totals exclude *Pottawattamie County v. McGhee* (8th Circuit), *Health Care Service Corp. v. Pollitt* (7th Circuit), *Sullivan v. Florida* (state court), and *Robertson v. United States ex rel. Watson* (D.C. Circuit), which were dismissed; *Briscoe v. Virginia* (state court) and *Weyhrauch v. United States* (9th Circuit), which were vacated after oral argument; and *Citizens United v. Federal Election Commission* (D.C. Circuit), which is an OT08 case.