

Five-to-Four Cases Alignment of the Majority

Majority*	Total (8)	Cases
Roberts, Scalia, Kennedy, Thomas, Alito	3	<i>Coleman, Federal Aviation Administration, Florence</i>
Kennedy, Ginsburg, Breyer, Sotomayor, Kagan	3	<i>Douglas, Frye, Lafler</i>
Roberts, Scalia, Thomas, Breyer, Alito	1	<i>Home Concrete & Supply</i>
Roberts, Scalia, Thomas, Alito, Sotomayor	1	<i>Hall</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	Alignments Divided by 5-4 Opinions
2000	26	31%	85%	64%	54%	7	0.27
2001	21	26%	57%	67%	38%	8	0.38
2002	13	16%	67%	60%	40%	7	0.54
2003	19	24%	76%	63%	48%	8	0.42
2004	16	20%	50%	42%	21%	14	0.88
2005	10	12%	73%	63%	45%	7	0.70
2006	24	33%	79%	68%	54%	6	0.25
2007	12	17%	67%	50%	33%	6	0.50
2008	23	29%	70%	69%	48%	7	0.30
2009	15	18%	69%	73%	50%	7	0.47
2010	16	20%	75%	50%	38%	4	0.25
2011	8	14%	75%	50%	38%	4	0.50
Average	17	22%	70%	60%	42%	7	0.45

* Justice Kagan has recused this Term in one 5-3 case, *Federal Aviation Administration v. Cooper*.

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

Five-to-Four Cases

(continued)

Membership in a Five-to-Four Majority

Justice	Frequency in Majority		OT10	OT09	OT08	OT07	OT06
Kennedy	6	75%	88%	69%	78%	67%	100%
Roberts	5	63%	63%	56%	48%	58%	67%
Scalia	5	63%	69%	69%	70%	58%	58%
Thomas	5	63%	75%	69%	65%	67%	61%
Alito	5	63%	63%	63%	52%	50%	71%
Breyer	4	50%	31%	38%	39%	45%	46%
Sotomayor	4	50%	38%	43%	-	-	-
Ginsburg	3	38%	38%	25%	52%	50%	33%
Kagan	3	38%	38%	-	-	-	-

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	OT10	OT09	OT08	OT07	OT06
Kennedy	8	6	4	67%	30%	22%	18%	14%	19%
Scalia	8	5	2	50%	9%	18%	33%	29%	0%
Kennedy	8	6	1	25%	21%	22%	28%	50%	25%
Thomas	8	5	1	20%	33%	9%	13%	13%	29%
Ginsburg	8	3	0	0%	33%	50%	27%	0%	13%
Breyer	8	4	0	0%	20%	25%	0%	40%	18%
Alito	8	5	0	0%	0%	40%	8%	17%	24%
Sotomayor	8	4	0	0%	17%	0%	-	-	-
Kagan	7	3	0	0%	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. As such, 5-4 *per curiam* opinions are omitted entirely.