

**STATISTICS FOR THE SUPREME COURT'S
OCTOBER TERM 2002**

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INTRODUCTION

1. The justices decided 73 cases after argument this term, a recent low. The numbers of decisions after argument for previous terms are 76 (OT01), 79 (OT00), 74 (OT99), 78 (OT98), 92 (OT97), 81 (OT96), 77 (OT95), 84 (OT94), 84 (OT93), 107 (OT92), 107 (OT91), 102 (OT90).

2. This term had a very low number of decisions that were 5-4 in whole or in part, 15 of 73 (21%), down from 21 of 76 (28%) in OT01. The numbers for previous terms are 26 of 79—33% (OT00), 21 of 74—28% (OT99), 19 of 80—24% (OT98), 16 of 96—17% (OT97), 17 of 91—19% (OT96), 16 of 85—19% (OT95).

3. Perhaps the most notable feature of this term's 5-4 decisions is that Justice O'Connor was in the majority in all of the cases that were entirely 5-4, and all but 2 that were 5-4 at least in part. Chief Justice Rehnquist and Justice Kennedy were in the majority in the 5-4 decisions the next most often, eight times.

The court's conservative majority (WHR, SOC, AS, AMK, CT) held together in 40% (6 of 15) of the 5-4 cases this term. This figure is slightly lower than last year (10 of 21—48%), and down still further from OT00, in which those justices voted together in 54% (14 of 26) of the 5-4 decisions. The numbers for previous terms are 14 of 21—67% (OT99), 10 of 19—53% (OT98), 6 of 16—38% (OT97), 8 of 17—47% (OT96), 7 of 16—44% (OT95).

Of the 5-4 cases, four were decided by a majority composed of the remaining four justices (JPS, DS, RBG, and SGB) plus Justice O'Connor. In one other that was 5-4 "in part," Justice Scalia "defected." Last term, Justice O'Connor defected four times and Chief Justice Rehnquist and Justice Thomas defected once each. In OT00, seven 5-4 cases were decided by these four justices and a defector, with Justice O'Connor providing the fifth vote four times and Justice Kennedy three times.

4. As usual, two sets of justices had extremely high degrees of affinity this term: Justices Scalia and Thomas, and Justices Souter and Ginsburg.

Justices Scalia and Thomas: Justices Scalia and Thomas have shown a growing affinity over the past few terms. Their percentages of agreement this term were: 89% (in full), 92% (in full or part), 95% (in full, in part, or in the judgment). The two justices disagreed completely just 5% of the time. Their percentages in previous terms were 82/87/92 (OT01), 76/92/99 (OT00), 81/91/93 (OT99), 76/92/95 (OT98), 82/88/93 (OT97), 88/98/99 (OT96), 83/unavail./93 (OT95).

Justices Souter and Ginsburg: Their percentages of agreement were: 88% (in full), 91% (in full or in part), 91% (in full, in part, or in the judgment). Their numbers for previous terms are 86/90/94 (OT01), 79/94/94 (OT00), 81/88/91 (OT99), 82/91/91 (OT98), 82/87/88 (OT97), 75/87/91 (OT96), 78/unavail./90 (OT95).

Chief Justice Rehnquist and Justice Kennedy also agreed frequently this term: 86% (in full), 91% (in full or part), 93% (in full, in part, or in the judgment). The two disagreed completely just 7% of the time.

The Chief Justice and Justice O'Connor were in agreement more often this term, 82% (in full), 87% (in full or part), 87% (in full, in part, or in the judgment), up from 71/75/79 last term and 73/86/86 in OT00. Their numbers for previous terms were 87/94/95 (OT99), 79/86/87 (OT98), 80/86/88 (OT97), 73/82/84 (OT96), 78/unavail./87 (OT95).

Measured by agreement in full or in part, the pairing with the lowest affinity this term was Justices Thomas and Breyer. Their percentages of agreement were: 50% (in full), 53% (in full or part), 60% (in full, in part, or in the judgment). Thirty-one of the court's 80 decisions this term were unanimous. Of the remaining 49 cases, Justices Thomas and Breyer agreed in full just eight times. They disagreed a whopping 40% of the time.

The pairing that usually has the lowest affinity, Justices Stevens and Scalia, also agreed more often this term: 53% (in full), 57% (in full or part), 66% (in full, in part, or in the judgment), as compared with 36/46/53 last term and 36/52/60 in OT00.

5. As usual, Justice O'Connor was in the dissent the least often. She dissented in just five of the court's 80 cases. Last term, Justice O'Connor dissented 10 times, as compared with 8 (OT00), 4 (OT99), 7 (OT98), 11 (OT97), 10 (OT96), 8 (OT95).

SUMMARY INFORMATION REGARDING THE TERM

Status of Cases					
Granted but not argued		Argued but not decided		Decided	80

Decided Cases: Method of Disposition					
After argument and by signed opinion	72	After argument and without signed opinion	1	On the briefs	7

Splits in Decided Cases							
Unanimous	31	9-0	10	8-1 or 7-1	4	7-2 or 6-2	8
6-3 or 5-3	12	5-4	13	4-4	2	Other	0

Treatment of the Lower Court					

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Lower court reversed or vacated	58	lower court affirmed	21	lower court reversed or vacated in part and affirmed in part	1	Other	0
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OPINION AUTHORSHIP

Opinion Authorship: Total Number of Opinions									
Rehnquist	11	Stevens	29	O'Connor	17	Scalia	25	Kennedy	18
Souter	22	Thomas	27	Ginsburg	17	Breyer	18		
Opinion Authorship: Majority Opinions									
Per Curiam	8	Rehnquist	7	Stevens	9	O'Connor	8	Scalia	8
Kennedy	7	Souter	8	Thomas	6	Ginsburg	7	Breyer	7
Opinion Authorship: Plurality or Plurality-Like Opinions									
Per Curiam	1	Rehnquist	1	Stevens	0	O'Connor	1	Scalia	0
Kennedy	0	Souter	0	Thomas	1	Ginsburg	0	Breyer	1
Opinion Authorship: Concurring Opinions									
Rehnquist	0	Stevens	12	O'Connor	8	Scalia	8	Kennedy	6
Souter	6	Thomas	9	Ginsburg	3	Breyer	4		
Opinion Authorship: Dissenting Opinions									
Rehnquist	3	Stevens	8	O'Connor	0	Scalia	9	Kennedy	5
Souter	8	Thomas	11	Ginsburg	7	Breyer	6		
Opinion Authorship: Unanimous Majority Opinions									
Per Curiam	7	Rehnquist	2	Stevens	2	O'Connor	2	Scalia	3
Kennedy	2	Souter	3	Thomas	4	Ginsburg	3	Breyer	2

DISSENTING VOTES

Dissenting Votes: Total Number									
Rehnquist	7	Stevens	16	O'Connor	5	Scalia	16	Kennedy	9
Souter	10	Thomas	18	Ginsburg	15	Breyer	13		
Dissenting Votes: Number of Times the only Dissenter in a Case									
Rehnquist	0	Stevens	1	O'Connor	0	Scalia	0	Kennedy	0
Souter	0	Thomas	2	Ginsburg	0	Breyer	1		

FIVE-TO-FOUR CASES

Number of cases (either entirely 5-4 or 5-4 on a major issue)		15							
Five-to-Four Cases: Alignments									
Rehnquist, O'Connor, Scalia, Kennedy, Thomas		6							
Stevens, O'Connor, Souter, Ginsburg, Breyer		4							
Rehnquist, O'Connor, Kennedy, Souter, Breyer		1							
Rehnquist, O'Connor, Souter, Ginsburg, Breyer		1							
Stevens, O'Connor, Kennedy, Souter, Thomas		1							
Stevens, Scalia, Souter, Ginsburg, Breyer		1							
Stevens, Scalia, Souter, Thomas, Ginsburg		1							
Five-to-Four Cases: Authorship of the Opinion									
Rehnquist	2	Stevens	2	O'Connor	4	Scalia	1	Kennedy	0
Souter	3	Thomas	0	Ginsburg	1	Breyer	2		
Five-to-Four Cases: Membership in the Majority									
Rehnquist	8	Stevens	7	O'Connor	13	Scalia	8	Kennedy	8
Souter	9	Thomas	8	Ginsburg	7	Breyer	7		

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FULL VOTING RELATIONSHIPS BY SENIORITY

	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
Rehnquist	80	79	80	80	80	79	80	79
	49 - 61%	65 - 82%	64 - 80%	69 - 86%	59 - 74%	58 - 73%	58 - 73%	57 - 72%
	5 - 68%	4 - 87%	2 - 83%	4 - 91%	2 - 76%	2 - 76%	2 - 75%	2 - 75%
	4 - 73%	0 - 87%	3 - 86%	1 - 93%	2 - 79%	4 - 81%	0 - 75%	2 - 77%
	22 - 27%	10 - 13%	11 - 14%	6 - 7%	17 - 21%	15 - 19%	20 - 25%	18 - 23%
Stevens	79	80	80	80	79	80	79	
	51 - 65%	42 - 53%	51 - 64%	61 - 76%	40 - 51%	59 - 74%	58 - 73%	
	6 - 72%	4 - 57%	5 - 70%	5 - 83%	4 - 56%	6 - 81%	5 - 80%	
	4 - 77%	7 - 66%	4 - 75%	5 - 89%	8 - 66%	5 - 88%	4 - 85%	
	18 - 23%	27 - 34%	20 - 25%	9 - 11%	27 - 34%	10 - 12%	12 - 15%	
O'Connor	79	79	79	78	79	78		
	55 - 70%	60 - 76%	61 - 77%	52 - 67%	56 - 71%	57 - 73%		
	4 - 75%	5 - 82%	2 - 80%	4 - 72%	2 - 73%	2 - 76%		
	3 - 78%	2 - 85%	3 - 84%	3 - 76%	1 - 75%	3 - 79%		
	17 - 22%	12 - 15%	13 - 16%	19 - 24%	20 - 25%	16 - 21%		
Scalia	80	80	79	80	79			
	60 - 75%	48 - 60%	70 - 89%	50 - 63%	46 - 58%			
	3 - 79%	2 - 63%	3 - 92%	3 - 66%	2 - 61%			
	4 - 84%	4 - 68%	2 - 95%	2 - 69%	4 - 66%			
	13 - 16%	26 - 32%	4 - 5%	25 - 31%	27 - 34%			
Kennedy	80	79	80	79				
	59 - 74%	56 - 71%	57 - 71%	53 - 67%				
	3 - 78%	3 - 75%	3 - 75%	3 - 71%				
	1 - 79%	5 - 81%	0 - 75%	1 - 72%				
	17 - 21%	15 - 19%	20 - 25%	22 - 28%				
Souter	79	80	79					
	43 - 54%	70 - 88%	67 - 85%					
	2 - 57%	3 - 91%	3 - 89%					
	6 - 65%	0 - 91%	0 - 89%					
	28 - 35%	7 - 9%	9 - 11%					
Thomas	79	78						
	43 - 54%	39 - 50%						
	3 - 58%	2 - 53%						
	4 - 63%	6 - 60%						
	29 - 37%	31 - 40%						
Ginsburg	79							
	68 - 86%							
	3 - 90%							
	0 - 90%							
	8 - 10%							

KEY	
Total No. of Cases Together	
No. and % of Times Agreed in Full	
No. of Times Agreed in Part & % of Times Agreed in Full or in Part	
No. of Times Agreed in the Judgment & % of Times Agreed in Full, in Part, or in the Judgment	
No. and % of Times Disagreed Completely	