

# SCOTUS**blog** StatPack – OT07, Edition 12

## Included in this StatPack:

1. Justice Agreement
2. Decisions by Final Vote
3. Frequency in the Majority
4. Grant Rates by Conference
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## Key Upcoming Dates:

- June 23: Orders and Opinions
- The Court has not officially announced any additional opinion days, but it's likely that there will be public sessions on one or both of Wednesday, June 25, and Thursday, June 26.
- June 27 (likely): Final Order List; Summer Recess begins
  
- September 29: Opening Conference of OT08
- October 6: First official day of OT08 and first oral argument of new Term.

### SCOTUSblog Agreement Stats for OT07 - PRELIMINARY (6/19/08)

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	61%	63%	85%	64%	63%	61%	68%	81%	59
	76%	80%	90%	73%	73%	69%	77%	86%	
	<b>78%</b>	<b>86%</b>	<b>90%</b>	<b>73%</b>	<b>78%</b>	<b>69%</b>	<b>79%</b>	<b>88%</b>	
	<b>22%</b>	<b>14%</b>	<b>10%</b>	<b>27%</b>	<b>22%</b>	<b>31%</b>	<b>21%</b>	<b>12%</b>	
Stevens	41%	58%	58%	78%	39%	69%	73%	58%	59
	59%	73%	73%	88%	54%	86%	84%	69%	
	<b>68%</b>	<b>75%</b>	<b>88%</b>	<b>88%</b>	<b>61%</b>	<b>86%</b>	<b>84%</b>	<b>73%</b>	
	<b>32%</b>	<b>25%</b>	<b>12%</b>	<b>39%</b>	<b>14%</b>	<b>16%</b>	<b>16%</b>	<b>27%</b>	
Scalia	61%	47%	76%	44%	52%	64%	59%	59%	59
	75%	61%	85%	59%	59%	76%	64%	81%	
	<b>81%</b>	<b>64%</b>	<b>86%</b>	<b>64%</b>	<b>64%</b>	<b>64%</b>	<b>81%</b>		
	<b>19%</b>	<b>36%</b>	<b>14%</b>	<b>36%</b>	<b>36%</b>	<b>36%</b>	<b>19%</b>		
Ken	64%	54%	59%	73%	78%	59%	82%	86%	59
	71%	63%	68%	82%	86%	84%	88%		
	<b>71%</b>	<b>66%</b>	<b>68%</b>	<b>84%</b>	<b>88%</b>				
	<b>29%</b>	<b>34%</b>	<b>32%</b>	<b>16%</b>	<b>12%</b>				
Sout	51%	80%	79%	66%	59%	82%	71%	59%	59
	58%	86%	82%	71%					
	<b>61%</b>	<b>86%</b>	<b>82%</b>	<b>71%</b>					
	<b>39%</b>	<b>14%</b>	<b>18%</b>	<b>29%</b>					
Thom	42%	50%	64%	59%	80%	59%	73%	59%	59
	51%	55%	73%						
	<b>54%</b>	<b>59%</b>	<b>80%</b>						
	<b>46%</b>	<b>41%</b>	<b>20%</b>						
Gins	71%	61%	59%	68%	56%	72%	74%	59%	56
	79%	68%							
	<b>79%</b>	<b>68%</b>							
	<b>21%</b>	<b>32%</b>							
Breyer	68%	56%	72%	74%	59%	26%	59%	59	
	72%								
	<b>74%</b>								
	<b>26%</b>								
Alito									

**Key**

Full
Part + All
<b>Judg + Part + All</b>
<b>Disagree</b>

### SCOTUSblog Agreement Stats for OT07 - PRELIMINARY (6/19/08)

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	36	37	50	38	37	36	38	48	59
	45	47	53	43	43	41	43	51	
	<b>46</b>	<b>51</b>	<b>53</b>	<b>43</b>	<b>46</b>	<b>41</b>	<b>44</b>	<b>52</b>	
	<b>13</b>	<b>8</b>	<b>6</b>	<b>16</b>	<b>13</b>	<b>18</b>	<b>12</b>	<b>7</b>	
Stevens	24	34	46	23	41	41	41	34	59
	35	43	52	32	51	47	41		
	<b>40</b>	<b>44</b>	<b>52</b>	<b>36</b>	<b>51</b>	<b>47</b>	<b>43</b>		
	<b>19</b>	<b>15</b>	<b>7</b>	<b>23</b>	<b>8</b>	<b>9</b>	<b>16</b>		
Scalia	36	28	45	26	29	38		59	
	44	36	50	35	33	45			
	<b>48</b>	<b>38</b>	<b>51</b>	<b>38</b>	<b>36</b>	<b>48</b>			
	<b>11</b>	<b>21</b>	<b>8</b>	<b>21</b>	<b>20</b>	<b>11</b>			
Ken	38	32	35	41	46		59		
	42	37	40	46	51				
	<b>42</b>	<b>39</b>	<b>40</b>	<b>47</b>	<b>52</b>				
	<b>17</b>	<b>20</b>	<b>19</b>	<b>9</b>	<b>7</b>				
Sout	30	47	44	39		59			
	34	51	46	42					
	<b>36</b>	<b>51</b>	<b>46</b>	<b>42</b>					
	<b>23</b>	<b>8</b>	<b>10</b>	<b>17</b>					
Thom	25	28	38		59				
	30	31	43						
	<b>32</b>	<b>33</b>	<b>47</b>						
	<b>27</b>	<b>23</b>	<b>12</b>						
Gins	40	36		59					
	44	40							
	<b>44</b>	<b>40</b>							
	<b>12</b>	<b>19</b>							
Breyer	39		56						
	41								
	<b>42</b>								
	<b>15</b>								
Alito								59	

**Key**

Full
Part + All
<b>Judg + Part + All</b>
<b>Disagree</b>

OT07 - Decisions by Final Vote

9-0 (or unan.) 21 (34%)	8-1 (or 7-1) 5 (8%)	7-2 (or 6-2) 18 (30%)	6-3 8 (13%)	5-4 9 (15%)
<i>Sprint/United</i>	<i>Riegel</i>	<i>Danforth</i>	<i>Medellin</i>	<i>Ali v. BoP</i>
<i>Rowe</i>	<i>Preston</i>	<i>Siebert (PC)</i>	<i>Hall Street</i>	<i>Tom F. (4-4)</i>
<i>LaRue</i>	<i>Gonzalez</i>	<i>Gall</i>	<i>Begay</i>	<i>Stoneridge (5-3)</i>
<i>CSX v. Ga. Bd.</i>	<i>Ressam</i>	<i>Kimbrough</i>	<i>Crawford</i>	<i>W.-Lambert (4-4)</i>
<i>Logan</i>	<i>Meacham</i>	<i>John Sand</i>	<i>Rodriquez</i>	<i>Santos</i>
<i>Watson</i>		<i>FedEx</i>	<i>Gomez-Perez</i>	<i>Boumediene</i>
<i>Wright v. VP (PC)</i>		<i>Snyder</i>	<i>Engquist</i>	<i>Irizarry</i>
<i>NY Bd. Of Elections</i>		<i>Wash. Grange</i>	<i>MetLife</i>	<i>Dada</i>
<i>Knight v. CIR</i>		<i>NJ v. Delaware</i>		<i>Kent. Retire.</i>
<i>Boulware</i>		<i>Baze</i>		
<i>Clintwood Elkhorn</i>		<i>Williams</i>		
<i>MeadWestvaco</i>		<i>Davis</i>		
<i>Burgess</i>		<i>Riley</i>		
<i>Moore</i>		<i>CBOCS West</i>		
<i>Cuellar</i>		<i>Piccadilly Cafeteria</i>		
<i>Richlin</i>		<i>Phillipines</i>		
<i>Phoenix Bond</i>		<i>Chamber v. Brown</i>		
<i>Quanta</i>		<i>Indiana</i>		
<i>Allison Engine</i>				
<i>Taylor</i>				
<i>Munaf</i>				

<b>Dismissed</b>
<i>Arave v. Hoffman</i> (not argued)
<i>Ali v. Achim</i> (not argued)
<i>Huber v. Wal-Mart</i> (not argued)
<i>Klein &amp; Co. v. Bd. Of Trade</i>

<b>Final OT06</b>				
28 (38%)	9 (12%)	9 (12%)	3 (4%)	24 (33%)

<b>Final OT05</b>				
45 (52%)	5 (6%)	12 (14%)	13 (15%)	11 (13%)

# Frequency in the Majority

(Through June 19, 2008)

The charts below measure how frequently each Justice has voted with the majority in cases decided on the merits thus far. It does not include opinions where the vote was not disclosed (*Board of Ed. of City School Dist. of New York v. Tom F.*) or where the case was dismissed as moot (*Arave v. Hoffman*).

The first chart examines the results for all cases, the second only for divided cases. In each, we list the number of times each Justice has voted with the majority, the number of times each Justice has voted overall, the frequency with which each Justice has voted with the majority in OT07, and the corresponding figure for OT06.

## All cases

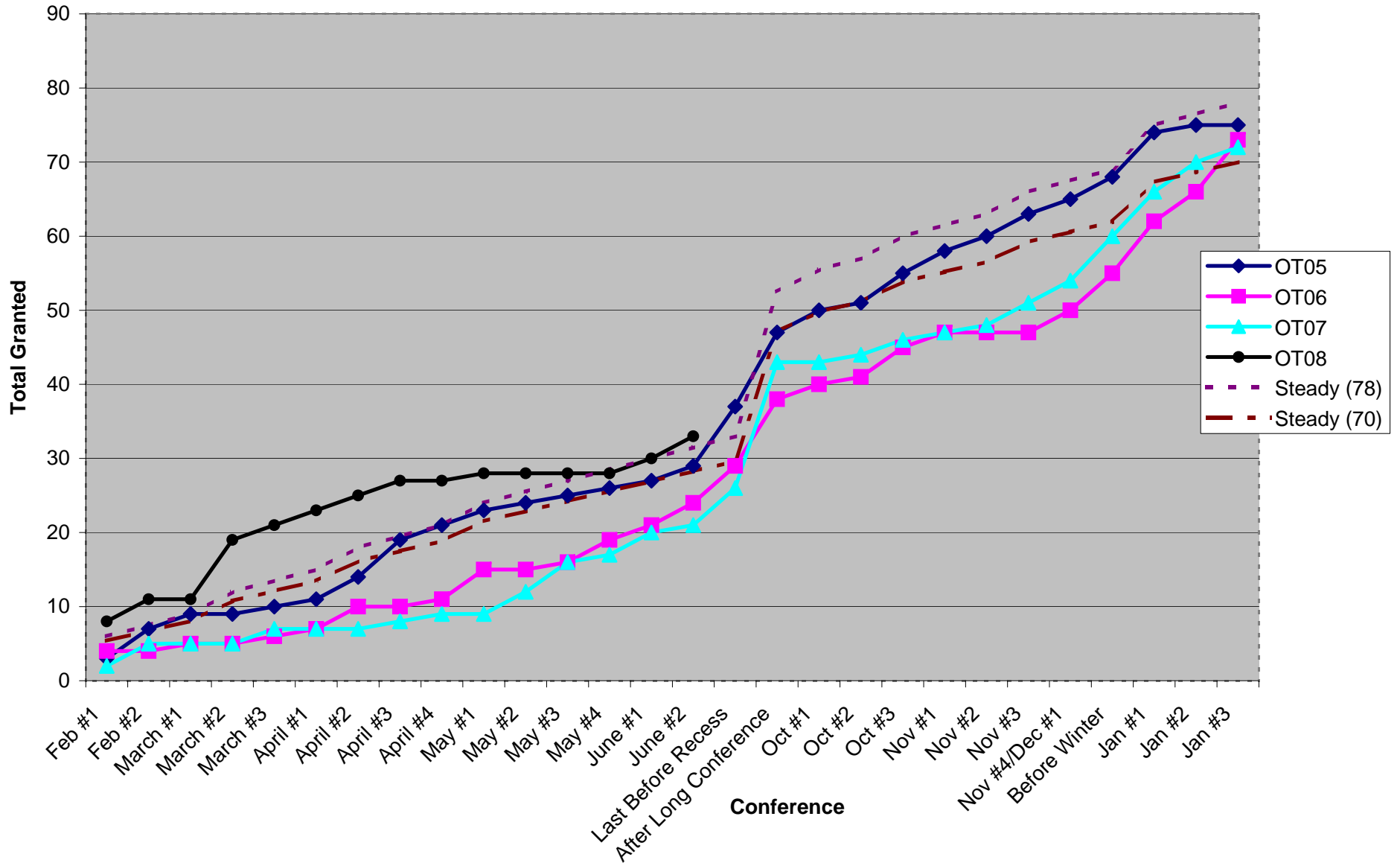
Justice	Majority votes	Total votes	% in majority	% in OT06
Roberts	54	59	91.5%	88.4%
Kennedy	50	59	84.7%	97.2%
Alito	50	59	84.7%	86.1%
Stevens	50	59	84.7%	63.9%
Breyer	47	56	83.9%	75.7%
Scalia	48	59	81.4%	79.2%
Souter	48	59	81.4%	76.4%
Ginsburg	46	59	78.0%	72.2%
Thomas	45	59	76.3%	77.5%

## Divided cases only\*

Justice	Majority votes	Total votes	% in majority	% in OT06
Roberts	32	37	86.5%	82.2%
Kennedy	28	37	75.7%	95.3%
Alito	28	37	75.7%	77.3%
Stevens	28	37	75.7%	36.6%
Breyer	25	34	73.5%	61.4%
Scalia	26	37	70.3%	65.9%
Souter	26	37	70.3%	61.4%
Ginsburg	24	37	64.9%	54.5%
Thomas	23	37	62.2%	62.8%

\* This category consists of cases that attract at least one dissenting vote.

## Granted Cases by Conference



Notes: In OT04, the Court added an additional Conference at the end of June, on the last Monday of the Term, to consider relists. Thus, the jump of 8 cases reflects the grant of 5 cases in Conference on June 23, 2005 and an additional 3 on June 27, 2005.

## Circuit Scorecard - OT07

Court	Decided	Outstanding	# Aff'd	% Aff'd	# Rev'd	% Rev'd	# Aff'd in Part	% Aff'd in Part	% of SCOTUS Caseload
CA1	2	0	1	50.0%	1	50.0%	0	0.0%	2.8%
CA2*	7	0	5	71.4%	2	28.6%	0	0.0%	9.9%
CA3	0	0	0	0.0%	0	0.0%	0	0.0%	0.0%
CA4	3	0	1	33.3%	2	66.7%	0	0.0%	4.2%
CA5	4	1	1	25.0%	3	75.0%	0	0.0%	7.0%
CA6	3	0	1	33.3%	2	66.7%	0	0.0%	4.2%
CA7	6	0	5	83.3%	1	16.7%	0	0.0%	8.5%
CA8	2	2	1	50.0%	1	50.0%	0	0.0%	5.6%
CA9	8	2	1	12.5%	7	87.5%	0	0.0%	14.1%
CA10	2	0	0	0.0%	2	100.0%	0	0.0%	2.8%
CA11	6	0	2	33.3%	4	66.7%	0	0.0%	8.5%
CADC	3	2	0	0.0%	3	100.0%	0	0.0%	7.0%
CAFC	4	0	1	25.0%	3	75.0%	0	0.0%	5.6%
Dist. Courts	1	1	0	0.0%	1	100.0%	0	0.0%	2.8%
State Courts	9	2	2	22.2%	7	77.8%	0	0.0%	15.5%
Original	1	0	N/A	N/A	N/A	N/A	N/A	N/A	1.4%
<b>Total†</b>	<b>61</b>	<b>10</b>	<b>21</b>	<b>34.4%</b>	<b>39</b>	<b>63.9%</b>	<b>0</b>	<b>0.0%</b>	

Consolidated cases are now counted together. Substantive summary reversals or affirmances are also counted.

\* The Court affirmed the Second Circuit in both *Tom F.* and *Warner-Lambert* by a vote of 4-4 and wrote no opinion.

† This list does not include *Arave*, *Wal-Mart*, *Achim*, or *Klein & Co.*, which were dismissed.

## Opinion Authors by Sitting

<b>OCT</b>	<i>Author</i>	<u>Count</u>	
Wash Grange	CT	JGR	1
Tom F.	PC	JPS	1
Gall	JPS	AS	2
Kimbrough	RBG	AMK	1
Lopez-Torres	AS	DHS	1
Santos	AS	CT	1
Watson	DHS	RBG	1
Stonerige	AMK	SB	0
Medellin	JGR	SAA	0

<b>NOV</b>	<i>Author</i>	<u>Count</u>	
<del>Klein &amp; Co.</del>	dismiss	JGR	1
Ali v. BoP	CT	JPS	1
US v. Williams	AS	AS	1
Logan	RBG	AMK	1
Danforth	JPS	DHS	2
CSX v. Ga. Bd.	JGR	CT	1
Ky. v. Davis	DHS	RBG	1
John R. Sand	SB	SB	1
Holowiecki	AMK	SAA	0
Hall Street	DHS		

<b>DEC</b>	<i>Author</i>	<u>Count</u>	
LaRue	JPS	JGR	1
NJ v. Del.	RBG	JPS	1
Knight v. CIR	JGR	AS	1
Rowe	SB	AMK	1
Sprint/United	CT	DHS	0
Riegel	AS	CT	1
Snyder	SAA	RBG	1
Boumediene	AMK	SB	1
		SAA	1

<b>JAN</b>	<i>Author</i>	<u>Count</u>	
Baze	JGR	JGR	1
Dada	AMK	JPS	1
Gonzalez	AMK	AS	1
Boulware	DHS	AMK	2
Crawford	JPS	DHS	1
Ky. Retire	SB	CT	1
Moore	AS	RBG	1
Preston	RBG	SB	2
Rodriquez	SAA	SAA	2
Begay	SB		
Quanta	CT		
Meadwestvaco	SAA		

<b>FEB</b>	<i>Author</i>	<u>Count</u>	
Gomez-Perez	SAA	JGR	0
Morgan-Stanley		JPS	0
CBOCS	SB	AS	0
Cuellar	CT	AMK	0
Warner-Lambert	PC	DHS	0
Allison Engine	SAA	CT	1
<b>Exxon</b>		RBG	0
		SB	1
		SAA	2

<b>MAR</b>	<i>Author</i>	<u>Count</u>	
Phillippines	AMK	JGR	2
Rothgery		JPS	2
<b>Heller (Guns)</b>		AS	0
Richlin	SAA	AMK	1
Cham. Of Comm.	JPS	DHS	0
Burgess	RBG	CT	1
Clintwood	JGR	RBG	2
Riley	RBG	SB	1
Munaf	JGR	SAA	1
Ressam	JPS		
Edwards	SB		
Piccadilly	CT		

<b>APR</b>	<i>Author</i>	<u>Count</u>	
Plains Commerce		JGR	1
Phoenix Bond	CT	JPS	1
Greenlaw		AS	0
Irizarry	JPS	AMK	0
<b>Kennedy v. La</b>		DHS	1
Sturgell	RBG	CT	1
APCC Svcs.		RBG	1
Enquist	JGR	SB	1
Davis v. FEC		SAA	0
Giles			
MetLife	SB		
Meacham	DHS		

<b>Total</b>			
JGR	7	DHS	5
JPS	7	CT	7
AS	5	RBG	7
AMK	6	SB	7
		SAA	6

Cases in **red** are highest profile outstanding cases



## The Court's Workload in OT07

Cases Granted or Probable Jurisdiction Noted:		72*
Dismissed Before Argument:	-	3
Original Cases Argued:	+	1
Number of Arguments:		70

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Argued Merits Cases Disposed of:		60
Signed Opinions:		57
Dismissals After Argument:		1
Affirmed by Equally Divided Vote:		2
Projected Remaining Merits Opinions:		10

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Expected Merits Opinions in OT07 After Argument:		67
Summary Opinions from Non-Argued Cases:	+	2
Total Merits Decisions:		69

\* Does not include the four (out of six) cases granted on 1/22/08 that will be argued in OT08.

## Outstanding Cases

As of 6/19/2008

[\*Morgan-Stanley v. Public Utility District #1\*](#) (06-1457) Argued 2/19/2008  
Whether the 9<sup>th</sup> Circuit erred by failing to abide by *United Gas Pipe Line Co. v. Mobile Gas Service Corp.* and *Federal Power Commission v. Sierra Pacific Power Co.*, which preclude the Commission from undoing a valid, bilaterally negotiated, arms-length wholesale energy contract that has, at most, a minimal impact on retail rates.

[\*Exxon v. Baker\*](#) (07-219) Argued 2/26/2008  
Whether maritime law allows any punitive damages against a ship owner/operator for an oil spill and, if so, how high such a damage award may legally go.

[\*Rothgery v. Gillespie County\*](#) (07-440) Argued 3/17/2008  
Whether adversary judicial proceedings commence, thus attaching 6<sup>th</sup> Amendment rights, when no prosecutor is involved in an individual's arrest or appearance before a magistrate.

[\*District of Columbia v. Heller\*](#) (07-290) Argued 3/18/2008  
Whether D.C. code violates the Second Amendment right of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes.

[\*Plains Commerce v. Long Family Land and Cattle\*](#) (07-411) Argued 4/14/2008  
Whether Indian tribal courts have subject-matter jurisdiction to adjudicate civil tort claims as an "other means" of regulating the conduct of a non-member bank owning fee-land on a reservation that entered into a private commercial agreement with a member-owned corporation.

[\*Greenlaw v. United States\*](#) (07-330) Argued 4/15/2008  
Whether a federal court of appeals may increase a criminal defendant's sentence *sua sponte* and in the absence of a cross-appeal by the Government.

[\*Kennedy v. Louisiana\*](#) (07-343) Argued 4/16/2008  
Whether the 8<sup>th</sup> Amendment's Cruel and Unusual Punishment Clause permits a State to punish the crime of rape of a child with the death penalty and, if so, whether Louisiana's statute violates this clause insofar as it fails to genuinely narrow the class of offenders eligible for the death penalty.

[\*Sprint Communications v. APCC Services\*](#) (07-552) Argued 4/16/2008  
Whether the assignment of a claim "for purposes of collection" confers standing on an assignee that has no personal stake in the case and that avowedly litigates only "on behalf of" the assignors.

## Outstanding Cases

As of 6/19/2008

[Davis v. FEC](#) (07-320)

Argued 4/22/2008

Whether BCRA's so-called "Millionaire's Amendment," which relaxes campaign finance limits of congressional candidates spending more than \$350,000 of their own money, violates either the 1<sup>st</sup> or 5<sup>th</sup> Amendments.

[Giles v. California](#) (07-6053)

Argued 4/22/2008

Whether a criminal defendant "forfeits" Six Amendment Confrontation Clause claims upon a mere showing that the defendant has caused the unavailability of a witness, or whether there must also be an additional showing that his actions were undertaken for the purpose of preventing the witness from testifying.