

# SCOTUSBlog StatPack Final Data 6.29.09

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**SUMMARY INFORMATION REGARDING THE TERM**

**Status of Cases**

Granted but dismissed	3	Argued, not decided	1	Decided	79
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**Decided Cases: Method of Disposition**

After argument and by signed opinion	74	After argument and without signed opinion	1	On the briefs	4
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**Splits in Decided Cases**

Unanimous	15	9-0	11	8-1	4
7-2	13	6-3	13	5-4	23

**Treatment of the Lower Court**

Lower court reversed or vacated	59	Lower court affirmed	16	Lower court reversed or vacated in part and affirmed in	3	Other	1
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**OPINION AUTHORSHIP**

**Opinion Authorship: Total Number of Opinions**

Roberts	17	Stevens	29	Scalia	21	Kennedy	14	Souter	21
Thomas	20	Ginsburg	18	Breyer	29	Alito	22		

**Opinion Authorship: Majority Opinions (including Unanimous Opinions, excluding Pluralities)**

Per Curiam	5	Roberts	8	Stevens	9	Scalia	11	Kennedy	6
Souter	8	Thomas	9	Ginsburg	7	Breyer	8	Alito	7

**Opinion Authorship: Plurality or Plurality-Like Opinions**

Per Curiam	0	Roberts	0	Stevens	0	Scalia	0	Kennedy	1
Souter	0	Thomas	0	Ginsburg	0	Breyer	0	Alito	0

**Opinion Authorship: Concurring Opinions**

Roberts	4	Stevens	5	Scalia	7	Kennedy	4	Souter	2
Thomas	5	Ginsburg	2	Breyer	8	Alito	9		

**Opinion Authorship: Dissenting Opinions**

Roberts	5	Stevens	15	Scalia	3	Kennedy	3	Souter	11
Thomas	6	Ginsburg	9	Breyer	13	Alito	6		

**Opinion Authorship: Unanimous Majority Opinions**

Per Curiam	1	Roberts	0	Stevens	0	Scalia	1	Kennedy	0
Souter	3	Thomas	2	Ginsburg	3	Breyer	2	Alito	3

**DISSENTING VOTES**

**Dissenting Votes: Total Number**

Roberts	15	Stevens	28	Scalia	13	Kennedy	6	Souter	25
Thomas	15	Ginsburg	24	Breyer	20	Alito	15		

**Dissenting Votes: Number of Times the only Dissenter in a Case**

Roberts	0	Stevens	0	Scalia	0	Kennedy	0	Souter	0
Thomas	3	Ginsburg	1	Breyer	0	Alito	0		

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**FIVE-TO-FOUR CASES**

<b>Number of cases (entirely 5-4 or 5-4 on a major issue)</b>	23
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<b>Five to Four Cases: Alignments</b>		<b>5-4 Cases:</b>	
Roberts, Scalia, Kennedy, Thomas, Alito	11	14 Penn, Ashcroft, Bartlett, District Attorney's Office	
		FCC, Gross, Herring, Horne, Montejo, Ricci, Summers	
Ginsburg, Stevens, Souter, Breyer, Kennedy	5	Altria, Caperton, Corley, Haywood, Denedo	
Ginsburg, Stevens, Souter, Breyer, Scalia	2	Spears, Cuomo	
Ginsburg, Stevens, Souter, Scalia, Thomas	2	Arizona v. Gant, Melendez-Diaz	
Ginsburg, Stevens, Souter, Breyer, Thomas	1	Atlantic Sounding	
Ginsburg, Stevens, Breyer, Kennedy, Alito	1	Oregon v. Ice	
Ginsburg, Souter, Kennedy, Scalia, Thomas	1	Vaden	

<b>Five-to-Four Cases: Authorship of the Opinion</b>									
Roberts	2	Stevens	3	Scalia	5	Kennedy	5	Souter	1
Thomas	3	Ginsburg	2	Breyer	0	Alito	1	PC	1

<b>Five-to-Four Cases: Membership in the Majority</b>									
Roberts	11	Stevens	11	Scalia	16	Kennedy	18	Souter	11
Thomas	15	Ginsburg	12	Breyer	9	Alito	12		

### SCOTUSblog Agreement Stats for OT08 - FINAL (6/29/09)

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	43%	81%	78%	48%	73%	42%	52%	85%	79
	44%	85%	84%	52%	76%	48%	61%	89%	
	51%	87%	86%	57%	82%	53%	66%	92%	
	49%	13%	14%	43%	18%	47%	34%	8%	
Stevens	39%	51%	80%	35%	81%	76%	37%	79	
	44%	57%	85%	39%	86%	78%	42%		
	48%	59%	87%	46%	86%	81%	48%		
	52%	41%	13%	54%	14%	19%	52%		
Scalia	72%	52%	78%	47%	48%	77%	79		
	78%	56%	86%	52%	57%	84%			
	81%	59%	87%	56%	61%	87%			
	19%	41%	13%	44%	39%	13%			
Ken	58%	66%	58%	63%	76%	79			
	63%	73%	65%	75%	84%				
	66%	80%	67%	77%	87%				
	34%	20%	33%	23%	13%				
Sout	43%	84%	67%	39%	79				
	49%	84%	75%	44%					
	57%	86%	77%	51%					
	43%	14%	23%	49%					
Thom	38%	43%	76%	79					
	47%	51%	81%						
	53%	58%	85%						
	47%	42%	15%						
Gins	70%	38%	79						
	78%	47%							
	81%	53%							
	19%	47%							
Breyer	51%	79							
	62%								
	66%								
	34%								
Alito								79	

**Key**

Full Agreement
Agree in Part OR All
<b>In Part, All, OR Judgment</b>
<b>Disagree</b>

### SCOTUSblog Agreement Stats for OT08 - FINAL (6/29/09)

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	34	64	62	38	58	33	41	67	79
	35	67	66	41	60	38	48	70	
	40	69	68	45	65	42	52	73	
	39	10	11	34	14	37	27	6	
Stevens	31	40	63	28	64	60	29	79	
	35	45	67	31	68	62	33		
	38	47	69	36	68	64	38		
	41	32	10	43	11	15	41		
Scalia	57	41	62	37	38	61	79		
	62	44	68	41	45	66			
	64	47	69	44	48	69			
	15	32	10	35	31	10			
Ken	46	52	46	50	60	79			
	50	58	51	59	66				
	52	63	53	61	69				
	27	16	26	18	10				
Sout	34	66	53	31	79				
	39	66	59	35					
	45	68	61	40					
	34	11	18	39					
Thom	30	34	60	79					
	37	40	64						
	42	46	67						
	37	33	12						
Gins	55	30	79						
	62	37							
	64	42							
	15	37							
Breyer	40	79							
	49								
	52								
	27								
Alito								79	

**Key**

Full Agreement
Agree in Part OR All
<b>In Part, All, OR Judgment</b>
<b>Disagree</b>

### Non-Unanimous Agreement Stats for OT08 - FINAL (6/29/09)

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
CJ Rob	17%	75%	68%	28%	66%	17%	32%	85%	53
	19%	79%	75%	32%	68%	25%	45%	89%	
	26%	81%	79%	36%	74%	30%	49%	89%	
	74%	19%	21%	64%	26%	70%	51%	11%	
Stevens	15%	28%	28%	74%	11%	74%	66%	15%	53
	21%	38%	38%	79%	15%	79%	70%	21%	
	23%	40%	40%	81%	19%	79%	72%	23%	
	77%	60%	19%	81%	21%	28%	77%		
Scalia	62%	34%	34%	74%	25%	30%	75%	53	
	70%	40%	40%	81%	32%	42%	79%		
	72%	40%	40%	81%	34%	42%	81%		
	28%	60%	19%	66%	58%	19%			
Ken	43%	55%	42%	49%	72%	53			
	49%	64%	49%	66%	81%				
	49%	70%	51%	66%	81%				
	51%	30%	49%	34%	19%				
Sout	26%	77%	57%	23%	53				
	32%	77%	66%	26%					
	36%	79%	66%	26%					
	64%	21%	34%	74%					
Thom	17%	25%	68%	53					
	26%	34%	74%						
	30%	38%	77%						
	70%	62%	23%						
Gins	58%	19%	53						
	70%	28%							
	72%	30%							
	28%	70%							
Breyer	34%	53							
	49%								
	49%								
	51%								
Alito								53	

**Key**

Full Agreement
Agree in Part OR All
<b>In Part, All, OR Judgment</b>
<b>Disagree</b>

### Non-Unanimous Agreement Stats for OT08 - FINAL (6/29/09)

	Stevens	Scalia	Ken	Sout	Thom	Gins	Breyer	Alito	Total Cases
<b>CJ Rob</b>	9	40	36	15	35	9	17	45	53
	10	42	40	17	36	13	24	47	
	14	43	42	19	39	16	26	47	
	39	10	11	34	14	37	27	6	
<b>Stevens</b>	8	15	39	6	39	35	8	53	
	11	20	42	8	42	37	11		
	12	21	43	10	42	38	12		
	41	32	10	43	11	15	41		
<b>Scalia</b>	33	18	39	13	16	40	53		
	37	21	43	17	22	42			
	38	21	43	18	22	43			
	15	32	10	35	31	10			
<b>Ken</b>	23	29	22	26	38	53			
	26	34	26	35	43				
	26	37	27	35	43				
	27	16	26	18	10				
<b>Sout</b>	14	41	30	12	53				
	17	41	35	14					
	19	42	35	14					
	34	11	18	39					
<b>Thom</b>	9	13	36	53					
	14	18	39						
	16	20	41						
	37	33	12						
<b>Gins</b>	31	10	53						
	37	15							
	38	16							
	15	37							
<b>Breyer</b>	18	53							
	26								
	26								
	27								
<b>Alito</b>								53	

Key	
	Full Agreement
	Agree in Part OR All
	In Part, All, OR Judgment
	Disagree

## Decisions by Final Vote—OT08

9-0 (or unan.)	8-1	7-2	6-3	5-4
<b>26 (32.9%)</b>	<b>4 (5.1%)</b>	<b>13 (16.5%)</b>	<b>13 (16.5%)</b>	<b>23 (29.1%)</b>
<i>Moore (PC)</i>	<i>Negusie</i>	<i>Hayes</i>	<i>Ysursa</i>	<i>Altria</i>
<i>Nelson (PC)</i>	<i>Burlington</i>	<i>Vermont v. Brillon</i>	<i>Winter</i>	<i>Spears (PC)</i>
<i>Locke</i>	<i>NAMUDNO</i>	<i>Puckett</i>	<i>Hedgpeth (PC)</i>	<i>Vaden</i>
<i>Kennedy</i>	<i>Safford</i>	<i>Harbison</i>	<i>Waddington</i>	<i>Herring</i>
<i>Crawford</i>		<i>Nken</i>	<i>Wyeth</i>	<i>Summers</i>
<i>Pearson</i>		<i>Cone</i>	<i>Carcieri</i>	<i>Bartlett</i>
<i>Jimenez</i>		<i>Dean</i>	<i>Entergy Corp.</i>	<i>Oregon</i>
<i>Eurodif</i>		<i>Ventris</i>	<i>Shinseki</i>	<i>14 Penn Plaza</i>
<i>Van de Kamp</i>		<i>AT&amp;T</i>	<i>Iran</i>	<i>Corley</i>
<i>Chambers</i>		<i>CSX Transportation (PC)</i>	<i>Arthur Andersen</i>	<i>Arizona v. Gant</i>
<i>Pleasant Grove</i>		<i>Boyle</i>	<i>Yeager</i>	<i>FCC</i>
<i>Kansas v. Colorado</i>		<i>Polar Tankers</i>	<i>Coeur Alaska</i>	<i>Iqbal</i>
<i>Fitzgerald</i>		<i>Travelers Indemnity</i>	<i>Forest Grove</i>	<i>Haywood</i>
<i>Pacific Bell</i>				<i>Montejo</i>
<i>Arizona v. Johnson</i>	<u>Dismissed</u>			<i>Caperton</i>
<i>Knowles</i>	<i>Bell v. Kelly (07-1223)</i>			<i>Denedo</i>
<i>Hawaii</i>	<i>Phillip Morris v. Mayola (07-1216)</i>			<i>Osborne</i>
<i>Rivera</i>	<i>al-Marri v. Spagone (08-368) (before argument)</i>			<i>Gross</i>
<i>Navajo Nation</i>	<u>Held</u>			<i>Horne</i>
<i>Carlsbad</i>	<i>Citizens United v. FEC</i>			<i>Atlantic Sounding</i>
<i>Flores-Figueroa</i>				<i>Melendez-Diaz</i>
<i>Abuelhawa</i>				<i>Ricci</i>
<i>Bobby</i>				<i>Cuomo</i>
<i>Iraq</i>				
<i>Eisenstein</i>				
<i>Nijhawan</i>				

<i>Final OT07</i>				
21 (30%)	6 (8%)	20 (28%)	10 (14%)	14 (20%)

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

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



## Frequency in the Majority OT08

Full Term 6.29.09

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 dismissed cases where the vote was not disclosed (*al-Marri*, *Bell v. Kelly* and *Phillip Morris*), but does include the four per curiam summary reversals (*Moore*, *Spears*, *Nelson*, and *CSX Transportation*).

The first chart examines the results for all cases, the second only for divided cases with at least one dissenting vote. 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 OT08, and the corresponding figure for OT07.

Justice	Majority votes	Total votes	% in majority	%in OT07
Kennedy	73	79	92.4%	85.5%
Scalia	66	79	83.5%	81.2%
Thomas	64	79	81.0%	75.4%
Alito	64	79	81.0%	82.4%
Roberts	64	79	81.0%	89.7%
Breyer	59	79	74.7%	78.5%
Ginsburg	55	79	69.6%	75.4%
Souter	54	79	68.4%	76.8%
Stevens	51	79	64.6%	75.4%

Justice	Majority votes	Total votes	% in majority	%in OT07
Kennedy	47	53	88.7%	79.2%
Scalia	40	53	75.5%	64.6%
Thomas	38	53	71.7%	85.1%
Alito	38	53	71.7%	74.5%
Roberts	38	53	71.7%	72.9%
Breyer	33	53	62.3%	68.2%
Ginsburg	29	53	54.7%	64.6%
Souter	28	53	52.8%	66.7%
Stevens	25	53	47.2%	64.6%

<b>OCT</b>	<i>Author</i>	<b>Count</b>
Altria	JPS	2
Locke	SGB	2
Vaden	RBG	1
Herring	JGR	1
Gant	JPS	2
Kennedy	DHS	1
Winter	JGR	2
Crawford	DHS	1
Summers	AS	1
Bartlett	AMK	
Pearson	SAA	
Oregon	RBG	
Waddington	CT	
Hedgpeth	PC	

<b>NOV</b>	<i>Author</i>	<b>Count</b>
Wyeth	JPS	1
Ysursa	JGR	1
Carcieri	CT	2
FCC	AS	1
Eurodif	DHS	1
Jimenez	CT	2
Negusie	AMK	1
Van de Kamp	SGB	2
Chambers	SGB	1
Hayes	RBG	
Melendez-Diaz	AS	
Pleasant Grove	SAA	
Bell	dismiss	

<b>DEC</b>	<i>Author</i>	<b>Count</b>
Kansas	SAA	1
14 Penn	CT	2
Entergy	AS	1
Fitzgerald	SAA	1
Philip Morris	dismiss	1
Haywood	JPS	1
Shinseki	SGB	1
Pacific Bell	JGR	1
Johnson	RBG	2
Cone	JPS	
Iqbal	AMK	
AT&T	DHS	

<b>JAN</b>	<i>Author</i>	<b>Count</b>
Coeur Alaska	AMK	1
Iran	SGB	1
Harbison	JPS	3
Montejo	AS	1
Vermont	RBG	1
Knowles	CT	1
Puckett	AS	1
Boyle	SAA	1
Corley	DHS	1
Ventris	AS	
Nken	JGR	

JGR	8
JPS	9
AS	11
AMK	7
DHS	8
CT	9
RBG	7
SGB	8
SAA	7

<b>FEB</b>	<i>Author</i>	<b>Count</b>
Navajo Nation	AS	2
Rivera	RBG	1
Burlington No.	JPS	2
Carlsbad	CT	1
Hawaii	SAA	1
Flores-Figueroa	SGB	2
Osborne	JGR	1
Atlantic Sounding	CT	1
Caperton	AMK	1
Arthur Andersen	AS	
Abuelhawa	DHS	
Dean	JGR	

<b>MARCH</b>	<i>Author</i>	<b>Count</b>
Yeager	JPS	0
Citizens	held	1
Denedo	AMK	0
Travelers	DHS	1
Gross	CT	1
Polar Tankers	SGB	1
		0
		1
		0

<b>APR</b>	<i>Author</i>	<b>Count</b>
Iraq	AS	1
Horne	SAA	1
Safford	DHS	2
Eisenstein	CT	1
Ricci	AMK	1
Nijhawan	SGB	1
Bobby	RBG	1
Forest Grove	JPS	1
Cuomo	AS	1
NAMUDNO	JGR	

## Circuit Scorecard—OT08

<b>Court</b>	<b>Decided</b>	<b>Outstanding</b>	<b># Aff'd</b>	<b>% Aff'd</b>	<b># Rev'd</b>	<b>% Rev'd</b>	<b># Aff'd in Part</b>	<b>% Aff'd in Part</b>	<b>% SCOTUS Cases</b>
<i>CA 1</i>	4	0	2	50.0%	2	50.0%	0	0.0%	5.1%
<i>CA2</i>	9	0	2	22.2%	7	77.8%	0	0.0%	11.4%
<i>CA3</i>	2	0	1	50.0%	1	50.0%	0	0.0%	2.5%
<i>CA4</i>	5	0	0	0.0%	5	100.0%	0	0.0%	6.3%
<i>CA5</i>	5	0	2	40.0%	3	60.0%	0	0.0%	6.3%
<i>CA6</i>	5	0	0	0.0%	5	100.0%	0	0.0%	6.3%
<i>CA7</i>	1	0	0	0.0%	1	100.0%	0	0.0%	1.3%
<i>CA8</i>	4	0	0	0.0%	4	100.0%	0	0.0%	5.1%
<i>CA9</i>	16	0	1	6.3%	13	81.3%	2	12.5%	20.3%
<i>CA10</i>	2	0	0	0.0%	2	100.0%	0	0.0%	2.5%
<i>CA11</i>	3	0	3	100.0%	0	0.0%	0	0.0%	3.8%
<i>CADC</i>	1	0	0	0.0%	1	100.0%	0	0.0%	1.3%
<i>CAFC</i>	4	0	0	0.0%	4	100.0%	0	0.0%	5.1%
<i>CAAF</i>	1	0	1	100.0%	0	0.0%	0	0.0%	1.3%
<i>Dist. Courts</i>	1	0	0	0.0%	1	100.0%	0	0.0%	1.3%
<i>State Courts</i>	15	0	4	26.7%	11	73.3%	0	0.0%	19.0%
<i>Original</i>	1	0	N/A	N/A	N/A	N/A	N/A	N/A	1.3%
<b>Total<sup>†</sup></b>	<b>79</b>	<b>0</b>	<b>16</b>	<b>20.3%</b>	<b>60</b>	<b>75.9%</b>	<b>2</b>	<b>2.5%</b>	

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

<sup>†</sup> This list does not include *Bell v. Kelly* or *Philip Morris*, which were dismissed after argument, *al-Marri*, which was remanded with directions to dismiss, or *Citizens United*, which will be reargued in September.

The Court's Workload in OT08

Cases Granted or Probable Jurisdiction Noted:		78
Dismissed Before Argument:	-	1
Original Cases Argued:	+	1
Number of Arguments:		78

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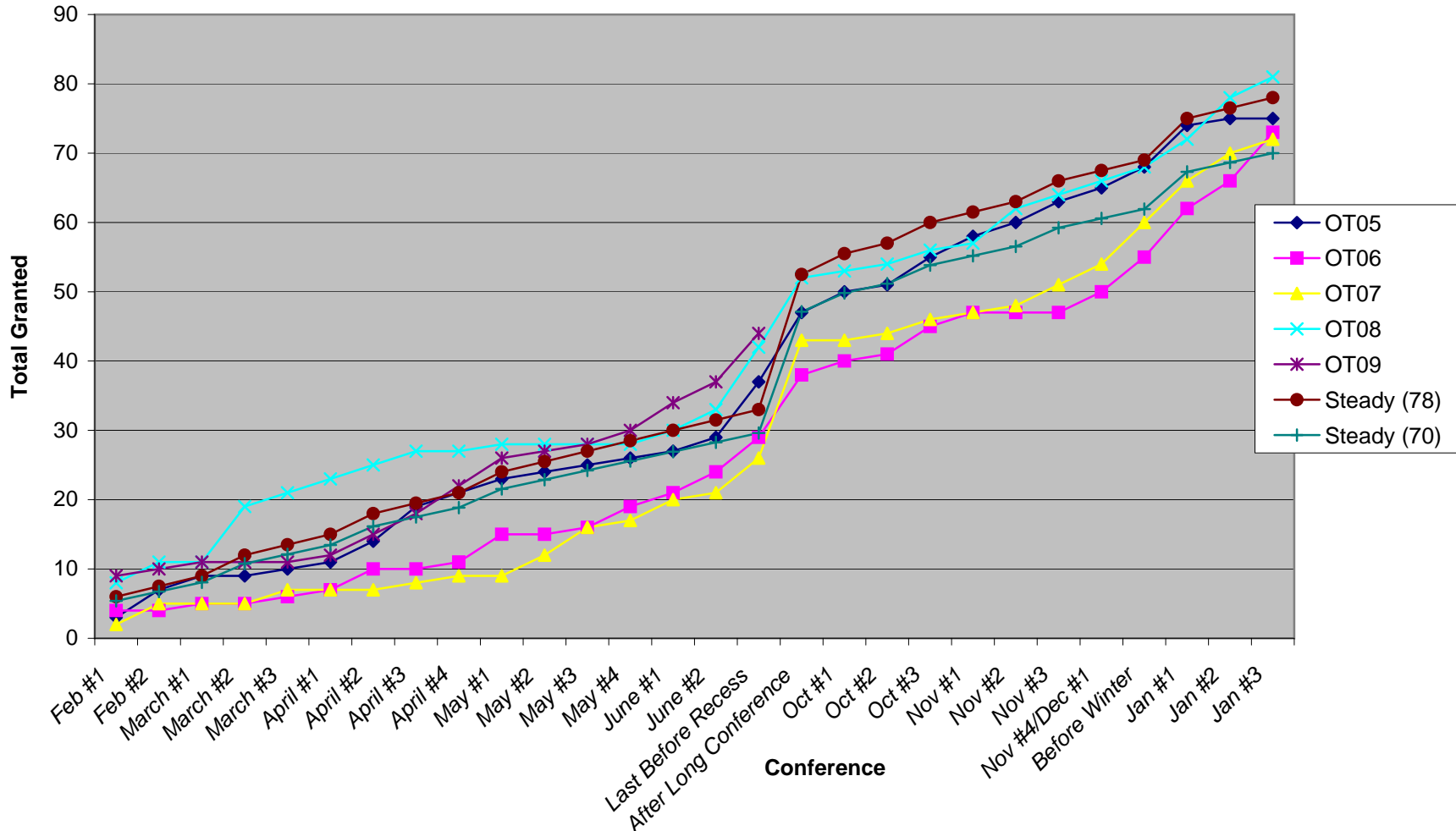
Argued Merits Cases Disposed of:

Signed Opinions:		74
Dismissals After Argument:		2
Affirmed by Equally Divided Vote:		0
Argued But Not Decided		1
Remaining Merits Opinions:		0

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Merits Opinions in OT08 After Argument:		75
Summary Opinions from Non-Argued Cases:	+	4
Cases Affirmed by Equally Divided Vote:	+	0
Total Merits Decisions:		79

### Granted Cases by Conference--SCOTUSBlog 6.29.09



Notes: In OT04, the Court added an additional Conference at the end of June, on the last Monday of the Term, to consider relists. Grants from the final January conference in OT08 are for the OT09 argument docket.

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">06-1249</a>	Wyeth	Levine	Whether the prescription drug labeling judgments imposed on manufacturers by the Food and Drug Administration ("FDA") pursuant to FDA's comprehensive safety and efficacy authority under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., preempt state law product liability claims premised on the theory that different labeling judgments were necessary to make drugs reasonably safe for use. <b>AFFIRMED</b>
<a href="#">06-1595</a>	Crawford	Nashville and Davidson County	Does the anti-retaliation provision of section 704(a) of Title VII of the 1964 Civil Rights Act protect a worker from being dismissed because she cooperated with her employer's internal investigation of sexual harassment? <b>REVERSED &amp; REMANDED</b>
<a href="#">06-11206</a>	Chambers	United States	Whether a defendant's failure to report for confinement "involves conduct that presents a serious potential risk of physical injury to another" such that a conviction for escape based on that failure to report is a "violent felony" within the meaning of the Armed Career Criminal Act, 18 U.S.C. § 924(e). <b>REVERSED &amp; REMANDED</b>
<a href="#">07-463</a>	Summers	Earth Island Institute	1. Whether the Forest Service's promulgation of 36 C.F.R. 215.4(a) and 215.12(f), as distinct from the particular site-specific project to which those regulations were applied in this case, was a proper subject of judicial review. 2. Whether respondents established standing to bring this suit. 3. Whether respondents' challenge to 36 C.F.R. 215.4(a) and 215.12(f) remained ripe and was otherwise judicially cognizable after the timber sale to which the regulations had been applied was withdrawn, and respondents' challenges to that sale had been voluntarily dismissed with prejudice, pursuant to a settlement between the parties. 4. Whether the court of appeals erred in affirming the nationwide injunction issued by the district court. <b>REVERSED IN PART, AFFIRMED IN PART</b>
<a href="#">07-499</a>	Negusie	Holder	Whether this "persecutor exception" to the Immigration and National Act prohibits granting asylum to, and withholding of removal of, a refugee who is compelled against his will by credible threats of death or torture to assist or participate in acts of persecution. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-512</a>	Pacific Bell	linkLine	Whether a plaintiff states a claim under Section 2 of the Sherman Act by alleging that the defendant - a vertically integrated retail competitor with an alleged monopoly at the wholesale level but no antitrust duty to provide the wholesale input to competitors - engaged in a "price squeeze" by leaving insufficient margin between wholesale and retail prices to allow the plaintiff to compete. <b>REVERSED &amp; REMANDED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-513</a>	Herring	United States	Whether the Fourth Amendment requires evidence found during a search incident to an arrest to be suppressed when the arresting officer conducted the arrest and search in sole reliance upon facially credible but erroneous information negligently provided by another law enforcement agent. <b>AFFIRMED</b>
<a href="#">07-526</a>	Carcieri	Salazar	1. Whether the Indian Reorganization Act of 1934 empowers the Secretary to take land into trust for Indian tribes that were not recognized and under federal jurisdiction in 1934. 2. Whether an act of Congress that extinguishes aboriginal title and all claims based on Indian rights and interests in land precludes the Secretary from creating Indian country there. <b>REVERSED</b>
<a href="#">07-542</a>	Arizona	Gant	Did the Arizona Supreme Court effectively "overrule" this Court's bright-line rule in <i>Belton</i> by requiring in each case that the State prove after-the-fact that those inherent dangers actually existed at the time of the search? <b>AFFIRMED</b>
<a href="#">07-543</a>	AT&T	Hulteen	1. Whether an employer engages in a current violation of Title VII when, in making post-PDA eligibility determinations for pension and other benefits, the employer fails to restore service credit that female employees lost when they took pregnancy leaves under lawful pre-PDA leave policies. 2. Whether the Ninth Circuit's finding of a current violation of Title VII in such circumstances gives impermissible retroactive effect to the PDA. <b>REVERSED</b>
<a href="#">07-544</a>	Hedgpeth	Pulido	Did the Ninth Circuit fail to conform to "clearly established" Supreme Court law, as required by 28 U.S.C. § 2254(d), when it granted habeas corpus relief by deeming an erroneous instruction on one of two alternative theories of guilt to be "structural error" requiring reversal because the jury might have relied on it? <b>VACATED &amp; REMANDED</b>
<a href="#">07-562</a>	Altria	Good	Whether state-law challenges to FTC-authorized statements regarding tar and nicotine yields in cigarette advertising are expressly or impliedly preempted by federal law. <b>AFFIRMED &amp; REMANDED</b>
<a href="#">07-581</a>	14 Penn Plaza	Pyett	Is an arbitration clause contained in a collective bargaining agreement, freely negotiated by a union and an employer, which clearly and unmistakably waives the union members' right to a judicial forum for their statutory discrimination claims, enforceable? <b>REVERSED &amp; REMANDED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-582</a>	FCC	Fox	Whether the court of appeals erred in striking down the Federal Communications Commission's determination that the broadcast of vulgar expletives may violate federal restrictions on the broadcast of "any obscene, indecent, or profane language," 18 U.S.C. 1464; see 47 C.F.R. 73.3999, when the expletives are not repeated. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-588</a>	Entergy Corporation	EPA	Whether Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), authorizes the Environmental Protection Agency (EPA) to compare costs with benefits in determining the "best technology available for minimizing adverse environmental impact" at cooling water intake structures. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-589</a>	PSEG Fossil	Riverkeeper	Whether Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), authorizes the Environmental Protection Agency (EPA) to compare costs with benefits in determining the "best technology available for minimizing adverse environmental impact" at cooling water intake structures. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-597</a>	Utility Water Act Group	Riverkeeper	Whether Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), authorizes the Environmental Protection Agency (EPA) to compare costs with benefits in determining the "best technology available for minimizing adverse environmental impact" at cooling water intake structures. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-591</a>	Melendez-Diaz	Massachusetts	Whether a state forensic analyst's laboratory report prepared for use in a criminal prosecution is "testimonial" evidence subject to the demands of the Confrontation Clause as set forth in Crawford v. Washington, 541 U.S. 36 (2004). <b>REVERSED &amp; REMANDED</b>
<a href="#">07-608</a>	United States	Hayes	Whether, to qualify as a "misdemeanor crime of domestic violence" under 18 U.S.C. 921(a)(33)(A), an offense must have as an element a domestic relationship between the offender and the victim. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-610</a>	Locke	Karass	May a State, nonetheless, consistent with the First and Fourteenth Amendments, condition continued public employment on the payment of agency fees for purposes of financing a monopoly bargaining agent's affiliates' litigation outside of a nonunion employee's bargaining unit? <b>AFFIRMED</b>



## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-615</a>	Ministry of Defense (Iran)	Elahi	Is an attachment against foreign sovereign property permissible when that property is "at issue in claims against the United States before an international tribunal," and that property is not a "blocked asset," pursuant to the terms of the 2000 Victims of Trafficking and Violence Protection Act and the 2002 Terrorism Risk Insurance Act? <b>REVERSED</b>
<a href="#">07-636</a>	Kennedy	Plan Adm. For Dupont Savings	Was the Fifth Circuit correct in concluding that ERISA's Qualified Domestic Relations Order provision, 29 U.S.C. § 1056(d)(3)(B)(i), is the only valid way a divorcing spouse can waive her right to receive her ex-husband's pension benefits under ERISA? <b>AFFIRMED</b>
<a href="#">07-665</a>	Pleasant Grove City, Utah	Summum	1. Did the Tenth Circuit err by holding, in conflict with the Second, Third, Seventh, Eighth, and D.C. Circuits, that a monument donated to a municipality and thereafter owned, controlled, and displayed by the municipality is not government speech but rather remains the private speech of the monument's donor? 2. Did the Tenth Circuit err by ruling, in conflict with the Second, Sixth, and Seventh Circuits, that a municipal park is a public forum under the First Amendment for the erection and permanent display of monuments proposed by private parties? 3. Did the Tenth Circuit err by ruling that the city must immediately erect and display Summum's "Seven Aphorisms" monument in the city's park? <b>REVERSED</b>
<a href="#">07-689</a>	Bartlett	Strickland	Whether a racial minority group that constitutes less than 50% of a proposed district's population can state a vote dilution claim under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. <b>AFFIRMED</b>
<a href="#">07-751</a>	Pearson	Callahan	1) Several lower courts have recognized a "consent once removed" exception to the Fourth Amendment warrant requirement. Does this exception authorize police officers to enter a home without a warrant immediately after an undercover informant buys drugs inside (as the Sixth and Seventh Circuits have held), or does the warrantless entry in such circumstances violate the Fourth Amendment (as the Tenth Circuit held below)? 2) Did the Tenth Circuit properly deny qualified immunity when the only decisions directly on point had all upheld similar warrantless entries? In addition to the questions presented by the petition, the Parties are directed to brief and argue the following Question: "Whether the court's decision in Saucier V. Katz, 533 U.S. 194 (2001) should be overruled?" <b>REVERSED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-772</a>	Waddington	Sarausad	<p>1. In reviewing a due process challenge to jury instructions brought under 28 U.S.C. § 2254, must the federal courts accept the state court determination that the instructions fully and correctly set out state law governing accomplice liability? 2. Where the accomplice liability instructions correctly set forth state law, is it an unreasonable application of clearly established federal law to conclude there was no reasonable likelihood that the jury misapplied the instructions so as to relieve the prosecution of the burden of proving all the elements of the crime?</p> <p><b>REVERSED &amp; REMANDED</b></p>
<a href="#">07-773</a>	Vaden	Discover Bank	<p>1. Whether a suit seeking to enforce a state-law arbitration obligation brought under Section 4 of the Federal Arbitration Act, 9 U.S.C. § 4, "aris[es] under" federal law, see 28 U.S.C. § 1331, when the petition to compel itself raises no federal question but the dispute sought to be arbitrated—a dispute that the federal court is not asked to and cannot reach— involves federal law. 2. If so, whether a "completely preempted" state-law counterclaim in an underlying state-court dispute can supply subject matter jurisdiction. <b>REVERSED &amp; REMANDED</b></p>
<a href="#">07-854</a>	Van de Kamp	Goldstein	<p>1. Where absolute immunity shields an individual prosecutor's decisions regarding the disclosure of informant information in compliance with <i>Brady v. Maryland</i>, 373 U.S. 83 (1963) and <i>Giglio v. United States</i>, 405 U.S. 150 (1972) made in the course of preparing for the initiation of judicial proceedings or trial in any individual prosecution, may a plaintiff circumvent that immunity by suing one or more supervising prosecutors for purportedly improperly training, supervising, or setting policy with regard to the disclosure of such informant information for all cases prosecuted by his or her agency? 2. Are the decisions of a supervising prosecutor as chief advocate in directing policy concerning, and overseeing training and supervision of, individual prosecutors' compliance with <i>Brady v. Maryland</i>, 373 U.S. 83 (1963) and <i>Giglio v. United States</i>, 405 U.S. 150 (1972) in the course of preparing for the initiation of judicial proceedings or trial for all cases prosecuted by his or her agency, actions which are "intimately associated with the judicial phase of the criminal process" and hence shielded from liability under <i>Imbler v. Pachtman</i>, 424 U.S. 409, 430 (1976)? <b>REVERSED &amp; REMANDED</b></p>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-869</a>	Ysura	Pocatello Education Association	Does the First Amendment to the United States Constitution prohibit a state legislature from removing the authority of state political subdivisions to make payroll deductions for political activities under a statute that is concededly valid as applied to state government employers? <b>REVERSED &amp; REMANDED</b>
<a href="#">07-901</a>	Oregon	Ice	Whether the Sixth Amendment, as construed in <i>Apprendi v. New Jersey</i> , 530 U.S. 466 (2000), and <i>Blakely v. Washington</i> , 542 U.S. 296 (2004), requires that facts (other than prior convictions) necessary to imposing consecutive sentences be found by the jury or admitted by the defendant. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-984</a>	Coeur Alaska, Inc.	Southeast Alaska Conservation Council	Whether the Ninth Circuit erred in reallocating the Army Corps' and EPA's permitting authority under the Clean Water Act. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-990</a>	Alaska	Southeast Alaska Conservation Council	Whether the Ninth Circuit erred in reallocating the Army Corps' and EPA's permitting authority under the Clean Water Act. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1015</a>	Ashcroft	Iqbal	1. Whether a conclusory allegation that a cabinet-level officer or other high-ranking official knew of, condoned, or agreed to subject a plaintiff to allegedly unconstitutional acts purportedly committed by subordinate officials is sufficient to state individual-capacity claims against those officials under <i>Bivens</i> . 2. Whether a cabinet-level officer or other high-ranking official may be held personally liable for the allegedly unconstitutional acts of subordinate officials on the ground that, as high-level supervisors, they had constructive notice of the discrimination allegedly carried out by such subordinate officials. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1059</a>	United States	Eurodif, S.A.	Whether the court of appeals erred in rejecting Commerce's conclusion that foreign merchandise is "sold in the United States" within the meaning of 19 U.S.C. 1673 when a purchaser in the United States obtains foreign merchandise by providing monetary payments and raw materials to a foreign entity that performs a major manufacturing process in which substantial value is added to the raw materials, thereby creating a new and different article of merchandise that is delivered to the U.S. purchaser. <b>REVERSED &amp; REMANDED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-1078</a>	USEC, Inc.	Eurodif, S.A.	Whether the court of appeals erred in rejecting Commerce's conclusion that foreign merchandise is "sold in the United States" within the meaning of 19 U.S.C. 1673 when a purchaser in the United States obtains foreign merchandise by providing monetary payments and raw materials to a foreign entity that performs a major manufacturing process in which substantial value is added to the raw materials ,thereby creating a new and different article of merchandise that is delivered to the U.S. purchaser. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1090</a>	Republic of Iraq	Beaty	Whether the Republic of Iraq possesses sovereign immunity from the jurisdiction of the courts of the United States in cases involving alleged misdeeds of the Saddam Hussein regime and predicated on the exception to immunity in former 28 U.S.C. § 1605(a)(7). <b>REVERSED</b>
<a href="#">08-539</a>	Republic of Iraq	Simon	Whether the Republic of Iraq possesses sovereign immunity from the jurisdiction of the courts of the United States in cases involving alleged misdeeds of the Saddam Hussein regime and predicated on the exception to immunity in former 28 U.S.C. § 1605(a)(7). <b>REVERSED</b>
<a href="#">07-1114</a>	Cone	Bell	1. Is a federal habeas claim "procedurally defaulted" because it has been presented twice to the state courts? 2. Is a federal habeas court powerless to recognize that a state court erred in holding that state law precludes reviewing a claim? <b>VACATED &amp; REMANDED</b>
<a href="#">07-1122</a>	Arizona	Johnson	In the context of a vehicular stop for a minor traffic infraction, may an officer conduct a pat-down search of a passenger when the officer has an articulable basis to believe the passenger might be armed and presently dangerous, but has no reasonable grounds to believe that the passenger is committing, or has committed, a criminal offense? <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1125</a>	Fitzgerald	Barnstable School Committee	Whether Title IX's implied right of action precludes Section 1983 constitutional claims to remedy sex discrimination by federally funded educational institutions. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1209</a>	Shinseki	Sanders	Whether the court of appeals erred in holding that a failure of the VA to give the notice required by the VCAA must be presumed to be prejudicial. <b>REVERSED &amp; REMANDED; VACATED &amp; REMANDED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-1239</a>	Winter	NRDC	1. Whether CEQ permissibly construed its own regulation in finding "emergency circumstances." 2. Whether, in any event, the preliminary injunction, based on a preliminary finding that the Navy had not satisfied NEPA's procedural requirements, is inconsistent with established equitable principles limiting discretionary injunctive relief. <b>REVERSED; PRELIMINARY INJUNCTION VACATED IN PART</b>
<a href="#">07-1309</a>	Boyle	United States	Does proof of an association-in-fact enterprise under the RICO statute, 18 U.S.C. §§ 1962(c)-(d), require at least some showing of an ascertainable structure beyond that inherent in the pattern of racketeering activity in which it engages? <b>AFFIRMED</b>
<a href="#">07-1315</a>	Knowles	Mirzayance	1. Did the Ninth Circuit again exceed its authority under § 2254(d) by granting habeas relief without considering whether the state-court adjudication of the claim was "unreasonable" under "clearly established Federal law" based on its previous conclusion that trial counsel was required to proceed with an affirmative insanity defense because it was the only defense available and despite the absence of a Supreme Court decision addressing the point? 2. May a federal appellate court substitute its own factual findings and credibility determinations for those of a district court without determining whether the district court's findings were "clearly erroneous?" <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1356</a>	Kansas	Ventris	Whether a criminal defendant's "voluntary statement obtained in the absence of a knowing and voluntary waiver of the [Sixth Amendment] right to counsel," Michigan v. Harvey, 494 U.S. 344, 354 (1990), is admissible for impeachment purposes-a question the Court expressly left open in Harvey and which has resulted in a deep and enduring split of authority in the Circuits and state courts of last resort? <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1372</a>	Hawaii	Office of Hawaiian Affairs	Whether this symbolic resolution strips Hawaii of its sovereign authority to sell, exchange, or transfer 1.2 million acres of state land-29 percent of the total land area of the State and almost all the land owned by the State-unless and until it reaches a political settlement with native Hawaiians about the status of that land. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1410</a>	United States	Navajo Nation	1. Whether the court of appeals' holding that the United States breached fiduciary duties in connection with the Navajo coal lease amendments is foreclosed by Navajo.2. If Navajo did not foreclose the question, whether the court of appeals properly held that the United States is liable as a matter of law to the Navajo Nation for up to \$600 million for the Secretary's

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
			actions in connection with his approval of amendments to an Indian mineral lease based on several statutes that do not address royalty rates in tribal leases and common-law principles not embodied in a governing statute or regulation. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1428</a>	Ricci	DeStefano	1. When an otherwise valid civil service selection process yields unintended racially disproportionate results, may municipalities reject the results and the successful candidates for reasons of race absent the demonstration required by 42 U.S.C. §2000e- 2(k)? 2. Does 42 U.S.C. §2000e-2(l) which makes it unlawful for employers "to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race ... ," permit employers to refuse to act on the results of such tests for reasons of race? 3. If, citing the public interest in eradicating political patronage, racism and corruption in civil service, a state's highest court mandates strict compliance with local laws requiring race-blind competitive merit selection procedures, does 42U.S.C. §2000e-7 permit federal courts to relieve municipalities from compliance with such laws? <b>REVERSED &amp; REMANDED</b>
<a href="#">08-328</a>	Ricci	DeStefano	1. When an otherwise valid civil service selection process yields unintended racially disproportionate results, may municipalities reject the results and the successful candidates for reasons of race absent the demonstration required by 42 U.S.C. §2000e- 2(k)? 2. Does 42 U.S.C. §2000e-2(l) which makes it unlawful for employers "to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race ... ," permit employers to refuse to act on the results of such tests for reasons of race? 3. If, citing the public interest in eradicating political patronage, racism and corruption in civil service, a state's highest court mandates strict compliance with local laws requiring race-blind competitive merit selection procedures, does 42U.S.C. §2000e-7 permit federal courts to relieve municipalities from compliance with such laws? <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1437</a>	Carlsbad Technology	HIF Bio	Whether a district court's order remanding a case to state court following its discretionary decision to decline to exercise the supplemental jurisdiction accorded to federal courts under 28 U.S.C. § 1367(c) is properly held to be a remand for a" lack of subject matter jurisdiction" under 28 U.S.C. § 1447(c) so that such remand order is barred from any appellate review by 28 U.S.C. § 1447(d). <b>REVERSED &amp; REMANDED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-1529</a>	Montejo	Louisiana	When an indigent defendant's right to counsel has attached and counsel has been appointed, must the defendant take additional affirmative steps to "accept" the appointment in order to secure the protections of the Sixth Amendment and preclude police-initiated interrogation without counsel present? <b>VACATED &amp; REMANDED</b>
<a href="#">07-1601</a>	Burlington Northern	United States	Whether the Ninth Circuit erred by reversing the district court's reasonable apportionment of responsibility under CERCLA, and by adopting a standard of review and proof requirements that depart from common law principles and conflict with decisions of other circuits. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-1607</a>	Shell Oil	United States	Whether the Ninth Circuit erred by reversing the district court's reasonable apportionment of responsibility under CERCLA, and by adopting a standard of review and proof requirements that depart from common law principles and conflict with decisions of other circuits. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-6984</a>	Jimenez	Quarterman	Whether a Certificate of Appealability should have issued pursuant to <i>Slack v McDaniel</i> , 529 U.S. 473, 482, 120 S.Ct. 1595, 1604 (2000) on the question of whether pursuant to 28 U.S.C. § 2244 (d)(1)(A) when through no fault of the petitioner, he was unable to obtain a direct review and the highest State Court granted relief to place him back to original position on direct review, should the 1-year limitations begin to run after he has completed that direct review resetting the 1-year limitations period. <b>REVERSED &amp; REMANDED</b>
<a href="#">07-8521</a>	Harbison	Bell	1. Does 18 U.S.C. §3599(a)(2) and (e) (recodifying verbatim former 21 U.S.C. §848(q) (4)(B)and (q) (8)), permit federally-funded habeas counsel to represent a condemned inmate in state clemency proceedings when the state has denied state funded counsel for that purpose? 2. Is a certificate of appealability required to appeal an order denying a request for federally-funded counsel under 18 U.S.C. §3599(a)(2) and (e)? <b>REVERSED</b>
<a href="#">07-9712</a>	Puckett	United States	Whether a forfeited claim that the government breached a plea agreement is subject to the plain-error standard of Rule 52(b) of the Federal Rules of Criminal Procedure. <b>AFFIRMED</b>
<a href="#">07-9995</a>	Rivera	Illinois	Whether the erroneous denial of a criminal defendant's preemptory challenge that resulted in the challenged juror being seated requires automatic reversal of a conviction. <b>AFFIRMED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">07-10374</a>	Haywood	Drown	Whether a state's withdrawal of jurisdiction over certain damages claims against state corrections employees - from state courts of general jurisdiction - may be constitutionally applied to exclude federal claims under Section 1983, especially when, as here, the state legislature withdrew jurisdiction because it concluded that permitting such lawsuits is bad policy? <b>REVERSED &amp; REMANDED</b>
<a href="#">07-10441</a>	Corley	United States	Whether 18 U.S.C. § 3501 - read together with Fed. R. Crim. P. Rule 5(a), McNabb v. United States, 318 U.S. 332 (1943), and Mallory v. United States, 354 U.S. 449 (1957) - requires that a confession taken more than six hours after arrest and before presentment be suppressed if there was unreasonable or unnecessary delay in bringing the defendant before the magistrate judge. <b>VACATED &amp; REMANDED</b>
<a href="#">08-6</a>	District Attorney's Office	Osborne	1. May Osborne use § 1983 as a discovery device for obtaining postconviction access to the state's biological evidence when he has no pending substantive claim for which that evidence would be material? 2. Does Osborne have a right under the Fourteenth Amendment's Due Process Clause to obtain postconviction access to the state's biological evidence when the claim he intends to assert - a freestanding claim of innocence - is not legally cognizable? <b>REVERSED &amp; REMANDED</b>
<a href="#">08-22</a>	Caperton	A.T. Massey Coal Company	Whether Justice Benjamin's failure to recuse himself from participation in his principal financial supporter's case violated the Due Process Clause of the Fourteenth Amendment. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-67</a>	Yeager	United States	Whether, when a jury acquits a defendant on multiple counts but fails to reach a verdict on other counts that share a common element, and, after a complete review of the record, the court of appeals determines that the only rational basis for the acquittals is that an essential element of the hung counts was determined in the defendant's favor, collateral estoppel bars a retrial on the hung counts. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-88</a>	Vermont	Brillon	1. Whether continuances and delays caused solely by an indigent defendant's public defender can arise to a speedy trial right violation, and be charged against the State pursuant to the test in Barker v. Wingo, on the theory that public defenders are paid by the state (with a small "s"). 2. Whether the right to counsel, as established in Gideon v. Wainwright, should result in broader speedy trial rights to indigent defendants than defendants who are able to retain private counsel, such that only delays by private counsel get charged against the defendant under the Barker v. Wingo test. <b>REVERSED &amp; REMANDED</b>



## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">08-108</a>	Flores-Figueroa	United States	Whether, to prove aggravated identity theft under 18 U.S.C. § 1028A(a)(1), the Government must show that the defendant knew that the means of identification he used belonged to another person. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-146</a>	Arthur Andersen	Carlisle	1) Whether Section 16(a)(1)(A) of the FAA provides appellate jurisdiction over an appeal from an order denying an application made under Section 3 to stay claims involving non-signatories to the arbitration agreement. 2) Whether Section 3 of the FAA allows a district court to stay claims against nonsignatories to an arbitration agreement when the nonsignatories can otherwise enforce the arbitration agreement under principles of contract and agency law, including equitable estoppel. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-192</a>	Abuelhawa	United States	Whether the use of a telephone to buy drugs for personal use "facilitates" the commission of a drug "felony," in violation of 21 U.S.C. § 843(b), on the theory that the crime facilitated by the buyer is not his purchase of drugs for personal use (a misdemeanor), but is the seller's distribution of the drugs to him (a felony). <b>REVERSED &amp; REMANDED</b>
<a href="#">08-214</a>	Atlantic Sounding Co.	Townsend	May a seaman recover punitive damages for the willful failure to pay maintenance and cure? <b>AFFIRMED &amp; REMANDED</b>
<a href="#">08-267</a>	United States	Denedo	Whether an Article I military appellate court has jurisdiction to entertain a petition for a writ of error coram nobis filed by a former service member to review a court martial conviction that has become final under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq. <b>AFFIRMED &amp; REMANDED</b>
<a href="#">08-289</a>	Horne	Flores	By interpreting the phrase "appropriate action" under Section 1703(f) of the Equal Education Opportunity Act as a requirement that the State of Arizona provide for a minimum amount of funding specifically allocated for English Language Learner programs statewide, did the Ninth Circuit violate the doctrine prohibiting federal courts from usurping the discretionary power of state governments to determine how to appropriately manage and fund their public education systems? 2. Should the phrase "appropriate action" as used in Section 1703(f) of the Equal Education Opportunity Act be interpreted consistently with the No Child Left Behind Act of 2001, where both Acts have the same purpose with respect to English Language Learners and the NCLB provides specific standards for the implementation of adequate English Language Learner programs, but the EEOA does not? <b>REVERSED &amp; REMANDED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">08-294</a>	Speaker of the House	Flores	Whether a federal-court injunction seeking to compel institutional reform should be modified in the public interest when the original judgment could not have been issued on the state of facts and law that now exist, even if the named defendants support the injunction. 2. Whether compliance with NCLB's extensive requirements for English language instruction is sufficient to satisfy the EEOA's mandate that States take "appropriate action" to overcome language barriers impeding students' access to equal educational opportunities. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-295</a>	Travelers Indemnity	Bailey	Whether the court of appeals erred in categorically holding that bankruptcy courts do not have jurisdiction to enter confirmation orders that extend beyond the "res" of a debtor's estate, despite this Court's recent ruling that "[t]he Framers would have understood that laws 'on the subject of Bankruptcies' included laws providing, in certain respects, for more than simple adjudications of rights in the res," <i>Central Virginia Community College v. Katz</i> , 546 U.S. 356, 370 (2006), and whether the court of appeals compounded this error by: (a) failing to apply as written a federal statute (11 USC §§ 524(g) and (h)), by limiting the scope of relief in a manner that is contrary to the express terms and purposes of that statute; (b) failing to give effect to the Supremacy Clause and holdings of this Court that federal bankruptcy relief cannot be overridden by rights alleged to have been created under state law; and (c) failing to respect important principles of finality and repose, and the express provisions of §524(g), by failing to approve a federal court's enforcement of a confirmation order that was affirmed over two decades ago on direct appeal. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-307</a>	Common Law Settlement	Bailey	Once a bankruptcy court's subject-matter jurisdiction over a case attaches, whether the court must have a separate jurisdictional basis to approve a third-party injunction provision in a plan of reorganization or related confirmation order. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-305</a>	Forest Grove	T.A.	Whether parents of a student who has never previously received special education services from a school district may be eligible under the Individuals with Disabilities Education Act for reimbursement of private school tuition. <b>AFFIRMED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">08-310</a>	Polar Tankers	City of Valdez	1. Whether a municipal personal property tax that falls exclusively on large vessels using the municipality's harbor violates the Tonnage Clause of the Constitution, art. I, § 10, cl. 3. 2. Whether a municipal personal property tax that is apportioned to reach the value of property with an out-of-State domicile for periods when the property is on the high seas or otherwise outside the taxing jurisdiction of any State violates the Commerce and Due Process Clauses of the Constitution. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-322</a>	NAMUDNO	Holder	Whether the appellant is eligible to "bail out" from the preclearance requirement of Section 5 of the Voting Rights Act, and whether Congress provided sufficient justification of current voting discrimination when extended the requirement in 2006 for another twenty-five years. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-441</a>	Gross	FBL Financial Services	Must a plaintiff present direct evidence of discrimination in order to obtain a mixed motive instruction in a non-Title VII discrimination case? <b>VACATED &amp; REMANDED</b>
<a href="#">08-453</a>	Cuomo	Clearinghouse Ass.c'	Whether 12 USC § 484 and 12 CFR § 7.4000 prohibit measures taken by the New York State Attorney General to enforce state fair lending law against national banks by subjecting those entities to "visitorial powers." <b>AFFIRMED IN PART; REVERSED IN PART</b>
<a href="#">08-479</a>	Safford USD	Redding	Whether the Fourth Amendment prohibits public school officials from conducting a strip search of a student suspected of possessing and distributing a prescription drug on campus in violation of school policy. <b>AFFIRMED IN PART; REVERSED IN PART; VACATED IN PART</b>
<a href="#">08-495</a>	Nijhawan	Holder	Whether the petitioner's conviction for mail, bank and wire fraud qualified as an aggravated felony under the immigration laws, the penalty for which is lifetime banishment from the country. <b>AFFIRMED</b>
<a href="#">08-598</a>	Bobby	Bies	Whether the holding of a state post-conviction hearing to determine the mental capacity of a capital defendant whose death sentence was affirmed before Atkins v. Virginia (2002), which barred the execution of mentally retarded defendants, violates the Double Jeopardy clause. <b>REVERSED &amp; REMANDED</b>
<a href="#">08-660</a>	Eisenstein	City of New York	Whether the 30-day time limit in Federal Rule of Appellate Procedure 4(a)(1)(A) for filing a notice of appeal, or the 60-day time limit in Rule 4(a)(1)(B), applies to a qui tam action under the False Claims Act. <b>AFFIRMED</b>

## Questions Presented

Docket #	Petitioner	Respondent	Question Presented
<a href="#">08-681</a>	Nken	Holder	Whether the decision of a court of appeals to stay an alien's removal pending consideration of the alien's petition for review is governed by the standard set forth in Section 242(f)(2) of the Immigration and Nationality Act, 8 U.S.C § 1252(f)(2), or instead by the traditional test for stays and preliminary injunctive relief. <b>VACATED &amp; REMANDED</b>
<a href="#">08-5274</a>	Dean	United States	Whether 18 U.S.G. § 924(c)(1)(A)(iii), establishing a ten-year mandatory minimum sentence for a defendant who "discharge[s]" a firearm during a crime of violence, requires proof that the discharge was volitional, and not merely accidental, unintentional, or involuntary. <b>AFFIRMED</b>