

SCOTUSblog PRELIMINARY Stats OT09 – 4.29.10

Decided Cases by Final Vote

9-0 (or Unanimous)	8-1	7-2	6-3 (or 5-3)	5-4
22 (52%)*	3 (7%)	9 (21%)	3 (7%)	5 (12%)**
<i>Corcoran v. Levenhagen</i> (PC)	<i>Alvarez v. Smith</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>NRG v. Maine Public Utilities</i>	<i>Presley v. Georgia</i> (PC)	<i>Conkright v. Fromm</i> . (5-3)	<i>S. Carolina v. N. Carolina</i>
<i>Wong v. Belmontes</i> (PC)	<i>United States v. Stevens</i>	<i>Wood v. Allen</i>	<i>Stolt-Nielson</i> (5-3)	<i>Shady Grove Ortho. v. Allstate</i>
<i>Porter v. McCollum</i> (PC)		<i>Florida v. Powell</i>		<i>Perdue v. Kenny A.</i>
<i>Beard v. Kindler</i> (8-0)		<i>Johnson v. United States</i>		<i>Salazar v. Buono</i>
<i>Union Pacif. RR v. Loc. Enginrs</i>		<i>Bloate v. United States</i>		
<i>Mohawk v. Carpenter</i>		<i>Graham Cty v. U.S./Wilson</i>		
<i>McDaniel v. Brown</i> (PC)		<i>Padilla v. Kentucky</i>		
<i>Smith v. Spisak</i>		<i>Jerman v. Carlisle</i>		
<i>Kucana v. Holder</i>				
<i>Wilkins v. Gaddy</i> (PC)				
<i>Thaler v. Haynes</i> (PC)				
<i>Hertz Corp. v. Friend</i>				
<i>Maryland v. Shatzer</i>				
<i>Kiyemba v. Obama</i> (PC)				
<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>				

Dismissed

<i>Pottawattamie County v. McGhee</i>
<i>Health Care Service Corp. v. Pollitt</i> (before argument)

Decisions OT08

	9-0 (unan.)	8-1	7-2	6-3	5-4
Final	26 (33%)	4 (5%)	13 (17%)	13 (17%)	23 (29%)
4/30/09	19 (40%)	1 (2%)	8 (17%)	9 (19%)	11 (23%)

Decisions OT07

Final	21 (30%)	6 (8%)	20 (28%)	10 (14%)	14 (20%)
3/26/08	10 (38%)	2 (8%)	8 (31%)	2 (8%)	4 (15%)

** *Citizens United* is included in the OT08 total.

*Excludes *Briscoe v. Virginia*, which was vacated in a one-sentence *per curiam* opinion after oral argument.

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Opinion Authors by Sitting

C.J. Roberts	1	2	<u>0</u>	1	0	CJ	4
Stevens	1	<u>0</u>	1	0	0	JS	2
Scalia	2	1	<u>0</u>	0	0	AS	3
Kennedy	1 (plus <i>Citizens United</i>)	<u>0</u>	<u>0</u>	0	0	AK	1
Thomas	2	<u>0</u>	1	0	0	CT	3
Ginsburg	1	2	1	1	0	RG	5
Breyer	2	1	1	0	0	SB	4
Alito	2	1	1	1	0	SA	5
Sotomayor	1	1	1	1	0	SS	4
JUSTICE	OCTOBER	NOVEMBER	DECEMBER	JANUARY	FEBRUARY	TOTAL	
	<i>Maryland v. Shatzer</i>	<i>Jones v. Harris</i>	<i>Graham Cty v. U.S.</i>	<i>AL v. NC</i>	<i>Astrue v. Ratliff</i>		
	<i>Mohawk Industries</i>	<i>Beard v. Kindler</i>	<i>Merck v. Reynolds</i>	<i>Briscoe v. Virginia</i>	<i>Lewis v. Chicago</i>		
	<i>U.S. v. Stevens</i>	<i>Shady Grove</i>	<i>Milavetz v. U.S.</i>	<i>U.S. v. Comstock</i>	<i>Holder v. HLP</i>		
	<i>Johnson v. U.S.</i>	<i>NRG v. Maine Util.</i>	<i>USAF v. Espinoza</i>	<i>Abbott v. Abbott</i>	<i>U.S. v. O'Brien</i>		
	<i>Bloate v. U.S.</i>	<i>Schwab v. Reilly</i>	<i>Stop the Beach</i>	<i>American Needle</i>	<i>Carr v. U.S.</i>		
	<i>Salazar v. Buono</i>	<i>Hemi Group v. NYC</i>	<i>Free Enterprise</i>	<i>Jerman v. Carlisle</i>	<i>U.S. v. Marcus</i>		
	<i>Reed Elsevier</i>	<i>Pottawattamie</i>	<i>Florida v. Powell</i>	<i>Mac's Shell</i>	<i>Berghuis v. Thom.</i>		
	<i>Union Pacific RR</i>	<i>Wood v. Allen</i>	<i>Black v. U.S.</i>	<i>Granite Rock Co.</i>	<i>Holland v. Florida</i>		
	<i>Padilla v. Kentucky</i>	<i>Graham v. Florida</i>	<i>Weyhrauch v. U.S.</i>	<i>Berghuis v. Smith</i>	<i>Skilling v. U.S.</i>		
	<i>Smith v. Spisak</i>	<i>Sullivan v. Florida</i>	<i>Stolt-Nielson</i>	<i>Conkright v. Fromm.</i>	<i>McDonald</i>		
	<i>SC v. NC</i>	<i>Bilski v. Kappos</i>			<i>Hui v. Castaneda</i>		
	<i>Alvarez v. Smith</i>	<i>Kucana v. Holder</i>			<i>Samantar</i>		
	<i>Perdue v. Kenny A.</i>	<i>Hertz v. Friend</i>					

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 in which the vote was not disclosed (*Pottawattamie County v. McGhee* and *Health Care Service Corp. v. Pollitt*); *Briscoe v. Virginia*, which was vacated after oral argument in a one-sentence opinion; or *Citizens United v. Federal Election Commission*, which we classify as an October Term 2008 case. They do include eleven *per curiam* opinions: nine summary dispositions (*Corcoran*, *Bobby*, *Wong*, *Porter*, *Fisher*, *Presley*, *Wellons*, *Thaler*, and *Wilkins*); the reversal before oral argument in *McDaniel v. Brown*; and *Kiyemba v. Obama*, which was vacated before oral argument.

The first chart lists majority votes in all cases, the second only in divided cases with at least one dissenting vote.

Justice	Majority Votes	Total Votes	Percent in the Majority	OT08 Final	OT07 Final
C. J. Roberts	40	42	95%	81%	90%
Scalia	39	42	93%	84%	81%
Kennedy	38	42	90%	92%	86%
Thomas	37	42	88%	81%	75%
Sotomayor	33	38	87%	-----	-----
Ginsburg	36	42	86%	70%	75%
Alito	35	41	85%	81%	82%
Breyer	34	42	81%	75%	79%
Stevens	33	42	79%	65%	75%

Justice	Majority Votes	Total Votes	Percent in the Majority	OT08 Final	OT07 Final
C. J. Roberts	18	20	90%	72%	73%
Scalia	17	20	85%	76%	65%
Kennedy	16	20	80%	89%	79%
Thomas	15	20	75%	72%	85%
Sotomayor	12	17	71%	-----	-----
Alito	14	20	70%	72%	75%
Ginsburg	14	20	70%	55%	65%
Breyer	12	20	60%	62%	68%
Stevens	11	20	55%	47%	65%

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 majority they captured.

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

Separate Opinion Authorship

This chart shows each Justice’s concurring opinions, concurring votes, dissenting opinions, and dissenting votes. Dissents and concurrences to *per curiam* opinions are included.

Justice	Concurrences Authored	Total Concurring Votes	Dissents Authored	Total Dissenting Votes
C. J. Roberts	1	2	1	2
Stevens	4	5	5	9
Scalia	5	7	2	3
Kennedy	2	2	1	4
Thomas	6	9	1	5
Ginsburg	3	3	2	6
Breyer	0	1	4	8
Alito	4	4	4	6
Sotomayor	0	0	1	5

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Justice Agreement—All Cases

	Stevens	Scalia	Kennedy	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Total Cases
C.J. Roberts	24 57%	33 79%	34 81%	33 79%	32 76%	28 67%	32 78%	30 79%	42
	28 67%	37 88%	35 83%	37 88%	35 83%	30 71%	34 83%	32 84%	
	30 71%	39 93%	36 86%	39 93%	36 86%	31 74%	35 85%	33 87%	
	12 29%	3 7%	6 14%	3 7%	6 14%	11 26%	6 15%	5 13%	
Stevens	20 48%	28 67%	19 45%	31 74%	30 71%	19 46%	28 74%	42	
	27 64%	31 74%	25 60%	33 79%	33 79%	22 54%	31 82%		
	29 69%	32 76%	27 64%	34 81%	35 83%	25 61%	32 84%		
	13 31%	10 24%	15 36%	8 19%	7 17%	16 39%	6 16%		
Scalia	30 71%	35 83%	26 62%	25 60%	28 68%	25 66%	42		
	33 79%	40 95%	32 76%	29 69%	31 76%	29 76%			
	35 83%	40 95%	33 79%	30 71%	34 83%	30 79%			
	7 17%	2 5%	9 21%	12 29%	7 17%	8 21%			
Kennedy	27 64%	33 79%	32 76%	32 78%	30 79%	42			
	31 74%	34 81%	33 79%	33 80%	30 79%				
	33 79%	34 81%	33 79%	35 85%	30 79%				
	9 21%	8 19%	9 21%	6 15%	8 21%				
Thomas	26 62%	22 52%	27 66%	24 63%	42				
	32 76%	27 64%	31 76%	29 76%					
	33 79%	28 67%	34 83%	30 79%					
	9 21%	14 33%	7 17%	8 21%					
Ginsburg	36 86%	27 66%	35 92%	42					
	36 86%	29 71%	35 92%						
	37 88%	31 76%	35 92%						
	5 12%	10 24%	3 8%						
Breyer	27 66%	32 84%	42						
	28 68%	32 84%							
	30 73%	33 87%							
	11 27%	5 13%							
Alito	24 65%	41							
	24 65%								
	26 70%								
	11 30%								
Sotomayor							38		

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
C.J. Roberts	6 30%	14 70%	13 65%	16 80%	12 60%	8 40%	13 65%	10 59%	20
	7 35%	16 80%	13 65%	16 80%	13 65%	8 40%	14 70%	11 65%	
	8 40%	17 85%	14 70%	17 85%	14 70%	9 45%	14 70%	12 71%	
	12 60%	3 15%	6 30%	3 15%	6 30%	11 55%	6 30%	5 29%	
Stevens	4 20%	10 50%	4 20%	12 60%	11 55%	3 15%	10 59%	20	
	7 35%	10 50%	5 25%	12 60%	12 60%	3 15%	11 65%		
	7 35%	10 50%	5 25%	12 60%	13 65%	4 20%	11 65%		
	13 65%	10 50%	15 75%	8 40%	7 35%	16 80%	6 35%		
Scalia	11 55%	16 80%	8 40%	7 35%	11 55%	7 41%	20		
	12 60%	18 90%	11 55%	8 40%	12 60%	9 53%			
	13 65%	18 90%	11 55%	8 40%	13 65%	9 53%			
	7 35%	2 10%	9 45%	12 60%	7 35%	8 47%			
Kennedy	10 50%	12 60%	11 55%	12 60%	9 53%	20			
	10 50%	12 60%	11 55%	13 65%	9 53%				
	11 55%	12 60%	11 55%	14 70%	9 53%				
	9 45%	8 40%	9 45%	6 30%	8 47%				
Thomas	10 50%	6 30%	12 60%	8 47%	20				
	11 55%	6 30%	12 60%	9 53%					
	11 55%	6 30%	13 65%	9 53%					
	9 45%	14 70%	7 35%	8 47%					
Ginsburg	14 70%	8 40%	14 82%	20					
	14 70%	9 45%	14 82%						
	15 75%	10 50%	14 82%						
	5 25%	10 50%	3 18%						
Breyer	8 40%	11 65%	20						
	8 40%	11 65%							
	9 45%	12 71%							
	11 55%	5 29%							
Alito	5 29%	20							
	5 29%								
	6 35%								
	11 65%								
Sotomayor							17		

KEY
Fully Agree
Agree in Full or Part
Agree in Full, Part, or Judgment only
Disagree in Judgment

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Circuit Scorecard

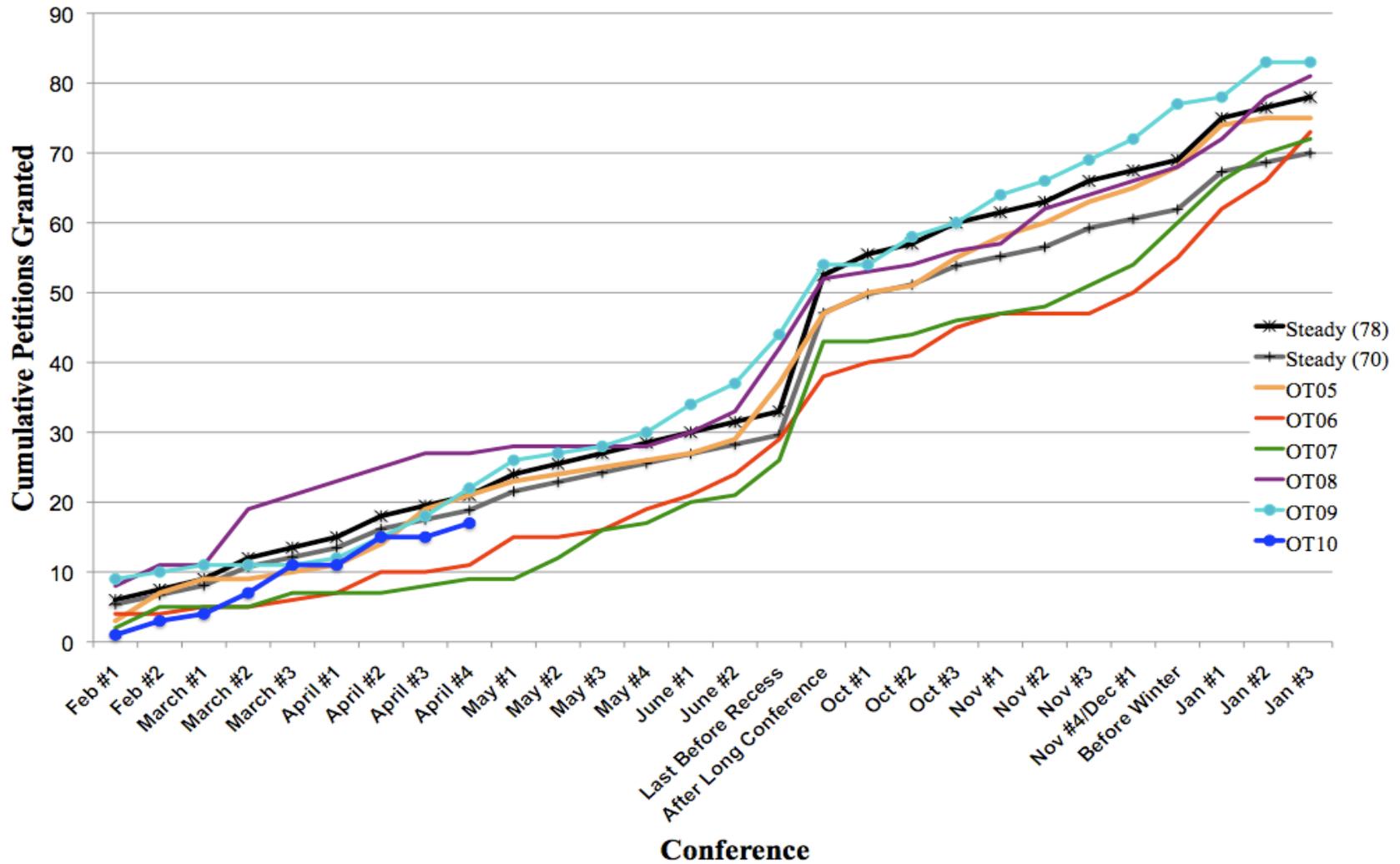
Court	Total	Decided	Outstanding	#Aff'd	%Aff'd	#Rev'd	%Rev'd	#Rev'd in Part	%Rev'd in Part	% Caseload
CA1	2	1	1	0	0%	0	0%	1	50%	2%
CA2	7	5	2	0	0%	5	100%	0	0%	8%
CA3	5	3	2	2	67%	1	33%	0	0%	6%
CA4	5	2	3	0	0%	2	100%	0	0%	6%
CA5	4	1	3	0	0%	1	100%	0	0%	5%
CA6	7	4	3	0	0%	4	100%	0	0%	8%
CA7	11*	5	6	1	20%	4	80%	0	0%	13%
CA8	3*	2	1	0	0%	1	50%	1	50%	3%
CA9	16	5	11	1	20%	4	80%	0	0%	19%
CA10	2	0	2	0	0%	0	0%	0	0%	2%
CA11	9	6	3	2	33%	4	67%	0	0%	10%
CADC	4*	2	2	0	0%	1	50%	1	50%	5%
CAFC	1	0	1	0	0%	0	0%	0	0%	1%
State Courts	8*	5	3	0	0%	5	100%	0	0%	9%
Original	2	1	1	N/A	N/A	N/A	N/A	N/A	N/A	2%
Total	86	42	44	6	15%	32	78%	3	7%	100%

Consolidated cases are counted together. Percentages are out of decided cases only; percentages of total cases exclude original cases from the total.

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

Grants Per Conference

The chart below represents the gradual filling of the docket for each of the last five Terms, broken down by the number of cases granted after each conference. The two “steady” lines represent the grants the Court would need at a given conference, if on a steady pace, to docket the number of cases in parentheses by the end of the Term.



†The one grant depicted for OT10 at the first February conference was granted at the last conference in January 2010. There were no new grants that day in February.