

Summary of the Court's Workload, October Term 2009

Total cases granted or probable jurisdiction noted: 80;

Original cases: 2;

Cases dismissed before oral argument: 1 (*Pollitt*);

Cases decided before oral argument: 2 (*McDaniel*, *Kiyemba*)*.

Total cases heard for oral argument: 77;

Cases decided on the merits: 53*;

Cases dismissed as improvidently granted: 2 (*Robertson*, *Sullivan*);

Cases otherwise dismissed or vacated: 2 (*Pottawattamie*, *Briscoe*);

Cases undecided: 20*.

Total cases decided summarily (without argument): 10*.

Total merits opinions to date: 65;

Signed merits opinions: 53;

Unsigned merits opinions: 12.

Total expected merits opinions (in all cases marked *): 85.

†Notes: We count the unsigned opinions in *McDaniel v. Brown* and *Kiyemba v. Obama* as merits decisions. We do not regard the following opinions, which are published on the Court's website, as decisions on the merits: *Briscoe v. Virginia*, *Robertson v. United States ex rel. Watson*, and *Sullivan v. Florida*.

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Decisions by Final Vote

9-0 (or Unanimous)	8-1 (or 7-1)	7-2	6-3	5-4
32 (49%)*	5 (8%)	13 (20%)	6 (9%)	9 (14%)*
<i>Corcoran v. Levenhagen</i> (PC)	<i>NRG v. Maine Public Utilities</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>Alvarez v. Smith</i>	<i>Bloate v. United States</i>	<i>Renico v. Lett</i>	<i>S. Carolina v. N. Carolina</i>
<i>Wong v. Belmontes</i> (PC)	<i>United States v. Stevens</i>	<i>Johnson v. United States</i>	<i>Abbott v. Abbott</i>	<i>Shady Grove Ortho.</i>
<i>Porter v. McCollum</i> (PC)	<i>United States v. Marcus</i> (7-1)	<i>Padilla v. Kentucky</i>	<i>Graham v. Sullivan</i>	<i>Conkright v. Fromm.</i> (5-3)
<i>Beard v. Kindler</i> (8-0)	<i>Hamilton v. Lanning</i>	<i>Wood v. Allen</i>	<i>Carr v. United States</i>	<i>Perdue v. Kenny A.</i>
<i>Union Pacif. RR v. Loc. Enginrs</i>		<i>Florida v. Powell</i>	<i>Barber v. Thomas</i>	<i>Stolt-Nielson</i> (5-3)
<i>Mohawk v. Carpenter</i>		<i>Graham Cty v. U.S./Wilson</i>		<i>Salazar v. Buono</i>
<i>McDaniel v. Brown</i> (PC)		<i>Presley v. Georgia</i> (PC)		<i>Berghuis v. Thompkins</i>
<i>Smith v. Spisak</i>		<i>Jerman v. Carlisle</i>		<i>Dolan v. United States</i>
<i>Kucana v. Holder</i>		<i>U.S. v. Comstock</i>		
<i>Wilkins v. Gaddy</i> (PC)		<i>Jefferson v. Upton</i> (PC)		
<i>Thaler v. Haynes</i> (PC)		<i>Alabama v. N. Carolina</i>		
<i>Hertz Corp. v. Friend</i>		<i>Holland v. Florida</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>				
<i>Hui v. Castaneda</i>				
<i>American Needle v. NFL</i>				
<i>Lewis v. Chicago</i>				
<i>United States v. O'Brien</i>				
<i>Hardt v. Standard Reliance</i>				
<i>Samantar v. Yousuf</i>				
<i>Levin v. Commerce Energy</i>				
<i>Krupski v. Costa Crociere</i>				
<i>Astrue v. Ratliff</i>				
<i>Carachuri-Rosendo v. Holder</i>				

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

Vacated After Argument
Briscoe v. Virginia

Dismissed
Health Care Service v. Pollitt (settled before argument)
Pottawattamie County v. McGhee (settled after argument)
Sullivan v. Florida (improvidently granted)
Robertson v. U.S. ex rel. Watson (improvidently granted)

Past Terms

	9-0 (unan.)	8-1	7-2	6-3	5-4
Final OT08	26 (33%)	4 (5%)	13 (16%)	13 (16%)	24 (30%)
Final OT07	21 (30%)	6 (8%)	20 (28%)	10 (14%)	14 (20%)
Final OT06	28 (38%)	9 (12%)	9 (12%)	3 (4%)	24 (33%)

† *Conkright v. Frommert* and *Stolt-Nielson S.A. v. AnimalFeeds International* are both classified as 5-4 because it seems very likely that, had all nine Justices participated, the vote would have split that way.

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 (*Pottawattamie County v. McGhee*, *Health Care Service Corp. v. Pollitt*, *Sullivan v. Florida*, *Robertson v. United States ex rel. Watson*); *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 twelve *per curiam* opinions: ten summary dispositions (*Corcoran*, *Bobby*, *Wong*, *Porter*, *Fisher*, *Presley*, *Wellons*, *Thaler*, *Wilkins*, and *Jefferson*); the reversal before oral argument in *McDaniel v. Brown*; and *Kiyemba v. Obama*, which was vacated before oral argument, with an opinion.

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
Roberts	61	65	94%	81%	90%
Kennedy	59	65	91%	92%	86%
Scalia	57	65	88%	84%	81%
Alito	56	64	88%	81%	82%
Sotomayor	53	60	88%	-----	-----
Ginsburg	56	65	86%	70%	75%
Thomas	53	65	82%	81%	75%
Breyer	53	65	82%	75%	79%
Stevens	50	65	77%	65%	75%

Justice	Majority Votes	Total Votes	Percent in the Majority	OT08 Final	OT07 Final
Roberts	29	33	88%	72%	73%
Kennedy	27	33	82%	89%	79%
Alito	25	33	76%	72%	75%
Sotomayor	22	29	76%	-----	-----
Scalia	24	33	73%	76%	65%
Ginsburg	24	33	73%	55%	65%
Thomas	21	33	64%	72%	85%
Breyer	21	33	64%	62%	68%
Stevens	18	33	55%	47%	65%

†Chief Justice Roberts and Justice Breyer each wrote a concurrence in part and dissent in part in *Alabama v. North Carolina*; Justice Thomas joined the Chief Justice’s opinion. For these charts, all three of their votes are counted as dissents. For this chart and all others in this document, the case’s vote is listed as 7-2, as all substantive parts of the opinion had 7 votes.

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 the majority he or she captured. The unsigned, or *per curiam*, opinions are listed at the bottom, excluding *Briscoe v. Virginia* and the opinions dismissing a case as improvidently granted (*Sullivan v. Florida* and *Robertson v. United States ex rel. Watson*).

Opinion Author	5-4	6-3 (or 5-3)	7-2	8-1 (or 7-1)	9-0 (or unan.)	Total
Roberts	1	2	0	1	1	5
Stevens	0	0	2	0	3	5
Scalia	1	0	2	0	2	5
Kennedy	2	2	0	0	1	5
Thomas	0	0	1	0	4	5
Ginsburg	0	0	1	1	4	6
Breyer	1	1	2	2	3	9
Alito	3	0	0	1	2	6
Sotomayor	0	1	2	0	4	7
Per Curiam	1	0	3	0	8	12

Separate Opinion Authorship

This chart shows each Justice's concurring opinions, concurring votes, dissenting opinions, and dissenting votes. Dissents and concurrences to all *per curiam* opinions are included, except when the main opinion dismissed the case as improvidently granted (so far, only *Robertson v. United States ex rel. Watson*). Chief Justice Roberts and Justice Breyer each wrote a concurrence in part and dissent in part in *Alabama v. North Carolina*; these are counted as dissents only in the chart below.

Opinion Author	Concurrences Authored	Total Concurring Votes	Dissents Authored	Total Dissenting Votes
Roberts	2	3	3	4
Stevens	8	10	8	15
Scalia	9	12	5	9
Kennedy	5	5	2	6
Thomas	12	15	3	12
Ginsburg	3	5	2	9
Breyer	0	1	5	12
Alito	8	8	6	8
Sotomayor	1	3	2	7

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Justice Agreement—All Cases

	Stevens	Scalia	Kennedy	Thomas	Ginsburg	Breyer	Alito	Sotomayor	Total Cases
Roberts	39 60%	45 69%	53 82%	44 68%	49 75%	45 69%	48 75%	47 78%	65
	45 69%	52 80%	55 85%	50 77%	53 82%	48 74%	52 81%	50 83%	
	48 74%	57 88%	58 89%	55 85%	55 85%	50 77%	55 86%	52 87%	
	17 26%	8 12%	7 11%	10 15%	10 15%	15 23%	9 14%	8 13%	
Stevens	27 42%	44 68%	26 40%	48 74%	47 72%	30 47%	45 75%	65	
	37 57%	49 75%	35 54%	51 78%	53 82%	35 55%	50 83%		
	42 65%	51 78%	40 62%	52 80%	55 85%	40 63%	51 85%		
	23 35%	14 22%	25 38%	13 20%	10 15%	24 38%	9 15%		
Scalia	41 63%	47 72%	36 55%	33 51%	39 61%	32 53%	65		
	47 72%	56 86%	43 66%	40 62%	44 69%	39 65%			
	52 80%	59 91%	47 72%	44 68%	50 78%	43 72%			
	13 20%	6 9%	18 28%	21 32%	14 22%	17 28%			
Kennedy	37 57%	51 78%	48 74%	47 73%	47 78%	65			
	43 66%	53 82%	50 77%	50 78%	47 78%				
	48 74%	54 83%	51 78%	54 84%	48 80%				
	17 26%	11 17%	14 22%	10 16%	12 20%				
Thomas	37 57%	33 51%	40 63%	33 55%	65				
	45 69%	40 62%	47 73%	40 67%					
	49 75%	44 68%	53 83%	44 73%					
	16 25%	21 32%	11 17%	16 27%					
Ginsburg	54 83%	44 69%	53 88%	65					
	55 85%	47 73%	54 90%						
	56 86%	51 80%	54 90%						
	9 14%	13 20%	6 10%						
Breyer	41 64%	51 85%	65						
	44 69%	53 88%							
	48 75%	54 90%							
	16 25%	6 10%							
Alito	38 64%	64							
	40 68%								
	44 75%								
	15 25%								
Sotomayor							60		

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
Roberts	12 36%	20 61%	22 67%	21 64%	19 58%	15 45%	20 61%	17 59%	33
	14 42%	24 73%	23 70%	22 67%	21 64%	16 48%	23 70%	19 66%	
	16 48%	25 76%	26 79%	23 70%	23 70%	18 55%	24 73%	21 72%	
	17 52%	8 24%	7 21%	10 30%	10 30%	15 45%	9 27%	8 28%	
Stevens	6 18%	17 52%	6 18%	20 61%	19 58%	6 18%	18 62%	33	
	10 30%	18 55%	8 24%	20 61%	22 67%	7 21%	20 69%		
	10 30%	19 58%	8 24%	20 61%	23 70%	9 27%	20 69%		
	23 70%	14 42%	25 76%	13 39%	10 30%	24 73%	9 31%		
Scalia	16 48%	22 67%	12 36%	9 27%	16 48%	8 28%	33		
	19 58%	27 82%	15 45%	12 36%	18 55%	12 41%			
	20 61%	27 82%	15 45%	12 36%	19 58%	12 41%			
	13 39%	6 18%	18 55%	21 64%	14 42%	17 59%			
Kennedy	14 42%	20 61%	17 52%	18 55%	16 55%	33			
	15 45%	21 64%	18 55%	21 64%	16 55%				
	16 48%	22 67%	19 58%	23 70%	17 59%				
	17 52%	11 33%	14 42%	10 30%	12 41%				
Thomas	15 45%	11 33%	19 58%	11 38%	33				
	17 52%	12 36%	21 64%	13 45%					
	17 52%	12 36%	22 67%	13 45%					
	16 48%	21 64%	11 33%	16 55%					
Ginsburg	22 67%	16 48%	22 76%	33					
	23 70%	18 55%	23 79%						
	24 73%	20 61%	23 79%						
	9 27%	13 39%	6 21%						
Breyer	13 39%	20 69%	33						
	15 45%	22 76%							
	17 52%	23 79%							
	16 48%	6 21%							
Alito	10 34%	33							
	12 41%								
	14 48%								
	15 52%								
Sotomayor							29		

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
CA1	2	2	0	1	50%	0	0%	1	50%
CA2	7	6	1	0	0%	6	100%	0	0%
CA3	5	3	2	2	67%	1	33%	0	0%
CA4	5	5	0	1	20%	4	80%	0	0%
CA5	4	3	1	0	0%	3	100%	0	0%
CA6	7	7	0	0	0%	7	100%	0	0%
CA7	11*	8	3	1	13%	7	88%	0	0%
CA8	3*	3	0	0	0%	2	67%	1	33%
CA9	16	7	9	2	29%	5	71%	0	0%
CA10	2	2	0	2	100%	0	0%	0	0%
CA11	10	9	1	2	22%	7	78%	0	0%
CADC	3*	2	1	0	0%	1	50%	1	50%
CAFC	1	0	1	0	0%	0	0%	0	0%
State Courts	7*	6	1	0	0%	6	100%	0	0%
Original	2	2	0	N/A	N/A	N/A	N/A	N/A	N/A
Total	85	65	20	11	17%	49	78%	3	5%

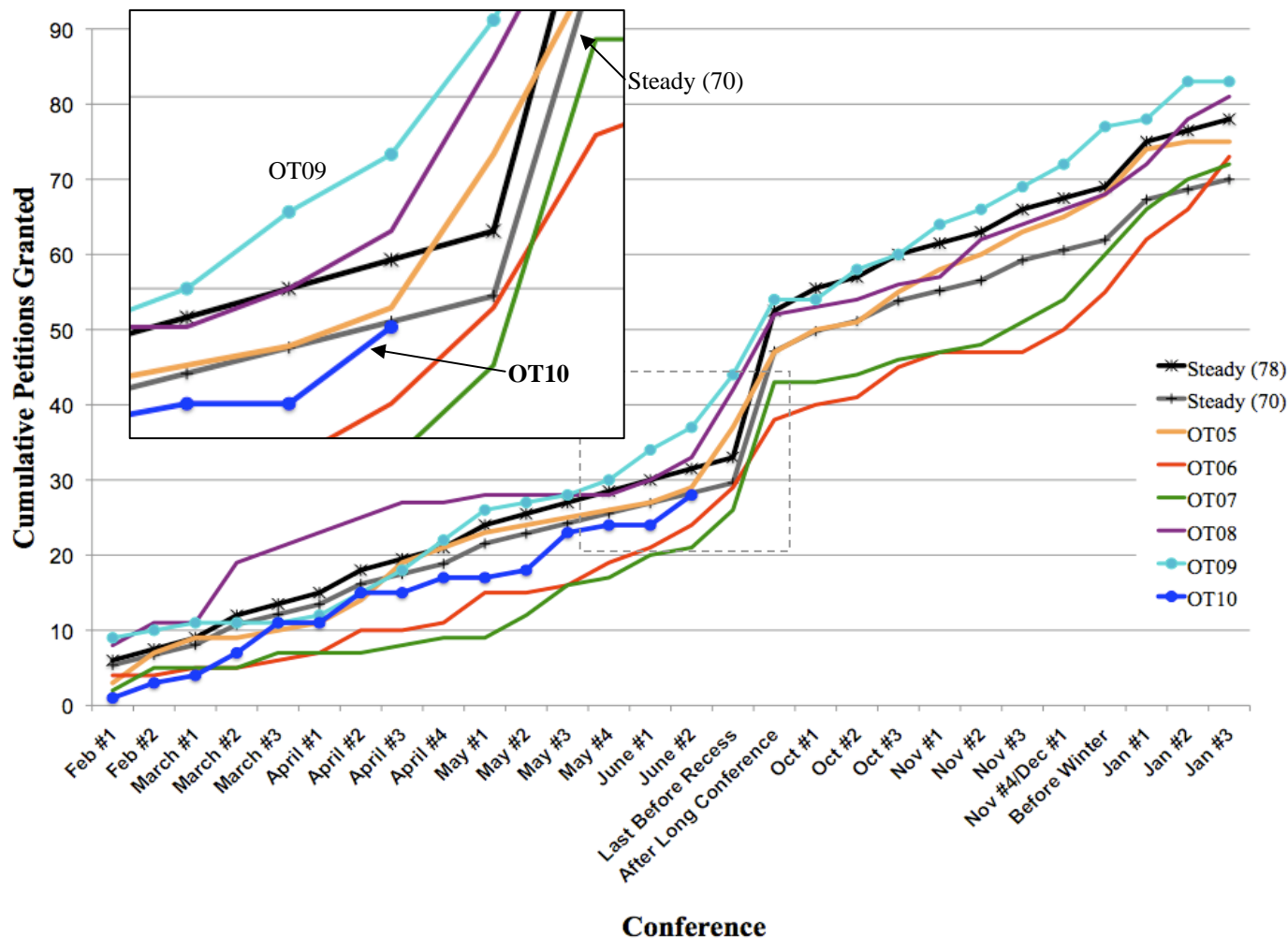
Summary reversals with substantive opinions are counted (10 total—for the full list, see the Frequency in the Majority chart). Orders to vacate the lower court's decision are counted as reversals. Consolidated cases are counted together. Percentages are out of decided cases only; percentages of total cases exclude original cases.

*These totals exclude *Pottawattamie County v. McGhee* (8th Circuit), *Health Care Service Corp. v. Pollitt* (7th Circuit), *Sullivan v. Florida* (state court), and *Robertson v. United States ex rel. Watson* (D.C. 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

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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 to have granted by a given conference, if on a steady pace, to docket the number of cases in parentheses by the end of the Term. As of June 7, the Court has granted 28 cases for October Term 2010.



†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. This Term, there were only three conferences in May and there will be four in June, so we label the first June conference of OT10 grants “May #4,” for consistency across Terms.