SCOTUSblog PRELIMINARY Stats OT09 - 6.11.10

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*.

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%	b)	6 (9%)		9 (14%)*		
Corcoran v. Levenhagen (PC)	NRG v. Main	ne Public Utilities Michigan v. Fisher (PC)			Hemi Group v. NYC	(5-3)	Wellons v. Hall (PC)		
Bobby v. Van Hook (PC)	Alvare	ez v. Smith	Bloate v. Unite	ed States	Renico v. Lett	<i>S</i> .	Carolina v. N. Carolina		
Wong v. Belmontes (PC)	United Sta	ites v. Stevens	Johnson v. Unit	ed States	Abbott v. Abbott	L .	Shady Grove Ortho.		
Porter v. McCollum (PC)	United States	s v. Marcus (7-1)	Padilla v. Ke	ntucky	Graham v. Sulliva	n v. Sullivan Conkright v. Fromm. (
Beard v. Kindler (8-0)	Hamilton	n v. Lanning	Wood v. A	llen	Carr v. United Stat	tes	Perdue v. Kenny A.		
Union Pacif. RR v. Loc. Enginrs			Florida v. P	owell	Barber v. Thoma	S	Stolt-Nielson (5-3)		
Mohawk v. Carpenter			Graham Cty v. L	.S./Wilson			Salazar v. Buono		
McDaniel v. Brown (PC)			Presley v. Geor	gia (PC)		E	Berghuis v. Thompkins		
Smith v. Spisak			Jerman v. C	arlisle			Dolan v. United States		
Kucana v. Holder			U.S. v. Con	nstock			tizens United is included in		
Wilkins v. Gaddy (PC)			Jefferson v. Up	ton (PC)		the C	DT08 total.		
Thaler v. Haynes (PC)			Alabama v. N.	Carolina					
Hertz Corp. v. Friend			Holland v. F	lorida					
Maryland v. Shatzer									
Kiyemba v. Obama (PC)									
Reed Elsevier v. Muchnick (8-0)						Dismisse			
Mac's Shell Service v. Shell		Vegeted A	fton A roumont			· · ·	ettled before argument)		
Milavetz v. United States			iter Argument		Pottawattamie County v. McGhee (settled after argument)				
United Student Aid v. Espinosa		Brisco	e v. Virginia		Sullivan v. Florida (improvidently granted) Robertson v. U.S. ex rel. Watson (improvidently granted)				
Berghuis v. Smith									
Jones v. Harris Associates	L								
Merck & Co. v. Reynolds				Р	ast Terms				
Hui v. Castaneda									
American Needle v. NFL			9-0 (unan.)	8-1	7-2	6-3	5-4		
Lewis v. Chicago	-		, , ,						
United States v. O'Brien		Final OT08	26 (33%)	4 (5%)	13 (16%)	13 (16%)	24 (30%)		
Hardt v. Standard Reliance									
Samantar v. Yousuf		Final OT07	21 (30%)	6 (8%)	20 (28%)	10 (14%)	14 (20%)		
Levin v. Commerce Energy			× /		、 ,	× · · · /	× /		
Krupski v. Costa Crociere				0. (1.00)	0 (100()	0.444	24 (222)		
Astrue v. Ratliff		Final OT06	28 (38%)	9 (12%)	9 (12%)	3 (4%)	24 (33%)		
Carachuri-Rosendo v. Holder	1								

†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.

Opinion Authors by Sitting

Roberts	1		2		<u>0</u>		1		<u>0</u>		1		<u>0</u>		JR	5
Stevens	1		<u>0</u>		1		1		1		1		<u>0</u>		JS	5
Scalia	2		1		<u>0</u>		1		1		<u>0</u>		<u>0</u>		AS	5
Kennedy	1 (plus Citiz	zens)	1		<u>0</u>		1		2	2			<u>0</u>		AK	5
Thomas	2		<u>0</u>		1		<u>0</u>		1		<u>0</u>		1		СТ	5
Ginsburg	1		2		1		1		<u>0</u>		1		<u>0</u>		RG	6
Breyer	2		1		1		1		2		1		1		SB	9
Alito	2		1		1		1		<u>0</u>		1		<u>0</u>		SA	6
Sotomayor	1		1		1		1		2		<u>0</u>		1		SS	7
JUSTICE	OCTOBER	Ł	NOVEMBE	R	DECEMBER		JANUARY		FEBRUARY	7	MARCH		APRIL		TOTA	AL
	Shatzer	AS	Jones	SA	Graham Cty	JS	AL v. NC	AS	Astrue	CT	Hamilton	SA	CLS			
	Mohawk	SS	Beard	JR	Merck	SB	Briscoe	PC	Lewis	AS	Levin	RG	Quon			
	Stevens	JR	Shady Grov	AS	Milavetz.	SS	Comstock	SB	HLP		NLRB		Dolan	SB		
	Johnson	AS	NRG	RG	Espinosa	СТ	Abbott	AK	O'Brien	AK	Kawasaki		Krupski	SS		
	Bloate	СТ	Schwab		Stop/Beach		Amer. Needle	JS	Carr	SS	Magwood		Hardt	СТ		
	Salazar	AK	Hemi	JR	Free Enterp.		Jerman	SS	Marcus	SB	Morrison		Rent-A-Ctr			
	Reed	СТ	Pottawatt.	n/a	FL v. Powell	RG	Mac's Shell	SA	Berghuis/Th	AK	Renico	JR	Monsanto			
	UnionPac.	RG	Wood	SS	Black		Granite		Holland	SB	Dillon		Doe v. Reed			
	Padilla	JS	Graham	AK	Weyhrauch		Berghuis/Sm	RG	Skilling		Barber	SB				
	Spisak	SB	<u>Sullivan</u>	n/a	Stolt-Nielson	SA	Conkright	JR	McDonald		Carachuri	JS				
	SC v. NC	SA	Bilski						Hui	SS	Robertson	n/a				
	Alvarez	SB	Kucana	RG					Samantar	JS						
	Perdue	SA	Hertz	SB												

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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

	Stev	vens	Sca	alia	Keni	nedy	The	omas	Gin	sburg	Brey	ver	Alite)	Soto	mayor	Total Cases
	39	60%	45	69%	53	82%	44	68%	49	75%	45	69%	48	75%	47	78%	
Roberts	45	69%	52	80%	55	85%	50	77%	53	82%	48	74%	52	81%	50	83%	65
	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%	
			27	42%	44	68%	26	40%	48	74%	47	72%	30	47%	45	75%	
	ł	Stevens	37	57%	49	75%	35	54%	51	78%	53	82%	35	55%	50	83%	65
			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%	
					41	63%	47	72%	36	55%	33	51%	39	61%	32	53%	
				Scalia	47	72%	56	86%	43	66%	40	62%	44	69%	39	65%	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%	
							37	57%	51	78%	48	74%	47	73%	47	78%	
					Ke	nnedy	43	66%	53	82%	50	77%	50	78%	47	78%	65
						-	48	74%	54	83%	51	78%	54	84%	48	80%	
							17	26%	11	17%	14	22%	10	16%	12	20%	
									37	57%	33	51%	40	63%	33	55%	
]	Thomas	45	69%	40	62%	47	73%	40	67%	65
		KE	v						49	75%	44	68%	53	83%	44	73%	
		Fully A		0					16	25%	21	32%	11	17%	16	27%	
	٨٥	ree in Fu	<u>v</u>								54	83%	44	69%	53	88%	
Agree				udgment	only				Gi	nsburg	55	85%	47	73%	54	90%	65
Agree		agree in			omy						56	86%	51	80%	54	90%	
	DIS	agree m	Juu	Sment							9	14%	13	20%	6	10%	
													41	64%	51	85%	
												Breyer	44	69%	53	88%	65
												·	48	75%	54	90%	
													16	25%	6	10%	
															38	64%	
													Alit	0	40	68%	64
															44	75%	
															15	25%	
															Soto	mayor	60

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Justice Agreement—Non-Unanimous Cases

	Stevens	Scali	ia	Keni	nedy	Tho	mas	Gin	sburg	Brey	ver	Alit	0	Soto	mayor	Total Cases
	12 36%	20	61%	22	67%	21	64%	19	58%	15	45%	20	61%	17	59%	
Roberts	14 42%	24	73%	23	70%	22	67%	21	64%	16	48%	23	70%	19	66%	33
	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%	
		6	18%	17	52%	6	18%	20	61%	19	58%	6	18%	18	62%	
	Stevens	10	30%	18	55%	8	24%	20	61%	22	67%	7	21%	20	69%	33
		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%	
				16	48%	22	67%	12	36%	9	27%	16	48%	8	28%	
			Scalia	19	58%	27	82%	15	45%	12	36%	18	55%	12	41%	33
				20	61%	27	82%	15	45%	12	36%	19	58%	12	41%	
				13	39%	6	18%	18	55%	21	64%	14	42%	17	59%	
			-			14	42%	20	61%	17	52%	18	55%	16	55%	
				Ke	ennedy	15	45%	21	64%	18	55%	21	64%	16	55%	33
						16	48%	22	67%	19	58%	23	70%	17	59%	
						17	52%	11	33%	14	42%	10	30%	12	41%	
								15	45%	11	33%	19	58%	11	38%	
						T	homas	17	52%	12	36%	21	64%	13	45%	33
								17	52%	12	36%	22	67%	13	45%	
		KEY						16	48%	21	64%	11	33%	16	55%	
		lly Ag	ree							22	67%	16	48%	22	76%	
			or Part	;				Gi	nsburg	23	70%	18	55%	23	79%	33
A	gree in Full, P				nly					24	73%	20	61%	23	79%	
	<u> </u>		udgmen							9	27%	13	39%	6	21%	
	0		0									13	39%	20	69%	
]	Breyer	15	45%	22	76%	33
												17	52%	23	79%	
												16	48%	6	21%	
														10	34%	
												Alit	0	12	41%	33
														14	48%	
														15	52%	
														Soto	mayor	29

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%

Circuit Scorecard

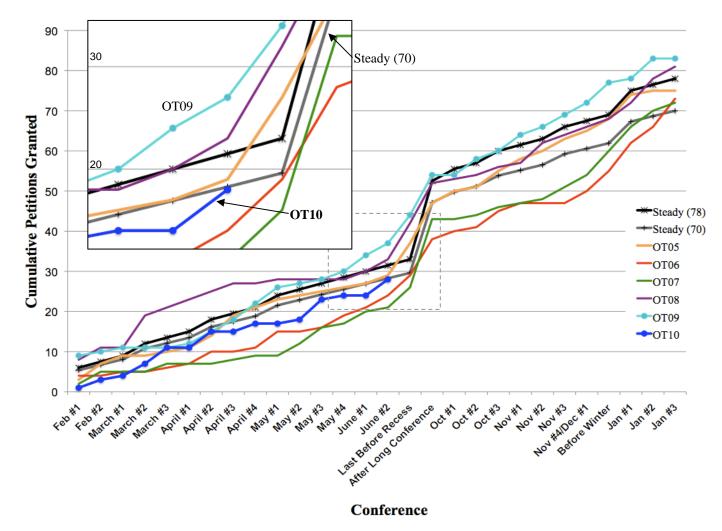
Summary reversals with substantive opinions are counted (10 total—for the full list, see the Frequency in the Majority chart). Orders to vacate the lower court's decision are counted as reversals. Consolidated cases are counted together. Percentages are out of decided cases only; percentages of total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