

## 5-4 Cases

### Alignment of the Majority

Majority*	Total (23)	Cases
Roberts, Scalia, Kennedy, Thomas, Alito	10	<i>Clapper, Comcast, Genesis, Salinas, American Express, UT Southwestern, Vance, Mutual Pharmaceutical Co., Shelby County, Koontz</i>
Kennedy, Ginsburg, Breyer, Sotomayor, Kagan	6	<i>US Airways, McQuiggin, Trevino, Peugh, Actavis, Windsor</i>
Roberts, Kennedy, Thomas, Breyer, Alito	3	<i>King, Maracich, Adoptive Couple</i>
Roberts, Scalia, Ginsburg, Breyer, Kagan	1	<i>Hollingsworth</i>
Scalia, Kennedy, Ginsburg, Sotomayor, Kagan	1	<i>McNeely</i>
Scalia, Thomas, Ginsburg, Sotomayor, Kagan	1	<i>Jardines</i>
Thomas, Ginsburg, Breyer, Sotomayor, Kagan	1	<i>Alleyne</i>

Term	Number of 5-4 Opinions**	Percentage of Total Opinions	Percentage of 5-4 Split Ideological	Conservative Victory (Percentage of Ideological)	Conservative Victory (Percentage of All 5-4)	Number of Different Alignments	Alignments Divided by 5-4 Opinions
OT05	11	12%	73%	63%	45%	7	0.64
OT06	24	33%	79%	68%	54%	6	0.25
OT07	12	17%	67%	50%	33%	6	0.50
OT08	23	29%	70%	69%	48%	7	0.30
OT09	16	19%	69%	73%	50%	7	0.44
OT10	16	20%	88%	71%	63%	4	0.25
OT11	15	20%	73%	45%	33%	7	0.47
OT12	<b>23</b>	<b>29%</b>	<b>70%</b>	<b>63%</b>	<b>43%</b>	<b>7</b>	<b>0.30</b>
<b>Average</b>	<b>18</b>	<b>22%</b>	<b>73%</b>	<b>63%</b>	<b>46%</b>	<b>6</b>	<b>0.39</b>

\* This table features cases that were decided by a 5-3 margin, but were reclassified for our purposes as 5-4 decisions.

\*\* For the purposes of this chart, the total number of 5-4 opinions is the number of cases that split 5-4 on a major issue. It may differ from the number of cases that split 5-4 elsewhere in this Stat Pack.

\*\*\* For the purposes of this chart, a "Conservative Win" occurs whenever the majority consists of Chief Justice Roberts and Justices Scalia, Kennedy, Thomas, and O'Connor or Alito.

## 5-4 Cases

### Membership in a Five-to-Four Majority

Justice	Cases Decided	Frequency in Majority		OT11	OT10	OT09	OT08	OT07
Kennedy	23	20	87%	80%	88%	69%	78%	67%
Thomas	23	15	65%	67%	75%	69%	65%	67%
Roberts	23	14	61%	67%	63%	56%	48%	58%
Scalia	23	13	57%	60%	69%	69%	70%	58%
Alito	22	13	57%	60%	63%	63%	52%	50%
Breyer	23	11	48%	47%	31%	38%	39%	45%
Ginsburg	23	10	43%	33%	38%	25%	52%	50%
Kagan	23	10	43%	40%	38%	-	-	-
Sotomayor	22	9	39%	47%	38%	43%	-	-

### Five-to-Four Majority Opinion Authorship

These percentages consider how often a Justice authors the majority opinion *when that Justice is in the majority*.\*

Justice	Cases Decided	Frequency in the Majority	Opinions Authored	Frequency as Author	OT11	OT10	OT09	OT08	OT07
Alito	22	13	6	46%	33%	0%	40%	8%	17%
Scalia	23	13	3	23%	0%	9%	18%	33%	29%
Sotomayor	22	9	2	22%	29%	17%	0%	-	-
Kennedy	23	20	4	20%	33%	21%	22%	28%	50%
Breyer	23	11	2	18%	43%	20%	25%	0%	40%
Roberts	23	14	2	14%	10%	30%	22%	18%	14%
Thomas	23	15	2	13%	0%	33%	9%	13%	13%
Ginsburg	23	10	1	10%	0%	33%	50%	27%	0%
Kagan	23	10	1	10%	17%	0%	-	-	-

\* Percentages represent the number of majority opinions authored divided by the number of times a Justice was in the majority for a *signed* opinion.