

# 5-4 Cases

Alignment of the Majority		
Majority	20	Cases
Roberts, Thomas, Alito, Gorsuch, Kavanaugh	7	<i>Preap, Bucklew, Lamps Plus, Hyatt, Manhattan, Knick, Rucho</i>
Ginsburg, Breyer, Sotomayor, Kagan, Gorsuch	4	<i>Cougar Den, Herrera, Davis, Haymond</i>
Roberts, Ginsburg, Breyer, Sotomayor, Kagan	2	<i>Madison, Commerce</i>
Roberts, Thomas, Ginsburg, Alito, Kavanaugh	1	<i>Mont</i>
Roberts, Thomas, Breyer, Alito, Kavanaugh	1	<i>Mitchell</i>
Thomas, Ginsburg, Breyer, Sotomayor, Kagan	1	<i>Home Depot</i>
Thomas, Ginsburg, Sotomayor, Kagan, Gorsuch	1	<i>Bethune</i>
Thomas, Breyer, Alito, Gorsuch, Kavanaugh	1	<i>Stokeling</i>
Ginsburg, Breyer, Alito, Sotomayor, Kagan	1	<i>Gundy</i>
Ginsburg, Breyer, Sotomayor, Kagan, Kavanaugh	1	<i>Apple</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
OT05	11	12%	73%	53%	45%	7
OT06	24	33%	79%	68%	54%	6
OT07	12	17%	67%	50%	33%	6
OT08	23	29%	70%	69%	48%	7
OT09	16	19%	69%	73%	50%	7
OT10	16	20%	88%	71%	63%	4
OT11	15	20%	67%	50%	33%	7
OT12	23	29%	70%	63%	43%	7
OT13	10	14%	60%	67%	40%	7
OT14	19	26%	68%	38%	26%	7
OT15	4	5%	100%	25%	25%	2
OT16	7	10%	86%	33%	29%	3
OT17	19	26%	74%	100%	74%	5
OT18	20	28%	80%	44%	35%	10
<b>Average</b>	16	21%	75%	57%	43%	6

\* For the purposes of this chart, a “Conservative Victory” occurs whenever the majority consists of Chief Justice Roberts and Justices Thomas, Alito, Gorsuch and Kavanaugh. A “Liberal Victory” occurs whenever the majority consists of Justices Ginsburg, Breyer, Sotomayor, Kagan and one conservative. An ideological split occurs with either of these two types of victories.

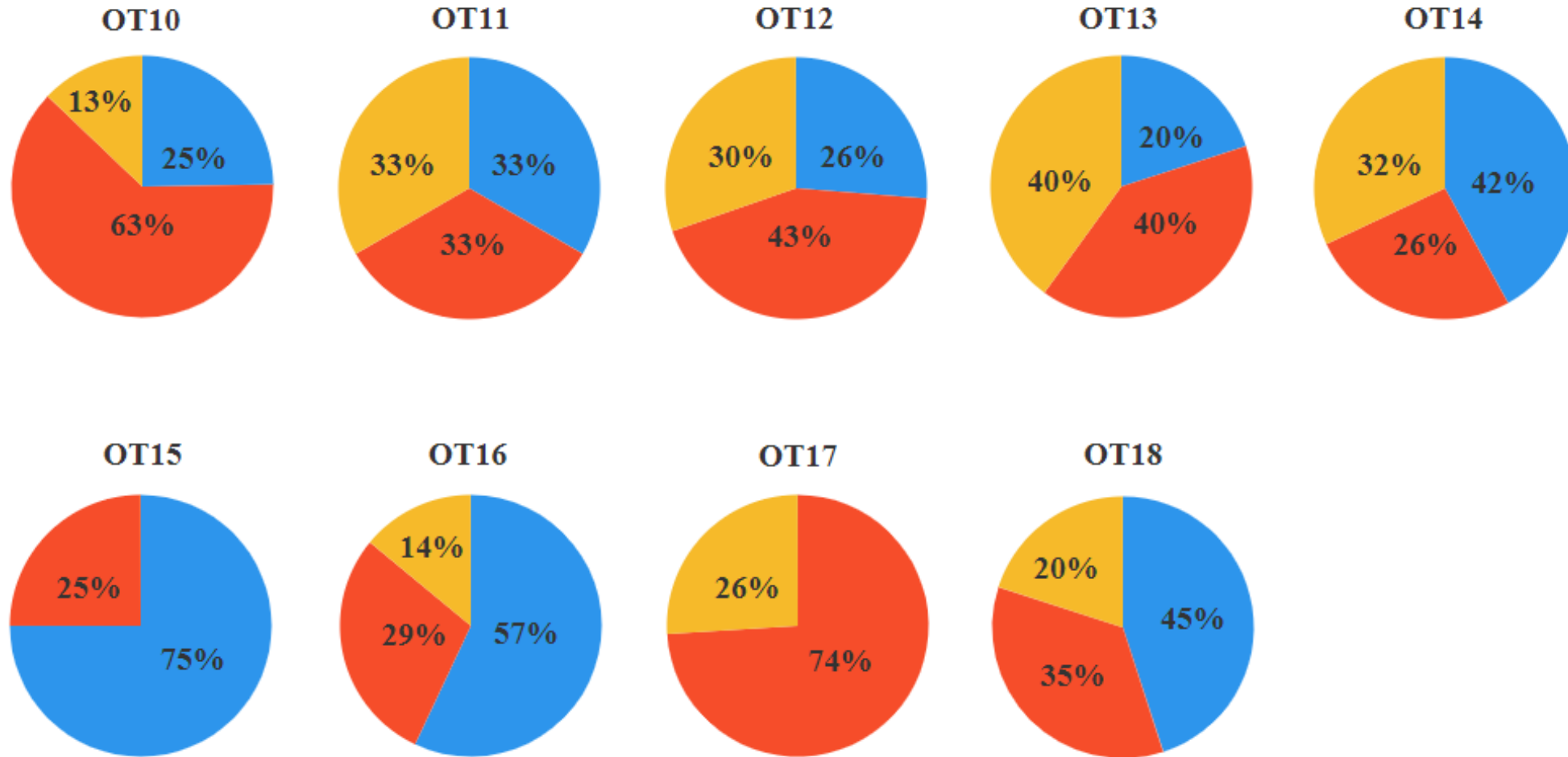
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Membership in a 5-4 Majority											
Justice	Cases Decided	Frequency in Majority		OT17	OT16	OT15	OT14	OT13	OT12	OT11	OT10
Gorsuch	20	13	65%	84%	67%	-	-	-	-	-	-
Kavanaugh	18	11	61%	-	-	-	-	-	-	-	-
Thomas	20	12	60%	79%	43%	25%	37%	50%	65%	67%	75%
Roberts	20	11	55%	89%	29%	25%	53%	70%	61%	67%	63%
Ginsburg	20	11	55%	26%	71%	75%	63%	40%	43%	33%	38%
Alito	20	11	55%	79%	29%	25%	47%	60%	57%	60%	63%
Breyer	20	11	50%	21%	71%	75%	74%	50%	48%	47%	31%
Sotomayor	20	10	45%	21%	71%	75%	68%	30%	39%	47%	38%
Kagan	20	10	45%	17%	71%	50%	53%	50%	43%	40%	38%

5-4 Majority Opinion Authorship *												
Justice	Cases Decided	Frequency in the Majority	Opinions Authored	Frequency as Author	OT17	OT16	OT15	OT14	OT13	OT12	OT11	OT10
Roberts	20	11	4	36%	12%	0%	0%	20%	14%	14%	10%	30%
Thomas	20	12	4	33%	20%	33%	0%	0%	20%	13%	0%	33%
Gorsuch	20	13	3	23%	31%	0%	-	-	-	-	-	-
Kagan	20	10	2	20%	33%	20%	0%	10%	60%	10%	17%	0%
Alito	20	11	2	18%	27%	0%	100%	33%	33%	46%	33%	0%
Kavanaugh	18	11	2	18%	-	-	-	-	-	-	-	-
Sotomayor	20	10	1	10%	0%	0%	0%	15%	0%	22%	29%	17%
Ginsburg	20	11	1	9%	20%	20%	0%	25%	0%	10%	0%	33%
Breyer	20	11	1	9%	25%	20%	33%	21%	0%	18%	43%	20%

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

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\*For OT10 through OT17, a victorious conservative majority (in red) includes Kennedy, Roberts, Scalia/Gorsuch, Thomas and Alito. A victorious liberal majority (in blue) includes Kennedy, Ginsburg, Breyer, Sotomayor and Kagan. Different majorities are marked in yellow.

\*\*For OT 18, a victorious conservative majority (in red) includes Roberts, Thomas, Alito, Gorsuch and Kavanaugh. A victorious liberal majority (in blue) includes Ginsburg, Breyer, Sotomayor, Kagan and one other justice. Different majorities are marked in yellow.