

# 5-4 Cases

Alignment of the Majority		
Majority	21	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	3	<i>Madison, Kisor, 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
<b>OT05</b>	11	12%	73%	53%	45%	7
<b>OT06</b>	24	33%	79%	68%	54%	6
<b>OT07</b>	12	17%	67%	50%	33%	6
<b>OT08</b>	23	29%	70%	69%	48%	7
<b>OT09</b>	16	19%	69%	73%	50%	7
<b>OT10</b>	16	20%	88%	71%	63%	4
<b>OT11</b>	15	20%	67%	50%	33%	7
<b>OT12</b>	23	29%	70%	63%	43%	7
<b>OT13</b>	10	14%	60%	67%	40%	7
<b>OT14</b>	19	26%	68%	38%	26%	7
<b>OT15</b>	4	5%	100%	25%	25%	2
<b>OT16</b>	7	10%	86%	33%	29%	3
<b>OT17</b>	19	26%	74%	100%	74%	5
<b>OT18</b>	21	29%	81%	41%	33%	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.

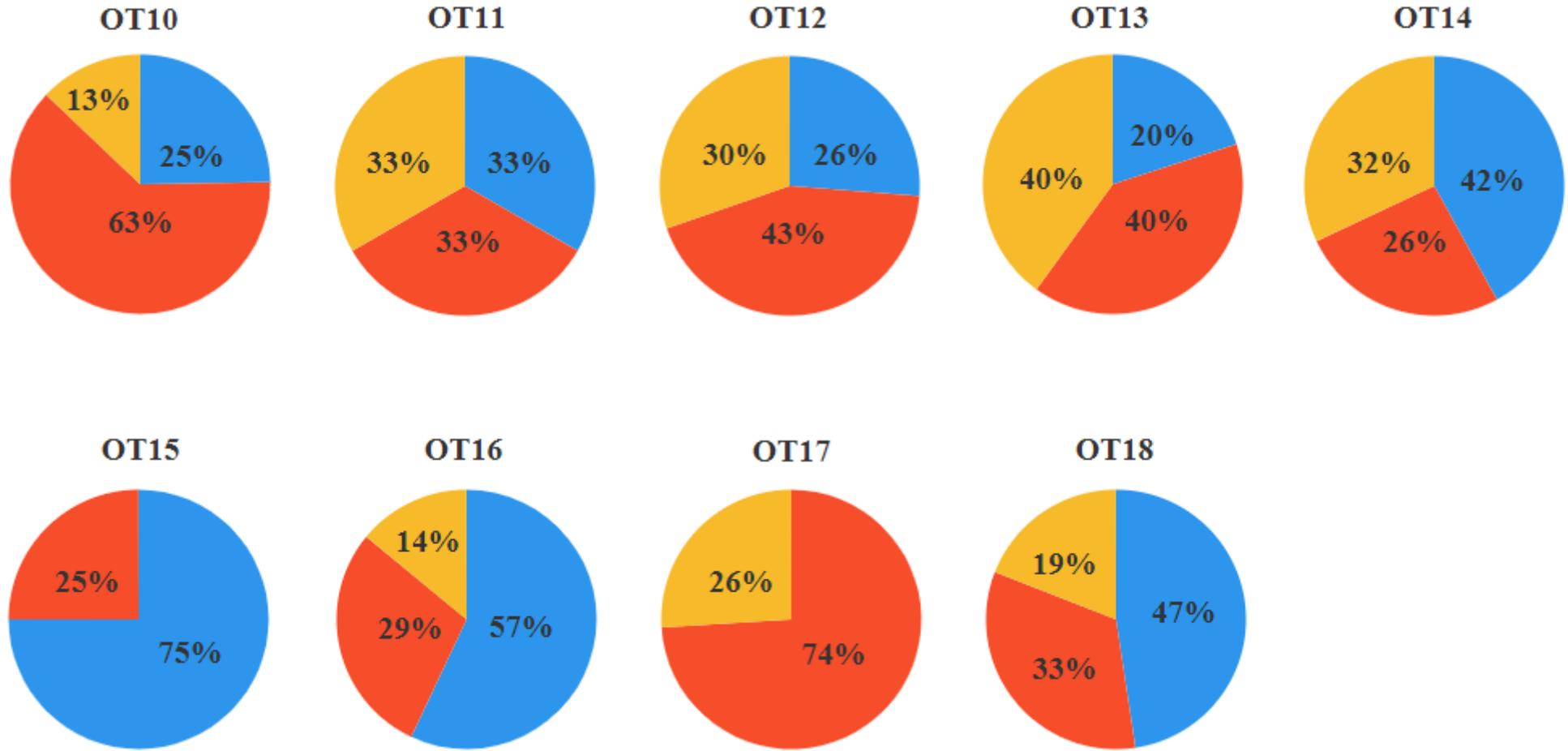
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Membership in a 5-4 Majority											
Justice	Cases Decided	Frequency in Majority		OT17	OT16	OT15	OT14	OT13	OT12	OT11	OT10
Gorsuch	21	13	62%	84%	67%	-	-	-	-	-	-
Kavanaugh	19	11	58%	-	-	-	-	-	-	-	-
Roberts	21	12	57%	89%	29%	25%	53%	70%	61%	67%	63%
Thomas	21	12	57%	79%	43%	25%	37%	50%	65%	67%	75%
Ginsburg	21	12	57%	26%	71%	75%	63%	40%	43%	33%	38%
Breyer	21	12	57%	21%	71%	75%	74%	50%	48%	47%	31%
Alito	21	11	52%	79%	29%	25%	47%	60%	57%	60%	63%
Sotomayor	21	11	52%	21%	71%	75%	68%	30%	39%	47%	38%
Kagan	21	11	52%	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	21	12	4	33%	12%	0%	0%	20%	14%	14%	10%	30%
Thomas	21	12	4	33%	20%	33%	0%	0%	20%	13%	0%	33%
Kagan	21	11	3	27%	33%	20%	0%	10%	60%	10%	17%	0%
Gorsuch	21	13	3	23%	31%	0%	-	-	-	-	-	-
Alito	21	11	2	18%	27%	0%	100%	33%	33%	46%	33%	0%
Kavanaugh	19	11	2	18%	-	-	-	-	-	-	-	-
Sotomayor	21	11	1	9%	0%	0%	0%	15%	0%	22%	29%	17%
Ginsburg	21	12	1	8%	20%	20%	0%	25%	0%	10%	0%	33%
Breyer	21	12	1	8%	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.