

# CLOSELY DIVIDED CASES



5-4 cases	Issue	Justice 1	Justice 2	Justice 3	Justice 4	Justice 5	Justice 6	Justice 7	Justice 8	Justice 9
PennEast	Eminent domain and gas pipeline construction	Blue	White	Blue	Blue	Blue	White	White	Blue	White
Borden	Sentencing of “reckless” crimes and violent felonies	Blue	Blue	Blue	White	White	Blue	White	Blue	Blue
Minerva	Inventor challenging a patent after selling it	Blue	Blue	Blue	Blue	Blue	White	White	White	White
Salinas	Statutory retirement benefits for railroad workers	Blue	Blue	Blue	Blue	Blue	White	White	White	White
Arthrex	Appointment of administrative patent judges	White	White	White	Blue	Blue	Blue	Blue	Blue	White
TransUnion	Class-action suits against corporations	White	White	White	Blue	Blue	Blue	Blue	Blue	White
Diocese	COVID-19 restrictions on religion in New York	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Tandon	COVID-19 restrictions on religion in California	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue

Polarized cases	Issue	Justice 1	Justice 2	Justice 3	Justice 4	Justice 5	Justice 6	Justice 7	Justice 8	Justice 9
Dunn	Post-conviction relief for death row inmate	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Brnovich	Voting rights restrictions in Arizona	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
AFP Foundation	Donor disclosure rules for charities in California	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Guzman Chavez	Bond hearings for noncitizens facing deportation	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Jones	Sentencing juveniles to life without parole	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Edwards	Retroactivity of state unanimous jury requirement	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Trump	Challenge to exclusion of noncitizens from census	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Shinn	Post-conviction relief for death row inmate	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Cedar Point	Union access to workers on private farm property	White	White	White	Blue	Blue	Blue	Blue	Blue	Blue
Pereida	Mandatory deportation for minor crimes	White	White	White	Blue	Blue	(recused)	Blue	Blue	Blue

In closely divided cases, we code a decision as red or “conservative” if the majority consists of five or more Republican-appointed justices, blue or “liberal” if the majority consists predominantly of Democratic-appointed justices, and gray or “mixed” otherwise.

# CLOSELY DIVIDED CASES OVER TIME

Term	Number of cases decided 5-4	Percent of cases decided 5-4	Percent of 5-4 cases with conservative outcome	Percent of 5-4 cases with liberal outcome	Percent of 5-4 cases with mixed outcome	Number of different 5-4 alignments
OT05	11	12%	45%	28%	27%	7
OT06	24	33%	54%	25%	21%	6
OT07	12	17%	33%	33%	33%	6
OT08	23	29%	48%	22%	30%	7
OT09	16	19%	50%	19%	31%	7
OT10	16	20%	63%	25%	12%	4
OT11	15	20%	33%	33%	33%	7
OT12	23	29%	43%	27%	30%	7
OT13	10	14%	40%	20%	40%	7
OT14	19	26%	26%	42%	32%	7
OT15	4	5%	25%	75%	0%	2
OT16	7	10%	29%	57%	14%	3
OT17	19	26%	74%	0%	26%	5
OT18	20	28%	40%	40%	20%	10
OT19	14	21%	71%	21%	8%	4
OT20	8	12%	50%*	37%	13%	5
<b>Average</b>	<b>15</b>	<b>20%</b>	<b>45%</b>	<b>31%</b>	<b>23%</b>	<b>6</b>

For purposes of this slide, we code a decision as “conservative” if the majority consists of five or more conservative-leaning justices, “liberal” if the majority consists predominantly of liberal-leaning justices, and “mixed” otherwise.

\*From Kagan’s appointment in OT10 until Barrett’s appointment in OT20, the court never exceeded five Republican-appointed justices and four Democratic-appointed justices. With six Republican-appointed justices in OT20, 5-4 decisions no longer paint a full picture of polarization. For a list of polarized cases in OT20, see the previous slide.