

October Term 2020

A Supreme Court Term Marked by a Conservative Majority in Flux

The chief justice's power waned, and the three Trump justices grew more influential. The term ended with an exclamation point, with the court imposing new limits on the Voting Rights Act.



By [Adam Liptak](#) Graphics by [Alicia Parlapiano](#)

July 2, 2021

WASHINGTON — There were two very different Supreme Courts in the term that just ended.

For much of the last nine months, the court seemed to have defied predictions that the newly expanded conservative majority of six Republican appointees would regularly steamroll their three liberal colleagues.

Rather than issuing polarized decisions split along ideological lines, the court was [fluid and unpredictable](#). There was no longer a single swing justice whose vote would often decide close cases, as Justice Anthony M. Kennedy had until he retired in 2018, or as Chief Justice John G. Roberts Jr. did in the term that ended last summer.

Instead, the center of the court came to include four conservative justices who in various combinations occasionally joined the court's three-member liberal wing to form majorities in divided cases.

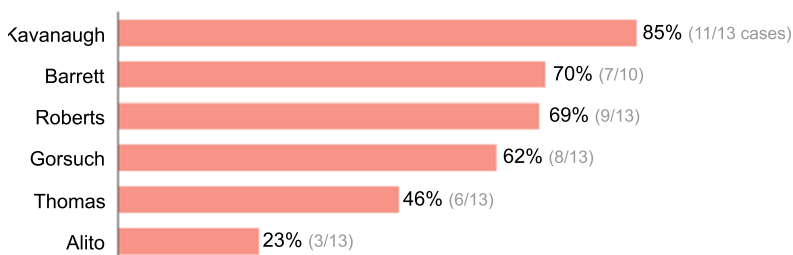
But on Thursday, in rulings that [gave states new latitude to restrict voting rights](#) and [limited disclosure requirements](#) for big donors to charities, the court made clear that the conservative supermajority is still there, perhaps to emerge in a more assertive way in the term that starts in October, when the justices will take up blockbuster cases on abortion and gun rights.

Over the course of what was until its end a relatively placid term, there were six decisions that split 6 to 3 along ideological lines in argued cases with signed majority opinions.

Overall, the three-member liberal bloc was in the majority in 13 of the 28 divided decisions, having attracted at least two votes from the court's six-member conservative majority. Those votes most frequently came from Chief Justice Roberts and the three newest justices, all appointed by President Donald J. Trump: Neil M. Gorsuch, Brett M. Kavanaugh and Amy Coney Barrett, who joined the court in October.

Conservative Justices Most Likely to Join the Democratic Appointees

The three-member liberal bloc was in the majority in 13 of 28 nonunanimous decisions this term. How often each member of the conservative bloc joined them:



Note: Justice Barrett did not vote in all cases. Source: The Supreme Court Database by Lee Epstein and Andrew D. Martin, Washington University in St. Louis, and Kevin Quinn, University of Michigan.

After steering the court through the term that ended a year ago, Chief Justice Roberts is no longer in the driver's seat, said [Lisa S. Blatt](#), a lawyer with Williams & Connolly who argues frequently before the court. "The loss of control by the chief justice felt palpable," she said.

But even as Chief Justice Roberts lost power, some of the values associated with him — incrementalism and deep concern for institutional legitimacy — remained evident in at least some of the court's work.

"Notwithstanding President Trump's three appointments, this term suggests that it's too early to write an obituary for the Roberts court," said [David Cole](#), the national legal director for the American Civil Liberties Union. "With the notable exception of its Voting Rights Act decision, in many of its most important decisions, the court adopted the sort of minimalism Roberts has long championed, and by

deciding cases narrowly, reached agreement across the predicted partisan divides.”

Many of the term’s more important decisions were unanimous or lopsided. When there were dissents or aggrieved concurrences, the disgruntlement often came from the right.

The court’s ruling that [the N.C.A.A. cannot bar modest payments to student-athletes](#) was unanimous. So was, at least on the bottom line, its decision [in favor of a Catholic social services agency](#) that refused to screen same-sex couples as potential foster parents.

In that second case, though, three conservative members of the court — Justices Gorsuch, Samuel A. Alito Jr. and Clarence Thomas — issued scathing concurring opinions accusing the majority of issuing a ruling so narrow as to be useless.

The same pattern held in some decisions decided by large majorities. The one [protecting the free speech rights of a cheerleader](#) who sent vulgar Snapchat messages was 8 to 1, with only Justice Thomas dissenting. The decision [rejecting the latest challenge to the Affordable Care Act](#) was 7 to 2, with Justices Alito and Gorsuch dissenting.

There were, of course, some significant cases even before Thursday in which the Republican and Democratic appointees divided 6 to 3 along the usual lines. In one, the court [ruled against a California regulation](#) that allowed labor unions to recruit farm workers on private property. In another, the court ruled that [juvenile offenders need not be deemed beyond hope of rehabilitation](#) before they are sentenced to die in prison.

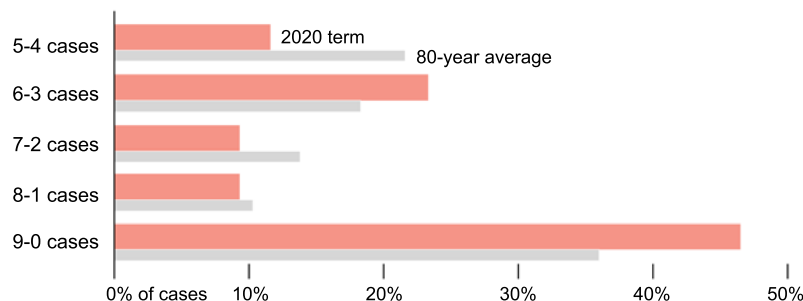
Overall, Mr. Cole said, the court was sensitive to individual rights, particularly ones favored by the right.

“The new court is definitely conservative, but that doesn’t mean it is necessarily hostile to civil liberties,” he said. “It protected many liberties that conservatives favor, including religious liberty, property rights, free speech, the privacy of the home and the right of the wealthy to donate to charities anonymously.”

The court was unanimous 46 percent of the time when all nine justices participated, about five percentage points higher than its average since 2010.

Most Common Vote Splits

The justices were more likely to vote in unison than past courts.



Source: The Supreme Court Database by Lee Epstein and Andrew D. Martin, Washington University in St. Louis, and Kevin Quinn, University of Michigan.

“This term bears the mark of the chief justice in several respects — narrow decisions that seem full of compromise but also decisions that confirm his decidedly conservative stripes,” said [Allison Orr Larsen](#), a professor at William & Mary Law School. “Given the highly-charged cases to come next year, I would expect more of the latter and less of the former.”

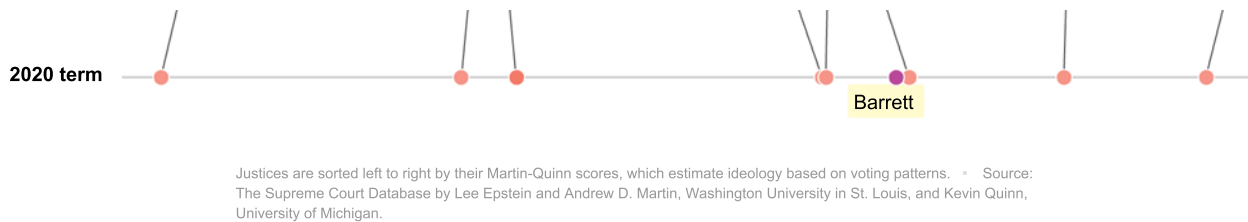
Justice Kavanaugh was in the majority more than any other member of the court. Indeed, over his Supreme Court career, which began in 2018 after a tumultuous and highly partisan confirmation fight, he has been in the majority 87 percent of the time in divided cases, beating the career records of all justices appointed since 1937.

In the last term, Justice Kavanaugh was in the majority in divided cases 93 percent of the time, followed by the chief justice, at 86 percent, and the two other Trump appointees, Justices Barrett and Gorsuch, at 79 and 75 percent. Those four justices make up the new center of the court, according to [data compiled](#) by [Lee Epstein](#) and [Andrew D. Martin](#) of Washington University in St. Louis and [Kevin Quinn](#) of the University of Michigan.

How the Justices’ Ideological Scores Shifted

Chief Justice John G. Roberts Jr. and the three justices nominated by President Trump clustered in the ideological center-right of the court.





Before the death of Justice Ruth Bader Ginsburg in September and the arrival of Justice Barrett the next month, voting patterns at the court were more predictable, with four-member liberal and conservative wings and Chief Justice Roberts in the middle.

This term, several justices mostly shared a generally cautious approach, Ms. Blatt said.

“Chief Justice Roberts and Justices Kavanaugh and Barrett strike me as institutionalist,” she said, “meaning they recognize that their place in our constitutional structure depends in large part on the public’s acceptance of the court as an independent branch of government free from politics.”

Justice Barrett is still coming into focus, and early voting patterns can be deceiving. [Studies have shown](#) that there are “freshman effects” on the [Supreme Court](#) that do not always predict long-term trends. Early in their tenures, for instance, justices are less apt to dissent.

Data on argued cases do not take account of the court’s “shadow docket,” which includes rulings on emergency applications decided after only rushed briefings, without oral arguments and often in late-night orders that contain little or no reasoning. During the Trump administration, such rulings spiked, and the court decided many important cases in such cursory fashion.

Some of those decisions demonstrated the impact of the arrival of Justice Barrett more vividly than the regular docket. Before Justice Ginsburg died, the court sustained state restrictions on attendance at religious services prompted by the coronavirus pandemic. The votes were 5 to 4, with Chief Justice Roberts joining what was then a four-member liberal wing to form majorities in cases from [California](#) and [Nevada](#).

After Justice Barrett joined the court, it started [to strike down similar restrictions](#), again by a 5-to-4 vote, with the chief justice now in dissent. Those rulings did more than decide isolated disputes. They articulated a new understanding of the scope of the Constitution’s protection of the free exercise of religion, one that critics said should have been the product of more sustained and careful deliberation.

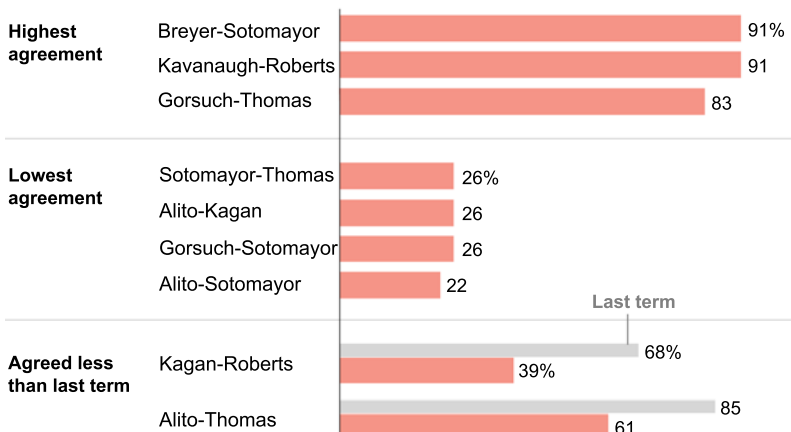
Something similar happened in [a series of emergency applications in election disputes](#), where shifting majorities of justices tended to rule that federal courts should not change voting procedures enacted by state legislatures even as they declined to interfere when state courts or agencies change those procedures.

But the court in December [soundly rejected](#) a lawsuit by Texas asking it to throw out the election results in four battleground states that Mr. Trump had lost. Two months later, [the court rejected](#) Mr. Trump’s last-ditch effort to shield his financial records from prosecutors in New York, with no noted dissents.

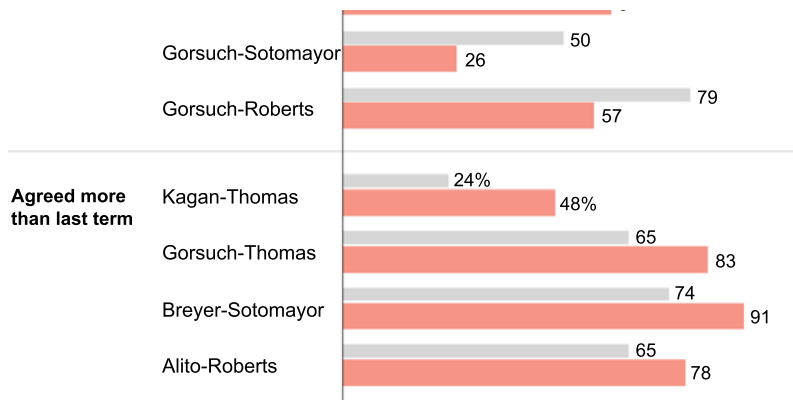
Justice Stephen G. Breyer, 82, “played a starring role this term,” Ms. Blatt said. Indeed, Justice Breyer — the target of pressure from some activists on the left to retire at the end of the term to ensure that his successor would be considered by the Senate while Democrats control the chamber — wrote consequential majority opinions in several cases, including the ones on the Affordable Care Act and students’ First Amendment rights.

Agreement Among the Justices

While the highest levels of agreement were among justices in the same ideological blocs, some pairs, particularly among the more conservative justices, agreed much less often than they did last term.



Supreme Court Term Marked by Conservative Majority in Flux - The New York Times



Source: The Supreme Court Database by Lee Epstein and Andrew D. Martin, Washington University in St. Louis, and Kevin Quinn, University of Michigan.

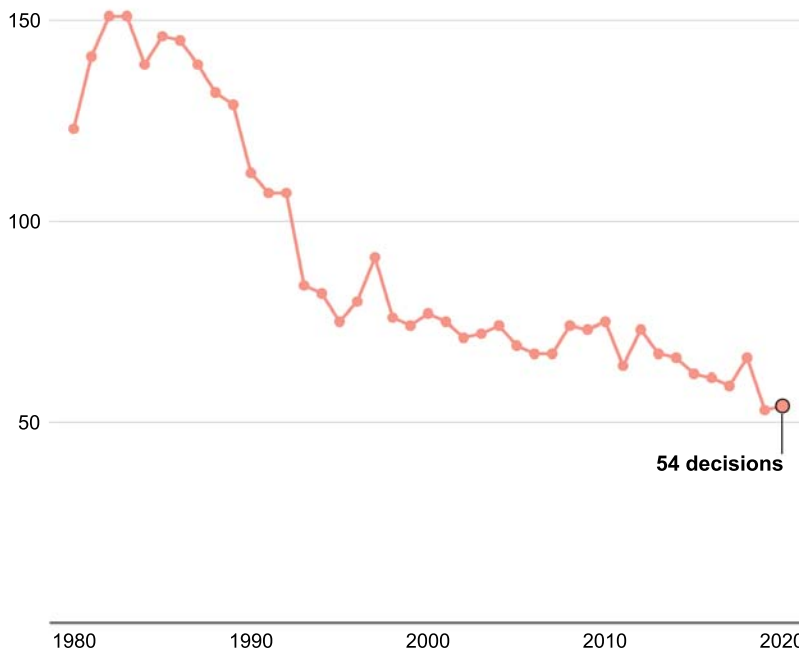
On the whole, Justice Breyer’s voting record in the last term tilted left. He voted with Justice Sonia Sotomayor, the court’s most liberal member, 91 percent of the time in divided cases in which all of the justices participated, up 18 percentage points from the previous term. Only one other pair of justices agreed that often: Chief Justice Roberts and Justice Kavanaugh, also at 91 percent.

At the other end of the spectrum, Justices Alito and Sotomayor agreed just 22 percent of the time. And there were signs of division on the right side of the court. Justices Gorsuch and Kavanaugh, Mr. Trump’s first two appointees, agreed 65 percent of the time, down 20 percentage points from the previous term.

The court decided just 54 argued cases with signed opinions, the second-smallest number since the 1860s. The smallest was in the last term, at 53.

The Court is Deciding Fewer Cases

The number of decisions in argued cases has fallen fairly steadily since the 1980s.



Source: The Supreme Court Database by Lee Epstein and Andrew D. Martin, Washington University in St. Louis, and Kevin Quinn, University of Michigan.

The court’s docket in the term that starts in October may not be larger, but it will contain at least two potentially far-reaching cases: [a challenge to the constitutional right to abortion](#) established in Roe v. Wade and the most important [Second Amendment case](#) in more than a decade.

[Marin K. Levy](#), a law professor at Duke, said the decision issued on Thursday upholding voting restrictions in Arizona “fundamentally changed how this term will be remembered.”

“It puts an exclamation point on what had otherwise been a fairly quiet term,” she said. “It also sets the tone for next year, when the court will hear cases on hot-button topics including gun regulation and abortion.”

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A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: An Unpredictable Court Term Ends With a Turn to the Right

Source: <https://www.nytimes.com/2021/07/02/us/supreme-court-conservative-voting-rights.html>

Tracking the Major Supreme Court Decisions This Term

By [Adam Liptak](#) and [Alicia Parlapiano](#) Updated July 1, 2021

The arrival this term of Justice Amy Coney Barrett, President Donald J. Trump's third appointee, has transformed a Supreme Court with a slight conservative majority into one that tilted right by a 6-to-3 margin. Justice Barrett has also left Chief Justice John G. Roberts Jr. with a sharply diminished ability to guide the court's direction in cases on health care, voting, religion and gay rights.

According to [a recent survey](#) from researchers at Harvard, Stanford and the University of Texas, the public is divided nearly evenly on those key cases.

Voting Rights

In [Brnovich v. Democratic National Committee](#), the court ruled that Arizona's restrictions on voting in the wrong precinct **is lawful** and that the state **can forbid** voters from relying on another person to collect and drop off ballots.

6-3

DECIDED
JULY 1

Liberal bloc



Sotomayor

Kagan

Breyer

Conservative bloc



Roberts

Kavanaugh

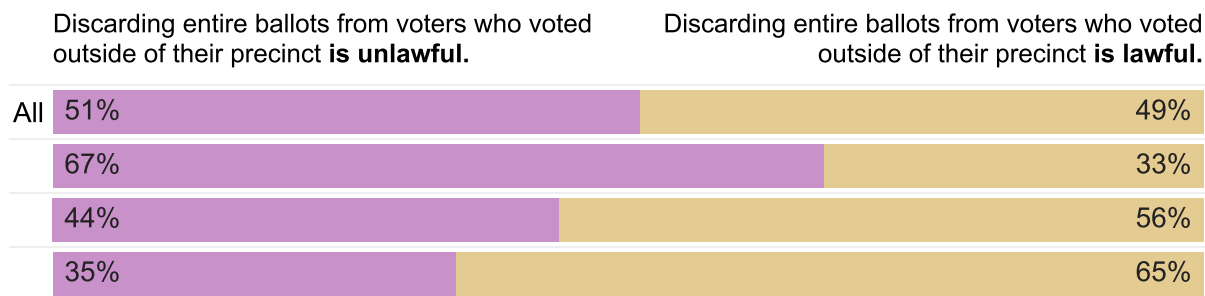
Barrett

Gorsuch

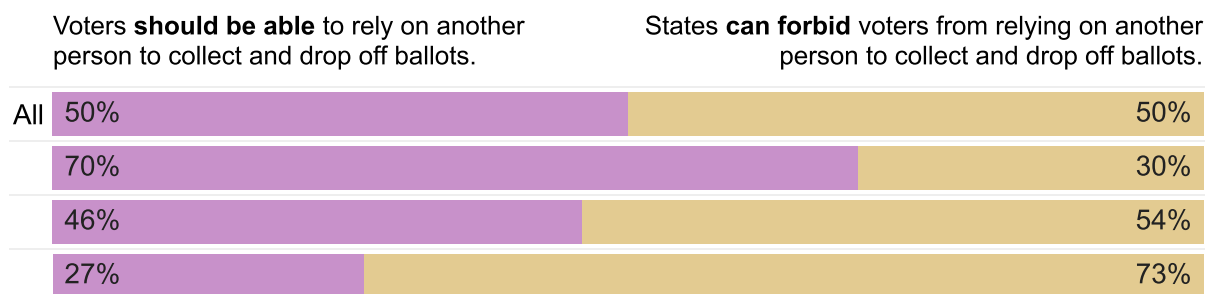
Alito

Thomas

Where the public stands



Question wording: In Arizona, if a voter arrives at a polling place and is not listed on the voter roll for that precinct, the voter may still cast a provisional ballot. After election day, Arizona election officials review all provisional ballots to determine the voter's identity and address. If officials determine that the voter voted outside of their precinct, the ballot is discarded in its entirety, even if the voter was eligible to vote in most of the races on the ballot. Some people believe that discarding entire ballots in this manner is unlawful. Other people believe that it is lawful. What do you think? | Source: SCOTUSPoll



Question wording: Arizona offers in-person voting at a precinct or vote center either on election day or during an early-vote period. Many voters — particularly racial minorities — who vote early rely on another person to collect and drop off voted ballots. However, the Arizona legislature made it illegal to

collect and deliver another person's ballot. Some people think that voters should be able to rely on another person or third party to collect and drop off ballots. Other people think that states can forbid this. What do you think? | Source: SCOTUSPoll

Donor Disclosure

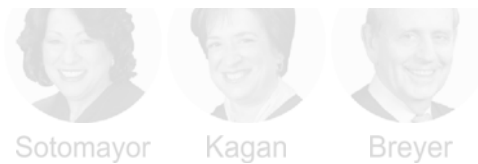
In [Americans for Prosperity Foundation v. Bonta](#), the court ruled that California's requirement that charities report their major donors to the state **violates** their First Amendment rights.

6-3

DECIDED
JULY 1

Liberal bloc





Sotomayor Kagan Breyer

Conservative bloc



Roberts Kavanaugh Barrett Gorsuch Alito Thomas

Where the public stands

Requiring nonprofits to report their major donors to the state **does not violate** their First Amendment rights.

Requiring nonprofits to report their major donors to the state **violates** their First Amendment rights.



Question wording: To detect possible fraud, the attorney general of California requires private nonprofit organizations to report the names and addresses of their major donors to the state, which keeps this information confidential. Some people think that this violates nonprofit organizations' First Amendment rights to free association because it might deter people from financially supporting them. Other people do not think that this violates nonprofit organizations' First Amendment rights to free association. What do you think? | Source: SCOTUSPoll

Students' First Amendment Rights

In [Mahanoy Area School District v. B.L.](#), the court ruled that a Pennsylvania school district **could not punish** a student for off-campus speech because it violated the First Amendment.

8-1

DECIDED
JUNE 23

Liberal bloc

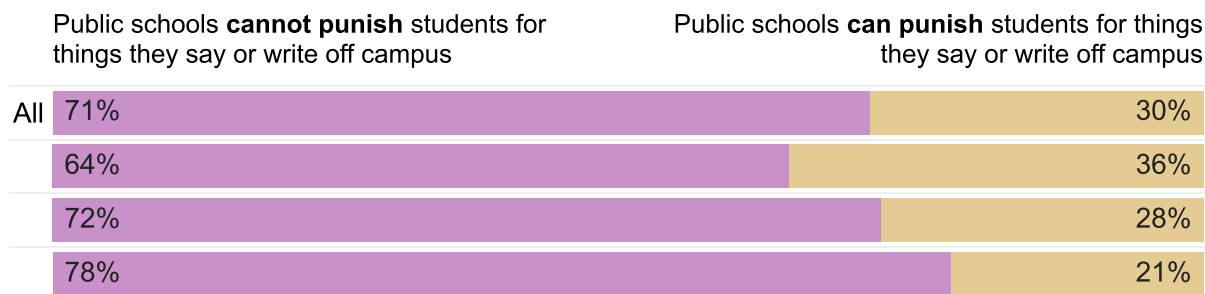


Sotomayor Kagan Breyer

Conservative bloc



Where the public stands



Question wording: Some people think that public school officials can punish students for things they say or write off campus, including on social media, without violating students' First Amendment rights to free speech. Other people think that such punishments violate students' First Amendment rights to free speech. What do you think? | Source: SCOTUSPoll

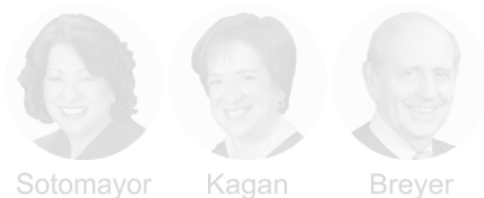
Union Access to Workplaces

In [Cedar Point Nursery v. Hassid](#), the court ruled that California **cannot require** that union representatives be allowed to meet with farmworkers at their worksites because such a requirement violates the constitutional rights of the employers.

6-3

DECIDED
JUNE 23

Liberal bloc



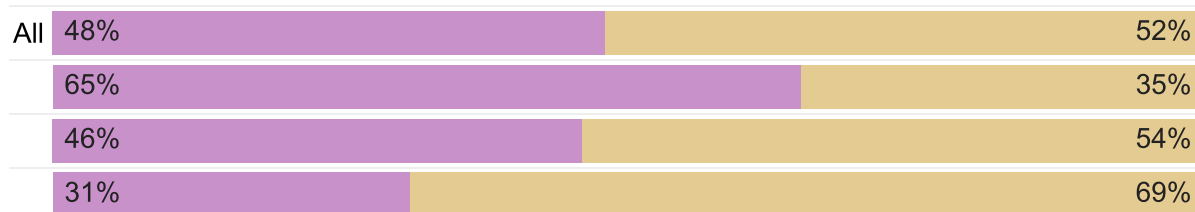
Conservative bloc



Where the public stands

States **can require** that employers allow union representatives to enter a company's private property

States **cannot require** that employers allow union representatives to enter a company's private property



Question wording: California law requires that employers allow union representatives to enter a company's private property to meet with employees and solicit support for labor organizing. Some people believe that this is akin to the government taking companies' private property without compensation. Other people argue that the law is acceptable, and is not the government taking companies' private property without compensation. What do you think? | Source: SCOTUSPoll

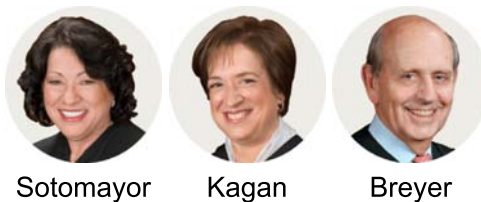
Student Athletes

In [National Collegiate Athletic Association v. Alston](#), the court ruled that the N.C.A.A. **may not bar** modest payments related to academics to student-athletes in the name of amateurism despite the antitrust laws.

9-0

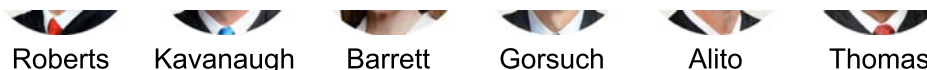
DECIDED
JUNE 21

Liberal bloc



Conservative bloc

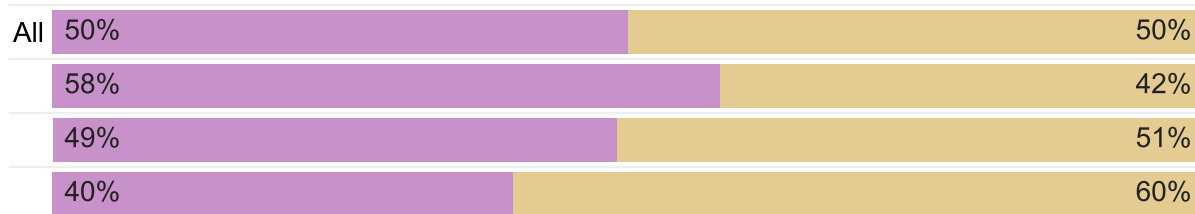




Where the public stands

The N.C.A.A. **should not be able to** strictly limit paid compensation to college athletes.

The N.C.A.A. **should be able to** strictly limit paid compensation to college athletes.



Question wording: The National Collegiate Athletic Association (N.C.A.A.) strictly limits colleges and universities from providing paid compensation to college athletes. Some people think the N.C.A.A.'s strict limits on paid compensation for college athletes in this manner is an unlawful form of coordination against athletes. Others disagree and think that the N.C.A.A. should be able to strictly limit colleges and universities from providing paid compensation to college athletes. What do you think? | Source: SCOTUSPoll

Affordable Care Act

In [California v. Texas](#), the court effectively upheld the Affordable Care Act in a third major challenge, ruling that the plaintiffs did not have standing to sue. The court sidestepped the larger issue in the case, whether the law can stand without the provision requiring most Americans to obtain insurance or pay a penalty.

7-2

DECIDED
JUNE 17

Liberal bloc

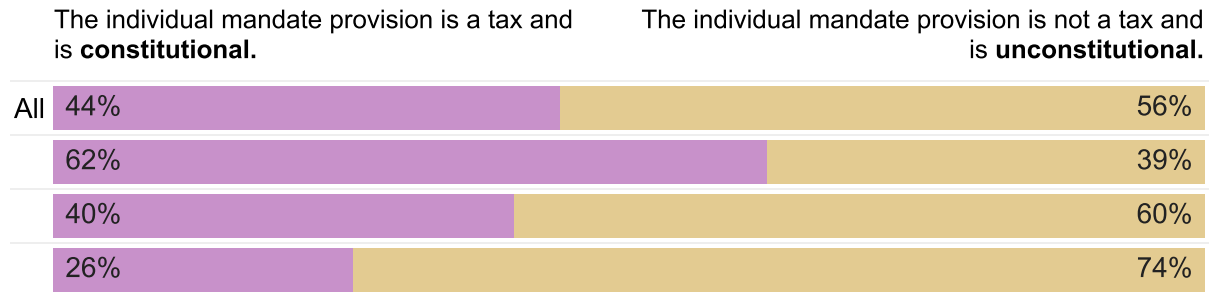


Sotomayor Kagan Breyer

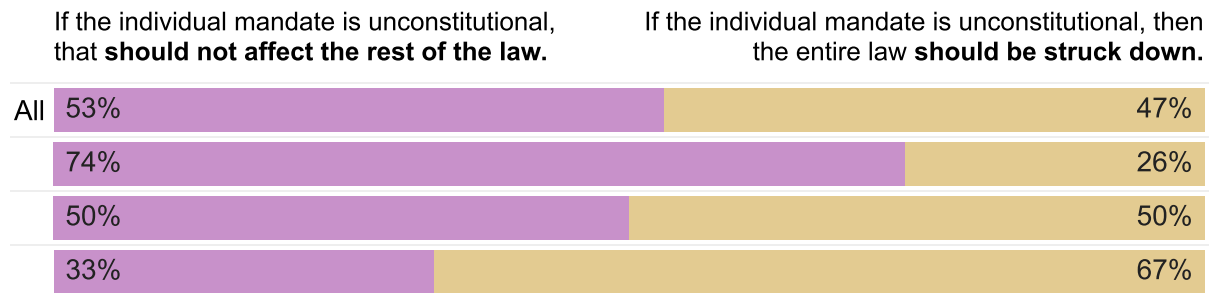
Conservative bloc



Where the public stands



Question wording: Under the Affordable Care Act (ACA), there is a tax penalty for not buying health insurance. This is called the individual mandate. Recent legislation has set the tax penalty for not buying health insurance to \$0. Some people believe that, because the tax penalty is \$0, this means that the penalty is actually not a tax and it exceeds the federal government's power to tax and is unconstitutional. Other people believe that it does not exceed the federal government's power to tax and is constitutional. What do you think? | Source: SCOTUSPoll



Question wording: Under the Affordable Care Act (ACA), there is a tax penalty for not buying health insurance. This is called the individual mandate. Some people think that if the individual mandate is unconstitutional then the entirety of the ACA must also be unconstitutional. Other people disagree and think that if the individual mandate is unconstitutional, that should not affect the rest of the law. What do you think? | Source: SCOTUSPoll

Religion and Gay Rights

In [Fulton v. City of Philadelphia](#), the court ruled that Philadelphia **violated the First Amendment** when it required a Catholic agency to work with same-sex couples when screening potential foster parents.

9-0

DECIDED
JUNE 17

Liberal bloc





Sotomayor Kagan Breyer

Conservative bloc

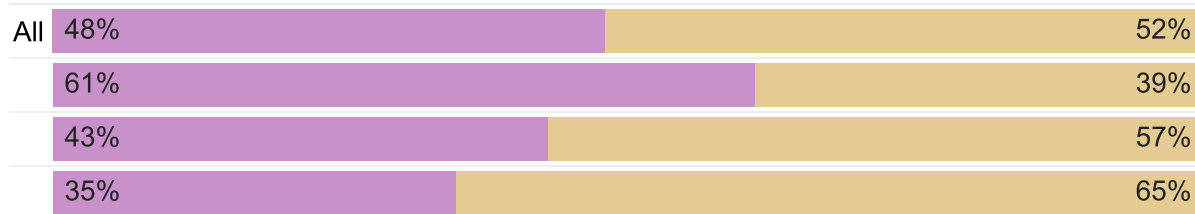


Roberts Kavanaugh Barrett Gorsuch Alito Thomas

Where the public stands

Requiring religious agencies to allow foster children to be placed with same-sex couples **does not violate** their First Amendment rights.

Requiring religious agencies to allow foster children to be placed with same-sex couples **does violate** their First Amendment rights.



Question wording: There are some religiously affiliated foster agencies that refuse to place foster children with same-sex couples. Some people think that governments can prohibit such agencies from participating in the foster care systems they operate unless the agencies allow children to be placed with same-sex couples. Other people think that doing so would violate the agencies' First Amendment rights to religious freedom. What do you think? | Source: SCOTUSPoll

Covid Restrictions and Religion

In [Roman Catholic Diocese of Brooklyn v. Cuomo](#), the court ruled that New York **could not prohibit** in-person attendance at worship services because it violated the Constitution's protection of religious liberty.

5-4

DECIDED
NOV. 25

Liberal bloc



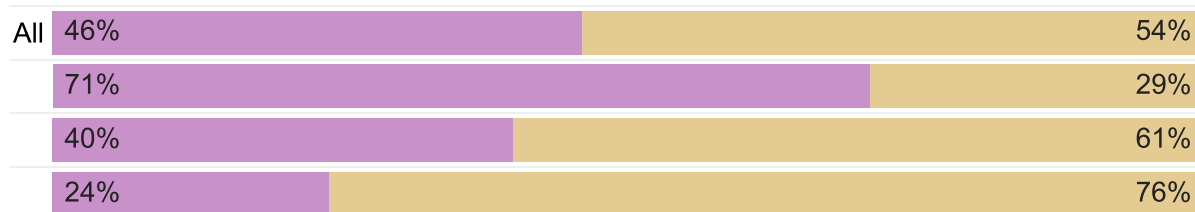
Conservative bloc



Where the public stands

States **can prohibit** in-person religious gatherings despite the First Amendment right to free exercise of religion

States **cannot prohibit** in-person religious gatherings because of the First Amendment right to free exercise of religion



Question wording: Many states have prohibited large in-person gatherings due to the Covid-19 pandemic. Some people think that states cannot prohibit in-person religious gatherings because of the First Amendment right to free exercise of religion. Other people think that states can prohibit inperson religious gatherings. What do you think? | Source: SCOTUSPoll

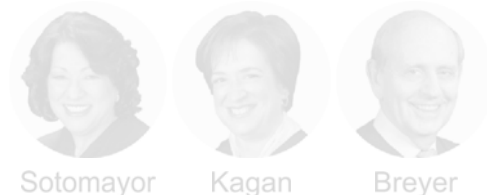
Life Sentences for Juvenile Offenders

In [Jones v. Mississippi](#), the court ruled that juvenile offenders **need not be deemed incorrigible**, or beyond hope of rehabilitation, before a judge sentences them to die in prison.

6-3

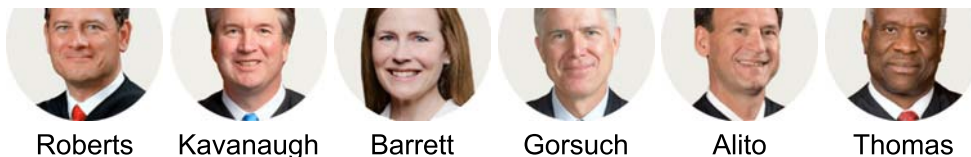
DECIDED
APRIL 22

Liberal bloc

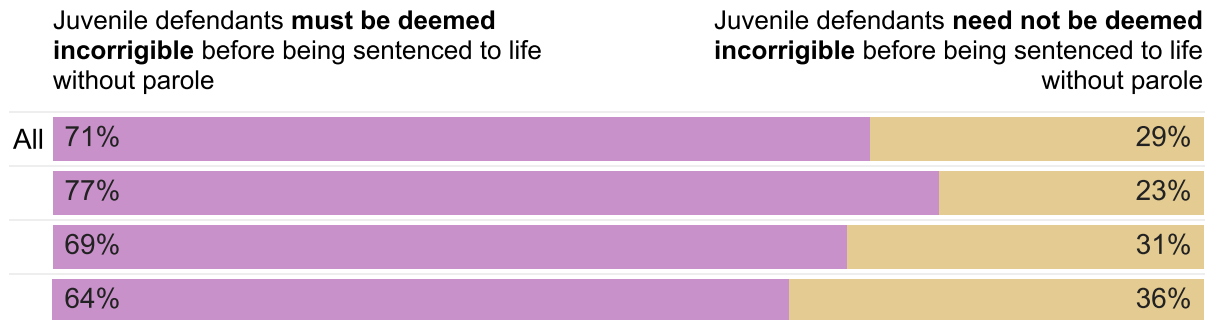


Conservative bloc





Where the public stands



Question wording: There are states that reserve the ability to sentence juvenile criminal defendants to life sentences without the possibility of any parole. Some people think that such juvenile defendants must be found to be incorrigible — or impossible of being reformed — before being sentenced to life without parole. Other people think that juveniles can be sentenced to life sentences without parole without states having to make such a determination. What do you think? | Source: SCOTUSPoll

Polling data comes from the SCOTUSPoll project by Stephen Jessee, University of Texas at Austin; Neil Malhotra, Stanford University; and Maya Sen, Harvard University. It is based on a survey conducted online by YouGov from April 7-16 using a representative sample of 2,158 American adults.

Source: <https://www.nytimes.com/interactive/2021/06/01/us/major-supreme-court-cases-2021.html?searchResultPosition=2>

The Supreme Court's Newest Justices Produce Some Unexpected Results

In the term so far, including two major decisions on Thursday, the court's expanded conservative majority is fractured and its liberals are often on the winning side.



The three Supreme Court justices appointed by President Donald J. Trump have shaped a majority in many cases that is more moderate than the most conservative justices want. Credit...Erin Schaff/The New York Times

Adam Liptak, *The New York Times* Online Edition, June 18, 2021.

WASHINGTON — The arrival of Justice Amy Coney Barrett in October seemed to create a 6-to-3 conservative juggernaut that would transform the Supreme Court.

Instead, judging by the 39 signed decisions in argued cases so far this term, including two major rulings on Thursday, the right side of the court is badly fractured and its liberal members are having a surprisingly good run.

That picture may change, as the court has yet to issue the term's last 15 decisions. But some trends have already come into focus.

The conventional wisdom last fall was that Chief Justice John G. Roberts Jr.'s leadership, with its bias toward incrementalism and moderation, was over. With five justices to his right, including three appointed by President Donald J. Trump, the [chief justice's ability to guide the court](#) was thought to have evaporated.

The story of the term so far, though, is a different one. Indeed, it is the court's most conservative members who are issuing howling dissents and aggrieved concurrences to protest a majority they say is too cautious.

That majority very often includes Mr. Trump's appointees, notably Justice Brett M. Kavanaugh, who is now at the court's ideological center, replacing the chief justice.

This term, Justice Kavanaugh has voted with the majority in divided cases 87 percent of the time, more than any other member of the court, according to data compiled by [Lee Epstein](#) and [Andrew D. Martin](#) of Washington University in St. Louis and [Kevin Quinn](#) of the University of Michigan.

In his entire tenure, which started in 2018, Justice Kavanaugh has been in the majority 85 percent of the time, the highest rate of any justice since 1953.

"Kavanaugh's record of voting with the majority in divided cases is extraordinary," Professor Epstein said.

The two other Trump appointees are not far behind. Justice Barrett is second, having voted with the majority 82 percent of the time this term. And Justice Neil M. Gorsuch tied for third with Justice Elena Kagan, a member of the court's liberal wing, at 80 percent. Justice Kagan's rate of voting with the majority jumped 12 percentage points since last term.

By contrast, Justice Samuel A. Alito Jr., a conservative who might have thought that his views would be embraced by his new colleagues, was in the majority in divided cases just 36 percent of the time. That helps explain his aggrieved tone in concurring and dissenting opinions on Thursday in cases [on a clash between claims of religious freedom and gay rights](#) in the context of foster care and [on the Affordable Care Act](#).

In the foster-care case, Chief Justice Roberts managed to cobble together an improbable six-justice majority for an opinion that ruled so narrowly for a Catholic charity that Justice Alito, in a concurring opinion, said it "might as well be written on the dissolving paper sold in magic shops."

The court's three liberal members — Justices Kagan, Stephen G. Breyer and Sonia Sotomayor — joined the chief justice's opinion, presumably with gritted teeth and to avoid an actual decision, one written on regular paper with indelible ink.

Justices Kavanaugh and Barrett joined, too, explaining that they were not inclined to make a major move when a minor one would resolve the case.

Something similar happened in Thursday's second big case, this one rejecting a third major challenge to the Affordable Care Act, President Barack Obama's health care law. The majority said the plaintiffs — 18 states led by Texas, and two individuals — had not suffered the sort of direct injury that gave them standing to sue. The court sidestepped questions about the constitutionality of a key provision of the law and what should happen to the rest of it if the court held the provision unconstitutional.

Chief Justice Roberts assigned the majority opinion to Justice Breyer, presumably knowing he would deliver a modest and technical opinion, one that ended up speaking for seven justices — the broadest majority of three Supreme Court decisions rejecting challenges to the health care law. The same coalition that joined the chief justice in the foster care case, plus Justice Clarence Thomas, saved the law.

Justice Alito was aghast. “Today’s decision is the third installment in our epic Affordable Care Act trilogy, and it follows the same pattern as installments one and two,” he wrote, joined by Justice Gorsuch. “In all three episodes, with the Affordable Care Act facing a serious threat, the court has pulled off an improbable rescue.”

Richard J. Lazarus, a law professor at Harvard, said the decisions “suggest that several key justices are willing to temper their views to join the chief’s longstanding battle to have the court decide cases more narrowly and with a more unified voice.”

But he added a note of caution. “What remains to be seen,” he said, “is whether, notwithstanding the chief’s best efforts, his battle to promote a nonpartisan image for the court is ultimately a losing one.”

So far this term, the court’s three Democratic appointees have voted with the majority 73 percent of the time in divided cases, slightly ahead of the 72 percent rate of the six Republican appointees. In the term that ended last year, the gap was 14 percentage points in favor of Republican appointees.

The change may be explained by strategic voting. The court’s Democratic appointees have not hesitated to join unanimous decisions with conservative outcomes, as labeled by the [Supreme Court Database](#) at Washington University. The percentage of liberal decisions in unanimous cases so far this term is just 30, the lowest since at least 1953.

But the story changes in divided cases, where 64 percent of decisions have been labeled liberal, the highest since 1968.

“Going into this term,” Professor Epstein said, “the expectation was a bunch of divided decisions with the three Democratic appointees getting the short end of the stick. So far that prediction is way off the mark. In divided cases, the Trump appointees have moved the court to the left. If anyone got the short end of the stick, it’s this year’s most conservative justice, Alito.”

That may change in the next two weeks, as the court issues decisions in the remaining 15 cases of this term. In any event, said [Michael C. Dorf](#), a law professor at Cornell, this term’s coalitions may be fragile.

“More than in most recent terms, Chief Justice Roberts was able to present a credible picture of a nonpartisan court, with Justices Breyer, Kagan, Kavanaugh and Barrett in particular seeming to go out of their way to forge centrist alliances,” Professor Dorf said. “However, the justices appear to have reached a truce rather than a lasting peace. With high-profile abortion and gun control cases already on the docket for next term, ideological disagreements will likely re-emerge sooner rather than later.”

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