

Supreme Court of the United States Update 2020-2021

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“A very different Supreme Court”

- “A very different Supreme Court will meet in two weeks to grapple with the potential of 4-4 splits and a caseload that includes no less than the future of the Affordable Care Act and possibly the presidential election.”
-- Ariane de Vogue, CNN (Sept. 21, 2020)
- “a 6-3 Court is much less nimble than a 5-4 Court” and “would require real consensus to demonstrate [an] apolitical attitude”
-- Adam Liptak, National Constitution Center, *We the People* Podcast, Oct. 1, 2020
- After a 2019 term that was “by far the most consequential in recent memory,” October Term 2020 “at first glance ... seems like it will be a reversion to the mean.”
-- Irv Gornstein, Georgetown Law Supreme Court Institute (Sept. 22, 2020)



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Statistics to Date (as of June 7)

- October Term 2019
 - 55 merits decisions in argued cases
 - 5-4 decisions in argued cases: 12 (22%)
 - (In addition, two 5-4 per curiams without argument)
 - Unanimous: 19 cases (35%)

- Number of 5-4 opinions (historical)

- 2018: 21 (29%)
- 2017: 19 (26%)
- 2016: 7 (10%)
- 2015: 4 (5%)
- 2014: 19 (26%)
- 2013: 10 (14%)

Historical data from Scotusblog

- October Term 2020 (as of June 7)
 - 58 argued cases*
 - 35 opinions issued in argued cases
 - Decisions divided 5-4 or 5-3: 3 (8%)
 - In addition, one 5-4 per curiam without argument
 - Unanimous (in judgment): 21 (60%)

* Four cases removed from argument calendar

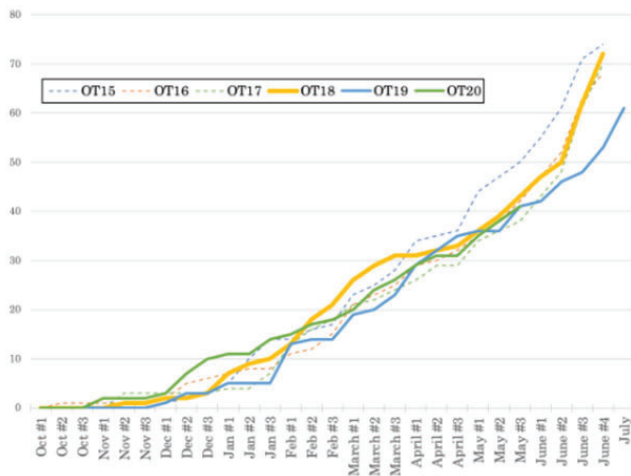
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Subject Matter of Argued Cases OT 2020

- Procedure and jurisdiction: 11
- Constitutional law: 11
- Criminal, habeas, and related: 8
- Business law: 7
- Immigration: 6
- Administrative and Environmental law: 4
- Intellectual Property: 3
- Tribal Law: 2
- Original Jurisdiction: 2
- Voting rights: 1
- Tax: 1

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Pace of Decisions (as of June 4)



As of June 4, major cases awaiting decision (argued):

- *Fulton v. City of Philadelphia* (Nov.)
- *California v. Texas* (Nov.)
- *Brnovich v. Dem. Nat'l Committee* (Feb.)

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Justice Amy Coney Barrett – First Term (as of June 7)

- Three majority opinions to date
 - *FWS v. Sierra Club* (7-2); *Fla v. Ga.* (9-0); *Van Buren* (6-3)
- Percentage voting agreement in full, part, or judgment (from Scotusblog, as of June 4): NMG (100%); CT (97%); SAA (93%); BK (93%); JGR (79%); EK (76%); SGB (72%); SS (66%).
- No authored dissents
- By comparison:
 - BK OT'18: 7 majority opinions (three unanimous, one 7-2, one 6-3, two 5-4); 4 concurrences; 3 dissents
 - NG OT'17: 7 majority opinions (one unanimous, one 7-2, five 5-4); 4 concurrences; 6 dissents
 - EK OT'10: 7 majority opinions (three unanimous, two 8-1, two 7-2); 0 concurrences, 3 dissents

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