

Distinctive Features of Amy Coney Barrett’s (Nearly) Five Terms on the Court*

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Key Takeaways

On the surface, Justice Amy Coney Barrett (ACB) appears to be a typical conservative-Republican member of the Roberts Court, broadly similar to the two other Trump appointees, to her former boss Justice Scalia, and even to Chief Justice Roberts. But a closer look at the data points to seven distinctive aspects of her judging.

1. The shift from RBG→ACB was even more epic than commentary suggests
2. ACB (mostly) isn’t Justice Scalia
3. ACB is playing an increasingly central role on the Court
4. ACB is showing signs of leftward drift
5. ACB is aligning more frequently with liberal majorities and less with the other Republican appointees
6. ACB is writing separately more often—especially in big cases
7. ACB often sided with the Biden administration but is the Republican appointee least likely to support Trump in Trump-related disputes

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Preliminaries

1. Unless otherwise indicated, the analysis to follow includes only orally argued cases (excluding per curiams).
2. For the 2024 term, the analysis includes decisions issued on or before June 12, 2025.
3. The report can be downloaded here: <https://epstein.wustl.edu/s/ACB5Terms.pdf>; and the report’s website is here: <https://epstein.wustl.edu/amyconeybarrett5terms>.

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1 RBG→ACB: An Epic Shift

It is well known that the replacement of RBG with ACB was impactful,¹ but the effect was truly epic, nearly unprecedented in modern history on at least two dimensions: majority voting and ideology.

1.1 Majority Voting

1.1.1 Non-Unanimous Decisions

1. Table 1 compares voting in the majority between the 30 justices serving since the 1953 term and their replacements.
2. Overall, the average (absolute) difference between predecessors and successors is modest—about 8 percentage points—indicating that justices and their replacements were in the majority at similar rates. The shift from Kennedy (84% in the majority) to Kavanaugh (89%), for example, resulted in a difference of just 5 percentage points. Replacing Scalia with Gorsuch had even less of an impact, with both voting 69% of the time with the majority.
3. For RBG→ACB, the percentage-point gap is the highest net positive value of all 30 pairings: ACB is in the majority in 84% of the cases versus 63% for RBG. That’s a gain of 21 percentage points. Only Powell-for-Black comes close at +18.
4. If voting with the majority is an indicator of control and power on the Court, the implication is that Barrett has the potential to be far more influential (or at least more mainstream) on this Court than RBG was in her time.

¹E.g., Adam Liptak, “A Supreme Court Term Marked by a Conservative Majority in Flux,” *New York Times*, September 30, 2021.

	% In Majority		
	Predecessor	Successor	%-Point Gap
Ginsburg → Barrett	63	84	21
Black → Powell	65	83	18
Frankfurter → Goldberg	68	81	13
Whittaker → White	67	80	13
Stevens → Kagan	57	67	10
Rehnquist → Roberts	74	82	8
Marshall → Thomas	55	63	8
Harlan → Rehnquist	60	68	8
Stewart → O'Connor	72	77	5
Brennan → Souter	64	69	5
Kennedy → Kavanaugh	84	89	5
Rehnquist → Scalia	68	69	1
Powell → Kennedy	83	84	1
Scalia → Gorsuch	69	69	0
Douglas → Stevens	57	57	0
Vinson → Warren	83	82	-1
Goldberg → Fortas	81	78	-3
Burton → Stewart	75	72	-3
Burger → Rehnquist	78	74	-4
Warren → Burger	82	78	-4
Fortas → Blackmun	78	72	-6
Blackmun → Breyer	72	65	-7
Breyer → Jackson	65	57	-8
Souter → Sotomayor	69	60	-9
O'Connor → Alito	77	68	-9
Jackson → Harlan	70	60	-10
Reed → Whittaker	79	67	-12
Minton → Brennan	78	64	-14
White → Ginsburg	80	63	-17
Clark → Marshall	82	55	-27
Average (Absolute) %-Point Difference			8

Table 1: Comparison of the percentage of votes in the majority by predecessors and successors, 1953-2024 terms (through June 12, 2025). Current justices are in bold. Includes only non-unanimous orally argued cases (excluding per curiams). %-Point Gap is the Successor percentage minus the Predecessor percentage. The Average (Absolute) %-Point Difference is unweighted. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

1.1.2 Salient Cases

1. Focusing on the Court’s most salient (i.e., highest-profile) cases only underscores the importance of the transition from RBG to ACB, as Table 2 shows.²
2. On average, there’s a 10 percentage-point (absolute) difference between predecessor and successor votes in the majority.
3. For three current justices (Barrett, Gorsuch, and Roberts), the net gain is higher than average, but RBG→ACB is most noticeable—a 31 percentage-point difference (61% versus 92%). That’s about five times greater than the Marshall-Thomas swap (52% versus 58%), and, indeed, is the largest shift among the 30 pairings.
4. Table 2 suggests that in the most consequential cases, ACB is far more likely than RBG to be in the majority—a sign of her mainstream position on the current Court (and perhaps her influence over its decisions).
5. Note too that of all the current justices, Barrett was most frequently in the majority in the especially salient cases. More on this point below, in Section 3.

²Throughout, we define “salient” decisions using a standard measure in political science: whether the decision was reported on the front page of the *New York Times* the day after the Court issued it. Lee Epstein & Jeffrey A. Segal, “Measuring Issue Salience,” *American Journal of Political Science* 44: 66-83 (2000).

	% In Majority		
	Predecessor	Successor	%-Point Gap
Ginsburg → Barrett	61	92	31
Frankfurter → Goldberg	66	86	20
Black → Powell	67	86	19
Scalia → Gorsuch	60	79	19
Rehnquist → Roberts	67	78	11
Whittaker → White	63	73	10
Harlan → Rehnquist	57	64	7
Burton → Stewart	65	72	7
Marshall → Thomas	52	58	6
Vinson → Warren	78	83	5
Brennan → Souter	62	67	5
Stewart → O'Connor	72	74	2
Breyer → Jackson	62	64	2
Douglas → Stevens	61	62	1
Kennedy → Kavanaugh	85	86	1
Powell → Kennedy	86	85	-1
Rehnquist → Scalia	64	60	-4
Fortas → Blackmun	75	70	-5
Warren → Burger	83	75	-8
Stevens → Kagan	62	54	-8
Burger → Rehnquist	75	67	-8
Blackmun → Breyer	70	62	-8
Minton → Brennan	70	62	-8
Jackson → Harlan	67	57	-10
Goldberg → Fortas	86	75	-11
Reed → Whittaker	75	63	-12
White → Ginsburg	73	61	-12
O'Connor → Alito	74	57	-17
Souter → Sotomayor	67	49	-18
Clark → Marshall	73	52	-21
Average (Absolute) %-Point Difference			10

Table 2: Comparison of the percentage of votes in the majority by predecessors and successors in salient cases, 1953-2024 terms (through June 12, 2025). Current justices are in bold. Includes only non-unanimous orally argued cases (excluding per curiams). %-Point Gap is the Successor percentage minus the Predecessor percentage. The Average (Absolute) %-Point Difference is unweighted. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

1.2 Ideology

1. This subsection looks at the percentage of conservative votes cast by justices and their replacements since the 1953 term.
2. Dramatic changes between predecessors and successors aren't expected because of strategically-timed retirements (e.g., Breyer→Jackson).
3. But not so for two members of the current Court (see Table 3).
 - (a) The Thomas→Marshall transition is, not surprisingly, the most dramatic in modern history, from 18% conservative to 79%.
 - (b) Still, ACB-for-RBG isn't far behind: a 38 percentage-point increase from 27% to 65% conservative—about twice the average absolute shift.

	% Conservative		
	Predecessor	Successor	%-Point Gap
Marshall → Thomas	18	79	61
Warren → Burger	25	77	52
Black → Powell	25	68	43
Ginsburg → Barrett	27	65	38
Reed → Whittaker	54	74	20
Fortas → Blackmun	29	48	19
Harlan → Rehnquist	73	87	14
Brennan → Souter	22	33	11
Douglas → Stevens	21	32	11
Jackson → Harlan	63	73	10
Stewart → O'Connor	59	68	9
O'Connor → Alito	68	77	9
Kennedy → Kavanaugh	63	66	3
Burger → Rehnquist	77	78	1
Goldberg → Fortas	30	29	-1
Powell → Kennedy	68	63	-5
Stevens → Kagan	32	27	-5
Burton → Stewart	65	59	-6
Souter → Sotomayor	33	23	-10
Breyer → Jackson	34	23	-11
Scalia → Gorsuch	74	62	-12
Rehnquist → Scalia	87	74	-13
Rehnquist → Roberts	78	64	-14
Blackmun → Breyer	48	34	-14
Whittaker → White	74	58	-16
Frankfurter → Goldberg	58	30	-28
White → Ginsburg	58	27	-31
Clark → Marshall	55	18	-37
Vinson → Warren	62	25	-37
Minton → Brennan	62	22	-40
Average (Absolute) %-Point Difference			19

Table 3: Comparison of the percentage of conservative votes by predecessors and successors, 1953-2024 terms (through June 12, 2025). Current justices are in bold. Includes only non-unanimous orally argued cases (excluding per curiams). %-Point Gap is the Successor percentage minus the Predecessor percentage. The Average (Absolute) %-Point Difference is unweighted. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

- Looking only at especially high-profile cases amplifies the difference (see Table 4). For these decisions, Barrett and Ginsburg are separated by 57 percentage points—more than twice the modern-era average, bested only by Marshall→Thomas on the current Court.
- The increase in conservative voting from RBG→ACB (from 10% to 67%) in the salient cases

is about the same as the greatest decrease produced by a liberal replacing a conservative (Brennan for Minton: -56%).

	% Conservative		
	Predecessor	Successor	%-Point Gap
Marshall → Thomas	10	85	75
Warren → Burger	19	84	65
Ginsburg → Barrett	10	67	57
Black → Powell	26	67	41
Reed → Whittaker	52	81	29
Fortas → Blackmun	21	45	24
Harlan → Rehnquist	73	93	20
O'Connor → Alito	64	83	19
Jackson → Harlan	57	73	16
Douglas → Stevens	11	25	14
Breyer → Jackson	20	29	9
Kennedy → Kavanaugh	63	71	8
Goldberg → Fortas	14	21	7
Stewart → O'Connor	58	64	6
Brennan → Souter	15	21	6
Burger → Rehnquist	84	82	-2
Powell → Kennedy	67	63	-4
Stevens → Kagan	25	18	-7
Souter → Sotomayor	21	12	-9
Rehnquist → Roberts	82	73	-9
Burton → Stewart	67	58	-9
Scalia → Gorsuch	82	72	-10
Rehnquist → Scalia	93	82	-11
Whittaker → White	81	58	-23
Blackmun → Breyer	45	20	-25
Frankfurter → Goldberg	57	14	-43
White → Ginsburg	58	10	-48
Vinson → Warren	69	19	-50
Clark → Marshall	61	10	-51
Minton → Brennan	71	15	-56
Average (Absolute) %-Point Difference			25

Table 4: Comparison of the percentage of conservative votes by predecessors and successors in salient cases, 1953-2024 terms (through June 12, 2025). Current justices are in bold. Includes only non-unanimous orally argued cases (excluding per curiams). %-Point Gap is the Successor percentage minus the Predecessor percentage. The Average (Absolute) %-Point Difference is unweighted. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

2 ACB (Mostly) Isn't Justice Scalia

During her confirmation proceedings then-Judge Barrett told the Judiciary Committee “You would not be getting Justice Scalia. You would be getting Justice Barrett.” This mostly holds on two important dimensions: voting in the majority and conservative voting.

2.1 Majority Voting

1. Comparing ACB and Scalia on voting in the majority during the Roberts years, significant differences emerge: Barrett is far more likely to be in the majority (Table 5).
2. The differences are especially notable in salient cases, where the gap is 31 percentage points.
3. The suggestion, at the least, is that ACB is more in the mix on her Court than Scalia was on his and possibly more important to the formation of majorities and even to opinion content.

	% in Majority		% -Point Gap
	Scalia	Barrett	
All Non-Unanimous Decisions	69%	84%	15
Salient Non-Unanimous Decisions	61%	92%	31

Table 5: Comparison of the percentage of votes in the majority, Scalia versus Barrett, Roberts Court years (through June 12, 2025). Includes only non-unanimous orally argued cases (excluding per curiams). Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

2.2 Ideological Voting

This section draws comparisons between ACB and Scalia, using two different measures of ideology: ideology (Martin-Quinn) scores and conservative voting.

2.2.1 Ideology (Martin-Quinn) Scores

1. Figure 1 compares Scalia’s and Barrett’s last full terms (2014, 2023) on a left-right scale using the ideology scores developed by Martin and Quinn.³
2. ACB is noticeably more liberal than Scalia; she’s far closer to Roberts than to where Scalia was positioned in 2014. Actually, had she been on the 2014 Court, she would have been nearly equidistant between Scalia and Kennedy.
3. Scalia was never close to being the median justice (a virtual 0.00 probability of being the median throughout his career).

³Andrew D. Martin & Kevin M. Quinn, “Dynamic Ideal Point Estimation via Markov Chain Monte Carlo for the U.S. Supreme Court, 1953-1999.” *Political Analysis* 10:134-153 (2002). The article and the scores are available here: <http://mqscores.wustl.edu/measures.php>.

4. Last term, Barrett’s median probability (0.28) put her on par with Kavanaugh (0.36 probability) and Roberts (0.33). *And her probability has been creeping up, from 0.11 in her first term to the current 0.28.* (More on this in Section 3.)

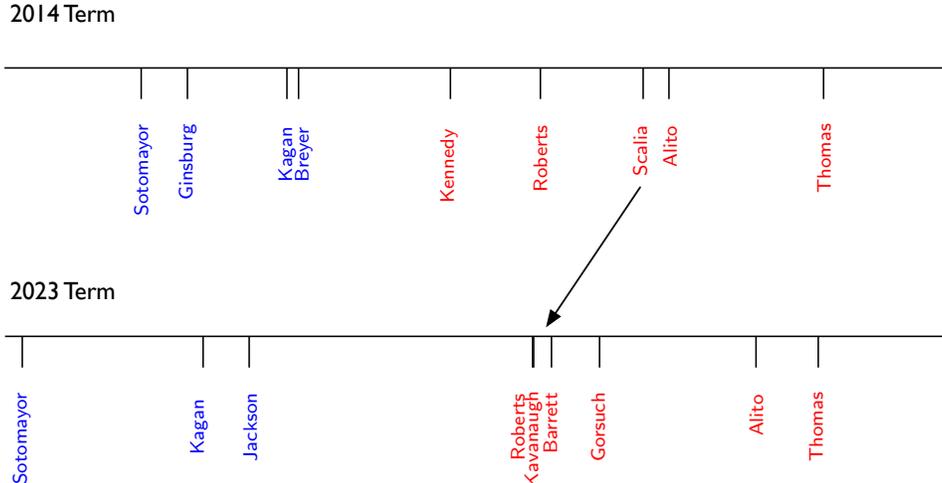


Figure 1: Comparison of ideology (Martin-Quinn scores), 2014 versus 2023 terms. We thank Kevin Quinn for estimating the final scores through the 2023 term. 2024 term scores will be available at the end of this term. The underlying data are as follows.

Justice	2014 Score	2023 Score
Alito	1.746	2.532
Barrett	—	0.685
Breyer	-1.596	—
Ginsburg	-2.599	—
Gorsuch	—	1.119
Jackson	—	-2.045
Kagan	-1.701	-2.461
Kavanaugh	—	0.524
Kennedy	-0.226	—
Roberts	0.586	0.514
Scalia	1.513	—
Sotomayor	-3.016	-4.094
Thomas	3.141	3.094

2.2.2 % Conservative Voting

1. Table 6 compares the conservative voting percentages of Scalia and ACB during the Roberts Court years. It also shows Barrett’s percentages in the last two terms, 2023 and 2024 (through June 12, 2025).
2. Overall, Barrett’s conservative voting (65%) is slightly lower than Scalia’s (70%), for a modest 5 percentage-point difference. The divide is more sizeable in salient cases: a 13 percentage-point difference (80% conservative versus 67%).
3. *The difference is even more pronounced during ACB’s last two terms (2023 and 2024, through June 12, 2025): the gap expands to 15 percentage points in all cases and a substantial 36*

percentage points in salient decisions. Notably, in these recent high-profile cases, Barrett’s conservative voting drops below 50%, to 44%.

4. In short, the data suggest that: (1) ACB is generally a more liberal voter than Scalia, especially in the most consequential cases and (2) the ideological distance between them is increasing.
5. The second point also suggests that ACB is drifting left or at least moderating. For confirmation, see Section 4.

	% Conservative Votes			% -Point Gap between	
	Scalia	Barrett	Barrett	Scalia & Barrett	
		All Terms	2023-24	All Terms	2023-24
All Non-Unanimous Cases	70%	65%	55%	5	15
Salient Non-Unanimous Cases	80%	67%	44%	13	36

Table 6: Comparison of the percentage of conservative votes, Scalia versus Barrett, during the Roberts Court years (through June 12, 2025). Includes only non-unanimous orally argued cases (excluding per curiams). Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

3 ACB is Playing an Increasingly Central Role on the Court

Two approaches help assess the justices’ centrality: the percentage of voting in the majority and the probability of being the median justice.

3.1 % in the Majority

1. Table 7 shows the results for the first measure: voting with the majority during the Roberts era for all Roberts justices.⁴
2. At 84% overall, Barrett ranks right up there with Kavanaugh and Kennedy—well above the average of 69%—and well ahead of the other Trump appointee (Gorsuch: 69%).
3. In especially salient cases, ACB was in the majority more often than any current Roberts-era justice, coming close to Kennedy’s extraordinary 94%.
4. Also worth noting (though not shown in Table 7): ACB’s majority voting percentage increased slightly from her first term (2020) to her most recent full term (2023): 79% v. 84%. This is unusual considering that first-year justices are more prone to join the majority (the “first-year” effect).⁵

⁴Except O’Connor, who cast only seven votes in non-unanimous decisions.

⁵See generally Lee Epstein, Kevin Quinn, Andrew D. Martin, & Jeffrey A. Segal, “[On the Perils of Drawing Inferences about Supreme Court Justices from Their First Few Years of Service.](#)” *Judicature* 91: 168-179 (2008).

5. At this point in the 2024 term (through June 12, 2025), Barrett’s current rate of voting with the majority is 79%—below Kavanaugh and Roberts but well ahead of Gorsuch (54%).

	% in Majority All Decisions		% in Majority Salient Decisions
Kavanaugh	89%	Kennedy	94%
Kennedy	86%	Barrett	92%
Barrett	84%	Kavanaugh	86%
Roberts	82%	Gorsuch	79%
Scalia	69%	Roberts	78%
Gorsuch	69%	Jackson	64%
Alito	68%	Scalia	61%
Kagan	67%	Breyer	60%
Thomas	63%	Souter	59%
Breyer	63%	Stevens	59%
Ginsburg	60%	Thomas	57%
Souter	60%	Alito	57%
Sotomayor	60%	Ginsburg	56%
Jackson	57%	Kagan	54%
Stevens	49%	Sotomayor	49%
Average	69%	Average	65%

Table 7: Percentage of votes in the majority, Roberts Court justices, 2005-2024 terms (through June 12, 2025), in non-unanimous orally argued decisions and in salient orally argued non-unanimous decisions. Both columns exclude per curiams. O’Connor is excluded because she cast only seven votes in non-unanimous decisions. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

3.2 Probability of Being the Median Justice

1. When Kennedy was on the Roberts Court, he was almost certainly the median justice, with a probability in the 0.99 range.
2. Since the 2020 term, the probability that any given justice is the median hasn’t exceeded 0.50.
 - (a) For six of the nine justices, the probability borders on zero.
 - (b) Only three are in contention, as Table 8 shows: Barrett, Kavanaugh, and Roberts
3. Note that *Barrett’s probability has more than doubled since her first term*—rising from 0.11 to 0.28—at the expense of Roberts and especially Kavanaugh.

	Probability of Being the Median Justice			
	2020	2021	2022	2023
Barrett	0.11	0.08	0.18	0.28
Kavanaugh	0.46	0.50	0.42	0.36
Roberts	0.37	0.32	0.36	0.33

Table 8: Probability of being the median justice based on the Martin-Quinn scores, 2020-2023 terms. We thank Kevin Quinn for estimating the final scores through the 2023 term. 2024 term scores will be available at the end of this term.

4. Kennedy, who went on to be a “super median,”⁶ showed a similar upward trend in his first few terms (see Table 9.⁷) But not O’Connor. She didn’t become a central player until her 12th term. (Kennedy’s probability surpassed the 0.50 mark, at 0.69, in his 6th term.)

	Probability of Being the Median Justice				
	1st Term	2nd Term	3rd Term	4th Term	5th Term
Barrett	0.11	0.08	0.18	0.28	—
Kennedy	0.08	0.04	0.15	0.26	0.26
O’Connor	0.00	0.00	0.00	0.00	0.03

Table 9: Probability of being the median justice based on the Martin-Quinn scores, for three justices. We thank Kevin Quinn for estimating the final scores through the 2023 term. 2024 term scores will be available at the end of this term.

5. This analysis, together with Table 7 in the previous section, yields two key insights: (1) Kavanaugh and Barrett are the justices most central to majority coalitions but (2) neither is “the” key player on the Court.
6. Although Kavanaugh has been in the majority more often than any other Roberts Court justice, Barrett is more likely to side with the majority in the Court’s most consequential cases. Moreover, their trajectories are diverging: Barrett has become increasingly central to majority coalitions, while Kavanaugh’s centrality has (modestly) declined. Still, through last term, he remained—just barely—the justice most likely to hold the median position.

4 ACB is Showing Signs of Leftward Drift

1. Research shows that drifters against type—conservatives who move to the left and liberals who move to the right—are less likely to have executive branch experience and/or have worked in or near Washington, D.C. at the time of appointment.⁸

⁶Lee Epstein & Tonja Jacobi, “[Super Medians.](#)” *Stanford Law Review* 61: 37-99 (2008).

⁷For Kennedy, Table 9 starts with the 1988 term because Kennedy participated in fewer than 50% of the 1987 term cases.

⁸See, e.g., Lawrence Baum, *Judges and Their Audiences* (Princeton University Press, 2006); Michael C. Dorf, “[Does Federal Executive Branch Experience Explain Why Some Republican Supreme Court Justices ‘Evolve’ and](#)

2. Of the current justices, only Barrett fully fits the “drifter” profile. And—while five terms aren’t enough to reach any firm conclusions about ideological “evolution” on the bench—ACB is the only one showing signs of leftward movement.
3. We base this claim on two term-by-term indicators: ideology (Martin-Quinn) scores and conservative voting.

4.1 Ideology (Martin-Quinn) Scores

1. Figure 2 shows ideology (Martin-Quinn) scores for the current justices since the 2005 term.
2. ACB is the only Republican appointee presently and noticeably drifting left.
 - (a) The lines of the other two Trump appointees, Gorsuch and Kavanaugh, are rather flat.
 - (b) As for Roberts: He moved to the left early in his tenure, but appears to have leveled off since about 2015.

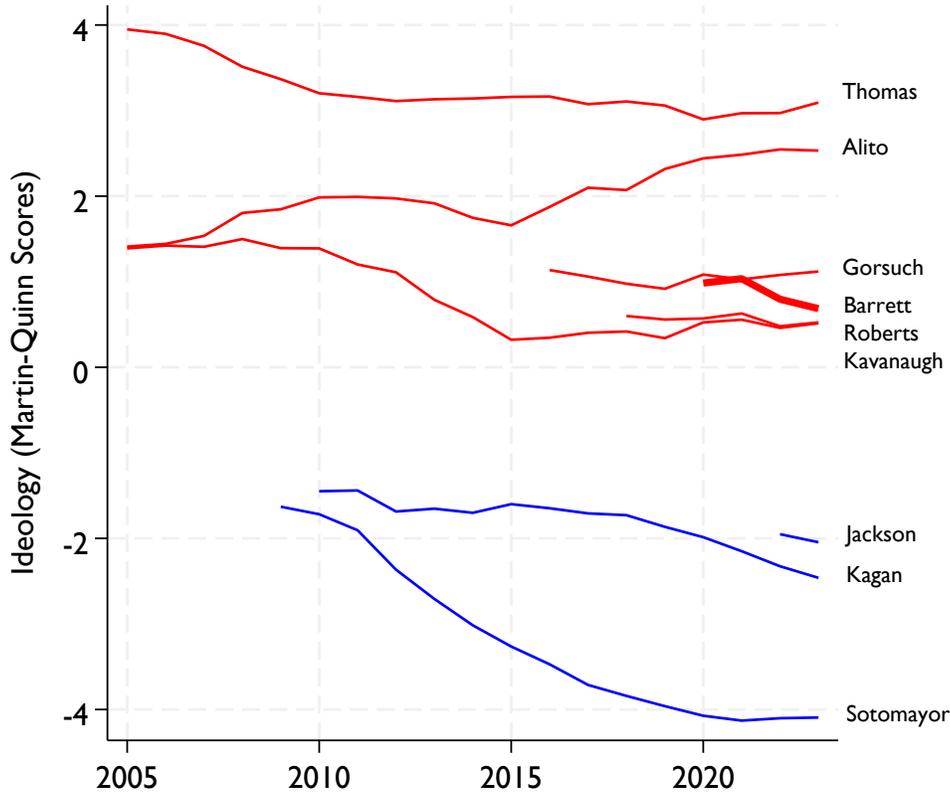


Figure 2: Ideology (Martin-Quinn) scores for the current justices, 2005-2023 terms. We thank Kevin Quinn for estimating the final scores through the 2023 term. 2024 term scores will be available at the end of this term.

Others Don’t?,” *Harvard Law and Policy Review* 1: 457-476 (2007); Lee Epstein, William M. Landes, and Richard A. Posner, *The Behavior of Federal Judges* (Harvard University Press, 2013). On ideological drift more generally, see Lee Epstein, Andrew D. Martin, Kevin M. Quinn & Jeffrey A. Segal, “[Ideological Drift Among Supreme Court Justices: Who, When, and How Important?](#),” *Northwestern University Law Review* 101: 1483-1542 (2007).

3. Still, it’s worth noting that although Barrett is trending left, the shift so far has been modest—smaller than, say, Roberts’s overall leftward movement during his first decade on the Court. Then again, *ACB’s trajectory is in line with other known Republican drifters at the start of their tenures.*
4. Figure 3 makes this point, comparing ACB to three Republican appointees who grew more liberal over time: O’Connor, Kennedy, and Souter. The left panel shows their ideology scores by term. The right panel resets the timeline, plotting the same scores beginning with each justice’s first term and ending with their last.
5. Note that ACB’s starting point is about the same as Souter’s, and to the left of (i.e., more liberal than) both O’Connor’s and Kennedy’s scores.
6. Also notice that ACB’s leftward drift is roughly similar to theirs, but it’s too soon to tell whether her trajectory will plateau, continue gradually leftward, or shift more abruptly.

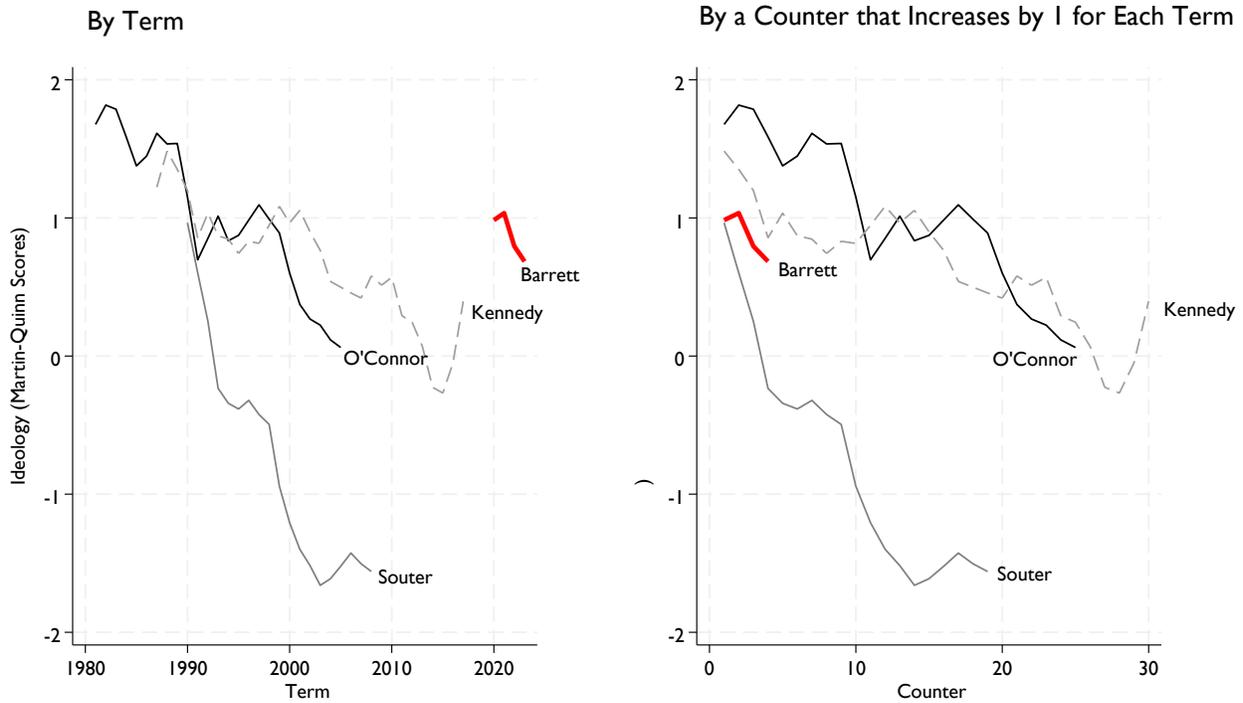


Figure 3: Ideology (Martin-Quinn) scores for three Republican appointees who drifted left and ACB. The left panel shows the scores by term; the right panel shows the scores by a counter for each term, starting with the justice’s first term and ending with their last. We thank Kevin Quinn for estimating the final scores through the 2023 term. 2024 term scores will be available at the end of this term.

7. Whatever happens, ACB’s drift, at this point, hasn’t been especially momentous. For example, our analysis shows that had *Dobbs v. Jackson Women’s Health Organization* (2022) been issued in the 2023 term rather than in the 2021 term, she still would likely have voted to uphold the Mississippi law.⁹

⁹We base this statement on a cut-point analysis. For examples of this sort of analysis, see Lee Epstein, Kevin

8. That noted, a comparable analysis of O'Connor demonstrates that only later in her tenure would she have cast the pivotal (left-leaning) vote in key cases—e.g., to uphold the affirmative action program at issue in *Grutter v. Bollinger* (2003).¹⁰

4.2 Conservative Voting

1. Table 10 ranks the Roberts Court justices by the percentage of conservative votes cast in all non-unanimous decisions, as well as in a subset of especially salient ones.
2. Overall, Barrett ranks right up there with the leading conservatives—though less so in the salient cases. In that subset, Barrett cast the lowest percentage of conservative votes among the sitting Republican appointees. But even for those decisions, she's closer to Roberts, Gorsuch, and Kavanaugh than Kennedy.
3. Comparing the three Trump appointees and averaging across their tenures on the Court, Barrett's and Kavanaugh's percentages are slightly higher than Gorsuch's in all decisions (65% and 66% vs. Gorsuch's 62%). Then again, in the weightier cases Barrett is the least likely of the three to vote conservatively.

Quinn, Andrew D. Martin, & Jeffrey A. Segal, "On the Perils of Drawing Inferences about Supreme Court Justices from Their First Few Years of Service," note 5; Andrew D. Martin, Kevin Quinn, & Lee Epstein, "The Median Justice on the U.S. Supreme Court." *North Carolina Law Review* 83: 1275-1322 (2005). We thank Kevin Quinn for estimating the *Dobbs* cutpoint.

¹⁰Martin, Quinn, & Epstein, "The Median Justice on the U.S. Supreme Court," note 9.

	% Conservative Votes All Non-Unanimous Decisions		% Conservative Votes Salient Non-Unanimous Decisions
Alito	77%	Thomas	88%
Thomas	76%	Alito	83%
Scalia	70%	Scalia	80%
Kavanaugh	66%	Roberts	73%
Barrett	65%	Gorsuch	72%
Roberts	64%	Kavanaugh	71%
Gorsuch	62%	Barrett	67%
Kennedy	59%	Kennedy	52%
Breyer	32%	Jackson	29%
Souter	30%	Breyer	20%
Kagan	27%	Kagan	18%
Ginsburg	26%	Stevens	13%
Sotomayor	23%	Sotomayor	12%
Jackson	23%	Souter	11%
Stevens	21%	Ginsburg	9%
Average	51%	Average	50%

Table 10: Percentage of conservative votes by Roberts Court justices, 2005-2024 terms (through June 12, 2025), in all non-unanimous orally argued decisions and in salient orally argued non-unanimous decisions. Both columns exclude per curiams. O'Connor is excluded because she cast only seven votes in non-unanimous decisions. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

4. The overall numbers, however, mask a decline in Barrett's percentage of conservative votes, as Table 11 shows. In her first two terms, she voted conservatively in 65% and 81% of cases, respectively—for a weighted average of 75%. By 2023, that figure had fallen to 57%.
5. So far in the 2024 term, her percentage of conservative votes is about 50. When combined with 2023, her weighted average across the two terms is 55%—well below her 2020-21 average of 75%.
6. In contrast, the other two Trump appointees show little evidence of a comparable nearly-secular decline in conservative voting. Kavanaugh hasn't veered markedly from his average of 66%, though his percentage rose slightly to 73 in 2023. As for Gorsuch, he's bounced around a bit from 61% and 68% in his first two full terms, up to 75% in 2022, and down to 57% in 2023 and 46% so far in 2024.

Term	ACB's % Conservative Votes
2020	65%
2021	81%
2022	59%
2023	57%
2024	50%
Average	65%

Table 11: Barrett's percentage of conservative votes, 2020-2024 terms (through June 12, 2025) in all non-unanimous orally argued decisions (excluding per curiams). Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

5 ACB is Aligning More Frequently with Liberal Majorities and Less with the Other Republican Appointees

Two additional indicators of ACB's increasing moderation are (1) a marked rise in her frequency of joining liberal majorities and (2) an uptick in aligning with Kagan and Sotomayor, whether in the majority or in dissent, and a decline in voting with the other Republican appointees.

5.1 Voting with Liberal Majorities

1. Table 12 shows the percentage of times Roberts Court justices joined the majority when the Court produced a liberal versus a conservative decision in divided cases, 2005-2024 terms (through June 12, 2025).
2. Barrett's overall percentages seem predictably low (liberal decisions) and predictably high (conservative decisions).
3. Comparing the Trump appointees, Barrett is less frequently in the majority in a liberal decision than Kavanaugh (74% vs. 77%) but more likely than Gorsuch (58%).
4. The same is true for conservative decisions. Kavanaugh has been (staggeringly) in the majority in 98% of conservative decisions during his tenure on the Court while Gorsuch has been in the majority in 78% of conservative decisions. Barrett is in between, at 90%.

	% in Majority Liberal Decisions		% in Majority Conservative Decisions
Kagan	90%	Kavanaugh	98%
Souter	89%	Kennedy	92%
Jackson	88%	Roberts	92%
Sotomayor	88%	Alito	91%
Stevens	86%	Barrett	90%
Ginsburg	86%	Thomas	86%
Breyer	83%	Scalia	86%
Kennedy	78%	Gorsuch	78%
Kavanaugh	77%	Breyer	46%
Barrett	74%	Kagan	44%
Roberts	70%	Souter	42%
Gorsuch	58%	Ginsburg	37%
Scalia	49%	Sotomayor	33%
Alito	41%	Jackson	31%
Thomas	35%	Stevens	26%
Average	69%	Average	68%

Table 12: Percentage of votes in the majority when the Court reached a liberal versus a conservative decision, by Roberts Court justices, 2005-2024 terms (through June 12, 2025), in all non-unanimous orally argued decisions (excluding per curiams). O'Connor is excluded because she cast only seven votes in non-unanimous decisions. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

5. But the picture changes rather dramatically in an analysis of ACB's voting over time (see Table 13).¹¹ In her first two terms she joined the majority in liberal decisions about 64% of the time; last term that percentage was 91. That's 17 percentage points higher than her 2020-23 average (74%).
6. The opposite holds, though less strongly, for conservative decisions, from in the 90% range in her first two terms to 84% in 2023—7 percentage points lower than her average.
7. The implication is that Barrett's frequent appearance in the majority in recent terms stems from her increasing tendency to join liberal decisions—while still consistently siding with the majority in conservative ones.

¹¹2024 is omitted because neither category includes enough cases through June 12, 2025.

Term	% in Majority	
	Liberal Decisions	Conservative Decisions
2020	64%	92%
2021	64%	97%
2022	77%	88%
2023	91%	84%
Average	74%	91%

Table 13: Percentage of Barrett’s votes in the majority when the Court reached a liberal versus conservative decision, 2020-2023 terms, in non-unanimous orally argued decisions (excluding per curiams). Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

8. In these ways, ACB stands out from the other Republican (R) appointees. For example, in terms of joining liberal majorities, *she is the only R trending upwards*, as Figure 4 shows. She’s now the R who most frequently joins liberal decisions; only Roberts is close at 82% in 2023.

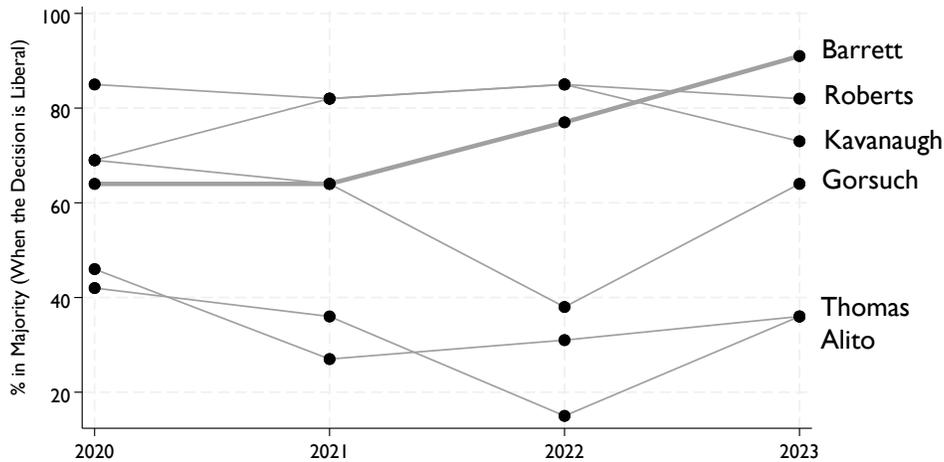


Figure 4: Percentage of votes in the majority when the Court reaches a liberal decision in non-unanimous orally argued decisions, current Republican appointees, 2020-2023 terms. Excludes per curiams. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

9. Given the rather large share of remaining cases, it’s too soon to draw any firm conclusions about the 2024 term. But so far ACB fully joined the liberal majority in *Bondi v. VanDerStok* (2025) and partially so in *Glossip v. Oklahoma* (2025), a death penalty case in which the Court found prosecutorial misconduct. In both, Thomas and Alito dissented in full.

5.2 Voting Alignments

The data below suggest an increase in voting with Kagan and Sotomayor (whether in the majority or in dissent) and a decline in her alignment with the other Republican appointees.

5.2.1 Voting with the Democratic Appointees

1. Table 14 reports the percentage of non-unanimous cases (excluding per curiam decisions) in which the three Trump appointees voted with Justices Kagan and Sotomayor—the two Democratic appointees with whom they’ve served for all terms—either in the majority or in dissent. The analysis includes only those cases in which Kagan and Sotomayor were in agreement.
2. ACB’s “joins” with Kagan and Sotomayor have increased somewhat from the 30% range in earlier terms to the 40-50% range more recently.
3. In 2023, Barrett and Kavanaugh voted with Kagan and Sotomayor at equal rates; Gorsuch, by contrast, was less likely to join the two Democratic appointees in 2023 than in 2022.
4. As for the 2024 term (through June 12, 2025), important decisions remain but the difference so far is dramatic: Barrett has agreed with Kagan/Sotomayor in divided cases 82% of the time, compared to just 30% for Gorsuch.
5. Notable is *City and County of San Francisco v. EPA* (2025), in which Barrett joined the three Democratic appointees (Kagan and Sotomayor, plus Jackson) in dissent to uphold EPA water pollution regulations. Kavanaugh, by contrast, was in the majority.

	2020	2021	2022	2023	2024
Barrett	39%	32%	58%	41%	82%
Kavanaugh	45%	38%	58%	41%	73%
Gorsuch	36%	35%	42%	28%	30%

Table 14: Percentage of votes (in the majority or in dissent) with Kagan and Sotomayor in non-unanimous orally argued decisions (excluding per curiams), 2020-2024 terms (through June 12, 2025). Only cases in which Kagan and Sotomayor agreed are included in the analysis. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

6. Still, most of Barrett’s votes with Sotomayor and Kagan were in the majority, not in dissent, as Table 15 shows. In no term did the percentage of her total votes with the two Democratic appointees exceed 20% in dissent.
7. Overall, of ACB’s 55 alignments with the two Democratic appointees, 91% were majority votes (50/55); only 9% were in dissent (5/55).

	Number of ACB's Votes with Sotomayor & Kagan	% of Votes in the Majority	% of Votes in Dissent
2020	7	86%	14%
2021	12	100%	0%
2022	15	93%	7%
2023	12	83%	17%
2024	9	89%	11%
Overall	55	91%	9%

Table 15: Percentage of votes in the majority and in dissent when Barrett voted with Kagan and Sotomayor in non-unanimous orally argued decisions (excluding per curiams), 2020-2024 terms (through June 12, 2025). Only cases in which Kagan and Sotomayor agreed are included in the analysis. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

5.2.2 Voting with the Republican Appointees

1. Table 16 reports the percentage of non-unanimous orally argued cases (excluding per curiams) in which Barrett voted with each of the other Republican-appointed justices, whether in the majority or dissent.
2. Excluding 2024, Barrett's agreement rate is, overall, noticeably higher with the Republican appointees than with Kagan and Sotomayor.

	Percentage Agreement with Barrett				
	Kavanaugh	Thomas	Roberts	Gorsuch	Alito
2020	79%	67%	71%	79%	70%
2021	86%	81%	83%	71%	86%
2022	79%	66%	76%	62%	55%
2023	81%	71%	77%	61%	68%
2024	79%	64%	71%	46%	64%
Average	81%	71%	77%	66%	71%

Table 16: Pairwise percentage agreement (in the majority or in dissent) between Barrett and the current Republican appointees in non-unanimous orally argued decisions (excluding per curiams), 2020-2024 terms (through June 12, 2025). Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

3. Even so, Table 17, which divides the data into two periods (2020-2021 and 2022-24), shows a downward trend in Barrett's agreement with all the Republican (R) appointees and an upward trend with Kagan and Sotomayor.

4. On average, ACB’s agreement with the Rs dropped by 9 percentage points, though declines with Kavanaugh and Roberts are less than half that. *In contrast is the striking 18 percentage-point decline in Barrett’s agreement with Alito.*
5. As for the Democratic appointees, Barrett’s agreement increased by 17 percentage points, with a notable 23 percentage-point increase with Sotomayor.

	Percentage Agreement with Barrett		
	2020-21	2022-24	Percentage-Point
	Term	Term	Difference
Republican Appointees			
Kavanaugh	83%	80%	-3
Roberts	79%	76%	-3
Thomas	76%	68%	-8
Gorsuch	74%	59%	-15
Alito	80%	62%	-18
Average	78%	69%	-9
Democratic Appointees			
Kagan	44%	55%	+11
Sotomayor	30%	53%	+23
Average	37%	54%	+17

Table 17: Pairwise percentage agreement (in the majority or in dissent) between Barrett and the current justices, in non-unanimous orally argued decisions (excluding per curiams), 2020-21 versus 2022-24 terms (through June 12, 2025). Jackson is excluded because she was appointed in 2022. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

6 ACB is Writing Separately More Often—Especially in Big Cases

1. Commentators have highlighted several of Barrett’s recent concurring opinions, notably in *Trump v. United States* (2023), *Biden v. Nebraska* (2023), *Trump v. Anderson* (2024), and *Vidal v. Elster* (2024), among others.¹²
2. But overall ACB’s concurrence rate isn’t especially high. As Table 18 shows, she is on average among Roberts Court justices, and below the other two Trump appointees.

¹²Mike Rappaport, “Justice Amy Coney Barrett’s Concurrence in *Trump v. United States*,” *Originalism Blog*, July 23, 2024; Beau J. Baumann, “Let’s Talk about that Barrett Concurrence (on the ‘Contextual Major Questions Doctrine’),” *Yale Journal on Regulation* blog, June 30, 2023; Dahlia Lithwick, Jeremy Stahl, & Mark Joseph Stern, “Amy Coney Barrett’s Weird, Passive-Aggressive Trump Ballot Opinion,” *Slate*, March 4, 2024; Andrew Willinger, “Justice Barrett, Vidal, and the Limits of Founding Era History,” *Duke Center for Firearms Law*, June 20, 2024.

	% Concurring Votes		% Concurring Opinions
Jackson	23%	Jackson	14%
Thomas	19%	Thomas	14%
Gorsuch	18%	Gorsuch	11%
Scalia	14%	Scalia	11%
Alito	13%	Kavanaugh	10%
Kavanaugh	13%	Stevens	10%
Stevens	12%	Alito	9%
Sotomayor	12%	Sotomayor	8%
Barrett	11%	Barrett	7%
Ginsburg	9%	Ginsburg	5%
Breyer	8%	Breyer	5%
Kennedy	7%	Kennedy	5%
Souter	7%	Souter	4%
Kagan	5%	Kagan	2%
Roberts	4%	Roberts	2%
Average	11%	Average	7%

Table 18: Percentage of concurring votes and opinions by Roberts Court justices, 2005-2024 terms (through June 12, 2025) in orally argued cases. O'Connor is excluded because she cast only seven votes in non-unanimous decisions. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

3. That overall finding, though, obscures several interesting patterns.
4. First, ACB is far more likely to write concurring opinions in high-profile cases. As Table 19 shows, in these decisions her concurring opinion rate jumps from 7% to 24%—somewhat higher than any other Trump appointee and second only to Thomas among Republican-appointed justices.

% Concurring Opinions in Salient Cases	
Jackson	29%
Thomas	27%
Barrett	24%
Scalia	23%
Gorsuch	22%
Kavanaugh	21%
Alito	19%
Kennedy	11%
Stevens	11%
Souter	10%
Breyer	10%
Roberts	6%
Sotomayor	4%
Kagan	2%
Ginsburg	2%
Average	13%

Table 19: Percentage of concurring opinions in all orally argued cases by Roberts Court justices, 2005-2024 terms (though June 12, 2025) in salient orally argued cases. O'Connor is excluded because she cast only seven votes in non-unanimous decisions. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

5. Second, as Table 20 shows, ACB's rate of separate opinion writing—whether in dissent or concurrence—has increased over time. Notably, the percentage of separate opinions in high-profile cases doubled between her first term and 2023, though these data should be interpreted with caution because there are fewer than ten salient decisions in most terms.

	% Concurring Votes		% Concurring Opinions		% Separate Opinions	
	All Cases	Salient Cases	All Cases	Salient Cases	All Cases	Salient Cases
2020	4%	20%	2%	20%	8%	20%
2021	10%	20%	7%	20%	10%	20%
2022	14%	25%	9%	25%	16%	25%
2023	17%	30%	12%	30%	15%	40%
Average	12%	25%	8%	25%	13%	29%

Table 20: Barrett's percentage of separate opinions and votes in all orally argued cases and in salient orally argued cases, 2020-2023 terms. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State from the [Supreme Court Database](#).

6. Because relatively few salient decisions have been issued so far, Table 20 excludes the 2024 term. For completeness, though, Barrett's percentages for that term (through June 12, 2025)

are somewhat lower—under 10% in all categories. That said, several important decisions remain pending.

7 ACB Often Sided with the Biden Administration But is the Republican Appointee Least Likely to Support Trump in Trump-Related Disputes

7.1 Biden Administration

Note: Because ACB joined the Court during the tail end of the first Trump administration, the analysis in this subsection focuses exclusively on the Biden years—and then only on those cases in which the administration was in office at the time of argument *and* decision.

1. Table 21 shows the percentage of votes by the current justices in favor of the Biden administration in all orally argued cases (unanimous and non-unanimous), excluding per curiams, and in the subset of especially salient decisions.
2. Although Barrett is the only current Republican appointee without prior U.S. executive branch experience, she voted in favor of the government at a somewhat higher rate than the other Republican appointees.
3. Even in high-profile cases, ACB sided with the Biden administration 50% of the time compared with 33% for the other justices appointed by Republican presidents.

	% Votes for the Government All Decisions		% for Votes for the Government Salient Decisions
Barrett	58%	Kagan	83%
Roberts	56%	Sotomayor	83%
Kagan	55%	Jackson	80%
Kavanaugh	54%	Barrett	50%
Thomas	54%	Kavanaugh	33%
Alito	54%	Thomas	33%
Sotomayor	53%	Roberts	33%
Jackson	53%	Gorsuch	33%
Gorsuch	34%	Alito	33%
Average	52%	Average	51%

Table 21: Percentage of votes for the Biden administration, by the current justices, in all cases and in salient cases. Includes only cases in which the party of the president didn't change between oral argument and decision. Excludes orally argued per curiams. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State.

- The same pattern holds in non-unanimous decisions, as Table 22 shows. Notably, though, ACB’s overall percentage favorable to the government increases from 58% to 65% in that subset of cases.

	% Votes for the Government All Non-Unanimous Decisions		% Votes for the Government Salient Non-Unanimous Decisions
Barrett	65%	Kagan	82%
Roberts	62%	Sotomayor	82%
Kagan	60%	Jackson	78%
Kavanaugh	58%	Barrett	45%
Thomas	58%	Kavanaugh	27%
Alito	58%	Thomas	27%
Sotomayor	56%	Roberts	27%
Jackson	56%	Gorsuch	27%
Gorsuch	25%	Alito	27%
Total	56%	Total	46%

Table 22: Percentage of votes for the Biden administration, by the current justices, in non-unanimous cases and salient non-unanimous cases. Includes only cases in which the party of the president didn’t change between oral argument and decision. Excludes orally argued per curiam. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State.

7.2 Trump-Related Litigation

- What the Biden data mean for Trump 2 litigation remains uncertain. What we can say is that in the 16 (non-per curiam) decisions issued since Trump took office in 2025 (though most were argued during the Biden administration), ACB voted in favor of the government 75% of the time, matching Kagan. Alito, Kavanaugh and Thomas followed at 69%.
- In the 10 non-unanimous decisions from this set, Barrett—again, along with Kagan—sided with the government in nine of the 10 (90%).
- Then again, in the 17 Trump-related disputes that have come before the Court since Barrett’s appointment¹³—three merits cases and 14 emergency applications—Barrett was the Republican appointee least likely to vote in Trump’s favor, as Table 23 shows. Her 59% support rate is 35 percentage points lower than Alito’s, the justice who most often voted in Trump’s favor.
- All three merits cases and one app dispute were resolved before Trump returned to office.¹⁴ In two of the four, Barrett voted in Trump’s favor.

¹³Through June 12, 2025.

¹⁴The merits cases are *Fischer v. United States* (2024), *Trump v. Anderson* (2024), and *Trump v. United States* (2024); the app is *Trump v. New York* (2025).

5. The remaining 13 apps reached the Court after Trump resumed the presidency in 2025.¹⁵ Barrett voted for Trump in 62% of the disputes (as did Roberts)—a rate well below that of the other two Trump appointees, both above 75%, and far lower than Alito’s 92%.

	% Votes Favoring Trump
Alito	94%
Gorsuch	88%
Thomas	88%
Kavanaugh	82%
Roberts	65%
Barrett	59%
Kagan	24%
Jackson	12%
Sotomayor	12%
Average	58%

Table 23: Percentage of votes in Trump’s favor in the eleven disputes (merits cases and emergency applications) relating to former/current President Trump since Barrett joined the Court (through June 12, 2025). For the disputes, see notes 14 and 15. Calculated by Lee Epstein and Andrew D. Martin, Washington University in St. Louis; and Michael J. Nelson, Penn State.

¹⁵They are *Bessent v. Dellinger*; *Department of State v. AIDS Vaccine Advocacy Coalition*; *Department of Education v. California*; *Trump v. J.G.G.*; *OPM v. AFGE*; *Noem v. Abrego Garcia*; *United States v. Shilling*; *A.A.R.P. v. Trump*; *Noem v. Nat. TPS Alliance*; *Trump v. Wilcox*; *Noem v. Doe*; *Social Security Administration v. American Federation of State, County, and Municipal Employees*; and *U.S. DOGE Service v. Crew*. We made the (debatable) decision to count *Bessent v. Dellinger* as a loss for Trump because he didn’t get the immediate relief he requested.