

Table 5.71.2008

U.S. Supreme Court cases argued and decided on merits

At conclusion of the October term, 1982-2008

October term	Argued						Decided on merits ^a					
	Total	Government participating	Government as petitioner or appellant ^b	Government as respondent or appellee ^b	Government as amicus ^c	Government not participating	Total	Government participating	Decided in favor of Government's position ^b	Decided against Government's position ^b	Not classifiable as for or against ^b	Government not participating
1982	183	131	44	44	43	52	283	172	115	50	7	111
1983	184	118	46	33	39	66	262	150	124	23	3	112
1984	175	114	37	34	43	61	236	146	113	30	3	90
1985	171	106	39	24	43	65	275	139	99	35	5	136
1986	175	104	27	32	45	71	282	140	98	36	6	142
1987	167	106	36	34	36	61	251	135	82	38	15	116
1988	170	91	25	25	41	79	265	122	86	25	11	143
1989	146	89	26	23	40	57	224	108	67	39	2	116
1990	125	77	10	32	35	48	232	107	74	31	2	125
1991	123	84	26	17	41	39	183	103	76	22	5	80
1992	116	88	24	23	41	28	206	126	84	36	6	80
1993	99	70	11	20	39	29	157	97	56	37	4	60
1994	94	64	21	16	27	30	146	84	48	33	3	62
1995	90	68	13	28	27	22	189	129	50	70	9	60
1996	90	68	18	19	31	22	160	103	72	21	10	57
1997	96	70	13	26	31	26	146	83	55	26	2	63
1998	90	76	13	26	37	14	143	94	63	25	6	49
1999	81	58	12	21	25	23	131	77	43	33	1	54
2000	87	67	14	20	33	20	201	151	42	105	4	50
2001	88	75	21	21	33	13	158	92	71	21	0	66
2002	84	71	10	15	46	13	147	89	71	16	2	58
2003	91	78	18	28	32	13	141	86	69	17	0	55
2004	87	63	10	20	33	24	906 ^d	826	802	24	0	80
2005	87	69	9	11	49	18	208 ^e	148	96	20	14	60
2006	78	58	9	15	34	20	356	97	63	33	1	259
2007	75	59	6	25	28	16	280	239	54	182 ^f	3	41
2008	86	65	9	23	33	21	180	129	49	73	7	51
Percent												
1982	100%	72%	34%	34%	33%	28%	100%	61%	67%	29%	4%	39%
1983	100	64	39	28	33	36	100	57	83	15	2	43
1984	100	65	32	30	38	35	100	62	77	21	2	38
1985	100	62	37	23	41	38	100	51	71	25	4	49
1986	100	59	26	31	43	41	100	50	70	26	4	50
1987	100	63	34	32	34	37	100	54	61	28	11	46
1988	100	54	27	27	45	46	100	46	70	20	9	54
1989	100	61	29	26	45	39	100	48	62	36	2	52
1990	100	62	13	42	45	38	100	46	69	29	2	54
1991	100	68	31	20	49	32	100	56	74	21	5	44
1992	100	76	27	26	47	24	100	61	67	29	5	39
1993	100	71	16	29	56	29	100	62	58	38	4	38
1994	100	68	33	25	42	32	100	58	57	39	4	42
1995	100	76	19	41	40	24	100	68	39	54	7	32
1996	100	75	26	28	45	24	100	64	70	20	10	36
1997	100	73	19	37	44	27	100	57	66	31	2	43
1998	100	84	17	34	49	16	100	66	67	27	6	34
1999	100	72	15	26	31	28	100	59	33	25	1	41
2000	100	77	16	23	38	23	100	75	28	69	1	25
2001	100	85	28	28	44	15	100	58	77	23	X	42
2002	100	85	14	21	65	15	100	61	80	18	2	39
2003	100	86	23	36	41	14	100	61	80	20	X	39
2004	100	72	16	32	52	28	100	91	97	3	X	9
2005	100	79	13	16	71	21	100	71	65	13	--	29
2006	100	74	16	26	59	26	100	27	65	34	(g)	73
2007	100	79	11	42	47	21	100	85	23	76	1	15
2008	100	76	14	35	51	24	100	72	38	56	1	28

Note: These data represent actions taken during the annual terms of the U.S. Supreme Court. "Amicus" refers to a party who is not involved directly in the suit, but who demonstrates an interest in the case by filing a supportive brief. "Decided on merits" refers to a reassessment and resolution of the substantive issues presented in the case, and does not involve active participation of the litigants through the filing of written and oral arguments. Category includes cases that were vacated and remanded, or remanded, as well as cases that were affirmed and reversed. Some data have been revised by the Source and may differ from previous editions of SOURCEBOOK.

^a Includes cases summarily affirmed, reversed, or vacated on the In Forma Pauperis Docket.
^b Percent is based on the total cases in which the Government participated.
^c Includes cases in which the Government filed briefs as amicus curiae but did not participate in the argument.
^d Increase represents 747 cases that were vacated and remanded to the lower court in light of *U.S. v. Booker*, a 2005 case that rendered the mandatory element of the Federal sentencing guidelines unconstitutional, thereby requiring resentencing of numerous Federal court cases.

^e Includes 40 cases that were vacated and remanded to the lower court in light of *U.S. v. Booker*; see footnote d.
^f Includes 141 cases that were vacated and remanded to the lower court in light of *Gall v. U.S.*, a 2007 case that held that appellate courts must review all sentences under an abuse-of-discretion standard and, in so doing, must consider the reasonableness of the district court's justification for deviation from the Federal sentencing guidelines; and *Kimbrough v. U.S.*, an extension of *Gall* to crack cocaine cases. *Kimbrough* held that a district court sentence imposed below the guidelines range for a crack cocaine offense is not per se an abuse of judicial discretion when the reason given by the court is the well-established position of the U.S. Sentencing Commission that the Federal sentencing guidelines are disproportionate with respect to powder and crack cocaine.
^g Less than 0.5%.

Source: Table adapted from tables provided to SOURCEBOOK staff by the U.S. Department of Justice, Office of the Solicitor General.