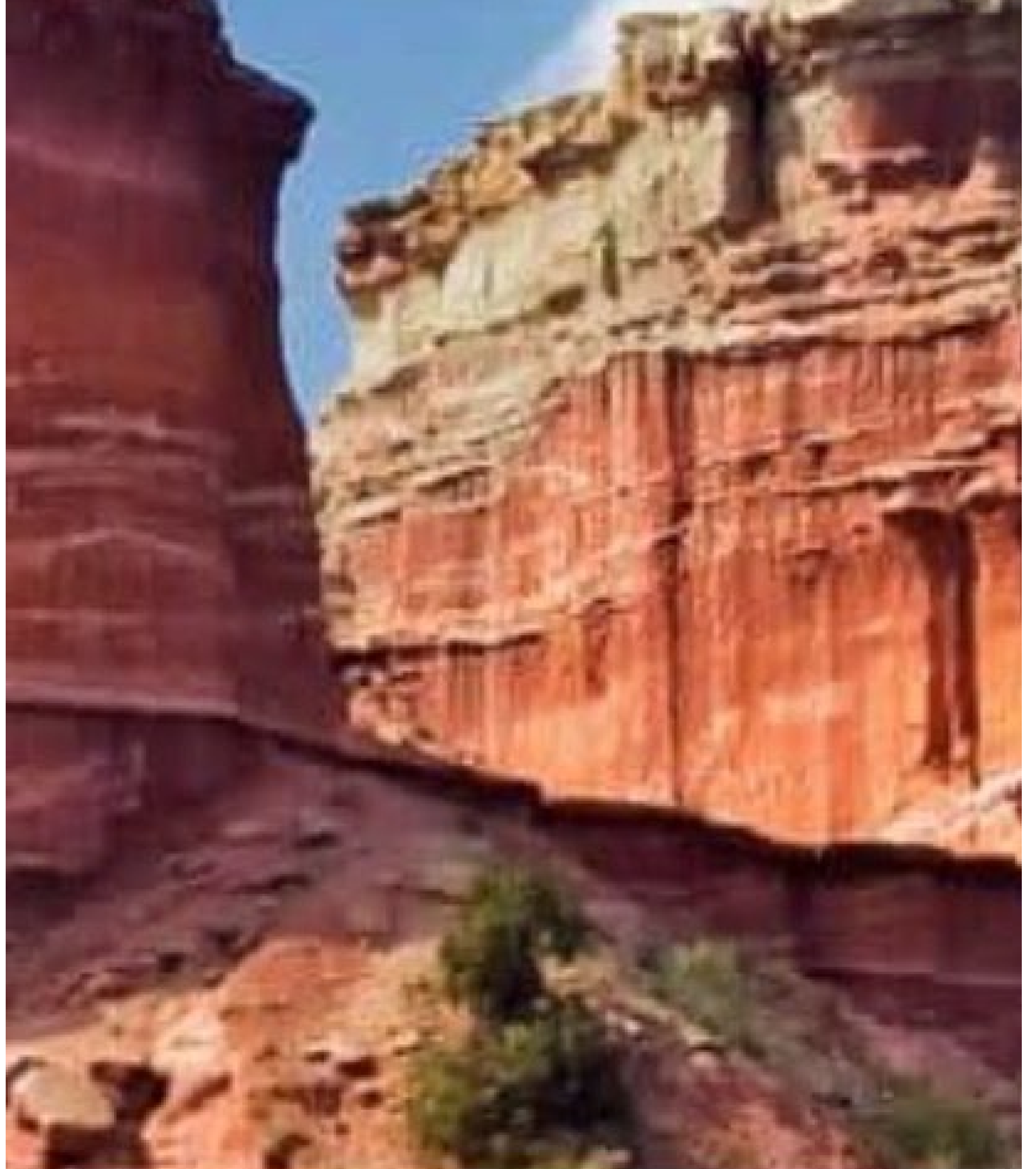


The 38th Annual Texas Environmental Superconference

Supreme Court Update

**John Cruden, Beveridge & Diamond
Todd Kim, Pillsbury Winthrop Shaw Pittman**

**August 6 – August 8, 2026
Austin, Texas**



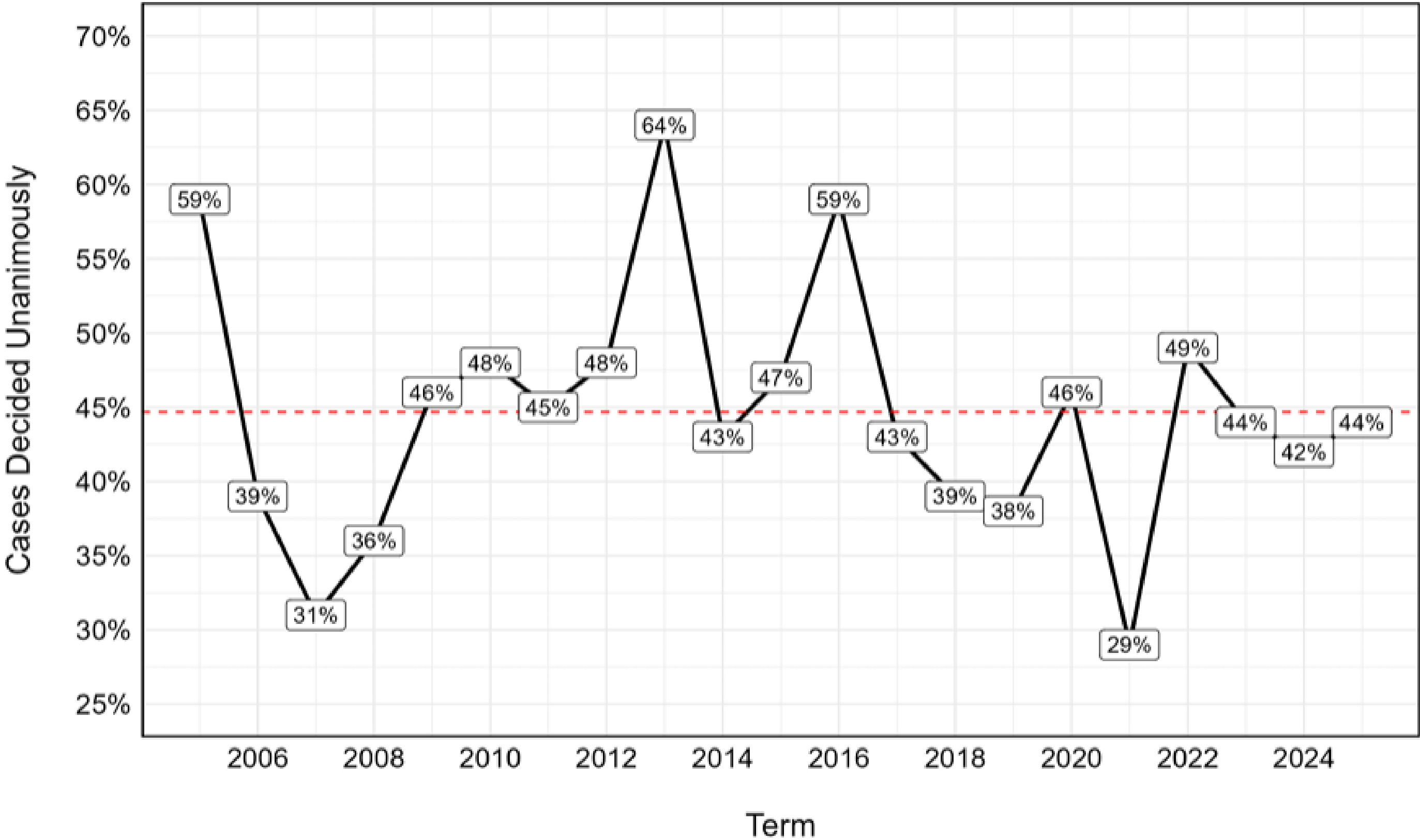


SCOTUSblog Stat Pack for the 2025-2026 Term

Key Findings in the Stat Pack for the 2025-26 term

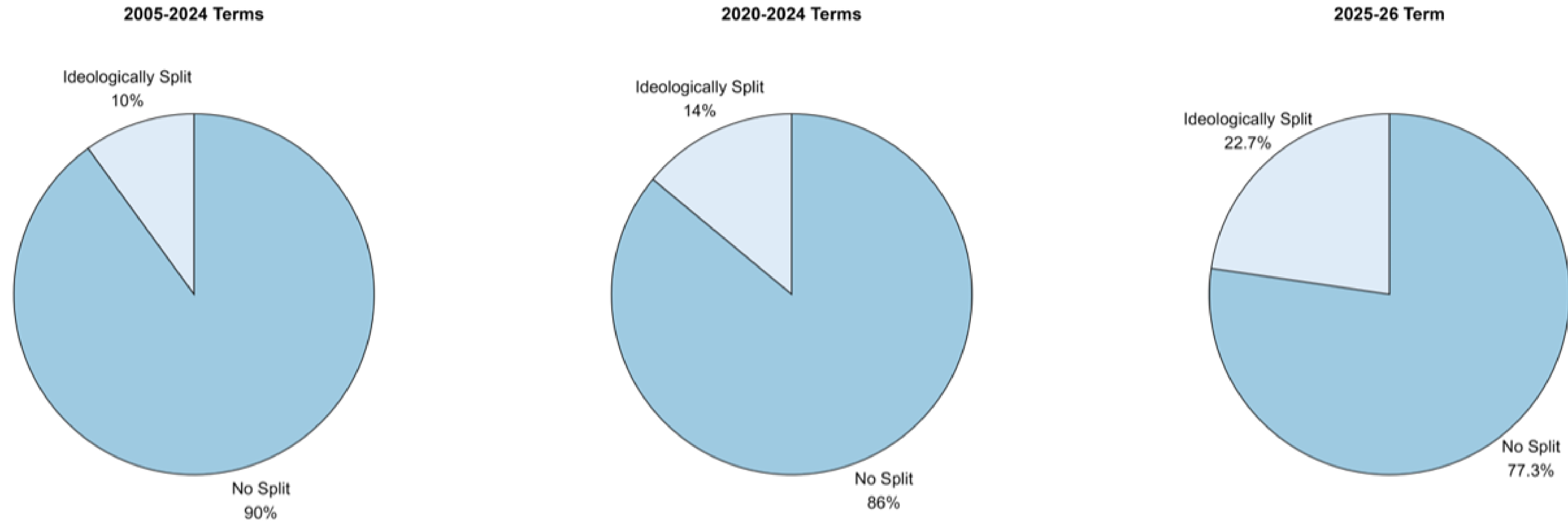
1. **Roberts and Kavanaugh at the Helm.** Chief Justice Roberts and Justice Kavanaugh tied for the top frequencies in the majority, followed by Justice Barrett. Roberts and Kavanaugh were both in the majority 95% of the time while Barrett was in the majority 92% of the time. This ordering is the same for frequencies in the majority in non-unanimous and closely divided cases.
2. **Ideological Splits in Closely Divided Cases.** 1 in 5 of the Court's decisions this term were decided 6-3 along ideological lines. This far exceeds the 11% average for the 2020-2021 through 2024-2025 terms.
3. **Birds of the Same Feather (Vote Together).** Multiple justice pairs agreed at the highest level. Across all cases, Justices Kagan and Sotomayor, Kavanaugh and (CJ) Roberts, Jackson and Sotomayor, and Thomas and Alito all agreed 94% of the time.
4. **Justices Thomas and Jackson are (Again) Prolific Writers.** Justice Thomas authored the most opinions this term with 28 (total) and the most concurrences with 15, while Justice Jackson authored the second most with 26 (total) but had the most dissents with 10. Chief Justice Roberts authored the fewest with 6 total (all majority opinions).
5. **Some (Very) Long Opinions.** The longest overall decision this term was *Trump v. Barbara* (Birthright Citizenship) at over 60,000 total words, while the longest individual opinions were Justice Thomas' dissent in *Barbara* and Justice Kavanaugh's dissent in *Learning Resources* (Tariffs). Chief Justice Roberts averaged the longest opinions this term at approximately 7,100 words. Moreover, 4 of the 5 longest individual opinions this term were dissents.

Unanimity



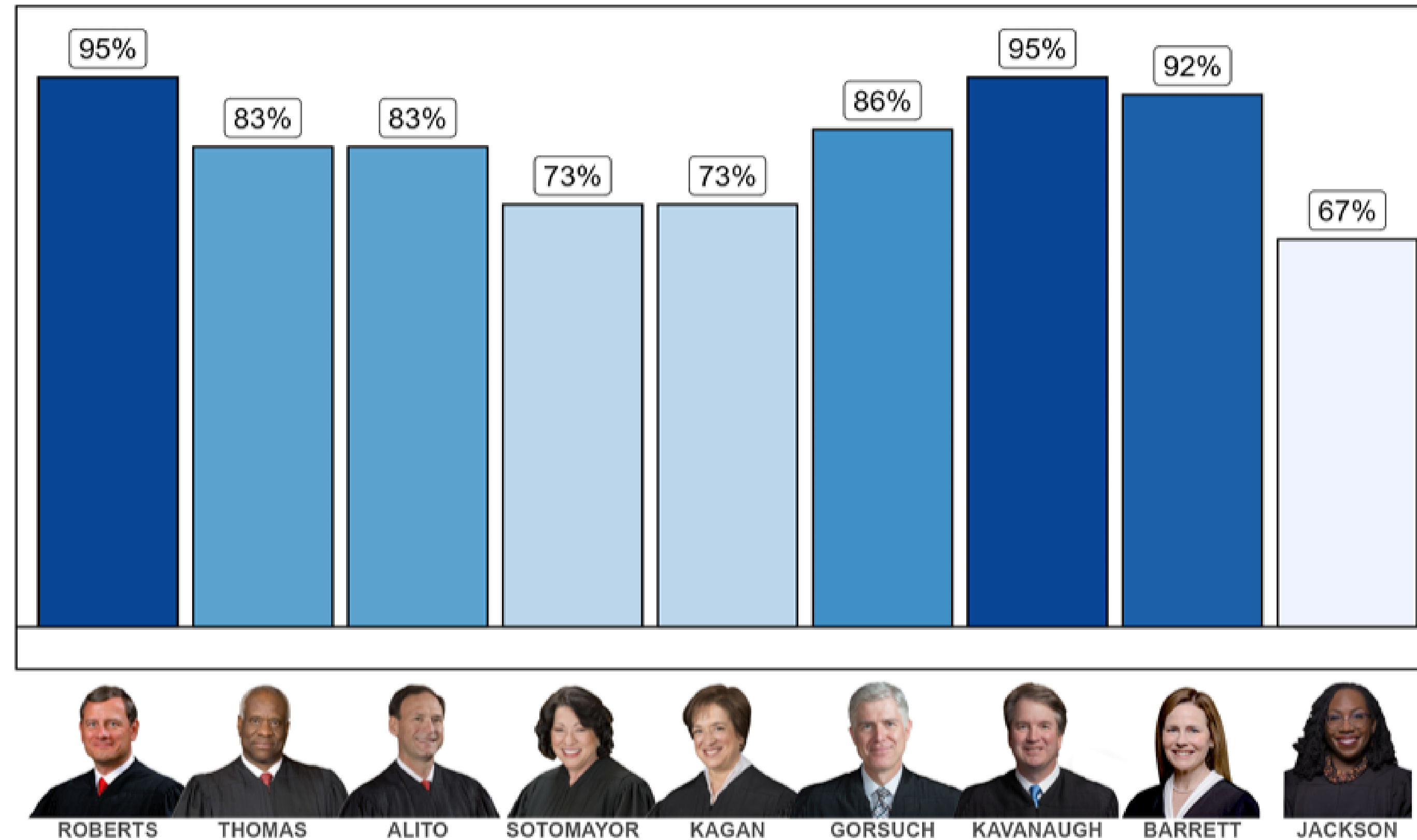
Description: This figure shows the percentage of unanimous decisions (i.e., cases decided without any full dissents) between OT05-OT25. These include decisions reached per curiam without any noted dissents. Dashed red line represent longitudinal average.

Decisions by Vote Split – Ideologically Split Cases



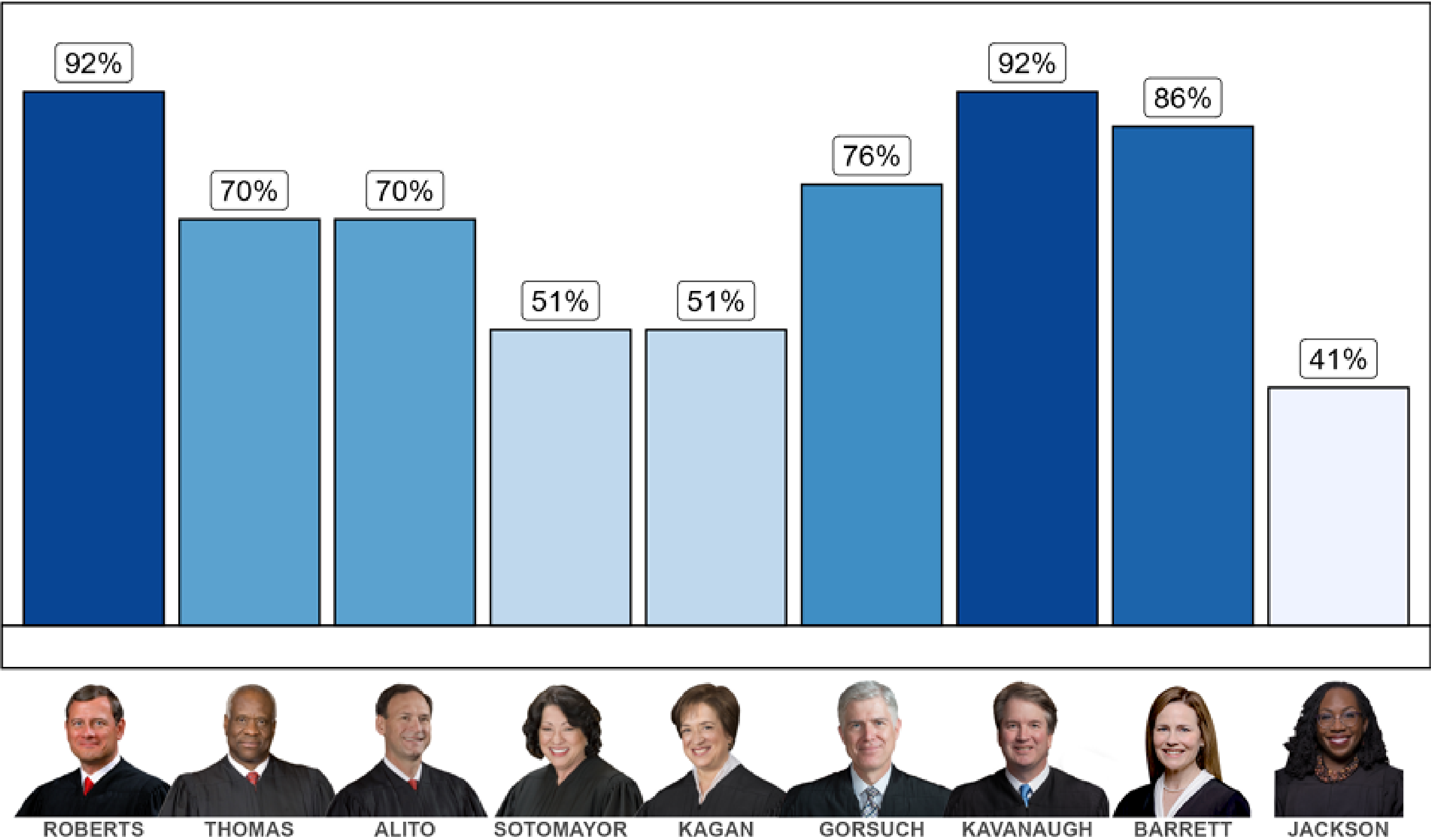
Description: Figures show the percent of cases decided by ideologically split coalitions, consisting of Chief Justice Roberts and Justices Thomas, Alito, Gorsuch, Kavanaugh, and Barrett on one side, and Justices Sotomayor, Kagan, and Jackson on the other.

Frequency in the Majority – All Cases



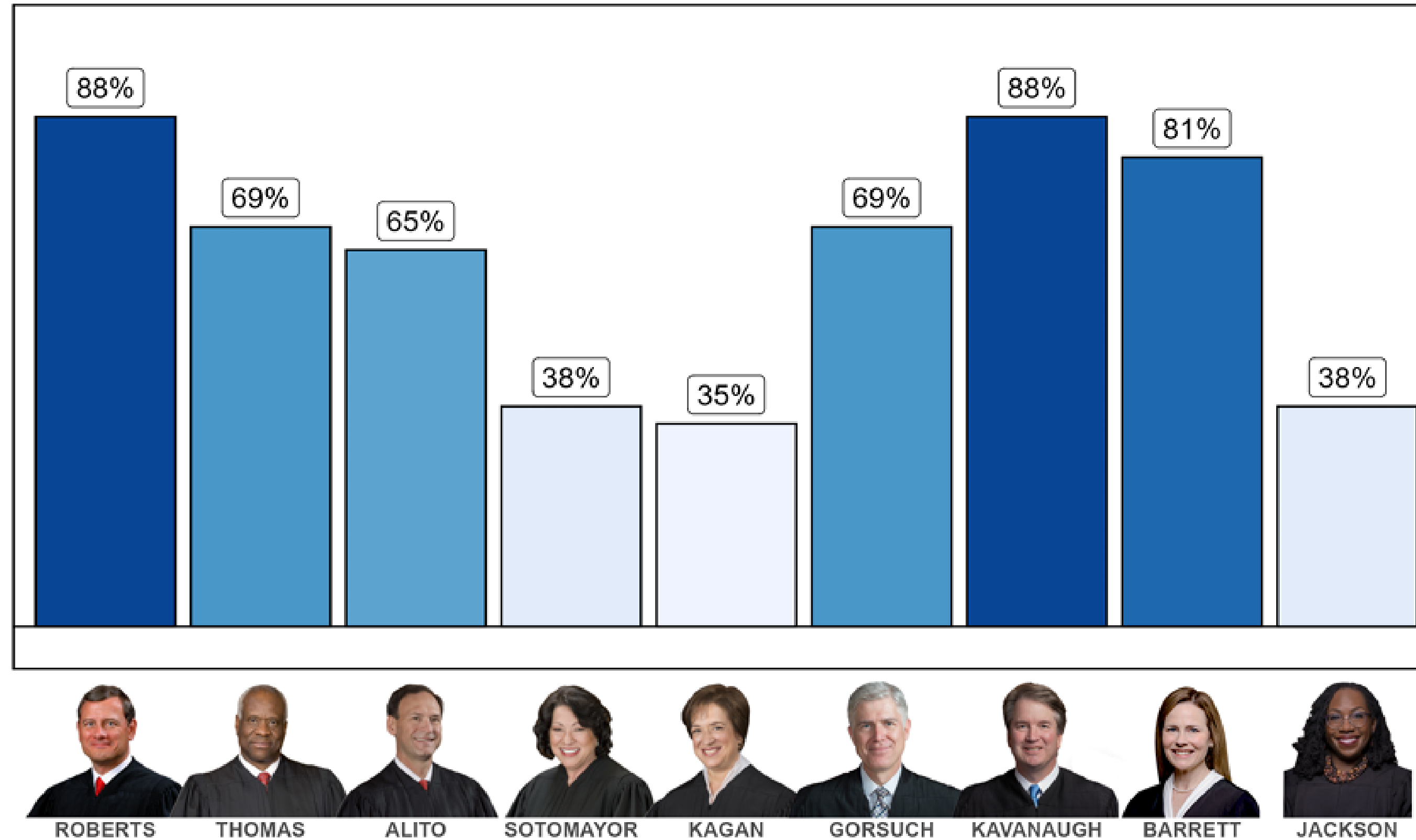
Description: Figure shows the percentage of cases where each justice was in the majority coalition among all cases that they participated in (including those decided *unanimously*, *per curiam*, or *dismissed as improvidently granted*).

Frequency in the Majority – Non-Unanimous Cases



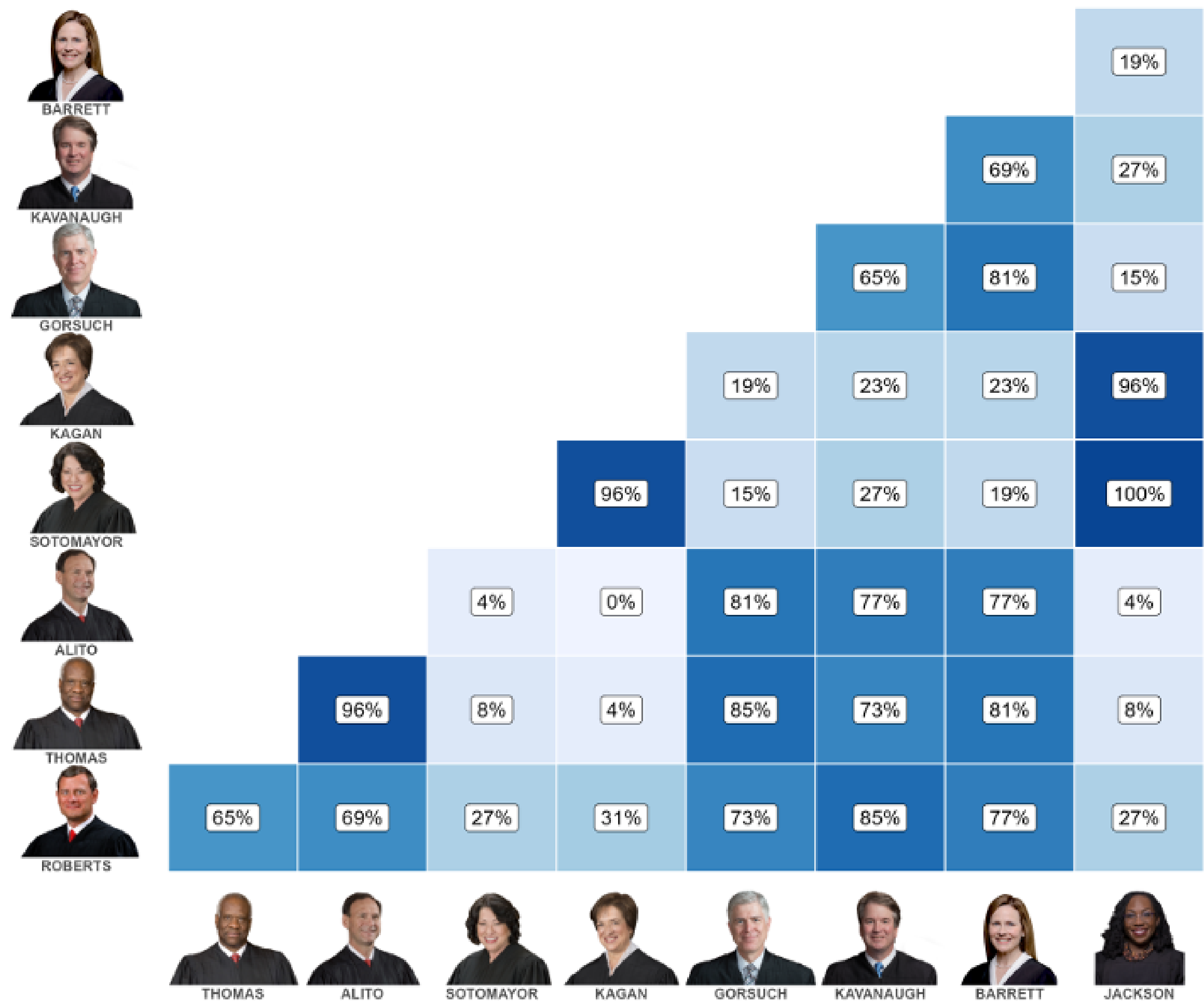
Description: Figure shows the percentage of cases where each justice was in the majority coalition among cases decided without a unanimous majority.

Frequency in the Majority – Closely Divided Cases



Description: Figures show the percentage of cases where each justice was in the majority coalition among cases decided by (5-4) or (6-3) coalitions.

Justice Agreement – Closely Divided Cases



Description: Figure shows the relative agreement (percent) in voting alignment shared between justices in cases decided by (5-4) or (6-3) coalitions in the 2025-26 term.

Circuit Scorecard

Court Below	# Decided	# Affirm	# Reversed	% Affirmed	% Reversed
CA1	2	2	0	100%	0%
CA2	9	3	6	33.3%	66.7%
CA3	3	1	2	33.3%	66.7%
CA4	8	1	7	12.5%	87.5%
CA5	11	3	8	27.3%	72.7%
CA6	4	2	2	50%	50%
CA7	2	0	2	0%	100%
CA8	1	0	1	0%	100%
CA9	7	1	6	14.3%	85.7%
CA10	3	2	1	66.7%	33.3%
CA11	3	0	3	0%	100%
CADC	6	2	4	33.3%	66.7%
CAFED	2	1	1	50%	50%
Total	61	18	43	29.51%	70.49%

Description: Table reflects the rates of affirmance and reversal for cases decided during OT25 that emerged from the U.S. Courts of Appeals.

Notes: (1) We treat consolidated cases emerging from the same lower court as single entries. (2) Decisions that were granted review but subsequently dismissed (as improvidently granted) are omitted. (3) *Trump v. Cook* (25A312) resulted in a denial of an application for stay and is treated here as having *Affirmed* CADC. (4) Table further includes the following decisions from consolidated proceedings: 25-567 (CA2, Affirm); 25-1084 (CADC, Reverse); 24-38 (CA9, Reverse); 25-250 (CAFED, Affirm)

Cases Decided in the 2024-2025 Term

SAN FRANCISCO v. EPA

Argued Oct. 16, 2024 Decided Mar. 4, 2025



The question presented is:

Whether the Clean Water Act allows EPA (or an authorized state) to impose generic prohibitions in NPDES permits that subject permit holders to enforcement for exceedances of water quality standards without identifying specific limits to which their discharges must conform.

CERT. GRANTED 5/28/2024

SEVEN COUNTY INFRASTRUCTURE COALITION v. EAGLE COUNTY, COLORADO

Argued Dec. 10, 2024 Decided May 29, 2025

QUESTION PRESENTED

In *Department of Transportation v. Public Citizen*, 541 U.S. 752, 770 (2004), this Court held that when an agency cannot prevent an environmental effect “due to its limited statutory authority over the relevant actions,” the National Environmental Policy Act does not require it to study that effect. This holding has divided the courts of appeals. Five circuits read *Public Citizen* to mean that an agency’s environmental review can stop where its regulatory authority stops. Two circuits disagree and require review of any impact that can be called reasonably foreseeable.

Here, the Surface Transportation Board relied on *Public Citizen* to cabin its environmental review of a new rail line in Utah. But the D.C. Circuit rejected that approach, ruling that the Board “cannot avoid” environmental review “on the ground that it lacks authority to prevent, control, or mitigate” distant environmental effects. As a result, it ordered the Board to study the local effects of oil wells and refineries that lie outside the Board’s regulatory authority.

The question presented is:

Whether the National Environmental Policy Act requires an agency to study environmental impacts beyond the proximate effects of the action over which the agency has regulatory authority.



NRC v. TEXAS

Argued Mar. 5, 2025 Decided June 18, 2025

No.

In the Supreme Court of the United States

UNITED STATES NUCLEAR REGULATORY COMMISSION,
ET AL., PETITIONERS

v.

STATE OF TEXAS, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

BROOKE P. CLARK <i>General Counsel</i>	ELIZABETH B. PRELOGAR <i>Solicitor General</i> <i>Counsel of Record</i>
ANDREW P. AVERBACH <i>Solicitor</i> <i>U.S. Nuclear Regulatory</i> <i>Commission</i> <i>Washington, D.C. 20555</i>	TODD KIM <i>Assistant Attorney General</i>
	MALCOLM L. STEWART <i>Deputy Solicitor General</i>
	NICOLE FRAZER REAVES <i>Assistant to the Solicitor</i> <i>General</i>
	JENNIFER S. NEUMANN MICHAEL T. GRAY JUSTIN D. HEMINGER <i>Attorneys</i>
	<i>Department of Justice</i> <i>Washington, D.C. 20530-0001</i> <i>SupremeCtBriefs@usdoj.gov</i> <i>(202) 514-2217</i>



Judge James C. Ho

FCC v. CONSUMERS' RESEARCH

Argued Mar. 26, 2025 Decided June 27, 2025



Universal Service Fund

Prior to the Telecommunications Act of 1996, the Universal Service Fund (USF) operated as a mechanism by which interstate long distance carriers were assessed to subsidize telephone service to low-income households and high-cost areas. The Communications Act of 1934 stated that all people in the United States shall have access to rapid, efficient, nationwide communications service with adequate facilities at reasonable charges.

WHY IS THE NON-DELEGATION DOCTRINE LIKE THE LATE DETROIT TIGER PITCHER MARK “THE BIRD” FIDRYCH?



Mark Fidrych



As a virtually unknown rookie in 1976, Mark Fidrych posted a league leading 2.34 ERA and won 19 games despite spending the first month of the season in the minor leagues. "The Bird" became a media darling because of his crazy antics, such as talking to himself and aiming the ball, insisting that balls that had "hits in them" be taken out of the game, and smoothing cleat marks on the mound. He began the 1977 season where he left off, but injured his arm when he continued to pitch with a knee problem. For seven years he tried to make a comeback but he never could regain his old form. In 1985, it was revealed that he had torn his rotator cuff nearly all the way through. | [Full blo](#) ↓

Season	Age	Team	Lg	WAR	W	L	W-L%	ERA	G	GS	GF	CG	SHO	SV	IP	H	R	ER	HR	BB	IBB	SO	HBP	BK	WP	BF	ERA+	FIP	WHIP	H9	HR9	BB9	SO9	SO/BB
1976 ★	21	DET	AL	9.6	19	9	.679	2.34	31	29	2	24	4	0	250.1	217	76	65	12	53	3	97	3	0	6	996	159	3.15	1.079	7.8	0.4	1.9	3.5	1.83
1977 ★	22	DET	AL	2.4	6	4	.600	2.89	11	11	0	7	1	0	81.0	82	29	26	2	12	2	42	1	0	1	326	149	2.50	1.160	9.1	0.2	1.3	4.7	3.50
1978	23	DET	AL	0.7	2	0	1.000	2.45	3	3	0	2	0	0	22.0	17	6	6	1	5	0	10	0	0	0	85	160	2.95	1.000	7.0	0.4	2.0	4.1	2.00
1979	24	DET	AL	-0.6	0	3	.000	10.43	4	4	0	0	0	0	14.2	23	17	17	3	9	2	5	1	0	0	73	43	6.75	2.182	14.1	1.8	5.5	3.1	0.56
1980	25	DET	AL	-0.7	2	3	.400	5.68	9	9	0	1	0	0	44.1	58	35	28	5	20	2	16	1	0	3	215	73	4.92	1.759	11.8	1.0	4.1	3.2	0.80
5 Yrs				11.3	29	19	.604	3.10	58	56	2	34	5	0	412.1	397	163	142	23	99	9	170	6	0	10	1695	126	3.33	1.203	8.7	0.5	2.2	3.7	1.72
162 Game Avg				6.8	17	11	.604	3.10	35	33	1	20	3	0	246	237	97	85	14	59	5	101	4	0	6	1011	126	3.33	1.203	8.7	0.5	2.2	3.7	1.72

DIAMOND ALTERNATIVE ENERGY v. EPA

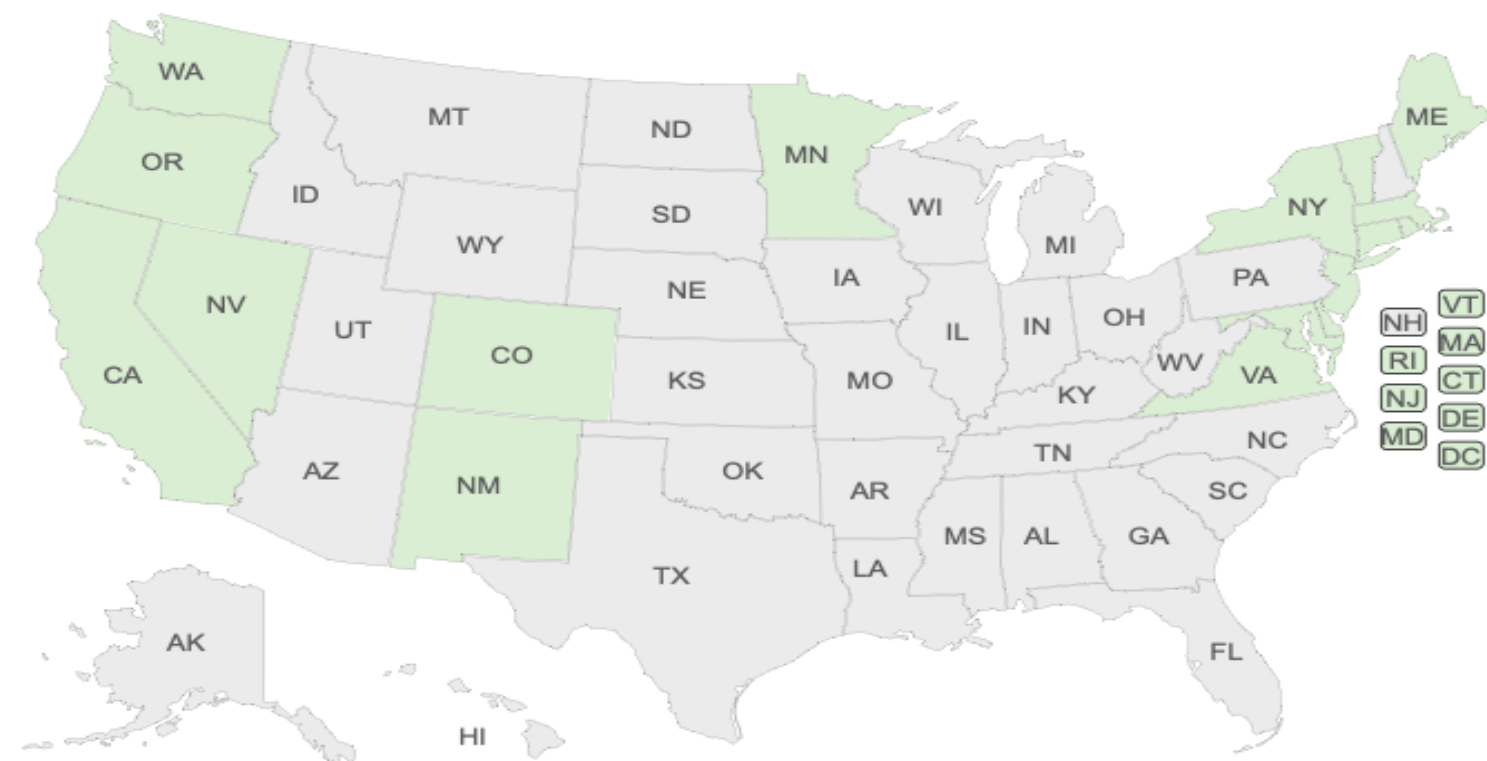
Argued Mar. 25, 2025 Decided June 18, 2025

Adopted

- [California](#)
- [Colorado](#)
- [Connecticut](#)
- [Delaware](#)
- [District of Columbia](#)
- [Maine](#)
- [Maryland](#)
- [Massachusetts](#)
- [Minnesota](#)
- [Nevada](#)
- [New Jersey](#)
- [New Mexico](#)
- [New York](#)
- [Oregon](#)
- [Rhode Island](#)
- [Vermont](#)
- [Virginia](#)
- [Washington](#)

Zero-Emission Vehicle Standards

This list shows the status of states that have adopted or repealed California's standards for zero-emission vehicles from the California Air Resources Board.



DIAMOND ALTERNATIVE ENERGY, LLC, ET AL. v.
ENVIRONMENTAL PROTECTION AGENCY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

No. 24–7. Argued April 23, 2025—Decided June 20, 2025

Under the Clean Air Act, the Environmental Protection Agency (EPA) approved California regulations that require automakers to manufacture more electric vehicles and fewer gasoline-powered vehicles with a goal of decreasing emissions from liquid fuels. The regulations require automakers to limit average greenhouse-gas emissions across their vehicle fleets and manufacture a certain percentage of electric vehicles. Several producers of fuels such as gasoline and ethanol sued EPA in the D. C. Circuit, arguing that EPA lacked authority to approve the California regulations because they target *global* climate change rather than *local* California air quality problems as required by the Clean Air Act. They submitted standing declarations explaining that California's regulations depress demand for liquid fuel by requiring vehicles that use less or no liquid fuel, causing the fuel producers monetary injury. California's own estimates indicated the regulations would cause substantial reductions in demand for gasoline exceeding \$1 billion beginning in 2020 and increasing to over \$10 billion in 2030.

EPA did not challenge the fuel producers' standing in the D. C. Circuit. California, as well as other States adopting California's regulations, intervened to defend EPA's approval. California argued that the fuel producers lacked standing because automobile manufacturers would not change course if EPA's decision were vacated given the "surging consumer demand" for electric vehicles. The D. C. Circuit held that the fuel producers lacked Article III standing, finding they failed to establish that automakers would likely respond to invalidation of the regulations by producing fewer electric vehicles and more gasoline-powered vehicles.



EPA v. CALUMET

SHREVEPORT REFINING

Argued Mar. 25, 2025 Decided June 18, 2025



OKLAHOMA v. EPA

Argued Mar. 25, 2025 Decided June 18, 2025

SUPREME COURT OF THE UNITED STATES

Syllabus

OKLAHOMA ET AL. v. ENVIRONMENTAL PROTECTION AGENCY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT

No. 23–1067. Argued March 25, 2025—Decided June 18, 2025*

The Clean Air Act (CAA) channels challenges to Environmental Protection Agency (EPA) actions to the U. S. Court of Appeals for the D. C. Circuit if the actions are “nationally applicable,” and to a regional Circuit if they are “locally or regionally applicable.” 42 U. S. C. §7607(b)(1). The CAA contains an exception for certain “locally or regionally applicable” actions “based on a determination of nationwide scope or effect,” which also must be brought in the D. C. Circuit. *Ibid.*

In 2015, EPA revised the national ambient air quality standards (NAAQS) for ozone to be more stringent. Each State submitted a state implementation plan (SIP) detailing how it would comply with the CAA’s “Good Neighbor” provision, which requires SIPs to “contain adequate provisions” “prohibiting” in-state emissions activity that would interfere with other States’ NAAQS compliance. §7410(a)(2)(D)(i)(I). EPA ultimately disapproved 21 States’ SIPs for failure to comply with the Good Neighbor provision. These States had asserted they did not need to propose new emissions-reduction measures, but EPA disagreed after considering the “contents of each individual State’s submission” “on its own merits” and making individual determinations for each SIP. 88 Fed. Reg. 9354.

EPA aggregated its disapprovals into one omnibus Federal Register rule describing EPA’s “4-step framework” for evaluating SIP submissions. EPA asserted in the rule that its disapprovals would be reviewable only in the D. C. Circuit as either nationally applicable actions or, alternatively, as locally or regionally applicable actions falling within



EPA

United States
Environmental Protection
Agency

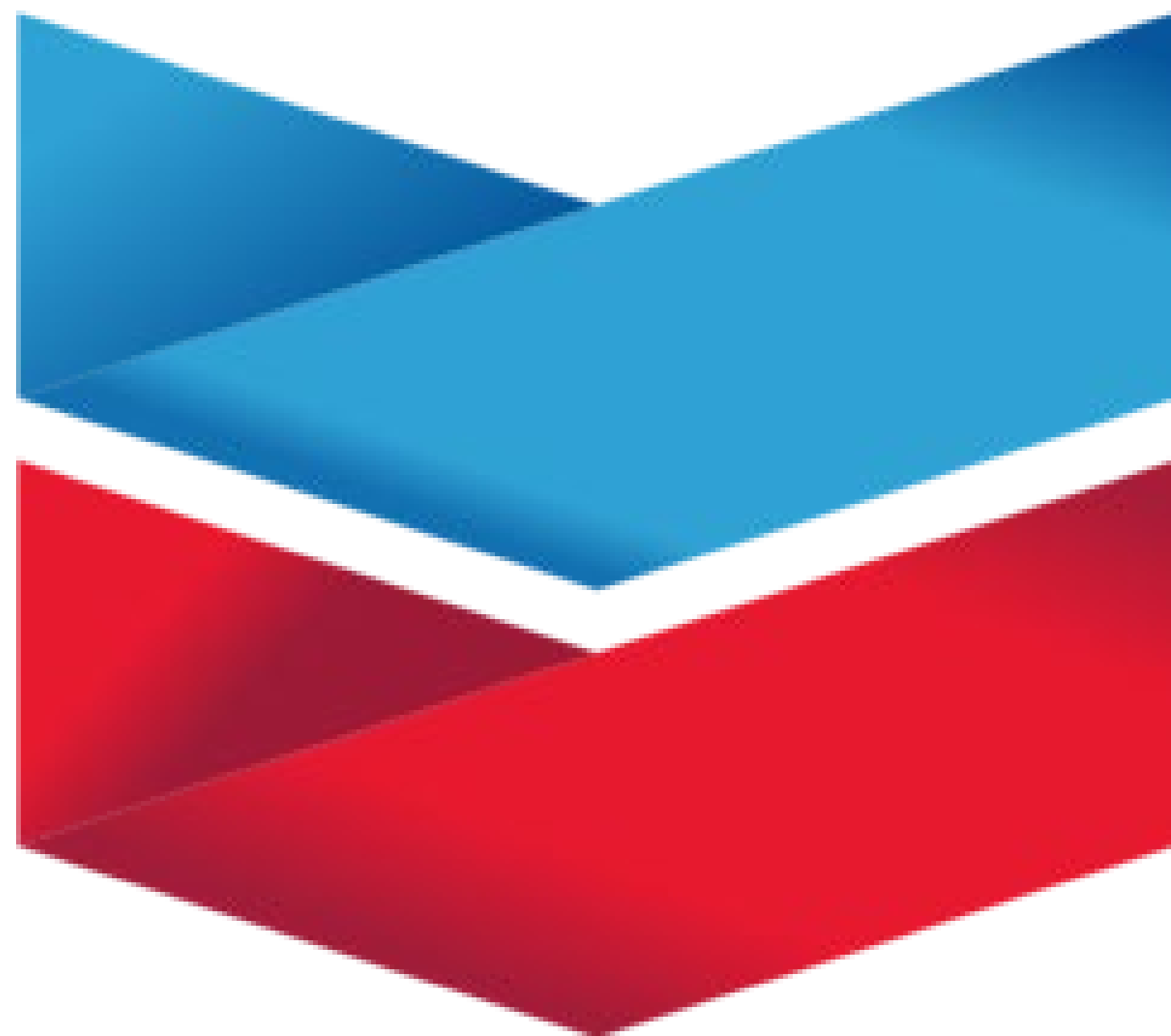
Cases Decided in the 2025-2026 Term

CHEVRON, U.S.A. V. PLAQUEMINES PARISH

No. 24-813

Argued Jan. 10, 2026 Decided Apr. 17, 2026

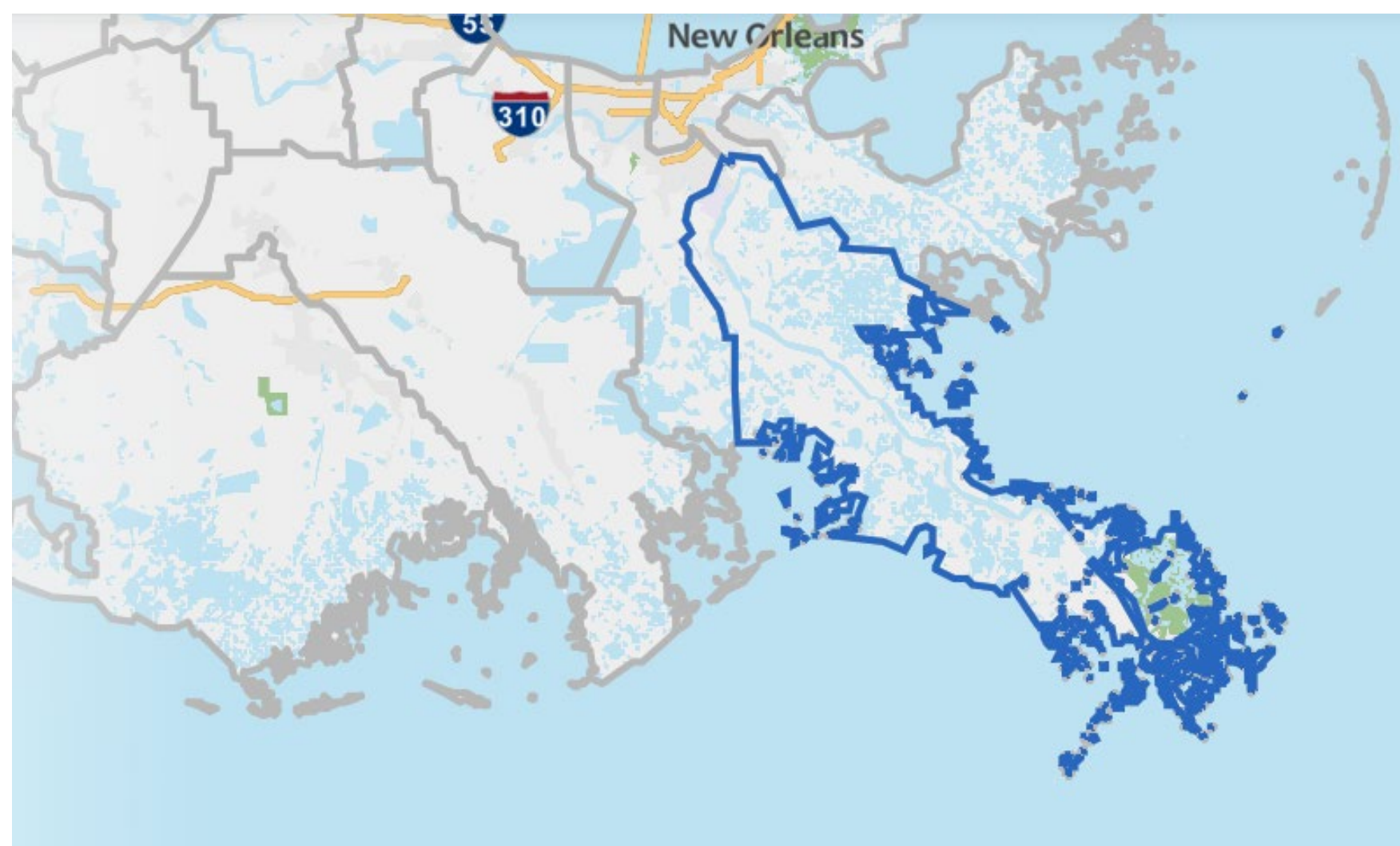
Chevron



Plaquemines Parish, Louisiana

Plaquemines Parish, Louisiana has 780.6 square miles of land area and is the 22nd largest county in [Louisiana](#) by total area.

Plaquemines Parish, Louisiana is bordered by [Orleans Parish, Louisiana](#), [Jefferson Parish, Louisiana](#), and [St. Bernard Parish, Louisiana](#).



ENBRIDGE ENERGY LP v. NESSEL

No. 24-783

Argued Feb. 24, 2026 Decided Apr. 22, 2026



**Michigan Attorney General
Dana Nessel**



Supreme Court will hear appeal by
maker of popular Roundup weedkiller
to block thousands of lawsuits



MONSANTO CO. V. DURNELL

No. 24-1068

Argued Apr. 27, 2026 Decided June 25, 2026

Petitions Denied for the 2026-2027 Term

ALASKA v. UNITED STATES

No. 25-320

Cert. denied Jan. 12, 2026

Whether the United States can regulate fishing on Alaska’s navigable waters under the Alaska National Interest Lands Conservation Act, when its statutory authority is limited to “public lands” and that term is defined as “lands, waters, and interests therein ... the title to which is in the United States.”



SHELBY COUNTY V. COUSER

No. 25-419

Cert. denied, Jan. 12, 2026

Whether a state or local law regulating the location or routing of an interstate pipeline is a preempted “safety standard” under the Pipeline Safety Act when a court concludes that the law was primarily motivated by safety concerns.

RMS OF GEORGIA, LLC v. EPA
No. 25-1079
Cert. denied June 22, 2026

Whether Congress violated the
nondelegation doctrine in the
American Innovation and
Manufacturing Act of 2020



Upcoming Cases in the 2026-2027 Term

**SUNCOR ENERGY, INC. v. COMMISSIONERS OF
BOULDER COUNTY**

No. 24-1068

Cert. granted Feb. 23, 2026

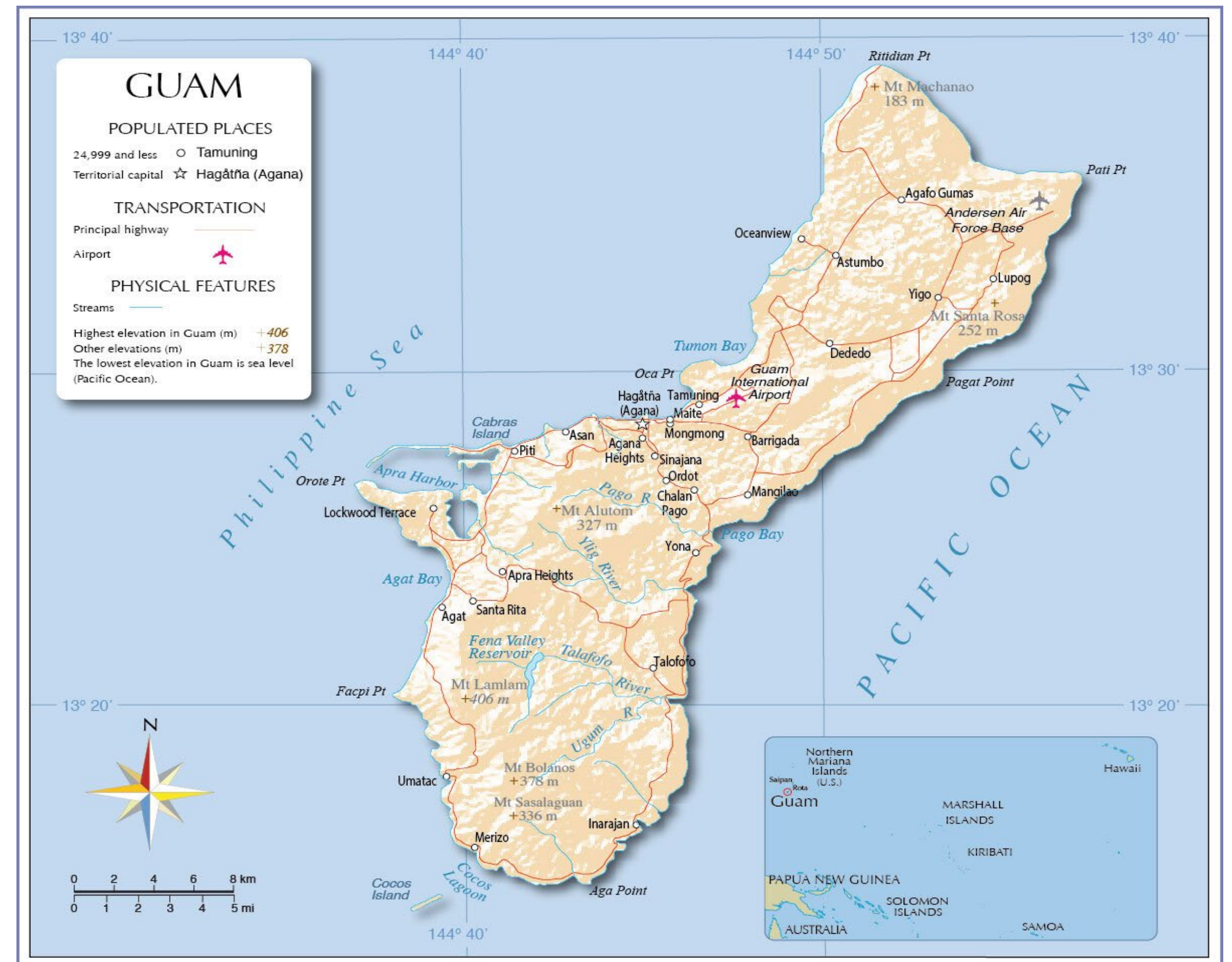
(1) Whether federal law precludes state-law claims seeking relief for injuries allegedly caused by the effects of interstate and international greenhouse-gas emissions on the global climate; and (2) Whether this court has statutory and Article III jurisdiction to hear this case

DEPARTMENT OF THE AIR FORCE V. GUAHAN

No. 25-579

Cert. granted Mar. 9, 2026

(1) Whether the federal government's submission to a state or territorial regulator of an application to renew a Resource Conservation and Recovery Act of 1976 (RCRA) permit is “final agency action” that is immediately reviewable under the Administrative Procedure Act; and (2) whether the federal government must comply with the general environmental-review procedures of the National Environmental Policy Act of 1969, before submitting a permit-renewal application under RCRA, which sets forth its own specific procedures to review environmental impacts in the context of hazardous-waste treatment.



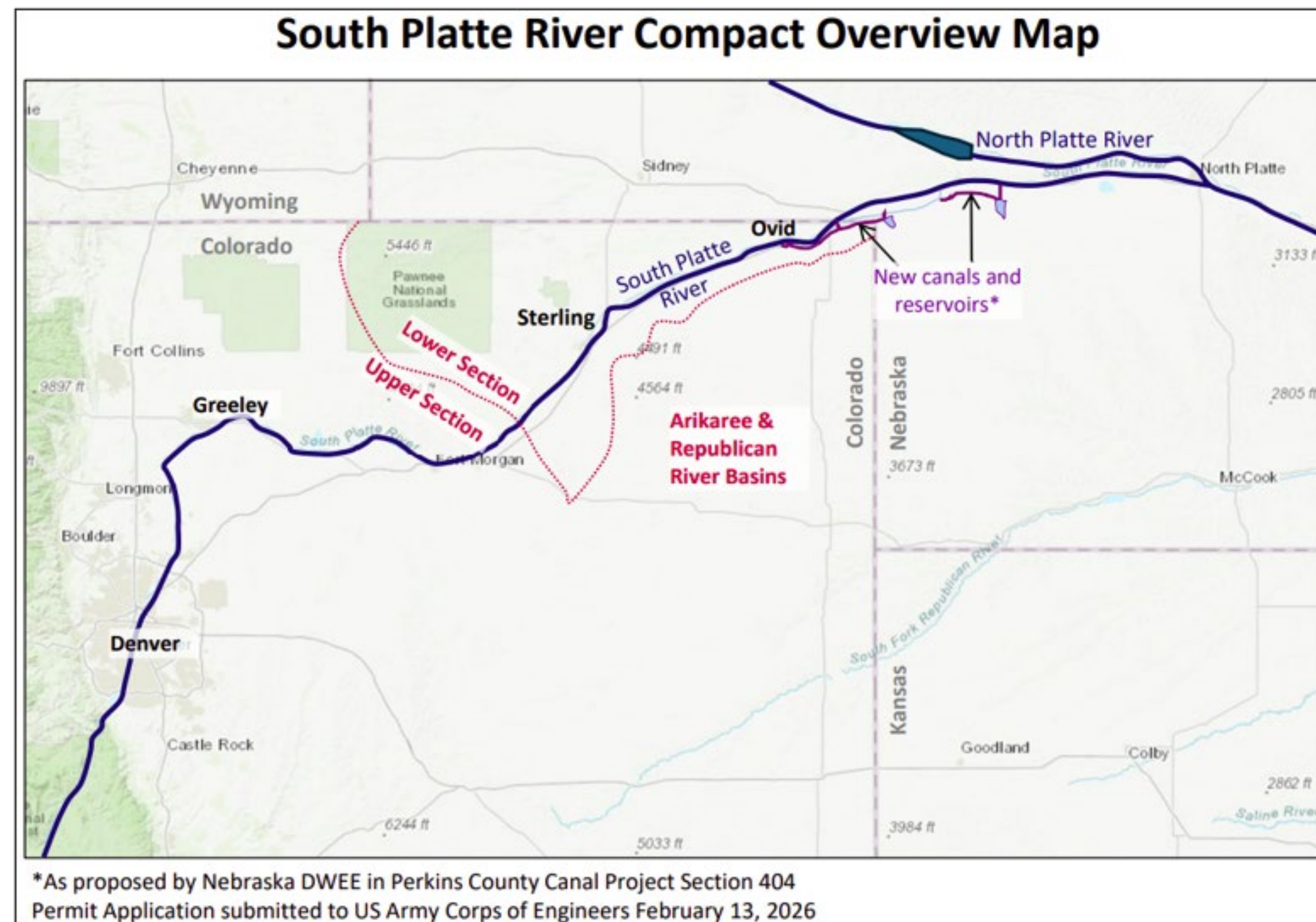
**HOFFMAN V. WBI ENERGY TRANSMISSION,
No. 25-159
Cert. granted June 29, 2026**



**Whether in private
condemnations under
the Natural Gas Act,
just compensation
should be determined
by reference to state
law.**

NEBRASKA V. COLORADO, No. 220161

Mot. for leave to file bill of complaint granted,
June 29, 2026



Final Thoughts

