

THE STATISTICS

Since 1949, the *Review* has published statistical tables tracking the business of the Court.¹ What follows is a description of the contents of these tables, along with a brief explanation of their compilation. *The Statistics* is divided into three tables for analytical clarity: Table I examines the voting patterns within the Court, including actions of the individual Justices, voting alignments, and the formation of majorities in divisive cases. Table II examines the business of the Court as a whole, including its review of lower court decisions and its action on petitions for writs of certiorari. Table III examines the subject matter of opinions issued by the Court.

Explanation of Terms. — Before discussing the construction and substance of each table, it may be helpful to explain a few of the terms used throughout *The Statistics*.

A full opinion is a signed decision of the Court disposing of a case on its merits or a per curiam decision disposing of a case on its merits and containing substantial legal reasoning.² During the 2004 Term, four per curiam decisions contained legal reasoning substantial enough to be considered full opinions.³

A memorandum decision is a case decided by summary order and issued in the Court's weekly order lists throughout the Term. The memorandum tabulations include memorandum orders disposing of cases on the merits by affirming, reversing, vacating, or remanding. They exclude orders disposing of petitions for certiorari, dismissing writs of certiorari as improvidently granted, dismissing appeals for lack of jurisdiction, disposing of miscellaneous applications, and certifying questions for review. The Court's decision in *Medellín v. Dretke*,⁴ for example, is considered neither a full opinion nor a memorandum decision.

¹ *The Supreme Court, 1948 Term—The Business of the Court*, 63 HARV. L. REV. 119 (1949).

² In order to assess the scope of the Court's business more accurately, the *Review* has eschewed the customary distinction classifying all unsigned opinions as memorandum opinions in favor of a more flexible standard characterizing each unsigned opinion according to its length and "the extent to which the Court elaborates upon the issues involved." *The Supreme Court, 1967 Term—The Statistics*, 82 HARV. L. REV. 301, 302 (1968). The *Review* presumes that per curiam decisions included on the Supreme Court website's "2004 Term Opinions of the Court" page have sufficient legal reasoning to merit classification as full opinions. See Supreme Court of the United States, 2004 Term Opinions of the Court, <http://www.supremecourtus.gov/opinions/04slipopinion.html> (last visited Oct. 9, 2005).

³ See *Bell v. Cone*, 125 S. Ct. 847 (2005) (per curiam); *Brousseau v. Haugen*, 125 S. Ct. 596 (2004) (per curiam); *City of San Diego v. Roe*, 125 S. Ct. 521 (2004) (per curiam); *Smith v. Texas*, 125 S. Ct. 400 (2004) (per curiam).

⁴ 125 S. Ct. 2088 (2005) (writ dismissed as improvidently granted).

A decision is considered unanimous only when all Justices hearing the case concurred in the Court's opinion as well as in its judgment. If at least one Justice concurred in the judgment, even in part, or dissented, even in part, the decision is treated as non-unanimous for purposes of Table I. Thus, the *Review* treats *Cherokee Nation of Oklahoma v. Leavitt*⁵ as unanimous despite Justice Scalia's reservations,⁶ whereas *San Remo Hotel, L.P. v. City of San Francisco*⁷ is not considered unanimous.

Table I: Voting Patterns Within the Court. — Table I examines the actions and voting patterns of the individual Justices. Except where otherwise indicated, Table I examines only full opinions.

Table I(A) catalogues the apportionment of the written work of the Court among the Justices, as well as the number of dissenting votes cast by each. The dissenting votes portion of Table I(A) records whenever a Justice voted to dispose of a case in any manner different from that specified by the majority of the Court and takes into account both full opinions and memorandum orders.

Tables I(B1) and I(B2) record how often the individual Justices agreed with one another; Table I(B1) includes all full opinions, whereas Table I(B2) records these voting alignments only for full opinions that the Court did not decide unanimously. Focusing on non-unanimous cases may provide a more accurate picture of how the Justices vote in divisive cases. Because the Justices tend to agree quite often, however, reading the two tables together provides the most complete picture of overall voting patterns.

In Tables I(B1) and I(B2), "O" represents the number of times that a particular set of two Justices agreed in opinions of the Court or opinions announcing the judgment of the Court. A Justice joined the opinion of the Court only if that Justice authored or joined at least part of the opinion of the Court, as indicated by either the Reporter of Decisions or the explicit statement of a Justice in the Justice's own opinion, and did not author or join any opinion concurring in the judgment, even in part, or dissenting, even in part. Thus, while Justices Scalia and Thomas are considered to have joined Chief Justice Rehnquist's opinion announcing the judgment of the Court in *Van Orden v. Perry*,⁸ Justice Breyer is not.⁹

"S" represents the number of decisions in which two Justices agreed in any opinion separate from the opinion of the Court. Such agreement, unconstrained by the need to encompass a five-Justice majority,

⁵ 125 S. Ct. 1172 (2005).

⁶ *Id.* at 1183 (Scalia, J., concurring in part).

⁷ 125 S. Ct. 2491 (2005).

⁸ 125 S. Ct. 2854 (2005) (plurality opinion).

⁹ *Id.* at 2868 (Breyer, J., concurring in the judgment).

may better represent philosophical agreement between two Justices than agreement in the opinion of the Court. Such separate opinions include concurrences, dissents, and those portions of an opinion of the Court not joined by at least four other Justices.¹⁰ Justices who together joined more than one separate opinion in a case are considered to have agreed only once. For the purpose of counting separate opinions, a Justice who joined an opinion in part is considered to have joined it fully. Thus, Chief Justice Rehnquist is treated as having joined Justice Thomas's dissent in *Clark v. Martinez*.¹¹ Furthermore, the tables treat two Justices as having agreed only if they joined the same opinion, even if they agreed in the result of the case and wrote separate opinions revealing little or no philosophical disagreement. Thus, Justice O'Connor is not considered to have joined Justice Souter's dissenting opinion in *Van Orden*.¹²

"D" represents the number of decisions in which two Justices agreed in a majority, plurality, dissenting, or concurring opinion. A decision is counted only once in the "D" category if two Justices joined the opinion of the Court, joined a separate concurrence, or both. "N" represents the number of decisions in which two Justices participated, and thus the number of opportunities for agreement. "P" represents the percentage of decisions in which two Justices agreed, calculated by dividing "D" by "N" and multiplying the resulting figure by 100.

Table I(C) highlights the degree of unanimity and dissent within the Court, both in full opinions and in memorandum orders.

Table I(D) reports the frequency with which individual Justices joined non-unanimous opinions of the Court and the frequency with which they agreed to dispose of cases in the same manner as did the majority.

Table I(E) records the groups of Justices forming majorities in this Term's 5-4 decisions. A decision is counted as 5-4 only if four Justices voted to dispose of the case or set of consolidated cases in a manner different from that specified by the majority of the Court. Plurality opinions in which the Justices divided 5-4 on the disposition are in-

¹⁰ In past years, only concurrences and dissents have counted as separate opinions for the purposes of assigning "S" credit. Thus, the practice of counting portions of the opinion of the Court as separate opinions is a break from precedent, but necessary to provide an accurate picture of voting alignments within the Court. For example, Part III-A of Justice Kennedy's opinion announcing the judgment of the Court in *Spector v. Norwegian Cruise Line Ltd.*, 125 S. Ct. 2169, 2181 (2005), was joined only by Justices Stevens, Souter, and Thomas, even though other parts of his opinion had garnered a majority of the Court. If Part III-A were not treated as a separate opinion, the substantial agreement between Justice Thomas and Justices Stevens, Kennedy, and Souter would go uncounted.

¹¹ 125 S. Ct. 716, 728 (2005) (Thomas, J., dissenting).

¹² 125 S. Ct. at 2891 (O'Connor, J., dissenting).

cluded.¹³ Cases in which there was a 5–4 split in the reasoning of the majority opinion but not in the disposition of the case are not included.¹⁴ Cases with multiple dispositions are counted as 5–4 if the Justices divided 5–4 with respect to any one disposition.¹⁵

Table II: The Business of the Whole Court. — Table II examines the business of the Court as a whole, including the management of its docket and its oversight of lower courts. Except where otherwise indicated, Table II examines the entire docket of the Court including full opinions, memorandum orders, and petitions for certiorari denied, dismissed, or withdrawn. This table includes both the appellate docket, which consists of all paid cases, and the miscellaneous docket, which consists of all cases filed *in forma pauperis*. Tables II(A), II(B), and II(C) are prepared from statistics compiled each year by the Supreme Court.¹⁶

Table II(A) outlines the Court’s management of its docket for the 2004 Term. The table examines the appellate and miscellaneous dockets, as well as the Court’s original jurisdiction cases, in outlining how much work has been done over the course of the Term and how much remains for the 2005 Term.

Table II(B) reports the number of cases granted review on each of the dockets and the percentage of cases granted review out of the number of petitions considered.

Table II(C) reviews the total number of cases decided through each method of disposition, as derived from Table II(A).

Table II(D) records the disposition of cases decided on the merits and reviewed on writ of certiorari. This breakdown of dispositions on the merits may clarify the reasoning of the Court in granting certiorari to some cases but not to others.

Table II(E) reports the origin and disposition of each case on which the Court reached the merits.

Table III: The Subject Matter of Full Opinions. — Table III records the subject matter of dispositions by full opinion. Table III initially classifies each case based on the court of origin and the nature of the proceeding, such as civil or criminal.

Table III divides cases according to the parties involved: a civil case, for example, can be either federal government litigation, state or local government litigation, or private litigation. Federal government litigation cases are further subdivided based on the type of case — a

¹³ See, e.g., *id.* at 2854 (plurality opinion).

¹⁴ See, e.g., *San Remo Hotel, L.P. v. City of San Francisco*, 125 S. Ct. 2491 (2005).

¹⁵ See, e.g., *McConnell v. FEC*, 124 S. Ct. 619 (2003).

¹⁶ See October Term 2004, Statistical Sheet No. 28 (June 28, 2005) (unpublished statistical sheet, on file with the Harvard Law School Library).

taxation case, review of an administrative action, or some other action involving the federal government as a party.

A principal issue is also discerned from each case, whether it be the interpretation of a statute, such as the Age Discrimination in Employment Act,¹⁷ or a constitutional challenge, such as an Equal Protection Clause claim.¹⁸ Once the principal issue has been decided, the case is categorized as primarily constitutional or not.¹⁹ Finally, a case is counted as “for the government” only if the government as a party prevailed on all of the issues before the Court and “against the government” only if the party opposing the government prevailed on all of the issues before the Court. If the government prevailed on at least one but not all of the issues before the Court, the decision is counted as neither “for the government” nor “against the government.”

¹⁷ See *Smith v. City of Jackson*, 125 S. Ct. 1536 (2005).

¹⁸ See, e.g., *Johnson v. California*, 125 S. Ct. 1141 (2005).

¹⁹ Cases invoking a mixture of statutory interpretation and constitutional adjudication are particularly difficult to classify. Compare, e.g., *Shepard v. United States*, 125 S. Ct. 1254 (2005) (primarily constitutional), with *Clark v. Martinez*, 125 S. Ct. 716 (2005) (primarily not constitutional).

TABLE I^a
(A) ACTIONS OF INDIVIDUAL JUSTICES

	OPINIONS WRITTEN ^b				DISSENTING VOTES		
	Opinions of Court ^c	Concur- rences ^d	Dissents ^d	TOTAL	In Disposition by		
					Opinion	Memo- randum ^e	TOTAL
Rehnquist	7	1	1	9	16	0	16
Stevens	8	9	13	30	21	1	22
O'Connor	8	5	5	18	10	0	10
Scalia	9	9	8	26	20	0	20
Kennedy	9	5	5	19	11	0	11
Souter	8	4	6	18	15	0	15
Thomas	8	11	15	34	21	0	21
Ginsburg	8	5	7	20	17	0	17
Breyer	10	12	3	25	10	0	10
Per Curiam	4	—	—	4	—	—	—
Total	79	61	63	203	141	1	142

^a For a description of Table I and its compilation, see *supra* pp. 415–18. One decision this Term, *United States v. Booker*, 125 S. Ct. 738 (2005), contained two opinions of the Court written by Justices Stevens and Breyer. This table treats each opinion for the Court in *Booker* as its own full opinion to highlight the divisions within the Court. Table I(A) accords Justice Stevens the opinion for the Court with respect to the merits portion of *Booker*, whereas Justice Breyer is credited with having written a dissenting opinion for that part. Conversely, Justice Breyer wrote the opinion of the Court as to *Booker's* remedy and Justice Stevens, along with Justices Scalia and Thomas, dissented thereto. Similarly, Tables I(B1) and I(B2) apportion voting alignment credit as if each portion were its own full opinion, Tables I(C) and I(D) tabulate agreement within the Court as if each portion were its own full opinion, and Table I(E) includes both of *Booker's* 5–4 majority groups.

^b A concurrence or dissent is recorded as a written opinion whenever its author provided a reason, however brief, for his or her vote.

^c A plurality opinion announcing the judgment of the Court is counted as the opinion of the Court. Therefore, Justice Stevens's opinion in *Smith v. City of Jackson*, 125 S. Ct. 1536 (2005), is considered the opinion of the Court in that case.

^d Opinions concurring in part and concurring in the judgment are counted as concurrences. Opinions concurring in part and dissenting in part are counted as dissents.

^e Dissenting votes in memorandum decisions include instances in which Justices expressed that they would not dispose of the case by memorandum order. See, e.g., *Rodriguez v. Pataki*, 125 S. Ct. 627 (2004) (mem.).

TABLE I (continued)
 (B1) VOTING ALIGNMENTS — ALL WRITTEN OPINIONS

		Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
Rehnquist	O	—	30	48	41	48	36	42	34	40
	S	—	1	7	10	10	0	15	2	2
	D	—	31	55	50	55	36	56	35	42
	N	—	68	68	68	68	68	68	68	68
	P	—	45.6	80.9	73.5	80.9	52.9	82.4	51.5	61.8
Stevens	O	30	—	46	35	44	51	32	49	49
	S	1	—	3	3	3	16	2	18	10
	D	31	—	48	37	46	64	34	63	56
	N	68	—	79	79	79	79	79	79	79
	P	45.6	—	60.8	46.8	58.2	81.0	43.0	79.7	70.9
O'Connor	O	48	46	—	48	58	51	47	49	57
	S	7	3	—	2	5	1	6	2	6
	D	55	48	—	50	63	51	53	50	61
	N	68	79	—	79	79	79	79	79	79
	P	80.9	60.8	—	63.3	79.7	64.6	67.1	63.3	77.2
Scalia	O	41	35	48	—	49	42	49	39	43
	S	10	3	2	—	7	4	19	5	2
	D	50	37	50	—	54	45	64	42	44
	N	68	79	79	—	79	79	79	79	79
	P	73.5	46.8	63.3	—	68.4	57.0	81.0	53.2	55.7
Kennedy	O	48	44	58	49	—	50	46	48	54
	S	10	3	5	7	—	2	8	3	3
	D	55	46	63	54	—	51	53	50	57
	N	68	79	79	79	—	79	79	79	79
	P	80.9	58.2	79.7	68.4	—	64.6	67.1	63.3	72.2
Souter	O	36	51	51	42	50	—	36	55	56
	S	0	16	1	4	2	—	1	19	12
	D	36	64	51	45	51	—	37	68	63
	N	68	79	79	79	79	—	79	79	79
	P	52.9	81.0	64.6	57.0	64.6	—	46.8	86.1	79.7
Thomas	O	42	32	47	49	46	36	—	32	39
	S	15	2	6	19	8	1	—	0	0
	D	56	34	53	64	53	37	—	32	39
	N	68	79	79	79	79	79	—	79	79
	P	82.4	43.0	67.1	81.0	67.1	46.8	—	40.5	49.4
Ginsburg	O	34	49	49	39	48	55	32	—	56
	S	2	18	2	5	3	19	0	—	16
	D	35	63	50	42	50	68	32	—	67
	N	68	79	79	79	79	79	79	—	79
	P	51.5	79.7	63.3	53.2	63.3	86.1	40.5	—	84.8
Breyer	O	40	49	57	43	54	56	39	56	—
	S	2	10	6	2	3	12	0	16	—
	D	42	56	61	44	57	63	39	67	—
	N	68	79	79	79	79	79	79	79	—
	P	61.8	70.9	77.2	55.7	72.2	79.7	49.4	84.8	—

TABLE I (continued)
 (B1) VOTING ALIGNMENTS — NON-UNANIMOUS CASES

		Rehnquist	Stevens	O'Connor	Scalia	Kennedy	Souter	Thomas	Ginsburg	Breyer
Rehnquist	O	—	11	29	22	29	17	23	15	21
	S	—	1	7	10	9	0	15	1	2
	D	—	12	36	31	36	17	37	16	23
	N	—	49	49	49	49	49	49	49	49
	P	—	24.5	73.5	63.3	73.5	34.7	75.5	32.7	46.9
Stevens	O	11	—	22	11	20	27	8	25	25
	S	1	—	2	3	3	16	2	17	9
	D	12	—	24	13	22	40	10	39	32
	N	49	—	55	55	55	55	55	55	55
	P	24.5	—	43.6	23.6	40.0	72.7	18.2	70.9	58.2
O'Connor	O	29	22	—	24	34	27	23	25	33
	S	7	2	—	2	5	1	6	2	5
	D	36	24	—	26	39	27	29	26	37
	N	49	55	—	55	55	55	55	55	55
	P	73.5	43.6	—	47.3	70.9	49.1	52.7	47.3	67.3
Scalia	O	22	11	24	—	25	18	25	15	19
	S	10	3	2	—	7	4	18	5	2
	D	31	13	26	—	30	21	40	18	20
	N	49	55	55	—	55	55	55	55	55
	P	63.3	23.6	47.3	—	54.5	38.2	72.7	32.7	36.4
Kennedy	O	29	20	34	25	—	26	22	24	30
	S	9	3	5	7	—	2	8	2	3
	D	36	22	39	30	—	27	29	26	33
	N	49	55	55	55	—	55	55	55	55
	P	73.5	40.0	70.9	54.5	—	49.1	52.7	47.3	60.0
Souter	O	17	27	27	18	26	—	12	31	32
	S	0	16	1	4	2	—	1	17	11
	D	17	40	27	21	27	—	13	44	39
	N	49	55	55	55	55	—	55	55	55
	P	34.7	72.7	49.1	38.2	49.1	—	23.6	80.0	70.9
Thomas	O	23	8	23	25	22	12	—	8	15
	S	15	2	6	18	8	1	—	0	0
	D	37	10	29	40	29	13	—	8	15
	N	49	55	55	55	55	55	—	55	55
	P	75.5	18.2	52.7	72.7	52.7	23.6	—	14.5	27.3
Ginsburg	O	15	25	25	15	24	31	8	—	32
	S	1	17	2	5	2	17	0	—	15
	D	16	39	26	18	26	44	8	—	43
	N	49	55	55	55	55	55	55	—	55
	P	32.7	70.9	47.3	32.7	47.3	80.0	14.5	—	78.2
Breyer	O	21	25	33	19	30	32	15	32	—
	S	2	9	5	2	3	11	0	15	—
	D	23	32	37	20	33	39	15	43	—
	N	49	55	55	55	55	55	55	55	—
	P	46.9	58.2	67.3	36.4	60.0	70.9	27.3	78.2	—

TABLE I (continued)

(C) UNANIMITY

	Unanimous	With Concurrence ^f	With Dissent	TOTAL
Full Opinions	24 (30.4%)	6 (7.6%)	49 (62.0%)	79
Memorandum Orders	817 (99.9%)	0 (0.0%)	1 (0.1%)	818

(D) VOTING PATTERNS IN NON-UNANIMOUS CASES

	JOINING THE OPINION OF THE COURT ^g			AGREEING IN THE DISPOSITION OF THE CASE ^h		
	Joined Court	Total Cases	Percentage	Agreed in Disposition	Total Cases	Percentage
Rehnquist	32	49	65.3%	33	49	67.3%
Stevens	31	55	56.4%	34	55	61.8%
O'Connor	42	55	76.4%	45	55	81.8%
Scalia	32	55	58.2%	35	55	63.6%
Kennedy	42	55	76.4%	44	55	80.0%
Souter	38	55	69.1%	40	55	72.7%
Thomas	30	55	54.5%	34	55	61.8%
Ginsburg	35	55	63.6%	38	55	69.1%
Breyer	41	55	74.5%	45	55	81.8%

^f A decision is listed in this column if at least one Justice concurred in the judgment but not in the Court's opinion, even in part, and no Justice dissented, even in part.

^g This portion of the table reports the number of times that each Justice joined the opinion of the Court. A Justice joined the opinion of the Court only if that Justice authored or joined at least part of the opinion of the Court, as indicated by either the Reporter of Decisions or the explicit statement of a Justice in the Justice's own opinion, and did not author or join any opinion concurring in the judgment, even in part, or dissenting, even in part.

^h This portion of the table reports the number of times that each Justice agreed with the Court's disposition of a case. It includes all cases in which a Justice joined the opinion of the Court but, unlike the portion of the table described in note g, also includes those cases in which a Justice concurred in the judgment without concurring in the opinion. Cases in which a Justice dissented in part are not included.

TABLE I (continued)
(E) 5–4 DECISIONS

Justices Constituting the Majority	Number of Decisions ⁱ
Rehnquist, O'Connor, Scalia, Kennedy, Thomas ⁱ	4
Stevens, O'Connor, Souter, Ginsburg, Breyer ^k	3
Stevens, Kennedy, Souter, Ginsburg, Breyer ^l	3
Rehnquist, Stevens, O'Connor, Kennedy, Thomas ^m	1
Rehnquist, O'Connor, Kennedy, Ginsburg, Breyer ⁿ	1
Rehnquist, O'Connor, Souter, Thomas, Ginsburg ^o	1
Rehnquist, Scalia, Kennedy, Souter, Thomas ^p	1
Rehnquist, Scalia, Kennedy, Thomas, Breyer ^q	1
Stevens, O'Connor, Scalia, Souter, Thomas ^r	1
Stevens, Scalia, Souter, Thomas, Ginsburg ^s	1
Scalia, Kennedy, Souter, Ginsburg, Breyer ^t	1
Total	18

ⁱ This column lists the number of 5–4 decisions in which each five-Justice group constituted the majority.

^j *Bell v. Thompson*, 125 S. Ct. 2825 (2005) (Kennedy, J.); *Dodd v. United States*, 125 S. Ct. 2478 (2005) (O'Connor, J.); *Pace v. DiGuglielmo*, 125 S. Ct. 1807 (2005) (Rehnquist, C.J.); *Jama v. Immigration & Customs Enforcement*, 125 S. Ct. 694 (2004) (Scalia, J.).

^k *McCreary County v. ACLU of Ky.*, 125 S. Ct. 2722 (2005) (Souter, J.); *Rompilla v. Beard*, 125 S. Ct. 2456 (2005) (Souter, J.); *Jackson v. Birmingham Bd. of Educ.*, 125 S. Ct. 1497 (2005) (O'Connor, J.).

^l *Kelo v. City of New London*, 125 S. Ct. 2655 (2005) (Stevens, J.); *Spector v. Norwegian Cruise Line Ltd.*, 125 S. Ct. 2169 (2005) (Kennedy, J.); *Roper v. Simmons*, 125 S. Ct. 1183 (2005) (Kennedy, J.).

^m *Pasquantino v. United States*, 125 S. Ct. 1766 (2005) (Thomas, J.). *Pasquantino* was the first 5–4 decision in which these Justices formed the majority.

ⁿ *United States v. Booker*, 125 S. Ct. 738, 756 (2004) (Breyer, J., delivering the opinion of the Court in part). *Booker* was the first 5–4 decision in which these Justices formed the majority.

^o *Johnson v. United States*, 125 S. Ct. 1571 (2005) (Souter, J.). *Johnson* was the first 5–4 decision in which these Justices formed the majority.

^p *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 125 S. Ct. 2611 (2005) (Kennedy, J.).

^q *Van Orden v. Perry*, 125 S. Ct. 2854 (2005) (Rehnquist, C.J.) (plurality opinion).

^r *Smith v. Massachusetts*, 125 S. Ct. 1129 (2005) (Scalia, J.). *Smith* was the first 5–4 decision in which these Justices formed the majority.

^s *Booker*, 125 S. Ct. at 738 (Stevens, J., delivering the opinion of the Court in part).

^t *Granholm v. Heald*, 125 S. Ct. 1885 (2005) (Kennedy, J.). *Granholm* was the first 5–4 decision in which these Justices formed the majority.

TABLE II^a
(A) FINAL DISPOSITION OF CASES

	Disposed of	Remaining on Docket
Original Docket	0	4
Appellate Docket	1693	354^b
On Review ^c	75	
Summarily Decided ^d	89	
Appeals and Petitions for Review		
Denied, Dismissed, or Withdrawn ^e	1529	
Miscellaneous Docket	5808	734^b
On Review ^c	10	
Summarily Decided ^d	737	
Appeals and Petitions for Review		
Denied, Dismissed, or Withdrawn ^e	5061	
Total	7501	1092

^a For a description of Table II and its compilation, see *supra* pp. 415–16, 418.

^b The number of cases remaining on the appellate and miscellaneous dockets are derived by adding the number of cases not acted upon in the 2004 Term to the number of cases granted review in the 2004 Term but carried over to the 2005 Term.

^c This category encompasses all cases granted plenary review in the 2004 Term or a prior Term and disposed of during the 2004 Term. The total excludes cases granted review but carried over to a subsequent Term. This number may include writs dismissed after review was granted. *See, e.g.*, *Medellín v. Dretke*, 125 S. Ct. 2088 (2005) (writ dismissed as improvidently granted). This category was introduced in 1998 to represent the number of cases disposed of in a Term more accurately. *See The Supreme Court, 1997 Term—The Statistics*, 112 HARV. L. REV. 366, 372 (1998).

^d This category includes cases summarily affirmed, reversed, or vacated.

^e This category primarily includes dismissals of appeals and denials of petitions for writs of certiorari. It also includes withdrawals of appeals and denials of other applications for review, such as petitions for writs of habeas corpus or mandamus.

TABLE II (continued)
(B) CASES GRANTED REVIEW^f

	Review Granted ^g	Petitions Considered ^h	Percent Granted
Appellate Docket	69	1727	4.0%
Miscellaneous Docket	11	5815	0.2%
Total	80	7542	1.1%

(C) METHOD OF DISPOSITIONⁱ

On Review	85
Summarily Decided	826
By Denial, Dismissal, or Withdrawal of Appeals or Petitions for Review	6590
Total	7501 ^j

(D) DISPOSITION OF CASES
REVIEWED ON WRIT OF CERTIORARI^k

	Reversed ^l	Vacated ^m	Affirmed	TOTAL
Full Opinions	48 (57.8%)	12 (14.5%)	23 (27.7%)	83
Memorandum Orders	0 (0.0%)	817 (99.9%)	1 (0.1%)	818
Total	48 (5.3%)	829 (92.0%)	24 (2.7%)	901

^f Table II(B) reports data that versions of Table II prior to 1998 reported under the label "Review Granted." For a full explanation, see *The Supreme Court, 1997 Term—The Statistics*, 112 HARV. L. REV. 366, 372 (1998). Table II(B) does not include cases within the Court's original jurisdiction.

^g The number of cases granted review includes only those cases granted plenary review in the 2004 Term. It includes neither those cases summarily decided nor those granted review in a previous Term and carried over to the 2004 Term. It does include cases granted review in the 2004 Term but carried over to a subsequent Term.

^h The number of petitions considered is calculated by adding the number of cases docketed in the 2004 Term to the number of cases carried over from prior Terms and subtracting the number of cases not acted upon in the 2004 Term.

ⁱ Table II(C) does not include cases within the Court's original jurisdiction.

^j The Court's disposal of 7501 cases this Term was its lowest caseload in four years, even though the Court summarily vacated hundreds of cases after it handed down *Booker*. See, e.g., *Meza v. United States*, 125 S. Ct. 984 (2005) (mem.) (granting the writ of certiorari, vacating the lower court judgment, and remanding the case for consideration in light of *Booker*). The Court disposed of more cases in October Term 2003 (7781), October Term 2002 (8342), and October Term 2001 (8024). See *The Supreme Court, 2003 Term—The Statistics*, 118 HARV. L. REV. 497, 504 tbl.II(A) n.h (2004).

^k Table II(D) reports the disposition of cases reviewed via writ of certiorari and decided on the merits. It thus excludes two full opinions rendered by the Court in the 2004 Term. See *Alaska v. United States*, 125 S. Ct. 2137 (2005) (original jurisdiction); *Kansas v. Colorado*, 125 S. Ct. 526 (2004) (same).

^l This category includes cases reversed in part and affirmed in part; cases reversed in part and vacated in part; and cases reversed in part, vacated in part, and affirmed in part. See, e.g., *Bradshaw v. Stumpf*, 125 S. Ct. 2398 (2005) (reversed in part and vacated in part).

^m This category includes cases vacated in part and affirmed in part.

TABLE II (continued)
 (E) ORIGINS OF CASES AND THEIR DISPOSITIONSⁿ

	FULL OPINIONS ^o			MEMORANDUM ORDERS			Total
	Reversed ^p	Vacated ^q	Affirmed	Reversed	Vacated	Affirmed	
Federal Courts	43	9	19	0	802	1	874
Circuit Courts	43	8	19	0	801	0	871
First	3	0	0	0	28	0	31
Second	2	0	0	0	31	0	33
Third	3	0	1	0	37	0	40
Fourth	2	0	1	0	82	0	86
Fifth	4	1	2	0	221	0	228
Sixth	7	0	4	0	84	0	94
Seventh	1	0	1	0	27	0	29
Eighth	1	2	1	0	42	0	46
Ninth	12	4	3	0	62	0	81
Tenth	3	0	0	0	34	0	37
Eleventh	5	0	5	0	147	0	158
D.C.	0	0	0	0	6	0	6
Federal	0	1	1	0	0	0	2
District Courts ^r	0	1	0	0	1	1	3
State Courts	5	3	4	0	16	0	27
Total	48	12	23	0	818	1	901

ⁿ Table II(E) does not include cases within the Court's original jurisdiction. It thus excludes two full opinions rendered by the Court in the 2004 Term. See *Alaska v. United States*, 125 S. Ct. 2137 (2005); *Kansas v. Colorado*, 125 S. Ct. 526 (2004). The table treats consolidated cases disposed of by the same lower court opinion as a single case.

^o This section of Table II(E) reports only full opinions, including four per curiam decisions containing sufficient legal reasoning to be counted as full opinions. See *supra* p. 415.

^p This category includes cases reversed in part and affirmed in part; cases reversed in part and vacated in part; and cases reversed in part, vacated in part, and affirmed in part. See, e.g., *Bradshaw v. Stumpf*, 125 S. Ct. 2398 (2005) (reversed in part and vacated in part).

^q This category includes cases vacated in part and affirmed in part.

^r This category includes statutorily authorized direct appeals from district courts. See, e.g., *McConnell v. FEC*, 124 S. Ct. 619 (2003). It also includes cases in which certiorari was granted after a decision by a district court but before a judgment by a court of appeals. See, e.g., *United States v. Booker*, 125 S. Ct. 738 (2005).

TABLE III^a
SUBJECT MATTER OF DISPOSITIONS WITH FULL OPINIONS

	Principal Issue		Decision		Total
	Constitutional	Other	For Gov't ^b	Against Gov't ^b	
ORIGINAL JURISDICTION	0	2	1	0	2
CIVIL ACTIONS FROM INFERIOR					
FEDERAL COURTS	15	29	20	9	44
FEDERAL GOVERNMENT LITIGATION	2	7	6	3	9
<i>Taxation</i>	0	2	1	1	2
<i>Review of Administrative Action</i>	1	2	2	1	3
<i>Chevron Doctrine</i>	0	1	1	0	1
Freedom of Speech	1	0	1	0	1
Immigration and Nationality Act	0	1	0	1	1
<i>Other Actions by or Against the United States or Its Officers</i>	1	3	3	1	4
Commerce Clause	1	0	1	0	1
Federal Indian Law	0	1	0	1	1
Federal Sovereign Immunity	0	1	1	0	1
National Security	0	1	1	0	1

^a For a description of Table III and its compilation, see *supra* pp. 415–16, 418–19.

^b “Government” refers to federal, state, or local government or an agency thereof, or to an individual participating in the suit in an official capacity. When the federal government opposed a state or local government, a decision is counted as “for the government” if the federal government prevailed. When two states, two units of local government, or two federal agencies opposed each other, the decision is counted as neither “for the government” nor “against the government.”

TABLE III (continued)
 SUBJECT MATTER OF DISPOSITIONS WITH FULL OPINIONS

	Principal Issue		Decision		TOTAL
	Constitutional	Other	For Gov't	Against Gov't	
STATE OR LOCAL GOVERNMENT LITIGATION	13	8	14	6	21
Age Discrimination in Employment Act	0	1	0	0	1
Dormant Commerce Clause	1	0	0	1	1
Due Process	2	0	2	0	2
Equal Protection	1	0	0	1	1
Establishment Clause	3	0	1	2	3
False Claims Act	0	1	1	0	1
Federal Indian Law	0	1	1	0	1
Freedom of Association	1	0	1	0	1
Freedom of Speech	1	0	1	0	1
Full Faith and Credit Statute	0	1	1	0	1
Qualified Immunity	1	0	1	0	1
Search and Seizure	2	0	2	0	2
Section 1983	0	2	1	1	2
Standing	0	1	1	0	1
Takings Clause	1	0	1	0	1
Title IX	0	1	0	1	1
PRIVATE LITIGATION	0	14	—	—	14
<i>Federal Question Jurisdiction</i>	0	11	—	—	11
Americans with Disabilities Act	0	1	—	—	1
Bankruptcy	0	1	—	—	1
Comprehensive Environmental Response, Compensation, and Liability Act	0	1	—	—	1
Intellectual Property	0	3	—	—	3
Longshore and Harbor Workers' Compensation Act	0	1	—	—	1
Preemption	0	1	—	—	1
Removal	0	1	—	—	1
Securities Exchange Act	0	1	—	—	1
Truth in Lending Act	0	1	—	—	1
<i>Diversity Jurisdiction</i>	0	3	—	—	3
Admiralty	0	1	—	—	1
<i>Rooker-Feldman</i> Doctrine	0	1	—	—	1
Supplemental Jurisdiction	0	1	—	—	1

TABLE III (*continued*)
 SUBJECT MATTER OF DISPOSITIONS WITH FULL OPINIONS

	Principal Issue		Decision		TOTAL
	Constitu- tional	Other	For Gov't	Against Gov't	
FEDERAL CRIMINAL CASES	2	4	2	3	6
Jury Instructions	0	1	0	1	1
Sentencing	2	0	0	1	2
Statutory Interpretation	0	3	2	1	3
FEDERAL HABEAS CORPUS	2	12	7	5	14
AEDPA Deference	0	2	2	0	2
<i>Batson</i> Doctrine	1	0	0	1	1
Federal Rules of Appellate Procedure	0	1	1	0	1
Federal Rules of Civil Procedure	0	1	0	0	1
Immigration and Nationality Act	0	2	1	1	2
Right to Counsel	1	0	0	1	1
Self-Incrimination	0	1	0	0	1
Time Bars to Postconviction Relief	0	5	3	2	5
CIVIL ACTIONS FROM STATE COURTS	3	1	3	0	4
STATE OR LOCAL GOVERNMENT LITIGATION	2	1	3	0	3
Dormant Commerce Clause	1	0	1	0	1
Preemption	0	1	1	0	1
Takings Clause	1	0	1	0	1
PRIVATE LITIGATION	1	0	—	—	1
Freedom of Speech	1	0	—	—	1
STATE CRIMINAL CASES	8	0	2	6	8
<i>Batson</i> Doctrine	1	0	0	1	1
Cruel and Unusual Punishment	1	0	0	1	1
Double Jeopardy	1	0	0	1	1
Due Process	1	0	0	1	1
Jury Instructions	1	0	0	1	1
Right to Counsel	2	0	1	1	2
Search and Seizure	1	0	1	0	1
Total	30	48	35	23	78