

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2005-2006

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Abrahamson, Bradley, Butler, Crooks	4	<i>Dairyland; Haferman; Brown County; Bartholomew</i>
Crooks, Wilcox, Prosser, Roggensack	3	<i>Young; 1325 N. Van Buren; Butler</i>
Butler, Crooks, Wilcox, Roggensack	1	<i>Royster-Clark</i>
Abrahamson, Bradley, Wilcox, Roggensack	1	<i>Brockdorf</i>
Bradley, Crooks, Wilcox, Roggensack	1	<i>Smith</i>
Abrahamson, Bradley, Butler, Prosser	1	<i>Fisher</i>
Abrahamson, Bradley, Butler, Roggensack	1	<i>Bonds</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	7
Bradley	8
Butler	7
Crooks	9
Wilcox	6
Prosser	4
Roggensack	7

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	2
Bradley	2
Butler	1
Crooks	1
Wilcox	3
Prosser	1
Roggensack	2
Total	12

Decisions by Vote Split¹

7-0 (or 6-0, 5-0, 4-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
43 (53%)	8 (10%)	18 (22%)	12 (15%)
<i>State v. Schulpius</i>	<i>State v. Mark</i>	<i>Wis. Auto Title Loans, Inc. v. Jones</i>	<i>Dairyland Greyhound Park v. Doyle</i>
<i>Orion Flight Servs. v. Basler Flight Serv.</i>	<i>State v. Tiepelman</i>	<i>All Star Rent a Car, Inc. v. Wis. DOT</i>	<i>Haferman v. St. Clare Healthcare Found., Inc.</i>
<i>Pinczkowski v. Milwaukee County</i>	<i>Drinkwater v. Am. Family Mut. Ins. Co.</i>	<i>State v. Roberson</i>	<i>Royster-Clark, Inc. v. Olsen's Mill, Inc.</i>
<i>State v. Maloney</i>	<i>Hanson v. Am. Family Mut. Ins. Co.</i>	<i>Warehouse II, LLC v. State DOT</i>	<i>State v. Young</i>
<i>Steinbach v. Green Lake Sanitary Dist.</i>	<i>Sonday v. Dave Kohel Agency, Inc.</i>	<i>Northwest Airlines, Inc. v. Wis. Dep't of Revenue</i>	<i>1325 N. Van Buren, LLC v. T-3 Group, Ltd.</i>
<i>Shaw v. Leatherberry</i>	<i>Sauk County v. Aaron J. J. (6-1 per curiam)</i>	<i>Burbank Grease Servs., LLC v. Sokolowski</i>	<i>Brown County v. Shannon R.</i>
<i>Landwehr v. Landwehr</i>	<i>Kontowicz v. Am. Std. Ins. Co. (5-1)</i>	<i>Rebernick v. Wausau Gen. Ins. Co.</i>	<i>State v. Brockdorf</i>
<i>Racine Harley-Davidson, Inc. v. State Div. of Hearings & Appeals</i>	<i>Rainbow Country Rentals v. Ameritech Publ (5-1)</i>	<i>State v. Shomberg</i>	<i>Butler v. Advanced Drainage Sys.</i>
<i>State v. Brown</i>		<i>State v. Campbell</i>	<i>State v. Smith</i>
<i>State v. Kelty</i>		<i>State v. Payano-Roman</i>	<i>Bartholomew v. Wis. Patients Comp. Fund</i>
<i>Hilton v. Dep't of Natural Res.</i>		<i>Yorgan v. Durkin</i>	<i>State v. Fisher</i>
<i>Teschendorf v. State Farm Ins. Cos.</i>		<i>State v. Marquardt</i>	<i>State v. Bonds</i>
<i>Huml v. Vlazny</i>		<i>State v. Anderson</i>	
<i>Fazio v. Dep't of Empl. Trust Funds</i>		<i>Spiegelberg v. State</i>	
<i>Zastrow v. Journal Communs., Inc.</i>		<i>Adams Outdoor Adver., Ltd. v. City of Madison</i>	
<i>Rocker v. USAA Cas. Ins.</i>		<i>Jackson County v. State Dep't of Natural Res.</i>	
<i>State ex rel. Coleman v. McCaughtry</i>		<i>Hoida, Inc. v. M&I Midstate Bank (4-2)</i>	
<i>Progressive N. Ins. Co. v. Hall</i>		<i>Kenosha County Dep't of Human Servs. v. Jodie W. (4-2)</i>	
<i>Robin K. v. Lamanda M.</i>			
<i>State v. Taylor</i>			

(continued on following page)

¹ In eight cases there were justices who concurred in part and dissented in part (*Dairyland* [Prosser, Roggensack, Wilcox]; *Mark* [Butler]; *Young* [Butler]; *Campbell* [Abrahamson, Butler]; *Marquardt* [Abrahamson, Butler]; *Bartholomew* [Prosser, Roggensack, Wilcox]; *Jackson County* [Abrahamson]; *Bonds* [Crooks, Wilcox, Prosser]). For this table, and those that follow, each of these votes was categorized as either a dissent or a concurrence according to the following guidelines. If a justice's opinion dissented from the result on one or more issues, it was classified as a dissent. If the opinion concurred with the result on all issues but disputed the majority's reasoning on one or more issues, it was classified as a concurrence. Accordingly, the votes in the eight cases listed above have been classified as dissents. In one or two instances the dividing line between a dissent and a concurrence was rather thin, and views might reasonably differ as to the opinion's proper classification. However, such ambiguous opinions amount to a minuscule fraction of the hundreds of votes cast, and thus they have a negligible effect on the tables presented here.

<i>Mair v. Trollhaugen Ski Resort</i>
<i>Maciolek v. City of Milwaukee Employees' Ret. Sys. Annuity & Pension Bd.</i>
<i>Vieau v. Am. Family Mut. Ins. Co.</i>
<i>State v. Booker</i>
<i>Welin v. Am. Family Mut. Ins. Co.</i>
<i>Megal Dev. Corp. v. Shadof</i>
<i>Richards v. First Union Sec., Inc.</i>
<i>Borst v. Allstate Ins. Co.</i>
<i>First Am. Title Ins. Co. v. Dahlmann</i>
<i>State v. Robert K.</i>
<i>Affordable Erecting, Inc. v. Neosho Trompler, Inc.</i>
<i>State v. Walker</i>
<i>State v. Hibl</i>
<i>Mueller v. McMillan Warner Ins. Co.</i>
<i>Wis. Mall Props., LLC v. Younkers, Inc.</i>
<i>Dominic J. Anderson v. Board of Bar Examiners (7-0 per curiam)</i>
<i>LaCount v. General Cas. Co. (6-0)</i>
<i>AKG Real Estate, LLC v. Kosterman (6-0)</i>
<i>State v. Beyer (6-0)</i>
<i>Vill. of Cross Plains v. Haanstad (6-0)</i>
<i>Metro. Ventures, LLC v. GEA Assocs.I (6-0)</i>
<i>Marder v. Bd. of Regents of the Univ. of Wis. Sys. (5-0)</i>
<i>Lassa v. Rongstad (4-0)</i>

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 2005, to August 31, 2006. The first chart includes all cases in which a justice voted, while the second chart includes only cases decided by split votes.

All Cases²

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	61	78	78%
Bradley	67	80	84%
Butler	66	81	81%
Crooks	75	78	96%
Wilcox	67	76	88%
Prosser	67	80	84%
Roggensack	70	80	88%

Non-Unanimous Decisions³

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	19	36	53%
Bradley	25	38	66%
Butler	23	38	61%
Crooks	34	37	92%
Wilcox	28	37	76%
Prosser	25	38	66%
Roggensack	28	38	74%

² Justice Abrahamson did not vote in *Rainbow Country Rentals v. Ameritech Publ.*; *Marder v. Bd. of Regents of the Univ. of Wis. Sys.*; and *Hoida, Inc. v. M&I Midstate Bank*. Justice Bradley did not vote in *Marder v. Bd. of Regents of the Univ. of Wis. Sys.* Justice Crooks did not vote in *Kenosha County Dep't of Human Servs. v. Jodie W.*; *LaCount v. General Cas. Co.*; and *Lassa v. Rongstad*. Justice Wilcox did not vote in *Vill. of Cross Plains v. Haanstad*; *Metro. Ventures, LLC v. GEA Assocs.*; *AKG Real Estate, LLC v. Kosterman*; *Kontowicz v. Am. Std. Ins. Co.*; and *Lassa v. Rongstad*. Justice Prosser did not vote in *State v. Beyer*. Justice Roggensack did not vote in *Lassa v. Rongstad*.

³ *Hoida, Inc. v. M&I Midstate Bank*; *Rainbow Country Rentals v. Ameritech Publ.*; *Kenosha County Dep't of Human Servs. v. Jodie W.*; and *Kontowicz v. Am. Std. Ins. Co.* were non-unanimous decisions.

Opinions Authored⁴

This chart indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals.

Opinion Author	7-0 (or 6-0, 5-0, 4-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
Abrahamson	7	0	2	2
Bradley	5	1	4	2
Butler	7	1	2	1
Crooks	6	3	1	1
Wilcox	6	2	0	3
Prosser	6	0	4	1
Roggensack	5	0	5	2

The chart below shows how many concurring and dissenting opinions each justice authored.⁵

Opinion Author	Concurring Opinions	Dissenting Opinions
Abrahamson	11	10
Bradley	3	8
Butler	6	7
Crooks	2	3
Wilcox	3	1
Prosser	5	8
Roggensack	4	8

⁴ Two *per curiam* decisions (*Sauk County v. Aaron J. J.* and *Dominic J. Anderson v. Board of Bar Examiners*) are not included in the tables on this page.

⁵ In eight cases there were justices who concurred in part and dissented in part (*Dairyland* [Prosser, Roggensack]; *Mark* [Butler]; *Young* [Butler]; *Campbell* [Butler]; *Marquardt* [Abrahamson]; *Bartholomew* [Prosser, Roggensack]; *Jackson County* [Abrahamson]; *Bonds* [Crooks]). The justices named here are those who wrote opinions, as opposed to joining opinions written by other justices. According to the guidelines outlined above, all of these opinions have been categorized as dissents.

Agreement Among Pairs of Justices

The following tables show the percentage of cases in which every possible pair of justices found themselves on the same side in a decision—either both in the majority or both dissenting. The first table covers all cases; the second table narrows its focus to cases in which decisions were not unanimous. When reading the first table, for instance, one finds that Justices Butler and Wilcox voted together in 68% of the cases, while the figure for Justices Crooks and Roggensack was 86%.

Agreement Between Pairs of Justices—All Cases

	Bradley	Butler	Crooks	Wilcox	Prosser	Roggensack
Abrahamson	70/78= 90%	65/78= 83%	55/75= 73%	47/73= 64%	53/77= 69%	50/77= 65%
	Bradley	60/80= 75%	61/77= 79%	53/75= 71%	55/79= 70%	56/79= 71%
		Butler	62/78= 79%	52/76= 68%	56/80= 70%	59/80= 74%
			Crooks	67/74= 91%	66/77= 86%	67/78= 86%
				Wilcox	66/75= 88%	71/76= 93%
					Prosser	64/79= 81%
						Roggensack

Agreement Between Pairs of Justices—Non-Unanimous Cases

	Bradley	Butler	Crooks	Wilcox	Prosser	Roggensack
Abrahamson	28/36= 78%	23/36= 64%	15/35= 43%	9/35= 26%	12/36= 33%	9/36= 25%
	Bradley	18/38= 47%	21/37= 57%	15/37= 41%	14/38= 37%	15/38= 39%
		Butler	21/37= 57%	13/37= 35%	14/38= 37%	17/38= 45%
			Crooks	29/36= 81%	26/37= 70%	26/37= 70%
				Wilcox	28/37= 76%	32/37= 86%
					Prosser	23/38= 61%
						Roggensack

Days Between Oral Argument and Opinion Filing

This table shows the average number of days between oral argument and the filing of majority opinions authored by each of the justices. Given that a variety of factors could influence the length of time between oral argument and the filing of an opinion in a particular case—including the time taken by other justices to write concurring or dissenting opinions—averages for individual justices should be compared over an extended period.

	Number of Majority Opinions Authored	Ave. No. of Days From Oral Argument to Opinion Filing
Abrahamson	11	101
Bradley	12	99
Butler	11	157
Crooks ⁶	10	113
Wilcox	11	123
Prosser	11	208
Roggensack	12	160

⁶ The total for Justice Crooks does not include *State v. Tiepelman*, in which there was no oral argument.

Number of Oral Arguments Presented

The following table displays firms and agencies that participated in at least two oral arguments during the twelve months under consideration.

Firms and Agencies	Number of Oral Arguments
Anderson, O'Brien, Bertz, Skrenes & Golla,	2
Bell, Gierhart & Moore, S.C.	3
Cannon & Dunphy, S.C.	2
Doar, Drill & Skow, S.C.	2
Eiche & Frakes, S.C.	2
Foley & Lardner LLP	5
Fuchs, DeStefanis & Boyle, S.C.	2
Habush Habush & Rottier S.C.	2
Hinshaw & Culbertson LLP	2
Kohler & Hart, LLP	2
LaFollette Godfrey & Kahn	2
Larowe, Gerlach & Roy	2
Legal Aid Society of Milwaukee, Inc.	2
Liebmann, Conway, Olejniczak & Jerry, S.C.	2
Michael Best & Friedrich LLP	6
Murphy Desmond S.C.	2
Peterson, Johnson & Murray, S.C.	4
Piper & Schmidt	2
Quarles & Brady LLP	3
Reinhart Boerner Van Deuren s.c.	6
Stafford Rosenbaum LLP	2
State Attorney General's Office	33
State Public Defender's Office	11
Whyte Hirschboeck Dudek S.C.	2