

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2012-2013

Four-to-Three Decisions<sup>1</sup>

4-3 Alignments

Justices	Total	Case Names
Prosser, Roggensack, Ziegler, Gableman	2	<i>Rock-Koshkonong; Starks</i>
Abrahamson, Bradley, Crooks, Prosser	2	<i>Outagamie County; Dane County DHS</i>
Crooks, Roggensack, Ziegler, Gableman	2	<i>Gracia; Buchanan</i>
Abrahamson, Bradley, Crooks, Roggensack	1	<i>Juneau County</i>
Bradley, Prosser, Roggensack, Ziegler	1	<i>Bethke</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	3
Bradley	4
Crooks	5
Prosser	5
Roggensack	6
Ziegler	5
Gableman	4

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	1
Bradley	2
Crooks	1
Prosser	2
Roggensack	0
Ziegler	1
Gableman	1
<b>Total</b>	<b>8</b>

<sup>1</sup> These three tables do not include *Dane County v. Sheila W. (In re Interest of Sheila W.)*, a 4-3 *per curiam* decision.

Decisions by Vote Split<sup>2</sup>

7-0 (or 5-0, 6-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
<b>19 (41%)</b>	<b>9 (20%)</b>	<b>9 (20%)</b>	<b>9 (20%)<sup>3</sup></b>
<i>State v. Sahs</i>	<i>State v. Neumann</i>	<i>State v. Steffes</i>	<i>Rock-Koshkonong Lake District v. State Dep't of Natural Res.</i>
<i>Park Bank v. Westburg</i>	<i>Johnson v. Masters</i>	<i>McLeod v. Mudlaff (In re the estate of Nancy Ellen Laubenheimer)</i>	<i>State v. Starks</i>
<i>Xcel Energy Servs. v. Labor &amp; Indus. Review Comm'n</i>	<i>Tufail v. Midwest Hospitality, LLC</i>	<i>State v. Avery</i>	<i>Outagamie County v. Melanie L. (In re Melanie L.)</i>
<i>State v. Alexander</i>	<i>State v. Brereton</i>	<i>State v. Taylor</i>	<i>Juneau County Star-Times v. Juneau County</i>
<i>State v. Burton</i>	<i>State v. Lemoine</i>	<i>Schinner v. Gundrum</i>	<i>Bethke v. Auto-Owners Ins. Co.</i>
<i>Brown v. Acuity</i>	<i>Marlowe v. IDS Prop. Cas. Ins. Co.</i>	<i>Bostco LLC v. Milwaukee Metro. Sewerage Dist. (4-2)</i>	<i>State v. Gracia</i>
<i>Paul Davis Restoration of S.E. Wis., Inc. v. Paul Davis Restoration of Northeast Wis.</i>	<i>State v. Travis (5-1)</i>	<i>State v. Beamon (4-2)</i>	<i>Dane County DHS v. Mable K., Lee H.</i>
<i>Showers Appraisals, LLC v. Musson Bros.</i>	<i>Beidel v. Sideline Software, Inc. (5-1)</i>	<i>State v. Sobczak (4-2)</i>	<i>In re State v. Buchanan</i>
<i>United Concrete &amp; Constr., Inc. v. Red-D-Mix Concrete, Inc.</i>	<i>State v. Edler (5-1)</i>	<i>Waller v. Am. Transmission Co., LLC (4-2)</i>	<i>Dane County v. Sheila W. (In re Interest of Sheila W.) (per curiam)</i>
<i>State v. Melton</i>			
<i>Rosecky v. Schissel</i>			
<i>Vill. of Elm Grove v. Brefka</i>			
<i>Manitowoc County v. Samuel J.H. (In re Mental Commitment of Samuel J.H.)</i>			
<i>State v. Lonkoski</i>			
<i>Jamerson v. Dep't of Children &amp; Families</i>			
<i>Estate of Hopgood v. Boyd</i>			
<i>State v. Deadwiller (6-0)</i>			
<i>State v. Novy (6-0)</i>			
<i>State v. Johnson (5-0 per curiam)</i>			

<sup>2</sup> In two cases there were justices who concurred in part and dissented in part (*State v. Edler* [Ziegler] and *Marlowe v. IDS Prop. Cas. Ins. Co.* [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 (as both of these opinions did), it was classified as a dissent. Had either opinion concurred with the result on all issues but disputed the majority's reasoning on one or more issues, it would have been classified as a concurrence. Occasionally the dividing line between a dissent and a concurrence is exceedingly thin, and views might reasonably differ as to the opinion's proper classification. However, such ambiguous opinions amount to only a handful of the hundreds of votes cast, and thus they have a negligible effect on the tables presented here.

<sup>3</sup> The percentages do not add up to 100 because of rounding.

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 2012, to August 31, 2013. The first chart includes all cases in which a justice voted, while the second chart includes only cases decided by split votes.

All Cases<sup>4</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	31	46	67%
Bradley	34	46	74%
Crooks	43	46	93%
Prosser	32	39	82%
Roggensack	42	46	91%
Ziegler	40	46	87%
Gableman	35	42	83%

## Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	12	27	44%
Bradley	15	27	56%
Crooks	24	27	89%
Prosser	15	22	68%
Roggensack	23	27	85%
Ziegler	21	27	78%
Gableman	18	25	72%

<sup>4</sup> Justice Prosser did not vote in *State v. Beamon*; *State v. Travis*; *State v. Sobczak*; *Bostco LLC v. Milwaukee Metro. Sewerage Dist.*; and *Beidel v. Sideline Software, Inc.* Justice Gableman did not vote in *State v. Edler*; and *Waller v. Am. Transmission Co., LLC*. None of these cases were unanimous decisions.

Opinions Authored

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) <sup>5</sup>	6-1 (or 5-1)	5-2 (or 4-2)	4-3 <sup>6</sup>
Abrahamson	2	2	0	1
Bradley	4	1	0	2
Crooks	2	4	0	1
Prosser	2	0	3	2
Roggensack	3	1	2	0
Ziegler	3	0	2	1
Gableman	2	1	2	1

The chart below shows how many concurring and dissenting opinions each justice authored.<sup>7</sup>

Opinion Author	Concurring Opinions	Dissenting Opinions
Abrahamson	10	8
Bradley	2	6
Crooks	3	1
Prosser	3	6
Roggensack	5	1
Ziegler	5	5
Gableman	1	3

<sup>5</sup> *State v. Johnson*, a 5-0 *per curiam* decision, is not included in this table.

<sup>6</sup> *Dane County v. Sheila W. (In re Interest of Sheila W.)*, a 4-3 *per curiam* decision, is not included in this table.

<sup>7</sup> In two cases there were justices who wrote a concurrence in part and dissent in part (*State v. Edler* [Ziegler]; and *Marlowe v. IDS Prop. Cas. Ins. Co.* [Prosser]). These opinions have been categorized as dissents according to the guidelines outlined above.

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 Prosser and Gableman voted together in 69% of the cases, while the figure for Justices Crooks and Roggensack was 85%.

Agreement Between Pairs of Justices—All Cases

	<b>Bradley</b>	<b>Crooks</b>	<b>Prosser</b>	<b>Roggensack</b>	<b>Ziegler</b>	<b>Gableman</b>
<b>Abrahamson</b>	43/46= <b>93%</b>	34/46= <b>74%</b>	24/39= <b>62%</b>	27/46= <b>59%</b>	25/46= <b>54%</b>	23/42= <b>55%</b>
	<b>Bradley</b>	35/46= <b>76%</b>	27/39= <b>69%</b>	30/46= <b>65%</b>	28/46= <b>61%</b>	24/42= <b>57%</b>
		<b>Crooks</b>	29/39= <b>74%</b>	39/46= <b>85%</b>	37/46= <b>80%</b>	34/42= <b>81%</b>
			<b>Prosser</b>	29/39= <b>74%</b>	28/39= <b>72%</b>	25/36= <b>69%</b>
				<b>Roggensack</b>	42/46= <b>91%</b>	37/42= <b>88%</b>
					<b>Ziegler</b>	40/42= <b>95%</b>
						<b>Gableman</b>

Agreement Between Pairs of Justices—Non-Unanimous Cases

	<b>Bradley</b>	<b>Crooks</b>	<b>Prosser</b>	<b>Roggensack</b>	<b>Ziegler</b>	<b>Gableman</b>
<b>Abrahamson</b>	24/27= <b>89%</b>	15/27= <b>56%</b>	7/22= <b>32%</b>	8/27= <b>30%</b>	6/27= <b>22%</b>	6/25= <b>24%</b>
	<b>Bradley</b>	16/27= <b>59%</b>	10/22= <b>45%</b>	11/27= <b>41%</b>	9/27= <b>33%</b>	7/25= <b>28%</b>
		<b>Crooks</b>	12/22= <b>55%</b>	20/27= <b>74%</b>	18/27= <b>67%</b>	17/25= <b>68%</b>
			<b>Prosser</b>	12/22= <b>55%</b>	11/22= <b>50%</b>	9/20= <b>45%</b>
				<b>Roggensack</b>	23/27= <b>85%</b>	20/25= <b>80%</b>
					<b>Ziegler</b>	23/25= <b>92%</b>
						<b>Gableman</b>

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.

	<b>Number of Majority Opinions Authored</b>	<b>Ave. No. of Days From Oral Argument to Opinion Filing</b>
Abrahamson	5	131
Bradley	7	127
Crooks	7	120
Prosser	7	180
Roggensack	6	190
Ziegler	6	153
Gableman	6	149

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 in 2012-2013.

<b>Firms and Agencies</b>	<b>Number of Oral Arguments</b>
Axley Brynelson LLP	3
Dane County Corporation Counsel	2
Foley & Lardner LLP	2
Frank J. Remington Center	2
Godfrey & Kahn	4
Habush, Habush & Rottier S.C.	2
Murphy & Prachthauser, S.C.	2
Rosen and Holzman, Ltd.	2
State Attorney General's Office	24
State Public Defender's Office	10