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

4-3 Alignments

Justices	Total	Case Names
Crownhart, Fowler, Stevens, Owen	1	Dehmel v. Smith
Crownhart, Rosenberry, Stevens, Owen	1	Schmeider v. McNett

## 4-3 Membership in the Majority

Justice	Votes
Crownhart	2
Fritz	0
Rosenberry	1
Fowler	1
Stevens	2
Owen	2
Fairchild	
Eschweiler	0

## 4-3 Majority Opinions Authored

	Opinions
Crownhart	0
Fritz	0
Rosenberry	1
Fowler	1
Stevens	0
Owen	0
Fairchild	
Eschweiler	0
Total	2

<sup>&</sup>lt;sup>1</sup> Both of these decisions were filed on November 5, 1929, nine days before the death of Justice Eschweiler, who wrote dissenting opinions in both. His replacement, Justice Fairchild, did not join the court until April of the following year, as noted in the introduction to this post.

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

7-0 (or 6-0, 5-0, 4-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
329/343 (96%)	8/343 (2%)	4/343 (1%)	2/343 (1%)
Badger Furniture Co. v. Industrial Com.	Vaudreuil Lumber Co. v. Aetna	Bashaw Valley Coop. Creamery	Dehmel v. Smith
	Casualty & Surety Co.	Co. v. Indus. Comm'n of Wis.	
Baierl v. Riesenecker	Elliott v. Indemnity Ins. Co.	William H. Schwanke, Inc. v.	SCHMEIDER v. MCNETT
		Wisconsin Tel. Co.	
Britt v. Bauman	Eskelinen v. Northwestern	Pederson & Voechting v. Indus.	
	Casualty & Surety Co.	Comm'n of Wis.	
Britt v. Buggs	ESTATE OF SULLIVAN:	Schabo v. Wolf-Pepper Transp.	
	SCHULTZ v. SULLIVAN	& Storage Co.	
Brothertown Realty Corp. v. Reedal	Falk v. Wis. Tax Comm'n		
Cable v. Smith	Gerbing v. McDonald		
Carncross v. Treat	Novak v. Zastrow		
Columbia Casualty Co. v. Industrial Com. of Wisconsin	Swanson v. Lake Superior T. & T. R. Co.		
Conklin v. New York Life Ins. Co.	1. R. Co.		
Conway v. Providence Washington Ins.			
Co.			
Efaw v. Industrial Com. of Wisconsin			
Ellis v. Chicago, N. S. & M. R. Co.			
Ernest v. Schmidt			
ESTATE OF FISH: HRDLICKA v. FISH			
[200 Wis. 61]			
ESTATE OF KNUTSON v. KNUTSON			
ESTATE OF KRETCHMER: KLINKER v.			
FIEWEGER			
ESTATE OF SCHRANCK: SCHRANCK v.			
STATE			
Farmers & Merchs. Bank of Sun Prairie			
v. Gordon Flambeau River Lumber Co. v. Lake			
Superior Dist. Power Co.			
Fuchs v. Meyer			
Fuerstenberg v. State			
Genz v. Riddle			
Gilbert v. Hoard			
Gloede v. Socha			
Godwin v. Miller			
Greunke v. North American Airways Co.			
Gutschenritter v. Hosterman			
Heinemann's Will			
Henry v. La Grou			
Hill v. Barrett (In re Estate of Dennett)			
Hinkley Co. v. Pelton			
In re Leonard's Will			
Johnson v. Retzlaff			
(continued on following page)			

(continued on following page)

<sup>2</sup> Occasionally, a justice will author a separate opinion that concurs in part and dissents in part. For SCOWstats tables, each such vote is 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 is 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 is classified as a concurrence.

As explained in this post's introductory comments, certain justices were not on the court for the entire term, and it is not always possible to determine precisely when they began, or ceased, to participate in decisions. Consequently, while the *totals* are accurate for each of the four columns in this table, I have not disaggregated the votes in individual columns (for example, I have not tried to establish how many decisions in the first column were 7-0, how many were 6-0, and so on).

Kalbukken V. Kathakken Kalpa V. Pard Washington Keller V. Pard Washington Keller V. Pard Washington Keller V. Pard Washington Keels V. Industria Com. Jincola Bripprog Warehouse Co. V. Grensed Loveland V. Lord Madson V. Kallroad Com. of Wisconsin Masson V. Caledonia Masson V. Caledonia McGOVERN V. ECKILART Michel V. McKanno Michel V. McConno Michel W. R. Co. Madem Windows of American V. Barber Michel V. McManno Maddan V. Andrond Com. Madem Washington W. Malford Com. Madem Washington V. Malford Com. Madem Washington Washington Washington Washington Washington Washington Washing		_	
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## Frequency in the Majority

These tables display how frequently each justice voted in the majority. The first table includes all cases in which a justice voted, while the second table includes only cases decided by split votes.

All Cases

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Crownhart	294	299	98%
Fritz	323	330	98%
Rosenberry	339	342	99%
Fowler	331	333	99%
Stevens	341	342	99.7%
Owen	341	343	99%
Fairchild	69	69	100%
Eschweiler	71	73	97%

### Non-Unanimous Decisions

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Crownhart	8	13	62%
Fritz	7	14	50%
Rosenberry	11	14	79%
Fowler	12	14	86%
Stevens	13	14	93%
Owen	12	14	86%
Fairchild	2	2	100%
Eschweiler	1	3	33%

# Opinions Authored<sup>3</sup>

The first table indicates how many majority opinions a justice authored in cases decided by each of the four possible majority vote totals. The second table shows how many concurrences and dissents each justice wrote. If a justice dissented without authoring an opinion, he is not credited.

Opinion Author	7-0 (or 6-0, 5-0, 4-0)	6-1 (or 5-1)	5-2 (or 4-2)	4-3
Crownhart	38	1	0	0
Fritz	47	0	0	0
Rosenberry	54	2	0	1
Fowler	42	1	0	1
Stevens	48	2	2	0
Owen	47	2	2	0
Fairchild	4	0	0	0
Eschweiler	4	0	0	0

<b>Opinion Author</b>	Concurring	Dissenting
	Opinions	<b>Opinions</b>
Crownhart	1	4
Fritz	0	1
Rosenberry	0	1
Fowler	0	1
Stevens	1	1
Owen	1	2
Fairchild	0	0
Eschweiler	0	2

<sup>&</sup>lt;sup>3</sup> *Per curiam* decisions are omitted.

### **Agreement Among Pairs of Justices**

The following tables show the percentage of decisions in which every possible pair of justices found themselves on the same side—either both in the majority or both dissenting. The first table covers all decisions; the second table narrows its focus to decisions that were not unanimous. When reading the <u>second</u> table, for instance, one finds that Justices Crownhart and Fowler voted together in 46% of the decisions, while the figure for Justices Rosenberry and Owen was 64%.

### Agreement Between Pairs of Justices—All Decisions

	Fritz	Rosenberry	Fowler	Stevens	Owen	Fairchild	Eschweiler
Crownhart	278/287= <b>97%</b>	290/298= <b>97%</b>	284/291= <b>98%</b>	293/298= <b>98%</b>	292/299= <b>98%</b>	27/27= <b>100%</b>	70/73= <b>96%</b>
	Fritz	323/329= <b>98%</b>	315/322=98%	323/329= <b>98%</b>	321/330= <b>97%</b>	65/67= <b>97%</b>	70/71= <b>99%</b>
		Rosenberry	327/332=98%	337/341= <b>99%</b>	337/342=99%	69/69= <b>100%</b>	72/73=99%
			Fowler	329/332= <b>99%</b>	331/333= <b>99%</b>	67/67= <b>100%</b>	67/68= <b>99%</b>
				Stevens	339/342= <b>99%</b>	68/69= <b>99%</b>	71/73= <b>97%</b>
					Owen	69/69= <b>100%</b>	71/73= <b>97%</b>
						Fairchild	
							Eschweiler

### Agreement Between Pairs of Justices—Non-Unanimous Decisions

	Fritz	Rosenberry	Fowler	Stevens	Owen	Fairchild	Eschweiler
Crownhart	4/13= <b>31%</b>	5/13= <b>38%</b>	6/13= <b>46%</b>	8/13= <b>62%</b>	6/13= <b>46%</b>	1/1= <b>100%</b>	0/3=0%
	Fritz	8/14= <b>57%</b>	7/14= <b>50%</b>	8/14= <b>57%</b>	5/14= <b>36%</b>	0/2=0%	2/3= <b>67%</b>
		Rosenberry	9/14= <b>64%</b>	10/14= <b>71%</b>	9/14= <b>64%</b>	2/2=100%	2/3= <b>67%</b>
			Fowler	11/14= <b>79%</b>	12/14= <b>86%</b>	2/2=100%	2/3= <b>67%</b>
				Stevens	11/14= <b>79%</b>	1/2= <b>50%</b>	1/3=33%
					Owen	2/2=100%	1/3=33%
						Fairchild	
							Eschweiler