

STATISTICS ON WISCONSIN SUPREME COURT DECISIONS, 2004-2005

Four-to-Three Decisions

4-3 Alignments

Justices	Total	Case Names
Abrahamson, Bradley, Butler, Crooks	10	<i>Knapp; Armstrong; Jerrell C.J.; Gehin; Ferdon; Dubose; Lagerstrom; Michael S.; Sheboygan County; Stenklyft</i>
Crooks, Wilcox, Prosser, Roggensack	7	<i>Hempel; Sykes; Tucker; Trujillo; Carney-Hayes; Schwarz; Linden</i>
Abrahamson, Bradley, Butler, Prosser	3	<i>Stuart; Grant County; Brown</i>

4-3 Membership in the Majority

Justice	Votes
Abrahamson	13
Bradley	13
Butler	13
Crooks	17
Wilcox	7
Prosser	10
Roggensack	7

4-3 Majority Opinions Authored

Justice	Opinions
Abrahamson	5
Bradley	3
Butler	2
Crooks	5
Wilcox	0
Prosser	2
Roggensack	2
<b>Total</b>	<b>19<sup>1</sup></b>

<sup>1</sup> No justice is credited here with a majority opinion in *Stenklyft*. A majority materialized when Justices Abrahamson, Bradley, and Butler joined a concurrence/dissent written by Justice Crooks—and Justices Bradley, Butler, and Crooks joined a concurrence/dissent written by Justice Abrahamson.

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
52 (54%)	10 (10%)	14 (15%)	20 (21%)
<i>Lamar Central Outdoor, Inc. v. Board of Zoning Appeals</i>	<i>Gottsacker v. Monnier</i>	<i>Chen v. Warner</i>	<i>State v. Knapp</i>
<i>Mrozek v. Intra Fin. Corp.</i>	<i>Walters v. Nat'l Props., L.L.C.</i>	<i>Kohn v. Darlington Cmty. Schs.</i>	<i>State v. Stuart</i>
<i>James Cape &amp; Sons Co. v. Mulcahy</i>	<i>State v. Smith</i>	<i>Everson v. Lorenz</i>	<i>State v. Armstrong</i>
<i>Meriter Hosp. v. Dane County</i>	<i>State v. Ernst</i>	<i>Preston v. Meriter Hosp., Inc.</i>	<i>State v. Jerrell C.J.</i>
<i>Milwaukee Metro. Sewerage Dist. v. City of Milwaukee</i>	<i>Dane County v. McGrew</i>	<i>Menard, Inc. v. Liteway Lighting Prods.</i>	<i>Gehin v. Wis. Group Ins. Bd.</i>
<i>Hatleberg v. Norwest Bank Wis.</i>	<i>Atkins v. Swimwest Family Fitness Ctr.</i>	<i>Solie v. Employee Trust Funds Bd.</i>	<i>Hempel v. City of Baraboo</i>
<i>Mared Indus. v. Mansfield</i>	<i>Progressive Northern v. Romanshek</i>	<i>Steiner v. Wis. Am. Mut. Ins. Co.</i>	<i>Grant County Dep't of Social Servs. v. Unified Bd. of Grant &amp; Iowa Counties</i>
<i>State v. Manuel</i>	<i>Wischer v. Mitsubishi Heavy Indus. (5-1)</i>	<i>State v. Love</i>	<i>Ferdon v. Wis. Patients Comp. Fund</i>
<i>Sukala v. Heritage Mut. Ins. Co.</i>	<i>Hess v. Fernandez (5-1)</i>	<i>Dane County Dep't of Human Servs. v. Ponn P.</i>	<i>State v. Sykes</i>
<i>State v. Denis L.R.</i>	<i>Hannemann v. Boyson (5-1)</i>	<i>State v. Moeck (4-2)</i>	<i>State v. Tucker</i>
<i>Wisconsin v. Hale</i>		<i>Phelps v. Physicians Ins. Co. of Wis., Inc. (4-2)</i>	<i>State v. Brown</i>
<i>State v. Moran</i>		<i>Grams v. Milk Prods., Inc. (4-2)</i>	<i>State v. Trujillo</i>
<i>Petta v. ABC Ins. Co.</i>		<i>Thomas v. Mallett (4-2)</i>	<i>Carney-Hayes v. Northwest Wis. Home Care</i>
<i>Ins. Co. of N. Am. v. Cease Elec. Inc.</i>		<i>Clean Wis. v. Public Serv. Comm. (4-2)</i>	<i>State v. Dubose</i>
<i>Badger State Bank v. Taylor</i>			<i>State v. Schwarz</i>
<i>State ex rel. Riesch v. Schwarz</i>			<i>Lagerstrom v. Myrtle Werth Hosp.-Mayo Health Sys.</i>
<i>City of Pewaukee v. Carter</i>			<i>State v. Michael S.</i>
<i>Howell v. Denomie</i>			<i>Linden v. Cascade Stone Co.</i>
<i>Peterson v. Volkswagen of Am., Inc.</i>			<i>Sheboygan County Dep't of Soc. Servs. v. Matthew S.</i>
<i>Kaloti Enters. v. Kellogg Sales Co.</i>			<i>State v. Stenklyft</i>

(continued on following page)

<sup>2</sup> In seven cases (not counting *State v. Stenklyft*) there were justices who concurred in part and dissented in part (*Jerrell C.J.* [Prosser, Roggensack, Wilcox]; *Phelps* [Prosser, Roggensack]; *Grant County* [Roggensack, Wilcox, Crooks]; *Smith* [Butler]; *Ernst* [Wilcox]; *Carney-Hayes* [Abrahamson, Bradley, Butler]; *Lagerstrom* [Wilcox, Prosser, Roggensack]). For this table, and those to come, 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 seven 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. In *Stenklyft*, as noted above, Justices Abrahamson, Bradley, and Butler joined a concurrence/dissent written by Justice Crooks—and Justices Bradley, Butler, and Crooks joined a concurrence/dissent written by Justice Abrahamson, thereby forming what amounted to a majority.

<i>State v. DeLain</i>
<i>John Doe 67C v. Archdiocese of Milwaukee</i>
<i>State v. Anson</i>
<i>Mayberry v. Volkswagen of Am., Inc.</i>
<i>State v. Reed</i>
<i>Kruckenber g v. Harvey</i>
<i>Schilling v. State Crime Victims Rights Bd.</i>
<i>Barbara B. v. Dorian H. (In re John R. B.)</i>
<i>Anderson v. MSI Preferred Ins. Co.</i>
<i>Vill. of Hobart v. Brown County</i>
<i>Walberg v. St. Francis Home, Inc.</i>
<i>State v. Maloney</i>
<i>Osterhues v. Bd. of Adjustment</i>
<i>State v. Bush (In re Bush)</i>
<i>State v. Aufderhaar</i>
<i>Marine Bank v. Taz's Trucking, Inc.</i>
<i>Milwaukee Police Ass'n, Local 21 v. Hegerty</i>
<i>State v. Anderson</i>
<i>State v. James P.</i>
<i>State v. Raye</i>
<i>State ex rel. Doe v. Davis</i>
<i>Pierce v. Physicians Ins. Co. of Wis., Inc. (6-0)</i>
<i>Baumeister v. Automated Prods., Inc. (6-0)</i>
<i>Kenyon v. Kenyon (6-0)</i>
<i>Pitts v. Trust of Knueppel (6-0)</i>
<i>State v. Fonte (6-0)</i>
<i>Strenke v. Hogner (6-0)</i>
<i>Olstad v. Microsoft Corp. (5-0)</i>
<i>State v. Wagner (7-0 per curiam)</i>
<i>Ammerman v. Hauden (6-0 per curiam)</i>
<i>State v. Jensen (4-0 per curiam)</i>
<i>State v. Chvala (4-0 per curiam)</i>

Frequency in the Majority

These charts display how frequently each justice voted in the majority in decisions filed during the period September 1, 2004, to August 31, 2005. 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>3</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	79	94	84%
Bradley	84	93	90%
Butler	77	93	83%
Crooks	90	94	96%
Wilcox	68	91	75%
Prosser	77	91	85%
Roggensack	78	93	84%

Non-Unanimous Decisions<sup>4</sup>

Justice	Majority Votes Cast	Total Votes Cast	Percent in Majority
Abrahamson	29	44	66%
Bradley	33	42	79%
Butler	28	44	64%
Crooks	39	43	91%
Wilcox	20	43	47%
Prosser	27	42	64%
Roggensack	26	42	62%

<sup>3</sup> Justice Abrahamson did not vote in *Olstad v. Microsoft Corp.* and *Kenyon v. Kenyon*. Justice Bradley did not vote in *Grams v. Milk Prods., Inc.*; *Hess v. Fernandez*; and *Olstad v. Microsoft Corp.* Justice Butler did not vote in *State v. Chvala*; *State v. Jensen*; and *Pierce v. Physicians Ins. Co. of Wis., Inc.* Justice Crooks did not vote in *State v. Fonte* and *Clean Wis. v. Public Serv. Comm.* Justice Wilcox did not vote in *Pitts v. Trust of Knueppel*; *Baumeister v. Automated Prods., Inc.*; *State v. Chvala*; *State v. Jensen*; and *Phelps v. Physicians Ins. Co. of Wis., Inc.* Justice Prosser did not vote in *Hannemann v. Boyson*; *Strenke v. Hogner*; *State v. Chvala*; *State v. Jensen*; and *Wischer v. Mitsubishi Heavy Indus.* Justice Roggensack did not vote in *Ammerman v. Hauden*; *Thomas v. Mallett*; and *State v. Moeck*.

<sup>4</sup> *Grams v. Milk Prods., Inc.*; *Hess v. Fernandez*; *Clean Wis. v. Public Serv. Comm.*; *Phelps v. Physicians Ins. Co. of Wis., Inc.*; *Wischer v. Mitsubishi Heavy Indus.*; *Hannemann v. Boyson*; *Thomas v. Mallett*; and *State v. Moeck* were non-unanimous decisions.

Opinions Authored<sup>5</sup>

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	4	1	3	5
Bradley	8	1	1	3
Butler	7	0	3	2
Crooks	5	3	1	5
Wilcox	7	2	2	0
Prosser	8	2	2	2
Roggensack	9	1	1	2

The chart below shows how many concurring and dissenting opinions each justice authored.<sup>6</sup>

Opinion Author	Concurring Opinions	Dissenting Opinions
Abrahamson	8	10
Bradley	4	4
Butler	11	10
Crooks	6	2
Wilcox	7	15
Prosser	8	10
Roggensack	5	10

<sup>5</sup> Four short *per curiam* rulings (*State v. Chvala*; *State v. Jensen*; *Ammerman v. Hauden*; and *State v. Wagner*) are not included in the tables on this page. Regarding *Clean Wis. v. Public Serv. Comm.*, no justice is credited in the first table with writing the majority opinion, because four justices are listed as joint authors.

<sup>6</sup> In seven cases (not counting *State v. Stenklyft*) there were justices who concurred in part and dissented in part (*Jerrell C.J.* [Prosser, Roggensack]; *Phelps* [Prosser]; *Grant County* [Roggensack]; *Smith* [Butler]; *Ernst* [Wilcox]; *Carney-Hayes* [Bradley, Butler]; *Lagerstrom* [Roggensack]). 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. The opinions in *Stenklyft* do not lend themselves comfortably to categorization. A concurrence/dissent by Justice Abrahamson and another by Justice Crooks have been classified in the second table as concurring opinions (though, when taken together and joined by Justices Bradley and Butler, they amount to a majority opinion). The “lead” opinion by Justice Wilcox (joined by Justices Prosser and Roggensack) has been classified here as a dissenting opinion.

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 Crooks and Roggensack voted together in 85% of the cases, while the figure for Justices Bradley and Wilcox was 64%.

Agreement Between Pairs of Justices—All Cases

	<b>Bradley</b>	<b>Butler</b>	<b>Crooks</b>	<b>Wilcox</b>	<b>Prosser</b>	<b>Roggensack</b>
<b>Abrahamson</b>	88/92= <b>96%</b>	80/91= <b>88%</b>	74/92= <b>80%</b>	51/89= <b>57%</b>	59/89= <b>66%</b>	60/91= <b>66%</b>
	<b>Bradley</b>	80/90= <b>89%</b>	79/91= <b>87%</b>	56/88= <b>64%</b>	64/88= <b>73%</b>	65/90= <b>72%</b>
		<b>Butler</b>	73/91= <b>80%</b>	53/90= <b>59%</b>	60/90= <b>67%</b>	58/90= <b>64%</b>
			<b>Crooks</b>	68/89= <b>76%</b>	70/89= <b>79%</b>	77/91= <b>85%</b>
				<b>Wilcox</b>	80/88= <b>91%</b>	82/88= <b>93%</b>
					<b>Prosser</b>	81/88= <b>92%</b>
						<b>Roggensack</b>

Agreement Between Pairs of Justices—Non-Unanimous Cases

	<b>Bradley</b>	<b>Butler</b>	<b>Crooks</b>	<b>Wilcox</b>	<b>Prosser</b>	<b>Roggensack</b>
<b>Abrahamson</b>	38/42= <b>90%</b>	33/44= <b>75%</b>	25/43= <b>58%</b>	5/43= <b>12%</b>	12/42= <b>29%</b>	11/42= <b>26%</b>
	<b>Bradley</b>	32/42= <b>76%</b>	29/41= <b>71%</b>	9/41= <b>22%</b>	16/40= <b>40%</b>	15/40= <b>38%</b>
		<b>Butler</b>	25/43= <b>58%</b>	6/43= <b>14%</b>	12/42= <b>29%</b>	10/42= <b>24%</b>
			<b>Crooks</b>	21/42= <b>50%</b>	22/41= <b>54%</b>	27/41= <b>66%</b>
				<b>Wilcox</b>	33/41= <b>80%</b>	35/41= <b>85%</b>
					<b>Prosser</b>	33/40= <b>83%</b>
						<b>Roggensack</b>

Days Between Oral Argument and Opinion Filing<sup>7</sup>

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	13	102
Bradley	13	107
Butler	12	133
Crooks	14	103
Wilcox	11	116
Prosser	14	173
Roggensack	13	123

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<sup>7</sup> This table does not include *Clean Wis. v. Public Serv. Comm.*, in which four justices are listed as joint authors of the majority opinion.

Number of Oral Arguments Presented<sup>8</sup>

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
Anderegg & Mutschler, LLP	2
Axley Brynelson, LLP	3
Bell, Gierhart & Moore, S.C.	2
Boardman, Suhr, Curry & Field, LLP	3
Cannon & Dunphy, S.C.	2
Dane County Corporation Counsel	2
Doar, Drill & Skow, S.C.	2
First Law Group S.C.	2
Foley & Lardner LLP	3
Habush Habush & Rottier S.C.	3
Herrick & Hart, S.C.	2
Hurley, Burish & Milliken, S.C.	2
Kopp, McKichan, Geyer, Skemp & Stombaugh, LLP	2
Krohn & Moss, Ltd.	2
LaFollette Godfrey & Kahn	2
Laufenberg & Hoefle, S.C.	2
Liebmann, Conway, Olejniczak & Jerry, S.C.	2
Michael Best & Friedrich LLP	5
Milwaukee City Attorney's Office	3
Mudge, Porter, Lundeen & Seguin, S.C.	2
Otjen, Van Ert, Lieb & Weir, S.C.	2
Peterson, Berk & Cross, S.C.	2
Public Service Commission of Wisconsin	2
Quarles & Brady LLP	2
Reinhart Boerner Van Deuren s.c.	3
Shneidman, Hawks & Ehlke, S.C.	2
Smoler Law Office, LLC	2
Stafford Rosenbaum LLP	4
State Attorney General's Office	37
State Public Defender's Office	13
Weiss Law Office, S.C.	2
Whyte Hirschboeck Dudek S.C.	4
Wickwire Gavin P.C.	2

<sup>8</sup> This list includes oral arguments from two cases that resulted in 3-3 split decisions omitted from the previous tables: *Wisconsin Bell, Inc. v. PSC of Wisconsin (per curiam)* and *Johnson v. Rogers Memorial Hospital*.