

2.10 The Courts in Action



ESSENTIALS

Controversial or unpopular court decisions can lead to challenges of the Court’s legitimacy and power which Congress and the president can address only through future appointments, legislation changing the Court’s jurisdiction, or refusing to implement decisions

1. What is the underlying idea of this cartoon? [Write your response as a thesis using a “because” statement]
2. Should the U.S. Constitution guide our judicial decisions or should we trust judges to make decisions in our best interests? Should judges rule on what is legal or what is right?

List arguments with evidence for JUDICIAL ACTIVISM and JUDICIAL RESTRAINT

Activism	Restraint

If you were a judge – would you practice activism or restraint?

Investigate the case *Marbury v. Madison* (1803). Is this case an example of **activism** or **restraint**? Explain.

Investigate the case *Citizens United v. FEC* (2010). Is this case an example of **activism** or **restraint**? Explain.

QUANTITATIVE ANALYSIS

**US Supreme Court voting stats:
Voting agreement in all cases – October Term 2018-2019**

Justice Agreement in full, in part, or in judgment

	CT	RBG	SGB	SAA	SMS	EK	NMG	BK
JGR	75%	20%	20%	80%	15%	15%	50%	83%
CT		15%	15%	85%	10%	10%	65%	83%
RBG			80%	10%	90%	95%	35%	11%
SGB				20%	85%	85%	30%	22%
SAA					5%	5%	60%	94%
SMS						100%	35%	6%
EK							35%	6%
NMG								56%
BK								

Key

JGR = John Roberts
 CT = Clarence Thomas
 RBG = Ruth Ginsberg
 SGB = Stephen Breyer
 SAA = Samuel Alito
 SMS = Sonia Sotomayor
 EK = Elena Kagan
 NMG = Neil Gorsuch
 BK = Bret Kavanaugh

Source: SCOTUS.org

Use the chart above to answer the following questions.

- A. Identify the Associate justice who agreed the most with Chief Justice Roberts in 2018.
- B. Describe a similarity or difference, according to the data, between conservative leaning justices and liberal leaning justices and state a conclusion.
- C. Explain how the data in the chart might be used by the media during confirmation hearings.
- D. Explain how the data in the chart could affect policy making interactions between the president and Congress.

Check out the most recent score-card for the US Supreme Court. Does data look any different?

