

Dispatch

The Supreme Court Yearbook: Class Of 2016

By Daniel Wilson | July 8, 2016, 5:16 PM EDT



With another [U.S. Supreme Court](#) term now finished, a dig through its data offers extensive insight into the justices' habits — and vices. Who's the most talkative? The quietest? The funniest? The best dressed?

Although you'd be hard-pressed to confuse the marble edifice of the nation's highest court with a high school, there are more similarities between the institutions than you may think, including a gym, a library, a long summer break and — at least during tourist season — a horde of teenagers showing up every day.

With that in mind, we bring you the yearbook for the Supreme Court's most recent term, which began in October 2015.

Most Talkative

While the late Justice Antonin Scalia, who **unexpectedly died** in February, delivered the most comments and questions per argument — about 22 on average across 38 oral arguments, out of 69 in total — Justice Sonia Sotomayor was not far behind. She **pushed past** his average after he passed away, a move Supreme Court experts told Law360 was unsurprising, noting her persistence on the bench.

"She's very quick-witted; when she's questioning attorneys, she wants them to answer her question," said Paul M. Collins Jr., an associate professor of legal studies at the University of Massachusetts Amherst. "I think it'll be interesting, moving forward, to see how the dynamic will change without Justice Scalia on the bench, because in a lot of ways, she's sort of the liberal counterpart to Justice Scalia's very tough questions."

By a different metric, the award could also be shared with Justice Stephen Breyer, who wasn't far behind Justice Sotomayor on the number of questions asked. When he did speak, he spoke at length, with an average of more than 100 written lines of questions and comments per argument, once transcribed, and he was responsible for all the 10 lengthiest questions asked by members of the court this term.

The court's most junior member Justice Elena

Supreme Court Superlatives
October 2015 Term

 Most Talkative Sonia Sotomayor	 Class Clown Stephen Breyer
 Best Dressed Ruth Bader Ginsburg	 Most Shy Clarence Thomas

THE COURT'S MOST JUNIOR MEMBER, JUSTICE ELENA KAGAN, was next in line, with around 80 lines on average, followed by Justices Sotomayor and Scalia and Chief Justice John Roberts, all not far behind at around 75 lines each.

Most Shy

To the surprise of no one who pays even casual attention to the high court, Justice Clarence Thomas was the runaway winner of the Supreme Court's award for the shyest justice, per usual saying absolutely noth ... wait.



Justice Thomas surprised observers in the court and the legal community **by asking** his first question in a decade during February oral arguments for *Voisine v. U.S.*

In that case, about whether a conviction under a state domestic violence law could trigger a related federal law banning gun ownership, Justice Thomas waited until government attorney Ilana Eisenstein offered the traditional "if there are no further questions..." to jump in with nearly a dozen about the Second Amendment implications of the case.

"This is a misdemeanor violation," he said to Eisenstein. "It suspends a constitutional right. Can you give me another area where a misdemeanor violation suspends a constitutional right?"

The last time Justice Thomas had spoken from the bench was in 2013, to make a quip about his alma mater, Yale Law School. While no reason was given for breaking his silence, the issue is close to his heart, and he perhaps felt compelled to ask the question given the fresh absence of Justice Scalia, his ideological ally and friend, several Supreme Court experts noted.

Justice Thomas has offered several reasons for his reticence on the bench, noting for instance that he typically gets the information he needs from written briefs and that others often asks the questions he would have. Away from the bench, in a more informal setting, he is known to be among the most talkative and fun-loving of the justices, experts said.

Class Clown

All the justices at times throughout their career have shown their funny side, with styles ranging from the late Justice Scalia's acerbic wit to Justice Samuel Alito's bone-dry sense of humor.

But it was Justice Breyer who won a place as this term's chief jokester, winning laughs more than 50 times — about a third of all laughs from the crowd across the term — for zingers like this one, delivered in the context of a patent dispute: "I apply for a patent because I have this thing that, instead of putting red cellophane on the speedometer, I put purple cellophane on the speedometer. It signals the presence of a hot dog stand. All right? [Laughter.] I then try to patent it. And they look at this patent and say no, absolutely not. [Laughter.]"

Justice Breyer is well-known for his sometimes "very crazy" hypotheticals, which often set the crowd off, noted Lisa McElroy, an associate professor at Drexel University's Thomas R. Kline School of Law.

"I'm not sure if he's trying to be funny, or if he just is funny, but people really enjoy him a lot," she said.

An honorable mention must also go to Justice Scalia, who had long been viewed as the court's most prominent comedian, well-known for being quick with a quip. He had nipped at Justice Breyer's heels in terms of laughs-per-argument before his untimely death.

Although known for her personal warmth in public appearances, the softly spoken Justice Ruth Bader Ginsburg — with the notable exception of Justice Thomas, for the reason listed above — was last on the table, winning only a couple of laughs across the term.

Teacher's Pets

The justices have long argued that although the most contentious cases make the largest headlines, painting a picture of a court at sharp ideological odds, the truth of the matter is that most decisions are not split on ideological lines.

"What they're trying to do most of the time is apply the law, and they're very methodical about it," McElroy said.

A look at the data from this term backs that claim, including an examination of the court's "teacher's pets," or those most frequently on the same side of a decision as Chief Justice Roberts. Top-of-the-table for apple-polishing were Justices Kagan and Anthony Kennedy, who both agreed with the chief justice more than 85 percent of the time.

Justices Breyer and Alito weren't far behind, with Justices Ginsburg and Sotomayor a little more rebellious, at agreement percentages in the mid-70s. The most likely to go his own way was Justice Thomas, who agreed with the chief justice in a little over 70 percent of decisions.

While experts noted they were unsurprised that Justice Kennedy was in accordance with the chief justice so often, given the two are perceived to be the closest to the middle, ideologically, of the four justices in the court's "conservative wing" — which also includes Justices Alito and Thomas — the agreeability of Justice Kagan was a surprise.

The disagreement of Justice Thomas also raised eyebrows, although Collins argued that Justice Roberts — not for the first time for a Republican-appointed justice — has appeared to tack closer to the ideological center in recent years.

"He's been criticized for this, particularly by high-profile Republicans," Collins said.

Best Dressed

Although basic black never goes out of style, it also makes for a remarkably similar-looking high court bench. With Chief Justice Roberts eschewing the gold stripes the late former Chief Justice William Rehnquist added to his stately robe, there is now only one justice who routinely adds a dash of flair: Justice Ginsburg.

While former Justice Sandra Day O'Connor had her own small collection of collars, it is dwarfed by the collection of collars and jabots — a type of ornamental ruffle — that Justice Ginsburg rotates through in her appearances on the bench, including a bright yellow, beaded collar she reserves for announcing her opinions, and a golden one she reserves for dissents.

This sartorial flair, among other qualities like her aforementioned personal warmth and sharp legal mind, has helped earn Justice Ginsburg the appreciation of many court watchers, as well as the fond nickname of "The Notorious R.B.G.," a riff on the late rapper The Notorious B.I.G., another high-profile Brooklyn native.

Justice Ginsburg has noted that she needed a law clerk to explain the nickname to her initially, but has since embraced it, telling NPR in a 2015 interview that her grandchildren, among many others, love it.

--Additional reporting by Jeff Overley, Stan Parker and Cristina Violante. Editing by Katherine Rautenberg and Edrienne Su.

Methodology: To get a sense of which justices typically speak the most at Supreme Court oral arguments, Law360 used an automated script to count the number of times a justice's name appeared in capital letters in each oral argument transcript before a remark or question. For Chief Justice Roberts, Law360 subtracted his standard opening statements and his remarks in between each attorney's argument. To get a sense of the most amusing justice, Law360 used an automated script to count how many times the word "laughter" appeared in oral argument transcripts after a particular justice's comment. To get a sense of the justice who talks the most, Law360 used an automated script to count the number of lines in the transcript after each justice begins speaking during oral arguments.