

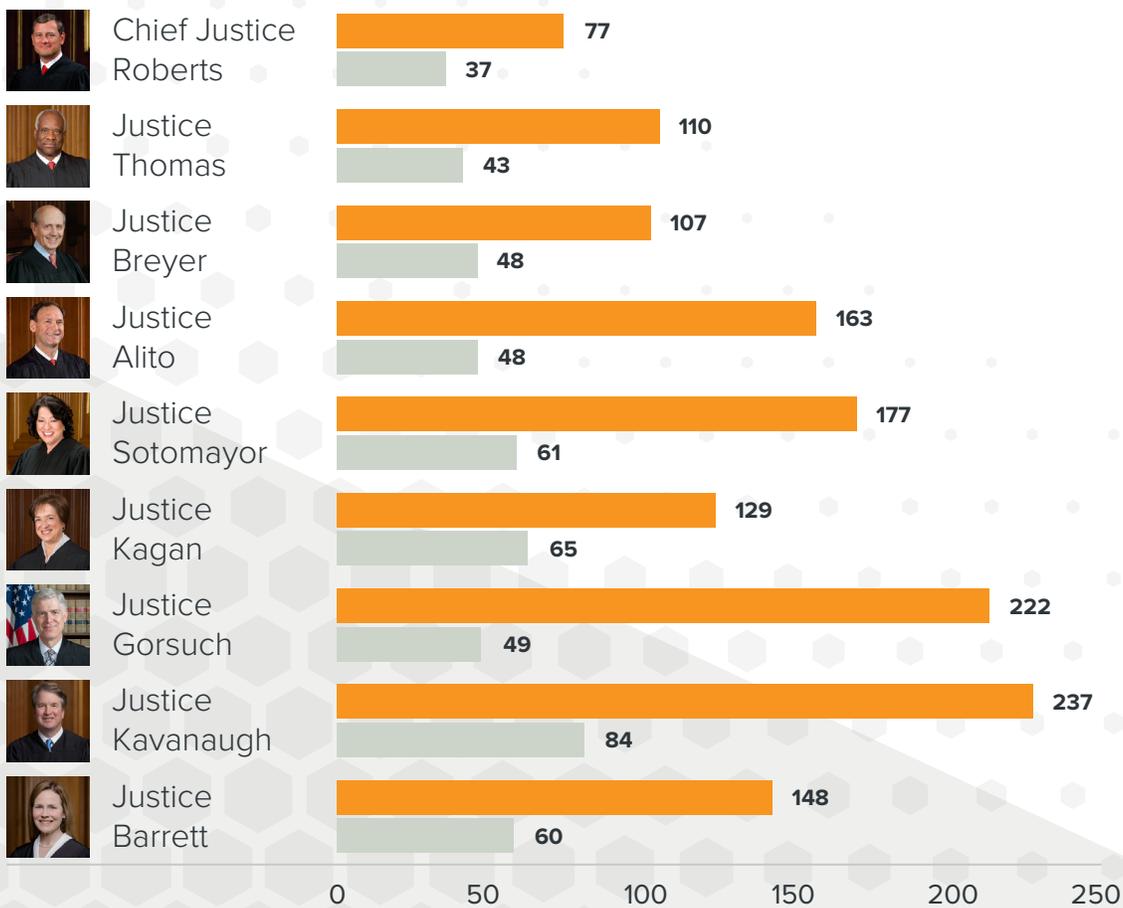
Extra Time in the Supreme Court

Last fall, after returning from a year of telephone arguments, the U.S. Supreme Court significantly changed its argument format. The biggest change was the addition of an untimed round of questioning at the end of each advocate’s argument.

Goodwin’s **Supreme Court and Appellate Litigation** practice has been closely tracking how the justices are using this “extra time.” Our updates at the end of each sitting appear on Goodwin’s website; the first was covered in the *New York Times*.

Here's how things stood at the end of the Term:

Questions during extra time Advocates questioned during extra time



19:11:45 Total extra time (28% more argument time)	Average 18:17 per case 9:00 per advocate 140 of the 163 advocates (86%) received extra questioning
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And here's how the “extra time” impacted the outcomes:

- In about 60% of cases, the winning side got more “extra time” than the losing side.
 - We added up the time for all attorneys arguing for a given side, including the amicus curiae if one participated.
 - We discounted time allotted to an amicus curiae who supported neither party.
- In four cases (6%), neither side got any extra questions.
- In the remaining 33% of cases, the losing side got more “extra time” than the winning side.
 - These included some of the Term’s highest-profile cases: *N.Y. State Rifle and Pistol Association v. Bruen*, *Dobbs v. Jackson Women’s Health Organization*, and *West Virginia v. EPA*.
- On average, petitioners’ counsel got substantially more time (9:35) than respondents’ counsel (5:05).
 - And because the Supreme Court reverses or vacates more often than it affirms, petitioners tend to win more often than respondents do.
 - So it’s possible that the extra time tends to favor petitioners rather than winners and that the justices lose some steam (or just have fewer unanswered questions) by the time the respondent finishes his or her argument.

What about opinion authorship?

- Oddly, asking a lot of questions during extra time generally made it less likely that a justice would be assigned the opinion.
- The author of the opinion generally did not ask many questions during extra time and often did not ask any.
- The more senior justices may have already gotten their questions answered during regular questioning.

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