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ARTICLE

A Database of the United States Supreme Court's Shadow Docket, 1993–2025

Jonathan P. Kastellec[1] and Robin A. Taboni[2]

[1]Political Science, Princeton University, Princeton, NJ, USA and [2]Government,The University of Texas at Austin, Austin, TX, USA
Corresponding author: Jonathan P. Kastellec; Email: jkastell@princeton.edu

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Abstract
The last decade has witnessed a significant increase in academic and journalistic interest in the United States Supreme Court's "shadow docket." Yet despite this increased interest, there exists no systematic database of the shadow docket. This paper summarizes the Supreme Court Shadow Docket Database, which we created by parsing the Journal of the Supreme Court from the 1993 through 2024 terms into individual orders. We categorize these orders into a set of usable categories, including cert denials, injunctions, summary reversals, mandamus petitions, and grant, vacate, and remands. We illustrate some potential uses of the data by examining several interesting trends in the Court's use of the shadow docket over time.

Keywords: judicial decision-making; shadow docket; Supreme Court; Database

Introduction

The last decade has witnessed a significant increase in academic and journalistic interest in the United States Supreme Court's "shadow docket." This docket comprises all the decisions the Court makes other than through the "full" cases it hears via the merits docket (we return to a more precise definition shortly). The increased interest can be seen both in many legal academics' criticism of the way the court has employed the shadow docket[1] and empirical researchers' studies of various components of the shadow docket.[2] The debates over the use of the shadow docket have

We thank Michael Burnham and Christian Helmers for helpful comments and suggestions. The complete dataset, along with coding protocols and replication code, can be found at www.shadowdocketdata.com, as well as at https://dataverse.harvard.edu/dataset.xhtml?persistentId=doi:10.7910/DVN/89VEX8faces-redirect=true.

[1]See, e.g., Baude (2015), McDonald (2021), Fredrickson (2022), Pierce (2022), Condon (2022), Waldhauser (2022), and Vladeck (2023).

[2]See, e.g., Hemmer (2012), Hartnett (2016), Chen (2019), Baum (2020), and Badas, Justus, and Li (2022).
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spilled over to the justices themselves; for example, dissenting from a 2021 decision denying injunctive relief from a Texas abortion statute, Justice Kagan wrote that "the majority's decision is emblematic of too much of this Court's shadow-docket decisionmaking—which every day becomes more unreasoned, inconsistent, and impossible to defend."[3] Yet despite this explosion in interest, there exists no systematic database of the shadow docket.[4] In this paper we describe the creation of the first such database, which we hope will aid empirical researchers who are interested in studying the various components of the shadow docket. Specifically, we collect the complete set of the Court's orders from the Journal of the Supreme Court and parse those orders to categorize every shadow docket decision the Court made between the 1993 and 2024 terms, including cert denials, injunctions, summary reversals, mandamus petitions, and grant, vacate, and remands (GVRs). As we explain below, both defining the shadow docket itself and categorizing individual actions involve some degree of subjectivity. With this in mind, we have made the complete code and data we used to create the database—as well as the final database itself—available at www.shadowdocketdata.com.

The paper proceeds as follows. Section 2 discusses possible definitions of the shadow docket, as well as how we define it for the purposes of creating the dataset. Section 3 provides details on how we created the dataset. Section 4 discusses a few research agendas in judicial politics where the shadow docket dataset might shed some light on important existing questions; we also provide some basic preliminary descriptive statistics on some of these questions. Section 5 concludes.

Defining the shadow docket

The shadow docket is not a term that is officially used by the Supreme Court. Instead, the term was coined by the legal scholar William Baude in his 2015 article, "Foreword: The Supreme Court's Shadow Docket." More recently, the 2023 publication of Steven Vladeck's book *The Shadow Docket* has helped push the importance of the shadow docket into wider journalistic and public attention.

Because the shadow docket is an unofficial concept, defining its precise boundaries is not a black-and-white exercise. It is perhaps easiest to start with what everyone agrees is *not* part of the shadow docket: the Court's "merits" docket, which comprises the select set of cases in which the Court gives its full consideration, including oral arguments and signed opinions, often accompanied by separate opinions (both concurrences and dissents). By definition, such cases do not operate in the shadows, as they are accompanied by the maximum transparency that the Court operates under. Because the cases decided via the merits dockets are generally the vehicle the Court uses to make legal policy, those decisions have typically received the vast bulk of attention from politicians, legal practitioners, scholars, and the media. For example, the Supreme Court Database (i.e., the "Spaeth database"), which has been the

[3] *Whole Woman's Health v. Jackson* 594 U.S. ___ (2021), Justice Kagan dissenting.

[4] See Johnson and Strother (2022) for a preliminary effort to collect data on some components of the shadow docket between 2005 and 2020. In addition, there exist more limited datasets that cover different aspects of the shadow docket. For example, Das, Epstein, and Gulati (2023) conduct an empirical study of every case on the emergency docket in the 2021 term, while Baum (2020) examines stay decisions by the Court between 2013 and 2019 in cases where at least one justice announced a dissent.

workhorse dataset for empirical studies of the Court for several decades, primarily contains information on merits case (Spaeth et al. 2024).

What then *is* in the shadow docket? In his 2015 paper, Baude defined it as a "range of orders and summary decisions that defy its normal procedural regularity" (Baude 2015, 1). This is a rather narrow definition. It certainly includes things like summary reversals and cases on the Court's "emergency docket," such as when a president asks the Court to quickly intervene in an ongoing legal dispute.[5] But it would exclude more routine actions the Court takes in non-merits cases, including cert denials, inviting the solicitor general to file a brief, and grant, vacate, and remands (GVRs). By contrast, Vladeck views the shadow docket as comprising "the entire body of decisions the Supreme Court hands down through "orders"—which includes not just rulings on applications, but also rulings (1) granting or denying certiorari/leave to file an "original" suit; and (2) respecting motions (like motions to recuse)."[6]

In the interests of erring on the side of over-inclusivity, we adopt the broadest possible definition of the shadow docket and define it as encompassing any order or decision the Court makes *except* the opinions in full merits cases.[7] Our logic for this choice is as follows. The way the database is set up (as we describe below), any interested user can choose their own shadow docket adventure—as described below, each action by the Court is labeled by action type to allow users to filter out particular types of shadow docket procedures they are interested in studying. If, for example, one does not think that certiorari decisions fall under the definition of the shadow docket, those orders can be quite easily dropped.[8] Finally, for each shadow docket action in the database, where applicable we connect (via docket numbers) every shadow docket action to the lower court that heard the case before it reached the Supreme Court, which should help researchers interested in studying how the shadow docket operates with respect to the judicial hierarchy.

Creating the dataset

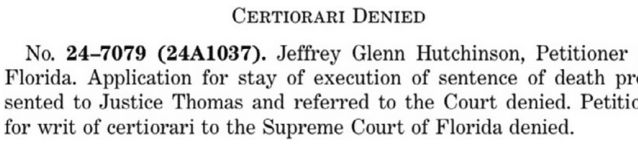
To create the shadow docket database, we rely on the Journal of the Supreme Court of the United States. As described by the Court, the Journal contains "the disposition of each case, names the court whose judgment is under review, lists the cases argued that day and the attorneys who presented oral argument, contains miscellaneous announcements by the Chief Justice from the Bench, and sets forth the names of attorneys admitted to the Bar of the Supreme Court." An entry appears in the journal for every day that the Court heard oral arguments or issued orders on pending cases.

[5]According to Ballotpedia (accessed May 21, 2025), "a Supreme Court emergency order is an order issued by the Supreme Court in cases that have not fully progressed through the ordinary procedures required for the Supreme Court to issue a regular opinion in a case."

[6]In later writings and podcasts, Baude has taken a more expansive view. In the first episode of his podcast *Divided Argument*, he defines the shadow docket as "everything that's not the ordinary merits docket of the Supreme Court" (Baude and Epps 2021).

[7]This definition also excludes oral arguments in merits cases themselves (the transcripts of which the Court publishes on its website), though, as we explain below, sometimes the Court does issue orders on the shadow dockets *about* oral arguments, such as giving particular parties permission to participate in an oral argument. In addition, the definition *includes* when the Court admits lawyers to the Supreme Court bar or when it disbars lawyers.

[8]On this point, we note that there does not appear to be any existing database of cert denials that covers the length of time our does, though Liu and Kastellec (2023) and Bonica, Chilton, and Sen (2025) (independently) analyze cert decisions—including denials as well as grants—between 2003 and 2015.



CERTIORARI DENIED

No. **24–7079 (24A1037).** Jeffrey Glenn Hutchinson, Petitioner *v.* Florida. Application for stay of execution of sentence of death presented to Justice Thomas and referred to the Court denied. Petition for writ of certiorari to the Supreme Court of Florida denied.

Figure 1. An Example of a Shadow Docket Order.

Importantly, the Journal only captures actions taken by the full court and not decisions made by individual justices, such as administrative stays; the latter are hence not included in our data collection.[9] Starting with the 1993 term, the Journal is posted in a text-based PDF format, which allows us to use text-processing tools to capture and classify the actions that comprise the shadow docket. Figure 1 depicts an example of what an order looks like in the journal—this particular order is a denial of a request for a stay in a death penalty case, along with a denial of cert.

We began by first separating each term into days. For each day, the Journal is divided into sections based on the following broad categories: Summary Disposition, Orders in Pending Cases, Certiorari Denied, Per Curiam, Habeas Corpus, Mandamus Denied, Prohibition Denied, Rehearings Denied, Attorney Discipline, Admission, Oral Argument, Opinion, Certiorari Granted, Motion Denied, and Jurisdiction Postponed.[10] We parsed each section into individual "docket-day" entries.[11] Each docket-day is accompanied by text describing which action(s) were taken with respect to that docket that day.

Sometimes, the court addresses multiple dockets at once. Specifically, the court will list multiple dockets and then describe the action that applies to all of them. For these dockets, we relied on the text of the "last" docket in the sequence, which contains the substance of the Court's action. We then separated each order into individual actions. For example, a single docket-day entry might both grant a motion to proceed *in forma pauperis* and grant *certiorari.* This single entry contains two actions—the grant of the motion and the grant of certiorari. To capture each action, we divided the text into segments using phrases such as "the motion" or "the application."[12] If the text contains multiple instances of one pattern or multiple patterns, each accompanying block of text is counted as a separate action. This process gives us a large set of docket-day actions. Figure 2 presents an example of such a multiple-docket order. In this instance, the Court denies several stay requests simultaneously, but only the last order notes explicitly what action the Court is taking across the set of connected orders.

We assigned each action to one of 59 different categories using string searching. Note that these categories are not mutually exclusive; in some instances a single docket will fall into multiple categories. For example, an order that involves a GVR will be coded as both the "GVR" and "Certiorari," since the "grant" component of the GVR is technically a cert grant. We looked for informative words and phrases and

[9]We hope to add administrative stays to the database in the future.

[10]There are 15 unique sections, 10 of which directly correspond to action classes in our data set (as explained shortly). We utilize these sections as a part of the classification process.

[11]We use a different process to capture admissions to the Supreme Court Bar. For admissions, actions are categorized as individual attorneys as opposed to dockets.

[12]We use variants of the following phrases: the motion, the application, the petition, the judgment, certiorari granted, certiorari denied, directed to, the order, cases are consolidated, and the Solicitor General.

ORDERS IN PENDING CASES

No. **24A95.** West Virginia, et al., Applicants *v.* Environmental Protection Agency, et al.;
No. **24A96.**; National Rural Electric Cooperative, Applicant *v.* Environmental Protection Agency, et al.;
No. **24A97.** National Mining Association and America's Power, Applicant *v.* Environmental Protection Agency, et al.;

No. **24A98.** Nacco Natural Resources Corporation, Applicant *v.* Environmental Protection Agency, et al.;
No. **24A105.** Midwest Ozone Group, Applicant *v.* Environmental Protection Agency, et al.;
No. **24A106.** Electric Generators for a Sensible Transition, Applicant *v.* Environmental Protection Agency, et al.;
No. **24A116.** Edison Electric Institute, et al., Applicants *v.* Environmental Protection Agency, et al.; and
No. **24A117.** Ohio, et al., Applicants *v.* Environmental Protection Agency, et al. Applications for stay presented to the Chief Justice and by him referred to the Court denied. Justice Thomas would grant the applications for stay. Justice Alito took no part in the consideration or decision of these applications.

Figure 2. Example of Multiple Dockets Being Implicated in the Same Order.

used the presence of these features to assign actions. Each action was assigned to only one action class using a decision tree. For each action, we then determined what decision the Court made using the same process. For example, if the action is "Certiorari," we classify whether it is granted, denied, or dismissed. This approach categorizes over 99% of actions. The remaining actions were hand coded. The majority of hand-coded docket-day actions were either typos or did not contain one of the phrases needed to split the text into actions by the preprocessing code. The remaining actions belonged to classes that occurred relatively infrequently and thus were not picked up by the decision tree. The resulting dataset consists of more than 265,000 actions on 220,000 unique dockets and more than 100,000 admissions to the Supreme Court Bar. The total size of the dataset thus exceeds 370,000 orders, an average of more than 10,000 orders per term.

Table 1 provides a brief description of each of the categories (the codebook for the database contains more detailed descriptions), along with a count of how often each category appears in the data. Perhaps not surprisingly, cert petitions are easily the modal category, comprising about 56% of all shadow docket actions. The second most frequent activity is admissions to the bar, followed by requests for rehearings. On the other end of the spectrum, the Court very rarely does things like rule on requests to add materials to the record and to release a defendant from custody pending appeals.

Research questions and descriptive results

How best to use the Shadow Docket Database will depend on one's particular research needs. But in the interest of demonstrating how the database could enhance our broader understanding of judicial politics, in this section we sketch out a few areas where we think the dataset could provide answers to some existing puzzles or

Table 1. A Summary of the Action Classes in the Dataset. The last column depicts the total number of times each class appears in the data.

Action class	Description	Total counts
Certiorari	Grants, denies, or dismisses a petition for certiorari	211,898
Admission	Admission to the bar	108,197
Rehearings	Asks the court for a rehearing	19,096
In forma pauperis	Petition to proceed in forma pauperis	8,819
Attorney Discipline	Deals with the suspension or disbarment of an attorney or other attorney discipline	3,712
GVR	Grants, vacates, and remands a case to the lower court in light of a related opinion of the court	3,313
Mandamus	Petition for writ of mandamus	3,202
Habeas Corpus	Petition for writ of habeas corpus	3,201
Stay	Request of the court to stay an action	2,878
Amicus	Requests to participate as amicus curiae, including invitations to third parties other than the Solicitor General participate as amicus curiae	2,567
Out of time	Request to file out of time	2,532
Solicitor General	Actions involving the Solicitor General participating as amicus and/or in oral argument	1,877
Reconsider IFP	Request to reconsider a ruling on filing IFP	1,102
Oral Argument	Asks for divided argument, sets schedule for oral argument, adds or removes case to argument calendar, sets report from special master for oral argument	850
File Under Seal	Request to submit (or resubmit) a filing under seal	493
Consolidate	Request to consolidate by petitioners or the court deciding to consolidate cases	430
Printing	Request involving printing requirements	409
Veteran	Request to proceed as a veteran	237
Appointment of Counsel	Request for appointment of counsel	233
Prohibition	Request for writ of prohibition	203
Defer action	Request by one or both of the parties to defer an action	162
Reversal	Reversal of decision by lower court	159
Special Master	Actions relating to report or actions of a special master, not including oral argument	158
Vacate and Remand	Motion to vacate and remand or decision to vacate and remand	146
Leave to File	Request leave to file a petition not captured by other categories	132
Directed to File	Direction by the court to file briefs	118
Misc	Miscellaneous actions not fitting into another category	115
Injunction	Request for injunctive relief	106
Vacate	Motion to vacate or decision by the court to vacate order	90
Leave to Intervene	Petitioner asks for leave to intervene in a case	85
Affirmed	Judgment affirmed	69
Certificate of Appealability	Request for a certificate of appealability	67
Costs and Fees	Requests for costs and fees	57
Directed to Brief	Direction by the court to brief an argument or question	57
Briefing	Decisions involving the briefing schedule	55
Dismiss	Request to dismiss appeal parties or dismissal of appeal by court	52
Strike	Motion to strike filing from record	51
River Master	Motions of or concerning the River Master	47
Bail	Application for bail	46
Bill of Complaint	Motion for leave to file Bill of Complaint	45
Substitution	Motion for substitution	44
Amend	Request to amend petition or briefing schedule	36

(*Continued*)

Table 1. (*Continued*)

Action class	Description	Total counts
Request to File	Request by the court to file briefs	29
Retax	Motion to retax costs	29
Vacate Stay	Request to vacate a stay	29
Expedite Action	Request to expedite action	23
Lack of Quorum	Judgment is affirmed due to lack of quorum by the court	23
Damages	Requests for damages	21
Probable Jurisdiction	Court announces it has probable jurisdiction for a case	21
Abeyance	Motion to request abeyance or decision to hold action in abeyance	20
DIG	Court dismisses certiorari as improvidently granted	19
Pro Hac Vice	Request to proceed pro hac vice	17
Sanctions	Motion for sanctions	14
Enlarge Record	Request to add materials to the record	12
Release	Requests the court for release pending appeal	11
Seaman	Request to proceed as seaman	11
Jurisdiction Postponed	Court postpones discussing questions of jurisdiction until deciding case on the merits	10
Remand	Motion to remand the case	7
Affirmed in Part	Judgment affirmed for some claims and reversed for others	6

questions. Where relevant and available, we also present a few descriptive results that emerge immediately from the data that are tied to these questions.

The size of the Court's docket

Perhaps the most widely known statistic about the Supreme Court is that its merits docket has decreased dramatically over the past half-century or so, to the point where the Court gives full consideration to fewer than 60 cases per term. It is also well appreciated that the Court now grants cert to a small fraction of all the cert petitions it receives (see, e.g., Liu and Kastellec (2023, 3) and Lane (2022)).

The empirical focus on the merits docket has led many scholars to seek to explain the steep drop in such cases over the past half-century (Hellman 1996; Stras 2010; Owens and Simon 2011; Heise, Wells, and Chutkow 2019, see e.g.). But focusing only on merits cases is metaphorically studying the tip of the iceberg, given how few cases the Court gives full consideration to each term. Indeed, perhaps less well known is that after increasing steadily between around 1900 and 2000, the size of the Court's overall docket has actually declined somewhat from its peak around 2005.[13]

Parsing the shadow docket with respect to cert sheds further light on the composition of the Court's overall docket and how it has changed over time. Drawing from the Shadow Docket Database, Figure 3 depicts the number of *case-related actions* taken by the Court per term, between 1993 and 2024—that is, all actions excluding attorney discipline-related orders and admissions to the bar. We differentiate between decisions on petitions for cert and all other actions. As noted above, the majority of the Court's docket involves petitions for certiorari. When we subset to

[13]See the Federal Judicial Center's website for a series of illuminating graphs about the Court's caseload over time.

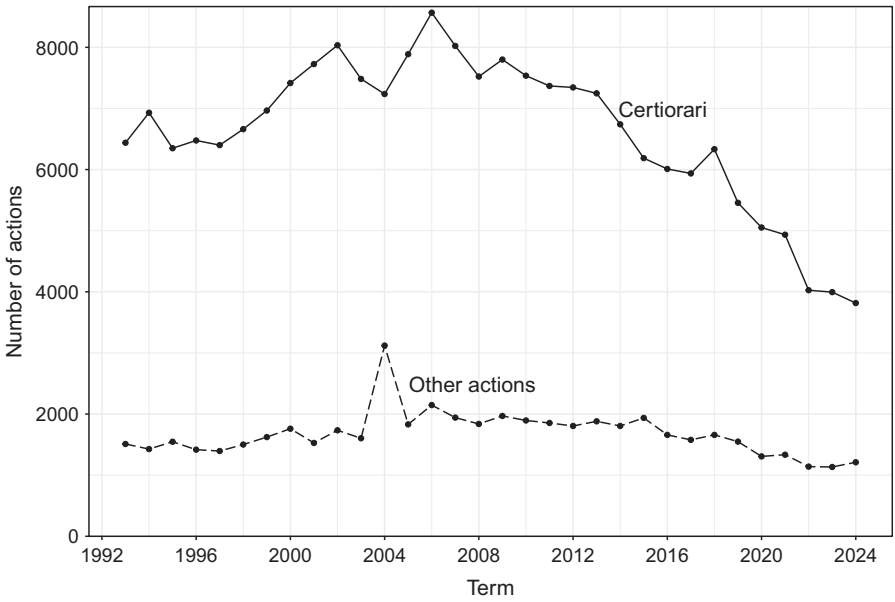


Figure 3. Shadow Docket Actions 1993–2025, Broken Down by Cert Grants/Denials Versus Other Actions.

case-related actions, the prominence of cert petitions becomes even more apparent, as they comprise 80% of such actions. Both sets of actions have decreased since a peak in the mid-2000s—dropping from more than 10,000 actions in the 2006 term to just over 5,000 in the 2024 term.

Turning specifically to the decline in cert petitions, Figure 4A depicts the number of cert petitions per term. We break down cert petitions into their two main types. "Paid" petitions are those in which the litigants bear the full cost of filing a cert petition, whereas *in forma pauperis* (IFP) petitions are those in which fees are waived, usually due to the indigency of criminal defendants. Because the latter are generally frivolous petitions, the Court has always been much more likely to grant cert to paid petitions. Intriguingly, Figure 4 shows that while the number of paid petitions has trended somewhat downwards since around 2000, the drop in IFP petitions since 2005 has been much starker, going from 6,850 in 2006 to about 2,400 in 2024. Thus, the decline in IFP petitions is primarily driving the overall decrease in the Court's docket size since the turn of the century.

How has the steep decline in IFP petitions affected the composition of the Court's actions? On average, only 1.6% of IFP petitions are granted per term.[14] Despite the decrease in IFP petitions filed, the grant rate has remained relatively stable. By contrast, the smaller decline in the number of paid petitions has been accompanied by an *increase* in their grant rate, as seen in Figure 4B. The combination of these trends has led IFP petitions to become an even smaller share of petitions granted certiorari. Excluding petitions associated with a GVR, between the 2020 and 2024 terms, less than 6% of all petitions granted certiorari were filed IFP. Thus, paid petitions have become even more central to the Court's merits docket.

[14]If we exclude petitions associated with GVRs, this drops to 0.25%.

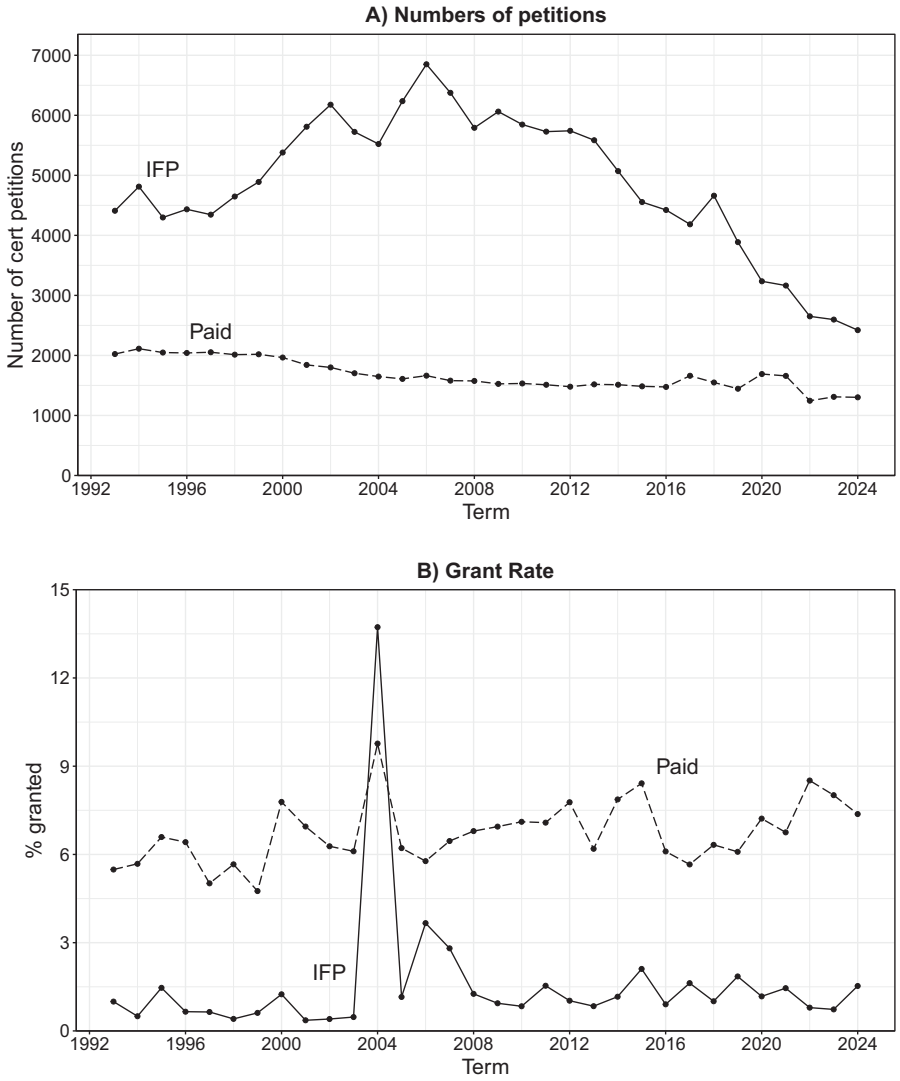


Figure 4. Cert Petitions 1993–2025, Broken Down by Paid Versus *in forma pauperis* (IFP) Petitions. A) The number of petitions over time; B) The rate at which petitions are granted, by type. (The spikes in percentage granted in the 2004 term are the result of *U.S. v. Booker*, 543 U.S. 220 (2005), which made the U.S. Sentencing Guidelines advisory, thereby forcing many lower courts to re-evaluate sentences in numerous cases.)

Returning to the puzzle of the Court's shrinking merits docket, of course, aggregate statistics like this can only tell us so much. But it does appear that variation in IFPs is what is driving the "denominator" in the Court's cert equation. At the same time, the grant rate for IFP and Paid petitions has remained fairly constant over time, suggesting that the Court's overall taste for hearing cases has not changed as dramatically as the raw numerator of merits cases would suggest. Further parsing the Court's cert decisions by petition type might shed more light on these questions.

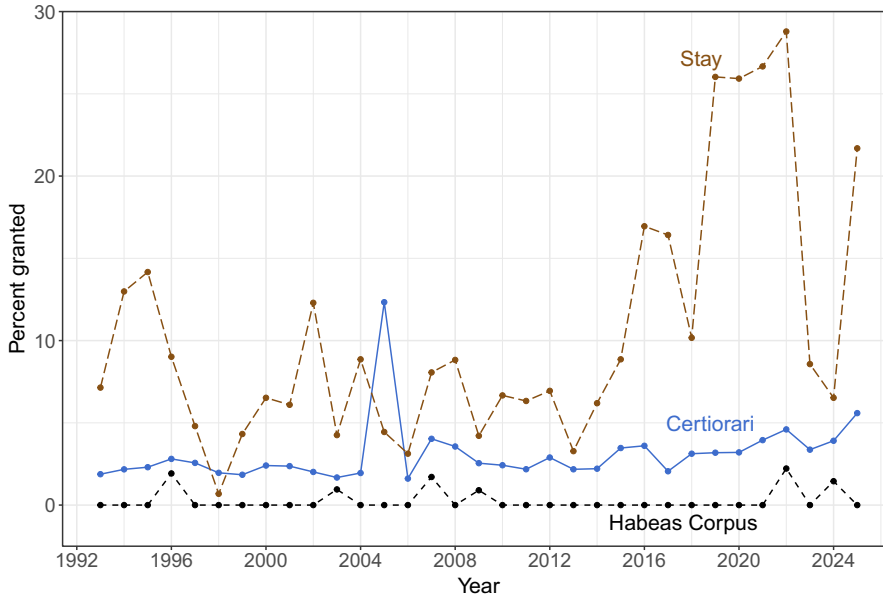


Figure 5. Petition Grant Rate, 1993–2024.

Finally, in addition to the type of action taken by the Court, the data set provides information on how grant rates vary by the type of relief requested by a litigant. Figure 5 depicts the rate at which the Court grants petitions for three of the most common action classes: certiorari, habeas corpus, and stays. Grants of writs of habeas corpus are even less common than writs of certiorari. In only six out of the past 32 years has the Court even granted a single habeas corpus petition. In contrast, the Court is much more willing to grant a stay. The percentage of granted stays varies significantly over this period—peaking during the first two years of the Biden administration before dropping precipitously during the last two.

Emergency applications

Perhaps the most pressing substantive question surrounding the Court's use of the shadow docket is its ruling in so-called "emergency applications"—that is, requests for the justices to act in a very expedited fashion due to some time-sensitive issue. Indeed, the popular website SCOTUSblog essentially equates the shadow docket with the Court's emergency docket:

> The Supreme Court's emergency docket, also known as the shadow docket, consists of applications seeking immediate action from the Court. Unlike the merits docket, these cases are handled on an expedited basis with limited briefing and typically no oral argument, and the Court often resolves them in unsigned orders with little or no explanation.[15]

[15] www.scotusblog.com/case-files/emergency/emergency-docket-2024/, accessed June 10, 2025.

The Court's handling of emergency applications came under scrutiny in the first year of the second Trump administration, due to the administration frequently turning to the Court for relief in the face of lower courts blocking several of its actions and policies (see, e.g., Sherman 2025, Vladeck 2025a).

Of course, the Supreme Court makes important rulings each term on the scope of presidential authority via its merits docket; for example, in July 2024, the Court effectively gave presidents absolute immunity for official acts (*Trump v. United States*, 603 U.S. 593). But in terms of specific requests to either block executive actions or to reassess lower court determinations that a particular action by the government is unlawful, the shadow docket is where much of the action lies. Figure 6 depicts the trend in emergency applications between the years of 2004 and 2025; we define emergency applications as those with dockets of the form "yyAxxx" that request a stay, an injunction, or for the Court to vacate a lower court's order—see the database's coding protocols for further details. (We begin with 2004 because the way the Court classifies such applications was not consistent before the 2003 term; we use years here as the unit of analysis instead of term in order to make the relevant presidential administration in power clearer.) We break down the applications into three categories: death penalty-related applications, applications filed directly on behalf of the president/executive branch, and a miscellaneous category (e.g., individuals filing actions against states or civil actions). To account for actions taken at the end of a presidential administration, we adjust each year so that it starts on January 20 and ends on January 19 of the following year.

Two interesting trends emerge from the figure. First, death penalty applications have declined in the past two decades, in line with overall decline in the number of

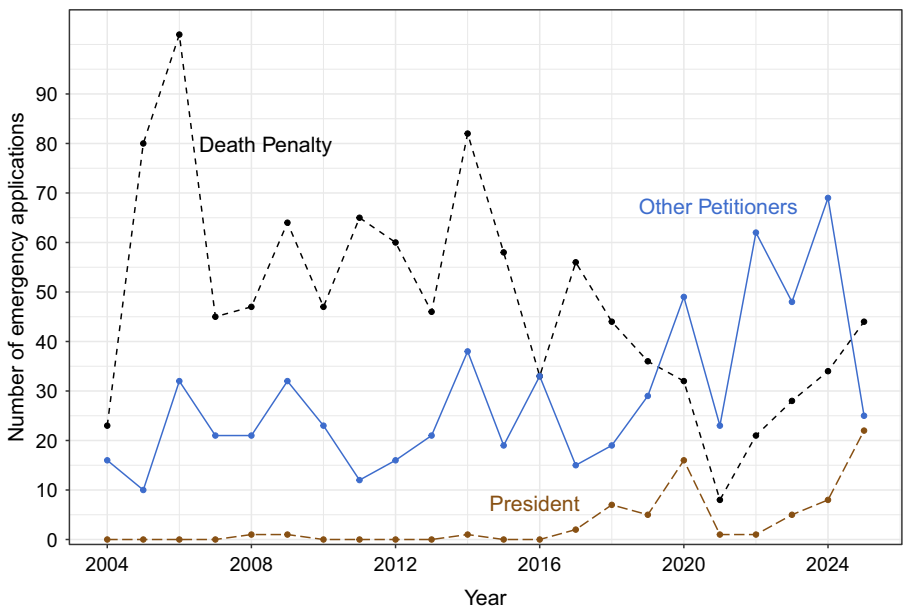


Figure 6. Emergency Applications, 2004–2025. Note that to account for actions taken at the end of a presidential administration, we adjust each year so that it starts on January 20 and ends on January 19 of the following year.

executions in the United States (Gramlich 2016); however, there has been an uptick in these applications in recent years. Second, the Trump administration's use of emergency applications in the first nine months of 2025 represents an all-time high (22 as of October 3, 2025), exceeding the former peak of 16 in 2020 during the last year of the first Trump administration.

Moving forward, researchers could conduct individual-level analyses of these applications to determine what predicts when the justices are likely to side with or against the government. For example, do the straightforward predictions of the attitudinal model—which Segal and Spaeth (2002) cabined to merit decisions—apply to emergency decisions on the shadow docket? It seems quite likely that they would, but testing this proposition would further our understanding of the extent to which ideology and/or partisanship structures voting patterns on the modern court.[16]

Ideal point estimates and dissents

One of the core contributions of empirical judicial politics has been the development of ideal point estimates, which are useful both for tracing the historical trajectory of justices and the Court over time and for use in individual-level models of justices' voting.[17] However, almost without exception, all such estimates rely solely on merits votes, ignoring the potential information from shadow docket decisions.[18] Given how few merits decisions the Court hears these days, shadow docket votes could provide valuable information for ideal point models of the justices. On this point, as Vladeck (2025*b*) has noted, ignoring decisions the Court makes on the shadow docket can lead to overestimates of the overall unanimity that the Court operates under; the justices, for example, have divided neatly along ideological lines in several high-profile cases in 2025 involving emergency applications from the Trump administration.

How contentious are shadow docket actions among the justices? While shadow docket orders are themselves unsigned, sometimes one or more of the justices will publicly dissent from the Court's action. Figure 7A plots the number of docket-days accompanied by a written dissent over time. In the 1990s and 2000s, written dissent was relatively rare.[19] Starting in 2013, the number of written dissents steadily increased, before peaking with 61 written dissents in the 2018 term.

A written dissent is not the only way that a justice can indicate opposition to an order. Instead, they can simply express that they would grant or would deny an order —without a written explanation. Figure 7B combines these disagreements with written dissents (so dissents are a subset of disagreements). Overall, the pattern is

[16]See Liptak (2025) for a discussion of some preliminary evidence from Epstein, Martin, and Nelson (2025) that finds a sharp partisan split in the Court's voting on emergency applications.

[17]The most widely used ideology scores are those developed in Martin and Quinn (2002) and Bailey (2007). For useful reviews of the use of ideal point estimates in judicial politics, see Fischman and Law (2009), Ho and Quinn (2010), and Bonica and Sen (2021).

[18]One such exception is Johnson (2018), who uses cert votes to construct ideal point estimates for justices who served between 1986 and 1993.

[19]Justice Stevens disagreed with the Court's practice of preventing indigent petitioners from filing additional petitions when the Court believes that the petitioners abused the certiorari process (unless the petitioners then pay the required docketing fees); Stevens would regularly dissent from such orders. The dashed lines include these dissents, while the solid lines exclude those; Justice Stevens retired following the 2009 term.

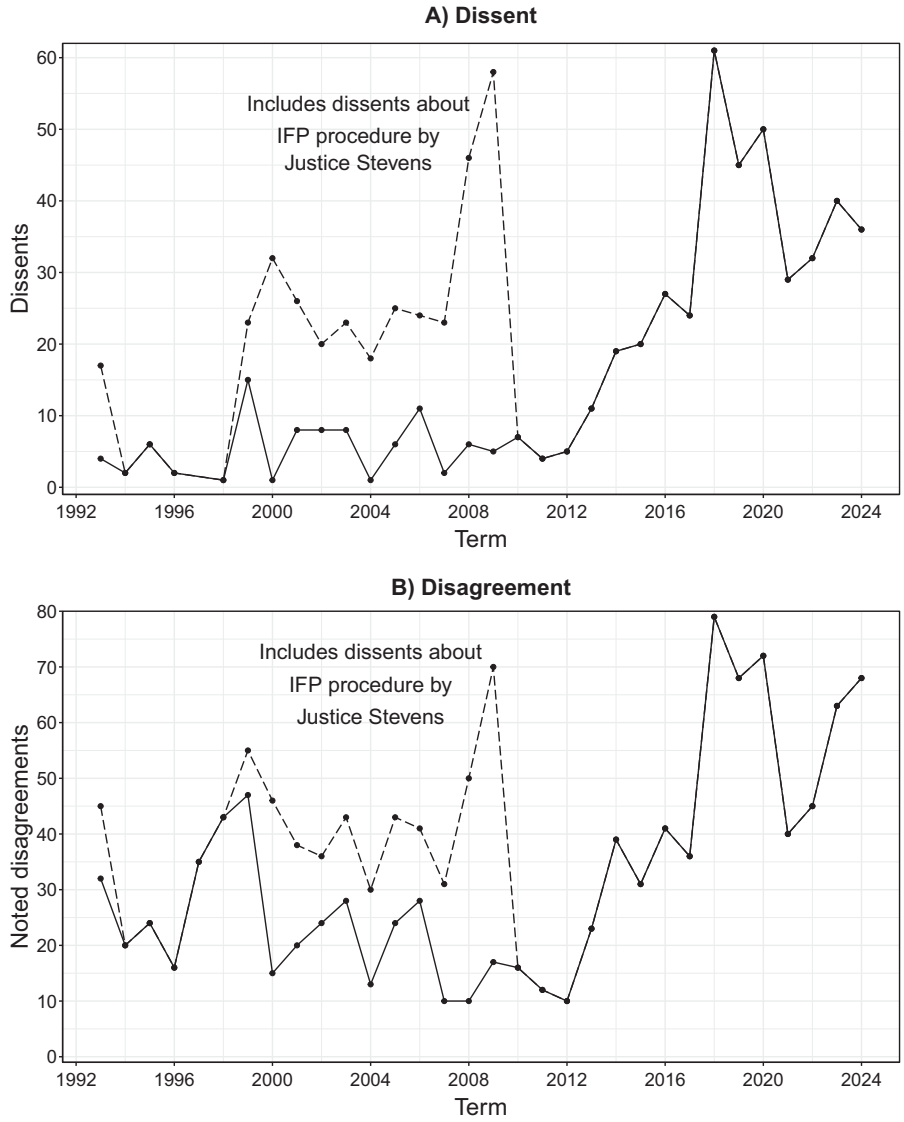


Figure 7. Disagreement and Dissent. A) The number of docket-days accompanied by a written dissent over time. B) The number of docket-days featuring disagreement or dissent over time. (The dashed line includes dissents by Justice Stevens concerning the practice of denying IFP petitions.)

similar to what we observe if we focus exclusively on written dissents; however, we observe slightly higher levels of disagreement in the late 1990s.

As these statistics suggest, the Shadow Docket dataset is organized around actions, and not justice votes. But it is straightforward to code judicial votes for Shadow Docket cases featuring at least one dissent. The existence of disagreement in these non-merits decisions allows us to explore whether the justice's behavior on the shadow docket mirrors their actions on merits cases.

Using the same method as Martin and Quinn (2002), we estimate the ideal point of the Rehnquist Court from 1994 to 2004—using only non-merits decisions.[20] To be sure, this should be seen as preliminary and suggestive enterprise, for the following reason. Standard item-response models such as those employed by Martin and Quinn (2002) assume "sincere voting," which is reasonable for merits votes. Shadow Docket cases, by contrast, are much more likely to feature insincere voting by justices in the form of suppressed dissents, which makes estimating standard ideal point models more difficult.[21]

With this caveat in mind, Figure 8 compares our estimates to Martin-Quinn scores derived from merits decisions. First, Figure 8A depicts the estimated Martin-Quinn score between 1994 and 2004 (higher scores mean more conservative voting) for each justice, using their initials; not surprisingly, Clarence Thomas is estimated to be most conservative justice in this period and John Paul Stevens the most liberal. Figure 8B does the same using shadow docket votes with dissents; interestingly, William Rehnquist and Anthony Scalia are estimated as more conservative in these votes than Thomas. Figure 8C depicts the correlation between the two measures, using justice-year as the unit of analysis; we can see the measures move together quite closely, with a correlation of .89. Finally, Figure 8D compares the rank orderings of three justices over time (Scalia, O'Connor, and Ginsburg), which are also quite closely correlated. All told then, voting patterns on the shadow docket yield similar estimates of conservatism to justices' votes on the merits docket.

The shadow docket and the judicial hierarchy

There exists a rich theoretical and empirical literature on the role of the Supreme Court in the federal judicial hierarchy.[22] This includes a large literature on explaining cert votes, which implicitly implicates the shadow docket (under our broader definition of the term). Yet because the shadow docket is now used quite frequently by the justices to either affirm or reverse important lower court decisions, there is still much to learn about the interplay of the shadow docket and the Court's overseeing of the judicial hierarchy. In this subsection we suggest two ways in which the Shadow Docket Database could be used to further our understanding of the hierarchy.

First, consider the Court's use of summary reversals, in which the Court reverses a lower court's decision immediately after granting cert, without requesting full briefs from the parties or holding oral arguments. This component of the shadow docket has received a significant amount of qualitative attention from legal scholars. Opinions in summary reversal decisions are much shorter than merits opinions, and are usually issued as a "per curiam" opinion (meaning it is issued in the name of the Court overall), rather than as a signed opinion by an individual justice. Because of

[20]We exclude Justice Stevens' disagreements about proper IFP procedure from the analysis. Ideal points are estimated via Markov Chain Monte Carlo using the R package `MCMCpack` (Martin, Quinn, and Park 2011).

[21]This issue is analogous to what occurs on the Courts of Appeals, where the dissent rate is quite low; see, e.g., Fischman (2011) for an example of a model that is designed to handle non-sincere voting among judges of the U.S. Courts of Appeals.

[22]See Kastellec (2017) for a review of this literature.

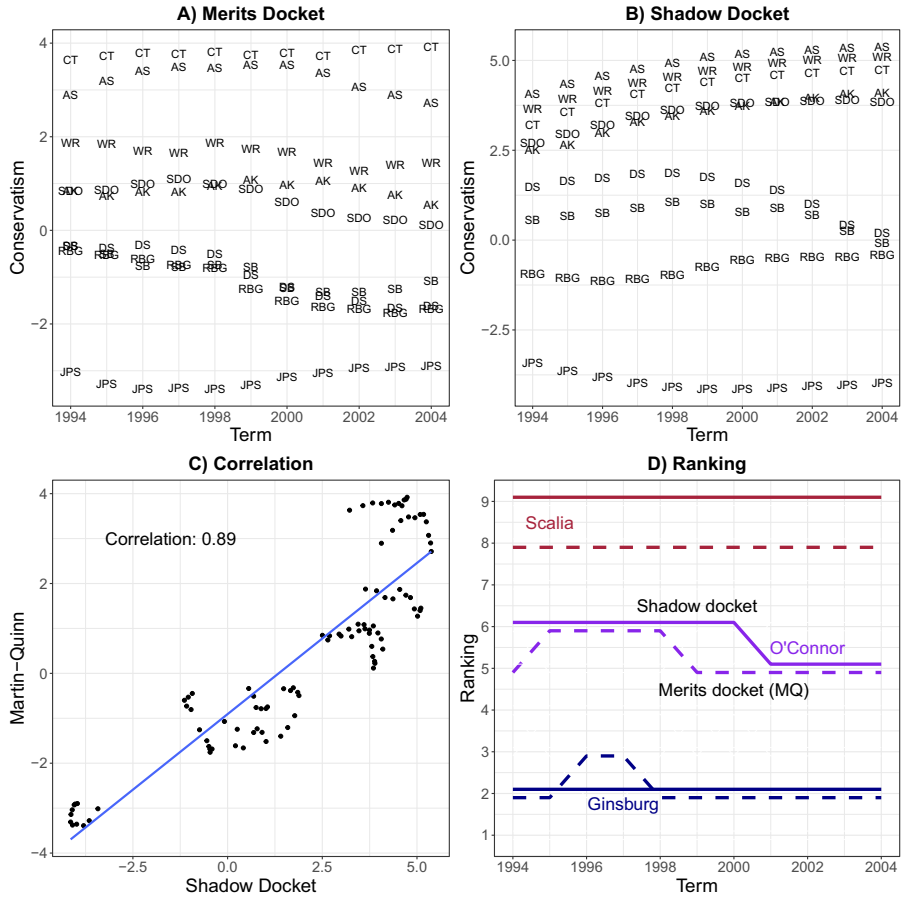


Figure 8. Comparison between Martin-Quinn Estimates and Ideal Points Estimated Using Shadow Docket Votes, Based on the Natural Court That Served between the 1994 and 2004 Terms. A) MQ estimates. B) Shadow docket estimates. C) The correlation between the two estimates. D) Comparison of the rank order of ideology for justices over time.

this, the Court's use of summary reversals has been criticized by many legal academics. Summary reversals, for example, were one of the main focuses of Baude's (2015) original shadow docket article; there he argued that the selection of cases for summary reversal "remains a mystery, [which] makes it difficult to tell whether the Court's selections are fair" (p. 2). Similarly, Vladeck (2023, 89) argues that summary reversals "short-circuit the Court's normal process; parties have no advance notice that a specific case is under consideration for summary treatment, and so briefs that were focused on why the Court should (or should not) grant certiorari become the basis for the justices' rulings on the merits."[23]

[23]See Hirsch, Kastellec, and Taboni (2025) for a formal theory that examines how summary reversal influences interactions between higher and lower courts in a judicial hierarchy.

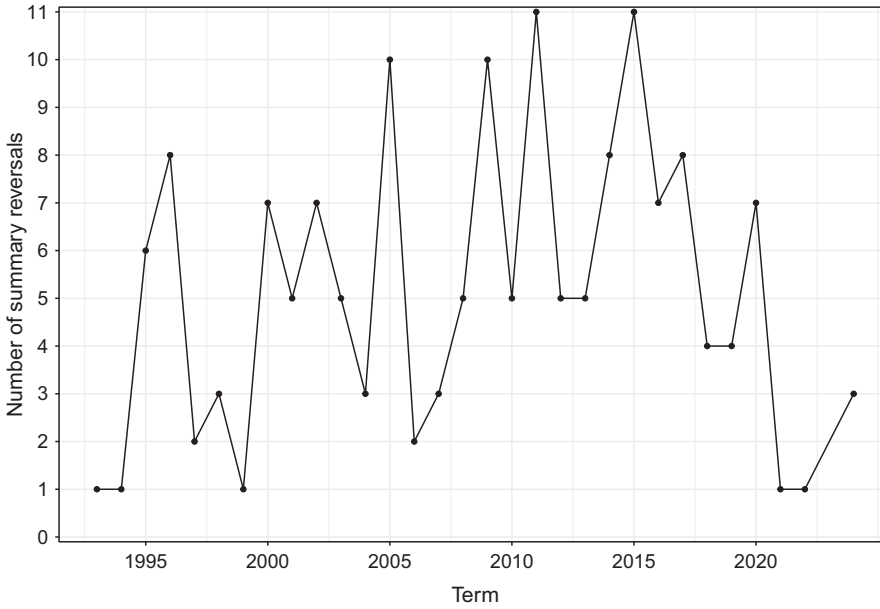


Figure 9. Summary Reversals, 1993–2024.

Figure 9 depicts the number of summary reversals per term from 1993 to 2024. As it turns out, the Court has not summarily reversed many decisions over this time period—though it has always issued at least one per term.[24] Interestingly, the Court's use of summary reversals in this period peaked in 2015 (along with 2010), the year in which Baude coined the shadow docket. Summary reversals have declined significantly since then, a puzzle explored in some detail by Golde (2025). Beyond these aggregate statistics, a more fine-grained analysis of the conditions under which the Court uses summary reversal would increase our understanding of how the Court wields this tool to attempt to increase its control over the lower courts.[25]

Additionally, with respect to appeals, the Shadow Docket database includes docket numbers identifying both the lower court from which a case emerged and the specific lower court dispute. For appeals from federal courts, these lower court docket numbers allow our data to be merged with the Federal Judicial Center's Integrated Database, which can allow scholars to ask questions such as the types of issues being appealed and the volume of appeals coming from the federal government. Similarly, merits decisions captured by the Supreme Court Database can be merged with our dataset through docket numbers.

[24]If our data extended back to the middle of the 20th century, we would surely see more summary reversals, since in that era the size of the Court's mandatory jurisdiction was much larger; see, e.g., Brown (1958) and Hart Jr. (1959) for criticism of the Court's use of summary reversals in the 1950s.

[25]Another question relevant to the judicial hierarchy is how both lower courts and the Supreme Court itself treat cases decided on the shadow docket in terms of their precedential value. See Badas, Justus, and Li (2022) for an empirical evaluation of how much and when such cases are invoked as precedent.

Conclusion

The Supreme Court's shadow docket now comprises some of the Court's most important work, yet systematic data on the shadow docket has remained scant. In this paper we have summarized the United States Shadow Docket Database. We hope the creation of the database will allow researchers to more systematically study this crucial part of the Supreme Court's work.

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