

Physics model finds that SCOTUS 'Super Court' votes are non-partisan

October 11 2018, by Tom Fleischman

The maelstrom surrounding the nomination and subsequent confirmation of Brett Kavanaugh to the Supreme Court was to be expected, when one justice's vote could change the country's moral compass for generations. But looking at the high court over a period of decades, have political leanings been its strongest barometer?

No, says Eddie Lee, doctoral student in physics, who applied a [statistical physics](#) model to a "Super Court" of 36 Supreme Court justices and 24 nine-member courts from 1946 to 2016. What Lee found was that consensus dominates the [court](#), and strong correlations in voting far outlast any one [justice](#) or court.

"Viewing the history of the court through a partisan lens, it doesn't work," Lee said. "Actually, a partisan picture breaks down. In fact, any sort of intuitive picture breaks down. The way the Supreme Court fractures over time, and all the different factions you get, there are a huge number of different blocs all competing to appear."

Lee's paper, "Partisan Intuition Belies Strong, Institutional Consensus and Wide Zipf's Law for Voting Blocs in U.S. Supreme Court," was published in the *Journal of Statistical Physics* and includes seven of the current nine justices; in addition to Kavanaugh, Neil Gorsuch is not included in the study as his term began in 2017.

While unanimity is nowhere near as prevalent now as it was in the late 1800s, when 9-0 votes were common, it's still the most frequent

outcome—around 30 to 50 percent of the time, Lee said. "The fact that there's consensus on a single Supreme Court is not surprising, but what I did was try to see how people voted across time," he said.

He found that the court defaults to consensus and strong correlations among justices over time. Long stints in which justices overlap can inform how justices [vote](#) relative to each other. In other words, if Justice A and Justice B voted together, and Justices B and C voted together, through transitivity one could infer how Justices A and C would have voted together.

"The way I thought of it was, if I lined all these people up from the present back through the past, how many justices back in time would I have to go to get an independent voice, someone who goes against that unanimous vote," Lee said. "You'd have to go pretty far back in time, and what I find is that this time, this correlation length, far exceeds the tenure of any single justice."

Despite the left-right divide that defines current political debate, he said, the fact that even "partisan issues" are actually much more complicated is reflected in Supreme Court voting over time. "No matter what simple picture you prescribe, votes that defy that intuition are probable," Lee said.

More information: Edward D. Lee, Partisan Intuition Belies Strong, Institutional Consensus and Wide Zipf's Law for Voting Blocs in US Supreme Court, *Journal of Statistical Physics* (2018). [DOI: 10.1007/s10955-018-2156-0](https://doi.org/10.1007/s10955-018-2156-0)

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