



SUPREME COURT

The lonely chief: How John Roberts lost control of the court

The chief justice had zero support for his middle of the road effort on Roe v. Wade.

100% Of desktop users scrolled to here



100% Of desktop users scrolled to here

By JOSH GERSTEIN

06/25/2022 08:25 AM EDT



As the shock waves spread Friday from the Supreme Court's momentous decision striking down Roe v. Wade, one notable casualty of the ruling became evident: Chief Justice John Roberts.

After nearly seven months of deliberations, Roberts found precisely zero takers among his fellow justices for his incrementalist approach that would have avoided overruling Roe for now, but allowed Mississippi to impose a near ban on abortions after 15 weeks of pregnancy.

Advertisement

The court's conservatives dismissed Roberts' stance as unprincipled and impractical, while the liberal justices called it "wrong" without detailing their objections.

Ultimately, Roberts' opinion amounted to an afterthought that had no impact on the outcome of the case.

And with the tumultuous Roe decision, the Roberts court legacy takes on a historic taint of polarization that the chief justice may not be able to unwind as he staves down the remaining years of his term overseeing a court that he

100% Of desktop users scrolled to here

SUPREME COURT OVERTURNS *ROE V. WADE*

The Supreme Court has **voted to strike down** *Roe v. Wade*, the landmark case that upheld abortion rights for the past 50 years.

- Read the court's **official opinion** ...
- ... and the **initial draft**
- How **Democratic campaigns** are responding
- Where abortion is now (or soon to be) **illegal**
- **Abortion statistics** by state, visualized
- **Colleges aren't prepared** for Roe's fall

[Full coverage »](#)

“This was clearly a rough term, but here is the capstone piece of evidence of just how little this is still the Roberts court,” said University of Texas law professor Stephen Vladeck. “This is a court that is fighting with each other past the chief. The bitterness, the intensity, the hostility is a reflection of the chief’s powerlessness because he can’t control either block.”

AD

“This stands as the most important decision of his tenure as chief justice and he’s not part of it,” American University professor and historian Stephen Wermiel said. “Roberts obviously tried hard to persuade the court I think to put all his cards on the table and, in the most important case of his tenure, he came up short.”

100% Of desktop users scrolled to here

Roberts came to the court with sterling conservative credentials and was confirmed on a 78-22 vote in 2005. He was lauded by former President George W. Bush and had the support of the entire Republican establishment who saw the young chief as the vanguard of next generation of constitutional conservatives on the court.

Yet, Roberts on Friday found himself alone. He tried to avoid the very fallout that he believed the court could have avoided by stopping short of overturning Roe, and seems keenly aware of how Americans view the Supreme Court. The court continues to drop in its approval ratings with the public and it can't seem to escape the perception that the institution's decisions are being driven by politics, not principle.

The snub Roberts suffered Friday would be humbling for any chief justice given the way in which abortion-related decisions bring a white-hot spotlight to the court. But it's just the latest in a series of blows Roberts has sustained in recent weeks that have fueled doubts about his ability to manage an increasingly fractious court.

Early last month, POLITICO shocked courtwatchers by publishing a draft of the majority opinion in the abortion case the court decided Friday. The unprecedented disclosure startled the justices, their law clerks and court staff. One day later, Roberts confirmed the authenticity of the draft, ordered an investigation and said the breach would have no impact on the court's operations.

The following week, the longest-serving member of the court — Justice Clarence Thomas — called the leak “tremendously bad” and he contended it was fueled by a deterioration in relations at the court in recent years. Thomas didn't mention Roberts by name, but expressed a clear preference for a period that ended around the time when the chief was confirmed in 2005.

100% Of desktop users scrolled to here

AD

“This is not the court of that era,” Thomas said at a conference of conservatives. “We may have been a dysfunctional family, but we were a family.”

The atmosphere at the court has also grown tense in recent weeks as Roberts has had to grapple with questions about the scope and tactics of the leak investigation and about security threats that emerged after the report that Roe was on the verge of being overturned. The court erected an eight-foot anti-riot fence around its historic building and further postponed plans to allow the public to return to its courtroom and public spaces.

Justices were given 24-hour security details as protests erupted outside some of their homes. And in the most chilling incident, earlier this month, a California man showed up outside Justice Brett Kavanaugh’s Maryland home allegedly intent on killing the justice. Police say the man was armed with a gun and a knife and he expressed anger about the expected abortion ruling and recent mass shootings.

Against that chaotic backdrop, Roberts had to weather Friday his conservative colleagues uniformly endorsing an opinion unapologetically picking apart his suggestion that the court stop short of overturning Roe v. Wade and “leave for another day” the most pointed questions about that decision. Indeed, the only substantive changes to Justice Samuel Alito’s original draft are rebuttals to the dissenters and to Roberts’ argument for more restraint from the court.

Mustering only the slightest deference for the chief, Alito’s opinion declared:

“The concurrence’s most fundamental defect is its failure to offer any
ch.” Alito also bluntly dismisses one of the
central tenets of Roberts’ opinion as “simply incorrect.”

100% Of desktop users scrolled to here

The repudiation of Roberts in the abortion case was indisputable and prompts the fundamental question of what degree of leadership is or should be expected from a chief justice. There have clearly been chief justices out of sync with the majority of their colleagues.

AD

Few people batted an eye when chief justices like Warren Burger or William Rehnquist found themselves in dissent. It's also true that few decried a lack of leadership by Roberts when he joined most of the court's conservatives on the losing side of 5-4 cases like the 2015 ruling that found a federal constitutional right to same-sex marriage.

The public is also witnessing a court that has shifted rightward in the past few years, leaving Roberts at one point at the ideological center of the court at least on some issues and now at least in relative terms to the left of the migrating center of a court with a six-justice supermajority.

100% Of desktop users scrolled to here

“No one can deny that from 2018 until when Ruth Bader Ginsburg died this was the Roberts court in every way that mattered,” Vladeck said. “The consequences of that no longer being true are incalculable but run the gamut from what the court is doing to how justices are behaving to how the institution functions. ... When the median vote on the court became Brett Kavanaugh and Amy Coney Barrett, it’s a very different court than any of us have seen in our lifetimes.”

Some experts believe the differences the court’s Republican appointees have with Roberts will soon be papered over as the conservative majority focuses on pressing its agenda in other areas like affirmative action and reining in the power of the regulatory state, issues where Roberts tends to be more aligned with his conservative colleagues.

FILED UNDER: ABORTION, U.S. SUPREME COURT, U.S. SUPREME COURT, JOHN ROBERTS, 

majority has a lot of work to do next term.”

Huddle

A play-by-play preview of the day's congressional news

100% Of desktop users scrolled to here



Your Email


INDUSTRY

Select Industry

SIGN UP

By signing up you agree to allow POLITICO to collect your user information and use it to better recommend content to you, send you email newsletters or updates from POLITICO, and share insights based on aggregated user information. You further agree to our privacy policy and terms of service. You can unsubscribe at any time and can contact us here. This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

SPONSORED CONTENT

Recommended by  Outbrain



Firefighters with Cancer are Joining this Lawsuit [Learn...

TruLaw

If You Have Toenail Fungus Try This Tonight (It's Genius!)

wellnessguide101.com



Do This to Help Remove Unwanted Moles or Skin Tags

Doctors Can't Explain But This Can Remove Moles and Skin...
Health Insight



Alameda, We Have a Problem

Among the first to sniff out the infamous balance sheet of...

Puck

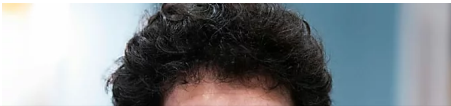
A must-have super bright flashlight for the outdoors!

greermy



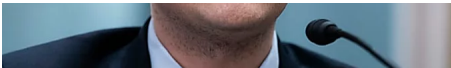
Doctor Says Slimming Down After 60 Comes Down To This

youstayfitwith.me



100% Of desktop users scrolled to here





Bankman’s tax law course at...

Meet the parents behind the fallen crypto exec

Puck

The Best Sonic Dermaplaning Tool For Women Over 50

Michael Todd Beauty



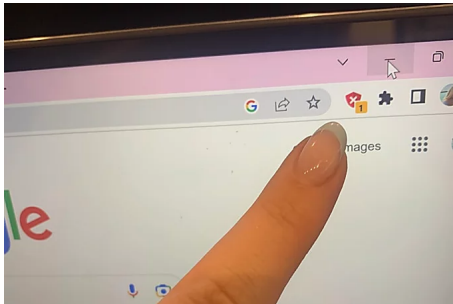
These 17 Fashion Items Mak...

YourDIY



What are the best home insurance rates of 2023?

Forbes Advisor



Google Chrome Users Can Now Block All Ads (Do it Now For...

Safe Tech Tips

Everyone is Talking About This Treatment For Toenail Fungu...

wellnessguide101.com

About Us

Advertising

Breaking News Alerts

Careers

Credit Card Payments

Digital Edition

FAQ

Feedback

Headlines

Photos

POWERJobs

Press

Print Subscriptions

Request A Correction

Write For Us

RSS

Site Map

100% Of desktop users scrolled to here

Terms of Service

[Privacy Policy](#)

[Do not sell my info](#)

[Notice to California Residents](#)



© 2023 POLITICO LLC

↑

100% Of desktop users scrolled to here