

Marquette Law School: New national survey finds overall approval of U.S. Supreme Court has ticked up from post-Dobbs low six months ago

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MILWAUKEE – A new Marquette Law School Poll national survey finds that 47% of adults approve of the job the U.S. Supreme Court is doing, while 53% disapprove. Approval of the Court has been rising from a recent low point of 38% in July 2022, although it remains well below the 60% approval rate in July 2021. In November 2022, the most recent Marquette national survey, 44% of the public approved and 56% disapproved.

The trend in approval since 2020 is shown in Table 1. (All results in the tables are stated as percentages; the precise wording of the questions can be found in the online link noted above.)

Table 1: Overall, how much do you approve or disapprove of the way the U.S. Supreme Court is handling its job?

Poll dates	Approve	Disapprove
9/8-15/20	66	33
7/16-26/21	60	39
9/7-16/21	49	50
11/1-10/21	54	46
1/10-21/22	52	46
3/14-24/22	54	45
5/9-19/22	44	55

7/5-12/22	38	61
9/7-14/22	40	60
11/15-22/22	44	56
1/9-20/23	47	53

The latest Marquette Law School Poll's national Supreme Court survey was conducted Jan. 9-20, 2023. The survey interviewed 1,000 adults nationwide and has a margin of error of +/-3.8 percentage points.

Partisan differences in approval of the Court are quite pronounced in the current poll, in contrast to minimal such differences as recently as July 2021. Table 2 shows approval by partisanship then and now.

Table 2: Overall, how much do you approve or disapprove of the way the U.S. Supreme Court is handling its job?, by party identification

(a) January 2023

Party ID	Approve	Disapprove
Republican	67	33
Independent	42	58
Democrat	35	65

(b) July 2021

Party ID	Approve	Disapprove
Republican	57	42
Independent	61	37
Democrat	59	40

Shifts in approval have been substantial in a short period since 2020. Table 3 shows approval by party in each of the Marquette polls since September 2020. The sharp increase in party polarization about opinion of the Court began in September 2021, decreased somewhat through March 2022, and then increased in May following the leak of the draft decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade*. Partisan differences further intensified in July following the Court's ruling in *Dobbs*. In the months since, approval among independents and

Democrats has moved upward from their low points while Republican approval has fluctuated between 65% and 71%.

Table 3: Approval of the Court, by party identification, Sept. 2020-Jan. 2023

Poll dates	Republican	Independent	Democrat
9/8-15/20	80	64	57
7/16-26/21	57	61	59
9/7-16/21	61	51	37
11/1-10/21	61	53	49
1/10-21/22	60	52	45
3/14-24/22	64	51	52
5/9-19/22	71	38	28
7/5-12/22	67	39	15
9/7-14/22	65	34	24
11/15-22/22	70	40	28
1/9-20/23	67	42	35

Knowledge of the Court

The Supreme Court is not constantly in the news, as is the case with Congress or the president. Rather, Court coverage is concentrated around the announcement of decisions and, to some extent, the argument of cases or the appointment of justices. This fluctuating pattern of news means the public may not hear about cases before they are ultimately decided.

In this new survey, 17% said they had heard or read a lot about “a Supreme Court case concerning the use of race in college admissions,” 47% had heard a little, and 36% had heard nothing at all. The cases, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina* were argued Oct. 31. In the November national Marquette Law School Poll, conducted shortly after oral argument in the cases, 20% of the public had heard a lot, 45% had heard a little, and 34% had heard nothing about this case.

On Dec. 7, the Court heard arguments in *Moore v. Harper*, concerning the powers of

a state legislature to set the rules for federal elections in the state. In January, 16% said they had heard a lot about this case, 46% had heard a little, and 38% had heard nothing at all.

For comparison, a large share of the public said they had “heard a lot” about the Court’s *Dobbs* abortion case after the decision had been made, and this remained at high levels through November, as shown in Table 4. This question was not repeated in the January poll.

Table 4: Here are some recent topics in the news. How much have you heard or read about each of these? A Supreme Court decision on abortion.

Poll dates A lot A little Nothing at all

7/5-12/22	81	15	3
9/7-14/22	84	13	3
11/15-22/22	76	20	3

Another measure of knowledge about the Court is awareness of which party’s presidents have nominated a majority of justices on the Court. Nomination and confirmation debates have drawn intense news coverage for many years, yet 23% say they think a majority of justices were nominated by Democratic presidents. Another 41% say a majority were “probably” nominated by Republican presidents, and 36% give the correct answer, that a majority was “definitely” nominated by Republican presidents.

Since 2019, the percentage of adults who say there is “definitely” a majority of justices nominated by Republican presidents has almost doubled, from 19% in September 2019 to 36% in January 2023. Meanwhile there has been only a modest reduction in the percent who say a majority was definitely or probably nominated by Democratic presidents, a shift from 27% in September 2019 to 23% in January 2023. This trend is shown in Table 5.

Table 5: What is your guess as to whether a majority of the current U.S. Supreme Court Justices were appointed by Democratic or Republican presidents?

Poll dates	Definitely/Probably Dem majority	Probably Rep majority	Definitely Rep majority
9/3-13/19	27	53	19

9/8-15/20	28	51	21
7/16-26/21	24	45	30
9/7-16/21	25	46	29
11/1-10/21	28	44	28
1/10-21/22	23	44	33
3/14-24/22	28	47	24
5/9-19/22	31	39	31
7/5-12/22	20	40	40
9/7-14/22	22	40	37
11/15-22/22	24	40	35
1/9-20/23	23	41	36

Partisans differ in their awareness of the Court’s majority, with Republicans more likely to think Democratic appointees form the majority and less certain that their own party appointed the majority. In contrast, Democrats are more likely to correctly identify the Court majority as Republican appointees, as shown in Table 6.

Table 6: What is your guess as to whether a majority of the current U.S. Supreme Court justices were appointed by Democratic or Republican presidents?, by party identification

Party ID	Definitely/Probably Dem majority	Probably Rep majority	Definitely Rep majority
Republican	26	40	34
Independent	25	44	30
Democrat	16	38	46

Pending cases

In the current term, the Court is considering cases on use of race in college admissions, whether religious beliefs and free speech rights allow certain businesses to refuse to provide some services to LGBTQ customers, and the power of state legislatures to set the rules for federal elections, among others.

The survey finds that the public is skeptical of the use of race in admissions, with 35% in favor of a decision that would ban the use of race and 16% opposed. The case is not yet on the top of the mind of most respondents, however, with 49%

saying they haven't heard anything about such a case or haven't heard enough to have an opinion.

This topic has seen consistent opposition to the use of race in admissions in Marquette polling since September 2021, as shown in Table 7. Those saying they haven't heard anything or haven't heard enough increased over the summer, from 33% in March to 50% in September. Table 7 (a) shows views including those who have not heard enough about the issue to have an opinion, and Table 7 (b) shows the percentages for only those with an opinion.

Table 7: Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? Rule that colleges cannot use race as one of several factors in deciding which applicants to admit.

(a) Among all respondents

Poll dates	Heard nothing/not enough	Favor	Oppose
9/7-16/21	33	53	13
3/14-24/22	33	49	17
9/7-14/22	50	37	13
11/15-22/22	42	41	16
1/9-20/23	49	35	16

(b) Among those with an opinion

Poll dates	Heard of and favor	Heard of and oppose
9/7-16/21	81	19
3/14-24/22	75	25
9/7-14/22	74	26
11/15-22/22	72	28
1/9-20/23	68	32

While large percentages say they haven't heard enough about the college admissions case, more within each race and ethnic group favor banning race as a factor in admissions than think race should continue to be considered. Table 8 (a) shows views including those who have not heard enough about the issue, and

Table 8 (b) shows the percentages for only those with an opinion. To increase the sample size of Black and Hispanic respondents, this table combines responses from September 2022, November 2022, and January 2023.

Table 8: Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? Rule that colleges cannot use race as one of several factors in deciding which applicants to admit. By race of the respondent.

(a) Among all respondents, Sept. & Nov. 2022, Jan. 2023

Race & ethnicity Heard nothing/not enough Favor Oppose

White	44	42	14
Black	54	24	21
Hispanic	55	30	15

(b) Among those with an opinion Sept. & Nov. 2022, Jan. 2023

Race & ethnicity Heard of and favor Heard of and oppose

White	75	25
Black	53	47
Hispanic	67	33

In the January poll, 20% of Hispanic respondents said they favored ending the use of race, while 23% said they were opposed. This is different from the larger pooled sample, while opinions of other groups in January did not differ materially from the pooled results.

There are substantial partisan differences on this issue as shown in Table 9, with majorities of Republicans and independents in favor of banning the use of race while a majority of Democrats are opposed, among those with an opinion about the case.

Table 9: Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? Rule that colleges cannot use race as one of several factors in deciding which applicants to admit. By party identification.

(a) Among all respondents

Party ID	Heard nothing/not enough	Favor	Oppose
Republican	43	49	8
Independent	54	34	13
Democrat	48	23	29

(b) Among those with an opinion

Party ID	Heard of and favor	Heard of and oppose
Republican	86	14
Independent	72	28
Democrat	44	56

Another case, argued Dec. 5, 2022, is *303 Creative LLC v. Elenis*, which poses the question whether the religious beliefs or free speech rights of business owners can justify refusing to provide some services to LGBTQ customers. As with college admissions, a substantial 43% of respondents have not heard of this case or have not heard enough to have an opinion. Among those with an opinion, a majority, 57%, oppose a decision allowing such a business to refuse services, while 43% favor such a ruling. The trend in opinion on this question is shown in Table 10.

Table 10: Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? Decide that a business owner's religious beliefs or free speech rights can justify refusing some services to gay people.

(a) Among all respondents

Poll dates	Heard nothing/not enough	Favor	Oppose
3/14-24/22	29	28	43
9/7-14/22	44	21	35
11/15-22/22	35	25	40
1/9-20/23	43	24	33

(b) Among those with an opinion

Poll dates Heard of and favor Heard of and oppose

3/14-24/22	39	61
9/7-14/22	37	63
11/15-22/22	39	61
1/9-20/23	43	57

Those who favor the Court's 2015 decision finding that there is a constitutional right to same-sex marriage are strongly opposed to allowing businesses to refuse services, while those who oppose the same-sex marriage ruling favor a ruling that would allow businesses to choose not to provide services, as shown in Table 11.

Table 11: Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? Decide that a business owner's religious beliefs or free speech rights can justify refusing some services to gay people. By opinion of same-sex marriage ruling.

(a) Among all respondents

Favor/oppose same sex marriage ruling	Heard nothing/not enough	Favor Oppose	
Favor	41	13	46
Oppose	45	48	6

(b) Among those with an opinion

Favor/oppose same sex marriage ruling	Heard of and favor	Heard of and oppose
Favor	22	78
Oppose	88	12

On Dec. 7, the Court heard arguments in *Moore v. Harper*, addressing the "independent state legislature" theory, which holds that, under the Constitution, only the legislature has the power to regulate federal elections and state courts cannot overturn the legislature's decisions.

Most respondents, 69%, have not heard anything or not enough to have an opinion about this case, while 9% favor a ruling that state legislatures have sole authority and 22% oppose unchecked authority of legislatures.

Among those who do have an opinion on this case, 28% favor the independent power of legislatures, while 72% are opposed to this view of legislative authority.

These results are shown in Table 12.

Table 12: Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion? Rule that under the Constitution, the state legislatures have the power to regulate federal elections and are not subject to review by state courts.

(a) Among all respondents

Poll dates	Heard nothing/not enough	Favor	Oppose
11/15-22/22	70	7	22
1/9-20/23	69	9	22

(b) Among those with an opinion

Poll dates	Heard of and favor	Heard of and oppose
11/15-22/22	25	75
1/9-20/23	28	72

The independent legislature theory is not well known, as the fact of 69% who say they've not heard enough to have an opinion attests. Of those with an opinion, Republicans are closely divided, with 52% in favor and 48% opposed to this view of legislative authority. Among independents with an opinion, 32% favor and 68% oppose ruling for expansive legislative authority, while among Democrats with an opinion, 11% favor and 89% oppose such a ruling.

Prior decisions

In the current survey, 35% favor the June decision in *Dobbs v. Jackson Women's Health Organization*, overturning *Roe v. Wade*, while 64% oppose that ruling. The Nov. 2022 and Jan. 2023 responses are shown in Table 13.

Table 13: In 2022, the Supreme Court overturned Roe versus Wade, thus striking down the 1973 decision that made abortion legal in all 50 states. How much do you favor or oppose this decision?

Poll dates Favor Oppose

11/15-22/22	33	66
1/9-20/23	35	64

Looking back to earlier decisions, a substantial majority, 67%, favor the Court's 2015 ruling establishing a right to same sex marriage, while 33% are opposed. This trend is shown in Table 14.

Table 14: In 2015 the Supreme Court ruled that the Constitution guarantees a right to same-sex marriage. How much do you favor or oppose this decision?

Poll dates Favor Oppose

5/9-19/22	69	31
7/5-12/22	66	34
9/7-14/22	71	29
11/15-22/22	72	28
1/9-20/23	67	33

Perceptions of the ideology of the Court

The perceived ideology of the Court has moved in the conservative direction since 2019, with 59% saying in January 2023 that the Court is very conservative or conservative. That compares with 38% in the first Marquette national survey in September 2019. The percentage seeing the Court as moderate has decreased from 50% in 2019 to 31% in January 2023. The full trend is shown in Table 15.

Table 15: In general, would you describe each of the following as very conservative, conservative, moderate, liberal, or very liberal? The Supreme Court

Poll dates	Very conservative	Somewhat conservative	Moderate	Somewhat liberal	Very liberal
9/3-13/19	5	33	50	9	3
9/8-15/20	5	30	54	9	2
7/16-26/21	13	37	42	6	1
9/7-16/21	16	35	40	7	2
11/1-10/21	15	35	39	8	1
1/10-21/22	17	38	35	8	2

3/14-24/22	15	37	36	10	2
5/9-19/22	23	33	34	8	2
7/5-12/22	34	33	21	7	3
9/7-14/22	29	35	27	5	3
11/15-22/22	25	36	32	6	2
1/9-20/23	22	37	31	8	2

The public has come to think that the Court should pay more attention to public opinion in reaching its decisions. In September 2020, 44% said the Court should consider public opinion, while 55% said it should not. In the current survey, more than two years later, by contrast, 56% say public opinion should be considered and 44% say it should not be considered. The trend is shown in Table 16.

Table 16: Should justices of the Supreme Court consider public opinion about a case when making decisions or should they ignore public opinion?

Poll dates	Should consider public opinion	Should ignore public opinion
9/8-15/20	44	55
9/7-16/21	41	59
7/5-12/22	54	46
9/7-14/22	61	39
11/15-22/22	61	39
1/9-20/23	56	44

In polls since 2020, a substantial majority of the public consistently has said that the Court should overturn previous decisions if a majority of the Court thinks the case was wrongly decided. Support for following previous decisions rose modestly as the potential of overturning *Roe v. Wade* became more salient, but has declined modestly since July, as shown in Table 17.

Table 17: Should justices of the Supreme Court follow previous decisions whenever possible or should the Court overturn previous decisions if a majority of the Court believes the case was wrongly decided?

Poll dates	Follow previous decisions	Overturn if a majority think it was wrongly decided
9/8-15/20	18	81

9/7-16/21	26	74
7/5-12/22	33	66
1/9-20/23	28	72

The perception of whether politics or the law most often motivates justices' decisions has shifted in 2022 and 2023, compared to earlier years. There has been a generally even divide since January 2022. In earlier years, a substantial majority said the law was the main motivation.

Table 18: In general, what most often motivates Supreme Court justices' decisions, mainly politics or mainly the law?

Poll dates Mainly politics Mainly the law

9/3-13/19	35	64
9/8-15/20	37	62
7/16-26/21	29	71
9/7-16/21	39	61
11/1-10/21	30	70
1/10-21/22	47	53
7/5-12/22	52	48
1/9-20/23	49	51

Confidence in the Court and other institutions

Confidence in the Court has declined since 2019. Then 37% had a great deal or quite a lot of confidence, while 31% have similar confidence in January 2023. Those with very little or no confidence increased from 20% in September 2019 to 31% in January 2023. The full trend is shown in Table 19.

Table 19: Here is a list of institutions in American society. How much confidence do you have in each one? . . . The U.S. Supreme Court.

Poll dates	Great deal/quite a lot	Some	Very little/None
9/3-13/19	37	42	20
9/8-15/20	39	45	16
7/5-12/22	28	28	44

9/7-14/22	30	34	36
11/15-22/22	30	36	34
1/9-20/23	31	38	31

Confidence in a number of institutions is shown in Table 20.

Table 20: Here is a list of institutions in American society. How much confidence do you have in each one?

Institution	Great deal/quite a lot	Some	Very little/None
The police	50	29	21
The FBI	39	32	28
The U.S. Supreme Court	31	38	31
Your state Supreme Court or highest court in your state	31	44	25
The Presidency	26	30	43
Your state legislature	25	46	29
Congress	13	43	44

Trust in government in Washington

Trust in the government in Washington to do what is right remains at low levels. That has been typical of recent polling, as shown in Table 21.

Table 21: How much of the time do you think you can trust the government in Washington to do what is right?

Poll dates	Just about always	Most of the time	Only some of the time	Never
9/7-16/21	2	25	57	16
11/1-10/21	2	22	59	17
1/10-21/22	1	17	63	18
3/14-24/22	2	21	58	18
5/9-19/22	1	21	56	21
7/5-12/22	1	18	63	17

9/7-14/22	2	20	63	15
11/15-22/22	2	23	62	13
1/9-20/23	1	20	61	16

About the Marquette Law School Poll

The survey was conducted Jan. 9-20, 2023, interviewing 1,000 adults nationwide, with a margin of error of +/-3.8 percentage points. Interviews were conducted using the SSRS Opinion Panel, a national probability sample with interviews conducted online. The detailed methodology statement, survey instrument, topline results, and crosstabs for this release are [available online](#). Some items from this survey (more generally about political topics) are held for a separate release tomorrow (Thursday, Jan. 26, 2023).

Wording of questions about future and past Supreme Court decisions: These items do not attempt to exactly frame the particular issues in specific cases but rather address the topic in more general terms.

The wording of questions about cases before the Court in the October 2022 Term includes:

Do you favor or oppose the following possible future Supreme Court decisions, or haven't you heard enough about this to have an opinion?

- Rule that colleges cannot use race as one of several factors in deciding which applicants to admit.
- Rule that a business owner's religious beliefs or free speech rights can justify refusing some services to gay people.
- Rule that under the Constitution, the state legislatures have the power to regulate federal elections and are not subject to review by state courts.

The wording of questions about previous decisions includes:

Opinion of *Dobbs* decisions, striking down *Roe v. Wade*

- In 2022, the Supreme Court overturned *Roe versus Wade*, thus striking down the 1973 decision that made abortion legal in all 50 states. How much do you

favor or oppose this decision?

Opinion of same-sex marriage decision:

In 2015, the Supreme Court ruled that the Constitution guarantees a right to same-sex marriage. How much do you favor or oppose this decision?