

Supreme Court

There is an important corollary to his [Justice William J. Brennan Jr.'s] famous Rule of Five, one powerfully at work in the current Supreme Court. That is the Rule of Six.

A five-justice majority is inherently fragile. It necessitates compromise and discourages overreach. Five justices tend to proceed with baby steps.

A six-justice majority is a different animal. A six-justice majority, such as the one now firmly in control, is the judicial equivalent of the monarchy's "heir and a spare." The pathways to victory are enlarged. The overall impact is far greater than the single-digit difference suggests.

Ruth Marcus, Washington Post, Nov. 28, 2021