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John Roberts is voting with liberal justices, but he's not one of them

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Chief Justice John Roberts' recent votes with the liberal members of the Supreme Court have given rise to speculation he has become the court's new swing vote, but court watchers say he has not suddenly moved to the Left.

Instead, the chief justice, 64, now sits at the middle of the court and is working to shield it from accusations the justices are politically motivated, they say.

Analysts characterize Roberts as an institutionalist who cares about protecting the Supreme Court's reputation, and they note that while he has joined the liberal justices, his votes were primarily on procedural motions rather than the merits of the policies.

If issues like abortion, campaign finance, and affirmative action do come before the court, they don't expect Roberts to offer any surprises.

"When the rubber hits the road," Ilya Shapiro of the Cato Institute said, "his views are clear, and that's not going to change."

"I don't think what we've seen so far is early evidence of Roberts moving to the left or evolving," Shapiro said. "Nor is it Roberts becoming moderate like Kennedy, the true swing vote. It's just Roberts trying to use his power at the margins with procedural things to shape what kinds of decisions the court ultimately does rule on."

Justice Anthony Kennedy served as the swing vote on the Supreme Court for more than 10 years, and his retirement — and subsequent confirmation of his replacement, Justice Brett Kavanaugh — cemented a 5-4 conservative majority on the high court.

But since the start of the Supreme Court's current term in October, Roberts, appointed by President George W. Bush, has split with the conservative justices numerous times.

In December, he sided with his liberal colleagues in upholding a lower court's order blocking the Trump administration from implementing its asylum policy. Then, last month, he and the liberal justices blocked Louisiana from enforcing a new abortion law, which requires doctors who provide abortions to have admitting privileges at a local hospital.

The chief justice split with his fellow conservatives again last week in the case of a death row inmate in Alabama who can't remember his crimes after suffering a series of strokes. The Supreme Court ruled 5-4 for the inmate and sent the case back to the lower courts for further consideration.

But Roberts hasn't voted exclusively with the liberal wing of the bench this term. In January, he joined the conservative justices in allowing the Trump administration to enforce its transgender military ban.

"I don't think Chief Justice Roberts is suddenly transforming into a liberal justice," said Heritage Foundation legal fellow Elizabeth Slattery. "Sometimes, there are some surprises with the way the votes shake out, but for the most part, I don't think we're going to see him flip his position. He's a minimalist and a proponent of judicial restraint, so he takes a very baby-steps approach to the law. I don't think we're going to see a serious departure from his past jurisprudence."

Kennedy's retirement and Kavanaugh's confirmation battle thrust the Supreme Court into the center of a political firestorm.

The Constitutional Accountability Center's chief counsel, Brianne Gorod, said Roberts' recent votes should be considered against the backdrop of Kavanaugh's confirmation process.

"The Supreme Court's reputation is something the chief justice cares a lot about it," Gorod said. "He doesn't want them to be seen as politicians in robes. For a justice like the chief justice who cares very deeply about the institutional legitimacy of the Supreme Court and the courts more generally, it wouldn't be at all surprising that he's particularly sensitive to those concerns at this moment in time."

Roberts himself has publicly sought to dispel any notion that the justices — and the federal judiciary as a whole — are driven by politics.

In December, the chief justice issued a rare rebuke of President Trump after he called the judge who ruled against his asylum policy an "Obama judge."

"We do not have Obama judges or Trump judges, Bush judges or Clinton judges," Roberts said in a statement. "What we do have is an extraordinary group of dedicated judges doing their level best to do equal right to those appearing before them."

During an event at Belmont University College of Law last month, Roberts told the crowd that "people need to know that we're not doing politics."