

United States v. Santos: Deciphering the Majority and Taking Lessons from the Plurality

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By: [Adam Schwartz](#) and Rachel May Zysk Excerpt: *"Notably, there is no majority opinion in Santos. Rather, Justice Scalia penned the five-part plurality opinion. He was joined by Justices Souter and Ginsburg in all parts, and by Justice Thomas except in Part IV. Justice Stevens concurred in the judgment, resulting in a narrow 5-4 majority, but wrote a concurring opinion, thereby limiting the holding of the case. This article examines the plurality opinion and concludes with a discussion of the lessons that can be learned from the Court's holding and the plurality opinion. Section I discusses the factual and procedural history of the case. Section II discusses the plurality's analysis, including the arguments advanced by the government and the manner in which the plurality rejected them. Section III discusses Part IV of the plurality opinion, where Justice Scalia opined on the effect of Justice Stevens' concurring opinion, both on Santos and on future cases. Finally, the article concludes with suggestions on how practitioners may use Santos to benefit their clients."*

Authored By



[Adam P. Schwartz](#)

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