

# Breyer phoned in to Supreme Court oral arguments Tuesday due to a false positive Covid test

(CNN) — Justice [Stephen Breyer](#) participated in oral arguments remotely on Tuesday after a "false positive" Covid-19 test, the [Supreme Court](#) announced.

A court spokeswoman said that the senior liberal justice took a rapid test Tuesday morning prior to oral arguments and received a positive result. A second rapid test was negative, as was a PCR test administered later in the morning.

"Out of an abundance of caution, Justice Breyer participated in oral arguments today remotely from his chambers," Patricia McCabe, the court's public information officer, said in a statement.



McCabe said that Breyer's test before oral arguments was carried out as a part of "routine testing." Minutes before oral arguments were set to begin, the court sent out a brief statement that Breyer would participate remotely but did not immediately specify whether he was ill.

Breyer asked questions during both cases Tuesday that concerned immigration law. In each case, the justices discussed whether a noncitizen held for US immigration violations is entitled to a bond hearing after six months of detention.

All [nine justices have received](#) the Covid-19 vaccine and a booster shot, with the rare statement about the health of the justices coming as the nation grapples with a dramatic surge in cases due to the highly contagious Omicron variant.

But unease still exists at the high court amid the increase in cases nationwide. On Friday, Justice Sonia Sotomayor [took part in oral arguments from her chambers](#), though she was not ill. The court did not give a reason for her decision, but Sotomayor had been the only justice routinely wearing a mask during previous oral arguments, likely due to the fact that she has diabetes.

Sotomayor also participated in oral arguments from her chambers Monday and Tuesday.

At least two members of the court have previously tested positive for the virus: Justice [Brett Kavanaugh](#) received a diagnosis in October, while Justice [Amy Coney Barrett](#) had Covid in 2020 prior to being nominated to the high court by President Donald Trump.

The justices had started working remotely at the start of the pandemic when much of the US went into lockdown, but they resumed in-person oral arguments in October 2021.

*CNN's Devan Cole contributed to this report.*