

Supreme Court

Contra Costa Bar Association
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United States Supreme Court -- October Term 2023

I. Abortion

Food and Drug Administration v. Alliance for Hippocratic Medicine, 144 S.Ct. 1540 (2024). Plaintiffs lack Article III standing to challenge the Food and Drug Administration's regulatory actions regarding mifepristone.

Moyle v. United States, 144 S.Ct. 2015 (2024). Certiorari improvidently granted as to whether the Supreme Court should stay the order by the U.S. District Court for the District of Idaho enjoining the enforcement of Idaho's Defense of Life Act, which prohibits abortions unless necessary to save the life of the mother, on the ground that the Emergency Medical Treatment and Labor Act preempts it.

II. Administrative law

Loper Bright Enterprises v. Raimondo, 144 S.Ct. 2244 (2024). The Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous; Chevron is overruled.

Securities and Exchange Commission v. Jarkesy, 144 S.Ct. 2117 (2024). The statutory provisions that empower the Securities and Exchange Commission to initiate and adjudicate administrative enforcement proceedings seeking civil penalties violate the Seventh Amendment.

Corner Post, Inc. v. Board of Governors of Federal Reserve System, 144 S.Ct. 2440 (2024). Limitations period for suits under Administrative Procedure Act does not begin to run until plaintiff is injured by final agency action.

Consumer Financial Protection Bureau v. Consumer Financial Services Association, 144 S.Ct. 416 (2024). The funding mechanism for the CFPB, whereby Congress authorized the Bureau to draw from the Federal Reserve System the funds its Director deems "reasonably necessary to carry out" the Bureau's duties, subject only to an inflation-adjusted cap, complies with the Appropriations Clause.

III. Bankruptcy

Harrington v. Purdue Pharma L.P., 144 S.Ct. 2071 (2024). The Bankruptcy Code does not authorize a court to approve, as part of a plan of reorganization under Chapter 11 of the Bankruptcy Code, a release that extinguishes claims held by nondebtors against nondebtor third parties, without the claimants' consent.

IV. Criminal law

A. Eighth Amendment

Grants Pass v. Johnson, 144 S.Ct. 2202 (2024). The enforcement of generally applicable laws regulating camping on public property does not constitute "cruel and unusual punishment" prohibited by the Eighth Amendment.

B. Fourth Amendment

Chiaverini v. City of Napoleon, Ohio, 144 S.Ct. 1745 (2024). Pursuant to the Fourth Amendment and traditional common-law practice, the presence of probable cause for one charge in a criminal proceeding does not categorically defeat a Fourth Amendment malicious-prosecution claim relating to another, baseless charge.

C. Sixth Amendment

Erlinger v. United States, 144 S.Ct. 1849 (2024). Unanimous jury must make determination that defendant's past offenses were committed on separate occasions for Armed Career Criminal Act purposes.

D. Federal Statutes

Snyder v. United States, 144 S.Ct. 1947 (2024). Federal law proscribes bribes to state and local officials but does not make it a crime for those officials to accept gratuities for their past acts.

Fischer v. United States, 144 S.Ct. 2176 (2024). To prove a violation of 18 U.S.C. § 1512(c)(2) — a provision of the Sarbanes-Oxley Act — the government must establish that the defendant impaired the availability or integrity for use in an official proceeding of records, documents, objects, or other things used in an official proceeding, or attempted to do so.

Pulsifer v. United States, 144 S.Ct. 718 (2024). A criminal defendant facing a mandatory minimum sentence is eligible for safety-valve relief under 18 U.S.C. § 3553(f)(1) only if the defendant satisfies each of the provision's three conditions.

V. First Amendment – speech

Lindke v. Freed, 144 S.Ct. 756 (2024). A public official who prevents someone from commenting on the official's social-media page engages in state action under 42 U.S.C. § 1983

only if the official both (1) possessed actual authority to speak on the state's behalf on a particular matter, and (2) purported to exercise that authority when speaking in the relevant social-media posts.

National Rifle Association of America v. Vullo, 144 S.Ct. 1316 (2024). The NRA plausibly alleged that former superintendent of the New York Department of Financial Services Maria Vullo violated the First Amendment by coercing regulated entities to terminate their business relationships with the NRA in order to punish or suppress the NRA's gun-promotion advocacy.

Murthy v. Missouri, 144 S.Ct. 1972 (2024). Challengers lack standing to challenge Biden administration policy of encouraging internet and social media companies to take down false speech.

Moody v. NetChoice, LLC, 144 S.Ct. 2383 (2024). Neither the U.S. Courts of Appeals for the 11th Circuit nor the 5th Circuit conducted a proper analysis of the facial First Amendment challenges to the Florida and Texas laws regulating large internet platforms.

VI. Second Amendment

U.S. v. Rahimi, 144 S.Ct. 1889 (2024). When an individual has been found by a court to pose a credible threat to the physical safety of another, that individual may be temporarily disarmed consistent with the Second Amendment.

VII. Donald Trump litigation

Trump v. Anderson, 144 S.Ct. 662 (2024). Because the Constitution makes Congress, rather than the states, responsible for enforcing Section 3 of the 14th Amendment against federal officeholders and candidates, the Colorado Supreme Court erred in ordering former President Donald Trump excluded from the 2024 presidential primary ballot.

Trump v. United States, 144 S.Ct. 2312 (2024). The nature of presidential power entitles a former president to absolute immunity from criminal prosecution for actions within his conclusive and preclusive constitutional authority; he is also entitled to at least presumptive immunity from prosecution for all his official acts; there is no immunity for unofficial acts.

October Term 2024

I. Civil rights litigation

Williams v. Washington, No. 23-191 (argued October 7, 2024). Whether exhaustion of state administrative remedies is required to bring claims under 42 U.S.C. § 1983 in state court.

Barnes v. Felix, No. 23-1239 (to be argued January 22, 2025). Whether courts should apply the "moment of the threat" doctrine when evaluating an excessive force claim under the Fourth Amendment.

Lackey v. Stinnie, No. 23-621 (argued October 8, 2024). (1) Whether a party must obtain a ruling that conclusively decides the merits in its favor, as opposed to merely predicting a likelihood of later success, to prevail on the merits under 42 U.S.C. § 1988; and (2) whether a party must obtain an enduring change in the parties’ legal relationship from a judicial act, as opposed to a non-judicial event that moots the case, to prevail under Section 1988

Ames v. Ohio Department of Youth Services, No. 23-1039 (argument date not set). Whether, in addition to pleading the other elements of an employment discrimination claim under Title VII of the Civil Rights Act of 1964, a majority-group plaintiff must show “background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority.”

Louisiana v. Callais, No. 24-109 (argument date not set). (1) Whether the majority of the three-judge district court in this case erred in finding that race predominated in the Louisiana legislature’s enactment of S.B. 8; (2) whether the majority erred in finding that S.B. 8 fails strict scrutiny; (3) whether the majority erred in subjecting S.B. 8 to the preconditions specified in *Thornburg v. Gingles*; and (4) whether this action is non-justiciable.

II. Death penalty

Glossip v. Oklahoma, No. 22-7466 (argued October 9, 2024). (1) Whether the state’s suppression of the key prosecution witness’ admission that he was under the care of a psychiatrist and failure to correct that witness’ false testimony about that care and related diagnosis violate the due process of law under *Brady v. Maryland* and *Napue v. Illinois*; (2) whether the entirety of the suppressed evidence must be considered when assessing the materiality of *Brady* and *Napue* claims; (3) whether due process of law requires reversal where a capital conviction is so infected with errors that the state no longer seeks to defend it; and (4) whether the Oklahoma Court of Criminal Appeals’ holding that the Oklahoma Post-Conviction Procedure Act precluded post-conviction relief is an adequate and independent state-law ground for the judgment.

III. Equal protection

U.S. v. Skrmetti, No. 23-477 (to be argued December 4, 2024). Whether Tennessee Senate Bill 1, which prohibits all medical treatments intended to allow “a minor to identify with, or live as, a purported identity inconsistent with the minor’s sex” or to treat “purported discomfort or distress from a discordance between the minor’s sex and asserted identity,” violates the equal protection clause of the 14th Amendment.

IV. First Amendment speech

Free Speech Coalition v. Paxton, No. 23-1122 (to be argued January 15, 2025) Whether the court of appeals erred as a matter of law in applying rational-basis review, instead of strict scrutiny, to a law burdening adults’ access to protected speech.

V. Guns

Garland v. VanDerStok, No. 23-852 (argued October 8, 2024). (1) Whether “a weapon parts kit that is designed to or may readily be completed, assembled, restored, or otherwise converted to expel a projectile by the action of an explosive” under 27 C.F.R. § 478.11 is a “firearm” regulated by the Gun Control Act of 1968; and (2) whether “a partially complete, disassembled, or nonfunctional frame or receiver” that is “designed to or may readily be completed, assembled, restored, or otherwise converted to function as a frame or receiver” under 27 C.F.R. § 478.12(c) is a “frame or receiver” regulated by the act.

Smith & Wesson Brands v. Estados Unidos Mexicanos, No. 23-1141 (argument date not set). (1) Whether the production and sale of firearms in the United States is the proximate cause of alleged injuries to the Mexican government stemming from violence committed by drug cartels in Mexico; and (2) whether the production and sale of firearms in the United States amounts to “aiding and abetting” illegal firearms trafficking because firearms companies allegedly know that some of their products are unlawfully trafficked.

VI. Securities regulation

Facebook v. Amalgamated Bank, No. 23-980 (argued November 6, 2024). Whether risk disclosures are false or misleading when they do not disclose that a risk has materialized in the past, even if that past event presents no known risk of ongoing or future business harm.