

Supreme Court Review

United States District Court
for the Northern District of California

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United States Supreme Court -- October Term 2023

I. 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.

II. Criminal law

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.

III. 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.

IV. 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.

V. 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 August 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 (argument date not set). Whether courts should apply the "moment of the threat" doctrine when evaluating an excessive force claim under the Fourth Amendment.

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 (argument date not set). 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 (argument date not set) 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.