

Supreme Court Review

D. Brook Bartlett Lecture
United States District Court for the Western District of Missouri
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Erwin Chemerinsky
Dean and Jesse H. Choper Distinguished Professor of Law
University of California, Berkeley School of Law

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I. Abortion

Food and Drug Administration v. Alliance for Hippocratic Medicine, 144 S.Ct. ____ (June 13, 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. ____ (June 27, 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, No. 22-451 (argued on January 17, 2024). Whether the court should overrule *Chevron v. Natural Resources Defense Council*, or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency.

Relentless v. Department of Commerce, No. 22-1219 (argued on January 17, 2024). Whether the court should overrule *Chevron v. Natural Resources Defense Council*, or at least clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency.

Securities and Exchange Commission v. Jarkesy, 144 S.Ct. ____ (June 27, 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.

III. Bankruptcy

Harrington v. Purdue Pharma L.P., 144 S.Ct. ____ (June 27, 2024). The Bankruptcy Code does not authorize a court to approve, as part of a plan of reorganization under Chapter 11 of the

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Bankruptcy Code, a release that extinguishes claims held by nondebtors against nondebtor third parties, without the claimants' consent.

IV. Eighth Amendment

Grants Pass v. Johnson, 23-175 (argued on April 22, 2024). Does the enforcement of generally applicable laws regulating camping on public property constitute “cruel and unusual punishment” prohibited by the Eighth Amendment?

V. Employment discrimination

Muldrow v. City of St. Louis, 144 S.Ct. ___ (decided April 17, 2024). An employee challenging a job transfer under Title VII must show that the transfer brought about some harm with respect to an identifiable term or condition of employment, but that harm need not be significant.

VI. First Amendment – speech

Lindke v. Freed, 144 S.Ct. ___ (decided March 15, 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.

Murthy v. Missouri, 144 S.Ct. ___ (decided June 26, 2024). Challengers lack standing to challenge Biden administration policy of encouraging internet and social media companies to take down false speech.

National Rifle Association of America v. Vullo, 144 S.Ct. ___ (decided May 30, 2024). Whether the First Amendment allows a government regulator to threaten regulated entities with adverse regulatory actions if they do business with a controversial speaker, as a consequence of (a) the government's own hostility to the speaker's viewpoint or (b) a perceived “general backlash” against the speaker's advocacy.

Moody v. NetChoice, LLC, No. 22-277 (argued on February 26). (1) Whether the laws' content-moderation restrictions comply with the First Amendment; and (2) whether the laws' individualized-explanation requirements comply with the First Amendment.

NetChoice, LLC v. Paxton, No. 22-555 (argued on February 26). Whether the First Amendment prohibits viewpoint-, content-, or speaker-based laws restricting select websites from engaging in editorial choices about whether, and how, to publish and disseminate speech — or otherwise burdening those editorial choices through onerous operational and disclosure requirements.

VII. Second Amendment

U.S. v. Rahimi, 144 S.Ct. ____ (decided June 21, 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.

VIII. Donald Trump litigation

Trump v. Anderson, (decided March 4, 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, No. 23-939 (argued April 25, 2024). Whether and if so to what extent does a former president enjoy presidential immunity from criminal prosecution for conduct alleged to involve official acts during his tenure in office.