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Supreme Court Preview

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9-10-2021

### 2021-2022 Supreme Court Preview: Schedule of Events

Institute of Bill of Rights Law at The College of William & Mary Law School

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**William & Mary Supreme Court Preview 2021**  
**September 10-11, 2021**

*(Sessions will be held in Room 119 with overflow in Room 120 unless otherwise specified. Except for the lunch sessions and the greenroom all panels will be recorded / live-streamed on zoom.)*

**FRIDAY SEPTEMBER 10, 2021**

2:30 PM -3:30 PM: Greenroom with Students

Likely attendees: Andy Pincus, Pamela Harris, Kevin Newsom, Patricia Millett, Walter Dellinger

*Brief Description:* Available panelists will meet with registered W&M students to talk about their lives in the law and advice they wish they had been given when in law school.

4:00 PM: Welcome (Allison Orr Larsen and Ben Spencer)

4:05 PM - 5:30 PM: **Moot Court\*** - *New York State Rifle & Pistol Ass'n v. Bruen* (Second Amendment)

- Advocates: Tiffany Wright & Meaghan VerGow
- Justices: Joan Biskupic (Chief), Pamela Harris, Stephanos Bibas, Patricia Millett, Kevin Newsom, Pratik Shah, Jess Bravin, Greg Stohr, Timothy Zick.

*Brief Description:* The Supreme Court will decide this Term whether the Second Amendment protects the right to carry a gun outside the home. At issue in the case that will be mooted is a New York law that requires a person who wants to carry a concealed firearm outside the home to show “proper cause” – meaning a special need for self-protection. Two men challenged the law after New York rejected their concealed-carry applications. The U.S. Court of Appeals for the 2nd Circuit upheld the law.

5:30 PM – 6:30 PM: **The 2021 Term and Stare Decisis: The future of Roe, Grutter, and more\***

- Moderator: Adam Liptak
- Panelists: Walter Dellinger, Melissa Murray, Kannon Shanmugam, Beth Brinkmann

*Brief Description:* One of the biggest cases the Court has agreed to hear this Term is [\*Dobbs v. Jackson Women's Health Organization\*](#), a case in which Mississippi has explicitly asked the Court to overrule *Roe v. Wade*. This panel will discuss *Dobbs* in connection with speculation on the Court's inclination to overruling precedent generally, which may well include an invitation later in the Term to overrule the case permitting race-based affirmative action.

7:00 PM **Cocktails & Dinner for the Panelists**

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\* The moot court and the Friday evening panel will both be held in the McGlothlin courtroom. All panelists are welcome to sit in the courtroom. Paid registrants may sit in the courtroom on a first come, first serve basis. All students, without a special invitation, should be seated in the classroom.

## SATURDAY SEPTEMBER 11, 2021

### 9:00 AM – 10:00 AM: **Election Law Beyond 2020**

- Moderator: Rebecca Green
- Panelists: David Savage, Paul Smith, Erin Murphy, Pamela Karlan

*Brief Description:* Although the Court does not yet have election disputes on the 2021-2022 docket, there is the potential for a lot of election law activity at the Court. Redistricting will be in full swing, there is fallout from the Court's recent Voting Rights Act decision, and important campaign finance / disclosure questions lingering, all of which may require the Court's attention. This panel will address what is likely coming down the pipeline in terms of election controversies.

### 10:00 AM – 11:00 AM: **The Next Wave of Civil Liberties Controversies: state secrets, free speech, and more**

- Moderator: Jess Bravin
- Panelists: Andy Pincus, Beth Brinkmann, Jeffrey Fisher

*Brief Description:* This panel will discuss the state secrets cases, several free speech cases on the docket and (time permitting) will also opine on the abortion and Second Amendment cases discussed Friday night.

### *Break*

### 11:15 AM – 12:15PM: **What to Expect from the Criminal Law Docket and lingering questions on Qualified Immunity?**

- Moderator: Katherine Mims Crocker
- Panelists: Jeffrey Fisher, Erwin Chemerinsky, Andy Pincus

*Brief Description:* The Court has already granted a handful of cases that can be loosely grouped under the umbrella of criminal law including the high-profile case about the Boston marathon bombing. This panel will discuss those cases in addition to exploring potential changes to the much-discussed qualified immunity doctrine which shields government officials (including police officers) from liability for their actions.

12:15 – 12:50 : Lunch Break Outside

### 1:00PM – 2:00 PM: **Breakout Sessions (3 choices):**

#### **(A) What will come from the Bipartisan Commission on Supreme Court Reform? (Room 127)**

Moderator: Bob Barnes

Panelists: Erwin Chemerinsky, Joan Biskupic, Erin Murphy

#### **(B) What will be the role of the Biden Solicitor General and what's in store for the shadow docket? (Room 119)**

Moderator: Martina Stewart

Panelists: Steve Vladeck, Jeff Wall, Beth Brinkmann

**(C) Judging in a pandemic and fraught election year – what we learned about the judiciary in 2020? (Room 133)**

Moderator: Neal Devins

Panelists: Stephanos Bibas, Pam Harris, Patricia Millett, Kevin Newsom

**2:00 PM-3:00 PM: Are “we all textualists now?” A look at the business cases and statutory interpretation puzzles on the docket**

- Moderator: Aaron Bruhl
- Panelists: Jeff Wall, Pratik Shah, Kannon Shanmugam

*Brief Description:* Justice Kagan famously quipped that “we are all textualists now” and statutory interpretation has certainly become part of the Court’s bread and butter. This term the Court has granted several cases involving questions of statutory interpretation many involving business interests. This panel will preview those cases and also speculate on whether the Roberts Court can be fairly labeled pro-business and / or pro-textualism.

*Break*

**3:15 PM – 4:15 PM: Challenges Under the Religion Clauses**

- Moderator: Greg Stohr
- Panelists: Paul Smith, Pamela Karlan, Adam Liptak, Erwin Chemerinsky

*Brief Description:* The Court will hear a case from Maine this Term about tuition assistance to sectarian schools. In addition to that case, this panel will discuss other Free Exercise / Establishment Clause cases coming to the Court including potentially more COVID restriction cases, with an eye towards the fallout after the June 2021 decision in *Fulton v. Philadelphia*.

4:15 PM CONCLUDE