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2022-2023 Granted Cases

On this page, you will find the cases granted thus far by the Supreme Court for the October 2022 Term with related links. (Last Updated: August 14, 2022).

Merrill v. Milligan (No. 21-1086)

Issues: (1) Whether the state of Alabama's 2021 redistricting plan for its seven seats in the United States House of Representatives violated Section 2 of the Voting Rights Act.

- [Overview of Merrill v. Milligan- SCOTUSblog](#)
- [Supreme Court stops lower court order requiring Alabama to draw a new district voting map favorable to Black residents - Robert Barnes, Washington Post](#)
- [Supreme Court lets Alabama use GOP-backed map of the state's congressional districts - Nina Totenberg, NPR](#)
- [A new Supreme Court case could make it nearly impossible to stop racial gerrymanders - Ian Millhiser, Vox](#)
- [Top Court Restores Alabama Map in Blow to Black Voting Power - Greg Stohr, Bloomberg](#)

Sackett v. Environmental Protection Agency (No. 21-454)

Issues: (1) Whether the U.S. Court of Appeals for the 9th Circuit set forth the proper test for determining whether wetlands are "waters of the United States" under the Clean Water Act, 33 U.S.C. § 1362(7).

- [Overview of Sackett v. Environmental Protection Agency- SCOTUSblog](#)
- [Supreme Court to Weigh Curbs on Clean Water Act, Pitting Property Rights Against Wetlands - Greg Stohr, Bloomberg](#)
- [Supreme Court takes EPA case that could narrow Clean Water Act - Robert Barnes, Washington Post](#)

303 Creative LLC v. Elenis (No. 21-476)

Issues: (1) Whether applying a public-accommodation law to compel an artist to speak or stay silent violates the free speech clause of the First Amendment.

- [Overview of 303 Creative LLC v. Elenis- SCOTUSblog](#)
- [Supreme Court will hear another clash pitting religious rights against laws protecting LGBTQ people from discrimination - Robert Barnes, Washington Post](#)
- [Supreme Court to Hear Case of Website Designer Who Won't Do Same-Sex Weddings - Jess Bravin, Wall Street Journal](#)
- [Supreme Court to Hear Case of Web Designer Who Objects to Same-Sex Marriage - Adam Liptak, New York Times](#)

National Pork Producers Council v. Ross (No. 21-468)

Issues: (1) Whether allegations that a state law has dramatic economic effects largely outside of the state and requires pervasive changes to an integrated nationwide industry state a violation of the dormant commerce clause, or whether the extraterritoriality principle described in the Supreme Court's decisions is now a dead letter; and (2) whether such allegations, concerning a law that is based solely on preferences regarding out-of-state housing of farm animals, state a claim under *Pike v. Bruce Church, Inc.*

- [Overview of National Pork Producers Council v. Ross- SCOTUSblog](#)
- [Supreme Court agrees to hear pork producers' challenge to California animal anti-cruelty law - David Savage, Los Angeles Times](#)
- [Supreme Court to Weigh California Law on Humane Treatment of Pigs - Adam Liptak, New York Times](#)
- [Supreme Court to consider California rules regarding treatment of pigs - Robert Barnes, Washington Post](#)

Students for Fair Admissions Inc. v. President & Fellows of Harvard College (No. 20-1199)

Issues: (1) Whether the Supreme Court should overrule *Grutter v. Bollinger* and hold that institutions of higher education cannot use race as a factor in admissions; and (2) whether Harvard College is violating Title VI of the Civil Rights Act by penalizing Asian American applicants, engaging in racial balancing, overemphasizing race and rejecting workable race-neutral alternatives.

- [Overview of Students for Fair Admissions Inc. v. President & Fellows of Harvard College- SCOTUSblog](#)
- [The Supreme Court adds affirmative action to its potential hit list - Nina Totenberg, NPR](#)
- [The Supreme Court will hear two cases that are likely to end affirmative action - Ian Millhiser, Vox](#)

Students for Fair Admissions v. University of North Carolina (No. 21-707)

Issues: (1) Whether the Supreme Court should overrule *Grutter v. Bollinger* and hold that institutions of higher education cannot use race as a factor in admissions; and (2) whether a university can reject a race-neutral alternative because it would change the composition of the student body, without proving that the alternative would cause a dramatic sacrifice in academic quality or the educational benefits of overall student-body diversity.

- [Overview of Students for Fair Admissions v. University of North Carolina- SCOTUSblog](#)

- Supreme Court Will Hear Challenge to Affirmative Action at Harvard and U.N.C. - Adam Liptak & Anemona Hartocollis, New York Times
- University of North Carolina and civil rights advocates ask Supreme Court to sidestep affirmative action challenge - Joan Biskupic, CNN

Andy Warhol Foundation for the Visual Arts v. Goldsmith (No. 21-869)

Issues: (1) Whether a work of art is "transformative" when it conveys a different meaning or message from its source material (as the Supreme Court, U.S. Court of Appeals for the 9th Circuit, and other courts of appeals have held), or whether a court is forbidden from considering the meaning of the accused work where it "recognizably deriv[es] from" its source material (as the U.S. Court of Appeals for the 2nd Circuit has held).

- Overview of Andy Warhol Foundation for the Visual Arts v. Goldsmith- SCOTUSblog
- Supreme Court to Consider Copyright Battle Over Warhol Paintings of Prince - Deanna Paul & Jess Bravin, Wall Street Journal
- High Court's Tricky Task in Warhol Case Carries Big Implications - Kyle Jahner, Bloomberg

Wilkins v. United States (No. 21-707)

Issues: (1) Whether the Quiet Title Act's statute of limitations is a jurisdictional requirement or a claim-processing rule.

- Overview of Wilkins v. United States- SCOTUSblog
- Supreme Court Report: Wilkins v. United States, 21-1164 - Dan Schweitzer, NAAG

MOAC Mall Holdings LLC v. Transform Holdco LLC (No. 21-1270)

Issues: (1) Whether Bankruptcy Code Section 363(m) limits the appellate courts' jurisdiction over any sale order or order deemed "integral" to a sale order, such that it is not subject to waiver, and even when a remedy could be fashioned that does not affect the validity of the sale.

- Overview of MOAC Mall Holdings LLC v. Transform Holdco LLC- SCOTUSblog
- Justices Take On Mall of America-Sears Row in Bankruptcy Case - Daniel Gill, Bloomberg Law
- U.S. Supreme Court takes dispute over extremely cheap mall lease - Dietrich Knauth, Reuters

Percoco v. United States (No. 21-1158)

Issues: (1) Whether a private citizen who holds no elected office or government employment, but has informal political or other influence over governmental decisionmaking, owes a fiduciary duty to the general public such that he can be convicted of honest-services fraud.

- Overview of Percoco v. United States- SCOTUSblog
- U.S. Supreme Court to hear ex-Cuomo aide's appeal of bribery conviction - Luc Cohen, Reuters

Arellano v. McDonough (No. 21-432)

Issues: (1) Whether the rebuttable presumption of equitable tolling from *Irwin v. Department of Veterans Affairs* applies to the one-year statutory deadline in 38 U.S.C. § 5110(b)(1) for seeking retroactive disability benefits, and, if so, whether the government has rebutted that presumption (2) whether, if 38 U.S.C. § 5110(b)(1) is amenable to equitable tolling, this case should be remanded so the agency can consider the particular facts and circumstances in the first instance.

- Overview of Arellano v. McDonough- SCOTUSblog
- Thousands of Veterans May See Disability Deadline Waived as Supreme Court Takes Up Case - Patricia Kime, Military.com
- Supreme Court to decide if vets missing disability benefits deadlines will get back pay - Leo Shane III, MilitaryTimes

Cruz v. Arizona (No. 21-846)

Issues: (1) Whether the Arizona Supreme Court's holding that Arizona Rule of Criminal Procedure 32.1 (g) precluded post-conviction relief is an adequate and independent state-law ground for the judgment.

- Overview of Cruz v. Arizona- SCOTUSblog
- Justices Take on Postconviction Review in Arizona Death Case - Jordan S. Rubin, Bloomberg Law

Delaware v. Pennsylvania and Wisconsin (No. 21-1270)

Issues: (1) Whether MoneyGram Official Checks are "a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable," pursuant to 12 U.S.C. § 2503; (2) whether the court should command Wisconsin and Pennsylvania not to assert any claim over abandoned and unclaimed property related to MoneyGram Official Checks; and (3) whether all future sums payable on abandoned MoneyGram Official Checks should be remitted to Delaware.

- Overview of Delaware v. Pennsylvania and Wisconsin- SCOTUSblog

Health and Hospital Corporation of Marion County, Indiana v. Talevski (No. 21-806)

Issues: (1) Whether, in light of compelling historical evidence to the contrary, the Supreme Court should reexamine its holding that spending clause legislation gives rise to privately enforceable rights under 42 U.S.C. § 1983 (2) whether, assuming spending clause statutes ever give rise to private rights enforceable via Section 1983, the Federal Nursing Home Amendments Act of 1987's transfer and medication rules do so.

- Overview of Health and Hospital Corporation of Marion County, Indiana v. Talevski- SCOTUSblog
- U.S. Supreme Court to weigh private lawsuits over federal nursing home rules - Brendan Pierson, Reuters

Helix Energy Solutions Group v. Hewitt (No. 21-984)

Issues: (1) Whether a supervisor making over \$200,000 each year is entitled to overtime pay because the standalone regulatory exemption set forth in 29 C.F.R. § 541.601 remains subject to the detailed requirements of 29 C.F.R. § 541.604 when determining whether highly compensated supervisors are exempt from the Fair Labor Standards Act's overtime-pay requirements.

- Overview of Helix Energy Solutions Group v. Hewitt- SCOTUSblog
- Supreme Court to Review Fifth Circuit's Oil Rig "Day Rate" Case - Jeffrey W. Brecher, Justin R. Barnes, Eric R. Magnus, The National Law Review

Jones v. Hendrix (No. 21-857)

Issues: (1) Whether federal inmates who did not – because established circuit precedent stood firmly against them – challenge their convictions on the ground that the statute of conviction did not criminalize

their activity may apply for habeas relief under 28 U.S.C. § 2241 after the Supreme Court later makes clear in a retroactively applicable decision that the circuit precedent was wrong and that they are legally innocent of the crime of conviction.

- [Overview of Jones v. Hendrix](#) - SCOTUSblog
- [U.S. Supreme Court to hear lawsuit filed by UVA Law clinic regarding challenged convictions](#) - CBS19 news

Bartenwerfer v. Buckley (No. 21-908)

Issues: (1) Whether an individual may be subject to liability for the fraud of another that is barred from discharge in bankruptcy under 11 U.S.C. § 523(a)(2)(A), by imputation, without any act, omission, intent or knowledge of her own.

- [Overview of Bartenwerfer v. Buckley](#)- SCOTUSblog
- [Supreme Court Takes Case on Imputing Fraud in Bankruptcy](#) - Alex Wolf, Bloomberg Law
- [U.S. Supreme Court to weigh whether wife liable in bankruptcy for husband's fraud](#) - Maria Chutchian, Reuters

Ciminelli v. United States (No. 21-1170)

Issues: (1) Whether the U.S. Court of Appeals for the 2nd Circuit's "right to control" theory of fraud – which treats the deprivation of complete and accurate information bearing on a person's economic decision as a species of property fraud – states a valid basis for liability under the federal wire fraud statute.

- [Overview of Ciminelli v. United States](#)- SCOTUSblog
- [Supreme Court Set to Hear Cases That Could Further Narrow Federal Fraud Statutes](#) - Edward F. Novak, Matthew L. Hickman, The National Law Review

Reed v. Goertz (No. 21-442)

Issues: (1) Whether the statute of limitations for a 42 U.S.C. § 1983 claim seeking DNA testing of crime-scene evidence begins to run at the end of state-court litigation denying DNA testing, including any appeals (as the U.S. Court of Appeals for the 11th Circuit has held), or whether it begins to run at the moment the state trial court denies DNA testing, despite any subsequent appeal (as the U.S. Court of Appeals for the 5th Circuit, joining the U.S. Court of Appeals for the 7th Circuit, held below).

- [Overview of Reed v. Goertz](#)- SCOTUSblog
- [Justices Take on DNA-Testing Appeal Timing in Innocence Case](#) - Jordan S. Ruben, Bloomberg Law
- [U.S. Supreme Court will consider appeal for DNA testing in Rodney Reed death penalty case](#) - Sneha Dey, The Texas Tribune

Cherokee Nation v. Brackeen (No. 21-377)

Issues: (1) Whether the en banc U.S. Court of Appeals for the 5th Circuit erred by invalidating six sets of Indian Child Welfare Act provisions – 25 U.S.C. §§1912(a), (d), (e)-(f), 1915(a)-(b), (e), and 1951(a) – as impermissibly commandeering states (including via its equally divided affirmance); (2) whether the en banc 5th Circuit erred by reaching the merits of the plaintiffs' claims that ICWA's placement preferences violate equal protection; and (3) whether the en banc 5th Circuit erred by affirming (via an equally divided court) the district court's judgment invalidating two of ICWA's placement preferences, 25 U.S.C. §1915(a)(3), (b)(iii), as failing to satisfy the rational-basis standard of *Morton v. Mancari*.

- [Overview of Cherokee Nation v. Brackeen](#)- SCOTUSblog
- [The fight over American Indian children](#) - Ella Creamer, Politico

Brackeen v. Haaland (No. 21-380)

Issues: (1) Whether the Indian Child Welfare Act of 1978's placement preferences – which disfavor non-Indian adoptive families in child-placement proceedings involving an "Indian child" and thereby disadvantage those children – discriminate on the basis of race in violation of the U.S. Constitution; and (2) whether ICWA's placement preferences exceed Congress's Article I authority by invading the arena of child placement – the "virtually exclusive province of the States," as stated in *Sosna v. Iowa* – and otherwise commandeering state courts and state agencies to carry out a federal child-placement program.

- [Overview of Brackeen v. Haaland](#)- SCOTUSblog
- [Supreme Court to Hear Challenge to Law on Adopting Native American Children](#) - Adam Liptak, New York Times
- [The Necessity of the Indian Child Welfare Act](#) - Leah Litman and Matthew L.M. Fletcher, The Atlantic
- [How a white evangelical family could dismantle adoption protections for Native children](#) - Roxanna Asgarian, Vox

Haaland v. Brackeen (No. 21-376)

Issues: (1) Whether various provisions of the Indian Child Welfare Act of 1978 – namely, the minimum standards of Section 1912(a), (d), (e), and (f); the placement-preference provisions of Section 1915(a) and (b); and the recordkeeping provisions of Sections 1915(e) and 1951(a) – violate the anticommandeering doctrine of the 10th Amendment; (2) whether the individual plaintiffs have Article III standing to challenge ICWA's placement preferences for "other Indian families" and for "Indian foster home[s]"; and (3) whether Section 1915(a)(3) and (b)(iii) are rationally related to legitimate governmental interests and therefore consistent with equal protection.

- [Overview of Haaland v. Brackeen](#)- SCOTUSblog
- [Supreme Court to review Indian Child Welfare Act, which prioritizes adoptions by Native American parents or tribes](#) - Robert Barnes, Washington Post

Texas v. Haaland (No. 21-378)

Issues: (1) Whether Congress has the power under the Indian commerce clause or otherwise to enact laws governing state child-custody proceedings merely because the child is or may be an Indian; (2) whether the Indian classifications used in the Indian Child Welfare Act and its implementing regulations violate the Fifth Amendment's equal-protection guarantee; (3) whether ICWA and its implementing regulations violate the anticommandeering doctrine by requiring states to implement Congress's child-custody regime; and (4) whether ICWA and its implementing regulations violate the nondelegation doctrine by allowing individual tribes to alter the placement preferences enacted by Congress.

- [Overview of Texas v. Haaland](#) - SCOTUSblog
- [Supreme Court to review ICWA case](#) - Indian Country Today

Securities and Exchange Commission v. Cochran (No. 21-380)

Issues: (1) Whether a federal district court has jurisdiction to hear a suit in which the respondent in an ongoing Securities and Exchange Commission administrative proceeding seeks to enjoin that proceeding,

based on an alleged constitutional defect in the statutory provisions that govern the removal of the administrative law judge who will conduct the proceeding.

- [Overview of Securities and Exchange Commission v. Cochran](#)- SCOTUSblog
- [Supreme Court Takes Up Where to Hear SEC Judge Challenges](#) - Jennifer Bennett, Bloomberg
- [U.S. Supreme Court to hear SEC bid to avoid challenge to in-house judges](#) - Andrew Chung, Reuters

Mallory v. Norfolk Southern Railway Co. (No. 21-1168)

Issues: (1) Whether the due process clause of the 14th Amendment prohibits a state from requiring a corporation to consent to personal jurisdiction to do business in the state.

- [Overview of Mallory v. Norfolk Southern Railway Co.](#)- SCOTUSblog
- [Supreme Court Report: Mallory v. Norfolk Southern Railway Co., 21-1168](#) - Dan Schweitzer, NAAG

Axon Enterprise v. Federal Trade Commission (No. 21-86)

Issues: (1) Whether Congress impliedly stripped federal district courts of jurisdiction over constitutional challenges to the Federal Trade Commission's structure, procedures, and existence by granting the courts of appeals jurisdiction to "affirm, enforce, modify, or set aside" the commission's cease-and-desist orders.

- [Overview of Axon Enterprise v. Federal Trade Commission](#)- SCOTUSblog
- [U.S. Supreme Court Takes up Taser Maker's Battle With FTC](#) - Andrew Chung, Reuters
- [Axon's SCOTUS Attack May Pose a Threat to the FTC](#) - Eleanor Tyler, Bloomberg Law

United States, ex rel. Polansky v. Executive Health Resources, Inc. (No. 21-1052)

Issues: (1) Whether the government has authority to dismiss a False Claims Act suit after initially declining to proceed with the action, and what standard applies if the government has that authority.

- [Overview of United States, ex rel. Polansky v. Executive Health Resources, Inc.](#)- SCOTUSblog
- [Supreme Court to consider whether U.S. can drop whistleblower cases](#) - Brendan Pierson, Reuters

Bittner v. United States (No. 21-1195)

Issues: (1) Whether a "violation" under the Bank Secrecy Act is the failure to file an annual Report of Foreign Bank and Financial Accounts (no matter the number of foreign accounts), or whether there is a separate violation for each individual account that was not properly reported.

- [Overview of Bittner v. United States](#)- SCOTUSblog
- [Supreme Court To Rule On IRS Penalty For Non-Willful Failure To Report Foreign Accounts](#) - Robert W. Wood, Forbes
- [US Supreme Court Agrees to Weigh Fines for Not Reporting Overseas Accounts](#) - Greg Stohr, Bloomberg

Merrill v. Milligan (No. 21-1271)

Issues: (1) Whether a state's judicial branch may nullify the regulations governing the "Manner of holding Elections for Senators and Representatives . . . prescribed . . . by the Legislature thereof," and replace them with regulations of the state courts' own devising, based on vague state constitutional provisions purportedly vesting the state judiciary with power to prescribe whatever rules it deems appropriate to ensure a "fair" or "free" election.

- [Overview of Moore v. Harper](#)- SCOTUSblog
- [Broad repercussions are expected from a Supreme Court voting case decision next term](#) - Leila Fadel, Melissa Murray, NPR
- [A new Supreme Court case is the biggest threat to US democracy since January 6](#) - Ian Millhiser, Vox
- [Supreme Court to take on controversial election-law case](#) - Nina Totenberg, NPR
- [Supreme Court to Hear Case on State Legislatures' Power Over Elections](#) - Adam Liptak, New York Times



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