

An Amazing Term in the Supreme Court

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I. Abortion rights

June Medical Services LLC v. Russo, 140 S.Ct. 2103 (2020). Louisiana's Unsafe Abortion Protection Act, which required doctors who perform abortions to have admitting privileges at a nearby hospital, is unconstitutional.

II. Civil Rights Litigation

A. Employment discrimination

Bostock v. Clayton County, Georgia, 140 S.Ct. 1731 (2020). The prohibition in Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)(1), against employment discrimination “because of . . . sex” encompasses discrimination based on an individual’s sexual orientation or gender identity.

B. Section 1981

Comcast Corp. v. National Association of African American-Owned Media
National Association of African American-Owned Media v. Comcast Corp., 140 U.S. 1009 (2020). A claim of race discrimination under 42 U.S.C. § 1981 requires allegations and proof of but-for causation.

III. COVID-19 and the Constitution

South Bay Pentacostal Church v. Newsom, 140 S.Ct. 1613 (2020). Denying relief to church challenging closure orders limiting assembly for religious purposes.

Calvary Chapel Dayton Valley v. Sisolak, 140 S.Ct. 2603 (2020). Denying relief to church challenging closure orders limiting assembly for religious purposes.

IV. Deferred Action for Childhood Arrivals

Department of Homeland Security v. Regents of the University of California, 140 S.Ct. 1891 (2020). (1) The Department of Homeland Security’s decision to wind down the Deferred Action for Childhood Arrivals policy is judicially reviewable; and (2) The Department of Homeland Security’s decision to rescind the Deferred Action for Childhood Arrivals program was arbitrary and capricious under the Administrative Procedure Act.

V. Electoral College

Chiafalo v. Washington, 140 S.Ct. 2316 (2020). A state may legally enforce how a presidential elector casts his or her ballot and a state penalizing an elector for exercising his or her constitutional discretion to vote does not violate the First Amendment.

VI. Free exercise of religion

Espinoza v. Mont. Dep't of Rev., 140 S.Ct. 2246 (2020). It violates the free exercise clause to invalidate a generally available and religiously neutral student-aid program simply because the program affords students the choice of attending religious schools.

Our Lady of Guadalupe School v. Morrissey Berru, 140 S.Ct. 2049 (2020). The "ministerial exception" under the religion clauses of the First Amendment forecloses the adjudication of employment-discrimination claims by Catholic school teachers against their employers.

Little Sisters of the Poor Saint Peters and Paul Home v. Pennsylvania, 140 S.Ct. 2367 (2020). The Departments of Health and Human Services, Labor and the Treasury had authority under the Affordable Care Act to promulgate rules exempting employers with religious or moral objections from providing contraceptive coverage to their employees

VII. Presidential immunity from subpoenas

Trump v. Vance, 140 S.Ct. 2412 (2020). Article II and the supremacy clause of the Constitution do not categorically preclude, or require a heightened standard for, the issuance of a state criminal subpoena to a sitting president.

Trump v. Mazars USA, LLP, 140 S.Ct. 2019 (2020). Although congressional subpoenas for the president's information may be enforceable, the court below in this case did not take adequate account of the significant separation of powers concerns implicated by subpoenas from the House of Representatives seeking President Donald Trump's financial records.

October Term 2020

California v. Texas, cert. granted, 140 S.Ct. 1262 (2020). (1) Whether the individual and state plaintiffs in this case have established Article III standing to challenge the minimum-coverage provision in Section 5000A(a) of the Patient Protection and Affordable Care Act (ACA); (2) whether reducing the amount specified in Section 5000A(c) to zero rendered the minimum-coverage provision unconstitutional; and (3) if so, whether the minimum-coverage provision is severable from the rest of the ACA.

Fulton v. City of Philadelphia, cert. granted, 140 S.Ct. 1104 (2020). Whether free exercise plaintiffs can only succeed by proving a particular type of discrimination claim — namely that the government would allow the same conduct by someone who held different religious views — as two circuits have held, or whether courts must consider other evidence that a law is not neutral and generally applicable, as six circuits have held; (2) whether *Employment Division v. Smith* should be revisited; and (3) whether the government violates the First Amendment by

conditioning a religious agency's ability to participate in the foster care system on taking actions and making statements that directly contradict the agency's religious beliefs.

Ford Motor Company v. Bandemer; *Ford Motor Company v. Montana Eighth Judicial District Court*, 140 S.Ct. 916 (2020). Whether the "arise out of or relate to" requirement for a state court to exercise specific personal jurisdiction over a nonresident defendant under *Burger King Corp. v. Rudzewicz* is met when none of the defendant's forum contacts caused the plaintiff's claims, such that the plaintiff's claims would be the same even if the defendant had no forum contacts.