

Supreme Court Review: October Term 2020*

D. Brook Bartlett Lecture
United States District Court for the Western District of Missouri

June 25, 2021

Erwin Chemerinsky
Dean and Jesse H. Choper Distinguished Professor of Law
University of California, Berkeley School of Law

I. Affordable Care Act.

California v. Texas, 141 S.Ct. ____ (2021). Plaintiffs lack standing to challenge the constitutionality of the Patient Protection and Affordable Care Act.

II. Antitrust

NCAA v. Alton, 141 S.Ct. ____ (2021). The district court's injunction pertaining to certain NCAA rules limiting the education-related benefits that schools may make available to student-athletes is consistent with established antitrust principles.

III. Civil rights litigation

Taylor v. Riojas, 141 S.Ct. 52 (2020). Because any reasonable correctional officer should have realized that Trent Taylor's conditions of confinement offended the Eighth Amendment, the U.S. Court of Appeals for the 5th Circuit erred in granting the officers qualified immunity.

IV. Criminal law and procedure

A. Eighth Amendment

Jones v. Mississippi, 141 S.Ct. ____ (2021). The Eighth Amendment does not require a finding that a juvenile is permanently incorrigible before imposing a sentence of life without parole.

B. Fourth Amendment

Torres v. Madrid, 141 S.Ct. ____ (2021). The application of physical force to the body of a person with intent to restrain is a seizure even if the person does not submit and is not subdued.

*Handout prepared on June 23, 2021

Caniglia v. Strom, 141 S.Ct. ____ (2021). The “community caretaking” exception to the Fourth Amendment’s warrant requirement did not extend to permit search of the home.

Lange v. California, 141 S.Ct. ____ (2020). Under the Fourth Amendment, pursuit of a fleeing misdemeanor suspect does not always or categorically qualify as an exigent circumstance justifying a warrantless entry into a home.

V. First Amendment

A. Free exercise of religion

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.

Roman Catholic Diocese of Brooklyn v. Cuomo, 141 S.Ct. ____ (2020). Granting preliminary injunction to stop enforcement of orders restricting size of attendance for religious worship.

Tanden v. Newsom, 141 S.Ct. ____ (2021). Prohibition on gatherings of more than three households in homes is unconstitutional as applied to worship services.

Fulton v. City of Philadelphia, 141 S.Ct. ____ (2021). Philadelphia’s refusal to contract with Catholic Social Services for the provision of foster care services unless CSS agrees to certify same-sex couples as foster parents violates the free exercise clause of the First Amendment.

B. Freedom of speech

Mahaney Area School Dist. v. B.L., 141 S.Ct. ____ (2021). The school district’s decision to suspend student Brandi Levy from the cheerleading team for posting to social media (outside of school hours and away from the school’s campus) vulgar language and gestures critical of the school violates the First Amendment.

VI. Intellectual property

Google v. Oracle, 141 S.Ct. ____ (2021). Google’s limited copying of the Java SE Application Programming Interface allowed programmers to put their accrued talents to work in a transformative program and constituted a fair use of that material under copyright law.

VII. Personal jurisdiction.

Ford Motor Company v. Bandemer, 141 S.Ct. ____ (2021). Ford is subject to products-liability suits in Montana and Minnesota arising from car accidents there. Although the cars involved were manufactured and sold outside the states in which the plaintiffs sued, Ford markets and

sells identical cars in those states. Ford's business activities in the states were close enough to the accidents to support specific personal jurisdiction.

VIII. Voting rights

Arizona Republican Party v. Democratic National Committee, <https://www.scotusblog.com/case-files/cases/brnovich-v-democratic-national-committee/> cert. granted, 141 S.Ct. 221 (2020). (1) Whether Section 2 of the Voting Rights Act compels states to authorize any voting practice that would be used disproportionately by racial minorities, even if existing voting procedures are race-neutral and offer all voters an equal opportunity to vote; and (2) whether the U.S. Court of Appeals for the 9th Circuit correctly held that Arizona's ballot-harvesting prohibition was tainted by discriminatory intent even though the legislators were admittedly driven by partisan interests and by supposedly "unfounded" concerns about voter fraud.