Supreme Court: *October Term 2022*

Alumni Weekend

September 23, 2023

1. Affirmative action

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| [Students for Fair Admissions Inc. v. President & Fellows of Harvard College](https://www.scotusblog.com/case-files/cases/students-for-fair-admissions-inc-v-president-fellows-of-harvard-college/),  |

143 S.Ct. 2141 (2023). The admissions programs at Harvard College and the University of North Carolina violate Title VI of the 1964 Civil Rights Act and the equal protection clause of the 14th Amendment in using race as a factor in admissions decisions to benefit minorities and enhance diversity.

1. Civil rights litigation

Health and Hospital Corporation of Marion County v. Talevski, 143 S.Ct. 1444 (2023). The provisions of the [Federal Nursing Home Amendments Act of 1987](https://casetext.com/statute/united-states-code/title-42-the-public-health-and-welfare/chapter-7-social-security/subchapter-xix-grants-to-states-for-medical-assistance-programs/section-1396r-requirements-for-nursing-facilities) at issue unambiguously create rights enforceable under [42 U.S.C. § 1983](https://casetext.com/statute/united-states-code/title-42-the-public-health-and-welfare/chapter-21-civil-rights/subchapter-i-generally/section-1983-civil-action-for-deprivation-of-rights), and private enforcement under Section 1983 is compatible with the FNHRA’s remedial scheme.

[Groff v. DeJoy](https://www.scotusblog.com/case-files/cases/groff-v-dejoy/), 143 S.Ct. 2279 (2023). Title VII requires an employer that denies a religious accommodation to show that the burden of granting an accommodation would result in substantial increased costs in relation to the conduct of its particular business.

1. Criminal cases
2. Confrontation clause

Samia v. United States, 143 S.Ct. 2004 (2023). The admission of a nontestifying codefendant’s confession did not violate the Sixth Amendment’s confrontation clause where the confession as modified did not directly inculpate the defendant but used the descriptor “other person” and the jury was instructed to consider the confession only as to the codefendant.

1. Double jeopardy

Smith v. United States, 143 S.Ct. 1594 (2023). The Constitution permits the retrial of a defendant following a trial in an improper venue conducted before a jury drawn from the wrong district.

1. Habeas corpus

Jones v. Hendrix, 143 S.Ct. 1857 (2023). The saving clause in 28 U.S.C. § 2255(e) does not allow a prisoner asserting an intervening change in the interpretation of a criminal statute to circumvent the Antiterrorism and Effective Death Penalty Act of 1996’s restrictions on second or successive Section 2255 motions by filing a habeas petition under Section 2241.

1. Statute of limitations for seeking DNA testing

Reed v. Goertz, 143 S.Ct. 955 (2023). When a prisoner pursues state post-conviction DNA testing through the state-provided litigation process, the statute of limitations for a [42 U.S.C. § 1983](https://casetext.com/statute/united-states-code/title-42-the-public-health-and-welfare/chapter-21-civil-rights/subchapter-i-generally/section-1983-civil-action-for-deprivation-of-rights) procedural due process claim begins to run when the state litigation ends, in this case when the Texas Court of Criminal Appeals denied Rodney Reed’s motion for rehearing.

1. Supreme Court review of state court decisions

Cruz v. Arizona, 143 S.Ct. 650 (2023). The Arizona Supreme Court’s holding below — that [Lynch v. Arizona](https://casetext.com/case/lynch-v-arizona) did not represent a “significant change in the law” for purposes of permitting John Montenegro Cruz to file a successive petition for state postconviction relief under [Arizona Rule of Criminal Procedure 32.1(g)](https://casetext.com/rule/arizona-court-rules/arizona-rules-of-criminal-procedure/appeal-and-other-post-conviction-relief/rule-32-post-conviction-relief-for-defendants-sentenced-following-a-trial-or-a-contested-probation-violation-hearing/rule-321-scope-of-remedy) — is not an adequate state-law ground supporting that judgment.

1. Elections

Allen v. Milligan, 143 S.Ct. 1487 (2023). 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](https://casetext.com/statute/united-states-code/title-52-voting-and-elections/subtitle-i-voting-rights/chapter-103-enforcement-of-voting-rights/section-10301-denial-or-abridgement-of-right-to-vote-on-account-of-race-or-color-through-voting-qualifications-or-prerequisites-establishment-of-violation).

[Moore v. Harper](https://www.scotusblog.com/case-files/cases/moore-v-harper-2/), 143 S.Ct. 2065 (2023). The federal elections clause does not vest exclusive and independent authority in state legislatures to set the rules regarding federal elections and therefore did not bar the North Carolina Supreme Court from reviewing the North Carolina legislature’s congressional districting plans for compliance with North Carolina law.

1. Executive power – and state challenges to it

[U.S. v. Texas](https://www.scotusblog.com/case-files/cases/united-states-v-texas-5/), 143 S.Ct. 1964 (2023). Texas and Louisiana lack Article III standing to challenge immigration-enforcement guidelines promulgated by the Secretary of Homeland Security that prioritize the arrest and removal of certain noncitizens from the United States.

[Biden v. Nebraska](https://www.scotusblog.com/case-files/cases/biden-v-nebraska-2/), 143 S.Ct. 2355 (2023). The Secretary of Education does not have authority under the Higher Education Relief Opportunities for Students Act of 2003 to establish a student loan forgiveness program that will cancel roughly $430 billion in debt principal and affect nearly all borrowers.

1. First Amendment: speech

[Counterman v. Colorado](https://www.scotusblog.com/case-files/cases/counterman-v-colorado/), 143 S.Ct. 2106 (2023). To establish that a statement is a “true threat” unprotected by the First Amendment, the state must prove that the defendant had some subjective understanding of the statements’ threatening nature, based on a showing no more demanding than recklessness.

[303 Creative LLC v. Elenis](https://www.scotusblog.com/case-files/cases/303-creative-llc-v-elenis/), 143 S.Ct. 2298 (2023). The First Amendment prohibits Colorado from forcing a website designer to create expressive designs speaking messages with which the designer disagrees.

1. Indian Child Welfare Act

[Haaland v. Brackeen](https://www.scotusblog.com/case-files/cases/haaland-v-brackeen/), 143 S.Ct. 1609 (2023). (1) Whether various provisions of the Indian Child Welfare Act of 1978 — namely, the minimum standards of [Section 1912(a), (d), (e), and (f)](https://casetext.com/statute/united-states-code/title-25-indians/chapter-21-indian-child-welfare/subchapter-i-child-custody-proceedings/section-1912-pending-court-proceedings); the placement-preference provisions of [Section 1915(a) and (b)](https://casetext.com/statute/united-states-code/title-25-indians/chapter-21-indian-child-welfare/subchapter-i-child-custody-proceedings/section-1915-placement-of-indian-children); and the recordkeeping provisions of [Sections 1915(e)](https://casetext.com/statute/united-states-code/title-25-indians/chapter-21-indian-child-welfare/subchapter-i-child-custody-proceedings/section-1915-placement-of-indian-children) and [1951(a)](https://casetext.com/statute/united-states-code/title-25-indians/chapter-21-indian-child-welfare/subchapter-iii-recordkeeping-information-availability-and-timetables/section-1951-information-availability-to-and-disclosure-by-secretary) — 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.

1. Labor law

Glacier Northwest v. International Brotherhood of Teamsters, 143 S.Ct. 1404 (2023). The [National Labor Relations Act](https://www.ilo.org/dyn/travail/docs/2367/NationalLaborRelationsAct.pdf) did not preempt Glacier’s state tort claims related to the destruction of company property during a labor dispute where the union failed to take reasonable precautions to avoid foreseeable and imminent danger to the property.

1. Personal jurisdiction

[Mallory v. Norfolk Southern Railway Co*.*](https://www.scotusblog.com/case-files/cases/mallory-v-norfolk-southern-railway-co/), 143 S.Ct. 2028 (2023). 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.