

Nevada Judicial Conference
Supreme Court Review

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October Term 2020

I. Criminal cases

A. Eighth Amendment

Jones v. Mississippi, 141 S.Ct. 1307 (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. 989 (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.

Caniglia v. Strom, 141 S.Ct. 1596 (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. 2011 (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.

II. First Amendment

A. Free exercise of religion

Fulton v. City of Philadelphia, 141 S.Ct. 1868 (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. 2038 (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.

Americans for Prosperity Foundation v. Bonta, 141 S.Ct. 2373 (2021). California’s requirement is facially requirement that non-profits disclose their donors by providing the state with forms completed for the federal government is invalid because it burdens donors’ First Amendment rights and is not narrowly tailored to an important government interest.

IV. Personal jurisdiction.

Ford Motor Company v. Montana Eighth Judicial District, 141 S.Ct. 1017 (2021). The connection between plaintiffs’ product-liability claims arising from car accidents occurring in each plaintiff’s state of residence and Ford’s activities in those states is sufficient to support specific jurisdiction in the respective state courts, even though the automobiles involved in the accidents were manufactured and sold elsewhere.

V. Takings Clause

Cedar Point Nursery v. Hassid, 141 S.Ct. 2063 (2021). A California regulation granting labor organizations a “right to take access” to an agricultural employer’s property to solicit support for unionization constitutes a per se physical taking.

VI. Voting rights

Brnovich v. Democratic National Committee, 141 S.Ct. 2321 (2021). Arizona’s laws requiring voting within a person’s precinct and preventing “ballot harvesting” do not violate Section 2 of the Voting Rights Act, and the prohibition of ballot harvesting was not motivated by a discriminatory purpose.

October Term 2021

I. Abortion

Whole Women’s Health v. Jackson, 142 S.Ct. 522 (2021). State officials may be sued for injunctive relief only if they play a role in enforcing or implementing the law.

Dobbs v. Jackson Women’s Health Organization, No. 19-1392 (argued on December 1, 2021). Whether all pre-viability prohibitions on elective abortions are unconstitutional.

II. Criminal law

Hemphill v. New York, 142 S.Ct. 681 (2022). The trial court’s admission—over Hemphill’s objection—of the plea allocution transcript of an unavailable witness violated Hemphill’s Sixth Amendment right to confront the witnesses against him.

United States v. Tsarnaev, 142 S.Ct. 1024 (2022). District Court did not abuse its discretion by declining to include specific media-content question in juror questionnaire. A court of appeals cannot use its discretionary supervisory powers, if any, to supplant a district court’s broad

discretion to manage voir dire by prescribing specific lines of questioning. District Court did not abuse its discretion by excluding certain allegedly mitigating evidence at capital sentencing. Section of Federal Death Penalty Act that allowed exclusion of mitigating evidence if its probative value was outweighed by risk of unfair prejudice, confusing the issues, or misleading the jury did not violate Eighth Amendment.

III. First Amendment – freedom of speech

City of Austin, Texas v. Reagan National Advertising of Texas, Inc., 142 S.Ct. ____ (April 21, 2022). The Austin city code’s distinction between on-premise signs, which may be digitized, and off-premise signs, which may not, is not a facially unconstitutional content-based regulation under *Reed v. Town of Gilbert*.

Shurtleff v. Boston, No. 20-1800. (argued on January 18, 2022). (1) Whether the U.S. Court of Appeals for the 1st Circuit’s failure to apply the Supreme Court’s forum doctrine to the First Amendment challenge of a private religious organization that was denied access to briefly display its flag on a city flagpole, pursuant to a city policy expressly designating the flagpole a public forum open to all applicants, with hundreds of approvals and no denials, conflicts with the Supreme Court’s precedents holding that speech restrictions based on religious viewpoint or content violate the First Amendment or are otherwise subject to strict scrutiny and that the establishment clause is not a defense to censorship of private speech in a public forum open to all comers; (2) whether the 1st Circuit’s classifying as government speech the brief display of a private religious organization’s flag on a city flagpole, pursuant to a city policy expressly designating the flagpole a public forum open to all applicants, with hundreds of approvals and no denials, unconstitutionally expands the government speech doctrine.

IV. First Amendment: Religion

Carson v. Makin, No. 20-1088 (argued on December 8, 2021). Whether a state violates the religion clauses or equal protection clause of the United States Constitution by prohibiting students participating in an otherwise generally available student-aid program from choosing to use their aid to attend schools that provide religious, or “sectarian,” instruction.

Kennedy v. Bremerton School Dist., No. 21-418 (to be argued in April 25, 2022).

1) Whether a public-school employee who says a brief, quiet prayer by himself while at school and visible to students is engaged in government speech that lacks any First Amendment protection; and (2) whether, assuming that such religious expression is private and protected by the free speech and free exercise clauses, the establishment clause nevertheless compels public schools to prohibit it.

V. Second Amendment

Rifle and Piston Association v. Bruen, No. 20-843 (argued on November 3, 2021). Whether the state of New York’s denial of petitioners’ applications for concealed-carry licenses for self-defense violated the Second Amendment.