

Supreme Court Review: October Term 2020*

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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. 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.

III. 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.

IV. 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.

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, *cert. granted*, 141 S.Ct. ___ (2020). Whether the pursuit of a person whom a police officer has probable cause to believe has committed a misdemeanor categorically qualifies as an exigent circumstance sufficient to allow the officer to enter a home without a warrant.

V. 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.

VI. Freedom of speech

Mahaney Area School Dist. v. B.L., cert. granted, 141 S.Ct. ____ (2021). Whether *Tinker v. Des Moines Independent Community School District*, which holds that public school officials may regulate speech that would materially and substantially disrupt the work and discipline of the school, applies to student speech that occurs off campus.

Thomas More Law Center v. Bonta, cert. granted, 141 S.Ct. 974 (2021). (1) Whether exacting scrutiny or strict scrutiny applies to disclosure requirements that burden nonelectoral, expressive association rights; and (2) whether California's disclosure requirement violates charities' and their donors' freedom of association and speech facially or as applied to the Thomas More Law Center.

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, 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.

*Handout prepared on June 22, 2021