NAME OF EVENT: 2025-2026 National Supreme Court Term Review

DATE | TIME | LOCATION: July 1, 2026 | 11:00 a.m. to 1:30 p.m. ET | Georgetown University Capitol Campus, 125 E Street, Washington, DC 20001

BRIEF DESCRIPTION:
This Supreme Court Term in Review will be an engaging discussion about the Supreme Court's 2025-26 docket, which includes cases that that address voting rights, birthright citizenship, tariffs, racial justice, poverty, reproductive health access, freedom of speech and the press, and other matters that relate to social justice and inequality in society. Panelists include journalists and civil society leaders who will provide an overview of the key cases of the term, discuss whether the cases create changes in American jurisprudence, and if so how, and analyze how the Court's rulings will affect the rule of law, authority of the executive, separation of powers, reproductive health, rights, and justice, voting rights, the administrative state and more.

SPEAKERS' NAMES AND BIOS:

Session 1: Rule of Law Panel

- Phil Brest, President, American Constitution Society
- Fatima Goss Graves, President and CEO, National Women's Law Center
- Skye Perryman, President and CEO, Democracy Forward
- Lizz Winstead, Co-Creator of The Daily Show and Chief Creative Officer, Abortion Access Front
- Moderated by Regina Mahone, Senior Writer, The Nation
- (possibly John Kowal Vice President, Program Initiatives, Brennan Center for Justice at New York University School of Law joining)

Session 2: SCOTUS Term in Review

- Erwin Chemerinsky, Dean and Jesse H. Choper Distinguished Professor of Law, UC Berkeley School of Law
- Sherrilyn A. Ifill, Vernon Jordan Distinguished Professor in Civil Rights and Founding Director, 14th Amendment Center for Law & Democracy, Howard University School of Law
- Mark Joseph Stern, Senior Writer, Slate
- Moira Donegan, Opinion Columnist, The Guardian
- Chris Geidner, Former Legal Editor, Buzzfeed, Editor, Law Dork
- Jamelle Bouie, Opinion Columnist, The New York Times
- Michele Bratcher Goodwin, Linda D. & Timothy J. O'Neill Professor of Constitutional Law and Global Health Policy, Georgetown University School of Law; Co-Faculty Director, O'Neill Institute (Moderator)

Agenda of Panel: 11:00 a.m. to 1:30 p.m. (2.25 hours of CLE)

- Introductions / Opening Remarks (5 min)
- Session 1 Discussion (40 min)
- Session 1 Q&A (15 min)
- Session 2 Discussion (60 min)
- Session 2 Q&A (15 min)

Materials for Panel:

The Supreme Court heard 60 cases during its 2025–2026 term, a period defined by critical tests of executive authority, structural administrative power, and civil rights. Importantly, the Court has ruled an unprecedented number of times on cases challenging the reaches of Presidential power, which has produced some of the defining cases of the term.

At the forefront of the constitutional docket are intense battles over the separation of powers and the scope of presidential reach, epitomized by *Learning Resources, Inc. v. Trump*, which challenged the executive's authority to levy sweeping foreign tariffs under the International Emergency Economic Powers Act.

On the administrative front, the President's removal power has taken center stage in *Trump v. Cook* and *Trump v. Slaughter*. Ultimately, the Court is deciding whether to overturn nearly 90 years of judicial precedent established under *Humphrey's Executor v. United States* after the President sought to remove Federal Reserve Board Governor Lisa Cook and Federal Trade Commission commissioners Rebecca Slaughter and Alvaro Bedoya.

On the Court's docket are also important cases regarding civil rights and First Amendment issues. Religious and therapeutic speech boundaries were tested in *Chiles v. Salazar*, where the Court held that Colorado's ban on minor conversion therapy infringes upon First Amendment expression. In *Little v. Hecox* and *West Virginia v. B.P.J.,* the justices are poised to deliver blockbuster rulings on LGBTQ+ rights and the scope of Title IX by reviewing state-level sports bans on transgender athletes in sports. Furthermore, with a contentious midterm election on the horizon, the Court has set its sights once again on the Voting Rights Act as it struck down new congressional maps, in cases such as *Louisiana v. Callais.*

TARIFFS

Learning Resources, Inc. v. Trump

Docket No. 24-1287
Argued: Nov. 5, 2025
Decided: Feb. 20, 2026

Overview: The question presented in this case is whether the International Emergency Economic Powers Act (IEEPA), which authorizes the President to "regulate . . . importation" during a declared national emergency, delegates to the Executive Branch the authority to unilaterally impose tariffs.

IEEPA authorizes the President to "investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit ... importation or exportation" in response to a national emergency involving a foreign threat.[1]

The President argued that a large influx of illegal narcotics had created a public health crisis, and the country's large trade deficit hurt American manufacturing and supply chains. President Trump then declared a national emergency as to both threats, deeming them "unusual and extraordinary," and invoked his authority under IEEPA to respond, which he did by imposing sweeping tariffs.[2] To deal with the drug trafficking issue, he imposed a 25% duty on most Canadian and Mexican imports and a 10% duty on most Chinese imports. To deal with the trade deficit issue, he imposed a duty "on all imports from all trading partners" of at least 10%, with dozens of nations facing higher rates that the President has raised, lowered, or otherwise modified at his discretion.

Petitioners in *Learning Resources* filed suit in the United States District Court for the District of Columbia, while the petitioners in *V.O.S. Selections* filed suit in the Court of International Trade, both alleging that IEEPA does not authorize the reciprocal or drug trafficking tariffs.[3]

Holding: The executive branch exceeded its authority under IEEPA when it implemented sweeping tariffs.[4]

Reasoning: The power to "regulate ... importation," as granted to the President in IEEPA, does not include the power to impose tariffs.[5] Furthermore, IEEPA contains no reference to tariffs or duties, and the Government failed to point to any other statute in which Congress used the word "regulate" to

[1] 50 USC § 1702(a)(1)(B); *see also Learning Res., Inc. v. Trump*, 146 S. Ct. 628, 636 (2026).
[2] *Learning Res., Inc.*, 146 S. Ct. at 640 (the Government read IEEPA to give the President power to unilaterally impose unbounded tariffs and change them at will).
[3] *Id.* at 637.
[4] *Id.* at 646.
[5] *Id.* at 644.

authorize taxation or to grant the President authority to impose sweeping tariffs.[6] Also, no other president has read IEEPA since its enactment to confer such power.[7]

REMOVAL POWER

Trump v. Slaughter

Docket No. 25-332
Argued: Dec. 8, 2025
Decided: Case pending

Overview: FTC commissioners Rebecca Slaughter and Alvaro Bedoya brought this suit against President Trump and several FTC officials in the United States District Court for the District of Columbia, challenging their purported removal from the FTC—without cause—in March 2025.

Both Commissioner Slaughter and Bedoya received identical emails stating that they were being terminated because their "continued service on the FTC is inconsistent with [the] Administration's priorities."[8] The message did not indicate that either Commissioner was fired for inefficiency, neglect of duty, or malfeasance in office. [9]

Under the Federal Trade Commission Act, commissioners serve fixed seven-year terms and can only be removed by the President for "inefficiency, neglect of duty, or malfeasance in office."[10] The Court has previously held that these for-cause removal protections are constitutional.[11]

However, over the last decade, the Court has steadily chipped away at this framework, ruling that *single-director* agencies cannot hold removal protections.[12] The government asks the Court in this case to extend that trend by overruling *Humphrey's Executor*, thereby granting the President at-will removal power over all executive branch officials, including members of multi-member boards. The Government's argument is that there is a "unitary executive," which gives the president the power to fire anyone in the executive branch of government without cause.[13]

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[6] *Id.* at 646.
[7] *Id.*
[8] *Slaughter v. Trump*, 791 F. Supp. 3d 1, 8 (D.D.C.) (2025).
[9] *Id.*
[10] *Id.* at 7.
[11] *See Humphrey's Executor v. United States*, 295 U.S. 602, 632 (1935).
[12] *See Seila L. LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 213, (2020) (CFPB's leadership by a single individual removable only for inefficiency, neglect, or malfeasance violates the separation of powers); *see also Collins v. Yellen*, 594 U.S. 220, 250 (2021) (HERA's for-cause removal restriction for a single Director of FHFA violated constitutional separation of powers).
[13] Erwin Chemerinsky, *The Trump docket*, SCOTUSblog (Oct. 7, 2025, 9:33 AM), https://www.scotusblog.com/2025/10/the-trump-docket/

The Supreme Court granted Cert to decide two questions: 1) Whether the statutory removal protections for members of the Federal Trade Commission violate the separation of powers and, if so, whether *Humphrey's Executor* should be overruled, and (2) whether a federal court may prevent a person's removal from public office, either through relief at equity or at law.[14]

Emergency Docket Note: On top of granting cert in this case, the Court granted a stay through its emergency docket, enabling the President to immediately discharge, without any cause, members of the FTC.[15] The Court's three liberal justices dissented from this stay order, relying on the Court's holding in *Humphrey's Executor* that Congress may restrict the President's power to remove members of the FTC, as well as other agencies performing "quasi-legislative or quasi-judicial" functions, without violating the Constitution.[16]

Trump v. Cook

Docket No. 25A312
Argued: Jan. 21, 2026
Decided: Case Pending

Overview: The question before the court in *Trump v. Cook* is whether the president has the power to fire Lisa Cook, a governor on the Federal Reserve Board.

Lisa Cook was appointed a governor on the Federal Reserve Board by President Biden and confirmed by the Senate in 2023.[17] Governors on the Federal Reserve Board are appointed for a 14-year term and can be fired only "for cause."[18] Trump fired Cook, claiming that she had engaged in mortgage fraud before her appointment – allegations that Cook has denied, calling them "flimsy" and "unproven."[19]

After filing suit, U.S. District Judge Jia Cobb issued an order that required the Fed to allow Cook to stay on the board while her challenge to Trump's effort to fire her continued, finding that Cook has shown that she is likely to prevail on her claim that her removal was not "for cause," and therefore violated the Federal Reserve Act, as well as her Constitutional Due Process claim.[20]

[14] *Trump v. Slaughter*, 146 S. Ct. 18 (2025).
[15] *Id.*
[16] *Slaughter*, 146 S. Ct. at 19 (Kagan, J., dissenting).
[17] *Trump v. Cook*. Oyez, www.oyez.org/cases/2025/25A312. Accessed 3 Jun. 2026.
[18] Chemerinsky, *supra* note 13.
[19] *Id.*
[20] *Cook v. Trump*, 804 F. Supp. 3d 14, 32-33 (D.D.C. 2025).

After the U.S. Court of Appeals for the District of Columbia Circuit denied the government's request to pause the district court's order while the litigation continues, the government petitioned the Supreme Court for review.[21] The Court decided to keep the injunction in place as it decides on its merits.

In its decision, the Court will likely focus on whether there was cause for the firing or perhaps decide whether it is constitutional for Congress to limit the removal of governors of the Federal Reserve Board.[22]

BIRTHRIGHT CITIZENSHIP

Trump v. Barbara

Docket No. 25-365
Argued: Apr. 1, 2026
Decided: Case Pending

Overview: The citizenship clause of the 14th Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."[23] The provision was originally added to overrule the Supreme Court's Decision in *Dred Scott*, which held that Black people whose ancestors were brought to this country and sold as enslaved persons were not entitled to any protection from the federal courts because they were not U.S. citizens.[24]

On January 20, 2025, President Trump issued Executive Order No. 14,160, titled "Protecting the Meaning and Value of American Citizenship," which declared that individuals born in the United States are not U.S. citizens at birth if their parents lack "sufficient legal status."[25] However, the order never went into effect because almost immediately, several federal judges barred the implementation of the order while litigation continues.[26]

The Trump administration contends that the executive order simply "restores the original meaning" of the citizenship clause, which they argue was enacted to give citizenship to formerly enslaved people and

[21] Amy Howe, *Supreme Court declines to take action on Trump's request to fire Fed governor for now*, SCOTUSblog (Oct. 1, 2025, 11:39 AM), https://www.scotusblog.com/2025/10/supreme-court-declines-to-take-action-on-trumps-request-to-fire-fed-governor-for-now/
[22] Chemerinsky, *supra* note 13.
[23] U.S. Const. amend. XIV § 1.
[24] Amy Howe, *Supreme Court appears likely to side against Trump on birthright citizenship*, SCOTUSblog (Apr. 1, 2026, 2:56 PM), https://www.scotusblog.com/2026/04/supreme-court-appears-likely-to-side-against-trump-on-birthright-citizenship/.
[25] *See Barbara v. Trump*, 790 F. Supp. 3d 80, 87 (D.N.H.) (2025); *see also* Amy Howe, *The Key Arguments in the Birthright Citizenship Case*, SCOTUSblog (Mar. 26, 2026), https://www.scotusblog.com/2026/03/the-key-arguments-in-the-birthright-citizenship-case/.
[26] *Id.*

their children, rather than to "the children of aliens who are temporarily present in the United States or … illegal aliens."[27] Furthermore, Solicitor General Sauer added that most countries do not have birthright citizenship, and contended that "birth tourism" is "creating a whole generation of American citizens abroad with no meaningful ties to the United States."[28]

On the other hand, the petitioners point towards the longstanding agreement in the United States that "everyone born here is a citizen," which is a "fixed bright-line" rule for citizenship that is "workable" and "prevents manipulation."[29] They also point to the court's decision in *Wong Kim Ark*, which held that a child born on U.S. soil to permanent, legally resident foreign parents is a citizen of the United States from birth.[30] However, the government contends that this case can be distinguished and supports their position because, unlike the people who would be covered by Trump's executive order, Wong Kim Ark's parents were lawful permanent residents in the United States and domiciled there, even if they were not U.S. citizens.[31]

VOTING RIGHTS AND CAMPAIGN FINANCE

Louisiana v. Callais

Docket No. 24-109
Argued: Mar. 24, 2025; **Reargued**: Oct. 15, 2025
Decided: Apr. 29, 2026

Overview: The issue in this case was whether Louisiana's new congressional map was an unconstitutional racial gerrymander in violation of the Equal Protection Clause.

Following the 2020 census, the Louisiana Legislature enacted a congressional redistricting map (HB1) that featured only one majority-Black district out of six. Civil rights groups sued, and a federal district court ruled that the map likely diluted black voting power in violation of Section 2 of the Voting Rights Act of 1965 (VRA), ordering the state to add a second majority-Black district.[32]

To address this issue, the Louisiana Legislature adopted a new map (SB8) that included a second majority-Black district.[33] However, after the plaintiffs in this case filed suit alleging that SB8 (and in particular District 6) was a racial gerrymander, a three-judge court in the Western District

[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *United States v. Wong Kim Ark*, 169 U.S. 649, 704–05 (1898).
[31] Amy Howe, *supra* note 25.
[32] *See Robinson v. Ardoin*, 605 F. Supp. 3d 759, 766-67 (M.D. La. 2022).
[33] *Louisiana v. Callais*, 146 S. Ct. 1131, 1142 (2026).

of Louisiana held that the new map violated the Equal Protection Clause, and the State appealed to the Supreme Court.[34]

Holding: Because the VRA did not require Louisiana to create an additional majority-minority district, no compelling interest justified the State's use of race in creating SB8. Therefore, that map is an unconstitutional gerrymander.[35]

Reasoning: First, Louisiana's enactment of SB8 triggered strict scrutiny because the State's underlying goal was racial, i.e., it sought to create a district with a black voting-age population over 50%.[36] Under strict scrutiny, a state's use of race must be narrowly tailored to achieve a "compelling governmental interest."[37] Here, the only compelling interest Louisiana claimed was compliance with Section 2 of the VRA, which prohibits voting practices that result in minority groups having "less opportunity" than others to elect representatives of their choice.[38]

The Court also formulated and applied an updated *Gingles* framework. *Gingles* originally stated that to succeed on a § 2 violation, a plaintiff must show: (1) that the minority group in question is "sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district," (2) the "minority group must be able to show that it is politically cohesive," (3) the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it ... to defeat the minority's preferred candidate," and (4) based on the 'totality of circumstances,' that the political process is not 'equally open' to minority voters."[39] Here, the Court altered precondition one, stating that plaintiffs cannot use race as a districting criterion in drawing illustrative maps.[40] Regarding preconditions two and three, plaintiffs must provide an analysis that controls for party affiliation.[41] Here, the evidence did not show that Louisiana's prior map unconstitutionally denied Black voters equal electoral opportunity. The plaintiffs neither disentangled race from politics nor offered a workable alternative map that achieved all legitimate state districting goals.[42]

Critique: The Court's decision violates the *Purcell* principle, which states that federal courts should not alter the conduct of elections soon before they are to occur.[43] *Purcell* was a case that came from the Court's "shadow docket," and the Court has never explained the constitutional basis for the rule.[44] The

[34] *Id.* at 1142, 52.
[35] *Id.* at 1161
[36] *Id.* at 1162
[37] *Id.* at 1145.
[38] *Louisiana v. Callais*. Oyez, www.oyez.org/cases/2025/24-109. Accessed 3 Jun. 2026.
[39] *Callais*, 146 S. Ct. at 1146 (quoting *Thornburg v. Gingles*, 478 U.S. 30, 50 (2026)).
[40] *Id.* at 1159.
[41] *Id.*
[42] *Id.* at 1161-62.
[43] *See Purcell v. Gonzalez*, 549 U.S. 1, 6 (2006) (per curiam).
[44] Erwin Chemerinsky, *Rethinking a Supreme Court principle used to undermine the Voting Rights Act*, SCOTUSblog (May. 19, 2026, 10:00 AM), https://www.scotusblog.com/2026/05/rethinking-a-supreme-court-principle-used-to-undermine-the-voting-rights-act/

Court has also never explained what is "too soon," with in some cases the rule being applied months before an election.[45]

National Republican Senatorial Committee v. Federal Election Commission

Docket No. 24-621
Argued: Dec. 9, 2025
Decided: Case Pending

Overview: In 1970, Congress passed the Federal Election Campaign Act (FECA) of 1971 in order to address the soaring cost of political campaigns and reduce the influence of wealthy interests in elections.

The issue in this case is whether FECA's limits on coordinated campaign expenditures, which restrict political parties from spending money on campaign advertising with input from the party's candidate for office, violates the First Amendment.[46]

In 2001, the Supreme Court held that the restrictions do not violate the First Amendment.[47] Nevertheless, the Plaintiffs in this case contend that the law and facts have changed since 2001, making the *Colorado* decision moot.[48] In arguing this, they point to the Court's recent jurisprudence tightening free speech and to 2014 amendments to FECA that allow unlimited spending by political action committees.[49]

The Sixth Circuit, sitting *en banc*, held that the limits on coordinated party expenditures in the Act do not violate the First Amendment, either on their face or as applied to party spending in connection with "party coordinated communications."[50] The court rejected the petitioner's notion that the *Colorado* decision is no longer binding on lower courts, and instead applied the decision as binding precedent as is required in our hierarchical legal system.[51]

There is reason to believe that the current Court may break away from its prior jurisprudence surrounding FECA.[52] The Court's most notable opinions concerning the Act, including *Buckley v. Valeo*

[45] *See Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025).
[46] *Nat'l Republican Senatorial Comm. v. Fed. Election Comm'n*, 117 F.4th 389, 391 (6th Cir. 2024) (en banc).
[47] *See Fed. Election Comm'n v. Colorado Republican Fed. Campaign Comm.*, 533 U.S. 431, 465 (2001).
[48] *Nat'l Republican Senatorial Comm.*, 533 U.S. at 391
[49] *Id.*
[50] *Id.* at 398.
[51] *Id.* at 391.
[52] Brian Boyle, *Originalism Campaign Finance Conundrum*, SCOTUSblog (Dec 9, 2025), https://www.scotusblog.com/2025/12/originalisms-campaign-finance-conundrum/.

and *Citizens United v. Federal Election Commission,* have been criticized for having little to no originalist grounding.[53] The current Court, especially the conservative bloc, may be more willing to begin unwinding the courts' self-imposed role as the nation's primary campaign finance regulator and begin to return the role to democratic bodies.[54]

Watson v. Republican National Committee

Docket No. 24-1260
Agued: Mar. 23, 2026
Decided: Case pending

Overview: The issue in this case is whether federal law and the Constitution preempt a Mississippi state law that allows ballots that are mailed and postdated by federal election day to be received and counted by election officials after that day.

During the COVID-19 pandemic, Mississippi amended its election laws to accept absentee ballots "postmarked on or before the date of the election and received by the registrar no more than five business days after the election."[55] Since the end of the pandemic, Mississippi has preserved that deadline and amended the statute to cover absentee ballots transmitted by common carriers in addition to the United States Postal Service.[56]

In January 2024, the Republican National Committee, the Mississippi Republican Party, the Libertarian Party of Mississippi, and individual voters filed suit against various state election officials, alleging that federal Election Day statutes preempt Mississippi's law by establishing a uniform day for choosing members of Congress and appointing presidential electors.[57]

The district court granted summary judgment in favor of the state officials, ruling that the state law did not conflict with federal Election Day statutes. The U.S. Court of Appeals for the Fifth Circuit reversed, holding that the Mississippi statute was preempted by federal law fixing uniform time for appointing presidential electors.[58]

In his brief, the petitioner argues that the law comports with the federal election-day statutes because an "election" is the conclusive choice of an officer, that choice is made when the voters have cast their

[53] *Id.*
[54] *Id.*
[55] *Republican Nat'l Comm. v. Wetzel*, 120 F.4th 200, 204–05 (5th Cir. 2024).
[56] *Id.* at 205.
[57] *Id.*
[58] *Id.* at 207-08.

ballots, and under Mississippi law, the voters do that by election day.[59] Under this framework, an election has occurred regardless of whether election officials have received every ballot by that deadline.[60] Because Mississippi law requires voters to cast their ballots by election day, it aligns with federal requirements and is not preempted.[61]

Alternatively, the respondents argue that when Congress designated a single "day for the election," it set a deadline.[62] If a state law extends the election after that deadline, "it conflicts with" Congress's timing decision and to that extent is void.[63] They also point to historical practice where, for decades, states did not count ballots received after election day, and to the precedent set in *Foster v. Love*, where the Court held that Louisiana's open-primary system conflicted with the election-day statutes.[64]

FIRST AMENDMENT AND LGBTQ+ RIGHTS

Chiles v. Salazar

Docket No. 24-539
Argued: Oct. 7, 2025
Decided: Mar. 31, 2026

Overview: In 2019, Colorado adopted a law prohibiting licensed counselors from engaging in "conversion therapy" with minors, citing mounting evidence that conversion therapy is associated with increased depression, anxiety, suicidal thoughts, and suicide attempts.[65] Specifically, the law bans "any practice or treatment ... that attempts ... to change an individual's sexual orientation or gender identity."[66]

Kaley Chiles is a mental-health counselor in Colorado.[67] Ms. Chiles counsels clients on issues ranging from eating disorders to gender dysmorphia and sexuality.[68] Regarding sexuality and gender, Ms. Chiles assists clients who determine that they want to reduce or eliminate unwanted sexual attraction or change sexual behavior through talk therapy.[69]

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[59] Reply Brief for Petitioner, *Watson v. Republican National Committee*, No. 24-1260 (Mar. 11, 2026), 2026 WL 755528, at *2.
[60] Reply Brief for Petitioner, *Watson v. Republican National Committee*, No. 24-1260 (Jan. 2, 2025) 2025 WL 3901460 at *1.
[61] *Id.*
[62] Brief for Respondents, *Watson v. Republican National Committee*, No. 24-1260 (Feb. 9, 2026) 2026 WL 403200, at *1–2.
[63] *Id.*
[64] *Id.* at *15.
[65] *Chiles v. Salazar*, 146 S. Ct. 1010, 1017-18 (2026) (citing Colo. Rev. Stat. § 12–245–224(1)(t)(V) (2025)).
[66] § 12–245–202(3.5)(a).
[67] *Chiles*, 146 S. Ct. at 1017.
[68] *Id.*
[69] *Id.*

After Colorado adopted its new law, Ms. Chiles filed suit in federal court, arguing that the law, as applied to her talk therapy, violated her First Amendment rights to speak freely with her clients in ways she believes might help them meet "their own goals."[70] She claims that the law permits her to speak in a way that encourages a client to undergo a gender transition or affirm a client's sexual orientation, but unlawfully forbids her from speaking in a way that helps a client realign with their sexual identity or help a client change their sexual attraction or behavior.[71]

Both the Tenth Circuit and the district court determined that Ms. Chiles had standing to pursue her challenges; however, both courts denied her request for a preliminary injunction.[72] The courts reasoned that Colorado's law is best understood as regulating "professional conduct," which triggers no more than "rational basis review."[73] Because the State satisfied that standard, the courts held that Ms. Chiles was not entitled to the relief she sought.[74]

In response to these decisions, Ms. Chiles states that because the application of the Colorado law strikes at the heart of the First Amendment's protections for free speech, it warrants considerably more scrutiny than the rational-basis review the Tenth Circuit applied or the intermediate-scrutiny some other lower courts have employed in cases like hers.[75] The state, along with lower courts, insists that the law does not "regulate expression" at all, only "conduct," "treatment," or a "therapeutic modality," therefore applying a more heightened standard would be improper.[76]

Holding: The Colorado law applying a conversion therapy ban to a licensed counselor who uses only talk therapy is subject to strict scrutiny.[77]

Reasoning: The courts below failed to apply sufficiently rigorous First Amendment scrutiny in this case.[78] First, the spoken word is perhaps the quintessential form of protected speech, and that is exactly the kind of expression in which Ms. Chiles seeks to engage.[79] Second, the law constitutes viewpoint discrimination because the law prescribes what views she may and may not express (e.g., for a gay client, she can express support for identity exploration, but if a gay client expresses hopes for changing their sexual orientation, she cannot provide support).[80]

The Court also reiterated its decisions in *Holder* and NIFLA that there is no general categorical exception to the First Amendment for "professional speech."[81]

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[70] *Id.* at 1018.
[71] *Id.*
[72] *Id.* at 1019.
[73] *Id.*
[74] *Id.*
[75] *Id.* at 1020.
[76] *Id.* at 1023.
[77] *Id.* at 1029.
[78] *Id.* at 1023.
[79] *Id.*
[80] *Id.*
[81] *Id.* at 1022.

Critique: The Court has not been consistent in its decisions regulating the speech of professionals.[82] For example, in *Planned Parenthood v. Casey*, the Court upheld a law that required doctors to provide information to a woman deciding whether to proceed with an abortion.[83] Yet, in *NIFLA v. Becerra*, the Supreme Court invalidated a California statute that compelled crisis pregnancy centers to post notices disclosing the availability of state-subsidized reproductive health services, including free or low-cost contraception and abortion.[84]

Impacts: This decision imperils professional regulation in a variety of contexts, including the law and medicine, where state licensing boards have traditionally had the power to enforce best practices in professional fields, where the primary mechanism of care is delivery through speech.[85]

West Virginia v. B.P.J.
Docket No. 24-43
Argued: Jan. 13, 2026
Decided: Case Pending

Overview: In 2021, West Virginia enacted the "Save Women's Sports Act," which provides that "[a]thletic teams or sports designated for females, women, or girls shall not be open to students of the male sex," while defining "male" as "an individual whose biological sex determined at birth is male."[86] The sole purpose and effect of the Act is to prevent transgender girls from playing on girls' teams.[87]

The issue before the Court in this case is whether the Act may lawfully be applied to prevent a 13-year-old transgender girl who takes puberty blocking medication and has publicly identified as a girl since the third grade from participating in her school's cross country and track teams.[88] Said more broadly, this case concerns whether either Title IX or the Fourteenth Amendment's Equal Protection Clause prohibits a State from restricting participation in women's or girls' sports based on genes or physiological or anatomical characteristics.[89]

The district court originally granted a preliminary injunction, concluding B.P.J. had shown "a likelihood of success in demonstrating that this statute was unconstitutional as it applie[d] to her and that it

[82] Erwin Chemerinsky, *Conversion Therapy and Professional Speech*, SCOTUSblog (Apr. 9, 2026 at 9:30 AM), https://www.scotusblog.com/2026/04/conversion-therapy-and-professional-speech/.
[83] *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 882 (2022).
[84] *NIFLA. v. Becerra*, 585 U.S. 755, 766 (2018).
[85] *See* Scott Skinner-Thompson, *The Court's Conversion Therapy Decision Endangers LGBTQ+ Youth*, Am. Const. Soc'y: ACS Blog (Apr 6, 2026), https://www.acslaw.org/expertforum/; *see also* Katherine Novak, *APA Concerned About Far-Reaching Consequences from Supreme Court Decision Regarding Therapy as Free Speech*, Am. Psychol. Ass'n (Mar 31, 2026), https://www.apa.org/news/press/releases/2026/03.
[86] W. Va. Code § 18-2-25d(b)(3).
[87] *B.P.J. by Jackson v. W. Virginia State Bd. of Educ.,* 98 F.4th 542, 550 (4th Cir. 2025).
[88] *Id.*
[89] *W. Virginia v. B. P. J.*, by Jackson, 143 S. Ct. 889 (2023) (Alito, J., dissenting).

violate[d] Title IX.*"*[90] However, the court later ruled in the state's favor on a motion for summary judgment on both B.P.J.'s Title IX and Equal Protection Clause claims.[91] On Appeal, the Fourth Circuit held that the district court erred in granting the state summary judgment and erred in not granting summary judgment to B.P.J. on her Title IX claim, as it discriminates against B.P.J. on the basis of sex.[92]

In West Virginia's brief on its appeal to the Supreme Court, they argue that Title IX forbids sex discrimination – treating one sex worse than the other, but it does not forbid sex distinctions, otherwise "women's sports" would be illegal.[93] Under the Equal Protection Clause, the state argues that sex-separated sports teams are constitutionally permissible because biological differences mean the sexes are not similarly situated.[94] Therefore, the Fourth Circuit erred in applying intermediate scrutiny, as the state is not required to exempt male athletes who identify as girls from a law that maintains biological reality while keeping sports available to all students.[95]

In its brief, B.P.J. argues that excluding her from girls' sports teams because she is a girl who is transgender is differential treatment of a "person" "on the basis of sex" under Title IX.[96] Pointing to the court's decision in *Bostock*, B.P.J. contends that treating a student differently because they are transgender inherently entails differential treatment of a person on the basis of sex.[97]

Little v. Hecox

Docket No. 24-38
Argued: Jan. 13, 2026
Decided: Case pending

Overview: The issue in this case is whether an Idaho law that prohibits transgender women and girls from competing on schools' female sports teams violates the Fourteenth Amendment's Equal Protection Clause.

In March 2020, Idaho passed House Bill 500, known as the "Fairness in Women's Sports Act."[98] The Act was a first-of-its-kind categorical ban on the participation of transgender women and girls in women's student athletics.[99] The Act also provides for a sex dispute verification process whereby any individual

[90] *B.P.J.*, 98 F.4th at 551.
[91] *Id.*
[92] *Id.* at 555-56.
[93] Brief for Petitioners, *West Virginia, v. B.P.J.*, No 24-43 (2025), WL 3633907, at *2.
[94] *Id.*
[95] *Id.*
[96] Brief for Respondant, *West Virginia v. B.P.J.*, No 24-43 (2025), WL 3191846, at *17.
[97] *Id.* at *18.
[98] Hecox v. Little, 104 F.4th 1061, 1068 (9th Cir. 2024).
[99] Id.

can "dispute" the sex of any student athlete participating in female athletics in the State of Idaho and require her to undergo intrusive medical procedures to verify her sex, including gynecological exams.[100] Importantly, under the Act, student athletes who participate in male sports are not subject to a similar dispute process.[101]

On April 15, 2020, Lindsay Hecox a transgender woman who wishes to try out for the BSU women's track and cross-country teams, and Jane Doe, a cisgender woman who plays on high school varsity teams and feared that her sex would be "disputed" under the Act due to her masculine presentation, filed suit seeking a declaratory judgment that the Act violates Title IX and the Equal Protection Clause.[102]

In August 2020, a federal district court in Idaho temporarily barred the state from enforcing the law, concluding that it likely violated the Fourteenth Amendment's guarantee of equal protection under the laws.[103] Applying heightened scrutiny (the standard used for sex-based classifications), the Ninth Circuit affirmed the injunction, ruling that a sweeping, categorical ban was not "substantially related" to Idaho's stated goal of protecting athletic opportunities for cisgender women. [104]

Now at the Supreme Court, Hecox first argues that the case is moot because she no longer intended to compete in collegiate athletics, and instead focus on graduating without the extraordinary pressures of this litigation and related public scrutiny.[105] She has also agreed that the preliminary injunction and appellate decision in her favor should be vacated and her case should be dismissed with prejudice-giving petitioners all the relief they would get if they prevailed on the merits.[106]

Second, Hecox argues that petitioners' merits arguments impermissibly ask the Court to act as a factfinder by relying on an untested, extra-record expert declaration never vetted by the district court.[107] Because the district court weighed the competing evidence and found that Hecox holds no competitive advantage, a finding subsequently affirmed by the court of appeals under the highly deferential clear-error standard, the established preliminary-injunction record cannot support the state's claims.[108] Accordingly, the Court should adhere to standard appellate procedure and reject petitioners' invitation to adjudicate this dispute based on untested, extra-record scientific hypotheses.[109]

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[100] *Id.*
[101] *Id.*
[102] *Id.* at 1072
[103] *See Hecox v. Little*, 479 F. Supp. 3d 930, 988 (D. Idaho 2020)
[104] *Hecox*, 104 F.4th at 1068.
[105] Brief for Respondent, *Little v. Hecox*, No. 24-38 (Nov. 10, 2025), 2025 WL 3189626 at *2.
[106] Id.
[107] Id.
[108] Id.
[109] *Id.*

Finally, Hecox argues that on the merits, the lower courts correctly held that Idaho's categorical exclusion of transgender women and girls from scholastic sports triggers heightened scrutiny for two independent reasons.[110] First, the statute discriminates based on transgender status, an inherently suspect classification targeting a historically marginalized group that has long endured de jure discrimination.[111] Second, as petitioners concede, the law independently triggers heightened scrutiny because it explicitly discriminates on the basis of sex.[112]

On the other side, the Petitioners argue that using a biological definition of sex does not constitute proxy discrimination against transgender individuals, nor does gender identity qualify as a protected class.[113] Transgender individuals do not form a discrete group with obvious, unchangeable characteristics like race or biological sex.[114] Under legal scrutiny, the Act successfully advances state goals because biological males possess enduring physiological advantages in speed, strength, and endurance that persist even after hormone suppression.[115] These biological differences directly compromise the fairness and safety of female athletic competitions.[116]

The Equal Protection Clause also permits laws that recognize real biological differences between the sexes rather than defining sex by gender identity. It is designed to forbid arbitrary or harmful discrimination, but Idaho's law is a legitimate, evidence-based measure to ensure equal opportunities for female athletes.[117]

THE FOURTH AMENDMENT

Case v. Montana

Docket No. 24-624
Argued: Oct. 15, 2025
Decided: Jan. 14, 2026

Overview: The question presented in this case was whether law enforcement can enter a home without a search warrant based on less than probable cause that an emergency is occurring.[118]

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[110] *Id.* at *3.
[111] *Id.*
[112] *Id.*
[113] Brief for Petitioners, *Little v. Hecox*, No. 24-38 (Sep. 12, 2025), 2025 WL 2683067 at *3.
[114] *Id.*
[115] *Id.*
[116] *Id.*
[117] *Id.*
[118] *Case v. Montana*, 607 U.S. 107, 110 (2026).

In 2021, police in Montana responded to a 911 call from William Case's ex-girlfriend.[119] She reported that Case was suicidal, acting erratically, and had threatened to shoot any officers who intervened.[120] Officers at the scene observed an empty handgun holster and what appeared to be a suicide note through a window, but Case would not answer the door.[121]

After 40 minutes, fearing Case had already harmed himself or was about to do so, officers entered the home without a warrant.[122] Inside, Case emerged from a closet holding an object that appeared to be a weapon; an officer shot him in the abdomen.[123] Case survived and was later charged with felony assault on a police officer.[124] He subsequently moved to suppress the evidence found in his home, arguing that the warrantless entry violated his Fourth Amendment rights.[125] The trial court denied the motion on the ground that the police officers were responding legitimately to an "emergency."[126]

On appeal, a divided Montana Supreme Court upheld the trial court's ruling that the officers' entry was lawful.[127] The majority analyzed the issue under its "community caretaker doctrine," while the dissent favored the proposed probable-cause rule, which they concluded the officers here did not satisfy.[128]

Holding: Under the standard set in *Brigham City v. Stuart*, the Fourth Amendment allows police officers to enter a home without a warrant if they have an "objectively reasonable basis for believing than an occupant is seriously injured or imminently threatened with such injury."[129]

Reasoning: Under the emergency-aid exception from *Brigham City v. Stuart* (2006), an officer may enter a home without a warrant if he has "an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury."[130] The court rejected applying the probable cause standard to emergency contexts noting that it is rooted in criminal investigations.[131] Applying it to medical or mental health emergencies would be "awkward" and could delay life-saving intervention.[132]

In this specific case, the silence from the home, the report of a gun, and the visible suicide note provided enough evidence to make the entry "objectively reasonable."[133]

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[119] *Id.* at 110.
[120] *Id.*
[121] *Id.*
[122] *Id.* at 111.
[123] *Id.*
[124] *Id.*
[125] *Id.* at 112.
[126] *Id.*
[127] *Id.*
[128] *Id.* at 112.
[129] *Id.* at 113.
[130] *Id.* at 119 (quoting *Brigham City v. Stuart*, 547 U.S. 398, 400 (2006)).
[131] *Id.* at 116.
[132] *Id.* at 117.
[133] *Id.*

However, the Court cautioned that this is not a "general license to search." Once the emergency is addressed, the justification for the warrantless presence ends.[134]

Chatrie v. United States

Docket No. 25-112
Argued: Apr. 27, 2026
Decided: Case Pending

Overview: The issue in this case is whether the execution of a geofence warrant violates the Fourth Amendment.

On May 20, 2019, an individual robbed the Call Federal Credit Union in Midlothian, Virginia for $195,000.[135]

During the investigation, officers obtained a geofence warrant, which requires Google to produce Location History data for all users who were within a geographic area (called a geofence) during a particular time period.[136] Officers followed Google's three-step process to narrow down users, which ultimately resulted in a pool of three individuals, one of whom was Chatrie. After gathering a bit more information, Chatrie was subsequently charged with the robbery.[137]

A three-judge panel of the Fourth Circuit initially affirmed the conviction. Then the court sitting *en banc* reheard the case and once again affirmed the district court's decision but differed widely in reasoning.[138]

In its Brief to the Supreme Court, Chatrie argues that geofence warrants do not comply with the Fourth Amendment, therefore the search was unconstitutional.[139] The government conduct was a search because users have a reasonable expectation of privacy in their location history, as a person's location history can reveal highly sensitive information.[140] Furthermore, the warrant violated the Fourth Amendment because it directed Google to search tens of millions of accounts and expose the private location data of 19 people based solely on their proximity to a crime.[141] Such a warrant is not issued "upon probable cause … and particularly describing the place to be searched."[142]

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[134] *Id.*
[135] *United States v. Chatrie*, 590 F. Supp. 3d 901, 905 (E.D. Va. 2022).
[136] *Id.*
[137] *Id.*
[138] *See United States v. Chatrie*, 136 F.4th 100 (4th Cir. 2025) (en banc).
[139] Brief for Petitioner, *Chatrie v. United States*, No 25-112 (Apr. 17, 2026), 2026 WL 1070948, at *1.
[140] *Id.*
[141] *Id.*
[142] U.S. Const. amdt. IV.

The State, in its brief, argues that the investigator's conduct did not violate the petitioner's Fourth Amendment rights.[143] First, because Chatrie voluntarily shared his location data with Google, he does not have a reasonable expectation of privacy in any of the limited information disclosed at each step of the warrant's execution.[144] Second, even if the petitioner's Fourth Amendment rights might otherwise have been infringed at some step of the warrant process, the explicit authorization of a judicial warrant rendered the process reasonable under the Fourth Amendment.[145]

An important note: Google announced in 2023 that it would no longer store location history data anywhere but on the user's phone, meaning the company no longer has access to the data required to respond to police geofence data requests.[146] However, this case still remains an important decision because thousands of people have already been investigated, indicted, or imprisoned based on cloud-stored data, and other cloud-storage companies have been served geofence-style warrants for the data they collect on their customers.

ENVIRONMENTAL LAW/CIVIL PROCEDURE

Chevron USA Inc. v. Plaquemines Parish, Louisiana

Docket No. 24-813
Argued: Jan. 12, 2026
Decided: Apr. 17, 2026

Overview: In 2013, Plaquemines Parish and other Louisiana coastal parishes filed dozens of state-court lawsuits against a consortium of major energy companies, including Chevron.[147] The parishes alleged that the companies' historical oil exploration and production activities, such as storing oil in earthen pits rather than steel tanks and employing prohibited vertical-drilling methods, violated the Louisiana State and Local Coastal Resources Management Act of 1978 (SLCRMA). [148]

The federal officer removal statute authorizes an officer or "person acting under that officer" to remove state suits "for or relating to any act under color of such office."[149] In this case, Chevron invoked the statute to remove to federal court the environmental suit brought against it in Louisiana state court. [150]Chevron argued that the suit was removable because it implicates Chevron's crude-oil production

[143] Brief for Respondent, *Chatrie v. United States*, No 25-112 (Mar. 25, 2026), WL 884748, at *12.
[144] *Id.* at *15.
[145] *Id.* at *37.
[146] Mailyn Fidler , *Digital location data heads back to the Supreme Court*, SCOTUSblog (Apr. 24, 2026, 9:53 AM), https://www.scotusblog.com/2026/04/digital-location-data-heads-back-to-the-supreme-court-/
[147] *Chevron USA Inc. v. Plaquemines Par., Louisiana*, 146 S. Ct. 1052, 1059 (2026)
[148] *Id.*
[149] *Id.* at 1057 (quoting 28 U.S.C. § 1442(a)(1)).
[150] *Id.*

during the Second World War, when Chevron also refined crude oil into aviation gasoline for the U. S. military.[151]

To remove a case under the federal officer removal statute, a removing defendant must satisfy three requirements: (1) the removing defendant must be the United States, a federal agency, a federal officer, or a person "acting under" a federal officer, such as certain private parties hired to assist federal officers, (2) the suit must be "for or relating to any act under color of such office," and (3) the removing defendant must assert "a colorable federal defense."[152] This case concerns the second requirement.[153]

Holding: The federal officer removal statute allows a defendant to remove a state-court suit to federal court if the challenged conduct has a plausible and close relationship to the performance of federal duties.[154] This requirement was satisfied where Chevron's wartime crude oil production in a coastal zone "related to" its duties under a federal contract to produce aviation gasoline for World War II military efforts.[155]

Reasoning: The Court emphasized that ordinary meaning dictates that "relating to" sweeps broadly, encompassing indirect connections as long as they are not merely "tenuous, remote, or peripheral."[156] Accordingly, a removing defendant need not show that his federal duties specifically required or strictly caused the challenged conduct.[157]

Here, Chevron's case fits comfortably within the ordinary definition of the phrase as it implicates Chevron's wartime efforts to produce and supply avgas' essential feedstock, so it is closely connected to Chevron's wartime avgas refining for the military.[158]

The Court also rejected the lower courts reading of "relating to" that required the defendant to show that his federal duties specifically invited his challenged conduct.[159] Furthermore, an act can also relate to its consequences even when the causal chain includes actions by intermediaries.[160]

THE SECOND AMENDMENT

Wolford v. Lopez

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[151] *Id.*
[152] *Id.* at 1057-58.
[153] *Id.* at 1058.
[154] *Id.*
[155] *See Id.* at 1061.
[156] *Id.* at 1061.
[157] *Id.* at 1060.
[158] *Id.* at 1061.
[159] *Id.* at 1062.
[160] *Id.* (citing *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374 (1992)).

Docket No. 24-1046
Argued: Jan. 20, 2026
Decided: Case pending

Overview: In 2023, the Hawaiian legislature enacted Act 52, which generally prohibits a person with a carry permit from bringing a firearm onto fifteen types of property, in a direct response to the Court's decision in *Bruen* that the Second Amendment guarantees a general right to the public carry of arms.[161]

The issue in this case is whether the part of the state law that makes it a crime for a licensed concealed carry permit holder to bring a handgun onto private property open to the public unless the property owner gives "express authorization" violates the Second Amendment.

The Ninth Circuit found that the plaintiffs were likely to succeed on the argument that the Second Amendment encompasses a right to bear arms on private property held open to the public; however, it is the right of a private property owner to exclude others, including those bearing arms.[162] Because a national tradition likely exists of prohibiting the carrying of firearms on private property without the owner's oral or written consent, the court concluded that Plaintiffs were unlikely to succeed on the merits.[163]

In his brief, the petitioner argues that Hawaii's law was enacted for the avowed purpose of discouraging "trained and vetted" permit holders from exercising their newly recognized *Bruen* rights, and that it illegitimately criminalizes a fundamental constitutional right without justification or historical support.[164]

The respondent's argue in their brief that the law fully comports with the Second Amendment for two independent reasons.[165] First, it does not govern conduct protected by the Second Amendment because that Amendment codified the right to bear arms as it existed at the founding, when there was no right to armed entry onto private property without consent.[166] Rather, the right to exclude requires consent for any entry onto private property.[167]

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[161] *See Wolford v. Lopez*, 116 F.4th 959, 971 (9th Cir. 2024); *see also New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 33.
[162] *Wolford v. Lopez*, 116 F.4th 959, 993-94 (9th Cir. 2024).
[163] *Id.* at 995.
[164] Brief for Petitioner, *Wolford v. Lopez*, No. 24-1046 (Nov. 17, 2025), 2025 WL 3253541 at *12.
[165] Brief for Respondent, *Wolford v. Lopez*, No. 24-1046 (Dec. 17, 2025), 2025 WL 3709790 at *1.
[166] *Id.*
[167] *Id.*

Second, Hawai'i's law is constitutional because it aligns with the nation's historical tradition of firearm regulation.[168] Dating from the colonial era through Reconstruction, numerous state laws required express consent to bring firearms onto private property to protect the owner's right to exclude.[169] Those laws are "relevantly similar" to Hawai'i's because they were enacted for the same basic purpose: to protect owners' right to exclude. [170]

United States v. Hemani

Docket No. 24-1234
Argued: Mar. 2, 2026
Decided: Case pending

Overview: A grand jury charged Ali Danial Hemani with possessing a firearm while being an unlawful user of a controlled substance, in violation of 18 U.S.C. § 922(g)(3). Crucially, the prosecution did not allege that Hemani was intoxicated or using a controlled substance at the precise time he possessed the firearm.[171]

The issue in this case is whether section 922(g)(3), which prohibits the possession of firearms by a person who "is an unlawful user of or addicted to any controlled substance," violates the respondent's Second Amendment right to bear arms.

The government argues that although it bears a significant burden in justifying restrictions on the Second Amendment, that burden is met here.[172] The meaning of unlawful user is adequately restricted to habitual or frequent users, not just casual or occasional users.[173] Section 922(g)(3) falls well within Congress's authority to temporarily disarm habitual drug users as there is a wide breath of history and tradition that support temporarily barring people from possessing firearms based on their use of drugs.[174]

In its Brief, the respondent argues that section § 922(g)(3) does not begin to provide the fair notice that due process demands if it even subjects all who use marijuana a few times a week to criminal prosecution for exercising their Second Amendment rights.[175] If the statute does do so, then it cannot

[168] *Id.* at *2; *see also Bruen*, 597 U.S. at 24 (the government must justify its regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation).
[169] Respondent's Brief, *supra* note 165, at *1.
[170] *Id.*
[171] *United States v. Hemani*, Oyez, https://www.oyez.org/cases/2025/24-1234
[172] Brief for the United States, *United States v. Hemani*, No. 24-1234 (Jan 23, 2026), 2026 WL 288075 at *2.
[173] Jacob Charles, *Breaking Down the Hemani Arguments*, Duke Center for Firearms Law (Mar 4, 2026), https://firearmslaw.duke.edu/2026/03/breaking-down-the-hemani-arguments.
[174] Brief for the United States, *Hemani*, No. 24-1234, at *3.
[175] Brief for the Respondent, *United States v. Hemani*, No. 24-1234 (Jan 23, 2026), 2026 WL 288075 at *11-13.

withstand Second Amendment scrutiny, as that would go far beyond anything the Nation's historical tradition of firearms regulation could justify. [176]Finally, even if the court concludes that the "unlawful user" provision can be applied consistently with due process, it cannot be constitutionally applied to Mr. Hemani.[177] The historical tradition only supports prohibiting firearm carriage during periods where a person is currently intoxicated, not based on a person's status as a habitual drug user.[178]

Implications: If the Court decides to follow the government's position, it could mean that someone who had a marijuana gummy every other night to sleep, even if they have a valid medical prescription, would be subject to criminal prosecution and a felony conviction that carries a term of up to 15 years imprisonment.[179]

Alternatively, a decision in Hemani's favor could mean that very criminal prosecution for gun possession would involve a trial court, or possibly jury, determination about the scientific evidence base for drug scheduling, competing expert opinions about the pharmacological properties and propensities of a given drug, and a host of similar complex judgments that could vary among all 94 federal judicial districts across the country.[180] It would also more readily allow the mixing of drugs and guns, which is a lethal combination.

Shadow Docket Overview

During the 2025 – 2026 term, the Court utilized its emergency docket to issue rulings on a number of important issues. A great number of them concerned actions by the Trump administration, whereby the Court handed an overwhelming majority of important wins to the administration.

Noem v. Perdomo

Docket No. 25A169
Decided: Sep. 8, 2025

[176] *Id.*
[177] *Id.* at *13.
[178] *Id.*
[179] Charles, *supra* note 173.
[180] *Id.*

Overview: In 2025, DHS launched "Operation At Large," a widespread immigration enforcement initiative in LA, conducting raids at bus stops, car washes, agricultural sites, and day-laborer pickup locations

Pedro Vasquez Perdomo and dozens of others filed a class-action lawsuit, alleging that agents were stopping and detaining individuals without individualized reasonable suspicion. Rather the seizures were based primarily on four factors:(1) apparent race or ethnicity), (2) speaking Spanish or English with an accent, (3) presence at specific locations, and (4) engaging in specific low-wage occupations.[181]

Concluding that stops based on these four factors alone, even when taken together, could not satisfy the Fourth Amendment's requirement of reasonable suspicion, the District Court temporarily enjoined the Government from continuing its pattern of unlawful mass arrests while it considered whether longer-term relief was appropriate.[182]

Holding: The Court stayed the lower courts temporary restraining order via the emergency docket.[183]

Kavanaugh's Reasoning: First, under *Lyons*, standing to obtain future injunctive relief does not exist merely because plaintiffs experienced past harm and fear its recurrence.[184] The plaintiffs here lacked standing under *Lyons* to seek an injunction because they could not prove a "real and immediate threat" that they personally would be stopped unlawfully again in the future.[185]

Second, even if the plaintiffs had standing, the Government has a fair prospect of succeeding on the Fourth Amendment issue.[186] Relying on *United States v. Brignoni-Ponce* and "common sense," Kavanaugh suggests that in areas with high concentrations of undocumented immigrants, factors like location, job type, and language *can* contribute to a finding of reasonable suspicion.[187]

Finally, the government suffers irreparable harm whenever a court enjoins it from "effectuating statutes enacted by representatives of its people" (in this case, the Immigration and Nationality Act).[188]

Dissent: The dissent argues that by granting a stay on the injunction, the Court is effectively greenlighting racial profiling. They argue that the Fourth Amendment forbids this template-style of policing where millions of innocent U.S. citizens and legal residents are subjected to violent detentions based solely on their appearance or the language they speak. Critically, the dissent notes, a set of facts

[181] *Noem v. Vasquez Perdomo*, 146 S. Ct. 1, 2, (2025) (Kavanaugh, J., concurring).
[182] *Id.* at 6.
[183] *Id.* at 1.
[184] *Los Angeles v. Lyons*, 461 U.S. 95, 107 (1983).
[185] *Noem*, 146 S. Ct at 2.
[186] *Id.* at 3.
[187] *Id.*
[188] *Id.* at 4.

cannot constitute reasonable suspicion if it "describes a very large category of presumably innocent" people.[189]

Significance: The reasoning in Kavanaugh's concurrence suggests a potential shift in the "reasonable suspicion" standard, moving away from a requirement for individualized suspicion of wrongdoing toward a model that allows for stops based on high-probability "clusters" of traits (location + job + language).

Trump v. Illinois

Docket No. 25A443
Decided: Dec. 23, 2025

Overview: On October 4, 2025, the President called 300 members of the Illinois National Guard into active federal service to protect federal personnel and property, particularly in and around Chicago.[190] The following day, the President also federalized members of the Texas National Guard and deployed them to the city.[191] In calling forth the Guard, the President relied on 10 U.S.C. § 12406(3), which empowers him to federalize members of the Guard if he is "unable with the regular forces to execute the laws of the United States."[192]

The U.S. District Court for the Northern District of Illinois issued a temporary restraining order barring the federalization and deployment of the National Guard in Illinois.[193] The Seventh Circuit partially denied the Government's motion for a stay, leaving the bar on deployment intact but allowing the Guard to remain federalized.[194] The Government then appealed to the Supreme Court to stay the District Court's order.[195]

Holding: The Court held that a president can federalize the National Guard only in the rare circumstances in which the Posse Comitatus Act allows the military to be used for domestic law enforcement and only then if the United States military would be inadequate.[196]

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[189] *Id.* at 10 (citing *Reid v. Georgia*, 448 U.S. 438, 441, (1980)).
[190] *Trump v. Illinois*, 146 S. Ct. 432, 433 (2025).
[191] *Id.*
[192] *Id.* at 434.
[193] *Id.*
[194] *Id.*
[195] *Id.*
[196] See Erwin Chemerinsky, *Looking back at 2025: the Supreme Court and the Trump administration*, SCOTUSblog (Jan. 5, 2026, 9:30 AM), https://www.scotusblog.com/2026/01/looking-back-at-2025-the-supreme-court-and-the-trump-administration/; *see also Illinois*, 146 S. Ct. at 434.

Reasoning: The Supreme Court interpreted 10 U.S.C. § 12406(3), which empowers the president to federalize members of a state's National Guard if he is "unable with the regular forces to execute the laws of the United States," to mean that a president can federalize a state's guard *only if* it can be shown that the regular military of the United States cannot provide adequate protection.[197]

Because § 12406(3) requires evaluating the military's capacity to enforce domestic law, it necessarily applies only where the military can legally do so.[198] Such circumstances are inherently exceptional because the Posse Comitatus Act generally prohibits the military from executing domestic laws "except in cases and under circumstances expressly authorized by the Constitution or Act of Congress."[199] Consequently, before invoking § 12406(3), the President must possess both independent statutory or constitutional authority to deploy the regular military for law enforcement, and subsequently find those forces insufficient for the task.[200]

National Institutes of Health v. American Public Health Association

Docket No. 25A103
Decided: Aug. 21, 2025

Overview: Shortly after his inauguration in January 2025, President trump passed various executive orders aimed at removing all aspects of DEI from the federal government. The first order, titled "Ending Radical and Wasteful Government DEI Programs and Preferencing," instructed the director of the Office of Management and Budget, assisted by the attorney general and the director of the Office of Personnel Management, to work to end "discriminatory programs, including illegal DEI" programs in the federal government. It was followed by two other executive orders, titled "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" and "Ending Illegal Discrimination and Restoring Merit-Based Opportunity."[201]

One of the results of these Executive Orders was the National Institute of Health (NIH) terminating 4783 million dollars' worth of grants that were linked to "DEI-related" studies.[202] Of the terminated grants, 28.7% were HIV/AIDS related, 24.3% were transgender health care related, 17.1% were COVID-19 related, and 3.5% were climate related.[203]

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[197] Chemerinsky, *supra* note *196* (quoting 10 U.S.C. § 12406(3)).
[198] Illinois, 146 S. Ct. at 434.
[199] *Id.* (quoting18 U.S.C. § 1385).
[200] *Id.*
[201] Amy Howe, *Supreme Court allows Trump administration to terminate $783 million in NIH grants linked to DEI initiatives*, SCOTUSblog (Aug. 21, 2025, 7:10 PM), https://www.scotusblog.com/2025/08/supreme-court-allows-trump-administration-to-terminate-783-million-in-nih-grants-linked-to-dei-initiatives/
[202] *Id.*
[203] Center for Health Law Policy and Innovation, *NIH v. APHA: Supreme Court 'Shadow Docket'*

A coalition of researchers and the American Public Health Association (APHA) filed suit challenging the grant revocations as violations of the Administrative Procedure Act (APA) and the Due Process Clause of the Fifth Amendment. The U.S. District Court for the District of Massachusetts ruled for the plaintiffs, reinstating the grants and denying the government's request to delay enforcement of the ruling. After the U.S. Court of Appeals for the 1st Circuit declined to temporarily put Young's order on hold, the government subsequently filed an emergency application for a stay with the U.S. Supreme Court.[204]

The issue in this case is whether a federal district court possess the jurisdiction under the Administrative Procedure Act (APA) to order the reinstatement of terminated federal research grants, or does such relief belong exclusively within the monetary, contract-based jurisdiction of the U.S. Court of Federal Claims (CFC) under the Tucker Act.

Holding: Granted in part, denied in part. In a fractured 4–1–4 alignment with Justice Barrett being the deciding vote, the Supreme Court stayed the portion of the district court's order that required the immediate reinstatement of the grant funding, effectively allowing the NIH to halt the $783 million in disbursements while the appeal plays out. However, the Court denied a stay regarding the underlying challenge to the policy guidance itself, allowing the core litigation to proceed in the lower federal courts.

Reasoning: Following its previous ruling in *Department of Education v. California*, the Court stated that the district court did not have the power to rule on claims "based on" the research-related grants or to order relief designed to enforce any " 'obligation to pay money' " pursuant to those grants.[205]

In her concurrence, Justice Barrett agreed that the district court likely lacked jurisdiction to hear challenges to the grant terminations; however, she believed that the district court likely does have the power to review a challenge to the guidance documents.[206] In her opinion, she states that just because the agencies guidance discusses internal policies related to grants, it does not transform a challenge to that guidance into a claim "founded ... upon" contract that only the CFC can hear.[207]

Impacts: The Court's decision to restrict federal funding and regulatory approval for biomedical and behavioral research utilizing "gender identity" and "diversity, equity, and inclusion" (DEI) metrics introduce profound regulatory uncertainty that will severely delay scientific advancement and worsen existing health disparities.[208] Additionally, the federal government would face irreparable harm it paid the money for the grants and then was not able to recover that money.[209]

Ruling Casts a Long Shadow Over Health Care Research, (Sep. 18, 2025), https://chlpi.org/wp-content/uploads/2025/09/HCIM-NIH-v.-APHA.pdf.

[204] *Id.*; *see also* Howe, *supra* note 201.

[205] *Nat'l Institutes of Health v. Am. Pub. Health Ass'n*, 145 S. Ct. 2658 (2025)

[206] *Id.* at 2661 (Barrett, J., concurring)

[207] *Id.* (citing 28 U.S.C. § 1491(a)(1)).

[208] Health Care Litigation Tracker, *American Public Health Association v. National Institutes of Health*, https://healthcarelitigationtracker.org/case/american-public-health-association-et-al-v-national-institutes-of-health-et-al/ .

[209] Howe, *supra* note 201 (citing *Nat'l Institutes of Health,* 145 S. Ct. at 2658).

Noem v. National TPS Alliance

Docket No. 25A326
Decided: Oct. 3, 2025

Overview: Temporary Protected Status (TPS) is a statutory humanitarian program allowing the Department of Homeland Security to designate a foreign country's citizens as eligible to live and work in the U.S. if their home countries face ongoing armed conflict, environmental disasters, or extraordinary crises.[210] However, the reprieve granted by the statute is guaranteed for no more than 18 months at a time.[211]

The TPS statute grants the Secretary of Homeland Security significant discretion and authority in designating, extending, and terminating a country's TPS.[212] But by its plain language, the statute does not grant the Secretary the power to vacate an existing TPS designation. [213] This case concerns TPS designations for both Haitian and Venezuelan immigrants.

In March 2021, then-Secretary Mayorkas designated Venezuela for TPS, which was subsequently extended twice, both in October 2023 and again in January 2025, with the 2025 extension set to become effective on April 3, 2025.[214] However, upon taking office in late January 2025, the new administration's Department of Homeland Security (DHS) Secretary, Kristi Noem, immediately moved to dismantle both the 2023 designation of Venezuela under the TPS program and the 2025 extension of that designation.[215]

The National TPS Alliance, a member-led group of TPS holders, and several Venezuelan TPS holders who would be directly affected by Noem's decision filed suit in San Francisco federal district court to challenge the termination. They contended that the administration violated the Administrative Procedure Act, arguing that DHS lacked statutory authority under the TPS enabling legislation to rescind the extension. [216]They also argued that the decision violated the Constitution because it was "motivated at

[210] Amy Howe, *Court will consider whether Trump administration properly revoked protected status for Syrians and Haitians*, SCOTUSblog (Apr. 24, 2026, 9:15 AM), https://www.scotusblog.com/2026/04/court-will-consider-whether-trump-administration-properly-revoked-protected-status-for-syrians-a/
[211] See 8 U.S.C. § 1254a(b)(2)(B), (b)(3)(C).
[212] *Nat'l TPS All. v. Noem*, 166 F.4th 739, 749 (9th Cir. 2026)
[213] *Id.*
[214] *Id.* at 750-51.
[215] *Id.* at 751.
[216] Amy Howe, *Venezuelans ask Supreme Court not to allow Trump administration to end their protected status*, SCOTUSblog (Sep. 29, 2025, 5:25 PM), https://www.scotusblog.com/2025/09/venezuelans-urge-supreme-court-not-to-allow-trump-administration-to-end-their-protected-status/

least in part by racial animus," as was evident by Secretary Noem describing TPS holders as "dirtbags."[217]

The district court granted Plaintiffs' motion to postpone the Venezuela Vacatur on March 31, 2025.[218] The Government then sought a stay of the district court's order, which the Ninth Circuit denied.[219] The Government then appealed to the Supreme Court, which granted the Government's emergency request to stay the district court's order on May 19, 2025, in a brief, unsigned order.[220]

Following the Supreme Court's preliminary stay, District Judge Chen issued a final decision on September 5, ruling that Secretary Noem's termination of the TPS designation was unlawful.[221] Chen clarified in a footnote that while the Supreme Court had frozen his initial preliminary injunction, it did not bar him from adjudicating the case on the merits and issuing a final judgment.[222] The Ninth Circuit subsequently denied the administration's request to pause Chen's final ruling on September 17, rejecting the argument that the Supreme Court's prior intervention required a freeze, noting that the justices had not yet reviewed the newly developed trial record.[223]

The Government then returned to the Supreme Court, arguing that the "prior order makes the lower courts' denial of a stay indefensible" and the refusal to pause Judge Chen's ruling represents a direct threat to the constitutional hierarchy of the federal court system by openly disregarding the Supreme Court's clear instructions.[224]

The challengers countered that the Supreme Court's limited preliminary stay never foreclosed further litigation toward a final judgment.[225] They emphasized that Judge Chen's final ruling grants relief under a completely different posture and statutory authority than the initial injunction.[226]

Holding: The Court granted the application for stay of the district court's decision, noting that although the posture of the case has changed, the parties' legal arguments and relative harms generally have not.[227] Therefore, the same result that the Court reached in May is appropriate here.[228]

Trump v. Orr

Docket No. 25A319

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[217] *Id.*
[218] *See National TPS Alliance v. Noem*, 773 F. Supp. 3d 807 (N.D. Cal. 2025)
[219] *National TPS Alliance v. Noem*, 2025 WL 1142444 (9th Cir. Apr. 18, 2025)
[220] *Noem v. Nat'l TPS All.*, 145 S. Ct. 2728, 2729 (2025)
[221] Howe, *supra* note 216.
[222] *Id.*
[223] *Id.*
[224] *Id.*
[225] Id.
[226] Id.
[227] *Noem v. Nat'l TPS All.*, 146 S. Ct. 23, 24
[228] *Id.*

Decided: Nov. 6, 2025

Overview: On January 20, 2025, President Trump signed Executive Order 14168, which declares that "[i]t is the policy of the United States to recognize two sexes, male and female."[229] The order directed the Secretary of State to make "changes to require that government-issued identification documents, including passports ... accurately reflect the holder's sex."[230]

In late January 2025, complying with the Executive Order, the State Department reversed 33 years of precedent to make two substantive changes to its passport policy.[231] First, it eliminated the option for Americans to select a gender marker matching their gender identity, requiring all passports to reflect only the applicant's sex assigned at birth. Second, it removed the "X" sex marker option previously available to intersex, non-binary, and gender non-conforming applicants.[232]

The plaintiffs—seven transgender or non-binary Americans—filed suit to challenge the Order and the State Department's updated passport policy. They claim these measures violate the equal protection principles safeguarded by the Fifth Amendment, as well as the constitutional rights to international travel and informational privacy.[233] Additionally, the plaintiffs contend that the policy violates the Administrative Procedure Act because it is arbitrary, capricious, and was adopted without complying with the Paperwork Reduction Act.[234]

In its opinion granting a preliminary injunction, the district court found that because a passport's primary purpose is real-time identification, the marker should accurately reflect the holder's current gender identity.[235] The court noted that a mismatch can expose transgender individuals to harassment, violence, and discrimination.[236] Balancing these hardships, the court concluded that the government's interest in mandating inaccurate markers was minimal.[237]

The U.S. Court of Appeals for the First Circuit subsequently declined to stay the order. The Government then filed a stay application with the Supreme Court.

Holding: The Court stayed a preliminary injunction preventing the Trump administration from implementing a rule requiring that passports indicate a person's sex at birth. Respectively

Reasoning: In its brief opinion, the Court found that the Government is likely to succeed on the merits of its claim. The Court reasoned that by utilizing sex assigned at birth, the Government is merely

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[229] Orr v. Trump, 778 F. Supp. 3d 394, 400 (D. Mass. 2025)
[230] Id.
[231] Id.
[232] Id.
[233] Id.
[234] Id.
[235] Erwin Chemerinsky, *The shadow docket fails again*, SCOTUSblog (Nov. 20, 2025, 9:30 AM), https://www.scotusblog.com/2025/11/the-shadow-docket-fails-again/
[236] *Id.*; *Orr*, 778 F. Supp. at 427.
[237] Chemerinsky, *supra* note 235.

"attesting to a historical fact without subjecting anyone to differential treatment."[238] Furthermore, the Court concluded that the plaintiffs failed to establish that the decision to display biological sex "lack[s] any purpose other than a bare ... desire to harm a politically unpopular group."[239]

[238] Trump v. Orr, 146 S. Ct. 44, 46 (2025).
[239] Id. (quoting Trump v. Hawaii, 585 U.S. 667, 705 (2018)).

Materials for Panel: