

The Supreme Court - December 10, 2020

Today, the Supreme Court of the United States issued the following four decisions:

Rutledge v. Pharmaceutical Care Management Assn., No. 18-540: Arkansas' Act 900 regulates the price at which pharmacy benefit managers ("PBMs") reimburse pharmacies for the cost of drugs covered by prescription-drug plans. Respondent Pharmaceutical Care Management Association is a trade association representing PBMs that brought suit claiming that Act 900 is preempted by ERISA. The District Court concluded the law was preempted, and the Eighth Circuit affirmed. Today, the Court reversed, holding that Act 900 does not run afoul of ERISA's express preemption of "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan," because Act 900 has neither a connection with nor reference to such a plan. Justice Sotomayor issued the Court's opinion, which was joined by all Members of the Court except Justice Barrett, who did not participate. Justice Thomas filed a separate concurrence, stating that the Court's ERISA preemption jurisprudence has improperly veered from the statute's text.

The Court's decision is available [here](#).

Carney v. Adams, No. 19-309: Delaware's Constitution requires that appointments to the State's courts reflect a politically-partisan balance, whereby no more than a bare majority of members to certain courts may belong to any one political party, and for three of the State's courts, the remaining members must belong to "the other major political party." Plaintiff-respondent James Adams, a Delaware attorney and long-time Democrat who then became a registered independent, sought to challenge these requirements as violating the First Amendment. At no time has Adams applied for a judgeship, instead only attesting that he wants to be, and would apply to be, a judge on any of Delaware's courts. The Third Circuit, affirming in part and reversing in part the District Court, found Adams had standing as to the major party requirement, and that it was unconstitutional. The Court today reversed, holding that Adams has not shown that he was "able and ready" to apply for a judicial vacancy in the imminent future, and thus lacked a concrete,

Related Capabilities

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particularized “injury in fact” over and above the abstract generalized grievance suffered by all citizens of Delaware. Justice Breyer issued the opinion, joined by all Members of the Court except Justice Barrett, who did not participate. Justice Sotomayor also filed a separate concurrence on considerations regarding the constitutionality of Delaware’s rules.

The Court’s decision is available [here](#).

Tanzin v. Tanvir, No. 19-71: The Religious Freedom Restoration Act of 1993 (“RFRA”) prohibits the Federal Government from substantially burdening the exercise of religion absent a compelling interest pursued through the least restrictive means. It also allows a person whose exercise of religion has been unlawfully burdened to “obtain appropriate relief against a government.” 42 U.S.C. §2000bb–1(c). Here, respondents are three practicing Muslims who claim FBI agents placed them on the No Fly List in retaliation for their refusal to act as informants against their religious communities. They brought suit seeking removal from the No Fly List, as well as money damages for wasted airline tickets and lost job opportunities. After the Government lifted respondents’ no fly restriction, the District Court dismissed the claims for injunctive relief as moot, as well as the claims for money damages, ruling that the RFRA does not permit monetary relief. The Second Circuit reversed. Today, the Court affirmed, holding that the RFRA’s express remedies provision permits litigants, when appropriate, to obtain money damages against federal officials in their individual capacities. Justice Thomas delivered the Court’s opinion, which was joined by all Members of the Court except Justice Barrett, who did not participate.

The Court’s decision is available [here](#).

United States v. Briggs, No. 19-108: Respondents are three military service members who were convicted of rape under the Uniform Code of Military Justice (“UCMJ”). All three had their prosecutions commence outside of the five-year statute of limitations generally applicable to non-capital offenses. But during the period at issue (1986-2006), the UCMJ provided that rape could be “punished by death,” and further provided that an offense “punishable by death” could be prosecuted “at any time without limitation.” Respondents argued that because of the Supreme Court’s holding in *Coker v. Georgia*, 433 U.S. 584 (1977), that a death sentence for the rape of an adult woman violates the Eighth Amendment, respondents could not in fact be sentenced to death, and thus were covered by the five-year limitations period. The Court of Appeals for the Armed Forces agreed. The Court today reversed, holding that the prosecutions were timely because “punishable by death” in the UCMJ was a term of art that is defined by the provisions of the UCMJ specifying the punishments for the offenses it outlaws. Justice Alito issued the Court’s opinion, which was joined by all Members of the Court except Justice Barrett, who did not participate. Justice Gorsuch filed a separate concurrence expressing his view that the Court lacks jurisdiction to hear appeals directly from the Court of Appeals for the Armed Forces.

The Court’s decision is available [here](#).

