

The Supreme Court - January 18, 2022

by Ian Blodger

On Friday, the Supreme Court of the United States granted certiorari in five cases:

Kevin George v. McDonough, No. 21-234: This case, involving an agency's authority to interpret the statutes it regulates, presents the following question: When the Department of Veterans Affairs (VA) denies a veteran's claim for benefits in reliance on an agency interpretation that is later deemed invalid under the plain text of the statutory provisions in effect at the time of the denial, is that the kind of "clear and unmistakable error" that the veteran may invoke to challenge the VA's decision?

Joseph Kennedy v. Bremerton School Dist., No. 21-418: This case, involving the application of the First Amendment to public school employees, presents the following questions: (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?

Carlos Vega v. Terence Tekoh, No. 21-499: This case, involving the intersection of claims brought under 42 U.S.C. Section 1983 for civil rights violations and the Supreme Court's decision in *Miranda v. Arizona*, 384 U.S. 436 (1966), presents the following question: Whether a plaintiff may state a claim for relief against a law enforcement officer under Section 1983 based simply on an officer's failure to provide the warnings prescribed in *Miranda*?

Michael Nance v. Timothy Ward, No. 21-439: This capital case, involving the petitioner's attempt to challenge the method of his execution under 42 U.S.C. Section 1983, presents the following questions: (1) Whether an inmate's as-applied method-of-execution challenge must be raised in a habeas petition instead of through a Section 1983 action if the inmate pleads an alternative method of execution not currently authorized by state law; and (2) whether, if such a challenge must be raised in habeas, it

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constitutes a successive petition where the challenge would not have been ripe at the time of the inmate's first habeas petition?

Tim Shoop v. Raymond Twyford, No. 21-511: This capital case, involving the interpretation of the All Writs Act and 28 U.S.C. Section 2241(c), presents the following questions: (1) May federal courts evade the statutory prohibition on issuing writs of habeas corpus to transport a prisoner only when necessary to bring the inmate to court to testify or for trial by using the All Writs Act; and (2) whether prior to granting a habeas petitioner the ability to develop new evidence, the court must determine that the new evidence could aid the petitioner in proving his entitlement to habeas relief, and whether the evidence may be permissibly considered by a habeas court?