

The Supreme Court - January 24, 2022

by Ian Blodger

Today, the Supreme Court of the United States granted certiorari in the following cases:

Students for Fair Admissions v. President and Fellows of Harvard; Students for Fair Admissions v. University of North Carolina, Nos. 20-1199, 21-707: These cases, involving the interpretation of the Equal Protection Clause of the Fourteenth Amendment and Title VI of the Civil Rights Act, present the following questions: (1) Should the Court overrule *Grutter v. Bollinger*, 539 U.S. 306 (2003), and hold that institutions of higher education cannot use race as a factor in admissions; (2) can a university reject a race-neutral alternative because it would change the composition of the student body, without proving that the alternative would cause a dramatic sacrifice in academic quality or the educational benefits of overall student-body diversity; and (3) is Harvard violating Title VI by penalizing Asian-American applicants, engaging in racial balancing, overemphasizing race, and rejecting workable race-neutral alternatives?

Axon Enterprise, Inc. v. FTC, et al., No. 21-86: This case, arising from a challenge to the constitutionality of the Federal Trade Commission's structure, procedures, and existence presents the following question: Whether Congress impliedly stripped federal district courts of jurisdiction over constitutional challenges to the Federal Trade Commission's structure, procedures, and existence by granting the courts of appeals jurisdiction to "affirm, enforce, modify, or set aside" the Commission's cease-and desist orders?

Michael Sackett v. EPA, et al., No. 21-454: This case, which appeals from a Ninth Circuit decision concluding that, under the Clean Water Act, 33 U.S.C. Section 1362(7), the Environmental Protection Agency has authority to regulate wetlands that bear a "significant nexus" with traditional navigable waters, asks the following question: Whether the Ninth Circuit set forth the proper test for determining whether wetlands are "waters of the United States" under the Clean Water Act.

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