

The Supreme Court - June 1, 2021

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

United States v. Cooley, No. 19-1414: When a tribal officer saw a truck parked on the side of a public highway within the Crow Reservation, he stopped, believing the occupants might need assistance. The officer noticed that the driver, Joshua James Cooley – who appeared to be non-native – had watery, bloodshot eyes, and the officer also saw two semiautomatic rifles and methamphetamine in the vehicle. The officer searched Cooley, called tribal and county officers for assistance, seized all the contraband in plain view, and took Cooley to the Crow Police Department where he was questioned by federal and local officers. When Cooley was later federally indicted on drug and gun offenses, the District Court suppressed the drug evidence, reasoning the tribal officer lacked authority to investigate non-apparent violations of state or federal law by a non-Indian on a public right-of-way crossing the reservation. The Ninth Circuit affirmed, applying its own standard. The Court today vacated and remanded, holding that an Indian tribe's police officer has authority to detain temporarily and to search a non-Indian on a public right-of-way that runs through an Indian reservation. The Court rooted its decision on its prior precedent in *Montana v. United States*, 450 U.S. 544, 566 (1981), where it noted that a tribe retains inherent sovereign authority to address "conduct [that] threatens or has some direct effect on . . . the health or welfare of the tribe." Justice Breyer issued the Court's unanimous opinion.

View the Court's [decision](#).

Garland v. Ming Dai, No. 19-1155; **Garland v. Alcaraz-Enriquez**, No. 19-1156: In immigration cases, the Ninth Circuit has applied what is known as the deemed-true-or-credible rule, which provides that, in the absence of an explicit adverse credibility determination by an immigration judge or the Board of Immigration Appeals, a reviewing court must treat a petitioning alien's testimony as credible and true. In Mr. Dai's case, the Ninth Circuit applied this rule, and deemed Mr. Dai's favorable testimony credible and true and prohibited the unfavorable testimony about his "real" reasons for remaining in

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the country from being considered as part of the removal analysis. Likewise, in Mr. Alcaraz-Enriquez’s case, the Ninth Circuit applied the rule in his immigration proceeding – which concerned whether he had been convicted of a particularly serious crime – so as to disregard the evidence contained in his probation report and only credit Mr. Alcaraz-Enriquez’s version of events. Today, the Court vacated and remanded, holding that the deemed-true-or-credible rule cannot be reconciled with the Immigration and Nationality Act’s terms, which instead requires that a reviewing court apply a highly deferential standard, and must accept “administrative findings” as “conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary.” 8 U.S.C. §1252(b)(4)(B). Justice Gorsuch issued the Court’s unanimous opinion.

View the Court's [decision](#).

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

Unicolors, Inc. v. H&M Hennes & Mauritz, L.P., No. 20-915: Did the Ninth Circuit err in breaking with its own prior precedent and the findings of other circuits and the Copyright Office in holding that 17 U.S.C. §411 requires referral to the Copyright Office where there is no indicia of fraud or material error as to the work at issue in the subject copyright registration?