

The Supreme Court - June 10, 2019

The Supreme Court of the United States issued three decisions this morning:

Return Mail, Inc. v. Postal Service, No. 17-1594: The Patent Trial and Appeal Board was created by Congress in the Leahy-Smith America Invents Act of 2011 (“AIA”), 35 U.S.C. §100 *et seq.* The AIA sets forth three new types of administrative proceedings by which a “person” other than the patent owner can challenge the validity of a patent before the Board after the patent has issued. Here, the United States Postal Service initiated one of these types of administrative review proceedings before the Board, challenging the validity of a patent owned by Return Mail, Inc. The Board found that the subject matter of Return Mail’s patent claims was ineligible for patenting. The Federal Circuit affirmed, also finding that the Federal Government is a “person” eligible to petition for the type of Board review under the AIA that the Postal Service sought here. Today, the Court reversed, holding that a federal agency is not a “person” who may petition for post-issuance review under the AIA. Justice Sotomayor delivered the opinion of the Court, with Justices Breyer, Ginsburg, and Kagan dissenting.

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

Parker Drilling Management Services, Ltd. v. Newton, No. 18-389: Petitioner Parker Drilling Management Services operates drilling platforms off the coast of California. These platforms are subject to the Outer Continental Shelf Lands Act (“OCSLA”), 43 U.S.C. §1331, which provides that all law on the Outer Continental Shelf (“OCS”) is federal law, administered by federal officials. Under the OCSLA, States are denied any interest in or jurisdiction over the OCS, and the adjacent State’s laws are deemed to be federal law “[t]o the extent that they are applicable and not inconsistent with” other federal law. 43 U.S.C. §1333(a)(2)(A). Here, respondent Brian Newton worked on Parker’s platforms – where he was not paid for his standby time -- and filed a class action alleging violations of a number of California wage-and-hour laws and related state-law claims. The District Court applied a rule that under the OCSLA, “state law only applies to the extent it is necessary to fill a significant void or gap in federal law,” and

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determined that because of the comprehensive nature of the Fair Labor Standards Act, there was no place for Newton’s state law claims. The Ninth Circuit vacated and remanded, finding state law is “applicable” under the OCSLA so long as it “pertains to the subject matter at hand,” and is “not inconsistent with existing federal law” so long as they are not “mutually incompatible, incongruous, or inharmonious.” Under that standard, the Ninth Circuit found that Newton’s claims could survive. The Court today vacated and remanded in a unanimous opinion by Justice Thomas, holding that where federal law addresses the relevant issue, state law is not adopted as surrogate federal law on the Outer Continental Shelf.

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

Quarles v. United States, No. 17-778: Under the Armed Career Criminal Act, 18 U.S.C. §924(e), a minimum 15-year prison sentence is mandated for a felon who unlawfully possesses a firearm and has three prior convictions for a “serious drug offense” or “violent felony,” the latter of which includes “burglary.” Here, petitioner Jamar Quarles argued that a 2002 Michigan conviction under that State’s law for third-degree home invasion did not qualify as burglary under §924(e). According to Quarles, the Michigan statute was broader than the generic definition of burglary and thus did not qualify as a prior conviction under §924(e), because the Michigan statute encompassed situations where the defendant forms the intent to commit a crime at any time while unlawfully remaining in a dwelling, not at the exact moment when the defendant is first unlawfully present in a dwelling, as is the case for generic remaining-in burglary under §924(e). The District Court and Sixth Circuit both rejected Quarles’s argument. Today, the Court affirmed in a unanimous opinion by Justice Kavanaugh. The Court interpreted remaining-in burglary under §924(e) to occur when the defendant forms the intent to commit a crime at any time while unlawfully present in a building or structure, and thus held that the Michigan statute substantially corresponds to or is narrower than generic burglary for purposes of qualifying for enhanced sentencing under the Armed Career Criminal Act.

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

Today, the Supreme Court granted certiorari in the following five cases:

Atlantic Richfield Co. v. Christian, No. 17-1498: This case concerning the pursuit of common-law claims for “restoration” at Superfund sites subject to EPA-ordered cleanups raises the following three questions: 1) Whether a common-law claim for restoration seeking cleanup remedies that conflict with EPA-ordered remedies is a “challenge” to EPA’s cleanup jurisdictionally barred by §113 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). 2) Whether a landowner at a Superfund site is a “potentially responsible party” that must seek EPA’s approval under CERCLA §122(e)(6) before engaging in remedial action, even if EPA has never ordered the landowner to pay for a cleanup. 3) Whether CERCLA preempts state common-law claims for restoration that seek cleanup remedies that conflict with EPA-ordered remedies.

Intel Corp. Investment v. Sulyma, No. 18-1116: This ERISA case presents the

question of whether the three-year limitations period in §413(2) of the Employee Retirement Income Security Act, 29 U.S.C. §1113(2), which runs from “the earliest date on which the plaintiff had actual knowledge of the breach or violation,” bars suit where all of the relevant information was disclosed to the plaintiff by the defendants more than three years before the plaintiff filed the complaint, but the plaintiff chose not to read or could not recall having read the information.

McKinney v. Arizona, No. 18-1109: This capital case presents two questions: 1) Whether the Arizona Supreme Court was required to apply current law when weighing mitigating and aggravating evidence to determine whether a death sentence is warranted. 2) Whether the correction of error under *Eddings v. Oklahoma*, 455 U.S. 104 (1982), requires resentencing.

Comcast Corporation v. Nat. Assn. of African American-Owned Media, No. 18-1171: This case, which involved race discrimination claims under 42 U.S.C. §1981 by Entertainment Studios Networks against Comcast after it declined to carry ESN’s networks, presents the question of whether a claim of race discrimination under 42 U.S.C. §1981 fails in the absence of but-for causation.

Monasky v. Taglieri, No. 18-935: This case presents two questions concerning the Hague Convention on the Civil Aspects of International Child Abduction: 1) Whether a district court’s determination of habitual residence under the Hague Convention should be reviewed de novo, as seven circuits have held, under a deferential version of de novo review, as the First Circuit has held, or under clear-error review, as the Fourth and Sixth Circuits have held. 2) Where an infant is too young to acclimate to her surroundings, whether a subjective agreement between the infant’s parents is necessary to establish her habitual residence under the Hague Convention.