

The Supreme Court - June 17, 2019

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

Manhattan Community Access Corp. v. Halleck, No. 17-1702: A private nonprofit corporation known as MNN operates the public access channels on Time Warner's cable system in Manhattan. Respondents DeeDee Halleck and Jesus Papoleto Melendez brought a suit against MNN, claiming that MNN violated their First Amendment free-speech rights when it restricted their access to MNN services and facilities after Halleck and Melendez produced – and MNN televised – a film critical of MNN. The District Court dismissed the suit on the basis that MNN is not a state actor subject to the First Amendment, but the Second Circuit reversed. Today, in a 5-4 decision, the Court reversed, concluding that under the state-action doctrine, operation of public access channels on a cable system is not a traditional, exclusive public function, and that a private entity such as MNN who opens its property for speech by others is not transformed by that fact alone into a state actor. The Court thus held that MNN is not subject to First Amendment constraints on its editorial discretion. Justice Kavanaugh wrote the majority opinion, joined by Chief Justice Robert, and Justices Thomas, Alito, and Gorsuch. Justice Sotomayor, joined by the remaining three justices, dissented.

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

Virginia Uranium, Inc. v. Warren, No. 16-1275: Petitioner Virginia Uranium sought to mine for uranium in the Commonwealth of Virginia, but Virginia State law flatly prohibits that type of mining. The company thus brought a lawsuit in federal court, claiming that the federal Atomic Energy Act ("AEA") – which gives significant authority to the Nuclear Regulatory Commission – preempted Virginia's law. The District Court and Fourth Circuit both rejected Virginia Uranium's claim, finding that despite the considerable authority Congress gave to the Nuclear Regulatory Commission, there was no indication Congress intended to preempt States' traditional power to regulate mining on private lands within their borders. Today, a fractured Court affirmed. Justice Gorsuch, joined by Justices Thomas and Kavanaugh, concluded that the AEA does not preempt Virginia's

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law banning uranium mining. Justice Ginsburg, joined by Justices Sotomayor and Kagan, concurred in the judgment, agreeing that Virginia's ban is not preempted, but finding Justice Gorsuch's opinion "sweeps well beyond the confines of this case." Chief Justice Roberts, joined by Justices Breyer and Alito, dissented.

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

Gamble v. United States, No. 17-646: The Double Jeopardy Clause of the Fifth Amendment provides that no person may be "twice put in jeopardy" "for the same offence." While that means that those acquitted or convicted of a particular "offence" cannot be tried a second time for the same "offence," it has long been held that under the "dual sovereignty" doctrine, a crime under one sovereign's law is not the "same offence" as a crime under the laws of another sovereign, thus permitting both a State and the Federal Government to prosecute a defendant for the same conduct under their respective laws. Petitioner Terance Gamble challenged the dual-sovereignty doctrine when he was federally-prosecuted under the United States' felon-in-possession law, after already being convicted by Alabama under its State law for possessing a firearm as a felon. The Eleventh Circuit affirmed the federal conviction. The Court today, in a 7-2 decision, affirmed the dual sovereignty doctrine, and correspondingly, Gamble's conviction. The majority opinion was authored by Justice Alito. Justice Thomas also filed a concurring opinion. Justices Ginsburg and Gorsuch filed separate dissents.

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

Virginia House of Delegates v. Bethune-Hill, No. 18-281: After Virginia redrew legislative districts for the State's Senate and House of Delegates, voters in twelve of the impacted House districts brought claims of racial gerrymandering against two State agencies and four election officials (collectively, the "State Defendants"). The Virginia House of Delegates and its Speaker (collectively, the "House"), intervened as defendants and took the lead in defending the constitutionality of the redistricting. After multiple rounds of litigation, a three-judge District Court found racial gerrymandering in eleven of the districts, enjoined further elections until a new redistricting plan was adopted, and gave the General Assembly four months to adopt a new plan. The Virginia Attorney General then announced that the State would not pursue an appeal because it "would not be in the best interest of the Commonwealth or its citizens." The House, however, proceeded with an appeal to the Supreme Court, which the State Defendants moved to dismiss for lack of standing. Today, in a 5-4 decision, the Court held that the House lacks authority to displace Virginia's Attorney General as representative of the State, and that the House, as a single chamber of a bicameral legislature, has no standing to appeal the invalidation of the redistricting plan separately from the State of which it is a part. Justice Ginsburg authored the majority opinion, which was joined by Justices Thomas, Sotomayor, Kagan, and Gorsuch. Justice Alito filed a dissent, joined by the remaining justices.

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

