

The Supreme Court - June 21, 2019

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

North Carolina Dept. of Revenue v. Kimberley Rice Kaestner 1992 Family Trust, No. 18-457: North Carolina law imposes a tax on any trust income that “is for the benefit” of a North Carolina resident. This case involved a trust originally formed by a New Yorker for the benefit of his children, which was governed by New York law and had a New York resident appointed as trustee, who had “absolute discretion” over distributions. One of the adult children, Kimberly Rice Kaestner, moved to North Carolina, where the trustee set up the respondent sub-trust. North Carolina taxed the trust \$1.3 million, even though Kaestner received no distributions during the relevant years at issue. The trial court, North Carolina Court of Appeals, and North Carolina Supreme Court, all agreed that there was too tenuous a link between the State and the Trust, and that the State’s taxation violated the Due Process Clause. Today, the Court affirmed, holding that the State’s tax of a trust on the sole basis that the trust’s beneficiaries live in the State – even if the beneficiaries received no income from the trust in the relevant tax year, had no right to demand income from the trust in that year, and could not count on ever receiving income from the trust – violates the Due Process Clause of the Fourteenth Amendment. Justice Sotomayor delivered the Court’s unanimous opinion. Justice Alito also filed a concurring opinion, joined by Chief Justice Roberts and Justice Gorsuch.

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

Knick v. Township of Scott, No. 17-647: Petitioner Rose Mary Knick lives on a farm that includes a small family cemetery in Scott Township, Pennsylvania. After an officer notified Knick that she was violating a recently-passed Township ordinance by failing to open the cemetery to the public during the day, Knick filed a declaratory and injunctive action in state court alleging that the ordinance effected a taking of her property, but failed to also seek an inverse condemnation proceeding. When her state suit stalled, Knick filed a federal action under §1983 alleging that the ordinance violated the Takings Clause of the Fifth Amendment. The District Court dismissed the claim under the

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precedent in *Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, 473 U.S. 172 (1985), which held that a property owner whose property has been taken by a local government has not suffered a Fifth Amendment violation, and cannot bring a federal takings claim in federal court, until a state court has denied the owner's claim for just compensation under state law. The Third Circuit affirmed. The Court today vacated and remanded, holding that the state-litigation requirement imposes an unjustifiable burden on takings plaintiffs, conflicts with the rest of the Court's takings jurisprudence, and must be overruled. Instead, a property owner has suffered a violation of his or her Fifth Amendment rights when the government takes the owner's property without just compensation, and may bring his or her claim in federal court under §1983 at that time. Chief Justice Roberts authored the Court's opinion, joined by Justices Thomas, Alito, Gorsuch, and Kavanaugh. Justice Thomas also filed a concurring opinion. The remaining justices joined in a dissent by Justice Kagan.

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

Flowers v. Mississippi, No. 17-9572: Petitioner Curtis Flowers, who is black, has been tried six separate times before a Mississippi jury for the alleged murder of four people, each time by the same lead prosecutor. The convictions in the first two trials were reversed due to prosecutorial misconduct, the conviction in the third trial was reversed because the prosecutor had discriminated against black prospective jurors in jury selection, and the fourth and fifth trials resulted in hung juries. In the sixth trial, the State struck five of the six prospective jurors, and Flowers was convicted. On appeal, Flowers raised a challenge based on *Batson v. Kentucky*, 476 U.S. 79 (1986), the case in which the Court ruled that a State may not discriminate on the basis of race when exercising peremptory challenges against prospective jurors in a criminal trial. A divided Mississippi Supreme Court affirmed the conviction. Today, the Court reversed, holding that all the relevant facts and circumstances taken together – including certain facts from the six trials combined – established that the trial court committed clear error in concluding that the State's peremptory strike of a particular black prospective juror was not motivated in substantial part by discriminatory intent. Justice Kavanaugh authored the Court's opinion. Justice Thomas dissented, joined in part by Justice Gorsuch.

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

Rehaif v. United States, No. 17-9560: Federal law provides that "[i]t shall be unlawful" for certain individuals to possess firearms, including aliens who are "illegally or unlawfully in the United States." 18 U.S.C. §922(g). Another provision requires a fine or up to 10 years imprisonment for anyone who "knowingly violates" the first provision. 18 U.S.C. §924(a)(2). Petitioner Hamid Rehaif entered the United States on a nonimmigrant student visa, but was dismissed from the university he was attending for poor grades, and told his "immigration status" would be terminated if he did not transfer to a different university or leave the country. When the Government learned that Rehaif had, after his dismissal, shot two firearms at a firing range, it prosecuted him for possessing firearms as an alien unlawfully in the United States under §922(g) and §924(a)(2). The judge instructed the jury that the Government did not need to prove that Rehaif "knew that he

was illegally or unlawfully in the United States.” Rehaif was convicted, sentenced to 18 months’ imprisonment, and the Eleventh Circuit affirmed. The Court today reversed, holding the word “knowingly” in §924(a)(2) applies both to the defendant’s conduct and to the defendant’s status, such that the Government must show that the defendant knew he possessed a firearm and also that he knew he had the relevant status when he possessed it. Justice Breyer delivered the Court’s opinion. Justice Alito filed a dissent, which Justice Thomas joined.

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