

The Supreme Court – June 23, 2022

by Ian Blodger

Today, the Supreme Court of the United States issued four decisions:

New York State Rifle & Pistol Assn., Inc. v. Bruen, No. 20-843: This case involves a constitutional challenge to a New York handgun-licensing law. New York makes it a crime to possess a firearm without a license. To receive an unrestricted license to carry a concealed handgun outside the home, the challenged New York law required an individual to show “proper cause” – meaning a “special need for self-protection distinguishable from that of the general community.” Applying that law, the State denied the petitioners unrestricted licenses to carry a handgun in public based on their generalized interest in self-defense, and the petitioners challenged the New York law, claiming it violated their Second and Fourteenth Amendment rights. The District Court dismissed their complaint, and the Second Circuit affirmed. Today, in a 6-3 decision authored by Justice Thomas, the Court reversed. The Court held that New York’s “proper-cause” requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense. Justices Alito, Kavanaugh (joined by the Chief Justice), and Barrett—although joining the majority opinion in full—filed three, separate concurrences. Justice Breyer filed a 52-page dissent (joined by Justices Sotomayor and Kagan), criticizing the majority for not “considering the State’s compelling interest in preventing gun violence and protecting the safety of its citizens, and without considering the potentially deadly consequences of its decision.”

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Berger v. North Carolina State Conference of the NAACP, No. 21-248: This case concerns whether two Republican state legislators who sought to intervene in litigation to defend North Carolina’s voter ID law were required to show that the state’s interest was not adequately represented by the state’s attorney general, a Democrat (and also a former state senator who voted against an earlier voter ID law). The Fourth Circuit affirmed the District Court’s denial of the legislators’ motion to intervene on grounds that

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the attorney general was adequately defending the law. Today, in an 8-1 decision authored by Justice Gorsuch, the Court reversed, holding that the North Carolina legislative leaders are entitled to intervene in the litigation. In reaching that conclusion, the Court emphasized “how divided state governments sometimes warrant participation by multiple state officials in federal court.” Justice Sotomayor dissented.

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Vega v. Tekoh, No. 21-499: A police officer interrogated Terence Tekoh without first warning him of his *Miranda* rights, and Tekoh made an incriminating statement that was later used against him during his criminal trial (though Tekoh was found not-guilty). Following his criminal trial, Tekoh initiated a suit under 42 U.S.C. §1983 arguing that taking an un-*Mirandized* statement and improperly using that statement against a party in a criminal trial was a violation of his constitutional rights. The District Court disagreed, but the Ninth Circuit reversed, holding that the use of an un-*Mirandized* statement against a defendant in a criminal proceeding violates the Fifth Amendment and may support a §1983 claim. The Supreme Court, in a 6-3 decision authored by Justice Alito, held that a violation of the *Miranda* rules does not provide a basis for a §1983 claim. The Court reasoned that *Miranda* recognized the need for procedural protection designed to prevent constitutional violations, but that the absence of those protections does not necessarily result in a constitutional violation. Justice Kagan dissented, joined by Justices Breyer and Sotomayor, arguing that *Miranda*'s protections are a rights secured by the Constitution, and that a violation of those protections must necessarily support a claim under §1983.

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Nance v. Ward, No. 21-439: This case concerns the appropriate procedural vehicle a prisoner may use to challenge the State's proposed method of execution under the Eighth Amendment. The Supreme Court has recently decided that, where a prisoner challenged a proposed method of execution, the prisoner must identify a readily available alternative method of execution that would reduce the risk of severe pain. The Court decided that 42 U.S.C. §1983 is an appropriate vehicle where the alternative method proposed is authorized under state law. This case asked the Court to decide whether a claim under §1983 is appropriate where the alternative proposed is not authorized under state law. Specifically, the Petitioner Michael Nance sought execution by firing squad as opposed to lethal injection, despite the State's prohibition on use of firing squads for executions. The District Court and Eleventh Circuit rejected Nance's petition, holding he should have used a habeas petition, not Section 1983. In a 5-4 decision authored by Justice Kagan, the Supreme Court held that §1983 remains an appropriate vehicle for a prisoner's method-of-execution claim where, as here, the prisoner proposes an alternative method not authorized by the State's death-penalty statute. Justice Barrett dissented, joined by Justices Thomas, Alito and Gorsuch, arguing that Nance's requested relief would effectively bar his execution and that the only procedural vehicle available in those circumstances is relief through a habeas petition.

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