

The Supreme Court - June 27, 2019

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

Department of Commerce v. New York, No. 18-966: The Secretary of Commerce announced in a March 2018 memo that he was reinstating a question about citizenship on the 2020 census. In the memo, the Secretary claimed he was acting at the request of the Department of Justice, which sought improved data about citizen voting-age population for purposes of enforcing the Voting Rights Act. The memo stated that, after carefully considering different options, the Secretary had determined that “the need for accurate citizenship data and the limited burden that the reinstatement of the citizenship question would impose outweigh fears about a potentially lower response rate.” A number of States, the District of Columbia, counties, cities, and the U.S. Conference of Mayors challenged the Secretary’s decision, as did a second group of non-governmental organizations that work with immigrant and migrant communities. The District Court agreed with the challengers, finding that the plaintiffs had standing to sue; that the Secretary’s action was arbitrary and capricious; that it violated certain provisions of the Census Act; and that it was based on pretext. The Government appealed to the Second Circuit, and also petitioned the Supreme Court for immediate review, which asked the parties to also brief whether the Enumeration Clause provided an alternative basis to affirm. Today, the Court held, in an opinion by Chief Justice Roberts, that the District Court was warranted in remanding to the agency because the Secretary’s decision rested on a pretextual basis. That part of the opinion was joined by Justices Ginsburg, Breyer, Sotomayor, and Kagan. The Court, however, rejected the District Court’s other bases for finding against the Government and found that the Enumeration Clause does not provide a basis to set aside the Secretary’s decision, with the Chief Justice’s opinion joined on those parts by Justices Thomas, Alito, Gorsuch, and Kavanaugh. Justice Thomas, Justice Breyer, and Justice Alito each filed separate opinions concurring in part and dissenting in part that were joined by other members of the Court.

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

Related Capabilities

- Appellate

Rucho v. Common Cause, No. 18-422: Voters and other plaintiffs in North Carolina challenged their State's congressional districting maps as unconstitutional partisan gerrymanders discriminating against Democrats, and plaintiffs in Maryland brought similar allegations that their State's districting discriminated against Republicans. The District Courts in both cases found for the plaintiffs. Today, the Court held that claims of excessive partisanship in districting are political questions that are nonjusticiable, and vacated and remanded with instructions to dismiss for lack of jurisdiction. The Court's opinion was authored by Chief Justice Roberts, joined by Justices Thomas, Alito, Gorsuch, and Kavanaugh. Justice Kagan filed a dissent joined by the remaining justices.

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

Mitchell v. Wisconsin, No. 18-6210: After a preliminary breath test administered by police showed that petitioner Gerald Mitchell had a blood-alcohol level three times the State's legal limit, Mitchell was arrested for operating a vehicle while intoxicated. While on the way to the police station for a more reliable breath test, Mitchell lost consciousness, and was instead taken to a hospital where a blood sample was taken while he was still unconscious. Mitchell moved to suppress the results of the blood test – which showed a blood-alcohol level above the legal limit – as violating his Fourth Amendment right against unreasonable seizures because it was conducted without a warrant. The trial court denied the challenge, and Mitchell was convicted. The Wisconsin Supreme Court affirmed. Today, a fractured Court vacated and remanded. Justice Alito, in an opinion joined by Chief Justice Roberts, Justice Breyer, and Justice Kavanaugh, found that when a driver is unconscious, the general rule is that the exigent-circumstances doctrine permits a blood test without a warrant, but vacated to allow Mitchell an opportunity to argue whether the facts here fell within a narrow exception to that general rule. Justice Thomas concurred in the judgment, favoring instead a per se rule that the natural metabolism of alcohol in the bloodstream creates an exigency once police have probable cause to believe the driver is drunk, regardless of whether the driver is conscious. Justice Sotomayor dissented, joined by Justices Ginsburg and Kagan. Justice Gorsuch also dissented, stating he would have dismissed the case as improvidently granted.

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