

The Supreme Court – June 27, 2022

by Ian Blodger

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

Ruan v. United States, No. 20-1410: This is a criminal case involving the intent necessary to convict a doctor under the Controlled Substance Act (CSA) for dispensing controlled substances not “as authorized.” The CSA makes it unlawful, “except as authorized,” to “knowingly or intentionally” distribute controlled substances, such as opioids. A federal regulation authorizes doctors to dispense controlled substances via prescription if the prescription is “issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” The question presented in the case is the state of mind that the Government must prove to convict doctors of violating the CSA not “as authorized.” In a 9-0 decision authored by Justice Breyer, the Court held that the CSA’s “knowingly or intentionally” *mens rea* applies to authorization; after a defendant produces evidence that he or she was authorized to dispense controlled substances, the Government must prove beyond a reasonable doubt that the defendant knew that he or she was acting in an unauthorized manner, or intended to do so. Justice Alito filed an opinion concurring in the judgment, in which Justice Thomas joined in full and Justice Barrett joined in part.

View the Court's [decision](#).

Concepcion v. United States, No. 20-1650: This is a criminal sentencing case involving the First Step Act of 2018. The 2010 Fair Sentencing Act reduced the sentencing ranges for some offenses involving crack cocaine. Then, the 2018 Fair Step Act made the Fair Sentencing Act’s reform retroactive, and thousands of prisoners sought reduced sentences under the First Step Act. The question in this case focuses on what factors district courts may consider in deciding a motion for a reduced sentence under the First Step Act. In a 5-4 decision authored by Justice Sotomayor, the Court held that the First Step Act allows sentencing judges to consider intervening changes of law or fact in exercising their discretion to reduce a sentence. Justice Kavanaugh filed a dissent—joined by Chief Justice Roberts and Justices Alito and Barrett—arguing that the “First

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Step Act authorizes district courts to reduce sentences based only on changes to the crack-cocaine sentencing ranges, not based on other unrelated changes that have occurred since the original sentencing.”

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Kennedy v. Bremerton School District, No. 21-418: Bremerton School District terminated Petitioner Joseph Kennedy’s position as a high school football coach after Kennedy kneeled at midfield after a game and prayed by himself. The school argued that failing to terminate Kennedy could lead an observer to believe they endorsed Kennedy’s religious beliefs, and may cause a violation of the Establishment Clause. Kennedy sued arguing that the school violated his First Amendment rights to Free Speech and Free Exercise of Religion. The District Court and the Ninth Circuit concluded that the school had not violated Kennedy’s First Amendment rights. In a 6-3 decision authored by Justice Gorsuch, the Supreme Court held that Kennedy’s prayer was private, not governmental, speech, and that the Free Exercise and Free Speech Clauses of the First Amendment protect an individual engaging in a personal religious observance from government reprisal. Justices Thomas and Alito wrote separately to note that the Court’s ruling was narrowly decided, and had not resolved various ancillary questions regarding the First Amendment rights of government employees. Justice Sotomayor dissented, joined by Justices Breyer and Kagan, arguing that Kennedy was acting in his capacity as a government employee while engaging in a highly-visible act of prayer, and therefore the School was justified in terminating his position to prevent a violation of the Establishment Clause.

View the Court's [decision](#).

In addition to these three decisions, the U.S. Supreme Court also granted certiorari in one case:

MOAC Mall Holdings LLC v. Transform Holdco LLC, No. 21-1270: This case involves a dispute over the interpretation of 11 U.S.C. § 363(m) and its intersection with an appellate court’s jurisdiction. The question presented is: whether Bankruptcy Code Section 363(m) limits the appellate courts’ jurisdiction over any sale order or order deemed “integral” to a sale order, such that it is not subject to waiver, and even when a remedy could be fashioned that does not affect the validity of the sale.