

The Supreme Court - March 28, 2022

by Ian Blodger

Today, the Supreme Court of the United States granted certiorari in three cases:

Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith, No. 21-869: This case concerns the scope of the Copyright Act's fair use defense. The case arises from Andy Warhols' artwork that utilized a photo of music legend Prince. The question presented is: whether a work of art is "transformative" when it conveys a different meaning or message from its source material (as the Supreme Court, Ninth Circuit, and other courts of appeals have held), or whether a court is forbidden from considering the meaning of the accused work where it "recognizably deriv[es] from" its source material (as the Second Circuit has held).

National Pork Producers v. Ross, No. 21-468: This case concerns a "dormant commerce clause" challenge to a California ballot initiative that banned in-state sales of pork born from sows kept in confined housing. The questions presented are: (1) whether allegations that a state law has dramatic economic effects largely outside of the state and requires pervasive changes to an integrated nationwide industry state a violation of the dormant commerce clause, or whether the extraterritoriality principle described in the Supreme Court's decisions is now a dead letter; and (2) whether such allegations, concerning a law that is based solely on preferences regarding out-of-state housing of farm animals, state a claim under *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970).

Cruz v. Arizona, 21-846: This is a criminal capital sentencing case. The question presented is: whether the Arizona Supreme Court's holding that Arizona Rule of Criminal Procedure 32.1(g) precluded post-conviction relief is an adequate and independent state-law ground for the judgment.

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- Ian Blodger

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