

The Supreme Court - March 4, 2022

by Ian Blodger

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

United States v. Tsarnaev, No. 20-443: This case concerns the death penalty imposed on one of the two brothers, Dzhokhar Tsarnaev, who planted and detonated bombs at the 2013 Boston Marathon, killing three and wounding hundreds. A jury found Dzhokhar guilty of 30 federal crimes and recommended the death penalty, and the District Court sentenced Dzhokhar to death. The First Circuit Court of Appeals vacated the death sentence, concluding that the District Court had abused its discretion by failing to ask certain questions during jury selection and by excluding evidence concerning Dzhokhar's brother's possible involvement in unrelated, unsolved murders. In a 6-3 decision, the Supreme Court reversed, holding that the Court of Appeals improperly vacated the death sentence. The Court concluded that Dzhokhar had received "a fair trial before an impartial jury." Justice Barrett filed a concurring opinion, joined by Justice Gorsuch. Justice Breyer (joined by Justices Kagan and Sotomayor) dissented, arguing that the District Court had improperly excluded the evidence concerning Dzhokhar's brother's possible involvement in the unrelated murders.

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

FBI v. Fazaga, No. 20-828: Respondents are members of Muslim communities in southern California that sued the FBI alleging it illegally surveilled them under the Foreign Intelligence Surveillance Act of 1978 ("FISA"). In response, the FBI invoked the state secrets privilege and moved to dismiss the claims, arguing that Respondents' claim could not proceed without the disclosure of counter-intelligence information that would threaten national security. Respondents argued that rather than dismissal, the court should review the sensitive information using procedures from Section 1806(f) of FISA, which allows a district court to examine sensitive documents in camera, in certain circumstances. The District Court dismissed the case, concluding the state secrets privilege applied. The Ninth Circuit reversed, concluding that Section 1806(f) displaces the state secrets privilege. In a unanimous decision authored by Justice Alito, the

Related People

- Ian Blodger

Related Capabilities

- Appellate

Supreme Court concluded that Section 1806(f) of FISA does not displace the state secrets privilege, noting that the privilege was not clearly abrogated by the statutory language and that the operation of Section 1806(f) is not incompatible with the state secrets privilege.

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