

The Supreme Court - May 17, 2021

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

BP p.l.c. v. Mayor and City Council of Baltimore, No. 19-1189: Congress has commanded that generally, an order remanding a case back to State court is not reviewable on appeal, with an exception for remand orders issued pursuant to the federal officer removal statute at 28 U.S.C. §1442, or the civil rights removal statute at 28 U.S.C. §1443. 28 U.S.C. §1447(d). Here, Baltimore's mayor and city council filed suit in Maryland state court against various energy companies, alleging that they had concealed the environmental impacts of the fossil fuels they promoted. The companies removed the suit to federal court on numerous grounds, one of which was §1442's federal officer removal statute. The District Court granted the motion to remand, agreeing that none of the various grounds for removal applied. When the companies appealed, the Fourth Circuit read §1447(d) as only allowing for appellate review of the part of the order addressing §1442, and affirmed as to that part of the District Court's ruling. The Court today vacated and remanded, holding that the Fourth Circuit erred in holding that it lacked jurisdiction to consider all grounds for removal rejected by the District Court. Justice Gorsuch delivered the Court's opinion, which was joined by all members except Justice Sotomayor who dissented, and Justice Alito who took no part in the consideration or decision of the case.

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

CIC Servs., LLC v. IRS, No. 19-930: The Anti-Injunction Act, 26 U.S.C. §7421(a), bars any "suit for the purpose of restraining the assessment or collection of any tax." As a result, taxpayers can typically only challenge a federal tax after they have paid it, by suing for a refund. At issue here was whether the Anti-Injunction Act likewise barred a suit challenging an IRS information-reporting requirement backed by both civil tax penalties and criminal penalties. Specifically, the IRS issued Notice 2016-66 based on its determination that certain micro-captive transactions (insurance agreements between a

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parent company and a “captive” insurer under its control), must be reported by taxpayers and material advisors due to their potential for tax avoidance. CIC Services, a material advisor to taxpayers participating in micro-captive transactions, brought this action challenging Notice 2016-66’s lawfulness before the first reporting date. The District Court granted the Government’s motion to dismiss on the ground that the suit attempted to restrain the collection of the tax penalty for non-compliance, and thus violated the Anti-Injunction Act. The Sixth Circuit affirmed. Today, the Court reversed, holding that a suit to enjoin the reporting requirement in Notice 2016-66 does not trigger the Anti-Injunction Act, even though a violation of the Notice may result in a tax penalty. Justice Kagan delivered the Court’s unanimous opinion.

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Edwards v. Vannoy, No. 19-5807: Last Term, the Court in *Ramos v. Louisiana*, 590 U.S. ____ (2020), held that a criminal defendant in state court could only be convicted of a serious offense if the jury was unanimous. In doing so, the Court repudiated its prior decision in *Apodaca v. Oregon*, 406 U.S. 404 (1972), which had allowed non-unanimous jury verdicts in state criminal trials. Here, petitioner Thedrick Edwards was convicted in Louisiana state court by a 10-to-2 or 11-to-1 jury vote on various armed robbery, kidnapping, and rape counts. After exhausting his direct appeal and state post-conviction relief, Edwards filed for federal habeas relief, claiming that the non-unanimous verdicts were unconstitutional. The District Court denied relief, citing *Apodaca*, and the Fifth Circuit denied a certificate of appealability on the same ground. *Ramos* was then decided while Edwards’s petition for certiorari was pending. Citing the standard previously set forth in *Teague v. Lane*, 489 U.S. 288 (1989) that a new rule of criminal procedure ordinarily does not apply retroactively to overturn final convictions on federal collateral review, the Court today held that the *Ramos* jury-unanimity rule does not apply retroactively on federal collateral review. Justice Kavanaugh delivered the Court’s opinion, joined by Chief Justice Roberts, and Justices Thomas, Alito, Gorsuch, and Barrett. Justice Kagan dissented, joined by Justices Breyer and Sotomayor, arguing that the *Ramos* rule should qualify under *Teague*’s exception for a “watershed” procedural rule.

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

Caniglia v. Strom, No. 20-157: In *Cady v. Dombrowski*, 413 U.S. 433 (1973), the Court recognized that police officers have “community caretaking functions” such as responding to disabled vehicles or investigating accidents, that can serve as an exception to the warrant requirement. Here, the police invoked that exception to justify their entrance into petitioner Edward Caniglia’s home and seizure of his firearms without a warrant. Caniglia had gotten into an argument with his wife, retrieved a gun and asked his wife to “shoot [him] now and get it over with.” She stayed the night in a hotel and called police for a welfare check the next day when she could not reach him by phone. The police accompanied Caniglia’s wife to the home, and Caniglia agreed to go a hospital for a psychiatric evaluation, but only if the police promised not to confiscate his firearms. Instead, the police seized Caniglia’s weapons once the ambulance had taken

him away. When Caniglia sued the officers claiming their actions had violated the Fourth Amendment, the District Court granted summary judgment citing *Cady's* “community caretaking exception,” and the First Circuit agreed. Today, the Court vacated and remanded, holding that neither the holding nor logic of *Cady* justifies the removal of Caniglia’s firearms from his home by police officers under a “community caretaking exception” to the Fourth Amendment’s warrant requirement. Justice Thomas delivered the Court’s unanimous opinion.

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

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

Badgerow v. Walters, No. 20-1143: Whether federal courts have subject-matter jurisdiction to confirm or vacate an arbitration award under Sections 9 and 10 of the Federal Arbitration Act where the only basis for jurisdiction is that the underlying dispute involved a federal question.

Dobbs v. Jackson Women’s Health, No. 19-1392: Whether all pre-viability prohibitions on elective abortions are unconstitutional.

Shin v. Ramirez, No. 20-1009: Whether application of the equitable rule announced by the Court in *Martinez v. Ryan*, 566 U.S. 1 (2012), renders 28 U.S.C. §2254(e)(2) of the Antiterrorism and Effective Death Penalty Act (AEDPA) inapplicable to a federal court’s merits review of a claim for habeas relief, where that statutory provision would otherwise generally preclude a federal court from considering evidence outside the state-court record when reviewing the merits of a claim for habeas relief if a prisoner or his attorney has failed to diligently develop the claim’s factual basis in state court.