

The Supreme Court - May 7, 2020

Today, the Supreme Court of the United States issued the following two opinions:

Kelly v. United States, No. 18-1059: When the mayor of Fort Lee, New Jersey refused to back then-Governor Chris Christie's reelection campaign, the Governor's Deputy Chief of Staff, Bridget Anne Kelly, and others punished the Fort Lee mayor by reducing the three lanes of traffic on the George Washington Bridge reserved during morning rush hour for commuters from Fort Lee down to one. The cover story Kelly and some others who worked for the Port Authority that administers the toll lanes on the bridge concocted was that this lane reduction was part of a traffic study. After the scheme was exposed, the individuals involved were charged and convicted under the federal statutes prohibiting wire fraud and fraud on a federally funded program or entity. The Third Circuit affirmed. Today, the Court reversed, on the basis that the officials could violate those laws only if an object of their dishonesty was to obtain the Port Authority's money or property – which was not the aim of their scheme to reduce the number of toll lanes as political retribution. Justice Kagan issued the Court's unanimous opinion.

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

United States v. Sineneng-Smith, No. 19-67: Respondent Evelyn Sineneng-Smith ran an immigration consulting firm where she made millions by charging clients for her assistance in filing a "labor certification" that would allow them to become lawful permanent residents, while knowing that her clients did not meet the application-filing deadline and thus would not qualify for lawful residence. She was convicted under 8 U.S.C. §1324, which makes it a federal felony to "encourag[e] or induc[e] an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that coming to, entry, or residence is or will be in violation of the law," and carries an enhanced penalty if "done for the purpose of commercial advantage or private financial gain." Sineneng-Smith argued at the District Court and on appeal to the Ninth Circuit that the statute did not apply to her conduct, and if it did, violated the First Amendment. The Ninth Circuit instead named three amici and invited them to address new issues raised

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by the panel, including whether – as the Ninth Circuit ultimately found – the statute is overbroad under the First Amendment. The Court today vacated and remanded, holding that the appeal panel departed so drastically from the principle of party presentation as to constitute an abuse of discretion. Justice Ginsburg issued the Court's unanimous opinion.

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