

The Supreme Court Update - April 22, 2026

by Andrew Brantingham, Ian Blodger, Jessica M. Leano, and Brock Huebner

On April 22, 2026, the Supreme Court of the United States issued two decisions:

Hencely v. Fluor Corp., No. 24-924: This case addresses whether the Federal Tort Claims Act's ("FTCA") combatant-activities exception, which preserves the federal government's immunity against claims "arising out of the combatant activities of the military" during wartime, 28 U.S.C. § 2680(j), also preempts state-law claims against a government contractor for conduct that violated instructions from the military. In this case, Fluor Corporation, a U.S. military contractor, hired Ahmad Nayeb, an Afghan individual, to work on a U.S. base in Afghanistan. Nayeb was a Taliban operative that later carried out a suicide-bomb attack at the base that killed 5 and wounded 17. The Army's investigation found Fluor primarily responsible for the attack because it negligently supervised Nayeb in complying with base procedures. Winston T. Hencely, a former Army specialist who suffered injuries as a result of Nayeb's attack, sued Fluor in the United States District Court for the District of South Carolina seeking damages under South Carolina law for negligent supervision, negligent entrustment of tools, and negligent retention of Nayeb. The District Court entered summary judgment for Fluor, concluding that the FTCA's combatant-activities exception preempted state-law claims, even where the military contractor violated instructions from the military. The Fourth Circuit affirmed. In a 6-3 decision authored by Justice Thomas, the Supreme Court held the Fourth Circuit erred in finding Hencely's state-law tort claims preempted where the federal government neither ordered nor authorized Fluor's challenged conduct. Justice Alito dissented, joined by Chief Justice Roberts and Justice Kavanaugh.

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

Enbridge Energy, LP v. Nessel, No. 24-783: This case addresses whether the 30-day deadline to remove a case from state to federal court under 28 U.S.C. § 1446(b)(1) is subject to equitable tolling. Enbridge owns and operates a petroleum pipeline—the Line 5 pipeline—that crosses the Straits of Mackinac between Michigan's Upper and Lower Peninsulas pursuant to a 1953 easement granted by the State of Michigan. In 2019, the

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Michigan Attorney General initiated a lawsuit in Michigan state court seeking to halt Enbridge's operation of that portion of the Line 5 pipeline, arguing the easement was void. Enbridge litigated this case in Michigan state court for more than two years—887 days—and only sought to remove under Section 1446(b)(1) after Enbridge successfully removed a related case to federal court. The Attorney General sought to remand the case, but the federal District Court held that equitable principles justified excusing Enbridge's untimely removal. The Sixth Circuit reversed, holding that Enbridge had missed the 30-day removal deadline and that Section 1446(b)(1) could not be equitably tolled. In a unanimous decision authored by Justice Sotomayor, the Supreme Court affirmed, holding that because Section 1446(b)(1)'s text, structure, and context are inconsistent with equitable tolling, Enbridge's removal was untimely.

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

On Monday, April 20, the Court granted certiorari in two cases:

St. Mary Catholic Parish v. Roy, No. 25-581: In this case a Catholic preschool challenges its exclusion from a Colorado state program for universal preschool because the school would not comply with the state's requirement that it admit all students, including LGBTQ students and students with LGBTQ parents. The school argues Colorado's actions constitute religious discrimination in violation of the First Amendment. The questions presented are: (1) Whether proving a lack of general applicability under *Employment Division v. Smith*, 494 U.S. 872 (1990) requires showing unfettered discretion or categorical exemptions for identical secular conduct; (2) whether *Carson v. Makin*, 596 US 767 (2022) displaces the rule of *Employment Division v. Smith* only when the government explicitly excludes religious people and institutions.

Beaird v. United States, No. 25-5843: The defendant in this case challenges a sentencing enhancement imposed for his federal gun conviction. Kendrick Beaird argues the trial court improperly deferred to the United States Sentencing Commission Commentary's interpretation of federal sentencing guidelines for the definition of a "large capacity magazine." The question presented is: Whether *Stinson v. United States*, 508 U.S. 36 (1993) still correctly states the rule for deference that courts must give the Commentary of the Federal Sentencing Guidelines.