

The Supreme Court Update - April 7, 2025

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

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

Ellingburg v. United States, No. 23-3129: This case addresses the Ex Post Facto Clause of the U.S. Constitution, which the government violates if: (1) it applies a penal law retroactively, and (2) retroactive application of the law disadvantages the affected offender by altering the definition of criminal conduct or increasing the punishment for the crime. The question presented is: Whether criminal restitution ordered as part of a defendant's sentence under the Mandatory Victim Restitution Act is penal for purposes of the Ex Post Facto Clause.

Villarreal v. Texas, No. 24-557: This criminal procedure case concerns the limits courts can place on criminal defendants' conversations with their lawyer during trial. Under longstanding Supreme Court precedent, courts can prohibit attorney-defendant consultations during brief recesses between direct testimony and cross examinations, but not for overnight recesses between the same. In this case, the trial court issued an order allowing lawyer-defendant conversations related to trial logistics and sentencing during an overnight recess, but not conversations related to the pending direct examination testimony. The question presented is: Whether a trial court abridges a defendant's Sixth Amendment right to counsel by prohibiting the defendant and his counsel from discussing the defendant's testimony during an overnight recess.

Related People

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