

The Supreme Court Update - February 21, 2024

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

The Supreme Court of the United States issued two decisions today:

Great Lakes Insurance SE v. Raiders Retreat Realty Co., LLC, No. 22-500: This case concerns the enforceability of choice-of-law provisions in maritime contracts. A Pennsylvania company purchased a boat insurance policy from an insurer, which was organized in Germany and headquartered in the United Kingdom. The parties' contract selected New York law to govern any future disputes. After its boat ran aground, the insured submitted a claim, and the insurer denied coverage. The insurer filed a declaratory judgment action in Pennsylvania federal district court, and the insured brought contract claims under Pennsylvania law. The district court enforced the choice-of-law provision and denied the insured's contract claims. The Third Circuit held that choice-of-law provisions are presumptively enforceable as a matter of federal maritime law but remanded for the district court to determine whether enforcing the choice-of-law provision would violate Pennsylvania's public policy regarding insurance. In a 9-0 opinion authored by Justice Kavanaugh, the Court reversed, resolving a split among the Courts of Appeals and holding that longstanding precedent establishes a federal maritime rule that choice-of-law provisions in maritime contracts are presumptively enforceable, with certain narrow exceptions not applicable in this case. Justice Thomas filed a concurring opinion.

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

McElrath v. Georgia, No. 22-721: This criminal procedure case concerns the scope of the U.S. Constitution's Double Jeopardy Clause. The jury returned a split verdict against McElrath: "not guilty by reason of insanity" for malice-murder, and "guilty but mentally ill" for felony murder and aggravated assault. The Georgia Supreme Court vacated both verdicts and allowed retrial, because the jury's "guilty but mentally ill" verdict for felony murder was "repugnant" to the jury's "not guilty by reason of insanity" verdict for malice murder. On remand, McElrath argued that the Double Jeopardy Clause of the Fifth Amendment prohibits Georgia from retrying him for malice murder given the jury's prior

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“not guilty by reason of insanity” verdict on that charge. The Georgia courts rejected that argument. Today, in a 9-0 decision authored by Justice Jackson, the Court reversed, concluding that the “Fifth Amendment’s Double Jeopardy Clause prevents the State from retrying [McElrath] for the crime that had resulted in the ‘not guilty by reason of insanity’ finding.” The Court explained, “an acquittal is an acquittal notwithstanding its apparent inconsistency with other verdicts that the jury may have rendered.” Justice Alito filed a concurring opinion in which he explained that “the situation here is different from one in which a trial judge refuses to accept inconsistent verdicts and thus sends the jury back to deliberate further.”

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