

The Supreme Court Update - January 23, 2023

by Brock Huebner

Today, the Supreme Court of the United States issued its first signed opinion of the October 2022 term and dismissed one case:

Arellano v. McDonough, No. 21-432: The case concerns the question of whether equitable tolling—allowing a court or agency to excuse a missed deadline in certain circumstances—is available to veterans applying for disability benefits under 38 U.S.C. § 5110(b)(1). This statute grants retroactive payment of disability benefits if a veteran applies for benefits within one year of discharge. Adolfo Arellano, a Navy veteran, suffered from post-traumatic stress disorder and other mental health conditions as a result of his service. Mr. Arellano sought retroactive benefits dating to his 1981 honorable discharge. Although he first filed a claim for benefits in 2011, he argued the one-year filing deadline should be equitably tolled because the delay in filing was caused in part by his disability. In a 9-0 decision authored by Justice Barrett, the Court held that the one-year filing deadline in § 5110(b)(1) is not subject to equitable tolling. The Court reached this conclusion after interpreting broader statutory text and structure of § 5110, which demonstrated that Congress already considered equitable concerns and incorporated them into explicit exceptions set forth elsewhere in the law.

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

In re Grand Jury, No. 21-1397: In October 2022, the Court granted certiorari in this case to resolve the question of whether communications involving both legal and non-legal advice are protected by attorney-client privilege where obtaining or providing legal advice was one of the significant purposes behind the communication. However, after hearing oral argument in this case on January 9, the Court dismissed the writ of certiorari as improvidently granted.

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

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