

The Supreme Court Update - June 15, 2023

by Brock Huebner

The Supreme Court of the United States issued 3 decisions today:

Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin, No. 22-227:

This statutory interpretation and federal Indian law case addressed the extent of sovereign immunity for Native American tribes. A member of the Lac du Flambeau Band made a loan to respondent Brian Coughlin, who then filed for Chapter 13 bankruptcy. When the Band member continued to try to collect Coughlin's debt, Coughlin filed a motion in bankruptcy court to enforce the automatic stay against collection efforts by all creditors including the Band member. The Bankruptcy Court dismissed the suit on grounds of tribal sovereign immunity, but the First Circuit reversed, concluding that the Bankruptcy Code "unequivocally strips tribes of their immunity." Today, in a decision authored by Justice Jackson, the Court affirmed and "conclude[d] that the Bankruptcy Code unequivocally abrogates the sovereign immunity of any and every government that possesses the power to assert such immunity," including "[f]ederally recognized tribes." Justice Thomas filed an opinion concurring in the judgment, and Justice Gorsuch filed a solo dissent.

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

Haaland v. Brackeen, 21-376: This case addressed the constitutionality of the Indian Child Welfare Act (ICWA), which governs foster placement for Indian children and requires, among other things, that a state court place an Indian child with an Indian caretaker, if one is available. A birth mother, foster and adoptive parents, and the State of Texas challenged ICWA arguing that it exceeds federal authority, infringes state sovereignty, and discriminates on the basis of race. Today, in a 7-2 decision authored by Justice Barrett, the Court "reject[ed] all of petitioners' challenges to the statute, some on the merits and others for lack of standing." Justice Gorsuch (joined by Justices Sotomayor and Jackson) and Justice Kavanaugh filed concurring opinions. Justices Thomas and Alito filed separate dissents. According to Justice Thomas in dissent, Congress in enacting ICWA "ignored the normal limits on the Federal Government's

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power and prescribed rules to regulate state child custody proceedings in one circumstance: when the child involved happens to be an Indian.”

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

Smith v. United States, No. 21-1576: This criminal procedure case addressed the remedy available when a criminal defendant is tried and convicted in the wrong federal court district. Timothy Smith was indicted for theft of trade secrets in the Northern District of Florida. Prior to trial, Smith moved to dismiss the indictment, arguing that the Northern District of Florida was the wrong venue because it lacked a proper connection to the criminal offense. The district court denied the motion and a jury found Smith guilty. On appeal, the Eleventh Circuit vacated the conviction after determining the venue was improper, but held (contrary to Smith’s wishes) that he may be re-tried for the same offense in a proper venue. Today, in a unanimous decision authored by Justice Alito, the Court affirmed the Eleventh Circuit. After analyzing the text and history of the Venue and Vicinage Clauses of the Constitution, the Court held that neither clause prohibits re-prosecution in the correct venue in front of a properly constituted jury. The Court similarly determined that the Double Jeopardy Clause did not prevent re-prosecution after violations of the Venue or Vicinage Clauses.

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