

The Supreme Court Update - June 27, 2025

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

Today, on the last day of the 2024-2025 term, the Supreme Court of the United States issued five decisions:

Trump v. CASA, Inc., No. 24A884: This case addresses whether district courts had the authority to issue nationwide injunctions barring executive officials from applying President Trump's Executive Order No. 14160, which sets forth conditions under which a person born in the United States would not be recognized as an American citizen. The plaintiffs filed suit, alleging that the executive order violates the Fourteenth Amendment and the Nationality Act of 1940. Three district courts found the executive order was likely unlawful and entered a universal preliminary injunction barring various Executive Branch officials from applying the policy to anyone in the country. In a 6-3 decision authored by Justice Barrett (and joined by Chief Justice Roberts and Justices Thomas, Alito, Gorsuch, and Kavanaugh), the Supreme Court held that the universal injunctions likely exceed the equitable authority that Congress has given to federal courts. The Court reasoned that although the Judiciary Act of 1789 grants courts the authority to issue injunctions as part of the court's equitable power, universal injunctions are not analogous to traditional equitable powers. The Court did not reach the issue of whether Executive Order No. 14160 was lawful. Justices Thomas, Alito, and Kavanaugh also each issued concurrences addressing particular aspects of how the Court's opinion will work in practice. Justice Sotomayor (joined by Justices Kagan and Jackson) dissented, arguing that the executive order violates the Constitution and that universal injunctions are consistent with the long-established principles of equity applied by the Court. Justice Jackson issued a separate dissent to argue that the Court's decision would "permit the Executive to violate the Constitution with respect to anyone who has not yet sued" and that this "is an existential threat to the rule of law."

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Kennedy v. Braidwood Management, Inc., No. 24-316: This case addresses the constitutionality of the U.S. Preventive Services Task Force (“USPSTF”), which is part of the Department of Health and Human Services (“HHS”). Under the Affordable Care Act, the USPSTF’s guidelines control which preventive medications, screenings, and medical treatments that health insurance providers must provide at no cost to insured individuals. In seeking to avoid the USPSTF’s guidance related to pre-exposure prophylaxis (“PrEP”) to prevent HIV infection, a group of individuals and businesses argued the USPSTF’s members were not properly appointed, and thus their recommendations while on the USPSTF were invalid. The Fifth Circuit held that the structure and powers exercised by the USPSTF members qualified them as principal officers rather than inferior officers, and that their appointment violated the U.S. Constitution’s Appointments Clause because they were appointed by the HHS Secretary, rather than being appointed by the President and confirmed by the Senate. In a 6-3 opinion authored by Justice Kavanaugh (joined by Chief Justice Roberts, and Justices Sotomayor, Kagan, Barrett, and Jackson), the Supreme Court reversed and held that the USPSTF members are only inferior officers because their work is directed and supervised by the HHS Secretary, who has the power to remove USPSTF members at will. The Court further held that Congress properly vested the HHS Secretary with the power to appoint the USPSTF members. Justice Thomas (joined by Justices Alito and Gorsuch) dissented, arguing that the laws vesting the HHS Secretary with appointment powers did not adequately set aside the default requirement of Presidential appointment and Senate confirmation.

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Mahmoud et al., v. Taylor, et al., No. 24-297: This case involves a First Amendment free exercise of religion challenge to a curriculum set by the Board of Education of Montgomery County, Maryland (“Board”) that mandated elementary school students participate in LGBTQ+-inclusive instruction, involving storybooks focused on sexuality and gender. Although the Board initially permitted parents to opt out of this instruction, the Board later rescinded the opt out policy. Parents of children and other parties brought a suit challenging the Board’s no-opt-out policy and seeking a preliminary and permanent injunction prohibiting the Board from forcing their children and other students—over the objection of their parents—to read, listen to, or discuss the storybooks. The district court denied the motion for a preliminary injunction and the Fourth Circuit affirmed. In a 6-3 decision authored by Justice Alito (joined by Chief Justice Roberts, and Justices Thomas, Gorsuch, Kavanaugh, and Barrett), the Court held that parents challenging the Board’s introduction of the “LGBTQ+-inclusive” storybooks, along with its decision to withhold opt outs, are entitled to a preliminary injunction. The Court determined the parents were likely to succeed on their claim that the Board’s policies unconstitutionally burden their religious exercise because the books at issue “carry with them a very real threat of undermining the religious beliefs that the parents wish to instill in their children” and “impose upon children a set of values and beliefs that are hostile to their parents’ religious beliefs” without the opportunity for the parents to remove their children from this instruction. Justice Thomas issued a concurrence articulating additional reasons he believes the Board’s policy is unconstitutional. Justice Sotomayor (joined by Justices Kagan and Jackson) dissented, arguing that the Court adopted a new “constitutional right

to avoid exposure to ‘subtle’ themes ‘contrary to religious principles’ that parents wish to instill in their children” and that this rule is contrary to the Court’s precedent.

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Free Speech Coalition, Inc. v. Paxton, No. 23-1122: This case concerns Texas H.B. 1181, a state law that requires pornographic websites to verify the age of their users. Representatives of the pornography industry argued H.B. 1181 violated the First Amendment’s Free Speech Clause because it unduly hindered adults’ ability to access the websites. The Fifth Circuit vacated a preliminary injunction against the law, allowing the law to be enforced pending judicial review, and applying rational-basis review, rather than heightened scrutiny because the law regulated and applied to minors, not adults. In a 6-3 opinion authored by Justice Thomas (joined by Chief Justice Roberts, and Justices Alito, Gorsuch, Kavanaugh, and Barrett), the Court held that H.B. 1181 was subject to intermediate scrutiny rather than rational-basis review, and determined that the law was valid because it only incidentally burdened adults’ protected speech and was adequately tailored to advance Texas’s important interest in shielding minors from sexually explicit content. Justice Kagan (joined by Justices Sotomayor and Jackson) dissented, arguing that Supreme Court precedent required the application of strict scrutiny because the law regulates speech that is constitutionally protected for adults, even if the same speech can be regulated for minors.

View the Court’s [decision](#).

Federal Communications Commission v. Consumers’ Research, No. 24-354: This case addresses whether the FCC’s universal-service scheme violates the Constitution’s nondelegation doctrine. Carriers providing interstate telecommunications services must contribute to a fund the FCC uses to pay for universal-service subsidy programs, with the contribution calculated using a “contribution factor,” a formula devised by the FCC. The FCC appointed a private not-for-profit corporation as the Fund’s permanent administrator. Consumers’ Research petitioned for review in the Fifth Circuit, arguing the scheme violates the nondelegation doctrine. The en banc court granted the petition, finding unconstitutional “double-layered delegation.” In a 6-3 opinion by Justice Kagan, the Court reversed the Fifth Circuit, holding that the scheme does not violate the nondelegation doctrine. To distinguish between permissible and impermissible delegation, the Court asks whether Congress has set out an “intelligible principle” to guide what it has given the agency to do. Under the usual intelligible-principle test, this scheme clears the nondelegation bar because Congress directs the FCC to collect contributions “sufficient” to support universal-service programs, which sets a floor and a ceiling. The use of the administrator is permissible under the private nondelegation doctrine because the administrator is broadly subordinate to the FCC, and the FCC’s authority and oversight extend to determining the contribution factor. As to so-called “double-layered” delegation, a law violates the traditional nondelegation doctrine when it authorizes an agency to legislate and violates the private nondelegation doctrine when it allows non-governmental entities to govern. But a measure implicating (but not violating) one does not compound a measure implicating (but not violating) the other in a way that

pushes the combination over a constitutional line. Justices Jackson and Kavanaugh filed concurrences. Justice Gorsuch filed a dissent, joined by Justices Thomas and Alito.

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Yesterday, the Court issued four additional decisions:

Medina v. Planned Parenthood South Atlantic, No. 23-1275: This case addresses whether individual Medicaid beneficiaries may sue state officials under 42 U.S.C. § 1983 for failing to satisfy particular conditions for the receipt of federal funding. The dispute arises from South Carolina's July 2018 determination that Planned Parenthood could no longer participate in its state Medicaid program, citing state law prohibiting the use of public funds for abortions. Planned Parenthood and one patient sued under Section 1983, which permits private parties to sue state actors that violate their "rights" under the federal "Constitution and laws." Planned Parenthood argued that South Carolina's prohibition on its participation violated a federal statute defining conditions required for the state Medicaid program to receive federal funding, specifically 42 U.S.C. § 1396a(a)(23)(A), known as the "any-qualified-provider" provision, which requires states to ensure that "any individual eligible for medical assistance . . . may obtain" it "from any [provider] qualified to perform the service . . . who undertakes to provide" it. The district court granted summary judgment for the plaintiffs, and the Fourth Circuit affirmed. In a 6-3 decision authored by Justice Gorsuch (joined by Chief Justice Roberts, and Justices Thomas, Alito, Kavanaugh, and Barrett), the Supreme Court reversed, holding that Section 1396a(a)(23)(A) does not clearly and unambiguously confer individual rights enforceable under Section 1983. The Court noted that spending-power statutes, like the one at issue here, are unlikely to confer enforceable rights and that Section 1396a(a)(23)(A) lacks the required clear rights-creating language. Justice Thomas concurred to articulate his view on the appropriate scope of Section 1983 claims. Justice Jackson dissented (joined by Justices Sotomayor and Kagan), arguing that the text of Section 1396a(a)(23)(A) used rights-creating language, and should be enforceable through a Section 1983 suit.

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

Gutierrez v. Saenz, No. 23-7809: This case involves a Texas state law that allows DNA testing when a "convicted person establishes by a preponderance of the evidence" that he "would not have been convicted if exculpatory results had been obtained through DNA testing." Tex. Code. Crim. Proc. Ann., Art. 64.03(a)(2)(B). After Ruben Gutierrez was convicted of capital murder, he twice requested DNA testing in Texas state court, arguing that the results would show he was not at the victim's home at the time of the murder. Texas state courts declined both requests, determining that DNA testing was not required under the law because the results would only address whether Gutierrez was wrongfully sentenced to death, not whether he was also innocent of the underlying robbery that resulted in the victim's death. Gutierrez sued in federal court under 42 U.S.C. § 1983, arguing the Texas state procedures violate the U.S. Constitution's Due Process Clause because they deprive prisoners of the ability to support habeas corpus petitions with DNA testing evidence. Gutierrez specifically sued the district attorney who

had custody of the untested evidence. The Fifth Circuit dismissed the lawsuit for lack of Article III standing, determining Gutierrez’s asserted injury was not redressable because a federal court’s declaratory judgment would not cause the state prosecutor to “reverse course and allow testing.” In a 6-3 opinion authored by Justice Sotomayor (joined in full by Chief Justice Roberts and Justices Kagan, Kavanaugh, and Jackson; and in part by Justice Barrett), the Supreme Court reversed and held that Gutierrez had standing to bring his Section 1983 claim against the custodian of the untested evidence, reasoning that the outcome was compelled by the Court’s *Reed v. Goertz*, 598 U.S. 230 (2023) precedent. Justice Thomas authored a dissent questioning the Supreme Court’s role intervening in state capital punishment procedures. Justice Alito (joined by Justices Thomas and Gorsuch) separately dissented, arguing the majority misapplied the *Reed* precedent.

View the Court’s [decision](#).

Hewitt v. United States, No. 23-1002; Duffey v. United States, No. 23-1150: These consolidated cases clarify the retroactivity of the First Step Act of 2018’s elimination of mandatory minimum penalties for certain firearm offenses, a provision which is applicable to all sentences that have “not been imposed” as of the date of the First Step Act’s enactment. In these cases, defendants were originally sentenced before the First Step Act’s enactment, but the original sentences were judicially vacated and the defendants were resentenced to new terms of imprisonment after the First Step Act’s enactment. In a 5-4 decision authored by Justice Jackson (joined in full by Justices Sotomayor and Kagan, and in part by Chief Justice Roberts and Justice Gorsuch), the Court held that in these circumstances, the First Step Act’s sentencing provisions apply. In reaching this holding, the Court relied on the present-perfect tense of the sentencing statute at issue and the principles of judicial vacatur, which presume that vacated judicial orders are void ab initio. Justice Alito filed a dissent and was joined by Justices Thomas, Kavanaugh, and Barrett.

View the Court’s [decision](#).

Riley v. Bondi, No. 23-1270: This case addresses the 30-day window for an alien to seek judicial review of a “final order of removal” under 8 U.S.C. § 1252(b)(1). Pierre Riley entered the U.S. in 1995 on a tourist visa but did not depart when the visa expired. Riley was convicted and sentenced for drug-trafficking crimes. After he was granted compassionate release, immigration authorities took Riley into custody and issued a “final administrative review order” (“FARO”) ordering his deportation to his home country of Jamaica, placing him on a streamlined track based on his aggravated felony conviction. Riley did not contest his removal but resisted returning to Jamaica under the Convention Against Torture (“CAT”). At a withholding-only proceeding, an Immigration Judge (“IJ”) granted Riley deferral of removal to Jamaica under the CAT. The Board of Immigration Appeals (“BIA”) vacated the IJ’s order and allowed the FARO to be enforced. Riley filed a petition for review of the BIA’s decision in the Fourth Circuit, which dismissed the petition, holding that the “final order of removal” was the FARO, not the order denying CAT relief, and it could not review the BIA’s decision because the 30-day

deadline in Section 1252(b)(1) is jurisdictional and Riley's petition was untimely. In a 5-4 opinion by Justice Alito, the Court vacated the Fourth Circuit. The majority agreed that under a straightforward reading of the statute, the FARO was Riley's "final order of removal." The FARO found Riley "deportable" and ordered his deportation. However, the majority rejected that the 30-day window is jurisdictional, finding it a claims-processing rule that can be waived or forfeited. Section 1252(b)(1) tells what to do to obtain judicial review but provides no directives to courts and does not reference jurisdiction. The statute's placement also suggests it is not jurisdictional because neither the particular subsection nor the broader section concerns jurisdiction. Justice Thomas filed a concurrence. Justice Sotomayor filed an opinion concurring with the majority on jurisdiction but dissenting in part, joined in full by Justices Kagan and Jackson and in part by Justice Gorsuch.

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