

The Supreme Court Update - June 30, 2026

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

On June 30, 2026, the Supreme Court of the United States issued three decisions:

West Virginia v. B.P.J., No. 24-43; Little v. Hecox, No. 24-38: This Title IX and Equal Protection Clause dispute addresses whether States and schools may determine eligibility for girls' and women's sports teams based on biological sex. West Virginia and Idaho enacted laws barring biological males from competing on girls' and women's sports teams, reasoning that sex-based athletic categories are necessary to preserve safety, competitive fairness, and equal athletic opportunity for female athletes. B.P.J., a transgender girl in West Virginia, and Lindsay Hecox, a transgender woman in Idaho, challenged those laws, arguing that they violate Title IX and the Equal Protection Clause by excluding transgender girls and women from female athletic teams. In the West Virginia case, the district court granted summary judgment to the State, but the Fourth Circuit reversed on the basis of Title IX and remanded on equal protection; in the Idaho case, the district court preliminarily enjoined the law, and the Ninth Circuit affirmed. In a decision authored by Justice Kavanaugh, the Supreme Court reversed, holding that Title IX permits schools to maintain separate girls' and women's sports teams defined by biological sex and that the challenged state laws satisfy equal-protection review because they are substantially related to the important interests of safety and competitive fairness. The Court rejected the argument that States must conduct athlete-by-athlete assessments of transgender athletes' physical capabilities, concluding that legislatures and schools may draw categorical lines based on biological sex in the sports context. Justice Thomas concurred to emphasize two points: first, that transgender status is not a suspect class requiring heightened scrutiny, and second, that sex is biological and binary for purposes of the legal analysis. Justice Gorsuch concurred to emphasize that Title IX, as Spending Clause legislation, must give schools clear notice of any conditions attached to federal funding, and he concluded that Title IX does not clearly require schools to allow biological males to compete on girls' or women's teams. He also explained that the Court's decision in *Bostock v. Clayton County*, 590 U.S. 644, 662 (2020), does not control because it addressed Title VII employment discrimination, not sex-separated school athletics under Title IX.

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Justice Sotomayor, joined by Justices Kagan and Jackson, concurred in part and dissented in part. She agreed that B.P.J.'s Title IX claim failed, but on narrower grounds than the majority; she disagreed with the Court's equal-protection holding, arguing that the Court prematurely rejected B.P.J.'s claim despite unresolved factual questions about whether excluding transgender girls who have not undergone endogenous male puberty actually advances West Virginia's asserted interests in safety and competitive fairness. She criticized the majority for weakening the scrutiny applied to sex-based classifications in the sports context and for ending the case without allowing further factual development. Justice Jackson also wrote separately, while joining Justice Sotomayor's opinion in full, to address Title IX. She agreed that B.P.J.'s Title IX claim failed in this case because B.P.J. had conceded that "sex" meant sex assigned at birth, but she argued that the Court should not have broadly held that Title IX protects only against discrimination based on biological sex, leaving open the possibility that Title IX's use of "sex" could be broader in a future case.

Trump v. Barbara, No. 25-365: This constitutional and immigration dispute addresses whether the Fourteenth Amendment guarantees birthright citizenship to children born in the United States whose parents are unlawfully or temporarily present in the country. On January 20, 2025, President Trump issued Executive Order No. 14160 (the "Order"), which provided that children born in the United States to such parents are not "subject to the jurisdiction" of the United States and therefore are not citizens under the Fourteenth Amendment or the Immigration and Nationality Act ("INA"). Several parents sued, some on behalf of their children, arguing that the Executive Order violated the Citizenship Clause and the INA. The district court agreed, provisionally certified a nationwide class of affected children, and preliminarily enjoined enforcement of the Order; the Supreme Court then granted certiorari before judgment. In a decision authored by Chief Justice Roberts, the Supreme Court affirmed, holding that children born in the United States to parents who are unlawfully or temporarily present are "subject to the jurisdiction" of the United States and are citizens at birth under the Fourteenth Amendment. The Court reasoned that the Citizenship Clause codified the traditional common-law rule of birthright citizenship, subject only to narrow historical exceptions such as children of foreign diplomats, and that historical precedent confirms that children born on U.S. soil to noncitizen parents are citizens at birth.

Justice Jackson, joined in part by Justice Sotomayor, concurred to emphasize that the Fourteenth Amendment should be understood as a broad "anticaste" guarantee, not merely a narrow remedy for formerly enslaved people. Justice Kavanaugh concurred in the judgment and dissented in part. He agreed that the Order could not take effect, but would have resolved the case on statutory grounds, reasoning that 8 U.S.C. § 1401(a) currently grants birthright citizenship except for the traditionally recognized exceptions. He disagreed with the majority's constitutional holding, concluding that Congress could amend the statute to create additional exceptions for children born to parents unlawfully or temporarily present in the United States.

Justice Thomas, joined by Justice Gorsuch, dissented, arguing that the Citizenship Clause was principally designed to constitutionalize the Civil Rights Act of 1866 and

secure citizenship for formerly enslaved people and others similarly connected to the United States. He read “subject to the jurisdiction” to require more than being subject to U.S. law while physically present, and would have upheld the Order at least against the facial challenge. Justice Alito dissented separately, arguing that the majority misread the Citizenship Clause by equating “subject to the jurisdiction” with ordinary territorial jurisdiction. In his view, the Clause should be read consistently with the Civil Rights Act’s exclusion of persons “subject to any foreign power,” meaning that birthright citizenship requires a form of exclusive allegiance or jurisdiction not present for children of many foreign nationals. Justice Gorsuch also dissented separately to stress that the Court’s precedent does not foreclose a domicile-based understanding of birthright citizenship. He would have held that the Order was not facially invalid because, at minimum, it could lawfully apply to children of temporary visitors who had not made the United States their permanent home, while leaving open harder questions about children of parents unlawfully present but permanently domiciled here.

National Republican Senatorial Committee v. Federal Election Commission, No.

24-621: This First Amendment and campaign-finance dispute addresses whether federal law may limit how much political parties spend in coordination with their own candidates. The Federal Election Campaign Act (“FECA”) limits coordinated expenditures by political parties—such as advertisements or other campaign activities developed in consultation with a candidate—based on the office and State involved. The National Republican Senatorial Committee, National Republican Congressional Committee, then-Senate candidate J.D. Vance, and then-Representative Steve Chabot challenged those limits, arguing that parties have a First Amendment right to spend money supporting their candidates and that the Court’s 2001 decision upholding the limits, *Federal Election Comm’n v. Colorado Republican Federal Campaign Comm.*, 533 U.S. 431 (2001)—known as *Colorado II*—was no longer good law. The en banc Sixth Circuit rejected the challenge under *Colorado II*, though several judges questioned whether that precedent remained consistent with the Supreme Court’s more recent campaign-finance decisions. In a decision authored by Justice Kavanaugh, the Supreme Court reversed, holding that FECA’s political-party coordinated-expenditure limits violate the First Amendment because they are not sufficiently tailored to preventing quid pro quo corruption or circumvention of candidate contribution limits. The Court reasoned that other tools, including contribution limits, earmarking rules, and disclosure requirements, address anti-circumvention concerns in a less speech-restrictive way, and overruled *Colorado II* to the extent it remained valid. Justice Kagan, joined by Justices Sotomayor and Jackson, dissented, arguing that coordinated expenditures can function like direct contributions to candidates and that eliminating the limits will allow large donors to route oversized support to candidates through political parties, increasing the risk and appearance of quid pro quo corruption.