

The Supreme Court Update - March 27, 2025

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Yesterday, the Supreme Court of the United States issued two decisions:

Bondi v. VanDerStok, No. 23-852: This case addresses a statutory challenge to ATF regulations designed to prohibit ghost guns—privately made firearms built from kits or collections of unfinished parts. The Gun Control Act of 1968 (“GCA”) imposes various licensing and recordkeeping requirements on those engaged in importing, manufacturing, or dealing in firearms. The GCA defines the term “firearm” to include “(A) any weapon . . . which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; [and] (B) the frame or receiver of any such weapon.” 18 U.S.C. § 921(a)(3). In 2022, the ATF adopted a rule interpreting the GCA to apply to weapon parts kits that are “designed to or may readily be converted to expel a projectile” and also “partially complete, disassembled, or nonfunctional” frames or receivers. 27 C.F.R. §§ 478.11, 478.12(c). These regulations were designed to address the substantial increase in the sale of gun kits, which allow individuals to assemble a fully functional firearm in a short amount of time and with commonly available tools. Various gun manufacturers and at-home gunsmiths brought a facial challenge to the ATF’s new regulations, arguing the regulations impermissibly extend the definition of “firearm.” The district court and Fifth Circuit held that the regulations were inconsistent with the GCA’s statutory language. In a 7-2 decision authored by Justice Gorsuch, the Supreme Court reversed, holding that the ATF’s regulations are not facially inconsistent with the GCA. The Court reasoned that at least some gun kits were similar to other weapons that needed preparation before use, including disassembled rifles. Because this case presented a facial challenge, the Court declined to decide at what point a gun kit becomes so cumbersome to assemble that it would not fall within the statutory limits. Justices Thomas and Alito filed dissenting opinions.

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

United States v. Miller, No. 23-824: his case addressed a split among the Courts of Appeals regarding whether § 106(a) of the Bankruptcy Code, which abrogates sovereign

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immunity in an “avoidance” suit by a bankruptcy trustee against the Government, also abrogates sovereign immunity with respect to a state law claim that supplies the “applicable law” for the avoidance suit. Section 544(b) of the Bankruptcy Code allows a trustee to “avoid any transfer of an interest of the debtor . . . that is voidable under applicable law by a creditor holding an unsecured claim.” To show that a transfer is “voidable under applicable law,” the trustee must identify an “actual creditor” who could have set aside the transaction. A trustee invoked Utah’s fraudulent-transfer statute as the “applicable law” for a § 544(b) claim. In the Bankruptcy Court, the Government argued that the § 544(b) claim failed, as the trustee could not identify an “actual creditor” who could have voided the fraudulent transfer because sovereign immunity would bar the state law claim against the Government. The Bankruptcy Court rejected that argument and entered judgment for the trustee, finding that § 106(a)(1) waived sovereign immunity as to the § 544(b) claim and the state law claim. The district court adopted that decision, and the Tenth Circuit affirmed. In an 8-1 decision authored by Justice Jackson, the Court reversed, finding that § 106(a)’s waiver of sovereign immunity applies to the § 544(b) claim but not any state law claims “nested within that federal claim.” Sovereign immunity waivers are jurisdictional provisions that empower courts to hear claims against the Government, but do not themselves typically create any new substantive rights against the Government. Here, § 106(a)’s statutory text, context, and structure “fit[] squarely within that mold.” Unlike § 544(b), § 544(a) has no actual-creditor requirement and permits a trustee to invalidate certain transfers that a lien holder could have voided “whether or not such a creditor exists,” a contrast that “reflects Congress’s deliberate choice to tie the trustee’s rights under subsection (b) to the rights of an actual creditor under ‘applicable law.’” Further, even if § 544 and § 106(a)’s language and logic permitted a broad reading of § 106(a), the Court’s precedents require construing sovereign-immunity waivers narrowly with any ambiguities resolved in favor of the sovereign. Justice Gorsuch filed a dissenting opinion.

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