

The Supreme Court Update - May 15, 2023

by Brock Huebner

Today, the Supreme Court of the United States granted certiorari in two cases:

Carnahan v. Maloney, No. 22-425: This is an Article III standing case arising from the federal statute, 5 U.S.C. § 2954, that directs executive agencies to furnish certain information upon request by two Congressional committees. The statute also specifies that a request may be made by any seven members of the House Committee or by any five members of the Senate Committee. In 2017, the ranking member of the House Committee and seven other members sent such a request to the General Services Administration. The agency refused to comply, and the members sued to enforce their request. The district court dismissed for lack of Article III standing, applying *Raines v. Byrd*, 521 U.S. 811 (1997). The D.C. Circuit reversed and held that the members have standing. The question presented is: Whether individual members of Congress have Article III standing to sue an executive agency to compel it to disclose information that the members have requested under 5 U.S.C. § 2954.

Brown v. United States; Jackson v. United States, Nos. 22-6389, 22-6640: These consolidated cases concern the interplay between federal drug laws and the federal Armed Career Criminal Act. The question presented is: Whether the “serious drug offense” definition in the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(A)(ii), incorporates the federal drug schedules that were in effect at the time of the federal firearm offense (as the Third, Fourth, Eighth, and Tenth Circuits have held), or the federal drug schedules in effect at the time of the prior state drug offense (as the Eleventh Circuit has held).

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