

The Supreme Court Update - May 23, 2025

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

On Thursday, May 22, the Supreme Court of the United States issued two decisions:

Kousisis v. United States, No. 23-909: This case addresses the elements of the federal wire fraud statute, 18 U.S.C. § 1343. Petitioners Stamatis Kousisis and Alpha Painting and Construction Co. were charged and convicted of wire fraud and conspiracy to commit wire fraud after they misrepresented to the Pennsylvania Department of Transportation (“PennDOT”) that they would obtain painting supplies from a prequalified disadvantaged business when performing painting work throughout Philadelphia. In reality, petitioners did not obtain any supplies from the prequalified disadvantaged business, and instead used it as a pass-through entity that funneled checks and invoices from suppliers to Petitioners. Petitioners performed the painting projects to PennDOT’s satisfactions and received more than \$20 million. Petitioners appealed their conviction, arguing that they could not be liable for wire fraud because PennDOT received the full economic benefit of its bargain. The Third Circuit affirmed the conviction, and the Supreme Court granted certiorari to address this dispute. In a decision authored by Justice Barrett, and joined by Chief Justice Roberts, and Justices Thomas, Alito, Kagan, Kavanaugh, and Jackson, the Court held that a defendant who induces a victim to enter into a transaction under materially false pretenses may be convicted of federal fraud even if the defendant did not seek to cause the victim economic loss. The Court reasoned that the text of the wire fraud statute does not mention economic loss to the victim, and instead frames the elements in terms of using a fraudulent scheme or pretense to “obtai[n] money,” which Petitioners did here. The Court rejected the idea that common law fraud required economic loss in every case. Justice Gorsuch and Justice Sotomayor filed concurring opinions.

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

Oklahoma Statewide Charter School Board v. Drummond, St. Isidore of Seville Catholic Virtual School v. Drummond, Nos. 24-394, 24-396: These consolidated

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cases concern an Oklahoma Catholic online school that sought state funding as a charter school. The Oklahoma Supreme Court invalidated the charter school board's contract with the school, concluding that state law and both the Oklahoma Constitution and U.S. Constitution prohibited allowing the school to become a charter school. The questions presented were: (1) Whether the academic and pedagogical choices of a privately owned and run school constitute state action simply because it contracts with the state to offer a free educational option for interested students; and (2) whether a state violates the First Amendment's free exercise clause by excluding privately run religious schools from the state's charter-school program solely because the schools are religious, or instead a state can justify such an exclusion by invoking anti-establishment interests that go further than the First Amendment's establishment clause requires. In a one-sentence per curiam decision, an equally divided Supreme Court affirmed the judgment of the Oklahoma Supreme Court decision invalidating the charter school board's contract. Justice Barrett took no part in the consideration or decision of these cases.