

The Supreme Court Update - May 29, 2026

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

On May 26, 2026, the Supreme Court of the United States issued one per curiam decision:

Margolin v. National Association of Immigration Judges, No. 25-767: This case addressed the principle of party presentation, the rule that “points not argued will not be considered.” After the Executive Office for Immigration Review adopted a policy regulating immigration judges’ work-related speech, an association of judges challenged the policy in federal district court. The district court held that the association’s challenge had to proceed through the Civil Service Reform Act’s (“CSRA”) administrative review scheme. Respondent appealed, and the Fourth Circuit vacated and remanded based on an issue the parties had not raised. In a per curiam decision, the Court reversed the Fourth Circuit, noting that the parties confined their arguments in the lower courts to the narrow question of whether the CSRA covered the association’s claims. When the Fourth Circuit *sua sponte* addressed a much broader question and decided “a case different from the one [respondent] advanced,” it violated the principle of party presentation.

View the Court’s [decision](#).

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On May 28, 2026, the Supreme Court of the United States issued four decisions:

Rutherford v. United States and Carter v. United States, Nos. 24-280 and 24-860:

These cases address whether a sentencing disparity created by a nonretroactive change to a sentencing law is an “extraordinary and compelling reason” that warrants compassionate release. The “compassionate release” provision allows a court to reduce a prison term if it finds extraordinary and compelling reasons warrant a reduction and the reduction “is consistent with applicable policy statements issued by the Sentencing Commission.” Juries convicted Rutherford of two violations and Carter of three violations of 18 U.S.C. § 924(c). At the time they were sentenced, a defendant convicted of two § 924 counts was subject to a mandatory 25-year sentence for the second offense

“stacked” on the first offense’s mandatory penalty. Years after Petitioners were sentenced, Congress passed the First Step Act of 2018, which eliminated § 924(c)’s stacking requirement for first-time offenders. The Third Circuit affirmed the district courts’ denial of Petitioners’ motions for compassionate release, finding a nonretroactive change to § 924(c) not an “extraordinary and compelling reason.” In a 6-3 decision written by Justice Barrett and resolving a Circuit split, the Court affirmed. When Congress declines to make a sentencing amendment retroactive, as it did with the change to § 924(c), the resulting sentence disparity cannot serve as an extraordinary and compelling reason that warrants a sentence reduction. Justice Sotomayor dissented, joined by Justices Kagan and Jackson, on grounds that the Sentencing Commission’s policy permitting district courts to consider sentencing disparities is unlawful, and courts may never consider nonretroactive changes in law when deciding whether someone is eligible for compassionate release.

View the Court’s [decision](#).

Fernandez v. United States, No. 24-556: This case addressed whether doubt about a conviction’s validity qualifies as an “extraordinary and compelling reason” authorizing a district court to shorten a prison sentence. A district court imposed two life sentences on Fernandez for murder-for-hire and firearms convictions. Fernandez filed two motions for postconviction relief under 28 U.S.C. § 2255, and the district court vacated his firearms conviction pursuant to his second motion. In its order, the district court speculated that the Government had offered a co-conspirator a lenient plea deal because it knew about inconsistencies with another co-conspirator’s testimony, and that if Fernandez’s life sentence on the murder-for-hire charge was commuted or held unlawful, he would be released immediately. Fernandez then filed a motion for compassionate release, arguing that extraordinary and compelling reasons—“above all, that he was innocent”—warranted a sentencing reduction. The district court granted the motion, but the Second Circuit reversed, joining seven Circuits in holding that a challenge to a conviction’s validity is not an “extraordinary and compelling reason.” In a 6-3 decision written by Justice Barrett, the Court affirmed. Section 2255 governs collateral attacks on federal convictions and imposes tight procedural constraints. Challenging the validity of a conviction through a compassionate release motion circumvents § 2255’s exacting requirements. Justice Sotomayor, joined by Justice Kagan, concurred in the judgment, finding that the district court’s grant of Fernandez’s motion for compassionate relief was inappropriate given the absence of any postsentencing developments. Justice Jackson dissented, finding the majority grafted an “atextual rule” on the compassionate release statute by restricting collateral attacks on federal convictions to motions under § 2255.

View the Court’s [decision](#).

Pitchford v. Cain, No. 24-7351: This case concerns the procedures a trial court must employ when addressing challenges to a criminal prosecutor’s exercise of peremptory challenges of jurors on the basis of race under *Batson v. Kentucky*, 476 U.S. 79 (1986).

The State of Mississippi charged Terry Pitchford with the 2004 murder of a grocery store owner during a robbery. The case proceeded to trial and during jury selection, the prosecutor used peremptory strikes to remove four of the five black potential jurors. Under *Batson*, the trial court should have followed a three-step process to determine if the prosecutor employed a peremptory challenge based on race. Under that process, the defendant must first make a prima facie showing that a peremptory challenge was based on race. Second, the prosecutor must provide a race-neutral reason for the challenged strike. Third, defense counsel has an opportunity to rebut the prosecutor's race-neutral reason as pretextual, and the trial court then decides whether the prosecutor's stated reason is pretextual. Here, the defense objected and made a prima facie showing, and the prosecutor provided a race-neutral reason for the challenged strike. The Court, however, did not provide defense counsel the opportunity to rebut the prosecutor's stated race-neutral reason before finding that the prosecutor's stated basis was not pretextual. The jury convicted Pitchford, and he was sentenced to death. On appeal, the Mississippi Supreme Court affirmed his conviction, concluding that the Pitchford waived his opportunity to rebut the prosecutor's race-neutral reasons as pretextual at *Batson*'s third step. Following a lengthy habeas review process, the Supreme Court granted review. In a 5-4 decision authored by Justice Kavanaugh, the Court held that the Mississippi Supreme Court unreasonably applied the clearly established *Batson* precedents and unreasonably determined that Pitchford waived his opportunity to rebut the prosecutor's asserted race-neutral reasons for the peremptory strikes of four black prospective jurors. Justice Gorsuch filed a dissenting opinion, in which Justices Thomas, Alito, and Barrett joined, arguing that Pitchford waived any *Batson* challenge.

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

Flowers Foods, Inc. v. Brock, Case No. 24-935: This case concerns the Federal Arbitration Act's ("FAA") exclusion that "nothing" in the statute shall be used to compel arbitration in disputes involving the "contracts of employment" of any class of workers "engaged in . . . interstate commerce." 9 U.S.C. § 1. At issue is whether someone can qualify as a worker under the § 1 exemption if he never crosses state lines and never interacts with vehicles that do. Angelo Brock is a franchisee for Flowers Foods, Inc., a large producer of packaged baked goods with bakeries in 19 states. Brock picks up Flowers's products from a warehouse in Colorado and delivers them to local stores without ever leaving the state. Brock sued Flowers alleging the company had underpaid him and Flowers moved to compel arbitration. The district court denied Flowers's motion to compel arbitration, and the Tenth Circuit affirmed, holding that Brock was engaged in interstate commerce, even though he never left the state. In a unanimous decision authored by Justice Gorsuch, the Supreme Court affirmed, holding that a worker who transports goods on an intrastate leg of an interstate journey can qualify for § 1's exemption without crossing state lines or interacting with vehicles that do. The Court reasoned that the FAA's text simply required the employee to be "engaged" in interstate commerce, which the Court read to permit activities broader than those that crossed state lines.

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