

The Supreme Court Update - May 30, 2024

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

The Supreme Court of the United States issued three decisions today:

Cantero v. Bank of America, N.A., No. 22-529: This case addresses the standard for determining when state laws that regulate national banks are preempted. Borrowers obtained home mortgage loans from Bank of America. Their mortgage contracts required the borrowers to make monthly deposits into escrow accounts. Bank of America did not pay interest on the balances in the escrow accounts on grounds that the National Bank Act preempted a New York law requiring a bank to pay interest when it maintains an escrow account pursuant to a mortgage contract. The borrowers filed class actions alleging that Bank of America violated New York's interest-on-escrow law. The district court held that nothing in the National Bank Act or other federal law preempted the New York law, but the Second Circuit reversed, holding that because the New York law "would exert control over" national banks' power "to create and fund escrow accounts," the law was preempted. Today, in an unanimous decision authored by Justice Kavanaugh, the Court held that the question of whether a state law regulating national banks is preempted must be analyzed under the Dodd-Frank Act's "prevents or significantly interferes" preemption standard, which expressly incorporated the standard articulated by the Court in *Barnett Bank of Marion County, N. A. v. Nelson*, 517 U.S. 25 (1996). This standard asks whether the state law "prevents or significantly interferes with the exercise by the national bank of its powers." Because the Second Circuit did not apply a standard consistent with Dodd-Frank and *Barnett Bank*, the Court vacated and remanded.

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

National Rifle Association of America v. Vullo, No. 22-842: This case arises from the National Rifle Association's (NRA) lawsuit against Maria Vullo—former superintendent of the New York Department of Financial Services (DFS)—claiming that Vullo violated the First Amendment by inducing banks and insurance companies to avoid doing business with the NRA. The district court denied Vullo's motion to dismiss the NRA's First

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Amendment damages claims. The Second Circuit reversed, holding that Vullo's alleged actions constituted permissible government speech and legitimate law enforcement. Today, in an unanimous decision authored by Justice Sotomayor, the Court reversed, holding that the NRA's "allegations, if true, state a First Amendment claim." As the Court explained, Vullo "could not wield her power . . . to threaten enforcement actions against DFS-regulated entities in order to punish or suppress the NRA's gun-promotion advocacy." Justices Gorsuch and Jackson each filed a concurring opinion.

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

Thornell v. Jones, No. 22-982: This case concerns a defendant's Sixth Amendment right to counsel in the sentencing phase of a capital punishment trial. Under an Arizona state law, a death sentence is required when a trial court determines there are one or more "aggravating circumstances" defined by statute and "no mitigating circumstances sufficiently substantial to call for leniency." In this case, the trial court applied that law and sentenced Danny Lee Jones to death after finding four aggravating circumstances and concluding none of the mitigating factors were not sufficiently substantial. After the Arizona Supreme Court affirmed the sentence, Jones sought post-conviction relief in federal court. The Ninth Circuit ordered that Jones be resentenced, based on its conclusion that Jones's sentencing phase lawyer was ineffective. Today, in a 6-3 decision authored by Justice Alito, the Court reversed. The Court held that the Ninth Circuit misapplied the test for considering ineffective-assistance-of-counsel claims under *Strickland v. Washington*, 466 U. S. 668 (1984) because the aggravating factors in this case were too strong to conclude there was a "reasonable probability" of a different result. Justice Sotomayor (joined by Justice Kagan) and Justice Jackson each filed short dissents.

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