

The Supreme Court Update - November 6, 2023

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

On November 3, 2023, the Supreme Court of the United States granted certiorari in 3 cases:

Coinbase, Inc. v. Suski, No. 23-3: This case concerns the enforceability of “delegation clauses” in arbitration agreements. A delegation clause specifies that an arbitrator, not a court, will decide threshold questions about the scope and validity of the arbitration agreement. The question presented is: Where parties enter into an arbitration agreement with a delegation clause, should an arbitrator or a court decide whether that arbitration agreement is narrowed by a later contract that is silent as to arbitration and delegation?

Garland v. Cargill, No. 22-976: This case addresses whether “bump stocks,” a device that allows users to convert a semiautomatic rifle so that the rifle can be fired continuously with one pull of the trigger, are a “machinegun,” the possession and sale of which are generally prohibited by the National Firearms Act. The question presented is: Whether a bump stock device is a “machinegun” as defined in 26 U.S.C. § 5845(b) because it is designed and intended for use in converting a rifle into a machinegun, i.e., into a weapon that fires “automatically more than one shot . . . by a single function of the trigger.”

National Rifle Association of America v. Vullo, No. 22-842: This case arises from the National Rifle Association’s lawsuit claiming that the head of New York’s Department of Financial Services violated the First Amendment by inducing banks and insurance companies to avoid doing business with the National Rifle Association. The question presented is: Whether the First Amendment allows a government regulator to threaten regulated entities with adverse regulatory actions if they do business with a controversial speaker, as a consequence of (a) the government’s own hostility to the speaker’s viewpoint or (b) a perceived “general backlash” against the speaker’s advocacy.

Related People

- Brock Huebner
- Ian Blodger
- Jessica M. Leano

Related Capabilities

- Appellate