

**Contemporary Supreme Court Cases  
Case List 2019**

*Class 2 — January 23:*

**Gundy v. U.S.**, No. [17-6086](#) [Arg: 10.2.2018 [Trans./Aud.](#)] — **Emma Poorman**

Issue(s): Whether the federal Sex Offender Registration and Notification Act’s delegation of authority to the attorney general to issue regulations under 42 U.S.C. § 16913 violates the nondelegation doctrine.

**Madison v. Alabama**, No. [17-7505](#) [Arg: 10.2.2018 [Trans./Aud.](#)] — **Emily Roznowski**

Issue(s): (1) Whether, consistent with the Eighth Amendment, and the Supreme Court’s decisions in *Ford v. Wainwright* and *Panetti v. Quarterman*, a state may execute a prisoner whose mental disability leaves him with no memory of his commission of the capital offense; and (2) whether evolving standards of decency and the Eighth Amendment’s prohibition of cruel and unusual punishment bar the execution of a prisoner whose competency has been compromised by vascular dementia and multiple strokes causing severe cognitive dysfunction and a degenerative medical condition that prevents him from remembering the crime for which he was convicted or understanding the circumstances of his scheduled execution.

*Class 3 — January 30:*

**Knick v. Township of Scott**, No. [17-647](#) [Arg: 10.3.2018 [Trans./Aud.](#)] — **Eric Carlson**

Issue(s): (1) Whether the Supreme Court should reconsider the portion of *Williamson County Regional Planning Commission v. Hamilton Bank* that requires property owners to exhaust state court remedies to ripen federal takings claims; and (2) whether *Williamson County*’s ripeness doctrine bars review of takings claims that assert that a law causes an unconstitutional taking on its face, as the U.S. Courts of Appeals for the 3rd, 6th, 9th and 10th Circuits hold, or whether facial claims are exempt from *Williamson County*, as the U.S. Courts of Appeals for the 1st, 4th and 7th Circuits hold.

**Nielsen v. Preap**, No. [16-1363](#) [Arg: 10.10.2018 [Trans./Aud.](#)] — **Shea Flanagan**

Issue(s): Whether a criminal alien becomes exempt from mandatory detention under 8 U.S.C. § 1226(c) if, after the alien is released from criminal custody, the Department of Homeland Security does not take him into immigration custody immediately.

*Class 4 — February 6:*

**Herrera v. Wyoming**, No. [17-532](#) [Arg: 1.8.2019 [Trans./Aud.](#)] — **Hane Kim**

Issue(s): Whether Wyoming’s admission to the Union or the establishment of the Bighorn National Forest abrogated the Crow Tribe of Indians’ 1868 federal treaty right to hunt on the “unoccupied lands of the United States,” thereby permitting the present-day criminal conviction of a Crow member who engaged in subsistence hunting for his family.

**Garza v. Idaho**, No. [17-1026](#) [Arg: 10.30.2018 [Trans./Aud.](#)] — **Sydnee Fielkow**  
Issue(s): Whether the “presumption of prejudice” recognized in [Roe v. Flores-Ortega](#) applies when a criminal defendant instructs his trial counsel to file a notice of appeal but trial counsel decides not to do so because the defendant’s plea agreement included an appeal waiver.

*Class 5: February 13:*

**Frank v. Gaos**, No. [17-961](#) [Arg: 10.31.2018 [Trans./Aud.](#)] — **Maveric Searle**  
Issue(s): Whether, or in what circumstances, a cy pres award of class action proceeds that provides no direct relief to class members supports class certification and comports with the requirement that a settlement binding class members must be “fair, reasonable, and adequate.”

**Bucklew v. Precythe**, No. [17-8151](#) [Arg: 11.6.2018 [Trans./Aud.](#)] — **Adam Alexander**  
Issue(s): (1) Whether a court evaluating an as-applied challenge to a state’s method of execution based on an inmate’s rare and severe medical condition should assume that medical personnel are competent to manage his condition and that procedure will go as intended; (2) whether evidence comparing a state’s method of execution with an alternative proposed by an inmate must be offered via a single witness, or whether a court at summary judgment must look to the record as a whole to determine whether a factfinder could conclude that the two methods significantly differ in the risks they pose to the inmate; (3) whether the Eighth Amendment requires an inmate to prove an adequate alternative method of execution when raising an as-applied challenge to the state’s proposed method of execution based on his rare and severe medical condition; and (4) whether petitioner Russell Bucklew met his burden under [Glossip v. Gross](#) to prove what procedures would be used to administer his proposed alternative method of execution, the severity and duration of pain likely to be produced, and how they compare to the state’s method of execution.

*Class 6: February 20:*

**Apple Inc. v. Pepper**, No. [17-204](#) [Arg: 11.26.2018 [Trans.](#)] — **Meredith Hurley**  
Issue(s): Whether consumers may sue anyone who delivers goods to them for antitrust damages, even when they seek damages based on prices set by third parties who would be the immediate victims of the alleged offense. [CVSG: 05/08/2018.](#)

**Nieves v. Bartlett**, No. [17-1174](#) [Arg: 11.26.2018 [Trans.](#)] — **Devaanjana Goel**  
Issue(s): Whether probable cause defeats a First Amendment retaliatory-arrest claim under 42 U.S.C. § 1983.

*Class 7: February 27:*

**Carpenter v. Murphy**, No. [17-1107](#) [Arg: 11.27.2018] — **Maddy Brown**  
Issue(s): Whether the 1866 territorial boundaries of the Creek Nation within the former Indian Territory of eastern Oklahoma constitute an “Indian reservation” today under 18 U.S.C. § 1151(a).

**Timbs v. Indiana**, No. [17-1091](#) [Arg: 11.28.2018] — **Patrick Sims**

Issue(s): Whether the Eighth Amendment’s excessive fines clause is incorporated against the states under the Fourteenth Amendment.

Note: petitioner’s advocate in this case was mooted hear at Northwestern and this case may well see the Court defining a new constitutional right as applied to the states.

*Class 8: March 6:*

**Gamble v. U.S.**, No. [17-646](#) [Arg: 12.5.2018] — **Melissa Estrada**

Issue(s): Whether the Supreme Court should overrule the “separate sovereigns” exception to the double jeopardy clause

**Franchise Tax Bd of CA v. Hyatt**, No. [17-1299](#) [Arg: 1.9.2019] — **Dustin Stonecipher**

Issue(s): Whether Nevada v. Hall, which permits a sovereign state to be haled into another state’s courts without its consent, should be overruled.

Note: This sounds boring, but it is enormously consequential as indicated by an amicus brief by 45 states urging the Court to overrule Nevada v. Hall. The court granted review on Hyatt a few terms back, but couldn’t resolve the issue because the court was equally divided. Since that time, a new and potentially tie-breaking vote has joined the court.

*Class 9: March 13:*

**TN Wine & Spirits Retailers v. Byrd**, No. [18-96](#) [Arg: 1.16.2019] — **McKenzie Edwards**

Issue(s): Whether the 21st Amendment empowers states, consistent with the dormant commerce clause, to regulate liquor sales by granting retail or wholesale licenses only to individuals or entities that have resided in-state for a specified time.

**U.S. v. Haymond**, No. [17-1672](#) [Arg: 2.26.2019] — **Katy Martinez**

Issue(s): Whether the U.S. Court of Appeals for the 10th Circuit erred in holding “unconstitutional and unenforceable” the portions of 18 U.S.C. § 3583(k) that required the district court to revoke the respondent’s 10-year term of supervised release, and to impose five years of reimprisonment, following its finding by a preponderance of the evidence that the respondent violated the conditions of his release by knowingly possessing child pornography.

*Class 10: March 20:*

**American Legion v. American Humanist**, No. [17-1717](#) [Arg: 2.27.2019] — **Riley Frye**

Issue(s): (1) Whether a 93-year-old memorial to the fallen of World War I is unconstitutional merely because it is shaped like a cross; (2) whether the constitutionality of a passive display incorporating religious symbolism should be assessed under the tests articulated in Lemon v. Kurtzman, Van Orden v. Perry, Town of Greece v. Galloway or some other test; and (3) whether, if the test from Lemon v. Kurtzman applies, the expenditure of funds for the routine upkeep and maintenance of a cross-shaped war memorial, without more, amounts to an excessive entanglement with religion in violation of the First Amendment.

[Mont v. U.S.](#), No. [17-8995](#) [Arg: 2.26.2019] — **Richard Minott**

Issue(s): Whether a period of supervised release for one offense is tolled under 18 U.S.C. § 3624(e) during a period of pretrial confinement that upon conviction is credited toward a defendant's term of imprisonment for another offense.

*Spring break: March 27*

*Class 11: April 3:*

[Obduskey v. McCarthy & Holthus](#), No. [17-1307](#) [Arg: 1.7.2019] — **Kathleen DeAmico**

Issue(s): Whether the Fair Debt Collection Practices Act applies to non-judicial foreclosure proceedings.

Note: This case is significant because the fate of potentially thousands of lawsuits challenging non-judicial foreclosures is up for grabs. According to Obduskey's petition, there were nearly 400,000 foreclosures in the U.S. in 2016, with about 200,000 of those being done outside of the court system. The technical issue presented is whether the FDCPA applies to nonjudicial foreclosures.

[Lamone v. Benisek](#), No. [18-726](#) — Arg: TBD in March — **Will French**

Issue(s): In case in which the plaintiffs allege that a Maryland congressional district was gerrymandered to retaliate against them for their political views: (1) whether the various legal claims articulated by the three-judge district court are unmanageable; (2) whether the three-judge district court erred when, in granting plaintiffs' motion for summary judgment, it resolved disputes of material fact as to multiple elements of plaintiffs' claims, failed to view the evidence in the light most favorable to the non-moving party, and treated as "undisputed" evidence that is the subject of still-unresolved hearsay and other evidentiary objections; and (3) whether the three-judge district court abused its discretion in entering an injunction despite the plaintiffs' years-long delay in seeking injunctive relief, rendering the remedy applicable to at most one election before the next decennial census necessitates another redistricting.

Note: this may be the most important case of the decade

*Class 12: April 10:*

[Iancu v. Brunetti](#), No. [18-302](#) — Arg: TBD — **Daniel Wodnicki**

Issue(s): Whether Section 2(a) of the Lanham Act's prohibition on the federal registration of "immoral" or "scandalous" marks is facially invalid under the free speech clause of the First Amendment

Note: this case has not been yet set for argument so we would be taking a small risk to set this one, but it will no doubt be entertaining as it will involve the justices having to try to avoid saying the word "FUCTION"

Background: Erik Brunetti tried to register the trademark "FUCTION" in connection with his clothing line; after the U.S.P.T.O. rejected the application, the U.S. Court of Appeals for the Federal Circuit agreed with him that the ban violates the Constitution. The federal government went to the Supreme Court, which today agreed to weigh in. This follows on last year's decision that the PTO could not prevent an Asian group from registering its trademark as "the slants," which was originally refused as a derogatory term.

**Flowers v. Mississippi**, No. [17-9572](#) — Arg: TBD — **Alix Rozolis**

Issue(s): Whether the Mississippi Supreme Court erred in how it applied [Batson v. Kentucky](#) in this case.

**Background:** Curtis Flowers was sentenced to death for an infamous quadruple murder at a furniture store in Winona, Mississippi. Flowers was tried six times. During the first four trials, prosecutor Doug Evans was twice found to have violated the constitutional ban on racial discrimination in selecting jurors: He had struck all 10 of the potential African-American jurors, while he used all of his strikes to remove African Americans from the jury pool in the third and fourth trials. Flowers' fifth trial deadlocked, but at his sixth trial, Evans allowed the first African-American juror to be seated but then struck the remaining five African-American jurors.

**Mitchell v. Wisconsin**, No. [18-6210](#) — Arg: TBD — **Elena Joffrey**

Issue(s): Whether a statute authorizing a blood draw from an unconscious motorist provides an exception to the Fourth Amendment warrant requirement.

*Class 13: April 17:*

**U.S. v. Davis**, No. [18-431](#) — Arg: TBD — **Sydney Black**

Issue(s): Whether the subsection-specific definition of “crime of violence” in 18 U.S.C. § 924(c)(3)(B), which applies only in the limited context of a federal criminal prosecution for possessing, using or carrying a firearm in connection with acts comprising such a crime, is unconstitutionally.

If we continue to have 23 students or fewer, the second half of our final class will provide an opportunity for each of you to talk very briefly about your papers — aim for a 1 minute summary and then other students or I may ask you follow-up questions.

Time allowing, I will also present my most recent research on oral arguments before the Supreme Court.

**Note**, however, that others may still join, in which case we may have another case or two.

**Note** also that the dates on the final 4 cases could change depending on the order in which the Court hears the oral arguments.