

## Supreme Court Review

Nevada District Court Judges Seminar  
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Erwin Chemerinsky  
Dean and Jesse H. Choper Distinguished Professor of Law  
University of California, Berkeley School of Law

*United States Supreme Court -- October Term 2023*

### I. Abortion

Food and Drug Administration v. Alliance for Hippocratic Medicine, 144 S.Ct. 1540 (2024). Plaintiffs lack Article III standing to challenge the Food and Drug Administration's regulatory actions regarding mifepristone.

### II. Administrative law

Loper Bright Enterprises v. Raimondo, 144 S.Ct. 2244 (2024). The Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous; Chevron is overruled.

Securities and Exchange Commission v. Jarkesy, 144 S.Ct. 2117 (2024). The statutory provisions that empower the Securities and Exchange Commission to initiate and adjudicate administrative enforcement proceedings seeking civil penalties violate the Seventh Amendment.

### III. Criminal law

Grants Pass v. Johnson, 144 S.Ct. 2202 (2024). The enforcement of generally applicable laws regulating camping on public property does not constitute "cruel and unusual punishment" prohibited by the Eighth Amendment.

### IV. First Amendment – speech

Lindke v. Freed, 144 S.Ct. 756 (2024). A public official who prevents someone from commenting on the official's social-media page engages in state action under 42 U.S.C. § 1983 only if the official both (1) possessed actual authority to speak on the state's behalf on a particular matter, and (2) purported to exercise that authority when speaking in the relevant social-media posts.

National Rifle Association of America v. Vullo, 144 S.Ct. 1316 (2024). The NRA plausibly alleged that former superintendent of the New York Department of Financial Services Maria

Vullo violated the First Amendment by coercing regulated entities to terminate their business relationships with the NRA in order to punish or suppress the NRA's gun-promotion advocacy.

Moody v. NetChoice, LLC, 144 S.Ct. 2383 (2024). Neither the U.S. Courts of Appeals for the 11th Circuit nor the 5th Circuit conducted a proper analysis of the facial First Amendment challenges to the Florida and Texas laws regulating large internet platforms.

## V. Second Amendment

U.S. v. Rahimi, 144 S.Ct. 1889 (2024). When an individual has been found by a court to pose a credible threat to the physical safety of another, that individual may be temporarily disarmed consistent with the Second Amendment.

## VI. Donald Trump litigation

Trump v. United States, 144 S.Ct. 2312 (2024). The nature of presidential power entitles a former president to absolute immunity from criminal prosecution for actions within his conclusive and preclusive constitutional authority; he is also entitled to at least presumptive immunity from prosecution for all his official acts; there is no immunity for unofficial acts.

### *October Term 2024*

#### I. Administrative law

*Federal Communications Commission v. Consumers' Research*, No. 24-354 (argued on March 26, 2025). (1) Whether Congress violated the nondelegation doctrine by authorizing the Federal Communications Commission to determine, within the limits set forth in 47 U.S.C. § 254, the amount that providers must contribute to the Universal Service Fund; (2) whether the FCC violated the nondelegation doctrine by using the financial projections of the private company appointed as the fund's administrator in computing universal service contribution rates; (3) whether the combination of Congress's conferral of authority on the FCC and the FCC's delegation of administrative responsibilities to the administrator violates the nondelegation doctrine; and (4) whether this case is moot in light of the challengers' failure to seek preliminary relief before the 5th Circuit.

#### II. Civil rights litigation in state court

Williams v. Reed, 145 S.Ct. 465 (2025). Where a state court's application of a state exhaustion requirement in effect immunizes state officials from 42 U.S.C. § 1983 claims challenging delays in the administrative process, state courts may not deny those claims on failure-to-exhaust grounds.

#### III. Equal protection

*U.S. v. Skrmetti*, No. 23-477 (argued December 4, 2024). Whether Tennessee Senate Bill 1, which prohibits all medical treatments intended to allow "a minor to identify with, or live as, a

purported identity inconsistent with the minor’s sex” or to treat “purported discomfort or distress from a discordance between the minor’s sex and asserted identity,” violates the equal protection clause of the 14th Amendment.

#### IV. First Amendment

##### A. Speech

Tik Tok v. Garland, 145 S.Ct. 57 (2025). The Protecting Americans from Foreign Adversary Controlled Applications Act, as applied to petitioners, does not violate the First Amendment.

*Free Speech Coalition v. Paxton*, No. 23-1122 (argued January 15, 2025) Whether the court of appeals erred as a matter of law in applying rational-basis review, instead of strict scrutiny, to a law burdening adults’ access to protected speech.

##### B. Religion

*Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*, No. 24-154 (argued March 31, 2025). Whether a state violates the First Amendment’s religion clauses by denying a religious organization an otherwise-available tax exemption because the organization does not meet the state’s criteria for religious behavior.

*Mahmoud v. Taylor*, No. 24-297 (to be argued April 22, 2025). Whether public schools burden parents’ religious exercise when they compel elementary school children to participate in instruction on gender and sexuality against their parents’ religious convictions and without notice or opportunity to opt out.

*Oklahoma Statewide Charter School Board v. Drummond*, No. 24-394 (to be argued April 30, 2025). (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.