

**OT2004 Case List (as of June 7, 2005)**

By Goldstein & Howe, P.C.

**Granted cases: 75**  
**Cases decided after argument: 49**  
**Summary reversals: 2**  
**Summary affirmances: 0**  
**Cases dismissed w/o opinion: 0**

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**CASE BREAKDOWN FOR CASES DECIDED AFTER ARGUMENT**

Civil Rights Cases	16	;	General Civil Matters	27	;	Criminal Matters	34
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Business Cases	24	;	Non-Business Cases	53
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Statutory Cases	45	;	Constitutional Cases	30	;	Original Cases	2
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The following pages set out the cases for the Term by argument week, as follows:

- #. *Case Name* (Once decided: majority author; vote; disposition)  
Links to: the decision below; the S. Ct. docket; the briefs (ABA – from the American Bar Association, FL – from Findlaw.com); the Medill Journalism summary; and SCOTUSblog articles  
Relevant dates: cert. granted; argument; and decision  
Categories: General Civil, Civ Rts, or Criminal; Business or Non-Bus.; Statutory or Const.  
Dated Granted:            Argued:            Decided:  
Question Presented or **Holding** once decided  
Majority: author & joined by  
Concurrences: authors & joined by  
Dissents: authors & joined by

**SITTING SUMMARIES: WHAT EACH JUSTICE HAS WRITTEN BY SITTING**

**OCTOBER SITTING**

WHR	<b>Kowalski</b> -Dec <b>Leocal</b> -Nov	SOC	<b>Norfolk So.</b> -Nov <i>Roper dissent</i> <i>Clark concur</i>	JPS	<b>Booker</b> -Jan (5-4) <i>Booker diss. (in part)</i> <i>Kansas conc. &amp; diss.</i> <i>Koons concur.</i> <i>Roper concur.</i>
AS	<b>Jama</b> -Jan (5-4) <b>Clark</b> -Jan <i>Booker dissent</i> <i>Koons dissent</i> <i>Roper dissent</i>	AMK	<b>Roper</b> -Mar (5-4) <i>Koons concur</i>	DS	<b>KP Perm</b> -Dec <i>Jama concur.</i>
CT	<b>Cooper</b> -Dec <i>Kansas concur.</i> <i>Kowalski concur.</i> <i>Booker dissent</i> <i>Koons concur. judg.</i> <i>Clark dissent</i>	RBG	<b>Koons</b> -Nov <i>Kowalski dissent</i> <i>Cooper dissent</i>	SGB	<b>Kansas</b> -Dec <b>Booker</b> -Jan (5-4) <i>Booker diss. (in part)</i>

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**NOVEMBER SITTING**

WHR		SOC	<b>Johnson</b> -Feb <i>Smith conc. judg.</i> <i>Shepard dissent</i>	JPS	<b>Smith</b> -Mar <b>Caballes</b> -Jan <i>Johnson dissent</i>
AS	<b>Devenpeck</b> -Dec <i>Smith conc. pt.</i> <i>Cherokee conc. pt.</i> <i>Payton concur.</i>	AMK	<b>Banks</b> -Jan <b>Payton</b> -Mar	DS	<b>Shephard</b> -Mar. <i>Caballes dissent</i> <i>Payton dissent</i>
CT	<b>Stewart</b> -Feb <b>Pasquantino</b> -Apr (5-4) <i>Johnson dissent</i> <i>Small dissent</i> <i>Shepard conc. pt./ judg.</i>	RBG	<b>Nixon</b> -Dec <i>Pasquantino diss.</i> <i>Johnson concur.</i> <i>Caballes dissent</i>	SGB	<b>Small</b> -Apr <b>Cherokee</b> -Mar <i>Payton concur.</i> <i>Payton concur.</i>

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**DECEMBER SITTING**

WHR	<b>Muehler</b> -Mar <i>Ballard dissent</i>	SOC	<b>Whitfield</b> -Jan <b>Jackson</b> -Mar (5-4) <i>Raich dissent</i>	JPS	<b>Raich</b> -Jun <i>Heald dissent</i> <i>Muehler conc. judg</i> .
AS	<b>Smith</b> -Feb (5-4) <b>Johanns</b> -May <i>Wilkinson concur.</i> <i>Raich conc. judg.</i>	AMK	<b>Heald</b> -May (5-4) <i>Johanns dissent</i> <i>Wilkinson dissent</i> <i>Ballard concur.</i> <i>Muehler concur.</i>	DS	<i>Johanns dissent</i>
CT	<b>Rousey</b> -Apr <i>Heald dissent</i> <i>Johanns concur.</i> <i>Raich dissent</i> <i>Jackson dissent</i>	RBG	<b>Ballard</b> -Mar <i>Smith dissent</i> <i>Johanns conc. judg.</i>	SGB	<b>Wilkinson</b> -Mar <i>Johanns concur.</i>
PC	<b>Howell</b> -Jan				

Not decided: Miller-El

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### JANUARY SITTING

WHR	<b>Doe-Mar.</b>	SOC	<b>Rhines-Mar</b> <i>Clingman conc. pt./judg</i>	JPS	<b>Bates-Apr</b> <i>Sherrill dissent.</i> <i>Doe concur.</i> <i>Rhines concur.</i> <i>Rancho conc. judg.</i> <i>Clingman dissent</i>
AS	<b>Palos Verdes-Mar</b> <i>Alaska conc. &amp; diss.</i> <i>Doe concur.</i>	AMK	<b>Alaska-Jun</b> <i>Johnson dissent</i>	DS	<b>Johnson-Apr (5-4)</b> <i>Sherrill concur.</i> <i>P-V conc. pt./judg.</i>
CT	<b>Clingman-May</b> <i>Bates conc. &amp; diss</i>	RBG	<b>Sherrill-Mar.</b>	SGB	<b>Dura Pharma-Apr</b> <i>Palos Verdes concur.</i> <i>Bates concur.</i>

Not yet decided: Rompilla

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### FEBRUARY SITTING

WHR	<b>Pace-Apr (5-4)</b>	SOC	<b>Lingle-May</b>	JPS	<i>Pace dissent</i>
AS	<i>Spector dissent</i>	AMK	<b>Spector-Jun (5-4)</b> <i>Lingle concur.</i>	DS	
CT	<i>Spector conc./diss.</i> <i>Deck dissent</i>	RBG	<b>Saudi Basic-Mar.</b> <i>Spect. conc. pt./judg.</i>	SGB	<b>Deck-May</b>

Not yet decided: Kelo; Orff; Allapattah; Van Orden; McCreary

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**MARCH SITTING**

WHR	SOC	JPS	
	<i>Medellin dissent</i>		
AS	AMK	DS	<i>Medellin dissent</i>
CT	RBG	SGB	<b>Tory-May</b> <i>Medellin dissent</i>
	<b>Cutter-May</b> <i>Medellin concur.</i>		
	<i>Cutter concur.</i> <i>Tory dissent</i>		
PC	<b>Medellin-May (5-4)</b>		

Not yet decided: Castle Rock; Dodd; San Remo; Grokster; Brand X; Austin

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**APRIL SITTING**

WHR	<b>Andersen-May</b>	SOC	JPS
AS		AMK	DS
CT		RBG	SGB

Not yet decided: Grable & Sons; Johnson; Bradshaw; Mayle; Merck; Graham Co.; Halbert; Crosby; American Trucking; Bell

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**SUMMARY REVERSAL**

**Brosseau**  
**Bell**

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**OT2004 Case List  
Goldstein & Howe, P.C.**

**OCTOBER SITTING**

1. [\*Kansas v. Colorado\*](#) (SGB) (9-0) (Original)  
[Docket \(Orig. 105\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog 12/7  
Dates: Granted: 6/1/4 Argument: 10/4/4 Decided: 12/7/4  
Categories: General Civil Non-Business Original  
[Transcript](#) Question Presented  
**Kansas's exceptions are overruled; the Special Master's recommendations are accepted, and the case is re-committed to the Special Master.**  
**Majority:** SGB WHR, RBG, AS, SOC, AMK, DHS  
*in part* JPS, CT (all but Part II)  
**Con Pt, Jmt:** CT  
**Con Diss Pt:** JPS
  
2. [\*Kowalski v. Tesmer\*](#) (WHR) (6-3) (Rev and Rem)  
[Decis Below \(CA6\)](#) [Docket \(No. 03-407\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog [1/20](#) [10/3](#) [12/13](#)  
Dates: Granted: 1/20/4 Argument: 10/4/4 Decided: 12/13/4  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Attorneys lack standing to challenge a statute denying indigent defendants who plead guilty an appointed appellate attorney.**  
**Majority:** WHR SOC, AS, AMK, CT, SGB  
**Concurring** CT  
**Dissenting** RBG JPS, DHS
  
3. [\*United States v. Booker\*](#) (JPS; SGB) (5-4) (Aff and Rem)  
[Decis Below \(CA7\)](#) [Docket \(No. 04-104\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
Consolidated with *United States v. Fanfan*  
Decis Below (CA1) [Docket \(No. 04-105\)](#)  
SCOTUSblog [8/2](#) [10/3](#) [10/4](#) [10/4](#) [10/4](#) [11/13](#) [1/12](#)  
Dates: Granted: 8/2/4 Argument: 10/4/4 Decided: 1/12/5  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Blakely applies to the Federal Sentencing Guidelines. The Guidelines are advisory.**  
**Majority:** JPS AS, DHS, CT, RBG  
SGB WHR, SOC, AMK, RBG  
**Dissenting in part:** JPS DHS  
*in part* AS (except Part III and fn 17)  
AS  
CT  
SGB WHR, SOC, AMK

4. [\*KP Permanent Make-Up v. Lasting Impressions\*](#) (DHS) (9-0) (Vac and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-409\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [1/9](#) [1/9](#) [10/4](#) [12/8](#)  
 Dates: Granted: 1/9/4 Argument: 10/5/4 Decided: 12/8/4  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)

**The fair use defense to trademark infringement does not require proving the absence of likelihood of confusion.**

**Majority:** DHS WHR, JPS, SOC, AMK, CT, RBG,  
*in part* AS (all but notes 4 and 5)  
 SGB (all but note 6)

5. [\*Koons Buick Pontiac GMC v. Nigh\*](#) (RBG) (8-1) (Rev and Rem)  
[Decis Below \(CA4\)](#) [Docket \(No. 03-377\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [1/20](#) [1/21](#) [10/4](#) [10/6](#) [10/24](#) [11/30](#)  
 Dates: Granted: 1/20/4 Argument: 10/5/4 Decided: 11/30/4  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)

**The Truth in Lending Act limits claims arising out of finance charges for consumer loans to a \$1,000 recovery.**

**Majority:** RBG WHR, JPS, SOC, AMK, DHS, SGB  
**Concurring:** JPS SGB  
 AMK WHR  
**Concur. in jmt:** CT  
**Dissenting:** AS

6. [\*Norfolk Southern Rwy. Co. v. James N. Kirby\*](#) (SOC) (Unan) (Rev and Rem)  
[Decis Below \(CA11\)](#) [Docket \(No. 02-1028\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [9/24](#) [10/13](#) [10/21](#) [11/9](#) [11/9](#)  
 Dates: Granted: 1/9/4 Argument: 10/6/4 Decided: 11/9/4  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)

**A railroad that damages or loses cargo which has been transported by sea is protected by the liability limitations of a bill of lading.**

**Majority:** SOC Unanimous

7. [\*Cooper Indus. v. Aviall Serv.\*](#) (CT) (7-2) (Rev and Rem)  
[Decis Below \(CA5\)](#) [Docket \(No. 02-1192\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [4/18](#) [4/21](#) [10/5](#) [12/13](#)  
 Dates: Granted: 1/9/4 Argument: 10/6/4 Decided: 12/13/4  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
**A party who has not been sued under CERCLA may not bring an action under Section 113 seeking contribution pursuant to CERCLA to recover costs spent on a voluntary clean-up.**  
**Majority:** CT WHR, SOC, AS, AMK, DHS, SGB  
**Dissent:** RBG JPS
8. [\*Leocal v. Ashcroft\*](#) (WHR) (Unan) (Rev and Rem)  
[Decis Below \(CA11\)](#) [Docket \(No. 03-583\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [2/23](#) [10/11](#) [11/9](#)  
 Dates: Granted: 2/23/4 Argument: 10/12/4 Decided: 11/9/4  
 Categories: Civil Rights Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**DUI convictions that lack a *mens rea* requirement are not “crimes of violence” under 18 USC 16.**  
**Majority:** WHR **Unanimous**
9. [\*Jama v. Immigration and Customs Enforcement\*](#) (AS) (5-4) (Aff)  
[Decis Below \(CA8\)](#) [Docket \(No. 03-674\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [2/23](#) [10/11](#) [1/12](#)  
 Dates: Granted: 2/23/4 Argument: 10/12/4 Decided: 1/12/5  
 Categories: Civil Rights Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**8 U.S.C. § 1231(b)(2)(E)(iv) does permit an alien to be removed to a country without the advance consent of that country's government.**  
**Majority:** AS WHR, SOC, AMK, CT  
**Dissenting:** DHS JPS, RBG, SGB
10. [\*Roper v. Simmons\*](#) (AMK) (5-4) (Aff)  
[Decis Below \(SC MO\)](#) [Docket \(No. 03-633\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [10/12](#) [10/13](#) [1/12](#) [3/1](#)  
 Dates: Granted: 1/26/4 Argument: 10/13/4 Decided: 3/1/5  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**The Constitution prohibits the execution of individuals for crimes crime when they were under the age of 18.**  
**Majority:** AMK JPS, DHS, RBG, SGB  
**Concurring:** JPS RBG  
**Dissenting:** SOC  
 AS WHR, CT



11. [Clark v. Martinez](#) (AS) (7-2) (Aff and Rem)  
 Decis Below (CA9) [Docket \(No. 03-878\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 Consolidated with *Benitez v. Wallis, Dist. Dir. Ins* (Rev and Rem)  
[Decis Below \(CA11\)](#) [Docket \(No. 03-7434\)](#)  
 SCOTUSblog [1/16](#) [10/12](#) [1/12](#)  
 Dates: Granted: 3/1/4, 1/16/4 Argument: 10/13/4 Decided: 1/12/5  
 Categories: Civil Rights Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**Mariel Cubans may be detained beyond the 90-day period for removal, but only for so long as is reasonably necessary to achieve removal, which is presumed to be six months.**  
**Majority:** AS JPS, SOC, AMK, DHS, RBG, SGB  
**Concurring:** SOC  
**Dissenting:** CT  
*in part* WHR (joined Part I-A)

## NOVEMBER SITTING

12. [Commissioner v. Banks](#) (AMK) (Unan) (Rev and Rem)  
[Decis Below \(CA6\)](#) [Docket \(No. 03-892\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
Consolidated with *Commissioner v. Banaitis* (Rev and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-907\)](#)  
SCOTUSblog [3/29](#) [10/31](#) [1/24](#)  
Dates: Granted: 3/29/4 Argument: 11/1/4 Decided: 1/24/5  
Categories: General Civil Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The taxable income from a judgment includes the portion paid to an attorney as a contingency fee.**  
Majority: AMK Unanimous  
Out: WHR
13. [Stewart v. Dutra Const. Co.](#) (CT) (Unan) (Rev and Rem)  
[Decis Below \(CA1\)](#) [Docket \(No. 03-814\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 2/23/4 Argument: 11/1/4 Decided: 2/23/5  
Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
**A dredge is a “vessel” under the LHWCA.**  
Majority: CT Unanimous  
Out: WHR
14. [Florida v. Nixon](#) (RBG) (Unan) (Rev and Rem)  
[Decis Below \(SC FL\)](#) [Docket \(03-931\)](#) Brfs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog [11/1](#)  
Dates: Granted: 3/1/4 Argument: 11/2/4 Decided: 12/13/4  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Failing to secure client consent to conceding guilt in a capital trial is not *per se* ineffective assistance.**  
Majority: RBG Unanimous  
Out: WHR

15. [Johnson v. California](#) (SOC) (5-3) (Rev and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-636\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 3/1/4 Argument: 11/2/4 Decided: 2/23/5  
 Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**That routine racial segregation of prisoners is subject to strict scrutiny.**  
**Majority:** SOC AMK, DHS, RBG, SGB  
**Concurring:** RBG DHS, SGB  
**Dissenting:** JPS  
*would go further and invalidate the practice*  
 CT AS  
*would sustain the practice under intermediate scrutiny*  
**Out:** WHR
16. [Small v. United States](#) (SGB) (5-3) (Rev and Rem)  
[Decis Below \(CA3\)](#) [Docket \(No. 03-750\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 3/29/4 Argument: 11/3/4 Decided: 4/26/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The ban on firearm possession by felons applies only to domestic convictions.**  
**Majority:** SGB JPS, SOC, DHS, RBG  
**Dissenting:** CT AS, AMK  
**Out:** WHR
17. [Smith v. City of Jackson](#) (JPS) (5-3) (Aff)  
[Decis Below \(CA5\)](#) [Docket \(No. 03-1160\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 3/29/4 Argument: 11/3/4 Decided: 3/30/5  
 Categories: Civil Rights Business Statutory  
[Transcript](#) [Questions Presented](#)  
**Disparate impact claims are cognizable under the Age Discrimination in Employment Act, although respondents are not liable in this case.**  
**Majority:** JPS DHS, RBG, SGB  
*in part* AS (not Part III)  
**Concur in part:** AS (in part)  
*Would resolve through Chevron deference*  
**Concur in jmt:** SOC AMK, CT  
**Out:** WHR

18. [\*Devenpeck v. Alford\*](#) (AS) (Unan) (Rev and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-710\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 4/19/4 Argument: 11/8/4 Decided: 12/13/4  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Police may arrest individuals for reasons unrelated to those articulated by the officer at the time of the stop.**  
 Majority: AS Unanimous  
 Out: WHR
19. [\*Shepard v. United States\*](#) (DHS) (5-3) (Rev and Rem)  
[Decis Below \(CA1\)](#) [Docket \(No. 03-9168\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/21/4 Argument: 11/8/4 Decided: 3/7/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**Proof of nature of the three prior offenses under the Armed Career Criminal Act must come from the judicial record, such as statutory elements, charging documents, and jury instructions.**  
 Majority: DHS JPS, AS, RBG  
*in part* CT (except Part III)  
 Conc Pt & Jmt: CT  
 Dissenting: SOC AMK, SGB  
 Out: WHR
20. [\*Cherokee Nation of Oklahoma v. Leavitt\*](#) (SGB) (8-0) (Rev and Rem)  
[Decis Below \(CA10\)](#) [Docket \(No. 02-1472\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 Consolidated with *Thompson v. Cherokee Nation of Oklahoma* (Aff and Rem)  
[Decis Below \(CAFed\)](#) [Docket \(No. 03-853\)](#)  
 SCOTUSblog  
 Dates: Granted: 3/22/4 Argument: 11/9/4 Decided: 3/1/5  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The government must pay contract costs so long as Congress appropriates sufficient unrestricted funds, including under the Indian Self-Determination and Education Assistance Act.**  
 Majority: SGB JPS, SOC, AMK, DHS, CT, RBG  
 Concur in pt: AS  
*Just legislative history objection*  
 Out: WHR

21. [\*Pasquantino v. United States\*](#) (CT) (5-4) (Aff)  
[Decis Below \(CA4\)](#) [Docket \(No. 03-725\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 4/5/4 Argument: 11/9/4 Decided: 4/26/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The federal wire fraud statute encompasses a scheme to avoid payment of taxes to a foreign sovereign.**  
**Majority:** CT WHR, JPS, SOC, AMK  
**Dissenting:** RBG SGB  
*in part* AS, DHS (Parts II and III)
22. [\*Illinois v. Caballes\*](#) (JPS) (6-2) (Vac and Rem)  
[Decis Below \(SC IL\)](#) [Docket \(No. 03-923\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [1/24](#)  
 Dates: Granted: 4/5/4 Argument: 11/10/4 Decided: 1/24/5  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
**Drug sniffs during traffic stops don't implicate the Fourth Amendment.**  
**Majority:** JPS SOC, AS, AMK, CT, SGB  
**Dissenting:** DHS  
 RBG DHS  
**Out:** WHR
23. [\*Brown v. Payton\*](#) (AMK) (5-3) (Rev)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1039\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 5/24/4 Argument: 11/10/4 Decided: 3/22/5  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**The California Supreme Court was objectively reasonable in holding that California's "catch-all" instruction in capital cases was constitutional as applied to post-crime evidence in mitigation and that this jury had properly taken into account post-crime evidence.**  
**Majority:** AMK SOC, AS, CT, SGB  
**Concurring:** AS CT  
 SGB  
**Dissenting:** DHS JPS, RBG  
**Out:** WHR

## DECEMBER SITTING

24. *Gonzales v. Raich* (JPS) (5-4) (Vac and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1454\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 6/28/4 Argument: 11/29/4 Decided: n/a  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)

**Congress' Commerce Clause authority includes the power to prohibit local cultivation and use of marijuana that is in compliance with California law**

**Majority:** JPS AMK, DHS, RBG, SGB  
**Concurring:** AS  
**Dissenting:** SOC WHR, CT (Parts I and II)  
CT

25. *Howell v. Mississippi* (PC) (Unan) (Dismissed)  
[Decis Below \(SC MS\)](#) [Docket \(No. 03-9560\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 6/28/4 Argument: 11/29/4 Decided: 1/24/5  
Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)

**Petitioner did not preserve his federal claim in the state courts.**

**Majority:** PC Unanimous

26. *Whitfield v. United States* (SOC) (Unan) (Aff)  
[Decis Below \(CA11\)](#) [Docket \(No. 03-1293\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
*Hall v. United States*  
[Decis Below \(CA11\)](#) [Docket \(No. 03-1294\)](#)  
SCOTUSblog  
Dates: Granted: 6/21/4 Argument: 11/30/4 Decided: 1/11/5  
Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)

**A conspiracy to commit money laundering does not require proof of an overt act.**

**Majority:** SOC Unanimous

27. [\*Jackson v. Birmingham Bd. of Educ.\*](#) (SOC) (5-4) (Rev and Rem)  
[Decis Below \(CA11\)](#) [Docket \(No. 02-1672\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/14/4 Argument: 11/30/4 Decided: 3/29/5  
 Categories: Civil Rights Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**Title IX does encompass a private right of action for retaliation.**  
**Majority:** SOC JPS, DHS, RBG, SGB  
**Dissenting:** CT WHR, AS, AMK
- [\*Rousey v. Jacoway\*](#) (CT) (Unanimous) (Rev and Rem)  
[Decis Below \(CA8\)](#) [Docket \(No. 03-1407\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/7/4 Argument: 12/1/4 Decided: 4/4/5  
 Categories: General Civil Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**IRAs are exempt property in bankruptcy.**  
**Majority:** CT **Unanimous**
28. [\*Smith v. Massachusetts\*](#) (AS) (5-4) (Rev and Rem)  
[Decis Below \(CA MA\)](#)[Docket \(No. 03-8661\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/14/4 Argument: 12/1/4 Decided: 2/22/5  
 Categories: Criminal Non-Business Constitution  
[Transcript](#) [Questions Presented](#)  
**The Double-Jeopardy Clause is violated when the judge unequivocally rules that the defendant is not guilty because the government's evidence is insufficient but later reverses herself, unless state law provides for mid-trial reconsideration.**  
**Majority:** AS JPS, SOC, DHS, CT  
**Dissenting:** RBG WHR, AMK, SGB
29. [\*Wilkinson v. Dotson\*](#) (SGB) (8-1) (Aff and Rem)  
[Decis Below \(CA6\)](#) [Docket \(No. 03-287\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 3/22/4 Argument: 12/6/4 Decided: 3/7/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**State prisoners may challenge parole procedures under § 1983.**  
**Majority:** SGB WHR, JPS, SOC, AS, DHS, CT, RBG  
**Concurring:** AS CT  
**Dissenting:** AMK

30. *Miller-El v. Dretke*  
[Decis Below \(CA5\)](#) [Docket \(No. 03-9659\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/28/4 Argument: 12/6/4 Decided: n/a  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
 Whether the state court erred in not finding purposeful discrimination by the prosecution in using their peremptory challenges to exclude blacks from the jury.
31. *Granholt v. Heald* (AMK) (5-4) (Aff)  
[Decis Below \(CA6\)](#) [Docket \(No. 03-1116\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 Consolidated with *MI Beer & Wine Wholesalers v. Heald* (Rev and Rem)  
 Decis Below (CA6) [Docket \(No. 03-1120\)](#)  
 Consolidated with *Swedenburg v. Kelly* (Rev and Rem)  
 Decis Below (CA2) [Docket \(No. 03-1274\)](#)  
 SCOTUSblog [8/3](#) [8/6](#)  
 Dates: Granted: 5/24/4 Argument: 12/7/4 Decided: 5/16/5  
 Categories: General Civil Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**The Commerce Clause prohibits a ban on direct inter-state, but not intra-state, wine sales to consumers.**  
**Majority:** AMK AS, DHS, RBG, SGB  
**Dissenting:** JPS SOC  
 CT WHR, JPS, SOC
32. *Ballard v. Commissioner* (RBG) (7-2) (Rev and Rem)  
[Decis Below \(CA11\)](#) [Docket \(No. 03-184\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 Consolidated with *Estate of Kanter v. Commissioner* (Rev and Rem)  
[Decis Below \(CA7\)](#) [Docket \(No. 03-1034\)](#)  
 SCOTUSblog  
 Dates: Granted: 4/26/4 Argument: 12/7/4 Decided: 3/7/5  
 Categories: General Civil Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The Tax Court may not exclude from the record on appeal Rule 183(b) reports submitted by special trial judges.**  
**Majority:** RBG JPS, SOC, AS, AMK, DHS, SGB  
**Concurring:** AMK AS  
**Dissenting:** WHR CT



33. [Johanns v. Livestock Marketing](#) (AS) (6-3) (Vac and Rem)  
[Decis Below \(CA8\)](#) [Docket \(No. 03-1164\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 and *Nebraska Cattlemen, Inc. v. Livestock Marketing*  
 Decis Below (CA8) [Docket \(No. 03-1165\)](#)  
 SCOTUSblog  
 Dates: Granted: 5/24/4 Argument: 12/8/4 Decided: 5/23/5  
 Categories: General Civil Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Commodity promotion programs as constitutional as government speech.**  
**Majority:** AS WHR, SOC, CT, SGB  
**Concurring:** CT  
 SGB  
**Conc. in jmt:** RBG  
**Dissenting:** AMK  
 DHS JPS, AMK

34. [Muehler v. Mena](#) (WHR) (9-0) (Vac and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1423\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/14/4 Argument: 12/8/4 Decided: 3/22/5  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Police executing a search warrant generally may detain the occupants in handcuffs during the search. Questioning about immigration status during the detention does not implicate the Fourth Amendment.**  
**Majority:** WHR SOC, AS, AMK, CT  
**Concurring:** AMK  
**Conc in Jmt:** JPS DHS, RBG, SGB

## JANUARY SITTING

35. *Alaska v. United States* (AMK) (Unan) (Original)  
[Docket \(Orig. 128\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 11/1/4 Argument: 1/10/5 Decided: n/a  
Categories: General Civil Non-Business Original  
[Transcript](#) Questions Presented  
**Alaska's exceptions to the report of the Special Master are overruled**  
Majority: AMK Unanimous (Parts I, II, III, IV)  
**in part** JPS, SOC, DHS, RBG, SGB (Part V)  
*in part* JPS, SOC, DHS, RBG, SGB  
WHR, AS (except portions relating to Part V)  
Conc Pt, Diss Pt: AS WHR, CT
36. *Bates v. Dow AgroSciences LLC* (JPS) (9-0) (Vac and Rem)  
[Decis Below \(CA5\)](#) [Docket \(No. 03-388\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 6/28/4 Argument: 1/10/5 Decided: 4/27/5  
Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) does not preempt petitioners' state tort claims alleging that the application of respondent's herbicide damaged petitioners' peanut crops.**  
Majority: JPS WHR, SOC, AMK, DHS, RBG, SGB  
Concurring: SGB  
Conc Pt, Diss Pt: CT AS
37. *City of Sherrill v. Oneida Indian Nation of New York* (RBG) (8-1) (Rev and Rem)  
[Decis Below \(CA2\)](#) [Docket \(No. 03-855\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 6/28/4 Argument: 1/11/5 Decided: 3/29/5  
Categories: General Civil Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**This tribe can not revive its ancient sovereignty upon repurchasing its tribal lands.**  
Majority: RBG WHR, SOC, AS, AMK, DHS, CT, SGB  
Concurring: DHS  
Dissenting: JPS

38. [\*Tenet v. Doe\*](#) (WHR) (9-0) (Rev)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1395\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/28/4 Argument: 1/11/5 Decided: 3/2/5  
 Categories: General Civil Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**Claims by alleged secret government agents relating to a right to support are not cognizable in court.**  
**Majority:** WHR Unanimous  
**Concurring:** JPS RBG  
 AS
39. [\*Dura Pharmaceuticals, Inc. v. Broudo\*](#) (SGB) (Unan) (Rev and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-932\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/28/4 Argument: 1/12/5 Decided: 4/19/5  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
**A fraud-on-the-market claim must demonstrate loss causation by proving a causal connection between the alleged fraud and the investment's decline in price.**  
**Majority:** SGB Unanimous
40. [\*Rhines v. Weber\*](#) (SOC) (9-0) (Vac and Rem)  
[Decis Below \(CA8\)](#) [Docket \(No. 03-9046\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSBLOG  
 Dates: Granted: 6/28/4 Argument: 1/12/5 Decided: 3/30/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**A district court has discretion to stay proceedings on a mixed petition pending state court exhaustion.**  
**Majority:** SOC WHR, JPS, AS, AMK, CT, RBG, SGB  
**Concurring:** JPS RBG, SGB  
**Conc Pt Conc Jmt:** DHS RBG, SGB
41. [\*Rompilla v. Beard\*](#)  
[Decis Below \(CA3\)](#) [Docket \(No. 04-5462\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 9/28/4 Argument: 1/18/5 Decided: n/a  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
 When is a “life without parole” instruction required? Did petitioner’s counsel provide ineffective assistance in not investigating mitigating evidence?

42. [Johnson v. United States](#) (DHS) (5-4) (Aff)  
[Decis Below \(CA11\)](#) [Docket \(No. 03-9685\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 9/28/4 Argument: 1/18/5 Decided: 4/4/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**A federal collateral attack may be initiated on the ground that a sentencing enhancement rests on a vacatur conviction within one year of receiving notice of the vacatur, so long as the vacatur was diligently sought.**  
**Majority:** DHS WHR, SOC, CT, SGB  
**Dissenting:** AMK JPS, AS, RBG  
*Actually agree with majority, except as to diligence*
43. [Rancho Palos Verdes v. Abrams](#) (AS) (9-0) (Rev and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1601\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 9/28/4 Argument: 1/19/5 Decided: 3/22/5  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
**An individual may not enforce the Communications Act's zoning and land use provisions on local zoning authorities through a § 1983 action.**  
**Majority:** AS WHR, SOC, AMK, DHS, CT, RBG, SGB  
**Concurring:** SGB SOC, DHS, RBG  
 Conc in Jmt: JPS
44. [Clingman v. Beaver](#) (J. Thomas) (6-3) (Rev and Rem)  
[Decis Below \(CA10\)](#) [Docket \(No. 04-37\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 9/28/4 Argument: 1/19/5 Decided: 5/23/5  
 Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**A semi-closed primary system does not violate the Right of Association.**  
**Majority:** CT WHR, AS, AMK,  
*in part* SOC & SGB  
**Conc Pt, Conc Jmt:** SOC  
*in part* SGB (except Part III)  
**Dissenting:** JPS RBG  
*in part* DHS (Parts I, II, and III)

## FEBRUARY SITTING

45. *Kelo v. New London*  
[Decis Below \(SC CT\)](#) [Docket \(No. 04-108\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog [9/28](#)  
 Dates: Granted: 9/28/4 Argument: 2/22/5 Decided: n/a  
 Categories: Civil Rights Business Constitutional  
[Transcript](#) [Question Presented](#)  
 When does condemnation for purposes of economic development implicate the Takings Clause?
46. *Lingle v. Chevron* (J. O'Connor) (Unan) (Rev and Rem)  
[Decis Below \(CA9\)](#) [Docket \(No. 04-163\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 2/22/5 Decided: 5/23/5  
 Categories: Civil Rights Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**The “substantially advances” state interests formula is not a valid method of identifying compensable regulatory takings.**  
**Majority:** SOC Unanimous  
**Concurring:** AMK
47. *Orff v. United States*  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1566\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 2/23/5 Decided: n/a  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
 Are farmers intended beneficiaries with the right to sue the government on irrigation contracts?
48. *Exxon Mobil v. Saudi Basic Industries Corp.* (RBG) (Unan) (Rev and Rem)  
[Decis Below \(CA3\)](#) [Docket \(No. 03-1696\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 2/23/5 Decided: 3/30/5  
 Categories: General Civil Non-Business Statutory  
[Transcript](#) [Question Presented](#)  
**Rooker / Feldman is limited to federal court challenges to state court judgments.**  
**Majority:** RBG Unanimous

49. *Spector v. Norwegian Cruise Line* (AMK) (5-4) (Rev and Rem)  
[Decis Below \(CA5\)](#) [Docket \(No. 03-1388\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 9/28/4 Argument: 2/28/5 Decided: n/a  
 Categories: Civil Rights Business Statutory  
[Transcript](#) [Question Presented](#)  
**The ADA applies to the internal affairs of foreign flag cruise ships in U.S. waters but does not compel permanent and significant structural modifications to foreign vessels.**  
**Majority/Plurality:** AMK JPS, DHS, RBG, CT (Parts I, II-A-1, II-B-2)  
*in part* JPS, DHS (Parts II-A-2, II-B-1, II-B-3, IIIB)  
*in part* JPS, DHS, CT (Part III-A)  
**Con Pt, Jmt:** RBG SGB  
**Con Diss Pt:** CT  
**Dissenting:** AS WHR, SOC  
*in part* CT (Part I-A)
50. *Pace v. DiGuglielmo* (WHR) (5-4) (Aff)  
[Decis Below \(CA3\)](#) [Docket \(No. 03-9627\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 9/28/4 Argument: 2/28/5 Decided: 4/27/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**An untimely state-court postconviction review petition does not toll the AEDPA statute of limitations, even if the state petition is accepted and reviewed by the state courts.**  
**Majority:** WHR SOC, AS, AMK, CT  
**Dissenting:** JPS DHS, RBG, SGB
51. *Exxon Corp. v. Allapattah Services*  
[Decis Below \(CA11\)](#) [Docket \(No. 04-70\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 Consolidated with *Ortega v. Star-Kist Foods*  
[Decis Below \(CA1\)](#) [Docket \(No. 04-79\)](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 3/1/5 Decided: n/a  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
 Must all plaintiffs satisfy the amount in controversy requirement for diversity jurisdiction?
52. *Deck v. Missouri* (SGB) (7-2) (Rev and Rem)  
[Decis Below \(CA MO\)](#)[Docket \(No. 04-5293\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 10/18/4 Argument: 3/1/5 Decided: 5/23/5  
 Categories: Criminal Non-Business Constitutional

[Transcript](#)

[Question Presented](#)

**A capital defendant presumptively may not be shackled in front of the jury in the penalty phase of a capital trial.**

**Majority:** SGB WHR, JPS, SOC, AMK, DHS, RBG

**Dissenting:** CT AS

53. *Van Orden v. Perry*  
[Decis Below \(CA5\)](#) [Docket \(No. 03-1500\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 3/2/5 Decided: n/a  
 Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
 In what circumstances are Ten Commandments monuments constitutional?
54. *McCreary County v. ACLU of Kentucky*  
[Decis Below \(CA6\)](#) [Docket \(No. 03-1693\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 3/2/5 Decided: n/a  
 Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
 In what circumstances are Ten Commandments monuments constitutional?



## MARCH SITTING

55. *Town of Castle Rock, CO v. Gonzales*  
[Decis Below \(CA10\)](#) [Docket \(No. 04-278\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 11/1/4 Argument: 3/21/5 Decided: n/a  
Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
When is the government liable for the failure to protect the holder of a restraining order?
56. *Cutter v. Wilkinson* (RBG) (Unan) (Rev and Rem)  
[Decis Below \(CA6\)](#) [Docket \(No. 03-9877\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 10/12/4 Argument: 3/21/5 Decided: 5/31/5  
Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**The prison accommodation provision of the Religious Land Use and Institutionalized Persons Act is not an unconstitutional establishment of religion.**  
Majority: RBG unanimous  
Concurring: CT
57. *Tory v. Cochran* (SGB) (7-2) (Vac and Rem)  
[Decis Below \(CA CA\)](#) [Docket \(No. 03-1488\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 9/28/4 Argument: 3/22/5 Decided: 5/31/5  
Categories: Civil Rights Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
**An injunction against public picketing or speech relating to an individual is an over-broad prior restraint when that individual has passed away.**  
Majority: SGB WHR, JPS, SOC, AMK, DHS, RBG  
Dissenting: CT AS
58. *Dodd v. United States*  
[Decis Below \(CA11\)](#) [Docket \(No. 04-5286\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog [11/29](#)  
Dates: Granted: 11/29/4 Argument: 3/22/5 Decided: n/a  
Categories: Criminal Non-Business Statutory  
[Transcript](#) [Question Presented](#)  
When does the AEDPA statute of limitations begin to run on a claim that rests on a new right recognized by the Supreme Court?

59. *San Remo Hotel v. San Francisco, CA*  
[Decis Below \(CA9\)](#) [Docket \(04-340\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 12/10/4 Argument: 3/28/5 Decided: n/a  
 Categories: Civil Rights Business Constitutional  
[Transcript](#) [Questions Presented](#)  
 When does a state court's ruling preclude a federal takings claim?
60. *Medellin v. Dretke* (PC) (5-4) (Dismissed)  
[Decis Below \(CA5\)](#) [Docket \(04-5928\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 12/10/4 Argument: 3/28/5 Decided: 5/23/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Questions Presented](#)  
**The Court dismiss the writ and avoid ruling on petitioner's Vienna Convention claim pending the disposition of state post-conviction proceedings.**  
**Majority:** PC WHR, AS, AMK, CT, RBG  
**Concurring:** RBG AS (as to Part II)  
**Dissenting:** SOC JPS, DHS, SGB  
 DHS  
 SGB JPS
61. *MGM Studios Inc. v. Grokster*  
[Decis Below \(CA9\)](#) [Docket \(04-480\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 12/10/4 Argument: 3/29/5 Decided: n/a  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
 Are companies that make file-sharing software liable for copyright infringement?
62. *Nat'l Cable & Telecomm. Assn v. Brand X Internet*  
*and FCC v. Brand X Internet Services*  
[Decis Below \(CA9\)](#) [Docket \(04-277, 04-281\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 12/3/4 Argument: 3/29/5 Decided: n/a  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
 Did the FCC permissibly deem cable modem service a "telecommunications service"?

63. *Wilkinson v. Austin*  
[Decis Below \(CA6\)](#) [Docket \(04-495\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 12/10/4 Argument: 3/30/5 Decided: n/a  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
What standard applies to the transfer of a prisoner to a super-maximum facility?

## APRIL SITTING

64. *Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing*  
Decis Below (CA6) [Docket \(04-603\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 1/7/5 Argument: 4/18/5 Decided: n/a  
Categories: General Civil Non-Business Statutory  
[Transcript](#) [Question Presented](#)  
When there is a violation by the Internal Revenue Service of 26 U.S.C. §6335(a) by intentionally ignoring the prerequisite provision requiring personal service of notice of seizure before obtaining service by certified mail, can the defendant in a state quiet title action remove the action to federal court under 28 U.S.C. §144I(b) by claiming that the necessary interpretation of 26 U.S.C. §6335(a) constitutes a substantial federal question and creates original jurisdiction in the district court?
65. *Johnson v. California*  
[Decis Below \(CA CA\)](#) [Docket \(04-6964\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 1/7/5 Argument: 4/18/5 Decided: n/a  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
What is the standard for proving a prima facie case under *Batson*?
66. *Bradshaw v. Stumpf*  
Decis Below (CA6) [Docket \(04-637\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 1/7/5 Argument: 4/19/5 Decided: n/a  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
(1) Is a representation on the record from defendant's counsel and/or the defendant that counsel has explained the elements of the charge to the defendant, sufficient to show the voluntariness of the guilty plea under *Henderson v. Morgan*, 426 U.S. 637 (1976)?  
(2) Does the Due Process Clause require that a defendant's guilty plea be vacated when the state subsequently prosecutes another person in connection with the crime and allegedly presents evidence at the second defendant's trial that is inconsistent with the first defendant's guilt?
67. *Mayle v. Felix*  
[Decis Below \(CA9\)](#) [Docket \(04-563\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 1/7/5 Argument: 4/19/5 Decided: n/a  
Categories: Criminal Non-Business Statutory  
[Transcript](#) [Question Presented](#)  
When do amended habeas petitions relate back to the first petition?

68. *Merck KGaA v. Integra Lifesciences I, Ltd.*  
[Decis Below \(CAFed\)](#) [Docket \(03-1237\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 1/7/5 Argument: 4/20/5 Decided: n/a  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
 Did the Federal Circuit err in concluding that the drug-research safe harbor does not protect animal studies of the sort that are essential to the development of new drugs, where the research will be presented to the FDA, and where barring the research until expiration of the patent could mean years of delay in the availability of life-saving new drugs?
69. *Graham County Soil & Water Conservation District v. U.S., ex rel. Wilson*  
[Decis Below \(CA4\)](#) [Docket \(04-169\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 1/7/5 Argument: 4/20/5 Decided: n/a  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
 Whether the six-year limitation period set out in 31 U.S.C. § 3731(b) should be applied to retaliatory discharge actions under the False Claims Act or whether courts should apply the most closely analogous state limitation period?
70. *Halbert v. Michigan*  
 Decis Below (CA MI) [Docket \(03-10198\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 1/7/5 Argument: 4/25/5 Decided: n/a  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
 (1) Does Michigan's law and practice of not appointing counsel to indigent defendants convicted by guilty plea, violate a defendant's 14th Amendment right to due process?  
 (2) Is a defendant entitled to resentencing, where counsel failed to render effective assistance by not objecting to improper scoring under Michigan's sentencing guidelines which resulted in a considerably longer sentence?
71. *Gonzalez v. Crosby*  
[Decis Below \(CA11\)](#) [Docket \(04-6432\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 1/14/5 Argument: 4/25/5 Decided: n/a  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Question Presented](#)  
 When may habeas petitioners pursue Rule 60(b) motions?

72. *American Trucking v. Michigan PSC*  
and *Mid-Con Freight Systems, Inc. v. Michigan PSC*  
Decis Below (CA MI) [Docket \(03-1230\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog

Dates: Granted: 1/14/5 Argument: 4/26/5 Decided: n/a  
Categories: General Civil Business Constitutional  
[Transcript](#) [Question Presented](#)

(1) Whether the \$100 fee upon vehicles conducting intrastate operations violates the Commerce Clause of the U.S. Constitution?

(2) Whether the \$100 fee upon vehicles operating solely in interstate commerce is preempted by 49 U.S.C. sec. 14504?

73. *Bell v. Thompson*  
Decis Below (CA6) [Docket \(04-514\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog

Dates: Granted: 1/7/5 Argument: 4/26/5 Decided: n/a  
Categories: Criminal Non-Business Statutory  
[Transcript](#) [Question Presented](#)

Did the 6th Circuit abuse its discretion by withdrawing its opinion affirming the denial of habeas corpus relief six months after Fed. R. App. P. 41(d)(2)(D) made issuance of the mandate mandatory, without notice to the parties or any finding that the court's action was necessary to prevent a miscarriage of justice, particularly where state judicial proceedings to enforce the inmate's death sentence had progressed in reliance upon the finality of the judgment in the federal habeas proceedings?

74. *Arthur Andersen LLP v. U.S.* (WHR) (unanimous) (Rev and Rem)  
[Decis Below \(CA5\)](#) [Docket \(04-368\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog

Dates: Granted: 1/7/5 Argument: 4/27/5 Decided: 5/31/5  
Categories: Criminal Business Statutory  
[Transcript](#) [Question Presented](#)

**18 U.S.C. § 1512(b), which makes it a crime to “knowingly . . . corruptly persuade” another person to alter or destroy documents needed in an official proceeding, is violated only if the defendant is aware of a particular official proceeding in which the documents might be material.**

## SUMMARY REVERSALS

1. *Brosseau v. Haugen* (per curiam) (8-1)  
Decis Below (CA9) Docket (03-1261)  
SCOTUSblog  
Dates: Decided: 12/13/04  
Categories: Criminal Non-Business Statutory  
**An officer is entitled to qualified immunity for shooting a fleeing suspect whose flight presented a risk to others.**  
**Majority:** PC WHR, SOC, AS, AMK, DHS, CT, SGB, RBG  
**Concurring:** SGB AS, RBG  
**Dissenting:** JPS
2. *Bell v. Cone* (per curiam) (9-0)  
Decis Below (CA6) Docket (04-394)  
Dates: Decided: 1/24/05  
Categories: Criminal Non-Business Statutory  
**The state court's decision in this case was not unreasonable.**  
**Majority:** PC Unanimous  
**Concurring:** RBG DHS, SGB