

**OT2004 Case List (as of June 23, 2005)**

By Goldstein & Howe, P.C.

**Granted and argued cases: 76**  
**Cases decided after argument: 70**  
**Summary reversals: 2**  
**Summary affirmances: 0**  
**Cases dismissed w/o opinion: 0**

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**CASE BREAKDOWN FOR MERITS CASES**

Civil Rights Cases	16	;	General Civil Matters	28	;	Criminal Matters	34
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Business Cases	25	;	Non-Business Cases	53
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Statutory Cases	45	;	Constitutional Cases	31	;	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	<a href="#"><u>Kowalski</u></a> -Dec <a href="#"><u>Leocal</u></a> -Nov	SOC	<a href="#"><u>Norfolk So.</u></a> -Nov <i>Roper dissent</i> <i>Clark concur</i>	JPS	<a href="#"><u>Booker</u></a> -Jan (5-4) <i>Booker diss. (in part)</i> <i>Kansas conc. &amp; diss.</i> <i>Koons concur.</i> <i>Roper concur.</i>
AS	<a href="#"><u>Jama</u></a> -Jan (5-4) <a href="#"><u>Clark</u></a> -Jan <i>Booker dissent</i> <i>Koons dissent</i> <i>Roper dissent</i>	AMK	<a href="#"><u>Roper</u></a> -Mar (5-4) <i>Koons concur</i>	DHS	<a href="#"><u>KP Perm</u></a> -Dec <i>Jama concur.</i>
CT	<a href="#"><u>Cooper</u></a> -Dec <i>Kansas concur.</i> <i>Kowalski concur.</i> <i>Booker dissent</i> <i>Koons concur. judg.</i> <i>Clark dissent</i>	RBG	<a href="#"><u>Koons</u></a> -Nov <i>Kowalski dissent</i> <i>Cooper dissent</i>	SGB	<a href="#"><u>Kansas</u></a> -Dec <a href="#"><u>Booker</u></a> -Jan (5-4) <i>Booker diss. (in part)</i>

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**NOVEMBER SITTING**

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

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**DECEMBER SITTING**

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

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## JANUARY SITTING

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

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## FEBRUARY SITTING

WHR	<a href="#">Pace</a> -Apr (5-4)	SOC	<a href="#">Lingle</a> -May <i>Kelo dissent</i>	JPS	<a href="#">Kelo</a> -Jun (5-4) <i>Pace dissent Allapattah dissent</i>
AS	<i>Spector dissent</i>	AMK	<a href="#">Spector</a> -Jun (5-4) <a href="#">Allapattah</a> -Jun (5-4) <i>Lingle concur. Kelo concur.</i>	DHS	
CT	<a href="#">Orff</a> -Jun <i>Spector conc./diss. Deck dissent Kelo dissent</i>	RBG	<a href="#">Saudi Basic</a> -Mar. <i>Spect. conc. pt./judg. Allapattah dissent</i>	SGB	<a href="#">Deck</a> -May

Not yet decided: Van Orden; McCreary

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### MARCH SITTING

WHR	<i>San Remo conc. judg.</i>	SOC	<a href="#">Dodd- Jun</a> <i>Medellin dissent</i>	JPS	<a href="#">San Remo</a> -Jun <i>Dodd dissent</i>
AS		AMK	<a href="#">Austin</a> -Jun	DHS	<i>Medellin dissent</i>
CT	<i>Cutter concur.</i> <i>Tory dissent</i>	RBG	<a href="#">Cutter</a> -May <i>Medellin concur.</i> <i>Dodd dissent</i>	SGB	<a href="#">Tory</a> -May <i>Medellin dissent</i>
PC	<a href="#">Medellin</a> -May (5-4)				

Not yet decided: Castle Rock; Grokster; Brand X

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### APRIL SITTING

WHR	<a href="#">Andersen</a> -May	SOC		JPS	<a href="#">Johnson</a> -Jun <i>Graham concur.</i> <i>Mayle dissent</i> <i>Crosby dissent</i>
AS	<b>Crosby</b> -Jun <i>Am. Truck. conc. judg.</i>	AMK	<i>Mid.-Con. dissent</i>	DHS	
CT	<a href="#">Graham</a> -Jun <i>Am. Truck. conc. judg.</i> <i>Johnson dissent</i> <i>Halbert dissent</i>	RBG	<b>Mayle</b> -Jun <b>Halbert</b> -Jun	SGB	<a href="#">Am. Truck.</a> -Jun <a href="#">Mid.-Con.</a> -Jun <i>Johnson concur.</i> <i>Graham dissent</i> <i>Crosby concur.</i>

Not yet decided: 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 (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  
*Would hold claims not cognizable*  
**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) (6-3) (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  
Conc. Judg.: AS  
Dissenting: SOC  
*in part* 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
28. [\*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
29. [\*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
30. [\*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

31. [\*Miller-El v. Dretke\*](#) (DHS) (6-3) (Rev and Rem)  
[Decis Below \(CA5\)](#) [Docket \(No. 03-9659\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 SCOTUSblog  
 Dates: Granted: 6/28/4 Argument: 12/6/4 Decided: 6/13/5  
 Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**A state court judgment that a prosecutor’s peremptory strikes were not racially motivated was unreasonable where the prosecution struck the vast majority of eligible black jurors and questioned black and white jurors differently, and where side-by-side comparisons reveal that the prosecution’s proffered race-neutral reasons for its strikes also applied to white jurors who were not struck.**  
**Majority:** DHS JPS, SOC, AMK, RBG, SGB  
**Concurring:** SGB  
**Dissenting:** CT WHR, AS
32. [\*Granholtz 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
33. [\*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

34. [\*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

35. [\*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**

36. [Alaska v. United States](#) (AMK) (9-0) (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 & VI)  
*in part* WHR, AS, CT (Pt VI, except relating to Pt V)  
**Conc Pt, Diss Pt:** AS WHR, CT
37. [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
38. [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

39. [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

40. [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

41. [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

42. [Rompilla v. Beard](#) (DHS) (5-4) (Rev and Rem)  
[Decis Below \(CA3\)](#) [Docket \(No. 04-5462\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
[SCOTUSblog](#)

Dates: Granted: 9/28/4 Argument: 1/18/5 Decided: 6/20/5  
Categories: Criminal Non-Business Constitutional

[Transcript](#) [Questions Presented](#)

**Petitioner received unconstitutionally ineffective assistance of counsel at a capital sentencing hearing when his counsel did not review his prior conviction record, which would provide mitigating evidence regarding the defendant's traumatic childhood and mental health impairments.**

**Majority:** DHS JPS, SOC, RGB, SGB  
**Concurring:** SOC  
**Dissenting:** AMK WHR, AS, CT

43. [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 vacated 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*

44. [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

45. [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.**  
**Maj & Plur:** CT WHR, AS, AMK,  
*in part* SOC, SGB (except Part II-A)  
**Conc Pt, Conc Jmt:** SOC  
*in part* SGB (except Part III)  
**Dissenting:** JPS RBG  
*in part* DHS (Parts I, II, and III)

FEBRUARY SITTING

46. [Kelo v. New London](#) (JPS) (5-4) (Aff)  
[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: 6/23/5  
Categories: Civil Rights Business Constitutional  
[Transcript](#) [Question Presented](#)

**A taking of private property satisfies the “public use” requirement of the Takings Clause so long as it has a public purpose. Economic development is a valid public purpose, and a legislature’s determination that a taking will promote economic development is entitled to deference.**

**Majority:** JPS AMK, DHS, RBB, SGB  
**Concurring:** AMK  
**Dissenting:** SOC WHR, AS, CT  
CT

47. [Lingle v. Chevron](#) (SOC) (9-0) (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

48. [Orff v. United States](#) (CT) (Unan) (Aff)  
[Decis Below \(CA9\)](#) [Docket \(No. 03-1566\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 10/12/4 Argument: 2/23/5 Decided: 6/23/5  
Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)

**43 U.S.C. 390uu, which grants the right “to join the United States as a necessary party defendant in any suit to adjudicate” certain rights under a federal reclamation contract, does not waive sovereign immunity in suits against the United States alone.**

**Majority:** CT Unanimous

49. [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

50. [\*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 likely 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)
51. [\*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
52. [\*Exxon Corp. v. Allapattah Services\*](#) (AMK) (5-4) (Aff)  
[Decis Below \(CA11\)](#) [Docket \(No. 04-70\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
 Consolidated with *Ortega v. Star-Kist Foods* (Rev)  
[Decis Below \(CA1\)](#) [Docket \(No. 04-79\)](#)  
 SCOTUSblog  
 Dates: Granted: 10/12/4 Argument: 3/1/5 Decided: 6/23/5  
 Categories: General Civil Business Statutory  
[Transcript](#) [Questions Presented](#)  
**If one plaintiff satisfies the amount-in-controversy requirement for diversity jurisdiction, 28 U.S.C. 1367 allows federal courts to exercise supplemental jurisdiction over the related claims of other plaintiffs that do not independently satisfy the requirement.**  
**Majority:** AMK WHR, AS, DHS, CT  
**Dissent:** RBG JPS, SOC, SGB  
 JPS SGB

53. [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

54. *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?

55. *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

56. *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?
57. *Cutter v. Wilkinson* (RBG) (9-0) (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
58. *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
59. *Dodd v. United States* (SOC) (6-3) (Aff)  
[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: 6/20/5  
 Categories: Criminal Non-Business Statutory  
[Transcript](#) [Question Presented](#)  
**The one year AEDPA statute of limitations begins to run on a claim resting on a new right recognized by the Supreme Court starting from the date on which the right asserted was originally recognized by the Court.**  
**Majority:** SOC WHR, AS, AMK, CT, DHS  
**Dissenting:** JPS RBG, SGB  
 RBG SGB

60. [\*San Remo Hotel v. San Francisco, CA\*](#) (JPS) (9-0) (Aff)  
[Decis Below \(CA9\)](#) [Docket \(04-340\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
[SCOTUSblog](#)  
 Dates: Granted: 12/10/4 Argument: 3/28/5 Decided: 6/20/5  
 Categories: Civil Rights Business Constitutional  
[Transcript](#) [Questions Presented](#)  
**Under 28 U.S.C. 1738, a state court judgment on a state constitutional takings claim must be given preclusive effect by a federal court hearing a federal takings claim if the state and federal takings clauses are co-extensive.**  
**Majority:** JPS AS, DHS, RBG, SGB  
**Conc. in Jmt.:** WHR SOC, AMK, CT
61. [\*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 dismisses the writ and avoids 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
62. *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?
63. *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"?

64. [Wilkinson v. Austin](#) (AMK) (unan) (Aff in part, Rev in part, and Rem)  
[Decis Below \(CA6\)](#) [Docket \(04-495\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog  
Dates: Granted: 12/10/4 Argument: 3/30/5 Decided: 6/13/5  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)  
**“Informal, nonadversarial” procedures including notice and an opportunity to present objections provide sufficient procedural safeguards when a prisoner is placed in a “Supermax” facility.**  
Majority: AMK Unanimous

## APRIL SITTING

65. [\*Grable & Sons Metal Products, Inc. v. Darue Engineering & Mnfg.\*](#) (DHS) (9-0) (Aff.)  
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](#)

**The defendant in a state quiet title action obtained at a federal tax sale can remove the action to federal court.**

**Majority:** DHS (unanimous)  
**Concurring:** CT AS

66. [\*Johnson v. California\*](#) (JPS) (8-1) (Rev and Rem)  
[Decis Below \(CA\)](#) [Docket \(04-6964\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog

Dates: Granted: 1/7/5 Argument: 4/18/5 Decided: 6/13/5  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)

**In order to prove a prima facie case of discrimination in the use of peremptory challenges under the *Batson* burden-shifting framework, a party need only produce “evidence sufficient to permit the trial judge to draw an inference that discrimination has occurred” and need not establish that discrimination is “more likely than not.”**

**Majority:** JPS WHR, SOC, AS, AMK, DHS, RBG, SGB  
**Concurring:** SGB  
**Dissent:** CT

67. [\*Bradshaw v. Stumpf\*](#) (SOC) (9-0) (Rev and Rem)  
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](#)

**A representation on the record from defendant and defendant's counsel that counsel has explained the elements of the charge to the defendant is sufficient to show the voluntariness of the guilty plea.**

**Majority:** SOC (unanimous)  
**Concurring:** DHS RBG  
CT AS

68. [Mayle v. Felix](#) (RBG) (7-2) (Rev and Rem)  
[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](#)  
**An amended habeas petition does not relate back to the first petition (and thereby avoid AEDPA's one-year time limit) when it asserts a new ground for relief supported by facts that differ in time and type from those set forth in the original pleading.**  
**Majority:** RBG WHR, SOC, AS, AMK, CT, SGB  
**Dissenting:** DHS JPS

69. [Merck KGaA v. Integra Lifesciences I, Ltd.](#) (AS) (9-0) (Vac and Rem)  
[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](#)  
**Uses of patented inventions in preclinical research, the results of which are not ultimately included in a submission to the FDA, are protected by the drug research safe harbor of 35 U.S.C. §271(e)(1) as long as there is a reasonable basis for believing that the preclinical research will produce the types of information relevant to an investigational new drug application or new drug application.**  
**Majority:** AS Unanimous

70. [Graham County Soil & Water Conservation District v. U.S., ex rel. Wilson](#) (CT) (7-2)  
 (Rev and Rem)  
[Decis Below \(CA4\)](#) [Docket \(04-169\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
[SCOTUSblog](#)  
 Dates: Granted: 1/7/5 Argument: 4/20/5 Decided: 6/20/5  
 Categories: General Civil Business Statutory  
[Transcript](#) [Question Presented](#)  
**Retaliatory discharge actions under the False Claims Act are governed by the most closely analogous state limitation period.**  
**Majority:** CT WHR, SOC, AS, AMK  
 DHS (except n.2)  
**Concurring:** JPS  
**Dissenting:** SGB RBG

71. [Halbert v. Michigan](#) (RBG) (6-3) (Vac and Rem)  
Decis Below (CA MI) [Docket \(03-10198\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog

Dates: Granted: 1/7/5 Argument: 4/25/5 Decided: 6/23/5  
Categories: Criminal Non-Business Constitutional  
[Transcript](#) [Question Presented](#)

**The Due Process and Equal Protection Clauses require that counsel be appointed for an indigent defendant who has been convicted on the basis of a guilty plea but seeks first-tier review of a sentencing issue by the Michigan Court of Appeals.**

**Majority:** RBG JPS, SOC, AMK, DHS, SGB  
**Dissenting:** CT AS  
*in part* WHR (except Part III.B.3)

72. [Gonzalez v. Crosby](#) (AS) (7-2) (Aff)  
[Decis Below \(CA11\)](#) [Docket \(04-6432\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
SCOTUSblog

Dates: Granted: 1/14/5 Argument: 4/25/5 Decided: 6/23/5  
Categories: Criminal Non-Business Statutory  
[Transcript](#) [Question Presented](#)

**Habeas petitioners can pursue Rule 60(b) motions when merely attacking a defect in the integrity of the federal habeas proceeding but not when seeking to add a new ground for relief from the state conviction or attacking the federal court's previous resolution of a claim on the merits.**

**Majority:** AS WHR, SOC, AMK, CT, RBG, SGB  
**Concurring:** SGB  
**Dissenting:** JPS DHS

73. [American Trucking v. Michigan PSC](#) (SGB) (9-0) (Aff)  
Decis Below (CA MI) [Docket \(03-1230\)](#) Briefs: [ABA](#), [FL](#) [Medill Summary](#)  
[SCOTUSblog](#)

Dates: Granted: 1/14/5 Argument: 4/26/5 Decided: 6/20/5  
Categories: General Civil Business Constitutional  
[Transcript](#) [Question Presented](#)

**A state regulation imposing an annual \$100 fee on all trucks engaged in intrastate commerce does not violate the dormant commerce clause.**

**Majority:** SGB WHR, JPS, SOC, AMK, DHS, RBG  
**Conc. in Jmt.:** AS  
CT

74. [\*Mid-Con Freight Systems, Inc. v. Michigan PSC\*](#) (SGB) (6-3) (Aff)  
 [This case was initially consolidated with #72, *American Trucking v. Michigan PSC*. Please see links above for briefs, summaries, etc.]  
 Dates: Granted: 1/14/5 Argument: 4/26/5 Decided: 6/20/5  
 Categories: General Civil Business Constitutional  
**The Single State Registration System’s prohibition on additional “state registration requirements” for trucks engaged in interstate commerce, 49 U. S. C. 14504(b), does not preempt a state law imposing a \$100 fee on trucks based in the state and engaged in interstate commerce where (as here) the fee is unrelated to the SSRS’s objectives and is not an effort to circumvent the federal law’s requirements.**  
**Majority:** SGB JPS, AS, DHS, CT, RBG  
**Dissent:** AMK WHR, SOC
75. *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?
76. [\*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.**  
**Majority:** WHR Unanimous

## 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