

OPEN THREAD: SCOTUS DECISIONS [UPDATE-1]

[NB: check the byline, thanks. /~Rayne]

As noted the last two weeks, the end of the Supreme Court's term is just ahead; SCOTUS continues to dump clusters of decisions in a short time frame.

Will SCOTUS finally decide the question of presidential immunity posed in *Trump v. United States*? Your guess is as good as anybody else's.

Decisions released today follow in an update at the bottom of this post.

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Time-killing observations:

1 – **Stink:** The New York Times published an op-ed yesterday by University of Michigan's Prof. Leah Litman, a former clerk for retired Justice Anthony Kennedy: *Something's Rotten About the Justices Taking So Long on Trump's Immunity Case*, which Election Law Blog's Rick Hasen helpfully excerpts here.

It sure looks fishy that the conservative majority SCOTUS can make a decision inside three weeks related to COVID vaccinations for the benefit of corporations, but drags its feet for months about presidential immunity though *United States v. Nixon*, 418 U.S. 683 (1974) already offers plenty of guidance on the latter.

(It looks flashy, too.)

2 – **Head fake?** There's been considerable coverage of Justice Amy Coney Barrett's concurrent opinion in the "Trump Too Small" trademark decision, *Vidal v. Elster*. See The New Republic's Amy Coney Barrett Breaks With Supreme Court Originalists and Politico's Amy Coney Barrett may be poised to split conservatives on the Supreme Court.

That's all well and good but Coney Barrett

remained one of the majority in the 5-4 decision; she's still a conservative vote differing only in how she gets there – with or without Thomas's brand of originalism.

3 – **Unbenched:** One of the cases SCOTUS is expected to decide yet this term – City of Grants Pass v. Johnson – addresses municipalities prohibiting the homeless from sleeping in public spaces. What are homeless folks supposed to do if SCOTUS allows municipalities to continue with such prohibitions while housing inventory remains excessively tight and rents unfettered?

This case has haunted me this week during the heat dome much of the country has been experiencing. Imagine being unable to find a cool place to sleep at night – not even a park bench.

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UPDATE-1 – 10:25 AM – Today's decisions:

First decision: Moore v. United States

Justice Kavanaugh wrote the 7-2 majority decision which upheld the retroactive tax assessed on repatriated income under Trump's 2017 tax law changes. Suck on that "Trump Too Small" tax cut, MAGA.

That ethics-deprived jerk Alito refused to recuse himself on this one in spite of having been interviewed about the case by one of the lawyers involved.

Second decision: Chiaverini v. City of Napoleon, Ohio

Justice Kagan wrote the 6-3 majority decision for this case regarding malicious prosecution and probable cause.

Third decision: Diaz v. United States

Justice Thomas wrote the 6-3 majority opinion which surprisingly included Brown Jackson in the majority and with a concurring opinion; the dissent was written by Gorsuch with Sotomayor

and Kagan joining him.

I feel so bad for Diaz whose wretched taste in men was revealed by her foolishness in this case. I wonder if her sentence was shorter or longer than the amount of time she was romantically linked to her boyfriend.

Fourth decision: Gonzalez v. Trevino

This was a per curiam decision, read by Roberts; Alito wrote a concurrence, with Thomas the lone dissent.

This one probably deserves more attention considering the case concerns the effort to remove an elected official.

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Any further updates regarding these cases and SCOTUS will follow at the bottom of this post. This is an open thread.