

Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (June 20–June 26, 2022), Part 1

June 27, 2022

The federal courts issue hundreds of decisions every week in cases involving diverse legal disputes. This Sidebar series selects decisions from the past week that may be of particular interest to federal lawmakers, focusing on orders and decisions of the [Supreme Court](#) and precedential decisions of the courts of appeals for the [13 federal circuits](#). Selected cases typically involve the interpretation or validity of federal statutes and regulations or constitutional issues relevant to Congress’s lawmaking and oversight functions.

Some of the cases identified in this Sidebar, or the legal questions they address, are examined in other CRS general distribution products. Members of Congress and congressional staff may [click here](#) to subscribe to the *CRS Legal Update* and receive regular notifications of new products and upcoming seminars by CRS attorneys.

This week’s *Congressional Court Watcher* is divided into two parts because of the number of notable decisions issued over the past week. This Legal Sidebar discusses Supreme Court activity during the week of June 20–June 26, 2022, while a companion Legal Sidebar addresses decisions of the U.S. courts of appeals from that period.

Decisions of the Supreme Court

Last week, the Supreme Court issued decisions in 10 cases for which it heard oral arguments:

- **Abortion:** In upholding a state abortion restriction by a 6-3 vote, a five-Justice majority of the Court held that there is no constitutional right to an abortion and overruled earlier Court decisions in *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey* that recognized such a right. (Chief Justice Roberts, concurring in judgment but not joining the majority opinion, would have limited but not overruled *Roe* and *Casey*). Instead, the majority held that abortion restrictions are subject to the rational basis standard of review, meaning they will be sustained so long as there is a rational basis to believe a legislature could have thought the restrictions serve a legitimate government

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interest. While there might be some question as to whether a limited set of abortion restrictions satisfy this standard (e.g., if a restriction does not permit abortion if necessary to save the life of the mother), legal questions about restrictions on abortion access will no longer turn on fetal viability or whether such restrictions unduly burden the exercise of a constitutional right to abortion. Instead, many of the immediate legal questions surrounding abortion regulation will likely concern the constitutional powers of the states and federal government. These questions may include the scope of Congress's power, both direct and indirect, to regulate abortion access, such as through federal laws and policies that preempt inconsistent state approaches. Other questions may include whether certain state abortion bans or other restrictions are preempted already, such as through the Food and Drug Administration's regulation of medication abortion drugs. Questions might also concern the ability of a state to regulate travel by residents seeking abortions in other jurisdictions, including in another state or on tribal lands. Additional legal issues may center on the ability of states to impose criminal and civil liability upon persons who perform or obtain abortions generally, as well as in specific contexts, such as at federally operated facilities within the state (*Dobbs v. Jackson Whole Women's Health Org.*).

- **Civil Procedure:** In an 8-1 decision, the Court held that North Carolina's legislative leaders could intervene as a matter of right under [Federal Rule of Civil Procedure 24\(a\)\(2\)](#) in litigation to defend a voter identification law where the legislators asserted that the state board of elections, represented by the state attorney general, failed to vigorously defend the law. The state possessed a legitimate interest in ensuring that its laws were enforced, and state law granted the legislative leaders authority to represent state interests in court. The Court further held that a presumption that existing parties would adequately represent the intervenors' interests was "inappropriate when a duly authorized state agent seeks to intervene to defend a state law," and the interests of the Board and the legislators did not overlap fully (*Berger v. North Carolina State Conf. of the NAACP*).
- **Civil Rights:** The Supreme Court decided by a 6-3 vote that the failure to provide a criminal suspect with *Miranda* warnings, which may lead to the exclusion of unwarned statements made by the suspect in a later criminal proceeding, does not provide a basis for bringing a claim under [42 U.S.C. § 1983](#) against the state police officer who failed to provide the warnings (*Vega v. Tekoh*).
- **Criminal Law & Procedure:** By a 5-4 vote, the Court ruled that [42 U.S.C. § 1983](#) was an appropriate procedural vehicle for a state prisoner's constitutional challenge to the method of his planned execution (*Nance v. Ward*).
- **Criminal Law & Procedure:** In a 7-2 decision, the Court ruled that a criminal defendant convicted of attempted robbery under the [Hobbs Act](#) did not commit a "crime of violence" under [18 U.S.C. § 924\(c\)\(3\)\(A\)](#), which would have resulted in the defendant facing enhanced penalties. The Court determined the Hobbs Act offense was not a "crime of violence" because a defendant need not use or threaten or attempt to use force to be convicted (*United States v. Taylor*).
- **Firearms:** In a 6-3 decision, the Court struck down New York's requirement that an applicant for an unrestricted license to carry a handgun outside the home for self-defense must establish proper cause, ruling that the requirement conflicts with the Second Amendment (as made applicable to the states through the Fourteenth Amendment). In doing so, the Court recognized that the Second Amendment protects a right that extends beyond the home and also clarified the proper test for evaluating Second Amendment challenges to firearms laws, rejecting a so-called two-step methodology employed by

many of the lower courts in favor of an approach rooted in text and the historical tradition of firearms regulation (*New York State Rifle & Pistol Ass’n, Inc. v. Bruen*).

- **Health:** The Court held in a 7-2 opinion that a health plan did not unlawfully discriminate against persons with end-stage renal disease in violation of the [Medicare Secondary Payer Act](#). The majority held that a plan that reimburses all plan participants at notably lower rates for kidney dialysis (a service used disproportionately, but not exclusively, by persons with end-stage renal disease) did not violate the statute’s prohibition against differentiating between individuals with and without end-stage renal disease (*Marietta Memorial Hospital Employee Health Benefit Plan v. DaVita, Inc.*).
- **Health:** In a 5-4 opinion, the Court upheld a Department of Health and Human Services regulation addressing Medicare Part A payments for covered hospitals serving a disproportionate share of low-income individuals who might have their care paid for by Medicare. The regulation construed the Medicare statute’s use of the term “entitled to [Part A] benefits” to cover all patients eligible for Medicare benefits, and not just those patients whose care was paid for by Medicare. The majority concluded that this interpretation was consistent with the text, content, and structure of the [governing statute](#) (*Becerra v. Empire Health Foundation*).
- **Labor & Employment:** The Court unanimously held that a state workers’ compensation law, which applied exclusively to federal employees and contractors at a decommissioned federal nuclear production site, could not be enforced on account of constitutional principles of intergovernmental immunity (*United States v. Washington*).
- **Religion:** In a 6-3 decision, the Court held that Maine violated the First Amendment’s Free Exercise Clause by excluding sectarian schools from a program providing tuition assistance for parents who live in school districts without a public secondary school. The panel held that the exclusion could not withstand strict scrutiny, rejecting the state’s concerns about the schools using public funds for religious activities (*Carson v. Makin*).

The Supreme Court also granted certiorari in two cases for its next term:

- **Banking:** On appeal from the Fifth Circuit, the Court is asked to resolve a split among the lower courts over the interpretation of the [Bank Secrecy Act \(BSA\)](#). The BSA requires reporting of certain financial interests in foreign bank accounts and establishes penalties for each violation. The Court is asked whether the failure to file the necessary form is a single violation, regardless of how many accounts might have been reported on that form, or whether each undisclosed account constitutes a separate violation (*United States v. Bittner*).
- **Civil Procedure:** The [False Claims Act \(FCA\)](#) empowers the federal government to bring claims against those who defraud the United States. The FCA also allows private parties to bring claims on the government’s behalf and recover a share of the proceeds of the action (qui tam actions), but permits the government to seek dismissal of those actions. The Court agreed to review a case from the Third Circuit regarding whether the United States may obtain dismissal of a qui tam action even after it initially declined to proceed with an FCA suit. Assuming that the government has authority to seek dismissal, the Court is also asked whether the Federal Rules of Civil Procedure constrain that authority (*United States ex rel. Polansky v. Executive Health Resources, Inc.*).

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