



Congressional Court Watcher: Recent Appellate Decisions of Interest to Lawmakers (June 19–June 25, 2023), Part 1

June 26, 2023

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 [thirteen 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 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 (Part 1) discusses Supreme Court activity from June 19 through June 25, 2023. A forthcoming companion Legal Sidebar (Part 2) addresses decisions of the U.S. courts of appeals from that period.

Decisions of the Supreme Court

Last week, the Supreme Court issued eight decisions in cases where it had heard arguments:

- **Arbitration:** The Court ruled 5-4 that an interlocutory appeal from a district court order denying a motion to compel arbitration under the [Federal Arbitration Act](#) requires the district court to stay adjudication of proceedings pending resolution of the question of arbitrability (*Coinbase, Inc. v. Bielski*).
- **Criminal Law & Procedure:** In consolidated cases, the Court clarified in a 6-3 decision that under *RJR Nabisco, Inc. v. European Community*—which held that a plaintiff has a cognizable private right of action under the [Racketeer Influenced and Corrupt Organizations Act](#) only by alleging a “domestic injury” to business or property—

Congressional Research Service

<https://crsreports.congress.gov>

LSB10984

determining whether a plaintiff suffered a “domestic injury” is a context-specific inquiry, focusing on whether the circumstances surrounding the injury show it arose in the United States. The Court declined to establish a bright-line rule treating the location of the plaintiff’s residence as determinative (*Yegiazaryan v. Smagin*; *CMB Monaco v. Smagin*).

- **Criminal Law & Procedure:** The Court held, in a 6-3 ruling, that while a federal inmate may file a federal habeas corpus petition under 28 U.S.C. § 2241 when a second or successive collateral attack under 28 U.S.C. § 2255 may be “inadequate or ineffective to test the legality of his detention,” § 2255 is not inadequate where the Supreme Court has issued a new interpretation of a criminal statute that circuit precedent had foreclosed at the time of the inmate’s trial, appeal, and first § 2255 motion. The Court emphasized that a § 2241 petition cannot act as an end-run around the requirement that a second or successive § 2255 motion can be filed only if there is “newly discovered evidence” or “a new rule of constitutional law.” (*Jones v. Hendrix*).
- **Criminal Law & Procedure:** Affirming the lower appellate court’s judgment by a 6-3 vote, the Court held that the Sixth Amendment’s **Confrontation Clause**—which, among other things, generally gives criminal defendants the right to cross-examine witnesses against them—was not violated when a co-defendant’s confession was admitted in a joint trial, but the confession was altered in order to not directly inculcate the non-confessing co-defendant. The majority concluded that the alterations (which used “the other person” in place of the non-confessing co-defendant’s name), coupled with a limiting instruction that the confession could not be used against the non-confessing co-defendant, satisfied Sixth Amendment requirements (*Samia v. United States*).
- **Immigration:** In consolidated cases, the Court held 6-3 that to qualify as an “offense related to the obstruction of justice” constituting an aggravated felony under 8 U.S.C. § 1101(a)(43)(S) of the Immigration and Nationality Act, the predicate offense need not be the subject of a pending investigation or judicial proceeding. Examples of offenses covered under this expansive interpretation, the Court suggested, might include situations where a defendant threatened a witness to prevent that witness from reporting a crime (*Pugin v. Garland*; *Garland v. Cordero-Garcia*).
- **Immigration:** By an 8-1 vote, the Court ruled that state plaintiffs failed to satisfy constitutional standing requirements to challenge a 2021 **Department of Homeland Security (DHS) memorandum** setting forth immigration arrest and removal priorities and guidance for immigration officers. The controlling opinion, joined by five Justices, emphasized the executive branch’s traditional enforcement discretion, and decided that precedent and historical practice counseled against the judiciary entertaining a suit requesting it to direct DHS to alter its enforcement policies to make more arrests. The ruling effectively enables DHS to implement the 2021 memorandum, which had been vacated by a lower court (*United States v. Texas*).
- **Immigration:** In a 7-2 ruling, the Court held that 8 U.S.C. § 1324(a)(1)(A)(iv), which makes it a criminal offense to “encourage or induce” an alien to illegally enter or reside in the United States, is not constitutionally overbroad, reaching no further than the purposeful solicitation or facilitation of specific acts known to be unlawful (*United States v. Hansen*).
- **Indian Law:** By a 5-4 vote in consolidated cases, the Court held that the United States does not have a judicially enforceable trust responsibility under treaties with the Navajo Nation to take affirmative steps to ensure the Nation has an adequate water supply, including through waters supplied from the mainstream Colorado River (*Arizona v. Navajo Nation*; *Dep’t of the Interior v. Navajo Nation*).

-

The Court also granted certiorari in one case for the October 2023 Term:

- **Sovereign Immunity:** The Court has been asked to resolve to circuit split on whether the [Fair Credit Reporting Act](#)—which defines a “person” subject to the act’s substantive requirements as including a “government or governmental subdivision or agency”—unambiguously waives the federal government’s sovereign immunity allowing the United States to be held liable for civil damages under the act (*Dep’t of Agric. v. Kirtz*).

Author Information

Michael John Garcia
Deputy Assistant Director/ALD

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS’s institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.