

Supreme Court: October Term 2015

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I. Criminal procedure

A. Fourth Amendment

Utah v. Streiff, 136 S.Ct. 2056 (2016). Evidence seized incident to a lawful arrest on an outstanding warrant should not be suppressed when the warrant was discovered during an investigatory stop later found to be unlawful. Discovery of a valid, pre-existing, and untainted arrest warrant attenuated the connection between the unconstitutional investigatory stop and the evidence seized incident to a lawful arrest.

Birchfield v. North Dakota, 136 S.Ct. 2160 (June 23, 2016). In the absence of a warrant, a state may make it a crime for a person to refuse to take a breath test, but not a blood test, to detect the presence of alcohol in the person's blood.

B. Due process

Williams v. Pennsylvania, 136 S.Ct. 1899 (2016). Under the Due Process Clause, there is an impermissible risk of actual bias when a judge earlier had significant, personal involvement as a prosecutor in a critical decision regarding the defendant's case.

Foster v. Chatman, 136 S.Ct. 1737 (2016). (1) The Court has jurisdiction to review the judgment of the Georgia Supreme Court denying Timothy Foster a certificate of probable cause on his claim, under *Batson v. Kentucky*, that the state's use of peremptory challenges to strike all four black prospective jurors qualified to serve on the jury for his capital murder trial was racially motivated; and (2) the decision of the Georgia Supreme Court that Foster failed to show purposeful discrimination was clearly erroneous.

II. Constitutional rights

A. Freedom of Speech

Friedrichs v. California Teachers Association, 136 S.Ct. 1083 (2016). Affirmed by an evenly divided Court. (1) Whether *Abood v. Detroit Board of Education* should be overruled and public-sector "agency shop" arrangements invalidated under the First Amendment; and (2) whether it violates the First Amendment to require that public employees affirmatively object to

subsidizing nonchargeable speech by public-sector unions, rather than requiring that employees affirmatively consent to subsidizing such speech.

Heffernan v. City of Patterson, 136 S.Ct. 1412 (2016). The First Amendment bars the government from demoting a public employee based on a supervisor's perception that the employee supports a political candidate.

B. Voting

Evenwel v. Abbott, 136 S.Ct. 1120 (2016). The “one-person, one-vote” principle under the Equal Protection Clause allows States to use total population, and does not require States to use voter population, when apportioning state legislative districts.

C. Reproductive rights

Whole Women’s Health v. Cole, 136 S.Ct. 2292 (2016). Texas law restricting access to abortion – by requiring doctors have admitting privileges at a hospital within 30 miles of where an abortion is performed and requiring facilities to have surgical level facilities -- creates an impermissible undue burden on a woman’s right to abortion.

Zubik v. Burwell, 136 S.Ct. 1557 (2016). Whether the HHS contraceptive-coverage mandate and its “accommodation” violate the Religious Freedom Restoration Act by forcing religious nonprofits to act in violation of their sincerely held religious beliefs, when the government has not proven that this compulsion is the least restrictive means of advancing any compelling interest. Case remanded to the Courts of Appeals for possible settlement.

D. Equal protection

Fisher v. University of Texas, Austin, 136 S.Ct. 2198 (2016). The University of Texas affirmative action program that uses race as one factor among many in admissions decisions is constitutional.

III. Executive power

United States v. Texas, 136 S.Ct. 2271 (2016). Affirmed by an evenly divided Court. (1) Whether a state that voluntarily provides a subsidy to all aliens with deferred action has Article III standing and a justiciable cause of action under the Administrative Procedure Act (APA) to challenge the Secretary of Homeland Security’s guidance seeking to establish a process for considering deferred action for certain aliens because it will lead to more aliens having deferred action; (2) whether the guidance is arbitrary and capricious or otherwise not in accordance with law; (3) whether the guidance was subject to the APA’s notice-and-comment procedures; and (4) whether the guidance violates the Take Care Clause of the Constitution, Article II, section 3.