

**Supreme Court: October Term 2017**

**American Judges Association  
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**I. Criminal procedure**

**A. Fourth Amendment**

Byrd v. United States, 138 S.Ct. 1518 (2018). A driver has a reasonable expectation of privacy in a rental car when he has the renter's permission to drive the car but is not listed as an authorized driver on the rental agreement.

United States v. Carpenter, 138 S.Ct. 2206 (2018). The warrantless seizure and search of historical cellphone records revealing the location and movements of a cellphone user over the course of 127 days is not permitted by the Fourth Amendment.

Collins v. Virginia, 138 S.Ct. 1663 (2018). The Fourth Amendment's automobile exception does not permit the warrantless entry of a home or its curtilage in order to search a vehicle therein.

**B. Sixth Amendment right to counsel.**

McCoy v. Louisiana, 138 S.Ct. 1500 (2018). The Sixth Amendment guarantees a defendant the right to choose the objective of his defense and to insist that his counsel refrain from admitting guilt, even when counsel's experienced-based view is that confessing guilt offers the defendant the best chance to avoid the death penalty.

**II. First Amendment**

Masterpiece Cakeshop Ltd. v. Colorado Civil Rights Commission, 138 S.Ct. 1719 (2018). The Colorado Civil Rights Commission's actions in assessing a cakeshop owner's reasons for declining to make a cake for a same-sex couple's wedding celebration violated the free exercise clause because of the expression of hostility to religion.

National Institute of Family and Life Advocates v. Becerra, 138 S.Ct. 2361 (2018). Whether the disclosures required by the California Reproductive FACT Act violate the protections set forth in the free speech clause of the First Amendment, applicable to the states through the 14th Amendment.

Janus v. American Federation, 138 S.Ct. 2448 (2018). Abood v. Detroit Board of Education is overruled. Non-union members cannot be forced to pay the share of the union dues that support the collective bargaining activities of the union.

Minnesota Voters Alliance v. Mansky, 138 S.Ct. 1876 (2018). Section 211B.11, which broadly bans all political apparel at the polling place, is facially overbroad under the First Amendment.

### **III. Immigration**

Trump v. Hawaii, 138 S.Ct. 2392 (2017). President Trump's proclamation limiting immigration from eight designated countries is consistent with federal law and does not violate the Establishment Clause of the First Amendment.

### **IV. Voting rights**

Gill v. Whitford, 138 S.Ct. 1916 (2018). Challenge to partisan gerrymandering in Wisconsin is dismissed for lack of standing.

Abbott v. Perez, 138 S.Ct. 2305 (2018). The district court disregarded the presumption of legislative good faith and improperly reversed the burden of proof when it required the state to show a lack of discriminatory intent in adopting new districting plans; one of the challenged state house districts is an impermissible racial gerrymander.

Husted v. A. Philip Randolph Institute, 138 S.Ct. 1833 (2018). The process that Ohio uses to remove voters on change-of-residence grounds does not violate the National Voter Registration Act.

### **V. Federalism**

Murphy v. NCAA, 138 S.Ct. 1461 (2018). Provisions of the Professional and Amateur Sports Protection Act that prohibit state authorization and licensing of sports gambling schemes violate the Constitution's anticommandeering rule; no other PASPA provisions are severable from the provisions at issue.

South Dakota v. Wayfair, Inc., 138 S.Ct. 2080 (2018). A state may require out-of-state businesses to collect sales tax from a state so long as the business has a substantial nexus to the taxing state.

### **VI. Federal statutes**

Epic Systems v. Lewis, 138 S.Ct. 1612 (2018) Congress has instructed in the Federal Arbitration Act that arbitration agreements providing for individualized proceedings must be enforced, and neither the Arbitration Act's saving clause nor the National Labor Relations Act suggests otherwise.