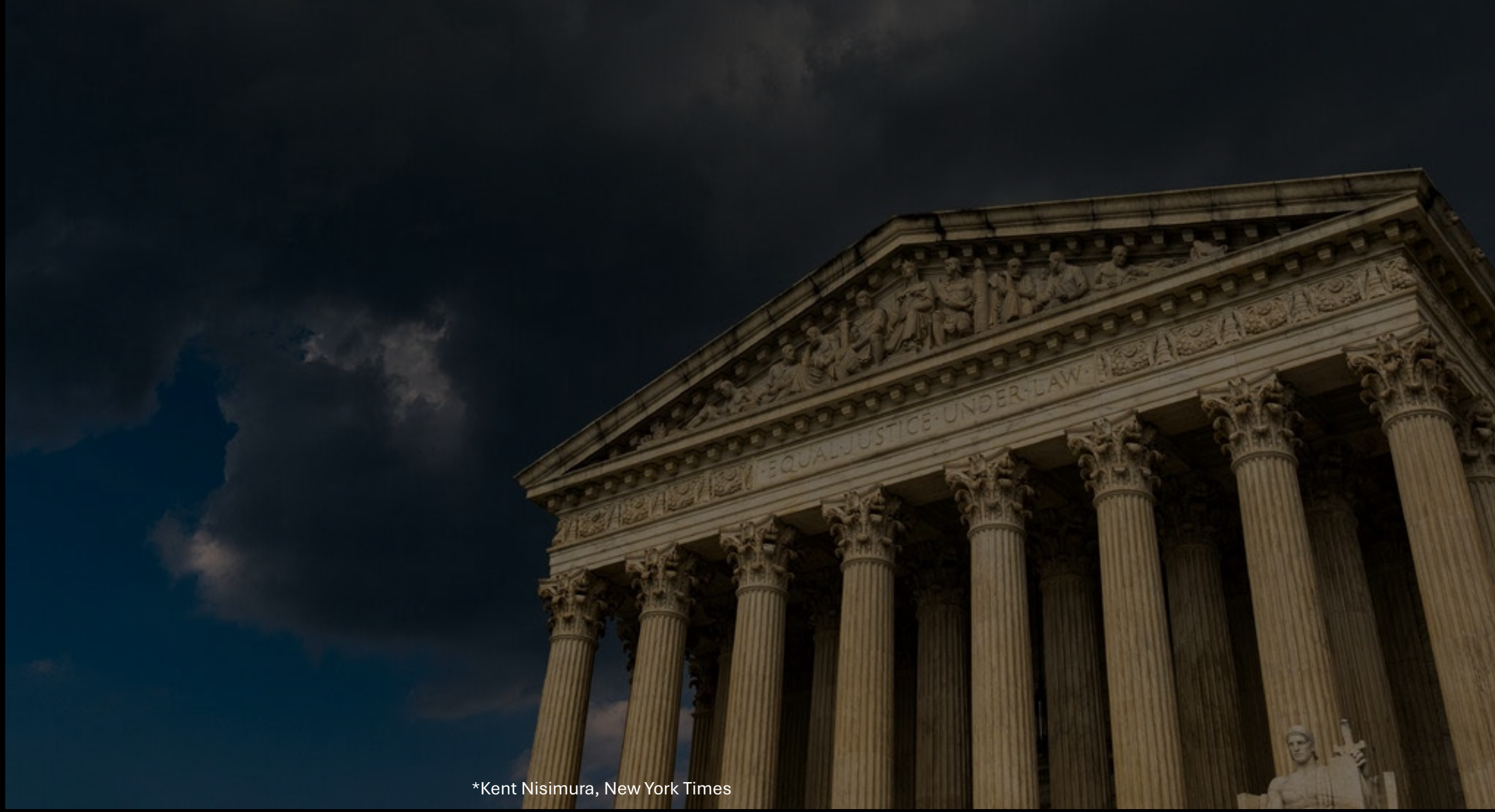


*Kent Nisimura, New York Times

Supreme Court Review October Term 2025-26

September 9, 2026

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Statistics (SCOTUSblog StatPack)

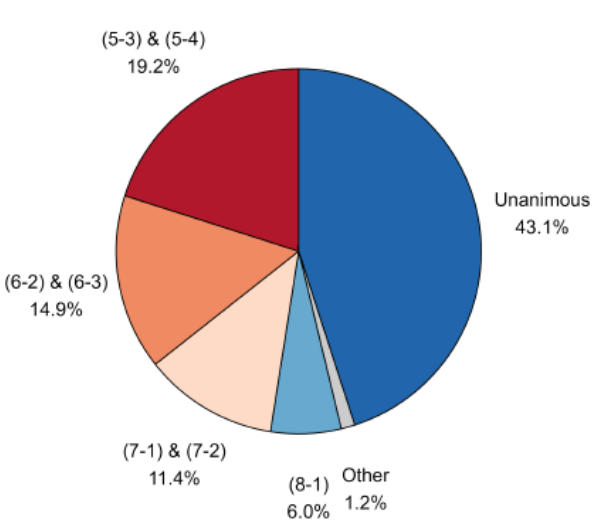
- 67 cases decided
- 58 of the cases came from U.S. Courts of Appeals
- Reversal rates
  - Second 6 of 9
  - Fourth 7 of 8
  - Fifth 8 of 11
  - Ninth 6 of 7
  - CADC 4 of 6

Opinions by the Numbers

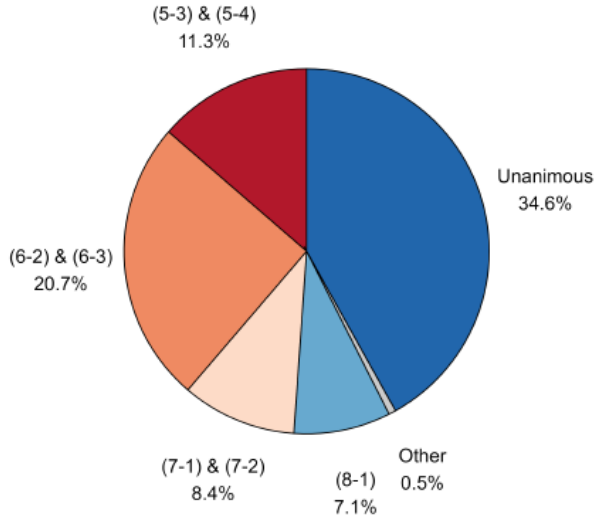
- Most opinions written (including majority, concurring, and dissenting)
  - Justice Thomas 28
  - Justice Jackson 26 (most dissents – 10)
- Fewest opinions written
  - Chief Justice Roberts 6
- Most frequently in the majority
  - Chief Justice Roberts and Justice Kavanaugh 95%
- Least
  - Justice Jackson 67%

Decisions by Vote Split – All Cases

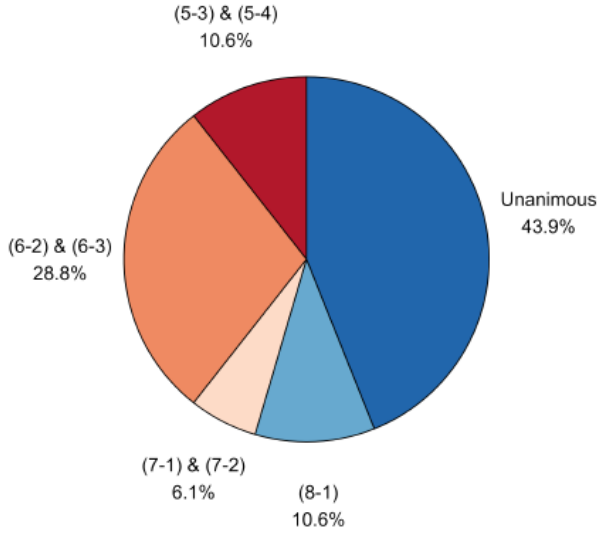
2005-2024 Terms



2020-2024 Terms



2025-26 Term

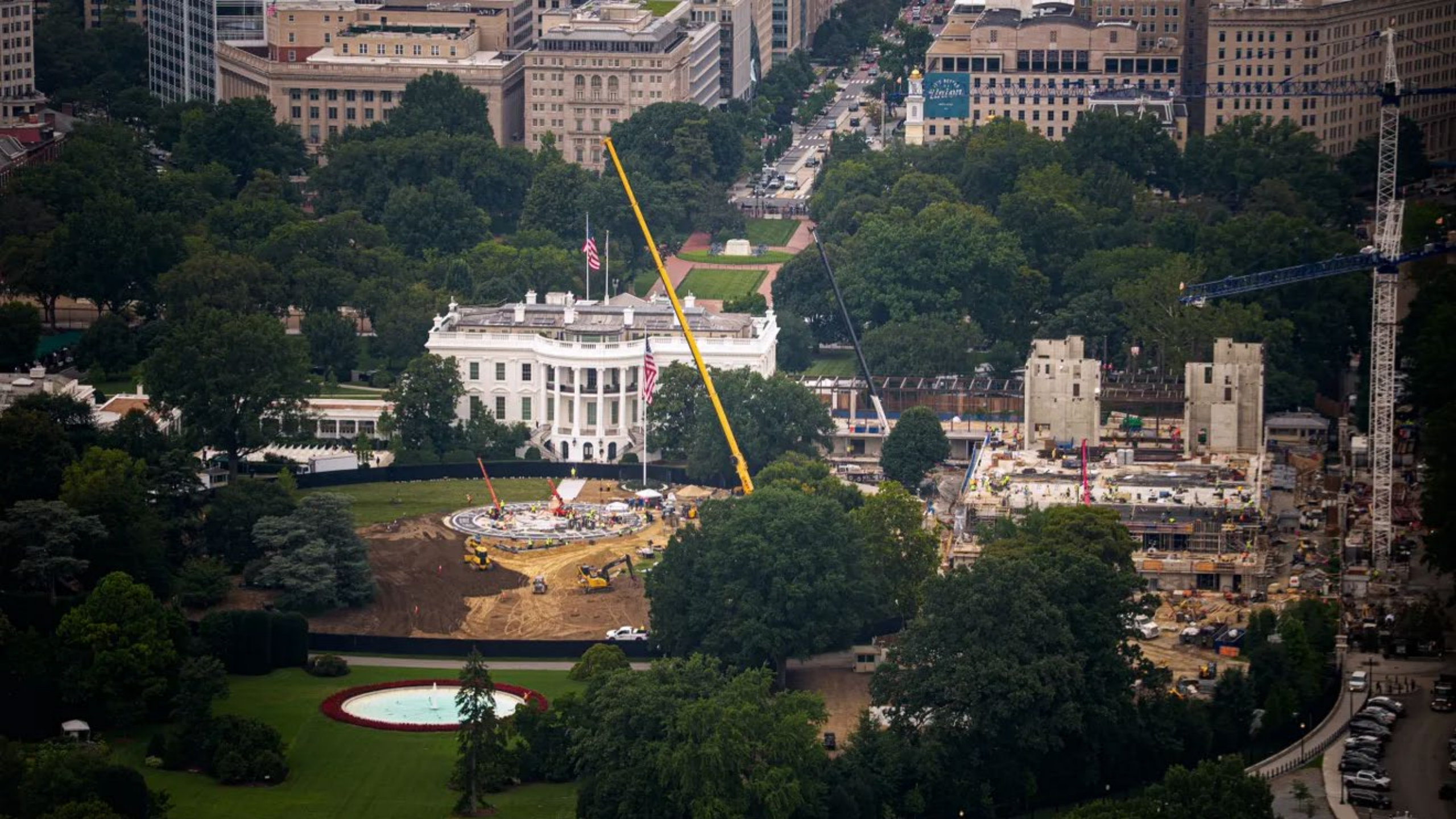


Description: Figures show the percent of cases decided by different coalition sizes between the 2005 and 2025 terms. For instances where justices were recused or did not participate in an otherwise unanimous decision, we coded these as *unanimous* (e.g., 8-0 decisions were included in calculating 9-0 coalitions).

*SCOTUSblog StatPack

Cases

- *Nat'l Park Serv. v. Nat'l Trust for Historic Preservation in the U.S.* (standing)
- *Trump v. Barbara* (birthright citizenship)
- *West Virginia v. B.P.J.* (transgender rights)
- *Chiles v. Salazar* (conversion therapy counseling)
- *Mirabelli v. Bonta* (parental rights to obtain information from schools about the transgender status of their children)
- *Landor v. Louisiana Department of Corrections* (RLUIPPA)
- *United States v. Hemani* (Second Amendment)
- *Woolford v. Lopez* (Second Amendment)



Nat'l Park Serv. v. Nat'l Trust for Historic Preservation in the U.S.

No. 26A203, 2026 WL 2564318 (Aug. 31, 2026)

An (emergency) (interim) (shadow) docket case

- The federal government started a construction project to replace the White House East Wing.
- Demolition was completed in December 2025.
- The next phase (ongoing) involves the construction of a new East Wing, along with an underground military installation and an above-ground ballroom.
- The National Trust for Historic Preservation in the United States is a nonprofit working in the field of historic preservation.
- It challenged various aspects of the project in a lawsuit in the United States District Court for the District of Columbia.

- The Trust filed a motion on March 5, 2026, seeking a preliminary injunction that focused on halting ongoing construction of the new East Wing.
- The district court granted the injunction on March 31.
- On April 17, the U.S. Court of Appeals for the District of Columbia stayed the injunction while it considered the government's appeal.
- The D.C. Circuit indicated that its existing stay would expire on August 21, 2026, which would allow the district court's injunction to take place.
- The government filed a motion with the Supreme Court to stay the district court's injunction.
- The Supreme Court granted the requested stay.

The Court’s Opinion

- The Court held in a per curiam opinion that “[t]he government . . . is likely to succeed on the merits of a significant legal question, that it would likely suffer irreparable harm without a stay, and that the balance of equities tips in its favor.”

On the Merits - Standing

- Article III standing requires “injury in fact” (“invasion of a legally protected interest.”(*Lujan v. Defenders of Wildlife* (1992)).
- The Trust’s standing is based on the declaration of Alison K. Hoagland, stating that she lives in D.C. and anticipated visiting the area around the White House perhaps once a month.
- She alleged that she would suffer injuries to her “aesthetic, cultural, and historical interests” of the project.
- No Supreme Court precedent holds that there is standing in similar circumstances. There is no “concrete and particularized injury.”
  - Distress over or disagreement with the actions of a defendant is insufficient.

Roberts, C.J. (Justices Sotomayor, Kagan, and Jackson), dissenting

- The construction of the ballroom “is likely unlawful.”
- Hoagland’s aesthetic injury is both concrete and particularized as to her.
- “The White House is not just any building, and—when it comes to historic preservation—Hoagland is not just any person. In failing to appreciate as much, the Court misconceives the plaintiff's injury, allowing the Executive's likely infringement of the Legislature's power of the purse and authority to regulate federal property in the District of Columbia to continue. Today's decision is no victory for the separation of powers.”

- “Winston Churchill once remarked that ‘[w]e shape our buildings, and afterwards our buildings shape us.’ . . . All the more reason to ensure that those responsible follow the rules in deciding what to tear down and what to build up at the People's House.”

Trump v. California, No. 26A124, No. 26A139
2026 WL 247573, at *10 (Aug. 24, 2026) (Jackson, J., dissenting)

- Executive Order requiring changes to the standard vote-by-mail systems that have been traditionally administered by the States.
- “The Court should have remained focused on what matters under our stay precedents: whether the District Court's injunction is harming the Government in a manner that warrants equitable relief. Where a significant underlying dispute as to the lawfulness of the Government's behavior is pending in the lower courts, allowing the Government to obtain interim relief based on isolated, threshold concerns about the justiciability of the plaintiffs’ claims facilitates a patently inequitable Catch-Me-If-You-Can approach to pursuing the President's policy agenda.”

And next?
Lemmon v. Trump, Civ. No. 26-544 (D.D.C. Feb. 19, 2026)



The Fourteenth Amendment
Section 1

- All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Birthright Citizenship

Trump v. Barbara

146 S. Ct. 2438 (2026)

Executive Order 14160 (January 20, 2025)

- “Among the categories of individuals born in the United States and not subject to the jurisdiction thereof, the privilege of United States citizenship does not automatically extend to persons born in the United States: (1) when that person's mother was unlawfully present in the United States and the father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) when that person's mother's presence in the United States at the time of said person's birth was lawful but temporary (such as, but not limited to, visiting the United States under the auspices of the Visa Waiver Program or visiting on a student, work, or tourist visa) and the father was not a United States citizen or lawful permanent resident at the time of said person's birth.”

Context

- History
  - English common law
    - Sovereign's power turns on the presence of subjects.
    - No distinctions based on race or color.
  - United States
    - Southern States, pre-Civil War, intended to deny citizenship to Black Americans, rejecting the English common law view.
    - *Dred Scott v. Sandford (1857)* cemented that view – citizenship excluded all who were descended from slaves, even if born in the U.S. and owed allegiance to the government.
  - The citizenship clause of the Fourteenth Amendment changed that.

- The Citizenship Clause mirrored the English common law requirements for citizenship.
  - A child must be “born . . . in the United States.”
  - A child must be “subject to the jurisdiction of the United States.”
  - “A child born on American soil and subject to American law was made an American citizen.”

“Subject to the jurisdiction”

- “The Citizenship Clause uses jurisdiction in its ordinary sense—referring to the power of the United States to govern those within its territory.”
- Just like *jus soli*, a sovereign's jurisdiction made no exception for those only temporarily present within the sovereign's territory.
- Instead, nearly everyone within the territorial boundaries of the United States was “amenable to” its jurisdiction.

United States v. Wong Kim Ark, 169 U.S. 649 (1898)

—



- “What the Court held in *Wong Kim Ark* was simple: the Citizenship Clause incorporated the common law and granted citizenship to nearly all children born in the United States. Not surprisingly, then, in the 128 years since, we have repeatedly understood the rule of *Wong Kim Ark* to guarantee citizenship to all children born in the United States and subject to its power.”

What about allegiance?

- Citizenship turns on allegiance (not domicile).
- The common law rule was “that a natural ‘allegiance’ arises for all children who are ‘born here . . . under the protection of the sovereign.’”
- *Wong Kim Ark* “traced an unbroken line from the English common law, into the founding and antebellum eras, and through the debates, to the Clause’s ratification. Yet at no point did the Court identify any evidence in the historical record that the ratifiers of the Fourteenth Amendment thought themselves to be imposing a domicile limitation.”

The problem with the executive order

- “Words appearing frequently in the Executive Order—’mother,’ “father,” ‘lawful,’ ‘temporary’—are absent from the Clause. For a simple reason: they did not matter. And while the Clause does ensure state citizenship attaches for U. S. citizens in ‘the State wherein they reside,’ . . . the explicit invocation of residence for state citizenship only highlights its absence from the criteria for U. S. citizenship.”

- “Citizenship, then and now, was the right to have rights—to freely participate in our political community. The Framers of the Fourteenth Amendment extended that promise to ‘every free-born person in this land.’ . . . We keep that promise today.”

Justice Jackson (Justice Sotomayor), concurring

—

- The interpretation of the Citizenship Clause should not be tied to *Dred Scott* (the position of the government and dissents).
- “[T]he Fourteenth Amendment's universalist aims should forever be the death knell for this kind of claim—one that seeks to make bloodline the marker of birthright. The America that was reborn from the rubble of the Civil War simply does not countenance that inequitable result. Thankfully, a majority of the Court remembered this today, and has dutifully preserved the most basic animating principle of our Nation's founding—that all human beings are created equal—once more.”

Justice Kavanaugh, concurring

- He would have decided the case on the narrower ground that the executive order violated the controlling statute governing citizenship (8 U.S. Code § 1401), which tracks the Fourteenth Amendment.

Justice Thomas (Justice Gorsuch) dissenting

- “[T]he Court has repurposed the Fourteenth Amendment to protect its own set of preferred rights that the Reconstruction Congress never contemplated and that cannot find support in its text. Today, the Court does so again by recognizing a constitutional right to citizenship for the children of all foreign birth tourists and illegal aliens.”
- “I am not sure that today's opinion will stand the test of time. The Citizenship Clause “added greatly to the dignity and glory of American citizenship.”

Justice Alito, dissenting

- This is one of the most important decisions in the history of the Court, and in my judgment, the Court has made a serious mistake. As interpreted by the Court today, the Fourteenth Amendment confers citizenship on virtually everyone who happens to be born in this country, including the children of ‘birth tourists,’ women who come here solely for the purpose of giving birth to a child and then promptly return home. Careful analysis of the text of the Fourteenth Amendment and the process that led to its adoption shows that it does not degrade the concept of United States citizenship in this way. Instead, the Fourteenth Amendment confers citizenship on only those children who, at birth, owe allegiance solely to this country.”

And next?
Executive Order 14418 (Aug. 11, 2026)

- *Casa, Inc. v. Trump*, Civ. No. DLB-25-201, 2026 WL 2592706 (D. Md. Sept. 2, 2026)

Transgender Discrimination

West Virginia v. B.P.J.

146 S. Ct. 2356 (2026)

The Challenged Statutes

- West Virginia enacted the Save Women's Sports Act, which prohibited male students from playing on female teams.
- Idaho enacted the Fairness in Women's Sports Act, which prohibits males from participating on female teams.
- Sex is determined by biology in both statutes.

The Argument

- The plaintiffs argued that both statutes violated the Equal Protection Clause of the Fourteenth Amendment.
- B.J.P. also argued that the West Virginia statute violated Title IX.

An Aside (things to come)

- The Court specifically noted that “these cases do not present the distinct question of whether, under Title IX and the Equal Protection Clause, schools may *allow* biological males who identify as female to participate on girls’ and women's sports teams.” 146 S. Ct. at 2367 n.1.

The Fourteenth Amendment and Title IX

- Title IX provides that “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
- Title IX did not originally address sports, but pursuant to the Javits Amendment (1974), the then-Department of Health, Education issued regulations to prevent sex discrimination in sports.
- The regulations required equal opportunities for members of both sexes where selection is based on “competitive skill or the activity involved is a contact sport.”

The Holdings

- In a unanimous opinion, the Court held that the statutes did not violate Title IX. (Kavanaugh, J.).
- In a 6-3 opinion, the Court held that the statutes did not violate the Equal Protection Clause.

Title IX

- The ordinary meaning of the term “sex” when Title IX was enacted “in the early 1970s was biological sex and not gender identity, particularly in the sports context.”
- Title IX permits separate sports teams precisely because of those biological differences.

- B.P.J.’s argument doesn’t seriously contest that “sex” means biological sex and that in *most cases* schools are permitted to maintain separate male and female teams.
- The issue, then?
  - Does the rule require an exception for biological males identifying as female and who have taken puberty blockers?

- B.J.P. argued that the directive of the Javits Amendment was to adopt *reasonable* regulations concerning sports, and that regulations limiting women's sports to biological females are not reasonable.
- No, said the Court.
  - The regulations *are* reasonable (safety and fair competition are promoted).
  - Whether biological males may play on women's teams is a debatable policy issue but "[a]s a matter of text and history, West Virginia may do so."

Equal Protection

- Both statutes were challenged on equal protection grounds.
- Intermediate scrutiny applies to sex-based classifications.
  - Classification must be “substantially related” to an “important” governmental interest.
  - This is a sex-based classification because the laws limit participation of women’s and girls’ sports teams to biological females.
- The States’ interests in safety and competitive fairness justify the differential treatment.

- But, the plaintiffs argue, that's just in *most* cases.
- The Court rejected the argument.
- The government's action has to be judged in relation to the general problem it addresses, rather than "'the extent to which it furthers the Government's interest in an individual case.'"
- In the distinctive sports context . . . the States may treat all biological males the same and treat all biological females the same, given the inherent physical differences between biological males and biological females.
- Allowing the argument would be backdoor strict scrutiny.

Transgender Discrimination

- Is there unconstitutional discrimination based on transgender status (biological males who identify as female)?
- The Court rejects it.
  - The laws do not classify on the basis of gender identity or transgender status. *See United States v. Skrmetti,* 605 U.S. 495 (2025) (Tennessee ban on puberty blockers and hormone therapy not an Equal Protection violation).
  - Even if, the Court has never taken that position.
  - And even, even if, it is unnecessary to reach the issue because the laws in question satisfy rational basis review.

Sotomomayor, J. (Kagan, J. and Jackson, J.) concurring in the judgment in part and dissenting in part

- They concur on the Title IX issue, given B.J.P.’s concession.
- They dissent on the Equal Protection issue, concluding that the Court should have remanded for additional fact-finding on the issue.
- Factual disputes like this relate to the fit of the classification and whether it survives heightened scrutiny.

First Amendment

Chiles v. Salazar

607 U.S. 627 (2026)

Colorado's Conversion Therapy Law

- Colorado prohibits counselors licensed in Colorado from engaging in "conversion therapy" with minors.
- Conversion therapy includes
  - "any practice or treatment . . . that attempts . . . to change an individual's sexual orientation or gender identity."
  - any efforts "to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions toward individuals of the same sex."
- Counselors may provide counseling for "[a]cceptance, support, and understanding for . . . identity exploration and development," and to aid those who are "undergoing gender transition."

- Kaley Chiles, a licensed counselor in Colorado, sued in federal court, seeking a preliminary injunction against the law.
- The lower courts denied the request, holding that the law regulated professional conduct with only an incidental impact on speech.

The Supreme Court

- In an 8-1 opinion (Gorsuch, J.) the Court held the law unconstitutional because it discriminated on the basis of viewpoint, which is “an egregious form” of content-based regulation.
- Strict scrutiny applies.
- The limited exceptions “are few and narrowly drawn, and all share a long and well-recognized historical pedigree.” (*E.g.*, fraud, defamation and fighting words).
- There are more specific principles.
  - If a law regulates the content of the speech, heightened scrutiny applies even if the law primarily regulates non-expressive conduct.

Two professional speech-related exceptions

- A lower level of scrutiny applies
  - When a law requires "speakers to disclose only factual, noncontroversial information in 'commercial speech.'" (citation omitted), or
  - When a law regulates "conduct in ways that incidentally sweep in speech."
- There is no general category of *professional speech* that justifies a lower level of scrutiny, however.

But doesn’t the law regulate only conduct?

- Colorado argued that the law only regulates “conduct,” “treatment,” or a “therapeutic modality,” but not expression.
- The Court rejected the argument.
  - There are two ways that content-based restrictions will apply to professional speech without the application of strict scrutiny.
    - Laws requiring the disclosure of “only factual, noncontroversial information in ‘commercial speech.’”
    - Laws that regulate conduct in ways that incidentally cover speech.

- The Colorado law does *not* regulate conduct.
- Rather, the law “seeks to silence a viewpoint [Chiles] wishes to express.”

- “[T]he First Amendment stands as a shield against any effort to enforce orthodoxy in thought or speech in this country. It reflects instead a judgment that every American possesses an inalienable right to think and speak freely, and a faith in the free marketplace of ideas as the best means for discovering truth. However well-intentioned, any law that suppresses speech based on viewpoint represents an ‘egregious’ assault on both of those commitments.”

Kagan, J. (Sotomayor, J.) concurring

- Agrees with the Court's conclusion that the law regulates speech based on viewpoint.
- It would be a different and more difficult question, however, if Colorado had enacted a content-based but viewpoint-neutral law.
- The key point is that if a law regulating content "raises no real concern that the government is censoring disfavored ideas–then" a lower level of scrutiny may apply.
- This is not that kind of case, however.

Jackson, J., dissenting

- “Stated simply, the majority has failed to appreciate the crucial context in which Chiles's constitutional claims have arisen. Chiles is not speaking in the ether; she is providing therapy to minors as a licensed healthcare professional.”
- “[B]edrock First Amendment principles have far less salience when the speakers are medical professionals and their treatment-related speech is being restricted incidentally to the State's regulation of the provision of medical care.”

Parental Rights

Free Exercise of Religion

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

Mirabelli v. Bonta

146 S. Ct. 797 (2026)

An (Emergency) (Interim) (Shadow) Docket Case

The California Policy

- California has a policy that precludes disclosure of students' transitioning at school without the consent of the students.
- The plaintiffs argued that the policy violated their substantive due process and free exercise rights.
- The district court permanently enjoined the policy.
- The Ninth Circuit granted the defendants' motion to stay the injunction, pending appeal.
- The parents and teachers challenging the policy filed an application with the Supreme Court seeking vacatur of the Ninth Circuit's stay pending appeal.

The Per Curiam Decision

- The Court granted the stay as to the parents.
- Getting to the merits (sort of) in ruling on the likelihood of success on the merits.
- The parents who seek religious exemptions from the policy are likely to succeed on the merits.
  - The policies will likely not survive the strict scrutiny that *Mahmoud v. Taylor* (2025) (parental control over curricular requirements) requires.
- The same with substantive due process claims.
  - *See Pierce v. Society of Sisters* (1925) and *Meyer v. Nebraska* (1923).

Justice Barrett (Roberts, C.J., Kavanaugh, J. concurring)

- Substantive due process
  - A demanding test (unexpressed rights have to be "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty.").
  - The right has long included the rights of parents to raise their children, "which includes the right to participate in significant decisions about [their children's] mental health."
  - *Dobbs* does not have an impact on other settled due process cases.
- The parents are likely to succeed on their due process claim.

Is a Per Curiam Opinion Appropriate?

- Justice Barrett says yes.
  - “In my judgment, the benefits of explanation win out here” because “[t]he Ninth Circuit (following the Sixth Circuit) significantly misunderstood *Mahmoud v. Taylor*.” (Right of parents notice and opt-out of lessons involving LGBTQ+ storybook lessons).

Religious Land Use and Institutionalized Persons Act

The Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc-1

- (a) General rule
  - No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 1997 of this title, even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—
    - (1)is in furtherance of a compelling governmental interest; and
    - (2)is the least restrictive means of furthering that compelling governmental interest.

42 U.S.C. § 2000cc-2

- (a) Cause of action
- A person may assert a violation of this chapter as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.





Landor v. Louisiana Department of Corrections

146 S. Ct. 1931 (2026)

Facts

- Landor's Rastafarian religious convictions require him to leave his hair uncut.
- At the end of a prison sentence in Louisiana, Landor was transferred to a different facility.
- Concerned that the intake officers at the new facility might cut his hair pursuant to the Louisiana Department of Corrections grooming policies, he gave the officers a copy of a Fifth Circuit decision holding that RLUIPA generally prohibits cutting the hair of Rastafarians.
- They did it anyway.
- After he was released from prison, he sued the LDOC and individual officers under RLUIPA.
- The District Court dismissed his claim against both.
- He focused on the individual officers in his appeal to the Fifth Circuit, which held that he was not entitled to recover against them.

Two Disputed Questions

- Does “appropriate relief” include authorization of suits for money damages, or is it limited to other remedies, *e,g.*, declaratory relief and injunctions.?
- Consistent with the Constitution’s spending clause, may a plaintiff recover against individual officers?

The Supreme Court

- In a 6-3 opinion, the Court (Gorsuch, J.) affirmed the Fifth Circuit.
- The key points –
  - RLUIPA is based on the Spending Clause ("Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States." Art. I, § 8, cl. 1).
  - Application turns on consent.
  - Consent turns on contract principles.
  - Congress has to clearly and unambiguously set out conditions to grant recipients.
  - Voluntary and knowing consent is the key.
  - Not here.

The Necessary and Proper Clause?

- Congress has the power to employ “necessary and proper” means to execute other enumerated powers. Art. I, § 8, cl. 18.
- The clause could support the enactment of provisions that are actually incidental to the spending power of Congress but not provisions that would undermine the structure of the Constitution or violate principles of state sovereignty.
- And congressional power to spend money “does not include the power to regulate.”

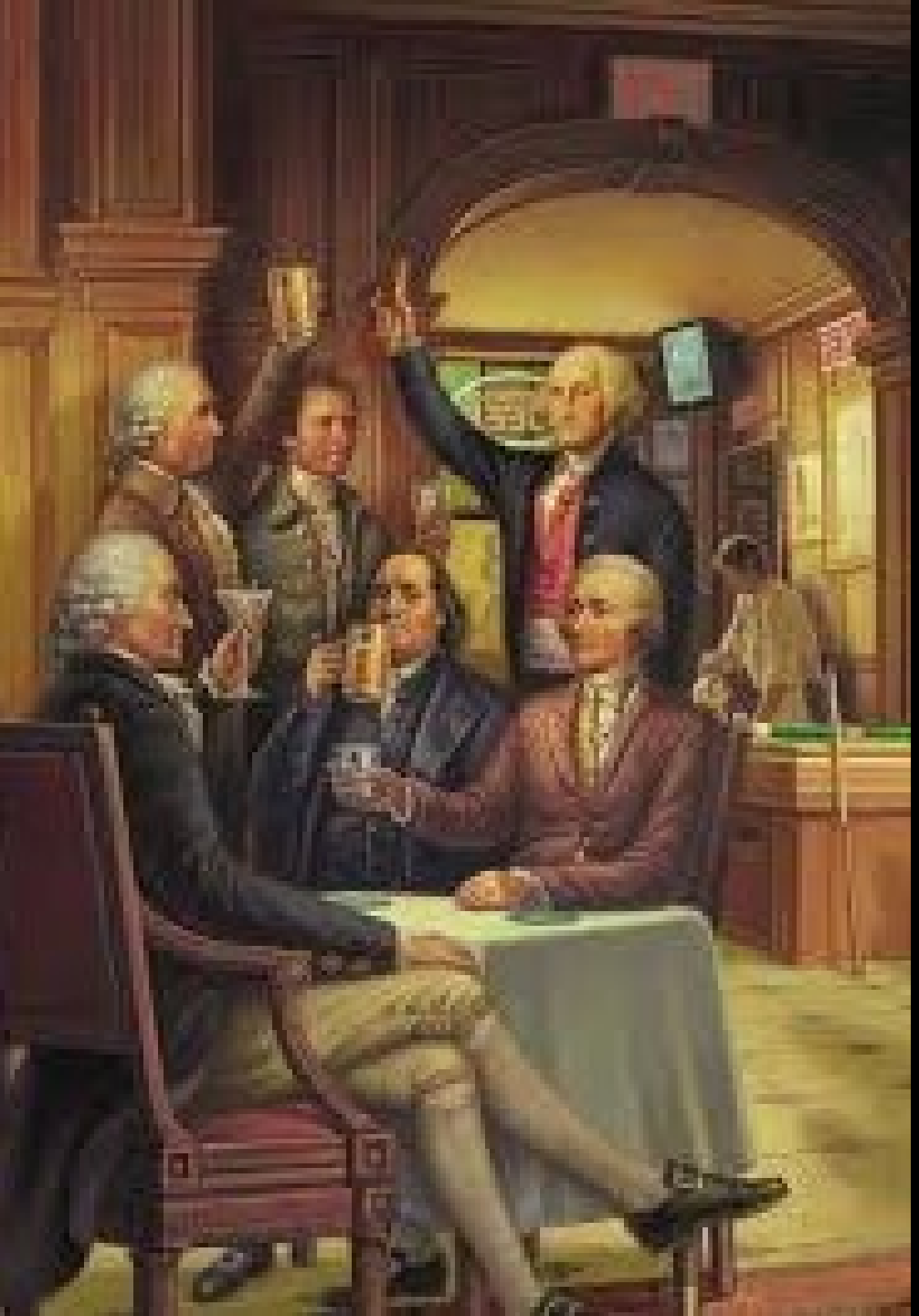
Second Amendment

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.



United States v. Hemani

146 S. Ct. 1677 (2026)



History and Tradition?

The Federal Gun Control Act

- 18 U.S.C. § 922(g) prohibits certain categories of people from possessing guns. Section 922(g)(9) automatically prohibits possession by any person who is an “unlawful user of” or “addicted to” a “controlled substance” from possessing a gun.
- Violation of the statute may result in a significant prison sentence and disarmament for life.
- The definition of “controlled substance” covers a range of drugs, including marijuana.

How did the case arise?

- Government suspected Hemani and his family of terrorism-related activities.
- During a search of the Hemani family home, Hemani surrendered a gun he kept in the house and directed agents to some marijuana on the property.
- Some six months later, Hemani was charged with handgun possession while being “an unlawful user” of a controlled substance.
- There was no indication that his drug use in any way made him a danger to others.

Procedure

- Following the district court's dismissal of the indictment and an unsuccessful appeal to the Fifth Circuit, the government petitioned the Supreme Court for review.

The Second Amendment

- "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."
- As interpreted by the Supreme Court, it “protects the right of ‘all Americans’ to keep and bear firearms for self-defense.”
  - *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008).

The Second Amendment Two-Step

- Is the conduct in question covered by the terms of the Second Amendment?
- If yes, there is a presumption that the conduct is protected.
- Overcoming that presumption imposes the burden on the government to show that the regulation is “consistent with the Nation’s historical tradition of firearm regulation.”

The Government’s Argument

- This law is historically consistent with habitual drunkard laws.
- The Court reduces the Government’s argument to this:
  - Hermani should be automatically stripped “of his Second Amendment right to possess a firearm because he uses marijuana a few times a week.”

The Court’s opinion

- In a 9-0 opinion, the Court (Gorsuch, J.) concluded that the argument failed:
  - The habitual drunkard laws “targeted different kinds of people, . . . For different reasons, and operated in different ways.”
  - The Government has not carried its burden of showing that prosecuting Hemani complies with the Second Amendment.

Thomas, J., concurring

- Joins the Court’s opinion but concludes that the law violates the Commerce Clause.

Jackson, J. (Sotomayor, J.) concurring

- The Court correctly applies *New York State Rifle & Pistol Assn., Inc. v. Bruen*, 597 U. S. 1 (2022), and *United States v. Rahimi*, 602 U. S. 680 (2024).
- *Bruen* took the Court on an unworkable course; provides no basis for addressing the real problems existing today; and does not permit any discussion of tailoring in its analysis.
- The Court should have applied a means-end scrutiny approach.
  - Strict scrutiny for severe regulations of Second Amendment rights.
  - Intermediate scrutiny, if not.

Alito, J. (Kagan, J.) concurring

- Agrees with the Court's opinion and agrees that there is nothing in that opinion that casts doubt on the constitutionality of other section 922(g) regulations, including the presumptively lawful regulation of firearms by felons and the mentally ill.
- He would affirm on a different ground.
  - The use of marijuana today is similar to the use of alcohol at the founding.
    - It is widespread and is increasingly acceptable socially.
    - Law enforcement widely tolerates its use.
  - The Government's analogue is not "relevantly similar" and not consistent with the historical understanding of the Second Amendment.

Wolford v. Lopez

146 S. Ct. 2032 (2026)

Background

- Hawaii for years made it virtually impossible for a person to obtain a license to carry a firearm.
- After the Supreme Court's decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen* (2022) (there is a Second Amendment right to carry handguns outside the home for self-defense), Hawaii replaced its old law with a new one, sometimes called a vampire law, that prohibited carrying firearms on private property open to the public without the owner's express and affirmative consent.

The Court's Decision

- The Court held in a 6-3 decision (Alito, J.), that the law violated the Second Amendment.
- Understanding the need for firearms for personal protection in the late 18th century, the Court noted that "it is not surprising that the right to keep and bear arms was included among the other treasured liberties protected by the Bill of Rights."
- The plain text of the Second Amendment protects the right of the petitioners to carry handguns for self-defense.
- Then, the issue is whether the challenged law is consistent with the codified law at "the relevant point in time."
- There is no historical analogue justifying the regulation.



And Next?

"Whether the Second and 14th Amendments guarantee the right to possess AR-15 platform and similar semiautomatic rifles."

- *Viramontes v. Cook County*
- *Grant v. Higgins*

Cases

- *Trump v. Slaughter*
- *Trump v. Cook*
- *Trump v. Illinois*
- *Learning Resources, Inc. v. Trump*
- *Watson v. Republican National Committee*
- *Louisiana v. Callais*

Trump v. Slaughter

No. 25-332, 609 U.S. ___ (2026)

Background

- The FTC Act allows commissioners to be removed only for “inefficiency, neglect of duty, or malfeasance in office.”
- In March 2025, President Trump fired the FTC's two Democratic commissioners, Rebecca Slaughter and Alvaro Bedoya, without citing any statutory cause — relying instead on his “authority under Article II.”
- Slaughter sued for reinstatement, relying on Humphrey's Executor v. United States (1935), which upheld similar removal protections for FTC commissioners.
- The district court agreed and ordered her reinstated. The Supreme Court stayed that order while the case proceeded.

The Issues

- Do the FTC Act's for-cause removal protections violate the separation of powers?
- Should Humphrey's Executor v. United States be overruled?

The Holding

- 6–3 (Roberts, C.J).
- The FTC's for-cause removal protections are unconstitutional.
- Humphrey's Executor is overruled.
- Today's FTC — with sweeping rulemaking, enforcement, and adjudicatory power — bears little resemblance to the “quasi-legislative, quasi-judicial” agency of 1935.

Key Language

- The Court reasoned that limits on the President's power to remove those who wield executive power on his behalf infringe his constitutional authority.
- No branch, the majority wrote, may rely on “adverse possession” to claim power the Constitution does not give it.

The Dissent

- Sotomayor, J. (joined by Kagan and Jackson, JJ.).
- For-cause protections for multimember, bipartisan agencies have been settled law for nearly a century, dating to the Interstate Commerce Commission in 1887.
- The majority's decision hands the President “unitary, total executive control.”

Why It Matters

- So-called “independent” multimember agencies — the SEC, NLRB, FCC, CPSC, and others — seem to no longer enjoy meaningful for-cause removal protection.
- The decision is a key part of the “unitary executive” theory.

Trump v. Cook

No. 25A312, 609 U.S. ___ (2026)

Background

- Lisa Cook, a member of the Federal Reserve Board of Governors, was the first Fed governor ever fired in the central bank's 111-year history.
- In August 2025, President Trump purported to remove her “for cause,” citing allegations of mortgage fraud predating her time on the Board.
- Cook sued, arguing the removal was not truly “for cause” and that she was denied the notice and hearing the Federal Reserve Act and due process require.
- A district court blocked her removal, the D.C. Circuit agreed she could remain in office pending suit, and the government asked the Supreme Court to stay that injunction.

The Issues

- Should the Court stay the lower courts' orders keeping Cook in office while her removal challenge proceeds?
- Does the reasoning of Trump v. Slaughter — decided the same day — extend to Federal Reserve governors?
- What process, if any, is due before a Fed governor can be removed “for cause”?

The Holding

- 5–4 (Roberts, C.J., joined by Sotomayor, Kagan, Kavanaugh, and Jackson) — stay denied; Cook remains in office pending litigation.
- The Nation has a “long tradition of independent central banking” that distinguishes the Federal Reserve from agencies like the FTC.
- For-cause removal of a Fed governor requires notice and a hearing before removal takes effect — process the President did not provide.
- The government failed to show it was likely to succeed on the merits.

Key Language

- The Court warned that the government's position would let the President remove a Fed governor “without any notice before, and without any judicial check after.”
- Kavanaugh, J., concurring: the ultimate question whether Cook may be removed for cause “will largely depend on the facts.”

The Dissent

- Thomas, J., separately — accused the majority of substituting “policy arguments” for an independent central bank, calling the decision “an unprecedented incursion on the Executive Branch.”
- Dissenters argued Cook received the process she was due and that the majority's Fed carve-out lacks a constitutional basis.

Why It Matters

- Same day, same author (Roberts, C.J.) — yet Cook and Slaughter reach opposite results, with the Fed treated as constitutionally special.
- Preserves the Fed's independence for now.
- Sets up a likely future fight over the scope of the “Fed carve-out.”

Trump v. Illinois

No. 25A443, 607 U.S. ___ (2025) — Emergency Docket

Background

- In September 2025, the administration launched “Operation Midway Blitz,” an immigration enforcement surge around Chicago, drawing large protests.
- On October 4, 2025, citing threats to federal agents, President Trump federalized 300 Illinois National Guard members and deployed hundreds of Texas Guard members to the Chicago area under 10 U.S.C. § 12406.
- Illinois and Chicago sued. The district court found the government's account of events not reliable and issued a TRO; the Seventh Circuit largely upheld the block on deployment.
- The administration asked the Supreme Court to stay the lower courts' orders on an emergency basis.

The Issues

- Section 12406(3) lets the President federalize the National Guard when he is “unable with the regular forces to execute the laws of the United States.”
- Did the protests in Illinois render the President “unable” to execute the laws, justifying federalization over the Governor's objection?
- Is the President's determination subject to judicial review at all?

The Holding

- 6–3, unsigned order; Kavanaugh, J., concurred in the judgment. The lower courts' block on deployment remains in place.
- Section 12406 likely applies only where the military could legally execute the laws.
- “At this preliminary stage, the Government has failed to identify a source of authority that would allow the military to execute the laws in Illinois.”
- The President's determination is subject to at least limited judicial review as to the legal basis.

The Dissent

- Alito, J. (joined by Thomas, J.) — protecting federal officers from "potentially lethal attacks" is itself a legitimate execution of the laws; would have granted the stay.
- Dissents argued the majority second-guessed the President's operational judgment about protecting federal personnel on the ground.

Why It Matters

- The first Supreme Court ruling on this Administration's domestic Guard deployments — not itself precedential, but lower courts are already relying on it.
- A rare loss for the administration on the emergency docket — one of only a handful this term.

Learning Resources, Inc. v. Trump

Nos. 24-1287 & 25-250 (consol. w/ Trump v. V.O.S. Selections), 607 U.S. 229 (2026)

Background

- Beginning in February 2025, President Trump imposed sweeping tariffs under the International Emergency Economic Powers Act (IEEPA): “trafficking” tariffs on Canada, Mexico, and China, and “reciprocal” tariffs of up to 50% on dozens of other countries.
- IEEPA authorizes the President to “regulate . . . importation” of property in which a foreign country has an interest during a declared national emergency — but never mentions tariffs or duties.
- Small businesses, including toy company Learning Resources, and a group of states sued, arguing IEEPA does not authorize tariffs at all.

The Question Presented

- Does IEEPA's authority to “regulate . . . importation” include the power to impose tariffs?
- If it does, does that reading unconstitutionally delegate Congress's taxing and tariff power to the President?

The Holding

- 6–3 (Roberts, C.J., announcing the judgment; Sotomayor, Kagan, Gorsuch, Barrett, and Jackson, JJ., joined the core holding).
- IEEPA does not authorize the President to impose tariffs; the trafficking and reciprocal tariffs are invalid.
- IEEPA "contains no reference to tariffs or duties," and no President had ever read it to confer that power before.
- Three Justices (Roberts, Gorsuch, Barrett) additionally invoked the major questions doctrine: a power this vast requires clear congressional authorization.
- Thomas, Kavanaugh, and Alito, JJ., dissented, reading "regulate . . . importation" to include tariffs.

Key Language

- “IEEPA is not a tariff statute.”
- The Court: the President “asserts the extraordinary power to unilaterally impose tariffs of unlimited amount, duration, and scope” — and must identify clear congressional authorization to do so.
- Aftermath: Trump has implemented tariffs again under Section 301 of the Trade Act of 1974, which empowers the U.S. government to investigate foreign trade practices that are unjustifiable, unreasonable, or discriminatory, and to respond with retaliatory measures like tariffs. This has sparked new litigation.

The Dissent

- Thomas, Alito, and Kavanaugh, JJ., dissenting — IEEPA's broad “regulate” language lets the President address a declared emergency however he judges necessary, including through tariffs.
- The dissent argued the majority's approach second-guesses the President's foreign-affairs and national-security judgments in an area courts should not police.

Why It Matters

- Unwinds the bulk of the administration's IEEPA-based tariff program; estimates put refundable duties as high as $175 billion.
- The Court left open how refunds should be processed, leaving that to Customs and Border Protection and Congress.
- The administration has already pivoted to other tariff authorities — e.g., Section 122 and Section 301 of the Trade Act of 1974.

Watson v. Republican National Committee

No. 24-1260, 609 U.S. ___ (2026)

Background

- Mississippi, like 13 other states plus D.C., counts mail ballots that are postmarked by Election Day but arrive up to five business days later.
- The RNC sued, arguing federal statutes fixing a single national “Election Day” require ballots to be received by that day — not just mailed by it.
- The district court upheld Mississippi's law. The Fifth Circuit reversed, holding federal law requires receipt by Election Day.

The Issues

- Do the federal Election Day statutes preempt state laws that count late-arriving, but timely postmarked, mail ballots?
- Is voting “complete” when a ballot is mailed, or only when it is received and counted?

The Holding

- 5–4 (Barrett, J., joined by Roberts, Sotomayor, Kagan, and Jackson) — the federal Election Day statutes do not bar Mississippi from counting ballots postmarked by Election Day and received within five days after.
- Setting the receipt deadline for mail ballots is left to the states, so long as voting itself occurs by Election Day.
- Preserves current laws with similar grace periods, and separate grace-period laws for military and overseas voters in roughly 30 states.

The Dissent

- The dissenters (Alito, J., joined by Thomas, Gorsuch, and Kavanaugh) warned that a patchwork of state receipt deadlines undermines the uniformity Congress intended and invites post-election litigation.

Why It Matters

- A rare 2026 loss for Republican election litigants; preserves the status quo rather than forcing last-minute changes before the midterms.
- Doesn't resolve whether states should still move to Election Day receipt deadlines to speed up results and reduce the risk of post-election disputes as a policy matter.

Louisiana v. Callais

Nos. 24-109 & 24-110 (consol. w/ Robinson v. Callais), 608 U.S. ___ (2026)

Background

- After Louisiana's 2022 congressional map was challenged, a federal court held it likely violated VRA Section 2 for lacking a second majority-Black district. (Louisiana had six districts, one of which was majority Black, and a Black population of about one-third).
- Louisiana enacted SB8, a new map with a second majority-Black district — which a different set of plaintiffs then challenged as an unconstitutional racial gerrymander.
- A three-judge district court agreed and struck down SB8 under the Equal Protection Clause.
- The Court first heard argument in March 2025, then ordered reargument in the fall on a new question: whether creating a majority-minority district as a Section 2 remedy itself violates equal protection.

The Question Presented

- Was Louisiana's creation of a second majority-Black congressional district, to comply with VRA Section 2, an unconstitutional racial gerrymander?
- More broadly: how should courts balance Section 2's requirements against the Constitution's limits on the use of race in redistricting?

The Holding

- 6–3 (Alito, J.); Thomas, J., concurred, joined by Gorsuch, J.
- The VRA did not require Louisiana to draw a second majority-Black district here, so no compelling interest justified SB8's use of race — an unconstitutional racial gerrymander.
- The Court significantly reworked the Gingles framework that has governed Section 2 vote-dilution claims for 40 years, making it considerably harder for plaintiffs to prove a violation — including by requiring illustrative maps to satisfy a jurisdiction's other political objectives.

Key Language

- Majority: “[I]n considering the constitutionality of a districting scheme, courts must treat partisan advantage like any other race-neutral aim: a constitutionally permissible criterion that States may rely on as desired.”
- “A plaintiff may carry its disentanglement burden by offering an alternative map that achieves all the State's objectives—including partisan advantage and any of the State's other political goals—at least as well as the State's map.”

- Kagan, J., dissenting: the decision “renders Section 2 all but a dead letter” in much of the country.

Why It Matters

- Effectively guts Section 2 claims without actually holding the statute unconstitutional.
- Puts the final judicial imprimatur on excessive partisan gerrymandering.