

## Sixth Amendment

[Hemphill v. New York](#), No. [20-637](#) [Arg: 10.5.2021 [Trans./Aud.](#);  
Decided [01.20.2022](#)]

Holding: The trial court’s admission—over Hemphill’s objection—of the plea allocution transcript of an unavailable witness violated Hemphill’s Sixth Amendment right to confront the witnesses against him.

[U.S. v. Tsarnaev](#), No. [20-443](#) [Arg: 10.13.2021 [Trans./Aud.](#);  
Decided [03.04.2022](#)]

Holding: The judgment of the U.S. Court of Appeals for the 1st Circuit vacating Dzhokhar Tsarnaev’s capital sentences is reversed.

1. District Court did not abuse its discretion by declining to include specific media-content question in juror questionnaire
2. Court of appeals cannot use its discretionary supervisory powers, if any, to supplant a district court's broad discretion to manage voir dire by prescribing specific lines of questioning
3. District Court did not abuse its discretion by excluding certain allegedly mitigating evidence at capital sentencing; and
4. Section of Federal Death Penalty Act that allowed exclusion of mitigating evidence if its probative value was outweighed by risk of unfair prejudice, confusing the issues, or misleading the jury did not violate 8th Amend.

## Statutory Construction

[Wooden v. U.S.](#), No. [20-5279](#) [Arg: 10.4.2021 [Trans./Aud.](#); Decided [03.07.2022](#)]

Holding: William Dale Wooden’s ten burglary offenses arising from a single criminal episode did not occur on different “occasions” and thus count as only one prior conviction under the Armed Career Criminal Act.

[U.S. v. Taylor](#), No. [20-1459](#) [Arg: 12.7.2021 [Trans./Aud.](#)]

Issue(s): Whether [18 U.S.C. § 924\(c\)\(3\)\(A\)](#)’s definition of “crime of violence” excludes attempted Hobbs Act robbery, in violation of [18 U.S.C. § 1951\(a\)](#).

[Concepcion v. U.S.](#), No. [20-1650](#) [Arg: 1.19.2022 [Trans./Aud.](#)]

Issue(s): Whether, when deciding if it should “impose a reduced sentence” on an individual under Section 404(b) of the [First Step Act of 2018](#), a district court must or may consider intervening legal and factual developments.

[Ruan v. U.S.](#), No. [20-1410](#) [Arg: 03.1.2022 [Trans./Aud.](#)]

Issue(s): Whether a physician alleged to have prescribed controlled substances outside the usual course of professional practice may be convicted of unlawful distribution under [21 U.S.C. § 841\(a\)\(1\)](#) without regard to whether, in good faith, he “reasonably believed” or “subjectively intended” that his prescriptions fall within that course of professional practice.

### **Postconviction**

[Brown v. Davenport](#), No. [20-826](#) [Arg: 10.5.2021 [Trans./Aud.](#);  
Decided [04.21.2022](#)]

Holding: When a state court has ruled on the merits of a state prisoner’s claim, a federal court cannot grant habeas relief without applying both the test the Supreme Court outlined in [Brecht v. Abrahamson](#) and the one Congress prescribed in the Antiterrorism and Effective Death Penalty Act of 1996; the U.S. Court of Appeals for the 6th Circuit erred in granting habeas relief to Ervine Davenport based solely on its assessment that he could satisfy the *Brecht* standard.

[Shinn v. Ramirez](#), No. [20-1009](#) [Arg: 12.8.2021 [Trans./Aud.](#)]

Issue(s): Whether application of the equitable rule the Supreme Court announced in [Martinez v. Ryan](#) renders the [Antiterrorism and Effective Death Penalty Act](#), which precludes a federal court from considering evidence outside the state-court record when reviewing the merits of a claim for habeas relief if a prisoner or his attorney has failed to diligently develop the claim’s factual basis in state court, inapplicable to a federal court’s merits review of a claim for habeas relief.

[Kemp v. U.S.](#), No. [21-5726](#) [Arg: 04.19.2022]

Issue(s): Whether Federal Rule of Civil Procedure 60(b)(1) authorizes relief based on a district court’s error of law.

**Shoop v. Twyford**, No. **21-511** [Arg: 04.26.2022]

Issue(s): (1) Whether federal courts may use the All Writs Act to order the transportation of state prisoners for reasons not enumerated in **28 U.S.C. § 2241(c)**; and (2) whether, before a court grants an order allowing a habeas petitioner to develop new evidence, it must determine whether the evidence could aid the petitioner in proving his entitlement to habeas relief, and whether the evidence may permissibly be considered by a habeas court.

**Nance v. Ward**, No. **21-439** [Arg: 04.25.2022]

Issue(s): (1) Whether an inmate's as-applied method-of-execution challenge must be raised in a habeas petition instead of through a **42 U.S.C. § 1983** action if the inmate pleads an alternative method of execution not currently authorized by state law; and (2) whether, if such a challenge must be raised in habeas, it constitutes a successive petition when the challenge would not have been ripe at the time of the inmate's first habeas petition.

## **Tribal Law**

**Denezpi v. U.S.**, No. **20-7622** [Arg: 02.22.2022 **Trans./Aud.**]

Issue(s): Whether the Court of Indian Offenses of Ute Mountain Ute Agency is a federal agency such that Merle Denezpi's conviction in that court barred his subsequent prosecution in a United States district court for a crime arising out of the same incident.

**Oklahoma v. Castro-Huerta**, No. **21-429** [Arg: 04.27.2022]

Issue(s): Whether a state has authority to prosecute non-Indians who commit crimes against Indians in Indian country.

## **1983 and others**

**Ramirez v. Collier**, No. **21-5592** [Arg: 11.9.2021 **Trans./Aud.**;  
Decided **03.24.2022**]

Holding: Petitioner John Ramirez is likely to succeed on his claims under the **Religious Land Use and Institutionalized Persons Act** because Texas'

restrictions on religious touch and audible prayer in the execution chamber burden religious exercise and are not the least restrictive means of furthering the state's compelling interests.

**Federal Bureau of Investigation v. Fazaga**, No. **20-828** [Arg: 11.8.2021 **Trans./Aud.**; Decided **03.04.2022**]

Holding: **Section 1806(f)** of the **Foreign Intelligence Surveillance Act of 1978** — providing a procedure under which a trial-level court or other authority may consider the legality of electronic surveillance conducted under FISA and order specified forms of relief — does not displace the state secrets privilege.

**U.S. v. Zubaydah**, No. **20-827** [Arg: 10.6.2021 **Trans./Aud.**; Decided **03.03.2022**]

Holding: The U.S. Court of Appeals for the 9th Circuit's judgment that the district court erred in dismissing Zubaydah's discovery request on the basis of the state secrets privilege is reversed, and the case is remanded with instructions to dismiss Zubaydah's current discovery application.

**Thompson v. Clark**, No. **20-659** [Arg: 10.12.2021 **Trans./Aud.**; Decided **04.04.2022**]

Holding: Larry Thompson's showing that his criminal prosecution ended without a conviction satisfies the requirement to demonstrate a favorable termination of a criminal prosecution in a Fourth Amendment claim under **Section 1983** for malicious prosecution; an affirmative indication of innocence is not needed

**Rivas-Villegas v. Cortesluna**, No. **20-1539** [ Decided **10.18.2021**]

Holding: Officer Rivas-Villegas is entitled to qualified immunity in this excessive force action brought under **42 U.S.C. § 1983**; the U.S. Court of Appeals for the 9th Circuit's holding that circuit precedent "put him on notice that his conduct constituted excessive force" is reversed.

**City of Tahlequah, Oklahoma v. Bond**, No. **20-1668** [ Decided **10.18.2021**]

Holding: Officers Girdner and Vick are entitled to qualified immunity in this excessive force action brought under **42 U.S.C. § 1983**; the U.S. Court of Appeals

for the 10th Circuit's contrary holding is not based on a single precedent finding a Fourth Amendment violation under similar circumstances

[Vega v. Tekoh](#), No. [21-499](#) [Arg: 04.20.2022]

Issue(s): Whether a plaintiff may state a claim for relief against a law enforcement officer under [42 U.S.C. § 1983](#) based simply on an officer's failure to provide the warnings prescribed in [Miranda v. Arizona](#).

## **Immigration**

[Patel v. Garland](#), No. [20-979](#) [Arg: 12.6.2021 [Trans./Aud.](#); Decided [05.16.2022](#)]

Holding: Federal courts lack jurisdiction to review facts found as part of any judgment relating to the granting of discretionary relief in immigration proceedings enumerated under [8 U.S.C. § 1252\(a\)\(2\)](#).

[Johnson v. Arteaga-Martinez](#), No. [19-896](#) [Arg: 1.11.2022 [Trans./Aud.](#)]

Issue(s): Whether an alien who is detained under [8 U.S.C. § 1231](#) is entitled by statute, after six months of detention, to a bond hearing at which the government must prove to an immigration judge by clear and convincing evidence that the alien is a flight risk or a danger to the community.

[Garland v. Gonzalez](#), No. [20-322](#) [Arg: 1.11.2022 [Trans./Aud.](#)]

Issue(s): (1) Whether an alien who is detained under [8 U.S.C. § 1231](#) is entitled by statute, after six months of detention, to a bond hearing at which the government must prove to an immigration judge that the alien is a flight risk or a danger to the community; and (2) whether, under [8 U.S.C. § 1252\(f\)\(1\)](#), the courts below had jurisdiction to grant classwide injunctive relief.

## **Issues to Watch in October Term 2022**

[Jones v. Hendrix](#), No. [21-857](#)

Issue(s): Whether federal inmates who did not — because established circuit precedent stood firmly against them — challenge their convictions on the ground that the statute of conviction did not criminalize their activity may apply for habeas

relief under [28 U.S.C § 2241](#) after the Supreme Court later makes clear in a retroactively applicable decision that the circuit precedent was wrong and that they are legally innocent of the crime of conviction.

**Cruz v. Arizona**, No. **21-846**

Issue(s): Whether the Arizona Supreme Court's holding that Arizona Rule of Criminal Procedure 32.1 (g) precluded post-conviction relief is an adequate and independent state-law ground for the judgment.