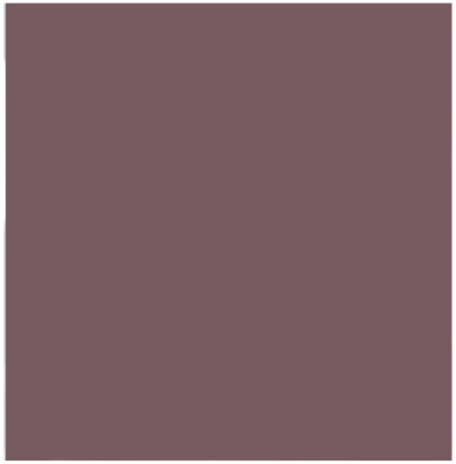
Supreme Court Criminal Law Cases
October 2016 Term

Justice David Stras

Minnesota Supreme Court







Major Topics

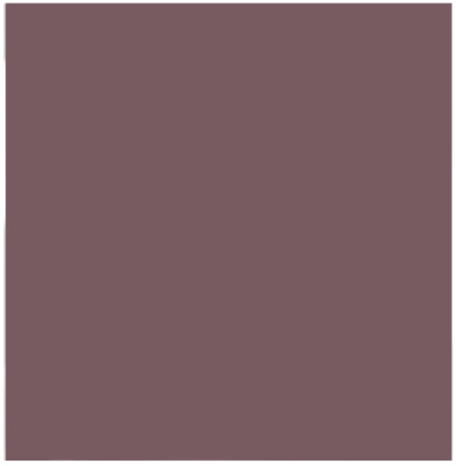






- Vagueness Doctrine
- Immigration
- First Amendment
- Fourth Amendment

Vagueness Doctrine



Johnson v. United States, 135 S. Ct. 2551 (2015)

Facts:

- Johnson pleaded guilty to being a felon in possession of a firearm.
- The prosecution sought an enhanced sentence under a provision in the Armed Career Criminal Act (ACCA) that applies to individuals with three prior convictions for a "violent felony," defined as any felony that "involves conduct that presents a serious potential risk of physical injury to another."
- One of Johnson's three prior convictions was for unlawful possession of a short-barreled shotgun. Johnson argued in the alternative that that crime was not a "violent felony" and that the statute was unconstitutionally vague.

Johnson v. United States

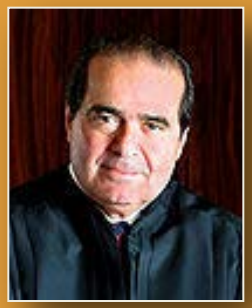
Holdings:

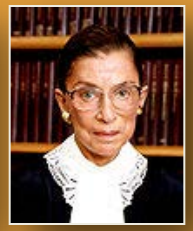
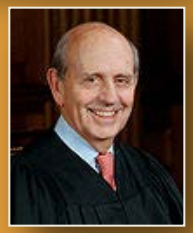
- **District Court:** Agreed with the government and gave Johnson an enhanced sentence under the ACCA.
- **Eighth Circuit:** Affirmed. Unlawful possession of a short-barreled shotgun counts as a "violent felony," and the statute is not unconstitutionally vague.

Issue: After hearing argument on the question presented in Johnson's petition for certiorari—whether possession of a short-barreled shotgun is a "violent felony"—the Court asked for briefing and reargument on the constitutional question.

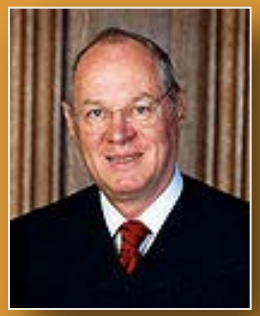
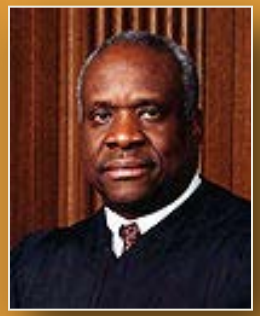
Johnson v. United States

Majority

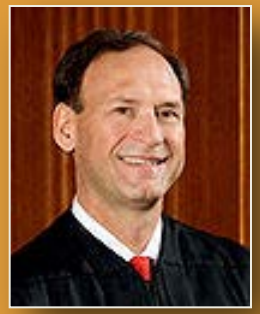


Concurrences

Dissent



Johnson v. United States

HOLDING: The residual clause of the ACCA is unconstitutionally vague.

Majority

- It is not clear how to estimate the risk of injury posed by an imagined "ordinary case" of a given crime.
- The Court's previous attempts to find a workable rule have failed.
- "[T]he indeterminacy of the wide-ranging inquiry required by the residual clause both denies fair notice to defendants and invites arbitrary enforcement by judges."
- On April 18, 2016, in *Welch v. United States*, the Court held that *Johnson* announced a substantive rule of constitutional criminal procedure that is retroactive to cases on collateral review.

Concurrence

- Justice Thomas would hold that possession of a short-barreled shotgun is not a "violent felony." He would not apply the void-for-vagueness doctrine, which he regards as lacking a constitutional basis.

Dissent

- Justice Alito would uphold the residual clause on stare decisis grounds. Moreover, the clause provides a comprehensible, ascertainable standard.

Beckles v. United States, 137 S. Ct. 886 (2017).

Facts:

- The United States Sentencing Guidelines provide for a sentencing enhancement under § 4B1.1 when a defendant is a "career offender" under the Armed Career Criminal Act (ACCA).
- Beckles was convicted of possession of a sawed-off shotgun, which the district court held was a "crime of violence," rendering him eligible for an enhanced sentence under § 4B1.1.
- Beckles challenged his sentence, arguing that his crime was not a "crime of violence" under § 4B1.1, which has an identical residual clause to the one the Court struck down in *Johnson v. United States* (2015).

Beckles v. United States

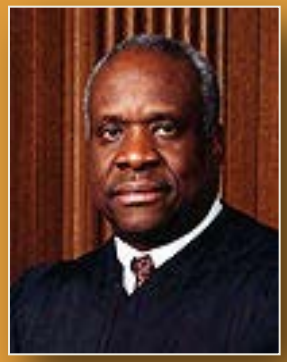
Holdings:

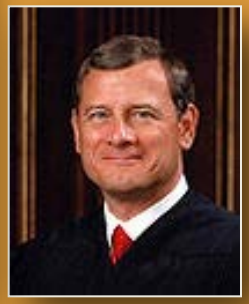
- **District Court**: Beckles, as a career offender, was given an enhanced sentence under § 4B1.1.
- **11th Circuit:** Affirmed. The Supreme Court's holding in *Johnson* is not controlling because Beckles was sentenced under the Sentencing Guidelines, not under the ACCA, regardless of the similarity between the two.

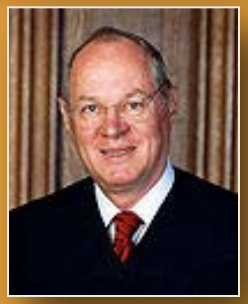
Issue: Whether *Johnson*'s constitutional holding applies to the residual clause in § 4B1.2(a)(2)?

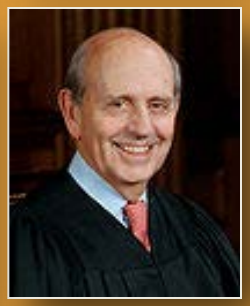
Beckles v. United States

Majority

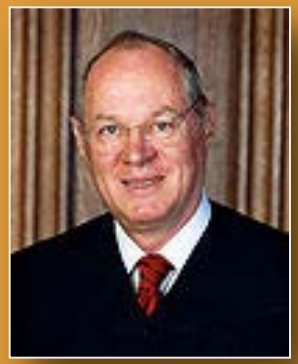








Concurring



Beckles v. United States

HOLDING: The Court's holding in *Johnson* does not apply to the Sentencing Guidelines.

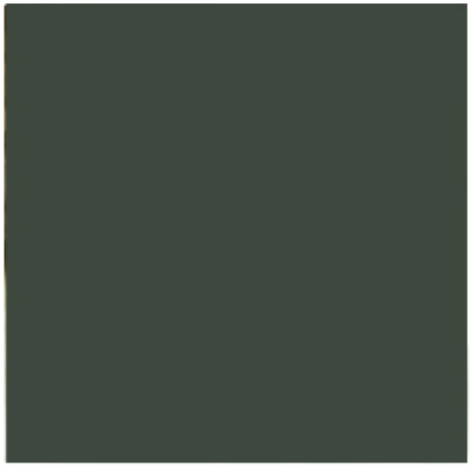
Majority

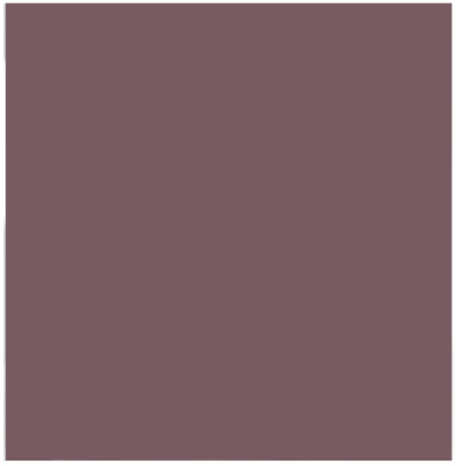
- The United States Sentencing Guidelines are not subject to vagueness challenges under the Due Process Clause.
- As a "mere[] guide," the Sentencing Guidelines do not constrain a judge's discretion. Unlike statutes, the Guidelines do not "implicate the twin concerns underlying the vagueness doctrine—providing notice and preventing arbitrary enforcement."

Concurrences

- Justice Kennedy: There may be other constitutional challenges against the Sentencing Guidelines available to defendants.
- Justice Ginsburg: The comments to the Sentencing Guidelines answer the question posed in this case, so no resort to the residual clause is necessary.
  - Justice Sotomayor: Agreed with Justice Ginsburg, but believes that the Sentencing Guidelines should be subject to vagueness challenges.

Immigration





Preview: Sessions v. Dimaya

Facts:

- The Immigration and Nationality Act (INA) says that any alien who is convicted of an "aggravated felony" is removable from the United States.
- "Aggravated felony" includes any "crime of violence," as defined in 18 U.S.C. 16(b), for which the term of imprisonment is at least one year.
- Section 16(b) defines "crime of violence" to include any offense that is a felony and that by its nature involves a substantial risk that physical force may be used in committing the offense.
- Dimaya, who is a lawful permanent resident, was convicted of first-degree residential burglary on two separate occasions.
- In 2010, the Department of Homeland Security initiated removal proceedings against Dimaya because the burglary convictions qualified as "aggravated felon[ies]."

Preview: Sessions v. Dimaya

Holdings:

- **Immigration Judge:** Dimaya was removable because each conviction was an "aggravated felony."
- **Board of Immigration Appeals:** Dismissed Dimaya's appeal. First-degree burglary is a "crime of violence" under Section 16(b) and therefore an aggravated felony.
- **Ninth Circuit:** Section 16(b), as incorporated in the INA's definition of "aggravated felony," is unconstitutionally vague.

Issue: Whether 18 U.S.C. § 16(b), as incorporated into the Immigration and Nationality Act's provisions governing an alien's removal from the United States, is unconstitutionally vague?

Justice Gorsuch's Potential Impact?

- Then-Judge Gorsuch emphasized the need for citizens to have fair notice of the laws, especially in a modern era with an ever-increasing number of laws on the books.
  - In a 2013 speech, he stated: "Without written laws, we lack fair notice of the rules we must obey. But with too many written laws, don't we invite a new kind of fair notice problem? And what happens to individual freedom and equality—and to our very conception of law itself—when the criminal code comes to cover so many facets of daily life that prosecutors can almost choose their targets with impunity? ... In *Federalist 62*, Madison warned that when laws become just a paper blizzard citizens are left unable to know what the law is and cannot conform their conduct to it. It is an irony of the law that either too much or too little can impair liberty."
- *United States v. Rentz*: Judge Gorsuch's opinion for the court indicated his willingness to apply the rule of lenity—the rule that a grievously ambiguous criminal statute will be construed in the defendant's favor—because it ensures that Congress provides fair notice to a criminal defendant of what conduct is illegal.

Esquivel-Quintana v. Sessions, 137 S. Ct. 1562 (2017)

Facts:

- Esquivel-Quintana, age 20, was a lawful permanent resident when he was convicted of "unlawful sexual intercourse with a minor" under California law for having consensual sex with his 16-year-old girlfriend.
- The California law defined the offense as having intercourse with someone under 18 who is not the offender's spouse.
- Later, after Esquivel-Quintana moved to Michigan, the Department of Homeland Security initiated removal proceedings against him under the Immigration and Nationality Act (INA), which allows removal of non-citizens if they are convicted of aggravated felonies, which include "sexual abuse of a minor."

Esquivel-Quintana v. Sessions

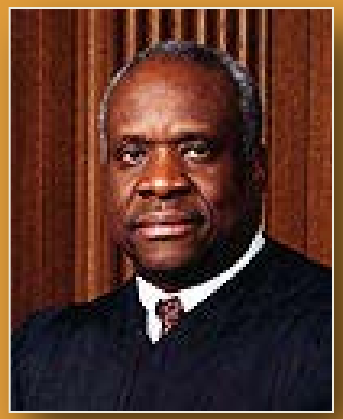
Holdings:

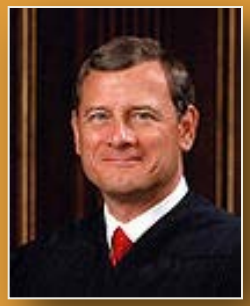
- **Board of Immigration Appeals:** Dismissed Esquivel-Quintana's appeal of the removal order issued by the immigration judge.
- **6th Circuit:** Affirmed. The BIA determination was entitled to *Chevron* deference, and the rule of lenity requiring statutory ambiguity to be resolved in the defendant's favor does not apply in deportation proceedings.

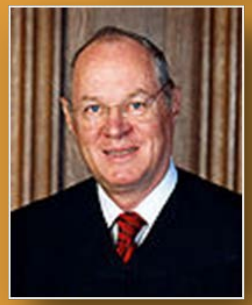
Issue: Is the California crime of "unlawful sexual intercourse with a minor" considered "sexual abuse of a minor" under the INA, therefore requiring the removal of a lawful permanent resident?

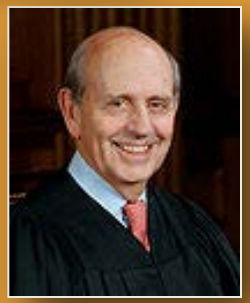
Esquivel-Quintana v. Sessions

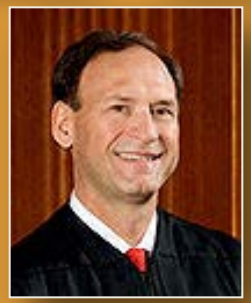
Majority











Esquivel-Quintana v. Sessions

HOLDING: The California crime of "unlawful sexual intercourse with a minor" does not categorically qualify as "sexual abuse of a minor" under the INA.

- The Supreme Court did not reach either the rule of lenity or *Chevron* deference because the case could be resolved on statutory grounds.
- The term "sexual abuse of a minor" in the INA refers to sex with individuals under the age of 16. This interpretation is supported by the plain language of the statute, "reliable dictionaries," as well as other federal and state criminal laws.
- To determine whether a conviction qualifies as an aggravated felony under the categorical approach, courts presume the conviction was for the least serious of the acts criminalized by the state statute. The California law at issue defines "minor" to be someone 18 years or younger who is 3 years younger than the perpetrator, so the statute categorically covers acts that are not sexual abuse of a minor.
- Accordingly, the California law does not categorically qualify as "sexual abuse of a minor" under the INA.

Lee v. United States, 137 S. Ct. 1958 (2017)

Facts:

- Lee, a lawful permanent resident in the United States for 35 years, pleaded guilty to possessing ecstasy with intent to distribute.
- In plea discussions, Lee's attorney assured him that his guilty plea would not result in deportation, advice upon which he allegedly relied in pleading guilty.
- But because he pleaded guilty to an aggravated felony, he was subject to mandatory deportation under the Immigration and Nationality Act (INA).
- Lee filed a motion to vacate his conviction and sentence, arguing that his trial counsel was ineffective due to the erroneous advice on the deportation consequences of his plea.
- At an evidentiary hearing, Lee's attorney testified that had he known Lee would be deported after pleading guilty, he would have advised him to go to trial.

Lee v. United States

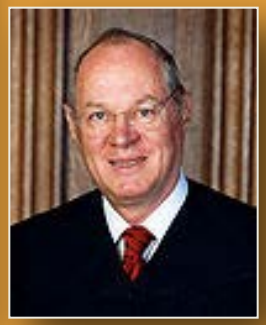
Holdings:

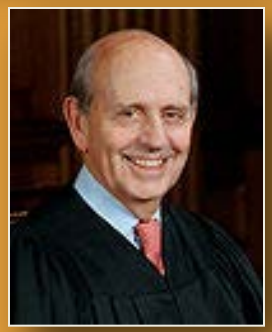
- **District Court**: Denied relief. Applying *Strickland*, Lee's counsel performed deficiently but Lee could not show that he was prejudiced because he almost certainly would have been found guilty at trial and received a significantly longer prison sentence.
- **6th Circuit:** Affirmed. Because Lee had no bona fide defense at trial, he had nothing to gain by going to trial and therefore was not prejudiced by accepting the plea.

Issue: Whether a defendant is prejudiced by his attorney's incorrect advice about the immigration consequences of his plea, for purposes of establishing an ineffective assistance of counsel claim under *Strickland* v. *Washington*, when there is strong evidence defendant would have been found guilty at trial?

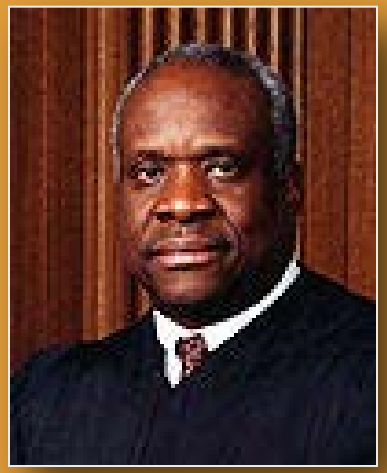
Lee v. United States

Majority



Dissent




Lee v. United States

HOLDING: Lee demonstrated that he was prejudiced by his trial counsel's erroneous advice.

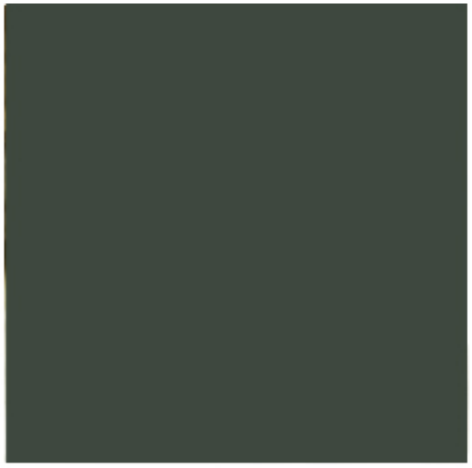
Majority

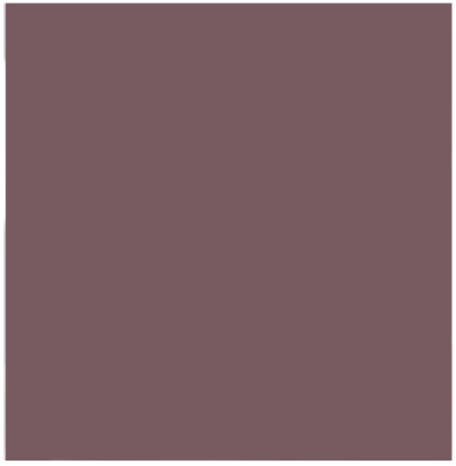
- A defendant demonstrates prejudice if there is a reasonable probability that, but for counsel's errors, the defendant would have gone to trial rather than accept the plea.
- The showing does *not* require a defendant to show that the result at trial would have been different.
- Even though there was a low chance of a different result at trial, there was *some* chance, and even some chance is sufficient under *Strickland*.
- The Court also rejected a per se rule that a defendant with no viable defense cannot show prejudice under *Strickland*.

Dissent

- *Strickland* requires a showing that the ultimate outcome of the case would have been different.
- Therefore, a defendant's showing that he would have gone to trial is necessary, but not sufficient, to establish prejudice.
- In this case, there was no reasonable probability that Lee would have been acquitted, and thus, regardless of trial counsel's error, he would have been deported.

First Amendment





Packingham v. North Carolina, 137 S. Ct. 1843 (2017)

Facts:

- Packingham was convicted at age 21 for taking "indecent liberties" with a minor in 2002. This conviction required him to register as a sex offender.
- A North Carolina law prohibits registered sex offenders from accessing "a commercial social networking website[] where the offender knows that the site permits minor children to become members or to create or maintain personal Web pages."
- Over 8 years after his indecent-liberties conviction, Packingham was arrested and convicted under the North Carolina statute for a non-illicit Facebook post related to a traffic ticket.

Packingham v. North Carolina

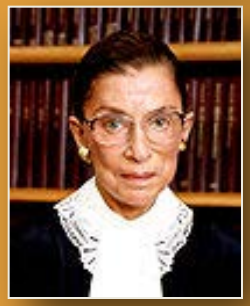
Holdings:

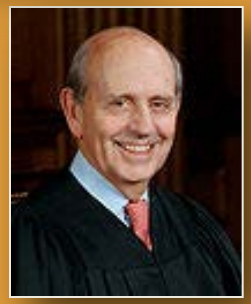
- **District Court:** Convicted Packingham over his First Amendment challenge to the statute, concluding that the state had an interest in protecting minors by keeping sexual predators off of certain social networking websites.
- **N.C. Court of Appeals:** Reversed and struck down the statute as violative of the First Amendment.
- **N.C. Supreme Court:** Reversed, characterizing the law as a "limitation on conduct," not a restriction on free speech.

Issue: Does the North Carolina law, which prohibits sex offenders from accessing websites in which minors can have accounts, violate the First Amendment?

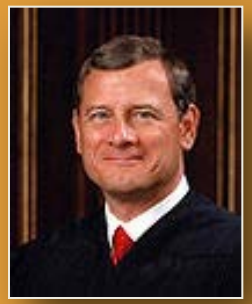
Packingham v. North Carolina

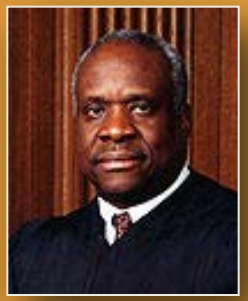
Majority





Concurring in the judgment





Packingham v. North Carolina

HOLDING: This content-neutral law violated the First Amendment because it was not narrowly tailored to serve the government's significant interest in protecting children.

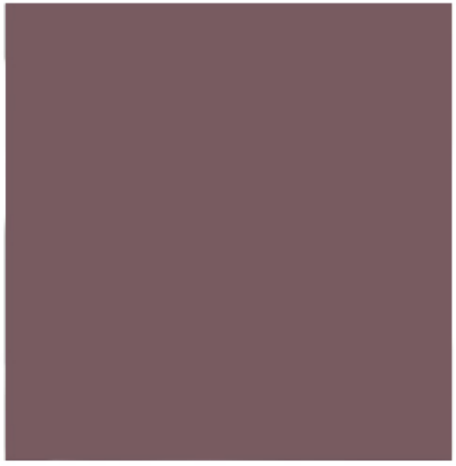
Majority

- Though the law was content-neutral, it was not narrowly tailored to serve a significant government interest.
- The law was too broad in restricting sex offenders from accessing any websites, which the Court described as "the modern public square," of which children can be members.
- "[T]o foreclose access to social media altogether is to prevent the user from engaging in the legitimate exercise of First Amendment rights."

Concurrence

- Justice Alito: Although he agreed that the North Carolina law went too far in potentially including websites like Amazon, the Washington Post, and WebMD, the Court went too far in saying the Internet was a traditional public forum.

Fourth Amendment



Manuel v. City of Joliet, 137 S. Ct. 911 (2017)

Facts:

- Manuel was a passenger in a car stopped for failing to signal a turn.
- During the stop, the officer smelled marijuana and then opened the passenger door, dragged Manuel out of the car, and handcuffed him.
- While conducting a patdown of Manuel, the officer found a bottle of pills.
- A field test of the pills was *negative* for controlled substances, but the officer arrested Manuel because he "knew the pills to be ecstasy."
- A station test of the pills was *also negative*, but the lab technician falsely reported the pills were "positive for the probable presence of ecstasy."
- On the basis of this false report, a complaint was filed and a judge ordered Manuel detained. He was in jail for nearly 2 months until a state lab found—and accurately reported—that the pills were not a controlled substance.
- Manuel sued the City of Joliet under Section 1983 alleging Fourth Amendment violations from the roadside arrest and his pretrial detention on false evidence.

Manuel v. City of Joliet

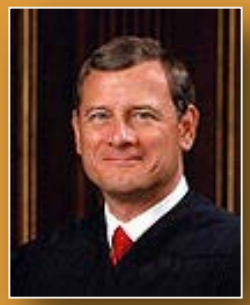
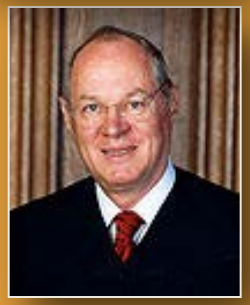
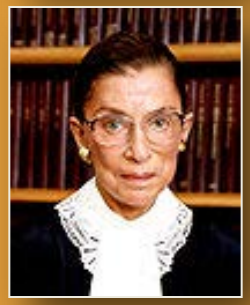
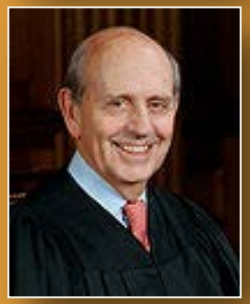
Holdings:

- **District Court:** Dismissed Manuel's complaint.
  - Pretrial detention following the start of legal process cannot give rise to a Fourth Amendment claim—only a due process challenge—and even still, the 2-year "limitations bar" in Section 1983 required dismissal.
- **7th Circuit:** Affirmed.
  - Manuel has no Fourth Amendment right to be free from groundless prosecution and detention.
  - Additionally, there is no malicious-prosecution claim under federal law because state law provides a similar cause of action.

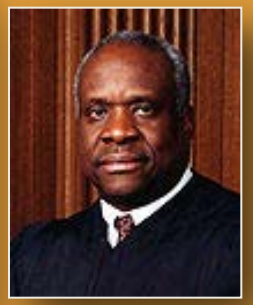
Issue: Can Manuel bring a Fourth Amendment claim on the basis of his pretrial detention after legal process was initiated?

Manuel v. City of Joliet

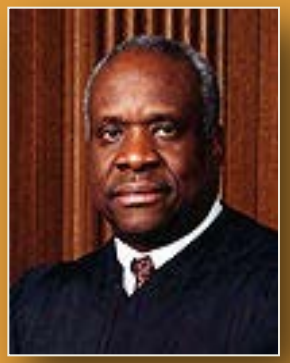
Majority


Dissent

Dissent



Manuel v. City of Joliet

HOLDING: Pretrial detention can be challenged under the Fourth Amendment even after legal process has been initiated.

Majority

- An unlawful "pretrial detention can violate the Fourth Amendment not only when it precedes, but also when it follows, the start of legal process in a criminal case." The only limitation on this is that "once a trial has occurred, the Fourth Amendment drops out."
- Left open the issue of "elements of, and rules associated with, an action seeking damages" for unlawful pretrial detention, including the question about timeliness under Section 1983.

Dissents

- The dissenters agree that "the Fourth Amendment continues to apply after the start of legal process," but disagree that "new Fourth Amendment claims continue to accrue as long as pretrial detention lasts."
- Malicious-prosecution claims are not Fourth Amendment claims. At most, the Fourth Amendment extends to just beyond a first appearance, but not all the way through a prosecution.

Preview: District of Columbia v. Wesby

Facts:

- Officers entered the house after receiving a complaint about a loud party taking place in a vacant home.
- Officers found the house in "disarray," unfurnished, and 21 people partying inside. No one knew who owned the house, but several of the partygoers said they were invited by a woman named "Peaches," who was at the party and then left.
- Peaches admitted that she did not have the owner's permission to use the home. Officers also called the owner, who said the home was vacant and no one had permission to be there.
- Based on this information, officers arrested those present at the party for trespassing.
- Arrestees brought suit against the officers, claiming they violated the Fourth Amendment because their arrests lacked probable cause under a DC unlawful-entry law, which required that the trespassers knew, or should have known, that they entered the house against the owner's will.

Preview: District of Columbia v. Wesby

Holdings:

- **District Court:** Granted summary judgment in favor of the arrestees.
  - No probable cause existed because there was no evidence that the partygoers knew or should have known that they entered against the owner's will.
  - Officers were not entitled to qualified immunity because their actions were not objectively reasonable.

- **D.C. Circuit:** Affirmed on both grounds.
  - No probable cause existed because the woman invited the partygoers and the homeowner never told anyone that they were unwelcome in the home.
  - No qualified immunity because controlling case law at the time was clear that probable cause required evidence that the partygoers knew or should have known that they entered against owner's will.

- **D.C. Circuit:** Denied rehearing en banc.

Preview: District of Columbia v. Wesby

Issues:

- 1. Whether police officers who found late-night partiers inside a vacant home belonging to someone else had probable cause to arrest the partiers for trespassing under the Fourth Amendment?

- 2. Whether, when the owner of a vacant home informs police that he has not authorized entry, an officer assessing probable cause to arrest those inside for trespassing may discredit the suspects' questionable claims of an innocent mental state?

- 3. Whether, even if there was no probable cause to arrest the apparent trespassers, the officers were entitled to qualified immunity because the law was not clearly established in this regard?

Preview: Carpenter v. United States

Facts:

- During an investigation into a series of armed robberies, the government obtained an order for Carpenter's cell phone records.
- The order was based upon the Stored Communications Act (SCA), which allows such an order when there are "reasonable grounds" to believe that the records sought are relevant and material to the criminal investigation.
- The cellphone records revealed the location of the cell towers with which Carpenter's phone was connected at the beginning and end of each call.
- Based on this information, Carpenter was indicted for the robberies.
- Before trial, Carpenter moved to suppress the records, arguing that the SCA's "reasonable grounds standard" was unconstitutional under the Fourth Amendment.

Preview: Carpenter v. United States

Holdings:

- **District Court:** Denied Carpenter's motion because obtaining the cell-site records was not a Fourth Amendment search.
- **Sixth Circuit:** Affirmed.
  - Carpenter had no reasonable expectation of privacy in cellphone location records.
  - The cellphone companies collected the data in the ordinary course of business for their own purposes.

Issue: Whether 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 permitted by the Fourth Amendment?

Supreme Court Criminal Law Cases
October 2016 Term

Justice David Stras

Minnesota Supreme Court