

Two Views on the Latest Constitutional Law Decisions



2018 CCJSCA Annual Meeting

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Presenters

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The Shape of the Court

“Every time a new justice joins the court, it’s a different court.”

~ Justice Byron White

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Highlighted Cases

► 2017 Term

- Privacy Cases
- Anti-Discrimination and Religious Objections
- The Bill of Rights Abroad
- First Amendment Retaliation

► 2018 Term

- First Amendment Retaliation
- Left/Right Alliance Cases
- Criminal Law/Procedures Cases

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2017 Term

► Privacy

- *Carpenter v. United States*
- *Byrd v. United States*
- *Collins v. Virginia*

► Anti-Discrimination and Religious Objections

- *Masterpiece Cakeshop v. Colorado Civil Right Commission*

► The Bill of Rights Abroad

- *Trump v. Hawaii*

► First Amendment Retaliation

- *Lozman v. City of Riviera Beach, Florida*

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PRIVACY:

Carpenter v. United States

No. 16-402

Holding: The government's acquisition of Timothy Carpenter's cell-site records from his wireless carriers was a Fourth Amendment search; the government did not obtain a warrant supported by probable cause before acquiring those records.

Decided: 06/22/2018

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PRIVACY:

Byrd v. United States

No. 16-1371

Holding: The mere fact that a driver in lawful possession or control of a rental car is not listed on the rental agreement will not defeat his or her otherwise reasonable expectation of privacy protected by the Fourth Amendment.

Decided: 05/14/2018

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PRIVACY:

Collins v. Virginia

No. 16-1027

Holding: 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.

Decided: 05/29/2018

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ANTI-DISCRIMINATION & RELIGIOUS OBJECTIONS:

Masterpiece Cakeshop v. Colorado Civil Rights Commission

No. 16-111

Holding: 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.

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Decided: 06/04/2018

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The Bill of Rights Abroad: *Trump v. Hawaii*

No. 17-965

Holding: The president has lawfully exercised the broad discretion granted to him under 8 U. S. C. §1182(f) to suspend the entry of aliens into the United States; respondents have not demonstrated a likelihood of success on the merits of their claim that Presidential Proclamation No. 9645 violates the establishment clause.

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Decided: 06/26/2018

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First Amendment Retaliation: *Lozman v. City of Riviera Beach, Florida*

No. 17-21

Holding: The existence of probable cause for Fane Lozman's arrest for disrupting a city council meeting does not bar his First Amendment retaliatory arrest claim under the circumstances of this case.

Decided: 06/18/2018

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2018 Term

- ▶ **First Amendment Retaliation**
 - *Nieves v. Bartlett*
- ▶ **Left/Right Alliance Cases**
 - *Timbs v. Indiana*
 - *Gundy v. United States*
 - *Gamble v. United States*
- ▶ **Criminal Law/Procedure Cases**
 - *Madison v. Alabama*
 - *Garza v. Idaho*

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First Amendment Retaliation: *Nieves v. Bartlett*

No. 17-1174

Issue: Whether the probable cause defeats a First Amendment retaliatory-arrest claim under 42 U.S.C. § 1983.

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LEFT/RIGHT ALLIANCE CASES: *Timbs v. Indiana*

No. 17-1091

Issue: Whether the Eighth Amendment's excessive fines clause is incorporated against the states under the Fourteenth Amendment.

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LEFT/RIGHT ALLIANCE CASES:

Gundy v. United States

No. 17-6086

Issue: Whether the federal Sex Offender Registration and Notification Act's delegation of authority to the attorney general to issue regulations under U.S.C. § 16913 violates the nondelegation doctrine.

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LEFT/RIGHT ALLIANCE CASES:

Gamble v. United States

No. 17-646

Issue: Whether the Supreme Court should overrule the "separate sovereigns" exception to the double jeopardy clause.

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Criminal Law/Procedure Cases: *Madison v. Alabama*

No. 17-7505

Issues: (1) Whether, consistent with the Eighth Amendment, and the Supreme Court's decisions in *Ford v. Wainwright* and *Panetti v. Quarterman*, a state may execute a prisoner whose mental disability leaves him with no memory of his commission of the capital offense; and (2) whether evolving standards of decency and the Eighth Amendment's prohibition of cruel and unusual punishment bar the execution of a prisoner whose competency has been compromised by vascular dementia and multiple strokes causing severe cognitive dysfunction and a degenerative medical condition that prevents him from remembering the crime for which he was convicted or understanding the circumstances of his scheduled execution.

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Criminal Law/Procedure Cases: *Garza v. Idaho*

No. 17-1026

Issues: Whether the "presumption of prejudice" recognized in *Roe v. Flores-Ortega* applies when a criminal defendant instructs his trial counsel to file a notice of appeal but trial counsel decides not to do so because the defendant's plea agreement included an appeal waiver.

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