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546 U. S., Part 1

Dye v. Hofbauer, 546 U. S. 1 (2005) (per curiam)

R001; No. 04-8384; 10/11/05. Petitioner's federal prosecutorial misconduct claim was properly raised in state court for purposes of federal habeas, and his federal habeas petition presented that claim with more than sufficient particularity.

Schriro v. Smith, 546 U. S. ____ (2005) (per curiam)

R002; No. 04-1475; 10/17/05. In commanding the Arizona courts to conduct a jury trial to resolve respondent's claim that his mental retardation made him ineligible for the death penalty, the Ninth Circuit exceeded its habeas authority because the State had not had a chance to apply its chosen procedures for adjudicating such mental retardation claims.

Kane v. Garcia Espitia, 546 U. S. ____ (2005) (per curiam)

R003; No. 04-1538; 10/31/05. Because *Faretta v. California*, 422 U. S. 806, which establishes a Sixth Amendment right to self-representation, does not imply a pro se defendant's right to access a law library, the Ninth Circuit erred in holding that violation of a library access right is a basis for federal habeas relief.

Eberhart v. United States, 546 U. S. ____ (2005) (per curiam)

R004; No. 04-9949; 10/31/05. Because Federal Rule of Criminal Procedure Rule 33 is a claim-processing, rather than jurisdictional, rule, the Government forfeited its defense that petitioner's untimely memorandum could not support his new trial motion when it did not raise the defense until after the District Court had reached the merits of petitioner's claim.

IBP, Inc., v. Alvarez, 546 U. S. ____ (2005)

R005; No. 03-1238; 11/8/05. In these cases, the time employees spend walking between changing and production areas and the time they spend waiting to doff their protective gear is compensable under the Fair Labor Standards Act of 1938, but §4(a)(2) of the Portal-to-Portal Act of 1947 excludes from the FLSA's scope the time they spend waiting to don the first piece of gear.

United States v. Olson, 546 U. S. ____ (2005)

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R006; No. 04-759; 11/8/05. Under the Federal Tort Claims Act, the United States waives sovereign immunity only where local law would make a "private person" liable in tort, 28 U. S. C. §1346(b)(1), not where local law would make "a state or municipal entity" liable.

[*Schaffer v. Weast*](#), 546 U. S. ____ (2005)

R007; No. 04-698; 11/14/05. In an administrative hearing under the Individuals with Disabilities Education Act challenging a school district's "individualized education program" for a disabled child, the burden of persuasion is properly placed upon the party seeking relief, whether that is the child or the school district.

[*Maryland v. Blake*](#), 546 U. S. ____ (2005) (*per curiam*)

R008; No. 04-373; 11/14/05. Certiorari dismissed as improvidently granted.

[*Bradshaw v. Richey*](#), 546 U. S. ____ (2005) (*per curiam*)

R009; No. 05-101; 11/28/05. The Sixth Circuit erred in holding that respondent was entitled to habeas relief on the alternative grounds (1) that transferred intent was not a permissible theory for aggravated felony murder under Ohio law and (2) that respondent's trial counsel's performance had been constitutionally deficient under *Strickland v. Washington*, 466 U. S. 668.

[*Lincoln Property Co. v. Roche*](#), 546 U. S. ____ (2005)

R010; No. 04-712; 11/29/05. Defendants may remove an action from state to federal court on the basis of diversity of citizenship if there is complete diversity between all named plaintiffs and all named defendants, and no defendant is a citizen of the forum State. It is not incumbent on the named defendants to negate the existence of a potential defendant whose presence in the action would destroy diversity.

[*Wagon v. Prairie Band Potawatomi Nation*](#), 546 U. S. ____ (2005)

R011; No. 04-631; 12/6/05. Because Kansas' motor fuel tax is a nondiscriminatory tax imposed on off-reservation receipt of fuel by non-Indian distributors, the tax is valid and poses no affront to respondent Nation's sovereignty, even though those distributors subsequently deliver the fuel to the Nation's gas station on the reservation. The interest-balancing test set forth in *White Mountain Apache Tribe v. Bracker*, 448 U. S. 136, does not apply to a tax that results from an off-reservation transaction between non-Indians.

[*Martin v. Franklin Capital Corp.*](#), 546 U. S. ____ (2005)

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R012; No. 04-1140; 12/7/05. Absent unusual circumstances, attorney's fees should not be awarded in an order remanding a case to state court under 28 U. S. C. §1447(c) when the party who previously removed the case to federal court had an objectively reasonable basis for doing so.

[Lockhart v. United States](#), 546 U. S. ____ (2005)

R013; No. 04-881; 12/7/05. The United States may offset Social Security benefits to collect a student loan debt that has been outstanding for over 10 years.

[United States v. Georgia](#), 546 U. S. ____ (2006)

R014; No. 04-1203; 1/10/06. Insofar as Title II of the Americans with Disability Act of 1990 creates a private cause of action for damages against States for conduct that actually violates the Fourteenth Amendment, Title II validly abrogates state sovereign immunity.

[Volvo Trucks North America, Inc. v. Reeder-Simco GMC, Inc.](#), 546 U. S. ____ (2006)

R015; No. 04-905; 1/10/06. A manufacturer may not be held liable for secondary-line price discrimination under the Robinson-Patman Act in the absence of a showing that the manufacturer discriminated between dealers competing to resell its product to the same retail customer. The Act centrally addresses price discrimination in cases involving competition between different purchasers for resale of the purchased product. Such competition ordinarily is not involved when a product subject to special order is sold through a customer-specific competitive bidding process.

[Evans v. Chavis](#), 546 U. S. ____ (2006)

R016; No. 04-721; 1/10/06. The Ninth Circuit departed from this Court's interpretation of the Antiterrorism and Effective Death Penalty Act of 1996's 1-year limitations period as applied to California's collateral review system when it found respondent's petition timely despite a 3-year, 1-month, delay in appealing denial of his state collateral review petition.

[Brown v. Sanders.](#), 546 U. S. ____ (2006)

R017; No. 04-980; 1/11/06. An invalidated sentencing factor (whether an eligibility factor or not) will render a first-degree murder sentence unconstitutional by reason of its adding an improper element to the aggravation scale in the weighing process unless one of the other sentencing factors enables the sentencer to give aggravating weight to the same facts and circumstances; the jury's consideration of invalid special circumstances in Sanders' case gave rise to no constitutional violation.

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[Gonzales v. Oregon](#), 546 U. S. ____ (2006) (*per curiam*)

R018; No. 04-623; 1/17/06. The Controlled Substances Act does not allow the Attorney General to prohibit doctors from prescribing regulated drugs for use in physician-assisted suicide under state law permitting the procedure.

[Wachovia Bank, N. A. v. Schmidt](#), 546 U. S. ____ (2006) (*per curiam*)

R019; No. 04-1186; 1/17/06. For purposes of 28 U. S. C. §1348, which provides that "national banking associations" are "deemed citizens of the States in which they are respectively located" for diversity purposes, a national bank is a citizen of the State where its main office, as set forth in its articles of association, is located.

[Ayotte v. Planned Parenthood of Northern New Eng.](#), 546 U. S. ____ (2006)

R020; No. 04-1144; 1/18/06. If enforcing a statute that regulates access to abortion would be unconstitutional in medical emergencies, invalidating the statute entirely is not always necessary or justified, for lower courts may be able to render narrower declaratory and injunctive relief.

[Rice v. Collins](#), 546 U. S. ____ (2006)

R021; No. 04-52; 1/18/06. The Ninth Circuit's attempt to use a set of debatable inferences to set aside a reasonable state-court conclusion does not satisfy the requirements for granting habeas relief under the Antiterrorism and Effective Death Penalty Act of 1996.

[Will v. Hallock](#), 546 U. S. ____ (2006)

R022; No. 04-1332; 1/18/06. A refusal to apply the Federal Tort Claims Act's judgment bar, 28 U. S. C. §2676, is not open to appeal under the collateral order doctrine.

[Central Va. Community College v. Katz](#), 546 U. S. ____ (2006) (*per curiam*)

R023; No. 04-885; 1/23/06. A bankruptcy trustee's proceeding to set aside the debtor's preferential transfers to state agencies is not barred by sovereign immunity.

[Unitherm Food Systems, Inc. v. Swift-Eckrich, Inc.](#), 546 U. S. ____ (2006) (*per curiam*)

R024; No. 04-597; 1/23/06. Because respondent failed to renew, after trial, its preverdict motion for judgment as a matter of law, as specified in Federal Rule of Civil Procedure 50(b), the

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Federal Circuit had no basis for reviewing respondent's sufficiency of the evidence challenge to the verdict.

[Wisconsin Right to Life, Inc. v. Federal Election Comm'n](#), 546 U. S. ____ (2006) (*per curiam*)

R025; No. 04-1581; 1/23/06. The District Court's judgment is vacated and the case is remanded for that court to consider in the first instance the merits of appellant's as-applied challenge to the application to it of §203 of the Bipartisan Campaign Reform Act of 2002.

[Alaska v. United States](#), 546 U. S. ____ (2006) (*per curiam*)

R026; No. 128, Orig.; 1/23/06. The joint motion for entry of decree is granted, the proposed decree is entered, and the Special Master is discharged.

[Gonzales v. O Centro Espirita Beneficente União do Vegetal](#), 546 U. S. ____ (2006)

R027; No. 04-1084; 2/21/06. The courts below did not err in determining that the Federal Government failed to demonstrate, at the preliminary injunction stage, the compelling interest required by the Religious Freedom Restoration Act of 1993 in order to bar respondent church's sacramental use of a tea containing a hallucinogen listed on Schedule I of the Controlled Substances Act.

[Buckeye Check Cashing, Inc. v. Cardegna](#), 546 U. S. ____ (2006)

R028; No. 04-1264; 2/21/06. Regardless of whether it is brought in federal or state court, a challenge to the validity of a contract as a whole, and not specifically to the arbitration clause within it, must be resolved by the arbitrator, not by the court.

[Ministry of Defense and Support for Armed Forces of Islamic Republic of Iran v. Elahi](#), 546 U. S. ____ (2006) (*per curiam*)

R029; No. 04-1095; 2/21/06. The judgment is vacated and the case remanded for the Ninth Circuit to consider whether Iran's Ministry of Defense is an "agency or instrumentality" of a foreign state whose property is "not . . . immune from attachment" under the Foreign Sovereign Immunities Act of 1976 or if it is an inseparable part of the foreign state itself.

[Ash v. Tyson Foods, Inc.](#), 546 U. S. ____ (2006) (*per curiam*)

R030; No. 05-379; 2/21/06. The Eleventh Circuit erred in holding that modifiers or qualifications are necessary in all instances to render the term "boy" probative of bias in an employment discrimination case based on race, and in articulating the standard for determining whether the asserted nondiscriminatory reasons for Tyson's hiring decisions in this case were pretextual.

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Lance v. Dennis, 546 U. S. ____ (2006) (*per curiam*)

R031; No. 05-555; 2/21/06. The *Rooker-Feldman* doctrine-which prevents lower federal courts from exercising jurisdiction over cases brought by "state-court losers" challenging "state-court judgments rendered before the district court proceedings commenced," *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U. S. 280, 284-does not bar actions by nonparties to the earlier state-court judgment simply because, for purposes of preclusion law, they could be considered in privity with a party to that judgment.

Domino's Pizza, Inc. v. McDonald, 546 U. S. ____ (2006)

R032; No. 04-593; 2/22/06. Consistent with this Court's case law, and as required by the plain text of 42 U. S. C. §1981, a plaintiff cannot state a §1981 claim unless he has (or would have) rights under the existing (or proposed) contract that he wishes "to make and enforce."

Dolan v. Postal Service, 546 U. S. ____ (2006)

R033; No. 04-848; 2/22/06. Dolan's claim against the Postal Service is not barred by an exception for the "negligent transmission of . . . postal matter" to the Federal Tort Claims Act's general waiver of federal sovereign immunity, and thus her suit may proceed.

Arbaugh v. Y & H Corp., 546 U. S. ____ (2006)

R034; No. 04-944; 2/22/06. The 15-employee requirement contained in the "employer" definition of Title VII of the Civil Rights Act of 1964 does not affect federal-court subject-matter jurisdiction but, instead, delineates a substantive ingredient of a Title VII claim for relief.

Oregon v. Guzek, 546 U. S. ____ (2006)

R035; No. 04-928; 2/22/06. The Constitution does not prohibit a State from limiting the innocence-related evidence a capital defendant can introduce at a sentencing proceeding to the evidence introduced at the original trial.

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Texaco Inc. v. Dagher, 547 U. S. 1 (2006) (*per curiam*)

R036; No. 04-805; 2/28/06. It is not per se illegal under §1 of the Sherman Act for a lawful, economically integrated joint venture to set the prices at which it sells its products.

Scheidler v. National Organization for Women, Inc., 547 U. S. ____ (2006) (*per curiam*)

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R037; No. 04-1244; 2/28/06. In adopting the Hobbs Act provision prohibiting "obstruct[ing], delay[ing], or affect[ing] commerce . . . by . . . robbery or extortion . . . or commit[ting] or threaten[ing] physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section," 18 U. S. C. §1951(a), Congress did not intend to create a freestanding physical violence offense unrelated to robbery or extortion, but only to forbid acts or threats of physical violence in furtherance of a plan to engage in robbery or extortion (and related attempts or conspiracies).

Illinois Tool Works Inc. v. Independent Ink, Inc., 547 U. S. ____ (2006) (*per curiam*)

R038; No. 04-1329; 3/1/06. Because a patent does not necessarily confer market power upon the patentee, in all cases involving a tying arrangement, the plaintiff must prove that the defendant has market power in the tying product.

Rumsfeld v. Forum for Academic and Institutional Rights, Inc., 547 U. S. ____ (2006)

R039; No. 04-1152; 3/6/06. Because Congress could require law schools to provide equal access to military recruiters without violating the schools' freedoms of speech and association, the Third Circuit erred in holding that the Solomon Amendment-which denies federal funds to educational institutions that fail to give military recruiters access equal to that provided other recruiters-likely violates the First Amendment.

Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Dabit, 547 U. S. ____ (2006)

R040; No. 04-1371; 3/21/06. The background, text, and purpose of the Securities Litigation Uniform Standards Act of 1998's pre-emption provision demonstrate that SLUSA pre-empts state-law holder class-action securities fraud claims of the kind respondent alleges here.

United States v. Grubbs, 547 U. S. ____ (2006)

R041; No. 04-1414; 3/21/06. "Anticipatory" search warrants based on an affidavit showing probable cause that at some future time (but not presently) certain evidence of crime will be located at a specified place are not categorically unconstitutional under the Fourth Amendment's probable-cause provision; the anticipatory warrant at issue did not violate the Amendment's particularity requirement, which does not include the conditions precedent to execution of such a warrant.

Georgia v. Randolph, 547 U. S. ____ (2006)

R042; No. 04-1067; 3/22/06. In the circumstances here at issue, a physically present co-occupant's stated refusal to permit entry to a home renders warrantless entry and search unreasonable under the Fourth Amendment and invalid as to him.

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[Arizona v. California](#), 547 U. S. ____ (2006)

R043; No. 8, Orig; 3/27/06. The settlement agreements are approved, the joint motion for entry of decree is granted, the Consolidated Decree is entered, and the Special Master is discharged.

[Gonzales v. Thomas](#), 547 U. S. ____ (2006) (*per curiam*)

R044; No. 05-552; 4/17/06. In this asylum claim based on fear of persecution, the Ninth Circuit erred in finding in the first instance, rather than remanding the question to the appropriate administrative agency, see *INS v. Orlando Ventura*, 537 U. S. 12, 18 (*per curiam*), that members of a family constitute a "particular social group" within the meaning of the Immigration and Nationality Act.

[Salinas v. United States](#), 547 U. S. ____ (2006) (*per curiam*)

R045; No. 05-8400; 4/24/06. The Fifth Circuit erred in treating petitioner's prior conviction for simple possession of a controlled substance as a "controlled substance offense" for purposes of the Federal Sentencing Guidelines.

[Northern Ins. Co. of N. Y. v. Chatham County](#), 547 U. S. ____ (2006)

R046; No. 04-1618; 4/25/06. A governmental entity that does not qualify as an "arm of the State" for Eleventh Amendment purposes cannot assert sovereign immunity as a defense to an admiralty suit.

[Day v. McDonough](#), 547 U. S. ____ (2006)

R047; No. 04-1324; 4/25/06. In the circumstances presented, the District Court had discretion to correct the State's erroneous time computation and, accordingly, to dismiss Day's federal habeas petition as untimely under the one-year limitation period set forth in the Antiterrorism and Effective Death Penalty Act of 1996.

[Jones v. Flowers](#), 547 U. S. ____ (2006)

R048; No. 04-1477; 4/26/06. When mailed notice of a tax sale is returned unclaimed, a State must take additional reasonable steps to attempt to provide notice to the property owner before selling his property, if it is practicable to do so; because additional steps were available given the circumstances here, the State's effort to provide notice to petitioner was insufficient to satisfy due process.

[Hartman v. Moore](#), 547 U. S. ____ (2006)

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R049; No. 04-1495; 4/26/06. A plaintiff in a retaliatory-prosecution action filed pursuant to *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388, must plead and show the absence of probable cause for pressing the underlying criminal charges.

[*Arkansas Dept. of Health and Human Servs. v. Ahlborn*, 547 U. S. ____ \(2006\)](#)

R050; No. 04-1506; 5/1/06. Federal Medicaid law does not authorize Arkansas to assert a lien on Ahlborn's tort settlement in an amount exceeding that portion of the settlement that represented Medicaid payments for Ahlborn's medical care, and the federal anti-lien provision affirmatively prohibits the State from doing so.

[*Marshall v. Marshall*, 547 U. S. ____ \(2006\)](#)

R051; No. 04-1544; 5/1/06. The Ninth Circuit had no warrant from Congress, or from this Court's decisions, for its sweeping extension of the "probate exception" this Court has recognized to federal-court jurisdiction; because this case does not fall within the exception's scope, the District Court properly asserted jurisdiction over petitioner's tort counterclaim against respondent, despite ongoing proceedings in a Texas Probate Court.

[*Holmes v. South Carolina*, 547 U. S. ____ \(2006\)](#)

R052; No. 04-1327; 5/1/06. A criminal defendant's federal constitutional rights are violated by an evidence rule under which the defendant may not introduce proof of third-party guilt if the prosecution has introduced forensic evidence that, if believed, strongly supports a guilty verdict.

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[*DaimlerChrysler Corp. v. Cuno*, 547 U. S. __ \(2006\)](#)

R053; No. 04-1704; 5/15/06. Plaintiff taxpayers have not established their standing to challenge a state franchise tax credit; because they have no standing to challenge that credit, the lower courts erred by considering their claims on the merits.

[*Sereboff v. Mid Atlantic Medical Services, Inc.*, 547 U. S. __ \(2006\)](#)

R054; No. 05-260; 5/15/06. The action filed by respondent, a fiduciary under the Employee Retirement Income Security Act of 1974, for reimbursement of medical expenses that petitioner beneficiaries had recovered for their injuries from a third party properly sought "equitable relief" under ERISA §502(a)(3).

[*S. D. Warren Co. v. Maine Bd. of Environmental Protection*, 547 U. S. __ \(2006\)](#)

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R055; No. 04-1527; 5/15/06. Because a hydroelectric dam raises a potential for a "discharge into the navigable waters" of the United States under §401 of the Clean Water Act, the federal license to operate petitioner's dams requires state certification that water protection laws will not be violated.

[eBay Inc. v. MercExchange, L. L. C.](#), 547 U. S. ___ (2006)

R056; No. 05-130; 5/15/06. The traditional four-factor test applied by courts of equity when considering whether to award permanent injunctive relief to a prevailing plaintiff applies to disputes arising under the Patent Act.

[Brigham City v. Stuart](#), 547 U. S. ___ (2006)

R057; No. 05-502; 5/22/06. Police may enter a home without a warrant when they have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury.

[Garcetti v. Ceballos](#), 547 U. S. ____ (2006)

R058; No. 04-473; 5/30/06. When public employees make statements pursuant to their official duties, they are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.

[Anza v. Ideal Steel Supply Corp.](#), 547 U. S. ____ (2006)

R059; No. 04-433; 6/05/06. Respondent cannot maintain a Racketeer Influenced and Corrupt Organizations Act claim against petitioners under 18 U. S. C. §1962(c) because it has not shown proximate cause between the injury asserted and the injurious conduct alleged; the Second Circuit must on remand determine whether the proximate cause requirement is met with respect to respondent's §1962(a) claim.

[Zedner v. United States](#), 547 U. S. ___ (2006)

R060; No. 05-5992; 6/05/06. A defendant may not prospectively waive the application of the Speedy Trial Act of 1974, which generally requires criminal trials to start within 70 days of indictment; petitioner is not estopped from challenging the exclusion of a 91-day delay from the 70-day period; the District Court's decision to exclude that delay is not subject to harmless-error review; the Act was violated because the 91-day delay exceeded the 70 days permitted by the Act.

[Whitman v. Department of Transportation](#), 547 U. S. ___ (2006)

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R061; No. 04-1131; 6/05/06. Case remanded for the Ninth Circuit to address whether the Federal Aviation Administration's actions against petitioner FAA employee constitute a "prohibited personnel practice," see 5 U. S. C. §2302(b); 49 U. S. C. §40122(g)(2)(A), as well as other issues raised here but not decided below, resolution of which may obviate the need to decide the ultimate preclusion issue.

[Mohawk Industries, Inc. v. Williams](#), 547 U. S. ____ (2006)

R062; No. 05-465; 6/05/06. Partial grant of certiorari dismissed as improvidently granted; certiorari granted; judgment vacated and case remanded to the Eleventh Circuit for further consideration in light of *Anza v. Ideal Steel Supply Corp.*, supra.

[House v. Bell](#), 547 U. S. ____ (2006)

R063; No. 04-8990; 6/12/06. Because House has made the stringent showing required by the actual-innocence exception to the state procedural default rule, his federal habeas corpus action may proceed.

[Hill v. McDonough](#), 547 U. S. ____ (2006)

R064; No. 05-8794; 6/12/06. Because Hill's action claiming the lethal injection procedure Florida likely would use on him could cause him severe pain and thereby violate the Eighth Amendment's cruel and unusual punishments prohibition is comparable in its essentials to the 42 U. S. C. §1983 action the Court allowed to proceed in *Nelson v. Campbell*, 541 U. S. 637, it does not have to be brought in habeas corpus, but may proceed under §1983.

[Hudson v. Michigan](#), 547 U. S. ____ (2006)

R065; No. 04-1360; 6/15/06. Violation of the knock-and-announce rule does not require suppression of evidence found in a search.

[Kircher v. Putnam Funds Trust](#), 547 U. S. ____ (2006)

R066; No. 05-409; 6/15/06. Federal district-court orders remanding removed securities class actions to state court for want of preclusion under the Securities Litigation Uniform Standards Act of 1998 are subject to 28 U. S. C. §1447(d), which makes remand orders unreviewable on appeal.

[Howard Delivery Service, Inc. v. Zurich American Ins. Co.](#), 547 U. S. ____ (2006)

R067; No. 05-128; 6/15/06. Insurance carriers' claims for unpaid workers' compensation premiums owed by an employer fall outside the priority, among unsecured creditors' claims, that

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the Bankruptcy Code allows for unpaid contributions to "an employee benefit plan," 11 U. S. C. §507(a)(5).

[Empire HealthChoice Assurance, Inc. v. McVeigh](#), 547 U. S. ____ (2006)

R068; No. 05-200; 6/15/06. Title 28 U. S. C. §1331-which authorizes federal jurisdiction over "civil actions arising under the . . . laws . . . of the United States"-does not encompass a federal suit by a health-care plan providing benefits under the Federal Employees Health Benefits Act of 1959 for reimbursement of medical bills the plan paid on behalf of a plan beneficiary who, injured in an accident, recovered damages (unaided by the plan administrator) in a state-court tort action against a third party alleged to have caused the accident.

[Rapanos v. United States](#), 547 U. S. ____ (2006)

R069; No. 04-1034; 6/19/06. The Sixth Circuit's judgments that petitioners' wetlands were adjacent to navigable waters and thus covered by the Clean Water Act are vacated, and the cases are remanded.

[Davis v. Washington](#), 547 U. S. ____ (2006)

R070; No. 05-5224; 6/19/06. For Confrontation Clause purposes, statements made during police interrogation under circumstances objectively indicating that the interrogation's primary purpose is to enable police assistance to meet an ongoing emergency are nontestimonial; they are testimonial when the circumstances objectively indicate that there is no such emergency, and that the interrogation's primary purpose is to establish or prove past events potentially relevant to later criminal prosecution. Thus, statements identifying petitioner Davis as the assailant during a 911 call were not testimonial, but statements made by petitioner Hammon's wife to police after he allegedly battered her were testimonial and properly excluded because he did not have the opportunity to cross-examine her, unless he coerced her failure to testify.

[Samson v. California](#), 547 U. S. ____ (2006)

R071; No. 04-9728; 6/19/06. The Fourth Amendment does not prohibit a police officer from conducting a suspicionless search of a parolee.

[Youngblood v. West Virginia](#), 547 U. S. ____ (2006)

R072; No. 05-6997; 6/19/06. Certiorari granted, judgment vacated, and case remanded to the Supreme Court of Appeals of West Virginia for the views of the full court on the federal constitutional claim under *Brady v. Maryland*, 373 U. S. 83, that petitioner clearly presented there.

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Dixon v. United States, 548 U. S. ____ (2006)

R073; No. 05-7053; 6/22/06. Where petitioner claimed that she acted under duress when she illegally purchased firearms, the jury instructions at her trial did not run afoul of the Due Process Clause by placing the burden on her to establish duress by a preponderance of the evidence; modern common law does not require the Government to bear the burden of disproving her duress defense beyond a reasonable doubt.

Fernandez-Vargas v. Gonzales, 548 U. S. ____ (2006)

R074; No. 04-1376; 6/22/06. The new version of an immigration law provision, which permits reinstatement of an order removing an alien present unlawfully if he leaves and unlawfully reenters, applies to those who reentered the United States before the effective date of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and does not retroactively affect petitioner, who is a continuing violator of the Immigration and Nationality Act.

Burlington, N. & S. F. R. Co. v. White, 548 U. S. ____ (2006)

R075; No. 05-259; 6/22/06. The anti-retaliation provision of Title VII of the Civil Rights Act of 1964 does not confine the actions and harms it forbids to those that are related to employment or occur at the workplace, but it does cover only those employer actions that would have been materially adverse to a reasonable employee or applicant. Under that standard, there was a sufficient evidentiary basis to support the jury's verdict on respondent's retaliation claim.

Woodford v. Ngo, 548 U. S. ____ (2006)

R076; No. 05-416; 6/22/06. The Prison Litigation Reform Act of 1995 requirement that prisoners exhaust any available administrative remedies before challenging prison conditions in federal court requires proper exhaustion of administrative remedies.

Laboratory Corp. of America Holdings v. Metabolite Laboratories, Inc., 548 U. S. ____ (2006)
(per curiam)

R077; No. 04-607; 6/22/06. Certiorari dismissed as improvidently granted.

United States v. Gonzalez-Lopez, 548 U. S. ____ (2006)

R078; No. 05-352; 6/26/06. A trial court's erroneous deprivation of a criminal defendant's Sixth Amendment right to his counsel of choice entitles him to reversal of his conviction; the violation is not subject to harmless-error analysis.

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[Kansas v. Marsh](#), 548 U. S. ____ (2006)

R079; No. 04-1170; 6/26/06. Kansas' capital sentencing system, which directs imposition of the death penalty when the sentencing jury determines that aggravating and mitigating circumstances are in equipoise, is constitutional.

[Washington v. Recuenco](#), 548 U. S. ____ (2006)

R080; No. 05-83; 6/26/06. Failure to submit a sentencing factor to the jury, like failure to submit an element of an offense to the jury, is not "structural error" requiring invalidation of a conviction.

[Randall v. Sorrell](#), 548 U. S. ____ (2006)

R081; No. 04-1528; 6/26/06. The Second Circuit's decision that all of Vermont Act 64's campaign contribution limits are constitutional, and that its campaign expenditure limits may be constitutional if they are narrowly tailored to the compelling state interests supporting the Act, is reversed, and the cases are remanded.

[Arlington Central School Dist. Bd. of Ed. v. Murphy](#), 548 U. S. ____ (2006)

R082; No. 05-18; 6/26/06. The provision of the Individuals with Disabilities Act that permits a court to "award reasonable attorneys' fees as part of the costs" to prevailing parents, 20 U. S. C. §1415(i)(3)(B), does not authorize the recovery of expert fees.

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[Sanchez-Llamas v. Oregon](#), 548 U. S. ____ (2006)

R083; No. 04-10566; 6/28/06. Even assuming without deciding that Article 36 of the Vienna Convention on Consular Relations creates rights that a foreign national detained in this country may enforce against a State in a criminal trial or a postconviction proceeding, a violation of Article 36 does not require suppression of the defendant's statements to police, and the State, in a postconviction proceeding, may treat the defendant's claim as procedurally defaulted if he failed to raise it at trial.

[League of United Latin American Citizens v. Perry](#), 548 U. S. ____ (2006)

R084; No. 05-204; 6/28/06. The District Court's judgment upholding the Texas Legislature's 2003 plan drawing new district lines for the 32 Texas seats in the United States House of Representatives is affirmed in part, reversed in part, and vacated in part, and the cases are remanded.

OT 05 Case Summaries

Beard v. Banks, 548 U. S. ____ (2006)

R085; No. 04-1739; 6/28/06. The Third Circuit's judgment that a Pennsylvania Department of Corrections' policy forbidding certain dangerous and recalcitrant inmates to have any newspapers, magazines, or photographs cannot be supported as a matter of law is reversed, and the case is remanded.

Hamdan v. Rumsfeld, 548 U. S. ____ (2006)

R086; No. 05-184; 6/29/06. The D. C. Circuit's judgment that petitioner, a Yemeni national captured during the war in Afghanistan and imprisoned at Guantanamo Bay, Cuba, is not entitled to habeas relief is reversed, and the case is remanded.

Clark v. Arizona, 548 U. S. ____ (2006)

R087; No. 05-5966; 6/29/06. Due process does not prohibit Arizona's use of an insanity test stated solely in terms of the capacity to tell whether an act charged as a crime was right or wrong; nor does the Arizona Supreme Court's Mott decision-which prohibited the use of psychiatric testimony to negate specific intent and held that the State does not allow evidence of a disorder short of insanity to negate mens rea-violate due process.