

U.S. Supreme Court Review & Preview

Detroit/Wayne County Criminal Advocacy Program
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Topics Covered

- Fourth Amendment
 - Search; Reasonable Suspicion; *Terry* Stop & Frisk; Administrative Searches; Searches Incident to Arrest
- Fifth Amendment
 - Double Jeopardy; Due Process; Due Process/Counsel of Choice
- Sixth Amendment
 - *Strickland*
- Trial Issues
 - Confrontation Clause; *Voir Dire*
- Constitutional Limits on Criminal Liability
- Post-Conviction
 - AEDPA; Retroactivity

Definition of “Search”

- *Grady v. North Carolina*, 135 S. Ct. 1368 (2015) (PC).
- Court:
 - Lifetime monitoring of recidivist sex offender is a “search” under *Jones v. U.S.* (2012) (“[w]here ... the Government obtains information by physically intruding on a constitutionally protected area, such a search has undoubtedly occurred”)

Reasonable Suspicion

- *Heien v. North Carolina*, 135 S. Ct. 530 (2014).
- C.J. Roberts:
 - “Because the officer’s mistake about the brake-light law was reasonable, the stop in this case was lawful under the Fourth Amendment.”
 - “[O]ur decision does not discourage officers from learning the law. The Fourth Amendment tolerates only *reasonable* mistakes, and those mistakes – whether of fact or of law – must be *objectively* reasonable.”

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Terry Stop & Frisk

- *Rodriguez v. U.S.*, 135 S. Ct. 1609 (2015)
- J. Ginsburg:
 - “An officer ... may conduct certain unrelated checks during an otherwise lawful traffic stop. But ... he may not do so in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual.”

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Searches Incident to Arrest

- *Utah v. Strieff*, No. 14-1373
 - Petition granted 10.1.15; case not yet briefed.
- Cert. issue:
 - “Should evidence seized incident to a lawful arrest on an outstanding warrant be suppressed because the warrant was discovered during an investigatory stop later found to be unlawful?”

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Administrative Searches

- *Los Angeles v. Patel*, 135 S. Ct. 2443 (2015)
- J. Sotomayor:
 - “We first clarify that facial challenges under the Fourth Amendment are not categorically barred or especially disfavored ... [and] hold that [the statute here] is facially unconstitutional because it fails to provide hotel operators with an opportunity for precompliance review.”

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Double Jeopardy

- *Puerto Rico v. Sanchez Valle*, No. 15-108
 - Petition granted 10.1.15; case partially briefed.
- Cert. issue:
 - “Whether the Commonwealth of Puerto Rico and the Federal Government are separate sovereigns for purposes of the Double Jeopardy Clause of the United States Constitution.”

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Due Process

- *Johnson v. U.S.*, 135 S. Ct. 2551 (2015)
- J. Scalia:
 - “We are convinced that the indeterminacy of the wide-ranging inquiry required by the residual clause both denies fair notice to defendants and invites arbitrary enforcement by judges. Increasing a defendant’s sentence under the clause denies due process of law.”

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Due Process/Counsel of Choice

- *Luis v. U.S.*, No. 14-419
 - Petition granted 6.8.15; case argued 11.10.15.
- Cert. issue:
 - “Whether the pretrial restraint of a criminal defendant’s legitimate, untainted assets (those not traceable to a criminal offense) needed to retain counsel of choice violates the Fifth and Sixth Amendments?”

Ineffective Assistance of Counsel

- *Maryland v. Kulbicki*, 136 S. Ct. 2 (2015) (PC)
- Court:
 - “[W]e have adopted the rule of contemporary assessment of counsel’s conduct ... Had the Court of Appeals heeded this rule, it would have judged the reasonableness of counsel’s challenged conduct ... viewed as of the time of counsel’s conduct.”

Confrontation Clause

- *Ohio v. Clark*, 135 S. Ct. 2173 (2015)
- J. Alito:
 - “Because neither the child nor his teachers had the primary purpose of assisting in Clark’s prosecution, the child’s statements do not implicate the Confrontation Clause and therefore were admissible at trial.”

Voir Dire

- *Foster v. Chatman*, No. 14-8349
 - Petition granted 5.26.15; case argued 11.2.15.
- Cert. issue:
 - “Did the Georgia courts err in failing to recognize race discrimination under Batson in the extraordinary circumstances of this death penalty case?”

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Constitutional Limits on Criminal Liability

- *Elonis v. United States*, 135 S. Ct. 2001 (2015)
- C.J. Roberts:
 - “Federal criminal liability generally does not turn solely on the results of an act without considering the defendant’s mental state. That understanding ‘took deep and early root in American soil’ and Congress left it intact here: Under Section 875(c) ‘wrongdoing must be conscious to be criminal.’”
 - “Given our disposition, it is not necessary to consider any First Amendment issues.”

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AEDPA/Tolling/Counsel

- *Christeson v. Roper*, 135 S. Ct. 891 (2015) (PC)
- Court:
 - District Court abused its discretion in denying capital prisoner’s second request for substitution of habeas counsel, where first counsel had admittedly filed habeas petition 117 days late and could not request equitable tolling due to conflict of interest.

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Retroactivity

- *Montgomery v. Louisiana*, No. 14-280
 - Petition granted 3.23.15; case argued 10.13.15.
- Cert. issues:
 - (1) “Whether *Miller v. Alabama* adopts a new substantive rule that applies retroactively on collateral review to people condemned as juveniles to die in prison?”
 - (2) Does the Supreme Court “have jurisdiction to decide whether the Supreme Court of Louisiana correctly refused to give retroactive effect in this case to” the decision in *Miller v. Alabama*?

AEDPA Review

- *Woods v. Donald*, 135 S. Ct. 1372 (2015) (PC)
- Court:
 - “The Michigan Court of Appeals’ decision was not contrary to any clearly established holding of this Court [because] [w]e have never addressed whether the rule announced in *Cronic* applies to testimony regarding codefendants’ actions.”

AEDPA Review

- *Davis v. Ayala*, 135 S. Ct. 2187 (2015)
- J. Alito:
 - “We assume for the sake of argument that Ayala’s federal rights were violated, but that does not necessarily mean that he is entitled to habeas relief. In the absence of ‘the rare type of error’ that requires automatic reversal, relief is appropriate only if the prosecution cannot demonstrate harmlessness.”

AEDPA Review

- *Duncan v. Owens*, No. 14-1516
 - Petition granted 10.1.15; case partially briefed.
- Cert. issue:
 - “Did the Seventh Circuit violate 28 U.S.C. § 2254 and a long line of this Court’s decisions by awarding habeas relief in the absence of clearly established precedent from this Court?”

AEDPA Appellate Review

- *Jennings v. Stephens*, 135 S. Ct. 793 (2015)
- J. Scalia:
 - Habeas petitioner, as appellee in court of appeals, (1) is not required to file a cross-appeal to urge an alternative theory for relief on appeal, and (2) need not seek a certificate of appealability to defend a judgment in the court of appeals.
