

# 2018-2019 SUPREME COURT REVIEW AND PREVIEW

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## I. Double Jeopardy

### *Currier v. Virginia*, 138 S.Ct. 2144 (2018)

A defendant who consents to severance of the charges against him loses the right to claim that the issue-preclusive effect of an acquittal at the first trial bars the prosecution from convicting him of a different, but related, offense at the second trial.

### *Gamble v. United States* (to be argued December 5, 2018)

Should the Court overrule the “separate sovereign” exception to the Double Jeopardy Clause?

## II. Search and Seizure

### A. What Constitutes a Search—Expectations of Privacy

#### *Carpenter v. United States*, 138 S.Ct. 2206 (2018)

Absent an exception, such as exigency, the Fourth Amendment requires the government to obtain a warrant to obtain historical cell phone tracking data showing the movements of a person for a significant period of time.

#### *Byrd v. United States*, 138 S.Ct. 1518 (2018)

A person who is not listed as an authorized driver on a rental car contract but is driving with the consent of the renter will generally have a reasonable expectation of privacy in the rental car.

### B. Probable Cause

#### *District of Columbia v. Wesby*, 138 S.Ct. 577 (2018)

Police officers had probable cause, under the totality of the circumstances, to arrest for trespass late-night raucous partiers found inside a seemingly vacant home after the homeowner told police that he had not authorized entry, notwithstanding some evidence that another person may have falsely told some of the partiers that she lived there and had invited them to enter.

### C. The Automobile Exception

***Collins v. Virginia*, 138 S.Ct. 1663 (2018)**

The automobile exception does not permit the police to enter the curtilage (in this case, by walking up the driveway to the side of the house) in order to search a vehicle without a warrant; there must be an independent justification for the entry of the curtilage.

### III. Right to an Impartial Jury—*Batson* Challenges

***Flowers v. Mississippi* (to be argued March 2019)**

In a case in which prior convictions have repeatedly been overturned because the prosecutor committed *Batson* violations, did the Mississippi Supreme Court correctly apply *Batson* this time by crediting the prosecutor's race-neutral reasons to strike five of the six potential black jurors?

### IV. Right to Counsel--Ineffective Assistance

***McCoy v. Louisiana*, 138 S.Ct. 1500 (2018)**

The trial court committed structural error by permitting trial counsel to concede, over the defendant's strenuous objection, that the defendant was guilty in an effort to avoid a death sentence.

***Garza v. Idaho* (argued October 30, 2018)**

Does the presumption of prejudice from *Roe v. Flores-Ortega* apply when counsel refuses the defendant's request to file a notice of appeal because the plea agreement included an appeal waiver?

### V. Guilty Pleas

***Class v. United States*, 138 S.Ct. 798 (2018)**

A guilty plea does not automatically waive all challenges to the constitutionality of the statute of conviction, so long as those constitutional challenges are not inconsistent with the facts the defendant admitted in making the plea.

### VI. Sentencing and Punishment

#### A. Excessive Fines

***Timbs v. Indiana* (argued November 26, 2018)**

Does the Fourteenth Amendment incorporate the Eighth Amendment Excessive Fines Clause against the states?

**B. Mandatory Minimums—the *Apprendi* Rule**

***United States v. Haymond* (to be argued February 2019)**

Does a federal statute violate the Fifth and Sixth Amendments right to a jury trial by requiring a judge to impose a mandatory minimum term of re-imprisonment upon the judge’s finding, by a preponderance, that a defendant on supervised release has violated the terms of that release by committing a specified new crime?

**VII. Post-Conviction Relief—Habeas Deference**

***Wilson v. Sellers*, 138 S.Ct. 1188 (2018)**

A federal habeas court should “look through” a summary state appellate court order and review the merits of the last reasoned decision on the claim instead of treating that summary appellate order as a decision on the merits.

*Last updated November 26, 2018*