

Supreme Court, U.S.
P. 1

No. 06- 06 - 291 (2006)

OFFICE OF THE CLERK

In The
Supreme Court of the United States

—◆—
MONTANA BOARD OF INVESTMENTS,

Petitioner,

v.

DEUTSCHE BANK SECURITIES, INC.,

Respondent.

—◆—
**On Petition For Writ Of Certiorari To The
New York State Court Of Appeals**

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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August 28, 2006

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QUESTION PRESENTED

Should the Court overrule its decision in *Nevada v. Hall*, 440 U.S. 410 (1979) and reverse a New York Court of Appeals decision holding in a breach of contract case that a Montana state agency's sovereign immunity did not deprive the New York state courts of jurisdiction to hear the case?

Supreme Court, U.S.
FILED

No. _____ 06-294 _____ - 2006

IN THE OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

CHARLES H. CLARK AND ELIZABETH HAJEK, INDIVIDUALLY, AND ON
BEHALF OF ALL OTHER PERSONS SIMILARLY SITUATED
Petitioners,

vs.

CAROLE KEETON STRAYHORN,
Comptroller of Public Accounts for the State of Texas;
Respondent.

On Petition for A Writ of Certiorari to the
Court of Appeals of Texas
Third District

PETITION FOR WRIT OF CERTIORARI

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294

i

QUESTION PRESENTED

Whether the scheme of using the interest earned on private citizens' unclaimed property funds for the general public, or using private citizens' unclaimed property without just compensation to the private citizen violates the Takings Clause of the Fifth Amendment of the Constitution.

Supreme Court, U.S.
FILED

06-296 AUG 29 2006

No. 06- OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

ARTICLE II GUN SHOP, INC.,
d/b/a GUN WORLD

Petitioner

v.

ALBERTO GONZALES,

Respondent

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

PETITION FOR A WRIT OF CERTIORARI

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296

i

QUESTION PRESENTED

Whether the term “willfully” as used in 18 U.S.C. § 923(e) (authorizing revocation of a firearm dealer’s license for willful violations) has the same meaning as the term “willfully” as used in 18 U.S.C. § 924(a)(1), which this Court interpreted in *Bryan v. United States*, 524 U.S. 184 (1998) to mean that person must act intentionally and purposely and with the intent to do something the law forbids, where both terms were enacted by the Firearms Owners Protection Act of 1986?

Supreme Court, U.S.

06 - 297 AUG 28 2006

No. OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

ERIC V. LUCAS, PETITIONER

v.

UNITED STATES OF AMERICA

*PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS,
FOR THE ARMED FORCES*

PETITION FOR WRIT OF CERTIORARI

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297

QUESTIONS PRESENTED

- I Whether the Convening Authority and the Military Judge Violated the Vicinage Provisions of the Sixth Amendment to the United States Constitution in Allowing the Court-Martial to Proceed in the Northern District of Florida When the Alleged Activity Occurred in the Southern District of Mississippi.
- II Whether the Petitioner's Sixth Amendment Right to Counsel Was Violated When He Received Ineffective Assistance of Counsel from Inexperienced Attorneys of the Judge Advocate General Corps.
- III Whether the Military Judge Violated the Due Process Clause of the Fifth Amendment to the United States Constitution When He Refused to Allow the Court-martial to Call Witnesses Pursuant to M.R.E. 614.

Supreme Court U.S.
FILED

No. 06- 06-298 AUG 28 2006

OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

INDUSTRIAL BANK, N.A.,

Petitioner,

v.

CITY BANK, SCOTT SEIDEL, CHAPTER 7 TRUSTEE
and LARRY BROWN, Debtor,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

This case presents the Court with an opportunity to resolve a significant conflict which exists among the circuit courts over a fundamental provision in bankruptcy law:

1. What is the effect of violating the automatic stay of 11 U.S.C. § 362?
 - a. Is a stay violation “void” or “voidable”?
 - b. If a stay violation is “void” or “voidable” can it be cured by retroactive annulment of the automatic stay under 11 U.S.C. § 362(d)(1)?
2. Does the “effect of dismissal” under 11 U.S.C. § 349(b) validate an action that was taken in violation of the automatic stay under 11 U.S.C. § 362?
3. Must a creditor seek retroactive annulment of the automatic stay under 11 U.S.C. § 362(d)(1) for a stay violation that occurred in a bankruptcy proceeding that has been dismissed?

Supreme Court U.S.
FILED

No. _____

06-299 AUG 8 5 2006

OFFICE OF THE CLERK

In the
Supreme Court of the United States

WILLIAM F. HEGGER,
Petitioner,

v.

VISTEON AUTOMOTIVE SYSTEMS, INC.,
and FORD MOTOR CO.,
Respondents.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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299

QUESTION PRESENTED FOR REVIEW

Did not the Sixth Circuit panel err in holding that the record did not reveal one or more genuine issues of material fact within the meaning of Rule 56 of the Federal Rules of Civil Procedure, thereby impermissibly permitting the entry of summary judgment predicated on matters of intent, motive, perception, and/or party witness credibility?

Supreme Court, U.S.
FILED

06-300 AUG 28 2006

OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

**JAMES FIELDS; TAMMANY FIELDS;
STUART HABERMAN; KATHLEEN HABERMAN;
ROBERT HOAGLIN; KATHIE HOAGLIN;
VANESSA SHETLER,**

Petitioners.

v.

**PALMDALE SCHOOL DISTRICT;
MICHAEL GEISSER; ARLAND ATWOOD,**

Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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300

QUESTIONS PRESENTED

1. Whether public elementary school parents have any constitutionally protected parental rights beyond their choice of where to educate their children.
2. Except for limitations imposed by the Establishment and Treason Clauses, do agents of public elementary schools have unlimited power to subject elementary-aged children to inappropriate, sexually-explicit questions and instruction in any manner, at any time and in any form, despite parental objections?
3. Whether claims of violation of parental rights by parents of public elementary school children must be resolved by balancing the asserted right with the state's asserted interests.
4. Whether parents of elementary-aged children can assert a familial privacy right under the Constitution which must be balanced against a public elementary school's request for compelled disclosure of personal, sexually-explicit information.

Supreme Court, U.S.
FILED

06-301 APR 27 2006

No. OFFICE OF THE CLERK

In the
Supreme Court of the United States

IWAN MANDYCZ,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The United States Department of Justice brought denaturalization proceedings against Iwan Mandycz, a United States citizen. Mandycz has Alzheimer's Disease, is incompetent, and was unable to meaningfully assist in his defense and assist in preparation for his trial. The lower courts held, *inter alia*: that denaturalization proceedings were civil actions; that the defense of incompetence could not be pled to bar the proceedings; and that the Due Process Clause of the Fifth Amendment of the United States Constitution did not prevent the suit against the incompetent Mandycz. Mandycz's citizenship was revoked by the District Court. If the decision below stands, Mandycz may be removed from the United States, where he has peaceably resided for over 50 years.

1. Does the Due Process Clause of the Fifth Amendment of the United States Constitution prevent Mandycz, an incompetent citizen of the United States, from being tried in denaturalization proceedings?

No. _____

06-302 AUG 30 2008

In The OFFICE OF THE CLERK
Supreme Court of the United States

MARVEL DAVIS, JEFF HOLLAND, PHYLLIS PIERSON,
STEVE MICHAEL, VIRGINIA SOUDERS, ROGER AND
BLANCA SOUDERS, MENACHEM AND OMARJORIE ARDON,
BRUCE RIEMENSCHNEIDER, DOUGLAS ZEIFHEIT AND
NORMA ZEIFHEIT, ROJEAN GUM, CLARENCE R. MICHAEL,
BURTON AND LOIS SCOTT, BYRON AND ROBERTA SCOTT,
ROYCE AND MARILYN THOMPSON, HARRY SCHOGER,
JAMES J. AND ROSEANN BUHLE, KATHRYN A. WEISS,
RUTH A. LAWSON, DANIEL W. MCKINNEY, LEONARD
HANSEN, RONALD H. NAUMAN, HAROLD W. MARTI,
BRUCE C. DEVICK, LOIS WEEKS, CHESTER SCOTT, THE
POOR CLARES OF JOLIET, THE WAYNE PEACOCK FAMILY
TRUST, JOSEPH J. RITCHIE, CHARLES ANZELEL, JR.,
LONNA MOELLERING (BOYCE FARM), BRUCE C. AND
SHIRLEY L. THOMPSON, CHARLENE J. DAVIS, ANN L.
BREEN, JEANENE SIPOS, PRISCILLA AND KENNETH W.
JORSTAD, ELLEN BOLTE, AUSTIN S. WEEKS, VERA A.
LONG, GERALD R. LONG, DOUGLASS H. LONG, REBECCA L.
ALDRICH, KIRK FRIESTAD, JESSE DALE, CAROLE
MONSON, NANCY MCCARTHY, THE HEAP FAMILY
PARTNERSHIP AND MARY MOSS,

Petitioners,

vs.

KIRK BROWN AND THE ILLINOIS
DEPARTMENT OF TRANSPORTATION,

Respondents.

**On Petition For Writ Of Certiorari
To The Supreme Court of Illinois**

PETITION FOR WRIT OF CERTIORARI

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302

QUESTIONS PRESENTED FOR REVIEW

- I. DOES THE ILLINOIS CORRIDOR PROTECTION STATUTE VIOLATE THE TAKINGS CLAUSE?
 - A. CAN THE STATE EXERCISE AN "OPTION TO TAKE" FROM PRIVATE PROPERTY OWNERS FOR A HIGHWAY WHICH IS PROPOSED BUT UNCERTAIN FOR AN UNLIMITED TIME PERIOD?
 - B. IS IT CONSTITUTIONALLY PERMISSIBLE FOR THE STATE TO USURP LOCAL BUILDING AND ZONING CODES, AND EXERCISE JURISDICTIONAL CONTROL OVER PROPERTIES WHICH LIE IN THE PATH OF A PROPOSED BUT UNCERTAIN HIGHWAY?
 - C. UNDER THE TAKINGS CLAUSE, CAN THE STATE DETERMINE THAT A PUBLIC NEED EXISTS WHEN THE TRIGGERING MECHANISM FOR THAT DETERMINATION IS THE DEVELOPMENT PLAN OF A PRIVATE PROPERTY OWNER INSTEAD OF AN AUTHORIZED PUBLIC PROJECT?
- II. DOES THE ILLINOIS CORRIDOR PROTECTION STATUTE VIOLATE THE DUE PROCESS CLAUSE?

06 - 303 AUG 29 2006

No. _____ OFFICE OF THE CLERK

In the
Supreme Court of the United States

ANGELA EASTERLING as Personal Representative
of the Wrongful Death Beneficiaries of
Wadreanna Quadashea Magee,
Petitioner,

v.

UNIVERSITY OF MISSISSIPPI MEDICAL CENTER,
Respondent.

On Petition for a Writ of Certiorari
to the Mississippi Supreme Court

PETITION FOR WRIT OF CERTIORARI

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303

QUESTIONS PRESENTED

1. Whether the Mississippi Supreme Court's order dismissing Petitioner's action was an unconstitutional deprivation of her fundamental rights.
2. Whether *Chevron* factors require prospective-only application of new, unprecedented procedural rules, when retroactive application deprives Petitioner of due process and fundamental human rights.
3. Whether the Mississippi Supreme Court's failure to apply the *Chevron* factors violated Petitioner's fundamental rights.

Supreme Court U.S.
FILED

06-304 AUG 30 2006

No. 06-

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

STEPHANIE TIPPIE,

Petitioner,

v.

SPACELABS MEDICAL, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Eleventh Circuit affirmed the district court's grant of Spacelabs' Motion for Summary Judgment in an employment discrimination claim filed by Tippie. Tippie claims that Spacelabs discriminated against her because of her gender, national origin and race when it terminated her position of Key Account Manager and failed to hire her for two available positions that were awarded to two male Argentinian individuals. The Eleventh Circuit affirmed the summary judgment order notwithstanding that the decision-maker admitted to facts from which a trier of fact can conclude that the decision-maker did not research the competing qualifications of the candidates in order to push through the candidates he had been predisposed to select. An employer is not entitled to an automatic application of the "honest belief" rule when the evidence shows that the decision-maker did not make a decision that was reasonably based on particularized facts. Permitting application of the rule under such circumstances insulates employers from attacks on their credibility and impairs a plaintiff's ability to fully oppose a motion for summary judgment as her ability to demonstrate pretext is severely limited. A conflict exists among the Eleventh, Sixth, and Seventh Circuits as to the circumstances that are appropriate for the application of the "honest belief" rule, and other Circuits have inconsistently applied such rule.

The Eleventh Circuit further affirmed the District Court's grant of summary judgment to Spacelabs on Tippie's race discrimination claim under Section 1981 finding that Tippie's discrimination claim was not cognizable under Section 1981 despite evidence of comments by the decision-maker that implicated both national origin and race.

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(2)

Two questions are presented:

1. Can an employer avail itself of the honest belief defense on a motion for summary judgment when the facts show that the belief had no legitimate factual basis and was based on the decision-maker's ignorance?
2. Does national origin discrimination by its nature implicate race discrimination thereby making such claim cognizable under Section 1981?

Questions

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Opinion I

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Statutory

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Reasons

I. F

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II. I

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Supreme Court, U.S.
FILED

No. 06- 06-306 AUG 30 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

—◆—
MARIANNE SAWICKI,

Petitioner,

v.

MORGAN STATE UNIVERSITY
and STATE OF MARYLAND,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fourth Circuit**

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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QUESTION PRESENTED

Under Title VII of the 1964 Civil Rights Act, if an employee is dismissed or otherwise injured as the result of the intentionally discriminatory actions of an official who exerted substantial influence over the employment decision involved, may the employer avoid liability by showing that a different official was the ultimate decisionmaker?

Supreme Court, U.S.
FILED

06 - 307 AUG 31 2006

No. OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

VALLEY VIEW PARTNERS,
Petitioner,

v.

NORTHAMPTON COUNTY TAX CLAIM BUREAU
AND ANTHONY MALINOWSKI,
Respondents.

**On Petition for a Writ of Certiorari
to the Commonwealth Court of Pennsylvania**

PETITION FOR A WRIT OF CERTIORARI

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307

QUESTION PRESENTED

Whether a property owner's right to redeem his property from a tax sale by paying delinquent taxes in installments is a property interest protected by the Due Process Clause of which the owner may not be deprived without meaningful notice.

Supreme Court, U.S.
F I L E D

Nº. 06-308 JUN 28 2006

OFFICE OF THE CLERK

In The
Supreme Court of the United States

—◆—
TROY R. STUART,
Petitioner,

v.

JULIUS WILSON, WARDEN,
Respondent.

—◆—
On Petition For A Writ Of Certiorari
To The United States Court of
Appeals For The Sixth Circuit

—◆—
SUPPLEMENTAL APPENDIX TO
PETITION FOR WRIT OF CERTIORARI

—◆—
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August, 2006

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308

QUESTIONS PRESENTED FOR REVIEW

IS THERE A PARTICULARIZED GUARANTEE OF
TRUSTWORTHINESS TO A MINOR CHILD'S OUT OF
COURT STATEMENTS WHICH WOULD PERMIT A
CONVICTION BASED SOLELY UPON HEARSAY
TESTIMONY WHEN AN APPELLATE COURT'S REVIEW
IS LIMITED TO THE FIVE FACTORS SET FORTH IN
IDAHO V. WRIGHT

Supreme Court, U.S.
FILED

06-30974-1 D.C. 2006

Case No. OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

STATE OF FLORIDA, *Petitioner*

vs.

JAMES RABB, *Respondent*

ON PETITION FOR WRIT OF CERTIORARI
TO THE FOURTH DISTRICT COURT OF APPEAL OF
THE STATE OF FLORIDA

PETITION FOR WRIT OF CERTIORARI

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309

QUESTION PRESENTED

I. Whether the Fourth District Court of Appeal's of Florida decision in State v. Rabb, 920 So.2d 1175 (Fla. 4th DCA 2006), conflicts with Illinois v. Caballes, 543 U.S. 405, 160 L. Ed. 2d 842, 125 S. Ct. 834 (2005); United States v. Place, 462 U.S. 109, 104 S.Ct. 1652, 80 L.Ed.2d 85, (1984) and United States v. Jacobsen, 466 U.S. 109, 104 S.Ct. 1652, 80 L.Ed.2d 85 (1984), by violating the Court's holdings that a canine sniff does not constitute a search because it is limited in scope and only reveals the presence or absence of contraband which does not compromise any legitimate interest in privacy?