

Questions Presented

| Docket # | Petitioner | Respondent | Question Presented |
|--------------------------|-------------------|-------------------------------|--|
| 06-1249 | Wyeth | Levine | Whether the prescription drug labeling judgments imposed on manufacturers by the Food and Drug Administration ("FDA") pursuant to FDA's comprehensive safety and efficacy authority under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., preempt state law product liability claims premised on the theory that different labeling judgments were necessary to make drugs reasonably safe for use. |
| 06-1595 | Crawford | Nashville and Davidson County | Does the anti-retaliation provision of section 704(a) of Title VII of the 1964 Civil Rights Act protect a worker from being dismissed because she cooperated with her employer's internal investigation of sexual harassment? |
| 06-11206 | Chambers | United States | Whether a defendant's failure to report for confinement "involves conduct that presents a serious potential risk of physical injury to another" such that a conviction for escape based on that failure to report is a "violent felony" within the meaning of the Armed Career Criminal Act, 18 U.S.C. § 924(e). |
| 07-463 | Summers | Earth Island Institute | 1. Whether the Forest Service's promulgation of 36 C.F.R. 215.4(a) and 215.12(f), as distinct from the particular site-specific project to which those regulations were applied in this case, was a proper subject of judicial review. 2. Whether respondents established standing to bring this suit. 3. Whether respondents' challenge to 36 C.F.R. 215.4(a) and 215.12(f) remained ripe and was otherwise judicially cognizable after the timber sale to which the regulations had been applied was withdrawn, and respondents' challenges to that sale had been voluntarily dismissed with prejudice, pursuant to a settlement between the parties. 4. Whether the court of appeals erred in affirming the nationwide injunction issued by the district court. |
| 07-499 | Negusie | Holder | Whether this "persecutor exception" to the Immigration and National Act prohibits granting asylum to, and withholding of removal of, a refugee who is compelled against his will by credible threats of death or torture to assist or participate in acts of persecution. |
| 07-512 | Pacific Bell | linkLine | Whether a plaintiff states a claim under Section 2 of the Sherman Act by alleging that the defendant - a vertically integrated retail competitor with an alleged monopoly at the wholesale level but no antitrust duty to provide the wholesale input to competitors - engaged in a "price squeeze" by leaving insufficient margin between wholesale and retail prices to allow the plaintiff to compete. |
| 07-513 | Herring | United States | Whether the Fourth Amendment requires evidence found during a search incident to an arrest to be suppressed when the arresting officer conducted the arrest and search in sole reliance upon facially credible but erroneous information negligently provided by another law enforcement agent. |

Questions Presented

| | | | |
|------------------------|-------------------------|-------------|---|
| 07-526 | Carcieri | Salazar | 1. Whether the Indian Reorganization Act of 1934 empowers the Secretary to take land into trust for Indian tribes that were not recognized and under federal jurisdiction in 1934. 2. Whether an act of Congress that extinguishes aboriginal title and all claims based on Indian rights and interests in land precludes the Secretary from creating Indian country there. |
| 07-542 | Arizona | Gant | Did the Arizona Supreme Court effectively "overrule" this Court's bright-line rule in <i>Belton</i> by requiring in each case that the State prove after-the-fact that those inherent dangers actually existed at the time of the search? |
| 07-543 | AT&T | Hulteen | 1. Whether an employer engages in a current violation of Title VII when, in making post-PDA eligibility determinations for pension and other benefits, the employer fails to restore service credit that female employees lost when they took pregnancy leaves under lawful pre-PDA leave policies. 2. Whether the Ninth Circuit's finding of a current violation of Title VII in such circumstances gives impermissible retroactive effect to the PDA. |
| 07-544 | Hedgpeth | Pulido | Did the Ninth Circuit fail to conform to "clearly established" Supreme Court law, as required by 28 U.S.C. § 2254(d), when it granted habeas corpus relief by deeming an erroneous instruction on one of two alternative theories of guilt to be "structural error" requiring reversal because the jury might have relied on it? |
| 07-562 | Altria | Good | Whether state-law challenges to FTC-authorized statements regarding tar and nicotine yields in cigarette advertising are expressly or impliedly preempted by federal law. |
| 07-581 | 14 Penn Plaza | Pyett | Is an arbitration clause contained in a collective bargaining agreement, freely negotiated by a union and an employer, which clearly and unmistakably waives the union members' right to a judicial forum for their statutory discrimination claims, enforceable? |
| 07-582 | FCC | Fox | Whether the court of appeals erred in striking down the Federal Communications Commission's determination that the broadcast of vulgar expletives may violate federal restrictions on the broadcast of "any obscene, indecent, or profane language," 18 U.S.C. 1464; see 47 C.F.R. 73.3999, when the expletives are not repeated. |
| 07-588 | Entergy Corporation | EPA | Whether Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), authorizes the Environmental Protection Agency (EPA) to compare costs with benefits in determining the "best technology available for minimizing adverse environmental impact" at cooling water intake structures. |
| 07-589 | PSEG Fossil | Riverkeeper | Whether Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), authorizes the Environmental Protection Agency (EPA) to compare costs with benefits in determining the "best technology available for minimizing adverse environmental impact" at cooling water intake structures. |
| 07-597 | Utility Water Act Group | Riverkeeper | Whether Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), authorizes the Environmental Protection Agency (EPA) to compare costs with benefits in determining the "best technology available for minimizing adverse environmental impact" at cooling water intake structures. |

Questions Presented

| | | | |
|------------------------|----------------------------|------------------------------|--|
| 07-591 | Melendez-Diaz | Massachusetts | Whether a state forensic analyst's laboratory report prepared for use in a criminal prosecution is "testimonial" evidence subject to the demands of the Confrontation Clause as set forth in <i>Crawford v. Washington</i> , 541 U.S. 36 (2004). |
| 07-608 | United States | Hayes | Whether, to qualify as a "misdemeanor crime of domestic violence" under 18 U.S.C. 921(a)(33)(A), an offense must have as an element a domestic relationship between the offender and the victim. |
| 07-610 | Locke | Karass | May a State, nonetheless, consistent with the First and Fourteenth Amendments, condition continued public employment on the payment of agency fees for purposes of financing a monopoly bargaining agent's affiliates' litigation outside of a nonunion employee's bargaining unit? |
| 07-615 | Ministry of Defense (Iran) | Elahi | Is an attachment against foreign sovereign property permissible when that property is "at issue in claims against the United States before an international tribunal," and that property is not a "blocked asset," pursuant to the terms of the 2000 Victims of Trafficking and Violence Protection Act and the 2002 Terrorism Risk Insurance Act? |
| 07-636 | Kennedy | Plan Adm. For Dupont Savings | Was the Fifth Circuit correct in concluding that ERISA's Qualified Domestic Relations Order provision, 29 U.S.C. § 1056(d)(3)(B)(i), is the only valid way a divorcing spouse can waive her right to receive her ex-husband's pension benefits under ERISA? |
| 07-665 | Pleasant Grove City, Utah | Summum | 1. Did the Tenth Circuit err by holding, in conflict with the Second, Third, Seventh, Eighth, and D.C. Circuits, that a monument donated to a municipality and thereafter owned, controlled, and displayed by the municipality is not government speech but rather remains the private speech of the monument's donor? 2. Did the Tenth Circuit err by ruling, in conflict with the Second, Sixth, and Seventh Circuits, that a municipal park is a public forum under the First Amendment for the erection and permanent display of monuments proposed by private parties? 3. Did the Tenth Circuit err by ruling that the city must immediately erect and display Summum's "Seven Aphorisms" monument in the city's park? |
| 07-689 | Bartlett | Strickland | Whether a racial minority group that constitutes less than 50% of a proposed district's population can state a vote dilution claim under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973. |
| 07-751 | Pearson | Callahan | 1) Several lower courts have recognized a "consent once removed" exception to the Fourth Amendment warrant requirement. Does this exception authorize police officers to enter a home without a warrant immediately after an undercover informant buys drugs inside (as the Sixth and Seventh Circuits have held), or does the warrantless entry in such circumstances violate the Fourth Amendment (as the Tenth Circuit held below)? 2) Did the Tenth Circuit properly deny qualified immunity when the only decisions directly on point had all upheld similar warrantless entries? In addition to the questions presented by the petition, the Parties are directed to brief and argue the following Question: "Whether the court's decision in <i>Saucier V. Katz</i> , 533 U.S. 194 (2001) should be overruled?" |

Questions Presented

| | | | |
|------------------------|--------------------|---|---|
| 07-772 | Waddington | Sarausad | 1. In reviewing a due process challenge to jury instructions brought under 28 U.S.C. § 2254, must the federal courts accept the state court determination that the instructions fully and correctly set out state law governing accomplice liability? 2. Where the accomplice liability instructions correctly set forth state law, is it an unreasonable application of clearly established federal law to conclude there was no reasonable likelihood that the jury misapplied the instructions so as to relieve the prosecution of the burden of proving all the elements of the crime? |
| 07-773 | Vaden | Discover Bank | 1. Whether a suit seeking to enforce a state-law arbitration obligation brought under Section 4 of the Federal Arbitration Act, 9 U.S.C. § 4, "aris[es] under" federal law, see 28 U.S.C. § 1331, when the petition to compel itself raises no federal question but the dispute sought to be arbitrated-a dispute that the federal court is not asked to and cannot reach- involves federal law. 2. If so, whether a "completely preempted" state-law counterclaim in an underlying state-court dispute can supply subject matter jurisdiction. |
| 07-854 | Van de Kamp | Goldstein | 1. Where absolute immunity shields an individual prosecutor's decisions regarding the disclosure of informant information in compliance with Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972) made in the course of preparing for the initiation of judicial proceedings or trial in any individual prosecution, may a plaintiff circumvent that immunity by suing one or more supervising prosecutors for purportedly improperly training, supervising, or setting policy with regard to the disclosure of such informant information for all cases prosecuted by his or her agency? 2. Are the decisions of a supervising prosecutor as chief advocate in directing policy concerning, and overseeing training and supervision of, individual prosecutors' compliance with Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405 U.S. 150 (1972) in the course of preparing for the initiation of judicial proceedings or trial for all cases prosecuted by his or her agency, actions which are "intimately associated with the judicial phase of the criminal process" and hence shielded from liability under Imbler v. Pachtman, 424 U.S. 409, 430 (1976)? |
| 07-869 | Ysura | Pocatello Education Association | Does the First Amendment to the United States Constitution prohibit a state legislature from removing the authority of state political subdivisions to make payroll deductions for political activities under a statute that is concededly valid as applied to state government employers? |
| 07-901 | Oregon | Ice | Whether the Sixth Amendment, as construed in Apprendi v. New Jersey, 530 U.S. 466 (2000), and Blakely v. Washington, 542 U.S. 296 (2004), requires that facts (other than prior convictions) necessary to imposing consecutive sentences be found by the jury or admitted by the defendant. |
| 07-984 | Coeur Alaska, Inc. | Southeast Alaska Conservation Council, et al. | Whether the Ninth Circuit erred in reallocating the Army Corps' and EPA's permitting authority under the Act. |

Questions Presented

| | | | |
|-------------------------|------------------|---|---|
| 07-990 | Alaska | Southeast Alaska Conservation Council, et al. | Whether the Ninth Circuit erred in reallocating the Army Corps' and EPA's permitting authority under the Clean Water Act. |
| 07-1015 | Ashcroft | Iqbal | 1. Whether a conclusory allegation that a cabinet- level officer or other high-ranking official knew of, condoned, or agreed to subject a plaintiff to allegedly unconstitutional acts purportedly committed by subordinate officials is sufficient to state individual-capacity claims against those officials under Bivens. 2. Whether a cabinet-level officer or other high-ranking official may be held personally liable for the allegedly unconstitutional acts of subordinate officials on the ground that, as high-level supervisors, they had constructive notice of the discrimination allegedly carried out by such subordinate officials. |
| 07-1059 | United States | Eurodif, S.A. | Whether the court of appeals erred in rejecting Commerce's conclusion that foreign merchandise is "sold in the United States" within the meaning of 19 U.S.C. 1673 when a purchaser in the United States obtains foreign merchandise by providing monetary payments and raw materials to a foreign entity that performs a major manufacturing process in which substantial value is added to the raw materials, thereby creating a new and different article of merchandise that is delivered to the U.S. purchaser. |
| 07-1078 | USEC, Inc. | Eurodif, S.A. | Whether the court of appeals erred in rejecting Commerce's conclusion that foreign merchandise is "sold in the United States" within the meaning of 19 U.S.C. 1673 when a purchaser in the United States obtains foreign merchandise by providing monetary payments and raw materials to a foreign entity that performs a major manufacturing process in which substantial value is added to the raw materials ,thereby creating a new and different article of merchandise that is delivered to the U.S. purchaser. |
| 07-1090 | Republic of Iraq | Beaty | Whether the Republic of Iraq possesses sovereign immunity from the jurisdiction of the courts of the United States in cases involving alleged misdeeds of the Saddam Hussein regime and predicated on the exception to immunity in former 28 U.S.C. § 1605(a)(7). |
| 08-539 | Republic of Iraq | Simon | Whether the Republic of Iraq possesses sovereign immunity from the jurisdiction of the courts of the United States in cases involving alleged misdeeds of the Saddam Hussein regime and predicated on the exception to immunity in former 28 U.S.C. § 1605(a)(7). |
| 07-1114 | Cone | Bell | 1. Is a federal habeas claim "procedurally defaulted" because it has been presented twice to the state courts? 2. Is a federal habeas court powerless to recognize that a state court erred in holding that state law precludes reviewing a claim? |
| 07-1122 | Arizona | Johnson | In the context of a vehicular stop for a minor traffic infraction, may an officer conduct a pat-down search of a passenger when the officer has an articulable basis to believe the passenger might be armed and presently dangerous, but has no reasonable grounds to believe that the passenger is committing, or has committed, a criminal offense? |

Questions Presented

| | | | |
|-------------------------|-------------------|-----------------------------|---|
| 07-1125 | Fitzgerald | Barnstable School Committee | Whether Title IX's implied right of action precludes Section 1983 constitutional claims to remedy sex discrimination by federally funded educational institutions. |
| 07-1209 | Shinseki | Sanders | Whether the court of appeals erred in holding that a failure of the VA to give the notice required by the VCAA must be presumed to be prejudicial. |
| 07-1216 | Philip Morris USA | Williams | Whether, after this Court has adjudicated the merits of a party's federal claim and remanded the case to state court with instructions to "apply" the correct constitutional standard, the state court may interpose-for the first time in the litigation-a state-law procedural bar that is neither firmly established nor regularly followed. |
| 07-1239 | Winter | NRDC | 1. Whether CEQ permissibly construed its own regulation in finding "emergency circumstances." 2. Whether, in any event, the preliminary injunction, based on a preliminary finding that the Navy had not satisfied NEPA's procedural requirements, is inconsistent with established equitable principles limiting discretionary injunctive relief. |
| 07-1309 | Boyle | United States | Does proof of an association-in-fact enterprise under the RICO statute, 18 U.S.C. §§ 1962(c)-(d), require at least some showing of an ascertainable structure beyond that inherent in the pattern of racketeering activity in which it engages? |
| 07-1315 | Knowles | Mirzayance | 1. Did the Ninth Circuit again exceed its authority under § 2254(d) by granting habeas relief without considering whether the state-court adjudication of the claim was "unreasonable" under "clearly established Federal law" based on its previous conclusion that trial counsel was required to proceed with an affirmative insanity defense because it was the only defense available and despite the absence of a Supreme Court decision addressing the point? 2. May a federal appellate court substitute its own factual findings and credibility determinations for those of a district court without determining whether the district court's findings were "clearly erroneous?" |
| 07-1356 | Kansas | Ventris | Whether a criminal defendant's "voluntary statement obtained in the absence of a knowing and voluntary waiver of the [Sixth Amendment] right to counsel," Michigan v. Harvey, 494 U.S. 344, 354 (1990), is admissible for impeachment purposes-a question the Court expressly left open in Harvey and which has resulted in a deep and enduring split of authority in the Circuits and state courts of last resort? |
| 07-1372 | Hawaii | Office of Hawaiian Affairs | Whether this symbolic resolution strips Hawaii of its sovereign authority to sell, exchange, or transfer 1.2 million acres of state land-29 percent of the total land area of the State and almost all the land owned by the State--unless and until it reaches a political settlement with native Hawaiians about the status of that land. |

Questions Presented

| | | | |
|---------|---------------------|---------------|---|
| 07-1410 | United States | Navajo Nation | 1. Whether the court of appeals' holding that the United States breached fiduciary duties in connection with the Navajo coal lease amendments is foreclosed by Navajo.2. If Navajo did not foreclose the question, whether the court of appeals properly held that the United States is liable as a mater of law to the Navajo Nation for up to \$600 million for the Secretary's actions in connection with his approval of amendments to an Indian mineral lease based on several statutes that do not address royalty rates in tribal leases and common-law principles not embodied in a governing statute or regulation. |
| 07-1428 | Ricci | DeStefano | 1. When an otherwise valid civil service selection process yields unintended racially disproportionate results, may municipalities reject the results and the successful candidates for reasons of race absent the demonstration required by 42 U.S.C. §2000e-2(k)? 2. Does 42 U.S.C. §2000e-2(l) which makes it unlawful for employers "to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race ... ," permit employers to refuse to act on the results of such tests for reasons of race? 3. If, citing the public interest in eradicating political patronage, racism and corruption in civil service, a state's highest court mandates strict compliance with local laws requiring race-blind competitive merit selection procedures, does 42U.S.C. §2000e-7 permit federal courts to relieve municipalities from compliance with such laws? |
| 08-328 | Ricci | DeStefano | 1. When an otherwise valid civil service selection process yields unintended racially disproportionate results, may municipalities reject the results and the successful candidates for reasons of race absent the demonstration required by 42 U.S.C. §2000e-2(k)? 2. Does 42 U.S.C. §2000e-2(l) which makes it unlawful for employers "to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race ... ," permit employers to refuse to act on the results of such tests for reasons of race? 3. If, citing the public interest in eradicating political patronage, racism and corruption in civil service, a state's highest court mandates strict compliance with local laws requiring race-blind competitive merit selection procedures, does 42U.S.C. §2000e-7 permit federal courts to relieve municipalities from compliance with such laws? |
| 07-1437 | Carlsbad Technology | HIF Bio | Whether a district court's order remanding a case to state court following its discretionary decision to decline to exercise the supplemental jurisdiction accorded to federal courts under 28 U.S.C. § 1367(c) is properly held to be a remand for a "lack of subject matter jurisdiction" under 28 U.S.C. § 1447(c) so that such remand order is barred from any appellate review by 28 U.S.C. § 1447(d). |
| 07-1529 | Montejo | Louisiana | When an indigent defendant's right to counsel has attached and counsel has been appointed, must the defendant take additional affirmative steps to "accept" the appointment in order to secure the protections of the Sixth Amendment and preclude police-initiated interrogation without counsel present? |

Questions Presented

| | | | |
|-------------------------|----------------------------|---------------|---|
| 07-1601 | Burlington Northern | United States | Whether the Ninth Circuit erred by reversing the district court's reasonable apportionment of responsibility under CERCLA, and by adopting a standard of review and proof requirements that depart from common law principles and conflict with decisions of other circuits. |
| 07-1607 | Shell Oil | United States | Whether the Ninth Circuit erred by reversing the district court's reasonable apportionment of responsibility under CERCLA, and by adopting a standard of review and proof requirements that depart from common law principles and conflict with decisions of other circuits. |
| 07-6984 | Jimenez | Quarterman | Whether a Certificate of Appealability should have issued pursuant to <i>Slack v McDaniel</i> , 529 U.S. 473, 482, 120 S.Ct. 1595, 1604 (2000) on the question of whether pursuant to 28 U.S.C. § 2244 (d)(1)(A) when through no fault of the petitioner, he was unable to obtain a direct review and the highest State Court granted relief to place him back to original position on direct review, should the 1-year limitations begin to run after he has completed that direct review resetting the 1-year limitations period. |
| 07-8521 | Harbison | Bell | 1. Does 18 U.S.C. §3599(a)(2) and (e) (recodifying verbatim former 21 U.S.C. §848(q) (4)(B) and (q) (8)), permit federally-funded habeas counsel to represent a condemned inmate in state clemency proceedings when the state has denied state funded counsel for that purpose? 2. Is a certificate of appealability required to appeal an order denying a request for federally-funded counsel under 18 U.S.C. §3599(a)(2) and (e)? |
| 07-9712 | Puckett | United States | Whether a forfeited claim that the government breached a plea agreement is subject to the plain-error standard of Rule 52(b) of the Federal Rules of Criminal Procedure. |
| 07-9995 | Rivera | Illinois | Whether the erroneous denial of a criminal defendant's preemptory challenge that resulted in the challenged juror being seated requires automatic reversal of a conviction. |
| 07-10374 | Haywood | Drown | Whether a state's withdrawal of jurisdiction over certain damages claims against state corrections employees - from state courts of general jurisdiction - may be constitutionally applied to exclude federal claims under Section 1983, especially when, as here, the state legislature withdrew jurisdiction because it concluded that permitting such lawsuits is bad policy? |
| 07-10441 | Corley | United States | Whether 18 U.S.C. § 3501 - read together with Fed. R. Crim. P. Rule 5(a), <i>McNabb v. United States</i> , 318 U.S. 332 (1943), and <i>Mallory v. United States</i> , 354 U.S. 449 (1957) - requires that a confession taken more than six hours after arrest and before presentment be suppressed if there was unreasonable or unnecessary delay in bringing the defendant before the magistrate judge. |
| 08-6 | District Attorney's Office | Osborne | 1. May Osborne use § 1983 as a discovery device for obtaining postconviction access to the state's biological evidence when he has no pending substantive claim for which that evidence would be material? 2. Does Osborne have a right under the Fourteenth Amendment's Due Process Clause to obtain postconviction access to the state's biological evidence when the claim he intends to assert - a freestanding claim of innocence - is not legally cognizable? |

Questions Presented

| | | | |
|-----------------------|-----------------------|--------------------------|---|
| 08-22 | Caperton | A.T. Massey Coal Company | Whether Justice Benjamin's failure to recuse himself from participation in his principal financial supporter's case violated the Due Process Clause of the Fourteenth Amendment. |
| 08-67 | Yeager | United States | Whether, when a jury acquits a defendant on multiple counts but fails to reach a verdict on other counts that share a common element, and, after a complete review of the record, the court of appeals determines that the only rational basis for the acquittals is that an essential element of the hung counts was determined in the defendant's favor, collateral estoppel bars a retrial on the hung counts. |
| 08-88 | Vermont | Brillon | 1. Whether continuances and delays caused solely by an indigent defendant's public defender can arise to a speedy trial right violation, and be charged against the State pursuant to the test in <i>Barker v. Wingo</i> , on the theory that public defenders are paid by the state (with a small "s"). 2. Whether the right to counsel, as established in <i>Gideon v. Wainwright</i> , should result in broader speedy trial rights to indigent defendants than defendants who are able to retain private counsel, such that only delays by private counsel get charged against the defendant under the <i>Barker v. Wingo</i> test. |
| 08-108 | Flores-Figueroa | United States | Whether, to prove aggravated identity theft under 18 U.S.C. § 1028A(a)(1), the Government must show that the defendant knew that the means of identification he used belonged to another person. |
| 08-146 | Arthur Andersen | Carlisle | 1) Whether Section 16(a)(1)(A) of the FAA provides appellate jurisdiction over an appeal from an order denying an application made under Section 3 to stay claims involving non-signatories to the arbitration agreement. 2) Whether Section 3 of the FAA allows a district court to stay claims against nonsignatories to an arbitration agreement when the nonsignatories can otherwise enforce the arbitration agreement under principles of contract and agency law, including equitable estoppel. |
| 08-192 | Abuelhawa | United States | Whether the use of a telephone to buy drugs for personal use "facilitates" the commission of a drug "felony," in violation of 21 U.S.C. § 843(b), on the theory that the crime facilitated by the buyer is not his purchase of drugs for personal use (a misdemeanor), but is the seller's distribution of the drugs to him (a felony). |
| 08-205 | Citizens United | FEC | Whether a broadcast feature-length documentary movie that is sold on DVD, shown in theaters, and accompanied by a compendium book is to be treated as the broadcast "ads" at issue in <i>McConnell</i> , 540 U.S. at 126, or whether the movie is not subject to regulation as an electioneering communication. |
| 08-214 | Atlantic Sounding Co. | Townsend | May a seaman recover punitive damages for the willful failure to pay maintenance and cure? |
| 08-267 | United States | Denedo | Whether an Article I military appellate court has jurisdiction to entertain a petition for a writ of error coram nobis filed by a former service member to review a court martial conviction that has become final under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq. |

Questions Presented

| | | | |
|--------|-----------------------|--------|--|
| 08-289 | Horne | Flores | By interpreting the phrase "appropriate action" under Section 1703(f) of the Equal Education Opportunity Act as a requirement that the State of Arizona provide for a minimum amount of funding specifically allocated for English Language Learner programs statewide, did the Ninth Circuit violate the doctrine prohibiting federal courts from usurping the discretionary power of state governments to determine how to appropriately manage and fund their public education systems? 2. Should the phrase "appropriate action" as used in Section 1703(f) of the Equal Education Opportunity Act be interpreted consistently with the No Child Left Behind Act of 2001, where both Acts have the same purpose with respect to English Language Learners and the NCLB provides specific standards for the implementation of adequate English Language Learner programs, but the EEOA does not? |
| 08-294 | Speaker of the House | Flores | Whether a federal-court injunction seeking to compel institutional reform should be modified in the public interest when the original judgment could not have been issued on the state of facts and law that now exist, even if the named defendants support the injunction. 2. Whether compliance with NCLB's extensive requirements for English language instruction is sufficient to satisfy the EEOA's mandate that States take "appropriate action" to overcome language barriers impeding students' access to equal educational opportunities. |
| 08-295 | Travelers Indemnity | Bailey | Whether the court of appeals erred in categorically holding that bankruptcy courts do not have jurisdiction to enter confirmation orders that extend beyond the "res" of a debtor's estate, despite this Court's recent ruling that "[t]he Framers would have understood that laws 'on the subject of Bankruptcies' included laws providing, in certain respects, for more than simple adjudications of rights in the res," <i>Central Virginia Community College v. Katz</i> , 546 U.S. 356, 370 (2006), and whether the court of appeals compounded this error by: (a) failing to apply as written a federal statute (11 USC §§ 524(g) and (h)), by limiting the scope of relief in a manner that is contrary to the express terms and purposes of that statute; (b) failing to give effect to the Supremacy Clause and holdings of this Court that federal bankruptcy relief cannot be overridden by rights alleged to have been created under state law; and (c) failing to respect important principles of finality and repose, and the express provisions of §524(g), by failing to approve a federal court's enforcement of a confirmation order that was affirmed over two decades ago on direct appeal. |
| 08-307 | Common Law Settlement | Bailey | Once a bankruptcy court's subject-matter jurisdiction over a case attaches, whether the court must have a separate jurisdictional basis to approve a third-party injunction provision in a plan of reorganization or related confirmation order. |
| 08-305 | Forest Grove | T.A. | Whether parents of a student who has never previously received special education services from a school district may be eligible under the Individuals with Disabilities Education Act for reimbursement of private school tuition. |

Questions Presented

| | | | |
|---------|---------------|------------------------|---|
| 08-310 | Polar Tankers | City of Valdez | 1. Whether a municipal personal property tax that falls exclusively on large vessels using the municipality's harbor violates the Tonnage Clause of the Constitution, art. I, § 10, cl. 3. 2. Whether a municipal personal property tax that is apportioned to reach the value of property with an out-of-State domicile for periods when the property is on the high seas or otherwise outside the taxing jurisdiction of any State violates the Commerce and Due Process Clauses of the Constitution. |
| 08-322 | NAMUDNO | Mukasey | Whether the appellant is eligible to "bail out" from the preclearance requirement of Section 5 of the Voting Rights Act, and whether Congress provided sufficient justification of current voting discrimination when extended the requirement in 2006 for another twenty-five years. |
| 08-441 | Gross | FBL Financial Services | Must a plaintiff present direct evidence of discrimination in order to obtain a mixed motive instruction in a non-Title VII discrimination case? |
| 08-453 | Cuomo | Clearinghouse Ass.c' | Whether 12 USC § 484 and 12 CFR § 7.4000 prohibit measures taken by the New York State Attorney General to enforce state fair lending law against national banks by subjecting those entities to "visitorial powers." |
| 08-479 | Safford USD | Redding | Whether the Fourth Amendment prohibits public school officials from conducting a strip search of a student suspected of possessing and distributing a prescription drug on campus in violation of school policy. |
| 08-495 | Nijhawan | Mukasey | Whether the petitioner's conviction for mail, bank and wire fraud qualified as an aggravated felony under the immigration laws, the penalty for which is lifetime banishment from the country. |
| 08-598 | Bobby | Bies | Whether the holding of a state post-conviction hearing to determine the mental capacity of a capital defendant whose death sentence was affirmed before <i>Atkins v. Virginia</i> (2002), which barred the execution of mentally retarded defendants, violates the Double Jeopardy clause. |
| 08-660 | Eisenstein | City of New York | Whether the 30-day time limit in Federal Rule of Appellate Procedure 4(a)(1)(A) for filing a notice of appeal, or the 60-day time limit in Rule 4(a)(1)(B), applies to a qui tam action under the False Claims Act. |
| 08-681 | Nken | Mukasey | Whether the decision of a court of appeals to stay an alien's removal pending consideration of the alien's petition for review is governed by the standard set forth in Section 242(f)(2) of the Immigration and Nationality Act, 8 U.S.C § 1252(f)(2), or instead by the traditional test for stays and preliminary injunctive relief. |
| 08-5274 | Dean | United States | Whether 18 U.S.G. § 924(c)(I)(A)(iii), establishing a ten-year mandatory minimum sentence for a defendant who "discharge[s]" a firearm during a crime of violence, requires proof that the discharge was volitional, and not merely accidental, unintentional, or involuntary. |