

Supreme Court Preview: Next Year's Headlines Today

2019 Appellate Judges Education Institute (AJEI) Summit
Independence Ballroom A
Grand Hyatt Hotel
Washington, DC
November 16, 2019

Paul D. Clement
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1. **Ramos v. Louisiana, No. 18-5924 (Argument date: October 7, 2019)**

Question Presented: Whether the 14th Amendment fully incorporates the Sixth Amendment guarantee of a unanimous verdict.

2. **Bostock v. Clayton County, Georgia, No. 17-1618; Altitude Express Inc. v. Zarda, No. 17-1623 (Argument date: October 8, 2019)**

Question Presented: Whether the prohibition in Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)(1), against employment discrimination “because of . . . sex” encompasses discrimination based on an individual’s sexual orientation.

3. **R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission, No. 18-107 (Argument date: October 8, 2019)**

Question Presented: Whether Title VII prohibits discrimination against transgender people based on (1) their status as transgender or (2) sex stereotyping under Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).

4. **Allen v. Cooper, No 18-877 (Argument date: November 5, 2019)**

Question Presented: Whether Congress validly abrogated state sovereign immunity in the Copyright Remedy Clarification Act in providing remedies for authors of original expression whose federal copyrights are infringed by states.

5. **Hernandez v. Mesa, No. 17-1678 (Argument date: November 12, 2019)**

Question Presented: Whether, when the plaintiffs plausibly allege that a rogue federal law-enforcement officer violated clearly established Fourth and Fifth Amendment rights for which there is no alternative legal remedy, the federal courts can and should recognize a damages claim under Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

6. Trump v. NAACP, No. 18-588; McAleenan v. Vidal, No 18-589; Department of Homeland Security v. Regents of the University of California, No. 18-587 (Argument date: November 12, 2019)

Questions Presented: (1) Whether the decision of the Department of Homeland Security to wind down the Deferred Action for Childhood Arrivals (DACA) policy is judicially reviewable; and (2) whether DHS's decision to wind down the DACA policy is lawful.

7. New York State Rifle & Pistol Association Inc. v. City of New York, New York, No. 18-280 (Argument date: December 2, 2019)

Question Presented: Whether New York City's ban on transporting a licensed, locked, and unloaded handgun to a home or shooting range outside city limits is consistent with the Second Amendment, the Commerce Clause, and the constitutional right to travel.

8. Moda Health Plan v. United States, No. 18-1028 (Argument date: December 10, 2019)

Question Presented: Whether Congress can evade its unambiguous statutory promise to pay health insurers for losses already incurred simply by enacting appropriations riders restricting the sources of funds available to satisfy the government's obligation.

9. Espinoza v. Montana Department of Revenue, No. 18-1195 (Argument date: TBD)

Question Presented: Whether it violates the Religion Clauses or the Equal Protection Clause of the United States Constitution to invalidate a generally available and religiously neutral student-aid program simply because the program affords students the choice of attending religious schools.

10. June Medical Services LLC v. Gee, No 18-1323 (Argument date: TBD)

Whether the decision of the U.S. Court of Appeals for the 5th Circuit upholding Louisiana's law requiring physicians who perform abortions to have admitting privileges at a local hospital contravenes Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016).