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NATIONAL LABOR RELATIONS BOARD V. NOEL CANNING (12-1281)

Appealed from the District of Columbia Circuit Court of Appeals

Oral argument: Jan. 13, 2014

Issues

1. Can the President exercise the recess-appointment power while the Senate is still in session?
2. Can the President exercise the recess-appointment power when the Senate convenes every three days in pro forma sessions?
3. Can the President use the recess-appointment power to fill any vacancy that exists during a recess or only to fill those that arose during the recess?

Questions as Framed for the Court by the Parties

The Recess Appointments Clause of the Constitution provides that "[t]he President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session." Art. II, § 2, C1. 3. The questions presented are as follows:

1. Whether the President's recess-appointment power may be exercised during a recess that occurs within a session of the Senate or is instead limited to recesses that occur between enumerated sessions of the Senate.
2. Whether the President's recess-appointment power may be exercised to fill vacancies that exist during a recess or is instead limited to vacancies that first arose during that recess.

Note: In addition to the questions presented by the petition, the parties are directed to brief and argue the following question: whether the President's recess-appointment power may be exercised when the Senate is convening every three days in pro forma sessions.

Facts

In January 2013, the D.C. Circuit held that a February 2012 decision by the National Labor Relations Board (NLRB) was invalid because it did not have a sufficient number of members to act at the time.

The board decision addressed a labor dispute between Noel Canning (Noel), a soft-drink bottler, and the International Brotherhood of Teamsters Local 760 (the union). The union alleges that Noel's president agreed to adopt a proposal that had no cap on the proportion of a $0.40 per hour salary increase that could be allocated to the pension fund. Noel, however, refused to execute a written agreement, and the union accused it of unfair labor practices.

An administrative law judge (ALJ) concluded that Noel Canning had violated the National Labor Relations Act (NLRA) (29 U.S.C. § 158) by refusing to execute the agreement in writing. In February 2012, an NLRB panel affirmed the ALJ.

To administer and enforce the NLRA, the NLRB must have at least three members to constitute a quorum. Accordingly, Noel filed a petition for review, arguing that in February 2012, the NLRB lacked the minimum number of members required to enforce the NLRA.

The President had appointed three members to the NLRB on Jan. 4, 2012, pursuant to the Recess Appointments Clause. The appointments occurred in between pro forma Senate sessions, during which the Senate, by unanimous agreement, met every third business day during an intrasession recess from Dec. 20, 2011, to Jan. 23, 2012. The agreement explicitly stated that "no business [would be] conducted." Because the President's three appointments to the NLRB occurred in between these pro forma sessions, Noel argued that the NLRB could not have lawfully acted because it lacked the minimum number of properly appointed officials.

In January 2013, the D.C. Circuit vacated the board's order, concluding that the President's appointments were constitutionally invalid because the board lacked a quorum in February 2012. The court reasoned that the Recess Appointments Power is limited to appointments during intersession recesses, defined as "when a legislature adjourns … without specifying a day for its return." The court also limited the appointment power to vacancies that happen during the recess. The NLRB petitioned for a writ of certiorari on April 25, 2013, which the Supreme Court granted on June 24, 2013.

Discussion

This case examines the scope of the President's recess-appointment power; specifically, whether the President can exercise this power to appoint officials without Senate approval during a recess while Congress is still in session or only *between* sessions of Congress. The Court's decision will impact the validity of hundreds of presidential appointments, and accordingly, the validity of decisions of hundreds of federal officials.

Political Gamesmanship

Numerous *amici* in support of the NLRB argue that the Recess Appointments Clause authorizes the President to appoint government officials during intrasession recesses while the Senate is still in session. For example, the Brennan Center for Justice argues that the clause is a crucial check against the extreme partisan tactics that the Senate uses to obstruct presidential appointments. According to the center, limiting the recess-appointment power to intersession recesses enables a Senate minority to obstruct the appointment of nominees and paralyze entire agencies. Therefore, the Brennan Center argues, the recess appointments power functions as an essential check

against the political factionalism that spurs the Senate to block presidential nominees.

The International Longshore and Warehouse Union (Longshore Union) argues, in support of Noel, that enabling the President to fill any vacancy during a recess, regardless of when it occurred, enables the President to strategically wait to fill a vacancy. Prof. Tuan Samahon adds that the Senate has addressed many of the NLRB supporters' concerns by recently abolishing the use of the filibuster for most presidential nominations. In light of this termination, Professor Samahon argues that a presidential nominee now requires only a majority of the Senate's support and can no longer be blocked by a minority in the Senate.

Effect of Invalidating Previous Appointments

Amicus for the NLRB Prof. Victor Williams argues that affirming the D.C. Circuit's limitation on presidential recess appointments to intersession recesses would fundamentally disrupt the finality of appointments and the stability of federal government agencies. Specifically, the professor argues that such an interpretation of the recess-appointment power threatens the validity of the 329 intrasession appointments made by Presidents since 1981. Accordingly, the challenges to commissions made in 2012 to the NLRB under the circuit's interpretation of the recess appointment power have already resulted in both economic and political disruptions.

Daycon Products Company (Daycon), in support of Noel, counters that concerns over stability and invalidity are "overblown," and that the "ordinary doctrine of repose" would ensure that most of the earlier appointments about which the NLRB expresses concern would remain unchallenged. The first of these doctrines that Dayton presents is a six-year "catch-all" statute of limitations that insulates earlier appointments from administration action challenges. Under the same doctrine, Daycon also argues that a properly appointed official can ratify improperly made appointments. Where the statute of limitations does not offer protection, Daycon contests that *de facto* validity of officers acting "under the color of official title" protects officers from challenges that were to arise from limiting the recess-appointment power to intersession appointments.

Analysis

The Appointments Clause of the U.S. Constitution states that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States." However, the Recess Appointments Clause allows the executive to "fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." The NLRB and Noel disagree on the limits of the term "recess" covered by the clause.

Intrasession and Intersession Recesses

The NLRB argues that the Court should interpret the Constitution as authorizing presidential appointments during intrasession and intersession recesses. It also argues that recess was understood by the framers and is understood in modern times to be a "period of cessation from usual work" and adds that the Third Circuit has interpreted recess to have some connation of longevity. Specifically, the NLRB asserts that the framers' understanding of the term "recess" derived from British Parliamentary practice, which referred to breaks during and between sessions as recesses. The board thus argues that the Constitution's reference does not signify that there is only one recess—the intersession recess—because the Constitution refers to reoccurring events in other sections with the article "the."

Noel disagrees and argues that recess cannot be interpreted in a vacuum. It asserts that the colloquial interpretation would lead to unacceptable results, such as construing the break between daily sessions as a recess that gives the President the appointment power every day when the Senate adjourns. Moreover, Noel claims that under the NLRB's broad reading of recess, intrasession appointees would serve twice as long as intersession appointees and that Presidents could easily bypass the advice and consent process by waiting until any recess to make an intrasession appointment. Noel also argues that the phrase "the Recess" plainly refers to formal recesses between enumerated sessions of Congress.

Pro Forma Sessions as Recesses

The NLRB argues that the President can make appointments during pro forma sessions—short sessions in which no business is conducted by the Senate. In its view, when the Senate is conducting such sessions, it is in recess for the clause's purposes. The board notes that the 1905 Senate Judiciary Committee defined recess as "the period of time when … members owe no duty of attendance; when its Chamber is empty; when, because of its absence, it cannot receive communications from the President or participate as a body in making appointments"; accordingly, the NLRB argues that pro forma sessions fit this description because the sessions are only held as a technicality and are not Senate sessions in a substantive sense.

Noel counters that pro forma sessions are fully functional Senate sessions. Accordingly, during the instant pro forma sessions, the presiding Senator could have passed legislation, confirmed nominees, or exercised any other Senate power so long as there was unanimous consent. Noel also disputes the NLRB's characterization that pre-session orders render pro forma session recesses because the Senate must make relevant authorizations for both recesses and adjournments. Further, Noel argues that it is irrelevant whether pro forma sessions are sparsely attended because Senators have the same attendance obligation at pro forma sessions as any other session.

Conclusion

This case will address a fundamental balance of power between the federal executive and legislative branches. Specifically, the Court will address the scope of the President's power under the Recess Appointments Clause and how congressional practices, like pro forma sessions, affect the boundaries of executive power. While the recent Senate amendment to the filibuster rule may result in decreasing the President's reliance on the Clause, an immediate effect of the Court's ruling may be to potentially invalidate thousands of decisions issued by the NLRB since the President's recess appointments in 2012. ⊙

Written by Holly Tao and Chihiro Tomioka. Edited by Chanwoo Park. The authors would like to thank former Supreme Court Reporter of Decisions Frank Wagner for his assistance in editing this preview.

MCCULLEN V. COAKLEY (12-1168)

Appealed from the U.S. Court of Appeals for the First Circuit

Oral argument: Jan. 15, 2014

Issue

Are state-mandated buffer zones around reproductive health care facilities that prohibit pro-life activists from approaching patients constitutional?

Questions as Framed for the Court by the Parties

Massachusetts has made it a crime for speakers to "enter or remain on a public way or sidewalk" within 35 feet of an entrance, exit, or driveway of "a reproductive health care facility." The law applies only at abortion clinics. The law also exempts, among others, clinic "employees or agents … acting within the scope of their employment." In effect, the law restricts the speech of only those who wish to use public areas near abortion clinics to speak about abortion from a different point of view.

Petitioners are individuals who believe that women often have abortions because they feel pressured, alone, unloved, and out of options. Petitioners try to position themselves near clinics in an attempt to reach this unique audience, at a unique moment, to offer support, information, and practical assistance. They are peaceful and nonconfrontational and do not obstruct access. Yet, the state prohibits them from entering or standing on large portions of the public sidewalk to proffer leaflets or seek to begin conversations with willing listeners. The questions presented are:

1. Whether the First Circuit erred in upholding Massachusetts' selective exclusion law under the First and Fourteenth Amendments, on its face and as applied to petitioners.
2. If *Hill v. Colorado,* 530 U.S. 703 (2000), permits enforcement of this law, whether Hill should be limited or overruled.

Facts

For more than three decades, pro-life and pro-choice advocates have battled each other over the best forums for expressing their ideas. A large part of the struggle has occurred in front of reproductive health care facilities (RHCF), where pro-life advocates sometimes try to dissuade patients, shame the staff, and call attention to what they believe are the evil practices of these facilities. In Massachusetts, the protests have often resulted in violence and other unruly behavior. To encourage public safety in and around RHCFs without affecting the flow of traffic, the Massachusetts legislature passed the Act Relative to Public Safety at Reproductive Health Care Facilities (2007 act) that created buffer zones near access points to the clinics.

The 2007 act defined the zone as a 35-foot radius from any entrance, exit, or driveway of a reproductive RHCF, or a rectangle created from the outside boundaries of each access point, all the way to the street. Furthermore, the 2007 act prohibits all persons from remaining within the marked buffer zones with four exceptions; people entering or exiting the facility, staff of the facility acting within the scope of their employment, law enforcement and other public service officials acting within the scope of their employment, and people using the area solely for the purpose of reaching a destination.

On Jan. 16, 2008, Eleanor McCullen and other Massachusetts residents who regularly engage in pro-life activities around the RHCFs sued the Attorney General, Martha Coakley, in federal district court. McCullen alleged violations of 42 U.S.C. § 1983 and other constitutional violations, seeking declaratory and injunctive relief. The district court bifurcated McCullen's claims into facial and as-applied challenges. It denied relief on all of McCullen's claims, and McCullen appealed to the First Circuit. Nevertheless, the First Circuit concluded that the 2007 act was content- and viewpoint-neutral, and a valid time, place, and manner regulation.

Additionally, the court held that the 2007 act was not overly broad or vague, and thus ruled that it was not an unlawful restraint on protected speech. McCullen then appealed to the Supreme Court of the United States, which granted *certiorari* to determine whether the First Circuit erred in upholding Massachusetts' 2007 act as constitutional.

Discussion

McCullen argues that the 2007 act is unconstitutional because it denies RHCF patients the opportunity to access information about abortion alternatives. Coakley argues that the zones help promote public safety by protecting patients. The Supreme Court's decision implicates access to information about abortions and alternatives, freedom of speech, and women's rights.

Protecting RHCFS

Planned Parenthood League of Massachusetts (PPLM) argues that the 2007 act is neutral on its face because to prevent violence, it restricts who can congregate outside of RHCFs, regardless of what those individuals say. According to PPLM, protestors with any message cannot congregate outside RHCFs, including pro-choice protestors as well as the petitioners in this case. Furthermore, PPLM argues that to promote safety around RHCFs, the statute grants RHCF employees access to the buffer zones as a matter of logistical necessity.

In support of McCullen, 40 Days for Life Organization (40 Days) asserts that the 2007 act lacks neutrality because it restricts speech only around RHCFs, as other health care facilities are exempt. In limiting the act's application to RHCFs, 40 Days claims the Massachusetts legislature was not making a general policy choice for health care facilities; rather it was targeting the content of speech around RHCFs.

Access to Information

The Justice and Freedom Fund, in support of McCullen, argues that the statute hinders speech by changing the channels for communicating the pro-life message, and hence depriving pro-life activists of the most effective means of communicating with potential patients. Democrats for Life also argues that the no-speech zone changes the tone, voice, and identity of the speaker, and thus the law hinders its members' ability to communicate. Moreover, 40 Days claims that the no-speech zone denies women the opportunity to receive information about possible abortion alternatives that may promote their health.

The *United States*, in support of Coakley, counters that the statute does not ban speech; it merely regulates the place where the communication takes place. Therefore, the government maintains, anti-abortion activists can approach whomever they want, whenever they want, for whatever purpose they want, so long as they do this outside the buffer zone, because, so far, buffer zones are the only viable means of keeping those areas safe and clear. The United States also points out that women are not prevented from obtaining this information on their own; women who are interested can easily approach the activists to request the information.

Analysis

The Supreme Court will determine the constitutionality of a Massachusetts law, which creates a buffer zone around RHCFs forbidding speakers (other than clinic employees or agents acting within the scope of their employment) from visiting a public sidewalk within 35 feet of a clinic's entrance, exit, or driveway. Deciding this issue will require an analysis of two sub-issues: (1) whether, under the First and Fourteenth Amendments, the First Circuit erred in upholding Massachusetts's buffer zone law; and (2) whether *Hill v. Colorado* should be limited or overruled.

The 2007 act's Effect on First Amendment Rights

McCullen claims that the First Circuit erred in upholding the 2007 act because it is not a permissible time, place, and manner regulation of free speech. First, McCullen argues that the law is not content-neutral because it creates buffer zones only at RHCFs, as opposed to all health care facilities, and thus only impacts the free speech of citizens who want to speak on the issue of abortion. She also asserts that the law is not viewpoint-neutral because it exempts RHCF employees and agents from the buffer zone, thus providing them with privileged access to public sidewalks to promote the clinics' pro-choice views, while obstructing anti-abortion groups from expressing their views. McCullen argues that the law is not narrowly tailored because it unnecessarily bans citizens from entering otherwise public sidewalks to distribute leaflets or conduct consensual conversations with willing listeners. McCullen also argues that the alternative means of communication available under the 2007 act, which requires standing outside the exclusion zones shouting using bullhorns and/or waving large signs, is not adequate.

Coakley, however, argues that the law is content-neutral because, even though it creates buffer zones only at RHCFs, its language is not limited to people who oppose abortion. The law neutrally applies to all demonstrators, whether they oppose or support the women who are making an abortion decision. Coakley further argues that the law is viewpoint-neutral, even though it exempts RHCF employees and agents from the buffer zone, because clinic employees often assist in protecting patients and ensuring their safe passage as they approach the clinic. Coakley contends that the 2007 act is sufficiently narrowly tailored even if it has the effect of limiting communications with some willing listeners. She points out that the Supreme Court has repeatedly held that a sufficiently narrowly tailored law can constitutionally bar protestors from approaching both willing and unwilling listeners, where there is ample opportunity to communicate outside the zone. Coakley argues that the fact that McCullen continued to succeed in convincing some pregnant women, whom McCullen met outside the buffer zone, to not undergo abortions further establishes that alternative channels of communication are available to McCullen.

Limiting or Overruling Hill

McCullen argues that *Hill v. Colorado* should be substantially narrowed or overruled. In *Hill*, the Supreme Court affirmed a Colorado law that created a buffer zone around all health facilities so that protestors could not approach within eight feet of a person without their consent. McCullen, however, argues that since *Hill* was decided, no Supreme Court majority opinion has relied on *Hill's* First Amendment analysis because that case contradicts other well-established First Amendment principles.

Coakley argues that *Hill* should neither be substantially narrowed nor overruled. She contends that, because there are important differences between the 2007 act and the law reviewed in *Hill*, this case is not a proper vehicle for reconsidering *Hill*. For example, the 2007 act deals with a fixed buffer zone that excludes all non-exempt individuals, without regard as to whether they are engaged in any kind of speech or communicative activity. But, Coakley contends, the law reviewed in *Hill* dealt with a floating buffer zone that excluded individuals from approaching others without consent for the purposes of protest, education, or counseling.

Conclusion

In this case, the Supreme Court will address the scope of free speech rights afforded to anti-abortion protesters. Whether the 2007 act is unconstitutional, or *Hill v. Colorado* constitutes invalid precedent, will be decided by the Court. The Supreme Court's decision could alter the balance between a state's interest in protecting women who visit RHCFs and the interests of anti-abortion protesters who want to counsel such women. ⊙

Written by Paul Kang and Oscar Lopez. Edited by Allison Nolan. The authors would like to thank former Supreme Court Reporter of Decisions Frank Wagner for his assistance in editing this preview.

LAW V. SIEGEL (12-5196)

Appealed from the U.S. Court of Appeals for the Ninth Circuit

Oral argument: Jan. 13, 2014

Stephen Law filed for Chapter 7 bankruptcy, and Alfred Siegel was appointed as his bankruptcy trustee. Law filed for and was granted an exemption for a value of $75,000 in equity for his home under § 522 of the Bankruptcy Code. Throughout the bankruptcy proceedings, however, Law was uncooperative and ultimately defrauded the court and Siegel. After Law fraudulently claimed a second mortgage on his home, the court granted Siegel's request to revoke the previously granted exemption to pay administrative expenses for the proceedings. Law argues that by granting the revocation, the court frustrated Congress' intent to give debtors sufficient funds to support themselves when they emerge from bankruptcy. Siegel responds that courts have the power to protect the judicial process through equitable revocation of exemptions when dishonest and misbehaving debtors act to damage the judicial process. The Supreme Court will decide whether bankruptcy courts have the power to revoke congressionally granted exemptions for debtors' assets as punishment for debtor misconduct. The decision will impact debtors in bankruptcy and the security of the minimal assets they might retain after proceedings. Full text is available at www.law.cornell.edu/supct/cert/12-5196. ⊙

Written by Sean Mooney and Brett Mull. Edited by Stephen Wirth.

EXECUTIVE BENEFITS INSURANCE AGENCY V. ARKISON (12-1200)

Appealed from the U.S. Court of Appeals for the Ninth Circuit

Oral argument: Jan. 14, 2014

In 2011, the Supreme Court held in *Stern v. Marshall* that bankruptcy courts are constitutionally barred from granting final judgments on certain core state law claims. Since then, lower courts have tried

to determine the scope of the holding, which addresses bankruptcy courts' ability, as non-Article III courts, to preside over issues traditionally considered to be core bankruptcy issues. Petitioner, Executive Benefits Insurance Agency, (EBIA) was a third party to a bankruptcy proceeding. The bankruptcy court found that the debtor had fraudulently transferred $373,291.28 to EBIA before filing for Chapter 7 bankruptcy. The bankruptcy trustee, Arkison, sued EBIA to recover those funds, and the bankruptcy court granted a judgment against EBIA. EBIA appealed and invoked *Stern v. Marshall*, claiming that the bankruptcy court could not enter a final judgment on a fraudulent transfer claim. The district court and Ninth Circuit affirmed the bankruptcy court, reasoning that EBIA had impliedly consented to the bankruptcy court's jurisdiction. The Supreme Court's ruling in this case will clarify the limits of *Stern v. Marshall* and define core bankruptcy proceeding. The Court will also determine what kind of consent is necessary for bankruptcy courts to have jurisdiction over claims requiring adjudication by Article III judges. Full text is available at www.law.cornell.edu/supct/cert/12-1200. ⊙

Written by Gabriella Bensur and Jennifer Brokamp. Edited by Dillon Horne.

MARVIN M. BRANDT REVOCABLE TRUST V. UNITED STATES (12-1173)

Appealed from the U.S. Court of Appeals for the Tenth Circuit

Oral argument: Jan. 14, 2014

The United States sought a declaratory judgment in federal district court to quiet title to an abandoned railroad right-of-way. Marvin M. Brandt Revocable Trust counterclaimed, seeking to quiet title to the right of way in its favor. The Tenth Circuit ruled that the Abandoned Railroad Right of Way Act and the National Trails System Improvement Act modified the General Railroad Right of Way Act of 1875 to create a reversionary interest in the United States to abandoned railroad rights of way. The trust argues that, under Supreme Court precedent, rights of way created by the 1875 act should be considered easements, not reversionary interests. The United States claims that Congress preserved a reversionary interest in the United States under the 1875 act, under which the right of way at issue was created. This case addresses a circuit split over whether the United States retains an implied reversionary interest in rights of way created under the 1875 act. The Supreme Court will balance private property interests and the public's interest in rehabilitating abandoned rail lines. More generally, the Court will address whether a grantor of real property impliedly retains an interest in land after it is sold. Full text is available at www.law.cornell.edu/supct/cert/12-1173. ⊙

Written by Kalson Chan and Alex Kerrigan. Edited by Chanwoo Park.

UNITED STATES V. QUALITY STORES INC. (12-1408)

Appealed from the U.S. Court of Appeals for the Sixth Circuit

Oral argument: Jan. 14, 2014

In 2001, Quality Stores made severance payments to employees who were involuntarily terminated after Quality Stores filed for Chapter 11 bankruptcy. Quality Stores later argued that the payments should not have been taxed as wages under the Federal Insurance Contributions Act (FICA). When the IRS did not respond to Quality Stores' claim seeking a $1 million refund in FICA taxes, Quality Stores commenced an adversary action in bankruptcy court. The bankruptcy court ruled for Quality Stores, concluding that the severance payments were nontaxable supplemental unemployment benefits. The district court and Sixth Circuit affirmed. The Supreme Court will determine whether severance payments to involuntarily terminated employees are taxable wages under FICA. The Court will resolve a circuit split between the Sixth and Federal Circuits in a decision that will affect all employers who provide severance pay. At stake are billions of dollars in FICA tax refunds to employers and their former employees. Full text is available at www.law.cornell.edu/supct/cert/12-1408. ⊙

Written by So Yeon Chang and Madeline Weiss. Edited by Jeremy Amar-Dolan.

UNITED STATES V. CASTLEMAN (12-1371)

Appealed from the U.S. Court of Appeals for the Sixth Circuit

Oral argument: Jan. 15, 2014

In 1996, Congress passed what is now Section 922(g)(9) of Title 18, which criminalizes the possession of firearms by certain individuals. Section 922(g)(9) makes it a federal crime for a person convicted in state court of a "misdemeanor crime of domestic violence" to possess a firearm if the misdemeanor involved the use or attempted use of physical force. In 2001, James Alvin Castleman was convicted in Tennessee of misdemeanor domestic assault, which requires proof of causing bodily injury to another. Seven years later, Castleman was indicted for possessing a firearm in violation of Section 922(g)(9). The Supreme Court will address whether Castleman's conviction qualifies as a predicate offense for Section 922(g)(9) and whether the language "physical force" requires violent contact. The Court's ruling will affect the scope of limitations on domestic violence offenders' possession of firearms and may serve as precedent for other misdemeanor offenses that contain the language "physical force." Full text is available at www.law.cornell.edu/supct/cert/12-1371. ⊙

Written by Sandra Fung and Jacob Brandler. Edited by Dillon Horne.

PETRELLA V. METRO-GOLDWYN-MAYER, INC. (12-1315)

Appealed from the U.S. Court of Appeals for the Ninth Circuit

Oral argument: Jan. 21, 2014

Frank Petrella was the screenwriter behind the critically acclaimed 1980 film *Raging Bull*. In 1978, United Artists Corporation, a subsidiary of respondent Metro-Goldwyn-Mayer Studios (MGM), acquired the rights to the screenplay. When Frank Petrella died in 1981, the renewal rights passed to his heirs. His daughter, petitioner Paula Petrella (Petrella), renewed the copyright in 1991. Over the next two decades, Petrella and MGM engaged in a series of communications, during which Petrella accused MGM of infringing her copyright. Petrella filed suit in 2009; pursuant to the three-year statute of limitations of the Copyright Act, the suit only involved claims arising from 2006 and on. The Ninth Circuit Court of Appeals upheld the district court's decision to bar Petrella's copyright claims according to the nonstatutory doctrine of laches, an equitable defense that bars claims filed too late. The Supreme Court's ruling in this case will impact not only how quickly plaintiffs must bring copyright claims, but also the extent to which equitable defenses may apply to an area regulated by

Congress. Full text is available at www.law.cornell.edu/supct/cert/12-1315. ⊙

Written by Daniel Rosales and Jordan Manalastas. Edited by Jeremy Amar-Dolan.

NAVARETTE V. CALIFORNIA (12-9490)

Appealed from the California First District Court of Appeal

Oral argument: Jan. 21, 2014

In August 2008, a Mendocino County 911 dispatcher received a call from another county dispatcher reporting that a silver Ford truck had run another car off the road. The car occupants had anonymously reported that the truck ran them off the road. A police officer saw the truck, pulled it over, searched it, found four large bags of marijuana, and arrested Jose and Lorenzo Navarette for marijuana transportation, possession, and sale. The Navarettes filed a motion to suppress evidence of the marijuana, arguing that the anonymous tip was not sufficient to justify the stop because the officer did not independently corroborate the alleged illegal activity. The magistrate judge denied the motion to suppress, and on appeal, the California Court of Appeal held that the officer had reasonable suspicion to stop the vehicle. The Supreme Court granted *certiorari* to decide whether an anonymous tip must be corroborated to create a reasonable suspicion of criminal activity. This case will impact the continuing development of Fourth Amendment law. The Navarettes argue that the Fourth Amendment requires independent corroboration of reckless driving for an anonymous tip to justify stopping a vehicle. California responds that because of the state's interest in protecting the public, an anonymous tip can supply reasonable suspicion absent police corroboration. Full text is available at www.law.cornell.edu/supct/cert/12-9490. ⊙

Written by Katherine Hinderlie and Rose Petoskey. Edited by Stephen Wirth.

PAROLINE V. UNITED STATES (12-8561)

Appealed from the U.S. Court of Appeals for the Fifth Circuit

Oral argument: Jan. 22, 2014

Doyle Paroline was convicted of possessing 150 to 300 images of minors being sexually abused, including two images of respondent "Amy" being abused by her uncle at the age of eight or nine years old. The Supreme Court will settle a circuit split over the required causal relationship between a defendant's possession and a victim's harm for the victim to recover full restitution under 18 U.S.C § 2259. Paroline argues that a victim's damages must be proximately caused by the defendant's conduct because any other result would turn child exploitation restitution proceedings into a procedural nightmare. Amy argues that § 2259 does not require proximate causation for a victim to be entitled to full damages; otherwise, the victims of child abuse would bear the burden of collecting tiny shares of restitution from several defendants and might never receive full recovery. The Court's ruling will impact the rights of exploited children and the procedural rights afforded to those charged with possessing child pornography. Full text is available at www.law.cornell.edu/supct/cert/12-8561. ⊙

Written by Paul Rodriguez and Melanie Senosian. Edited by Angela Lu.

ABRAMSKI V. UNITED STATES (12-1493)

Appealed from the U.S. Court of Appeals for the Fourth Circuit

Oral argument: Jan. 22, 2014

In the fall of 2009, Bruce Abramski purchased a handgun for his uncle and indicated on the required form that he was the "actual buyer" of the gun. Before Abramski made the purchase, the uncle sent Abramski a check to cover the cost of the gun. After buying the gun, Abramski transferred ownership of the firearm to his uncle at a local gun store in a different state. Both Abramski and his uncle are lawful gun owners. After the transfer, the government criminally prosecuted Abramski for making a false statement claiming he was the "actual buyer" of the gun. Abramski argued on appeal that the relevant provisions of the Gun Control Act of 1968 do not apply when the purchaser intends to resell the gun to another lawful purchaser. That argument was rejected by the Fourth Circuit, which held that the identity of the purchaser is always a fact material to the sale and that the gun dealer was required to record the identity of the intended owner. The United States argues for affirmation that the Gun Control Act prohibits Abramski from lying about the identity of the actual purchaser, which makes the sale illegal and undermines the purpose of the law. The Supreme Court's decision in this case will settle a circuit split regarding the lawfulness of this type of intermediary gun purchase. This decision will also establish whether an individual may ever buy a gun on behalf of another buyer. Full text is available at www.law.cornell.edu/supct/cert/12-1493. ⊙

Written by Jennifer Stepp Breen and L. Alyssa Chen. Edited by Chanwoo Park.

HARRIS V. QUINN (11-681)

Appealed from the U.S. Court of Appeals for the Seventh Circuit

Oral argument: Jan. 21, 2014

Under Illinois law, caregivers who provide in-home assistance to disabled individuals through certain Medicaid-waiver programs may be compelled to support a private organization to be their exclusive representative for collective-bargaining purposes. According to Illinois, the purpose of such mandatory support for exclusive representation is to prevent inter-union rivalries that might hinder collective-bargaining negotiations and to prevent non-union members from "free-riding" off union members. In this case, the Supreme Court will consider whether compelled support for exclusive representation in this specific context violates the Constitution. Petitioners argue that forcing in-home service providers to unionize infringes upon their First Amendments rights, including freedom of speech and freedom of association. Respondents counter that the Supreme Court's precedent allows the government to force public workers to unionize when there is a compelling government interest for doing so. However, the fact that the Supreme Court has granted *certiorari* on such a narrow issue has many commentators speculating that the Court may be intending to decide much more than is immediately apparent, including decisions that may have drastic consequences for the very future of labor unions. Full text is available at www.law.cornell.edu/supct/cert/11-681. ⊙

Written by Jordan Kobb and Craig Steen. Edited by Angela Lu.