



Supreme Decisions

The Supreme Court is set to rule on several important cases this term, including whether President Trump's travel ban is constitutional

BY PATRICIA SMITH

The Supreme Court, by tradition, returns from its summer recess on the first Monday in October to begin a new term. Right off the bat, the justices will tackle several cases that raise important constitutional questions.

This will be the first full term with Justice Neil M. Gorsuch on the Court. President Trump nominated Gorsuch last January to fill the seat vacated by the death a year earlier of Justice Antonin Scalia; Gorsuch took his seat as one of the court's nine justices in April (see graphic, facing page) after the Senate confirmed him.

Among the most anticipated cases on the Court's docket are ones that deal with the constitutionality of President Trump's temporary travel ban on people from six majority-Muslim countries; the right to privacy in the digital age; limits on the First Amendment guarantee of religious freedom; and the legitimacy of the political practice of gerrymandering.

Here's what you need to know to understand those key cases.



The Justices

The nine members of the Supreme Court serve for life

Elena Kagan

Leans liberal

Appointed by Barack Obama in 2010

FUN FACT:

Kagan loves frozen yogurt and had a frozen yogurt machine installed in the Supreme Court cafeteria.

Samuel A. Alito Jr.

Leans conservative

Appointed by George W. Bush in 2006

FUN FACT:

As a kid, Alito dreamed of being a pitcher for the Philadelphia Phillies.

Sonia Sotomayor

Leans liberal

Appointed by Barack Obama in 2009

FUN FACT:

Sotomayor is a Yankees fan and learned to salsa dance at age 50.

Neil M. Gorsuch

Leans conservative

Appointed by Donald Trump in 2017

FUN FACT:

Gorsuch is an avid skier, hiker, and fly-fisherman.



Ruth Bader Ginsburg

Leans liberal

Appointed by Bill Clinton in 1993

FUN FACT:

Ginsburg loves reading mysteries and going to the opera.

Anthony M. Kennedy

Often the swing vote

Appointed by Ronald Reagan in 1988

FUN FACT:

For 27 years, Kennedy has spent his summers teaching law at a university in Salzburg, Austria.

Chief Justice John G. Roberts Jr.

Leans conservative

Appointed by George W. Bush in 2005

FUN FACT:

Roberts was captain of his high school football team at La Lumiere School in La Porte, Indiana.

Clarence Thomas

Leans conservative

Appointed by George H. W. Bush in 1991

FUN FACT:

Thomas loves to drive his RV around the country, often spending the night in Walmart parking lots.

Stephen G. Breyer

Leans liberal

Appointed by Bill Clinton in 1994

FUN FACT:

Breyer was voted "most likely to succeed" when he graduated from high school in 1955.

Is President Trump's travel ban constitutional?

Trump v. International Refugee Assistance Project

This case pits two important constitutional concerns against each other. The Court will have to weigh the president's power to safeguard America's national security versus the First Amendment guarantee that people won't face discrimination based on their religious beliefs.

"It's one of the most important cases about religious liberty that the Supreme Court has ever heard," says David Gans of the Constitutional Accountability Center, a legal think tank in Washington, D.C. "It poses the question: Can the president write religious discrimination into our immigration laws?"

The case stems from an executive order that President Trump issued with the intention of shutting down travel

to the U.S. from six majority-Muslim countries—Iran, Libya, Somalia, Sudan, Syria, and Yemen—for 90 days. The order also temporarily blocked entry of refugees from any nation.

Trump said the order was necessary to give the Department of Homeland Security time to evaluate and address problems in the vetting process for visitors from countries it considers dangerous.

"We want to ensure that we are not

admitting into our country the very threats our soldiers are fighting overseas,” Trump said.

The travel ban has its roots in a presidential campaign promise. In December 2015, then-candidate Trump called for a “total and complete shutdown” of Muslim immigration in response to the threat posed by terrorist groups such as ISIS (see “Are We Winning the War Against ISIS?”, p. 14). Earlier that month, a Muslim-American gunman claiming to be acting on behalf of ISIS killed 14 people at an office party in San Bernardino, California. Trump’s proposal resonated with many Americans who were increasingly fearful about the threat of terrorist attacks on U.S. soil.

After human rights groups filed lawsuits to overturn the travel ban, federal appeals courts blocked two different versions of the ban, ruling that it discriminated based on religion, in violation of the First Amendment, and that it exceeded the authority given to the president by federal immigration laws. The Trump administration appealed the federal court rulings, and in June the Supreme Court agreed to hear the case. In the meantime, it allowed some parts of the travel ban to take effect.

Those who oppose the travel ban say the government has provided little evidence for how the ban would protect

Who’s Affected by the Travel Ban?

The current ban applies to travelers coming from **Iran, Libya, Somalia, Sudan, Syria, and Yemen.**

People from those six countries who can show they have close ties to the U.S. are exempt and will still be permitted to enter. “Close ties” could mean a close relative living in the U.S., a job offer from an American company, or admission to a U.S. school.



U.S. citizens. No one from the six targeted countries has killed an American on U.S. soil in a terrorist attack since at least 1975, according to a study by the Cato Institute.

But those who support the ban say the enormity of the potential security risks makes the restrictions reasonable.

“The vast majority of people coming from these countries don’t pose a threat, but it only takes a few people getting through the net to do an awful lot of damage,” says Ira Mehlman of the Federation for American Immigration Reform, a group that favors tighter restrictions on immigration.

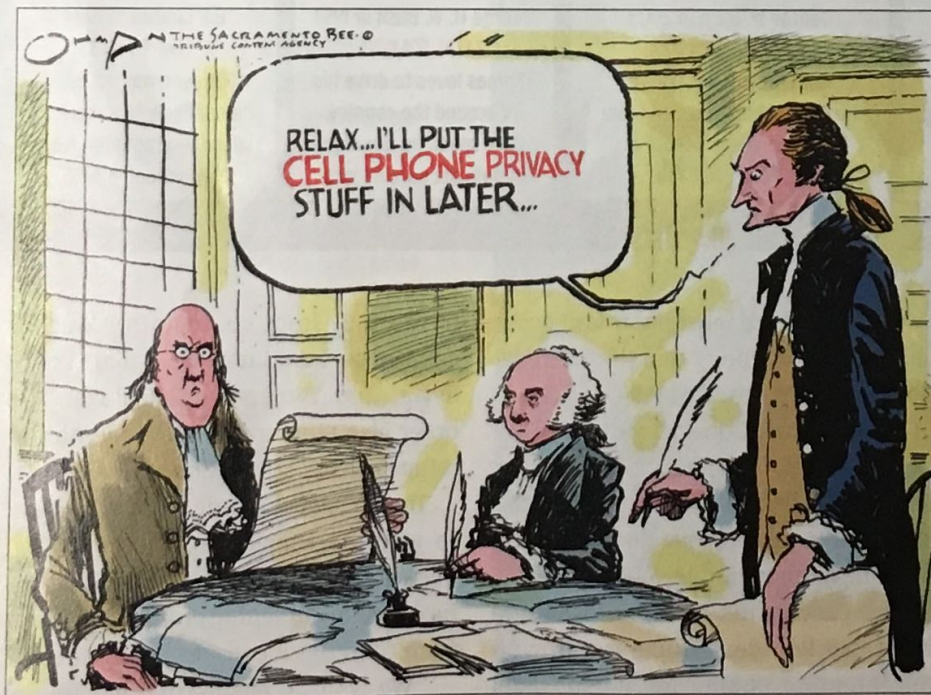
Justices will hear oral arguments in the case October 10.

Does the government need a warrant to get cellphone location information?

Carpenter v. United States

How much access should the police have to cellphone data that could tell them where a person was at any given moment? The Supreme Court has ruled previously that police need to get a court-issued warrant before using GPS devices to track suspects’ movements or searching the contents of suspects’ cellphones.

The new case concerns historical data held by cellphone companies that shows



users' movements over time and could, for instance, place them at the scene of a crime. When you carry a phone, that device is constantly communicating with cellphone towers, which allows the phone company to have a pretty accurate picture of your location throughout the day. Currently, police aren't required to obtain a warrant to get this location information from phone companies.

Police say tracing suspects' movements can be critical to solving crimes. But privacy advocates argue that giving authorities automatic access to the information without a warrant is a violation of privacy rights under the Fourth Amendment.

"This case is really about whether privacy survives in the digital age," says David Cole of the American Civil Liberties Union.

Does a bakery have to provide services for a gay wedding?

Masterpiece Cakeshop v. Colorado Civil Rights Commission

In 2012, Masterpiece Cakeshop, a bakery in Lakewood, Colorado, refused to create a cake for the wedding reception of a gay couple, saying it was against the owners' religious beliefs to support gay marriage.

The couple filed discrimination charges, arguing that they're entitled to equal treatment from businesses that choose to serve the general public. A state civil rights commission and state courts ruled in their favor. The bakery owners appealed those rulings to the Supreme Court. They argue that the First Amendment guarantee of religious freedom means the government can't force them to act against their faiths, even if it means turning away some customers.

The case could have major implications on the rights of business owners to discriminate based on their religious beliefs. It comes two years after the Supreme Court legalized same-sex marriage nationwide.

This case is really about whether privacy survives in the digital age.

Can a bakery refuse to cater a gay wedding because of the owners' religious beliefs?



Is partisan gerrymandering constitutional?

Gill v. Whitford

Gerrymandering, the process of drawing oddly shaped legislative districts for political advantage, is a centuries-old practice.

The Supreme Court has declared the practice unconstitutional when done for racial reasons—to try to dilute the voting power of a racial group.

In this case, which concerns

legislative districts drawn by the Wisconsin State Assembly after the 2010 census, the question is whether it's OK to rejigger district boundaries to give one political party a clear advantage.

Critics of gerrymandering say that technology now allows lawmakers to draw district maps that ensure victory for their party—denying supporters of another party the right to fair representation. A ruling that limits partisan gerrymandering could have enormous implications for American politics.

Upfront will be taking an in-depth look at gerrymandering and this case in an upcoming issue. •