

Criminal Justice Highlights of the Supreme Court's October Term 2018

Search & Seizure

Mitchell v. Wisconsin

QP: Whether a statute authorizing a blood draw from an unconscious motorist provides an exception to the Fourth Amendment warrant requirement.

Holding: “When police have probable cause to believe a person has committed a drunk-driving offense and the driver's unconsciousness or stupor requires him to be taken to the hospital . . . , they may almost always order a warrantless blood test to measure the driver's BAC without offending the Fourth Amendment.”



Search & Seizure

Mitchell v. Wisconsin

Why Does It Matter?



Because OWI is the state crime, this scenario is likely to recur often. Notably, the Court held out the possibility that a defendant might prevail if it were possible to show a blood draw were conducted for the sole purpose of obtaining proof of guilt and the police could have reasonably obtain a warrant first.

Right to Counsel

Garza v. Idaho

QP: Does the "presumption of prejudice" recognized in *Roe v. Flores-Ortega* apply where a criminal defendant instructs his trial counsel to file a notice of appeal but trial counsel decides not to do so because the defendant's plea agreement included an appeal waiver?

Held: The presumption of prejudice for Sixth Amendment purposes applies regardless of whether a defendant has signed an appeal waiver.



Right to Counsel

Garza v. Idaho

Why Does It Matter?

This case provides a reminder of the division between the choices of clients and the choices of lawyers. It also signals the discomfort many members of the Court have with pleas premised on appellate waivers.



Excessive Fines

Timbs v. Indiana

QP: Whether the Eighth Amendment's Excessive Fines Clause is incorporated against the States under the Fourteenth Amendment.

Held: The Eighth Amendment's excessive fines clause is an incorporated protection applicable to the states under the 14th Amendment's due process clause.



Excessive Fines

Timbs v. Indiana

Why Does It Matter?



1. It has important ramifications for forfeiture practice in some cases.
2. It signals a willingness to characterize some “collateral consequences” as punishment within the meaning of the 8th Amendment.

Other Notable Cases

- *Gamble v. U.S.*
- The ACCA cases: *Stokeling v. United States*, *Stitt and Sims v. United States*, *Quarles v. United States*

Notable O.T. 2019 Cases

Kahler v. Kansas

Issue: Do the Eighth and Fourteenth Amendments permit a state to abolish the insanity defense?

Ramos v. Louisiana

Whether the Fourteenth Amendment fully incorporates the Sixth Amendment guarantee of a unanimous verdict?

Mathena v. Malvo

Whether the 4th Circuit erred in concluding that *Montgomery v. Louisiana*, addressing whether a new constitutional rule announced in an earlier decision, *Miller v. Alabama*, applies retroactively on collateral review may properly be interpreted as modifying and substantively expanding the very rule whose retroactivity was in question.

Kansas v. Glover

Issue: Whether, for purposes of an investigative stop under the Fourth Amendment, it is reasonable for an officer to suspect that the registered owner of a vehicle is the one driving the vehicle absent any information to the contrary.

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