



THE UNIVERSITY OF ARIZONA
COLLEGE OF HUMANITIES

HUMANITIES SEMINARS

Supreme Court Cases During A Pandemic

Judge Sakall

Class 1: Overview of the 2020-2021 term

The class would be similar to the one lecture I gave in the fall of 2020 looking back at the past term. I'd summarize the "big" cases and try to give some overview of the larger legal issues that the Supreme Court is tackling.

There'll be many cases about which can spark discussion. For example, *Torres v. Madrid* (defining when a law enforcement office seizes someone under the 4th Amendment); *Jones v. MS* (8th Amendment case involving juvenile sentenced to life without parole); *Fulton v. City of Philadelphia* (free exercise of religion & adoption); 2 cases involving challenges to the Affordable Care Act; *Caniglia v. Strom* (whether police can enter a home to save a life without a warrant) and *Mahanoy Area School District v. B.L.* (extent of public school student's First Amendment rights when off campus)

Class 2: Individual Liberties & Compulsory Vaccinations

Compare *Jacobson v. Commonwealth of Massachusetts* (1905) (upholding state statute re: mandatory fines for failure to vaccinate) and *Buck v. Bell* (1927) (forced sterilizations) with Justice Gorsuch's concurrence in *Roman Catholic Diocese of Brooklyn, NY v. Cuomo* (Nov 2020) criticizing *Jacobson*

Readings will be edited versions of the cases.

Class 3: COVID Regulations & Religion

The Supreme Court dealt with several challenges to state and local COVID-regulations that limited attendance at religious services. The class would put these cases into historical context, and focus on the justices' divergence on the authority of local authorities during a pandemic.

Recent cases include:

South Bay United Pentecostal Church v. Newsom (May 2020)

Calvary Chapel Dayton Valley v. Sisolak (July 2020)

Roman Catholic Diocese of Brooklyn v. Cuomo (Nov 2020)

South Bay United Pentecostal Church v. Newsom (Feb 2021)

There is currently a request for the Court to hear further arguments on the *South Bay* case.

Readings will be edited versions of the cases.

Class 4: Qualified Immunity for Law Enforcement

This topic became an increasingly hot-button issue after George Floyd's death in the summer of 2020.

42 USC § 1983 provides for a defense qualified immunity to law enforcement for claims brought against them by a plaintiff claiming a civil rights violation.

The class would trace the history of § 1983 & the judicial creation of the qualified immunity defense. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

We'd then focus on criticism of qualified immunity that has been asserted by several current justices: Justice Sotomayor in *Kisela v. Hughes* (2018)¹ where she ended her opinion by arguing the Court "tells officers that they can shoot first and think later, and it tells the public that palpably unreasonable conduct will go unpunished." and Justice Thomas' criticism in *Ziglar v. Abbasi* (2017) *Baxter v. Bracey* (2020) where he has expressed his "strong doubts" about the doctrine.

Lastly, focus on recent proposed legislation in Congress on the issue.

Readings may include the [Reuters' reports](#) on qualified immunity from 2020.

Class 5: Preview of 2021-2022 term

The class would be a wrap-up of the prior classes, and look forward to the cases in the next term. Those already include the following: *Arkansas v. Gresham* (challenge to Arkansas' Medicaid work requirements); *Oregon v. Cochran* (challenge to HHS' regulation limiting providers ability to share abortion-related information with patients). More cases will be added through this summer. There may also be a Second Amendment case on the docket in the next term.

¹ A case arising out of events in Tucson, AZ.