# STRUCTURE OVER SPECTACLE: THE SUPREME COURT'S 2024 TERM*

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After several years of headline-grabbing decisions that reshaped national political debate—from abortion and affirmative action to religious liberty and presidential power—in its October 2024 Term, the United States Supreme Court largely stepped back from the culture war flashpoints and focused on institutional structure, procedural discipline, and interpretive clarity. The Court issued 56 signed opinions, along with an additional 108 decisions on the "emergency docket." At the heart of the Term was an unmistakable concern with the limits of judicial and executive authority, specifically focused on what remedies courts can issue, when federal agencies may assert power, and how longstanding procedural doctrines should shape the landscape of litigation.

Although the Court remains broadly conservative in orientation, the voting patterns and reasoning this Term suggest a less rigid and more deliberative internal culture than its ideological makeup might suggest. Once again, more than half of the Term's opinions were unanimous or near-unanimous decisions. The Court's much-discussed 6-3 conservative majority only infrequently voted as a unified bloc. Instead, the justices increasingly fractured along less predictable lines. A pattern of three loosely aligned groups persisted. Justices Sotomayor, Kagan, and Jackson represented a liberal bloc. The remaining justices distinguished themselves from this bloc largely by showing greater fidelity to text and original meaning in matters of constitutional and statutory interpretation. Of these six, Chief Justice Roberts, along with Justices Kavanaugh and Barrett, occupied a more institutional and pragmatic center, while Justices Thomas, Alito, and Gorsuch formed a more formal conservative bloc. The result was a term in which the Court's decisions turned on legal reasoning rather than fixed partisan divisions, and where moderation and minimalism usually prevailed over maximalist ideological ambition.

* Note from the Editor: The Federalist Society takes no positions on particular legal and public policy matters. Any expressions of opinion are those of the authors. To join the debate, please email us at info@fedsoc.org.

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Overall, the Court offered a vision of constitutional governance that favors clear lines, limited discretion, and a return to first principles. Whether in administrative law, civil rights, remedies, or procedure, the Term reflected a Court steadily refining its long-term project: restoring legal order by reinforcing the structures that govern power.

## I. WHO AND WHERE: STANDING AND VENUE

A defining characteristic of the Court this Term was its effort to delineate and reinforce procedural rigor and the essential role courts play in policing the boundaries of litigation and enforcement. Rather than permitting expansive or elastic interpretations of procedural rules that facilitate broad claims or nationwide remedies, the Court emphasized the importance of adherence to clear, predictable, and consistent procedural frameworks. This emphasis reflected the Court's philosophy that views process not as a mere formality, but as a critical safeguard of fairness, separation of powers, and institutional legitimacy. Throughout the Term, the justices repeatedly underscored that courts must enforce procedural prerequisites with exacting discipline, especially in cases where agencies or litigants attempt to bypass or dilute those rules. Parties and courts may not rewrite or evade procedural frameworks established by Congress or shaped through precedent, for doing so threatens not only judicial efficiency, but the foundational integrity of the judicial process itself.

A salient example is *Oklahoma v. EPA*, a case that epitomized the Court's insistence on federalism and procedural propriety in the face of administrative overreach.[1] Here, the EPA sought to consolidate compliance disputes involving more than 20 states' implementation plans for air quality standards under a single, sweeping administrative rule.[2] This approach would have effectively centralized all challenges in the D.C. Circuit, bypassing the localized venues where affected states traditionally litigate.[3] The Court rejected this strategy, emphasizing that the statute's text and longstanding principles of venue and federalism counsel against such a one-size-fits-all approach.[4] By a vote of 6-2, the ruling reaffirmed that states and regulated entities must have access to local forums and that the federal judiciary's structure must respect the

[1] Oklahoma v. EPA, 605 U.S. 609 (2025).
[2] *Id.* at 614-617.
[3] *Id.*
[4] *Id.* at 620-625.

division of authority and procedural norms embedded in the Clean Air Act. In doing so, the Court reinforced the principle that "[v]enue is not a mere technicality"—but "raise[s] deep issues of public policy."[5]

The Court's scrutiny of agency venue claims continued in *EPA v. Calumet Shreveport Refining*, which presented a contrasting but equally important venue issue.[6] Unlike *Oklahoma*, this case involved the Clean Air Act's "nationwide scope or effect" jurisdictional exception, which mandates review in the D.C. Circuit Court of Appeals for certain broadly impactful regulatory orders.[7] The EPA defended a sweeping interpretation of this exception to maintain exclusive jurisdiction over small refinery exemption challenges.[8] The Court upheld the EPA's position by 7-2, but the majority opinion signaled discomfort with the administrative complexities created by a hybrid venue regime that oscillates between localized and centralized review.[9] In dissent, Justice Gorsuch further cautioned that the current piecemeal framework invites confusion and administrative burdens, implicitly urging Congress or the Court itself to clarify and streamline jurisdictional boundaries in future cases.[10]

The Court also clarified certain statutory standing rules and statutory remedies when challenging certain FDA decisions. In *FDA v. RJ Reynolds v. Vapor Co.*, the Court rejected the FDA's narrow reading of who qualifies as an aggrieved party eligible to contest agency orders under the Tobacco Control Act by a vote of 7-2.[11] The FDA had argued that only manufacturers and importers, not retailers, could bring challenges to product regulations.[12] The Court, however, recognized that retailers who were denied the ability to sell products under FDA orders suffered concrete injuries sufficient to confer standing.[13] The Court's decision emphasized that agencies cannot constrict access to judicial review by artificially limiting who may be heard or by recasting the statutory language to exclude affected parties. Rather, in determining who has standing, the Court broadly interprets the term "adversely affected."[14]

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[5] United States v. Miller, 111 F.3d 747, 749 (10th Cir. 1997).
[6] EPA v. Calumet Shreveport Refining, LLC, 145 S. Ct. 1735 (2025).
[7] *Id.* at 1743.
[8] *Id.* at 1744-46.
[9] *Id.* at 1752-54.
[10] *Id.* at 9 (Gorsuch, J., dissenting).
[11] FDA v. R.J. Reynolds Vapor Co., 606 U.S. 226 (2025).
[12] Id. at 229-31.
[13] Id. at 234-36.
[14] Id. at 232-33.

## II. Some Clarification of Administrative Law

The most enduring, impactful cases from the past few terms may be those that have attempted to restore the architecture of the federal government to something more akin to that described in the Constitution. These cases usually arise out of questions over the scope of authority of the administrative state, but their effect goes far beyond quotidian government operations. As Justice Scalia recognized in his *Morrison v. Olson* dissent,[15] the Constitution's genius in safeguarding liberty lays more in its structure of horizontal and vertical separations of power, checks and balances, and clear lines of political accountability than in its express guarantees of various individual rights. Although the Term saw no momentous administrative law decisions, the Court did refine and clarify significant decisions from previous terms, as well as preview future ones.

For example, in *McLaughlin Chiropractic Associates, Inc. v. McKesson Corp*, the Supreme Court cited *Loper Bright v. Raimondo* (2024) in addressing whether under the Hobbs Act, courts are bound by the Federal Communications Commission's (FCC) interpretation of the Telephone Consumer Protection Act (TCPA) in civil enforcement proceedings.[16] The Hobbs Act governs judicial review of actions by the FCC and certain other administrative agencies. After McLaughlin had brought this class action against McKesson for sending unsolicited online faxes in alleged violation of the TCPA, the FCC concluded in a separate Hobbs Act proceeding[17] that the TCPA's prohibition on unsolicited telephone fax advertisements did not apply to online ones.[18]Stating that it was bound by the FCC's interpretation of the TCPA because the Act only allowed challenges to agency interpretations in pre-enforcement lawsuits, the *McLaughlin* district court decertified the class of online fax recipients, and the Ninth Circuit affirmed.[19]

The Court reversed, holding 6-3 that, consistent with the "fundamental principles of administrative law" articulated in *Loper Bright*, the Hobbs Act does not bind courts to an agency's interpretation of a statute in any enforcement proceeding.[20] The Court emphasized that courts must independently

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[15] Morrison v. Olson, 487 U.S. 654, 697 (1988) (Scalia, J., dissenting).

[16] McLaughlin Chiropractic Assocs., Inc. v. McKesson Corp., 606 U.S. 146 (2025); Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024); 18 U.S.C. § 1951; 47 U.S.C. § 227.

[17] *See In re* Amerifactors Financial Group, LLC, 34 FCC Rcd. 11950 (2019) (declaratory ruling).

[18] *McLaughlin,* 606 U.S. at 150-51.

[19] True Health Chiropractic, Inc. v. McKesson Corp., 896 F.3d 923 (9th Cir. 2018).

[20] *McLaughlin,* 606 U.S. at 155.

determine the law's meaning under ordinary principles of statutory interpretation, while respecting the agency's interpretation.[21] The Court clarified that the Act's pre-enforcement review provision does not preclude judicial review in subsequent enforcement proceedings, and that the Act's language does not bar courts from interpreting statutes independently.[22] The Court acknowledged that other statutes, like CERCLA and the Clean Water Act, expressly limited the paths for judicial review, but where a statute was silent on the matter, like the Hobbs Act, the default rule would be to allow subsequent judicial review.[23]

By contrast, *Loper Bright* did not expand judicial review in *Seven County Infrastructure Coalition v. Eagle County, Colorado*.[24] There, an 8-0 Court (with Gorsuch recused) held that the D.C. Circuit failed to afford the U.S. Surface Transportation Board the substantial judicial deference due under the National Environmental Policy Act (NEPA) and incorrectly interpreted NEPA as requiring the Board to consider environmental effects of upstream and downstream projects separate in time or place from the project at issue.[25]

A coalition of seven Utah counties had sought to build an 88-mile railroad that would connect the state's oil-rich Uinta Basin to the national rail network, allowing the transportation of crude to refineries in Louisiana, Texas, and elsewhere. The D.C. Circuit found that the 3,600-page environmental impact report addressing the effect of the railroad line was insufficient because it failed to consider the effects of separate projects—namely, increased drilling in the Basin and increased refining along the Gulf Coast.[26]

For the five-justice majority, Kavanaugh wrote that NEPA was "a purely procedural statute," and

> [N]either the language or history of NEPA suggests that it was intended to give citizens a general opportunity to air their policy objections to proposed federal actions. The political process, and not NEPA, provides the appropriate forum in which to air policy disagreements. Citizens may not enlist the federal courts, under the guise of judicial review of agency

[21] *Id.* at 155.
[22] *Id.* at 152-53.
[23] *Id.* at 153-54.
[24] Seven Cnty. Infrastructure Coal. v. Eagle Cnty., 605 U.S. 168 (2025).
[25] *Id.* at 168; 43 U.S.C. § 1638.
[26] Eagle Cnty. v. Surface Transportation Board, 82 F.4th 1152, 1195 (2023).

> compliance with NEPA, to delay or block agency projects based on the environmental effects of other projects separate from the project at hand.[27]

The majority scolded lower courts for "assum[ing] an aggressive role in policing agency compliance with NEPA," adding that "Some courts have strayed and not applied NEPA with the level of deference demanded by the statutory text and this Court's cases."[28]

For the three liberal justices, Justice Sotomayor concurred separately on narrower grounds.[29] Because the environmental impact of oil drilling and refining was a secondary impact of the railroad caused by the intervening acts of others, it was outside the scope of NEPA review, which "need not consider every conceivable environmental consequence of a proposed federal action."[30] Lower courts' misreading of NEPA had "transformed [the statute] from a modest procedural requirement into a blunt and haphazard tool employed by project opponents (who may not always be entirely motivated by concern for the environment) to try to stop or at least slow down new infrastructure and construction projects."[31]

Obviously, the different statutory texts at issue in *McLaughlin* and *Seven County* explain their different conclusions about the role of judges under the Hobbs Act and NEPA. *Loper Bright* made clear that, as a general matter, courts should not defer to agency interpretations of statutes; but, as the Court in *Seven County* stated, "when an agency exercises discretion granted by a statute, judicial review is typically conducted under the Administrative Procedure Act's deferential arbitrary-and-capricious standard."[32]

Unlike in *McLaughlin*, the Court passed on restricting agency authority in another challenge to the FCC.[33] *FCC v. Consumers' Research* centered on whether the agency's universal-service contribution scheme for phone and internet service violated the Constitution's nondelegation doctrine.[34] The doctrine holds that because Article I provides that "[a]ll legislative powers herein granted shall be vested in a Congress of the United States," further delegation of that authority by Congress is barred.[35] However, since it last invoked the

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[27] *Seven Cnty.*, 605 U.S. at 180, 192 (quotations and citations omitted).
[28] *Id.* at 183.
[29] *Id.* at 193 (Sotomayor, J., concurring).
[30] *Id.* at 198 (Sotomayor, J., concurring).
[31] *Id.* at 183.
[32] *Id.* at 179-80.
[33] FCC v. Consumers' Rsch., 606 U.S. 656 (2025).
[34] *Id.* at 695.
[35] *Id.* at 672; U.S. CONST. art. I.

doctrine to strike down a statutory delegation in 1935, the Court has allowed Congress to seek assistance from administrative agencies where it provides by statute an "intelligible principle" to guide what it has authorized them to do.

*Consumers' Research* arose out of the FCC's authority under the Communications Act to collect contributions from telecommunications carriers to fund universal service programs, which are intended to provide affordable services to underserved rural and low-income communities.[36] Consumers' Research argued that this scheme violated the nondelegation doctrine by allowing the FCC and a private administrator (the Universal Service Administrative Company) too much discretion in setting contribution rates. The Fifth Circuit had agreed, finding the scheme unconstitutional due to a "double-layered delegation" of authority—giving the FCC taxing authority without any intelligible principle to guide it, and the FCC then outsourcing this authority to a private entity.[37]

The Court reversed, holding that the contribution scheme does not violate the nondelegation doctrine. The Chief Justice, Kavanaugh, and Barrett joined the liberal bloc, with Justice Kagan writing for the 6-3 majority.[38] The Court found that Congress provided an intelligible principle to guide the FCC's actions, as the statute requires contributions to be "sufficient" to support universal service programs.[39] This sets both a floor and a ceiling on the amount the FCC can collect, ensuring it raises neither more nor less than necessary. The Court also rejected the argument that the FCC's delegation to the Universal Service Administrative Company was unconstitutional, as the FCC retains final decision-making authority.[40]

Conservatives saw the case as a missed opportunity to reinvigorate the nondelegation doctrine, with the Court adopting a strained reading of the Act to allow an extraordinary delegation of taxing authority by Congress to a private entity through the FCC.[41] However, this missed opportunity may in large part be the victim of the success of constitutionalists in other cases before the Court. Concurring, Kavanaugh suggested that other developments have "substantially mitigated" "many of the broader structural concerns about expansive delegations: "(i) the Court's rejection of so-called *Chevron* deference

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[36] 47 U.S.C. § 609.
[37] Consumers' Rsch., v. FCC, 109 F.4th 743, 782 (5th Cir. 2024).
[38] *Consumers' Rsch.*, 606 U.S. at 660.
[39] *Id.* at 666-67.
[40] *Id.* at 692.
[41] *Id.* at 743.

[in *Loper Bright*] and (ii) the Court's application of the major questions canon of statutory interpretation."[42]

In a 38-page dissent joined by Thomas and Alito, Gorsuch wrote that the majority defied "the Constitution's command that Congress 'may not transfer to another branch' "powers which are strictly and exclusively legislative,'" such as taxing authority.[43] Gorsuch had argued for reinvigoration of the nondelegation doctrine in dissent in *Gundy v. United States* (2018), and some Court watchers thought that with the addition since of Barrett and Kavanaugh, he might now have a majority.[44] Although this did not happen in *Consumers' Research*, it is clear that Gorsuch and his fellow dissenters have not lost hope that there is still life left in the doctrine.

Deciding on an interim basis a case on its emergency docket, the Court previewed the possible reversal of *Humphrey's Executor v. United States* (1935), the seminal case chipping away at the constitutional theory of a unitary executive.[45] In *Trump v. Wilcox*, the Court stayed a district court decision reinstating members of the National Labor Relations Board (NLRB) and Merits Systems Protection Board (MSPB) after their contested removal by President Trump.[46] In a four-paragraph, unsigned order, the Court relied on *Seila Law LLC v. CFPB* (2020), which re-affirmed the vitality of the unitary executive theory.[47] The theory holds that because Article II of the Constitution vests all executive power in a single officer who is accountable to the entire nation, and because it makes the president responsible for executing the laws, the president must have control over all other officials who exercise executive power.[48] Although it did not explicitly reference *Humphrey's* (which provides independent agencies with insulation from presidential control), the Court pointed to the "narrow exceptions recognized by [its] precedents" upholding the independence of multimember agencies that do not exercise significant executive power.[49] The stay reflected the Court's "judgment that the Government is likely to show that both the NLRB and MSPB exercise considerable executive power," which would take it outside that exception.[50]

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[42] *Id.* at 705 (Kavanaugh, J., concurring).
[43] *Id.* at 711 (Gorsuch, Thomas, Alito, JJ., dissenting).
[44] Gundy v. United States, 588 U.S. 128, 149 (2019) (Gorsuch, J., dissenting).
[45] Humphrey's Ex'r v. U.S., 295 U.S. 602 (1935).
[46] Trump v. Wilcox, 145 U.S. 1415 (2025).
[47] *Id.* at 1415 (citing Seila Law LLC v. CFPB, 591 U.S. 197 (2020)).
[48] U.S. CONST. art. II.
[49] Trump v. Wilcox, 145 U.S. 1415.
[50] *Id.*

The majority may have signaled that executive removal authority extends to officers of independent agencies—a significant development implicating *Humphrey's Executor* and administrative independence. The demise of *Humphrey's Executor* has been in the offing for several terms now. If it is reversed, the exact contours of the unitary executive theory that remain will need clarification; for example, responding to an argument raised by the terminated officers, the Court offered that its reasoning would not imperil the independence of the Federal Reserve, which "is a uniquely structured, quasi-private entity that follows in the distinct historical tradition of the First and Second Banks of the United States."[51]

Dissenting for the three liberals, Kagan decried the Court's use of the emergency docket to upend longstanding precedent absent full consideration.[52] However, the dissenters ignored the interim status of the decision, and their assertion that the president "must follow existing precedent" would mean that a president could never take any action inconsistent with precedent, insulating the judiciary from legitimate challenges to its decisions.[53]

*Kennedy v. Braidwood Management, Inc.* showed that the degree to which the conservative justices embrace the unitary executive theory differs.[54] There, the Court upheld the structure of the U.S. Preventive Services Task Force under Article II's Appointments Clause.[55] The 16-member Task Force, established within the Department of Health and Human Services (HHS), recommends preventive health services that private insurers must provide to patients at no cost, and the recommendations become binding under the Affordable Care Act.[56] Plaintiffs argued that Task Force members are "principal" officers who must be appointed by the President with Senate confirmation, rather than by the HHS Secretary alone.After the Fifth Circuit agreed with plaintiffs, the government petitioned for review.[57] Although the government had appealed the Fifth Circuit's decision under the Biden Administration, the Trump Administration continued to defend the Task Force's structure before the Supreme Court.

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[51] *Id.*

[52] *See id.* at 1417 (Kagan, J., dissenting) ("We consider emergency applications on a short fuse without benefit of full briefing and oral argument; and we resolve them without fully (or at all) stating our reasons.") (internal citations and quotations omitted).

[53] *Id.* at 1419.

[54] Kennedy v. Braidwood Mgmt., Inc., 606 U.S. 748 (2025).

[55] U.S. CONST. art. II, § 2, cl. 2.

[56] 42 U.S.C. §§ 299b-4(a)(1), (6).

[57] Braidwood Mgmt., Inc. v. Becerra, 104 F.4th 930 (5th Cir. 2024).

The Court held that the Fifth Circuit had erred in concluding the Task Force's structure violated the Appointments Clause.[58] In a 6-3 decision authored by Kavanaugh (with the Chief Justice and Barrett also joining the liberal bloc), the Court held that Task Force members are "inferior," not "principal" officers because their work is "supervised and directed by the Secretary, who in turn answers to the President, preserving the chain of command in Article II."[59] The Secretary has the authority to remove them at will and review their recommendations before they take effect. This supervision aligns with the Appointments Clause, allowing appointment by the Secretary.[60]

In a case of strange bedfellows, the Trump Administration aligned with the City and County of San Francisco to trim the EPA's powers under the Clean Water Act.[61] In *San Francisco v. EPA*, a five-justice majority (with Barrett joining the liberals in dissent) rejected the agency's assertion of authority under the Act to impose permit conditions on entities discharging pollutants based on the quality of the water in that body of water without setting specific, quantifiable limitations.[62] The EPA's understanding of its permit-issuing authority would have cost San Francisco ratepayers billions of dollars for discharges of raw sewage following unusually hard rainfalls.

The Court's analysis focused on the use of the term "limitations" in the Act's provision authorizing the EPA to issue permits to discharge under certain conditions.[63] Alito wrote that the statute requires the EPA to outline specific limits on sewage overflows, rather than the vague, generic limits used by the agency. "Determining what steps a permittee must take to ensure that water quality standards are met is the EPA's responsibility, and Congress has given it the tools needed to make that determination. If the EPA does what the [Act] demands, water quality will not suffer."[64] In a partial dissent, Barrett wrote that the majority's decision was "puzzling," and that "[i]t is commonplace for 'limitations' to state that a particular end result must be achieved and that it is up to the [permittee] to figure out what it should do."[65]

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[58] Kennedy v. Braidwood Management, Inc., 606 U.S. at 794.
[59] *Id.* at 754.
[60] *Id.*
[61] San Francisco v. EPA, 604 U.S. 334 (2025).
[62] *Id.* at 337.
[63] *Id.* at 338.
[64] *Id.* at 355.
[65] *Id.* at 359-60 (Barrett, J., dissenting in part).

## III. The Tiers of Scrutiny Still Matter For First Amendment Review

Notwithstanding criticism by some justices of the tiers of scrutiny in Second Amendment analysis, the Term showed that the tests remain vital for review under the First Amendment.[66]

The Term saw two notable free speech cases. In *TikTok v. Garland*, the Court unanimously upheld the recently-passed Protecting Americans from Foreign Adversary Controlled Applications Act, which effectively bars operations of the social media company TikTok in the United States as long as it remains under Chinese control.[67] In a per curiam decision, the Court concluded that the Act satisfied intermediate scrutiny review because it promoted an important governmental interest—namely, preventing a foreign adversary from leveraging control of TikTok to capture the personal data of American customers—unrelated to the suppression of free speech, and did not burden speech more than required to promote that interest.[68] Although the decision was issued on January 17 in order to provide legal guidance before the Act's January 19 effective date, TikTok remains under Chinese control, and as of December 2025, neither the federal government nor any third party has sought to enforce the Act.

In the second free speech case, *Free Speech Coalition, Inc. v. Paxton*, the Court reviewed the constitutionality of a Texas law requiring that commercial websites publishing sexually explicit content verify their visitors' ages to prevent minors from accessing such content.[69] The petitioners, representatives of the porn industry, challenged the law as facially unconstitutional, arguing that it impermissibly hindered adult access to protected speech.[70]

By a 6-3 vote, the Court upheld the Texas law.[71] Thomas, whose opinion in *Bruen* seemed to reject the tiers of scrutiny, nonetheless concluded that the Texas law was subject to intermediate scrutiny because it only incidentally burdened the protected speech of adults.[72] The Court recognized that minors "have long been thought to be more susceptible to the harmful effects of sexually explicit content," and that states retained substantial interests in

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[66] *See, e.g.,* N.Y. State Rifle & Pistol Ass'n v. Bruen, 597 U.S. 1 (2022).
[67] TikTok Inc. v. Garland, 604 U.S. 56 (2025); 15 U.S.C. § 9901.
[68] *TikTok*, 604 U.S. at 80.
[69] Free Speech Coal., Inc. v. Paxton, 606 U.S. 461 (2025).
[70] *Id.* at 461.
[71] *Id.* at 465.
[72] *Id.* at 499.

protecting children from such materials.[73] The Court reasoned that requiring age verification was a necessary component of this power and did not directly regulate adults' protected speech.[74] Because Texas's law advanced important governmental interests unrelated to the suppression of free speech and did not substantially burden more speech than necessary, it survived intermediate scrutiny.

Kagan, joined by Sotomayor and Jackson, dissented, arguing that the law should be subject to strict scrutiny because it burdens adults' access to constitutionally-protected speech based on its content.[75] At the same time, the dissenters conceded that the Texas law "might well pass the strict-scrutiny test, hard as it usually is to do so."[76]

Verifying age by providing identification before accessing content that is obscene to children has long been accepted in the "real" world, and mapped easily onto the same problem as encountered in the virtual world.[77] The dissenters' refusal to accept this commonsense accommodation, which was squarely supported by history, tradition and precedent, made their position in *Paxton* seem extreme.[78]

A Religion Clauses case, *Mahmoud v. Taylor* addressed the issue of whether the Montgomery County, Maryland Board of Education's use of "LGBTQ+-inclusive" storybooks in the pre-kindergarten and elementary school curriculum, without allowing parents to opt their children out, violated the parents' free exercise right to direct the religious upbringing of their children.[79] When the Board first introduced the storybooks for the 2022-23 school year, schools had notified parents and allowed them to excuse their children from lessons involving them; however, the Board later rescinded this option for the following school year, citing administrative difficulties and various other reasons.[80] Parents from diverse religious backgrounds filed a suit challenging the storybook portion of the curriculum and sought a preliminary injunction allowing them to opt their children out of it while the lawsuit proceeded.[81]

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[73] *Id.* at 474.
[74] *Free Speech Coal.*, 606 U.S. at 477.
[75] *Id.* at 513 (Kagan, Sotomayor, Jackson, JJ., dissenting).
[76] *Id.* at 501 (Kagan, Sotomayor, Jackson, JJ., dissenting).
[77] *Id.* at 493.
[78] *Id.* at 493-94.
[79] Mahmoud v. Taylor, 606 U.S. 522 (2025).
[80] *Id.* at 538.
[81] *Id.* at 540-41.

Reversing a Maryland district court and the Fourth Circuit, six justices concluded that the parents were entitled to a preliminary injunction, finding that the Board's policy substantially interfered with the religious development of their children and imposed a burden on religious exercise similar to that struck down in *Wisconsin v. Yoder* (1972).[82] Exempting Amish families from the state's compulsory education statute beyond eighth grade, *Yoder* held that the government burdens the religious exercise of parents when it requires them to submit their children to instruction that poses "a very real threat of undermining" the beliefs and practices that the parents wish to instill.[83]

In his majority opinion, Justice Alito rejected the Board's contention that *Yoder* was a narrow holding with little application to the facts in Montgomery County.[84] Applying strict scrutiny, the Court found that on the preliminary injunction record, the Board's policy did not appear narrowly tailored to serve a compelling interest, as it allowed opt-outs in other contexts, undermining its claim that the no-opt-out policy was necessary.[85] The Court ordered the Board to notify parents in advance whenever the books or similar materials were to be used and to allow children to be excused from such instruction.[86]

As an alternative to strict scrutiny under *Yoder*, the Board argued that the Court should analyze the Free Exercise claim under the standard set in *Employment Division v. Smith* (1990).[87] *Smith* merely requires that any burden on religious exercise be pursuant to a neutral policy that is generally applicable, which is much easier for the government to show. In its majority opinion, the *Mahmoud* Court explained that *Smith* applied to incidental burdens on free exercise, whereas the burden imposed by the Board's policy was "of the exact same character as the burden in *Yoder*."[88]

As in *Paxton*, the liberal justices rejected what seemed to be a commonsense way to accommodate both the interest of parents and schools.[89] In fact, before the case was argued, many liberal commentators had questioned the Board's decision to defend its no opt-out policy all the way to highest

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[82] *Id.* at 555 (citing Wisconsin v. Yoder, 406 U.S. 205, 218 (1972)).
[83] *Yoder,* 406 U.S. at 218.
[84] *Mahmoud,* 606 U.S. at 557-58.
[85] *Id.* at 569.
[86] *Id.*
[87] *See* Employment Division v. Smith, 494 U.S. 872 (1990).
[88] *Mahmoud,* 606 U.S. at 565.
[89] *Id.* at 592-94.

court, expending millions of taxpayer dollars while refusing to compromise.[90] However, for the three dissenting liberals, Justice Sotomayor wrote that the ruling "threaten[ed] the very essence of public education" by effectively "constitutionaliz[ing] a parental veto power over curricular choices long left to the democratic process and local administrators" and "gut[ting] our free exercise precedent."[91]

*Mahmoud* was another example of the Fourth Circuit overtaking the Ninth Circuit as the most reversed circuit court. Over the past three terms, the Fourth Circuit has had a 100% reversal rate and, in the Term, its eight reversals were the most out of any circuit.

In a second Religion Clauses case, *Catholic Charities Bureau v. Wisconsin Labor & Industry Review Commission*, a unanimous Court reversed a profoundly mistaken analysis by Wisconsin's supreme court.[92] Wisconsin's liberal majority of justices had denied Catholic Charities an exemption for religious entities from state unemployment insurance taxes on the grounds that the nonprofit was not "operated primarily for religious purposes" because it neither engaged in proselytization nor limited its charitable services to Catholics.[93] In a relatively short opinion for the Court, Sotomayor wrote,

> Wisconsin's exemption, as interpreted by its Supreme Court, . . . grants a denominational preference by explicitly differentiating between religion based on theological practices. Indeed, petitioners' eligibility for the exemption ultimately turns on inherently religious choices (namely, whether to proselytize or serve only co-religionists), not secular criteria that happen to have a disparate impact upon different religion organizations . . . . Much like a law exempting only those religious organizations that perform baptisms or worship on Sundays, an exemption that requires proselytization or exclusive service of co-religionists establishes a preference for certain religions based on the commands of their religious doctrine. . . . An exemption provided only to organizations that engage in proselytization or serve only co-religionists is not, on its face, available on an equal basis to all denominations.[94]

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[90] *See, e.g.,* Megan Stack, *My School District Could Have Avoided This Supreme Court Case,* N.Y. TIMES, Apr. 18 2025, https://www.nytimes.com/2025/04/18/opinion/lgbtq-books-supreme-court.html.

[91] *Mahmoud*, 606 U.S. at 629 (Sotomayor, J., dissenting).

[92] Catholic Charities Bureau, Inc. v. Wis. Labor & Indus. Rev. Comm'n, 605 U.S. 238 (2025).

[93] Catholic Charities Bureau, Inc. v. Labor & Indus. Rev. Comm'n, 411 Wis.2d 1 (Wis. 2024).

[94] *Catholic Charities Bureau,* 605 U.S. at 250 (quotations and citations omitted.).

Given that Justice Sotomayor authored the unanimous opinion, the Wisconsin court's decision cannot be explained through the usual conservative/liberal prism. As Sotomayor wrote, "It is fundamental to our constitutional order that the government maintain 'neutrality between religion and religion.' There may be hard calls to make in policing that rule, but this is not one."[95] In a term that saw fewer unanimous decisions than previous ones, all nine justices seemed to agree that the Wisconsin Supreme Court had badly bollixed up the First Amendment analysis.

A third, closely-watched case, *Oklahoma Statewide Charter School Board v. Drummond*, dealt with the constitutionality of religious schools chartered by the state.[96] However, with Justice Barrett recused, the Court deadlocked 4-4, leaving in place the Oklahoma Supreme Court decision rejecting efforts to establish religious charter schools. Nevertheless, the issue is likely to appear before the Court again.

Finally, although not a First Amendment case, *United States v. Skrmetti* also demonstrated the continuing importance of tiers of scrutiny to constitutional analysis.[97] In *Skrmetti*, the Court reviewed an equal protection challenge to a Tennessee law prohibiting healthcare providers from administering puberty blockers or hormones to enable minors to identify with a gender inconsistent with their biological sex. The law allowed minors to receive these treatments for other medical conditions, such as congenital defects or precocious puberty. Plaintiffs included three transgender minors, their parents, and a doctor, who argued that the law discriminated based on both sex and transgender status.[98] A district court preliminarily enjoined Tennessee's law, finding that transgender individuals constitute a quasi-suspect class and that the law was unlikely to survive intermediate scrutiny.[99] However, the Sixth Circuit reversed, holding that the law was subject to rational basis review, which it satisfied.[100] A 6-3 Supreme Court affirmed the Sixth Circuit, with the Chief Justice authoring the majority opinion.[101] The Court agreed that the law classified based on age and medical use, not sex or transgender status, and was subject to rational basis review.[102] The Court also noted that the law's

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[95] *Id.* at 254 (citing Epperson v. Arkansas, 393 U.S. 97, 104 (1968)).
[96] 605 U.S. 165 (2025).
[97] United States v. Skrmetti, 605 U.S. 495 (2025).
[98] *Id.* at 507.
[99] L.W. v. Skrmetti, 679, 718 F. Supp. 3d 668 (M.D. Tenn. 2023).
[100] L.W. v. Skrmetti, 83 F.4th 460 (6th Cir. 2023)
[101] *Skrmetti*, 605 U.S. at at 525-26.
[102] *Id.* at 517.

prohibitions were not pretexts for invidious discrimination and that the Tennessee legislature's statutory findings did not evince sex-based stereotyping.[103]

Concurring, Barrett would have gone farther than the Chief Justice.[104] She asserted that transgenderism is never a constitutionally suspect class entitled to heightened scrutiny, noting that, for example, it was not an immutable trait apparent at birth, and that besides race and gender, the Court "ha[d] *never* embraced a new suspect class," not even the mentally disabled, the elderly, or the poor.[105]

## IV. Special Remedies

In several cases presenting the issue, the Court interpreted statutory special remedies strictly this Term. In *Lackey v. Stinnie*, the justices voted 7-2 to tighten the standard for recovering attorneys' fees under § 1988, denying such relief to plaintiffs who had won only a preliminary injunction before their case became moot.[106] Without a judgment on the merits that materially altered the legal relationship, the Court reasoned, there could be no prevailing party.[107] In *Dewberry Group v. Dewberry Engineers,* similar boundaries were reinforced in the corporate context.[108] There, the Court unanimously refused to impute profits from non-party affiliates in a Lanham Act suit, emphasizing corporate separateness absent veil-piercing evidence.[109]

The Court's focus on procedural fidelity also surfaced in contexts far removed from agency law. In *Smith & Wesson Brands, Inc. v. Mexico*, the Court declined to entertain claims brought by the Mexican government against U.S. firearms manufacturers for harms caused by cross-border cartel violence.[110] Although framed in tort, the case raised fundamental questions about standing, causation, and the proper scope of U.S. courts' jurisdiction over foreign plaintiffs alleging third-party criminal misuse. The Court, emphasizing limits grounded in the Protection of Lawful Commerce in Arms Act, unanimously concluded that the plaintiffs lacked a sufficient nexus to hold the defendants

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[103] *Id.* at 518-19.

[104] *Id.* at 547-48 (Barrett, J., concurring).

[105] *Id.* at 550 (Barrett, J., concurring).

[106] Lackey v. Stinnie, 604 U.S. 192, 202 (2025)

[107] *Id.*

[108] Dewberry Group Inc., v. Dewberry Cap. Corp., 604 U.S. 321 (2025).

[109] *Id.* at 326.

[110] Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos, No. 23-1141, slip op. at 14-15 (U.S. Jun. 5, 2025).

liable.[111] More broadly, the decision reinforced the principle that access to American courts must remain tethered to established doctrines of liability and procedural propriety. Foreign governments may not sidestep domestic legal norms to impose sweeping extraterritorial accountability on U.S. entities through indirect causation theories or politically charged litigation.

## V. UNIVERSAL INJUNCTIONS FINALLY (SORT OF) DECIDED

In one of the most consequential cases of the Term, the Court in *Trump v. CASA, Inc.* confronted the controversial practice of issuing universal injunctions—a remedy that prevents the enforcement of a law or policy nationwide even though the case involves only a single plaintiff or limited parties.[112] Relying on longstanding equity principles, the Court held 6-3 that injunctions must be appropriately tailored to the parties before the court and that courts lack authority to issue broad, nationwide relief untethered from specific, concrete harms.[113] The decision marked a significant recalibration of judicial power, signaling the Court's skepticism of expansive remedies that circumvent procedural limits and institutional comity.[114] By effectively curbing the issuance of universal injunctions, the Court sought to restore a crucial structural restriction on the scope of judicial remedies.

The Court made clear that its decision in *CASA* in no way answers the question of whether the Administrative Procedure Act (APA) allows for federal courts to vacate agency action nationwide.[115] In concurrence, Justice Kavanaugh emphasized that the APA remains a potent tool for challenging executive actions, and courts may still be asked to "set aside" agency action under § 706 of the APA—a remedy that, in practice, can operate much like a universal injunction by functionally invalidating a rule altogether.[116] Justice Alito, for his part, cautioned that such sweeping relief should not be achieved through the back door of overbroad class definitions. He warned that "today's decision will have very little value if district courts award relief to broadly defined classes without following 'Rule 23's procedural protections' for class

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[111] *Id.* at 7.
[112] Trump v. CASA, Inc., 606 U.S. 831 (2025).
[113] *Id.* at 861.
[114] *Id.* at 840.
[115] *See id.*, 847 n.10.
[116] *Id.* at 1 (Kavanaugh, J., concurring).

certification."[117] Accordingly, there is likely to be increased reliance on the APA and Rule 23 in post-*CASA* actions.[118]

What might have otherwise been a dry procedural holding became one of the Term's most pointed exchanges, particularly the clash between Justices Barrett and Jackson in their respective opinions. After recurring doctrinal blows, Justice Barrett wrote: "We will not dwell on [Justice Jackson's] argument, which is at odds with more than two centuries' worth of precedent, not to mention the Constitution itself. We observe only this: [Justice Jackson] decries an imperial Executive while embracing an imperial Judiciary."[119] Her tone was unmistakably direct, underscoring not just a difference in judicial philosophy but a deeper skepticism toward what Barrett viewed as a results-oriented approach untethered from constitutional constraints. The exchange was one of the most combative of the Term and emblematic of an evolving dynamic on the Court. With Justice Jackson emerging as a forceful liberal voice and Justice Barrett increasingly asserting her own jurisprudential vision, distinct from the institutionalism of Roberts and the maximalism of Thomas, their clash in *CASA* reflected more than a disagreement on remedies. It highlighted a growing philosophical divide over the judiciary's role in modern governance, with each justice accusing the other of distorting the Constitution in service of institutional overreach. As much as *CASA* will shape the doctrine of injunctions, it may be remembered even more for crystallizing a broader tension about how power, discretion, and legitimacy are understood inside the Court itself.

## VI. Textual Fidelity in Statutory Interpretation

The Court's structural attentiveness extended into its interpretation of civil rights and liability statutes, where a series of rulings pursued textual fidelity and simultaneously a willingness to recalibrate longstanding frameworks. Rather than forging new constitutional ground, the justices focused on clarifying procedural and substantive contours of federal statutes, particularly Title VII and the Racketeer Influenced and Corrupt Organizations Act (RICO), in ways that emphasized statutory language over judicial gloss.

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[117] *Id.* at 3 (Alito, J., concurring).

[118] Gary Coglianese and Matthew Lee Wiener, *Judicial Remedies After CASA*, The Regul. Rev. (Aug. 11, 2025), https://www.theregreview.org/2025/08/11/coglianese-wiener-judicial-remedies-after-casa/.

[119] *CASA,* 606 U.S. at 858.

In *Ames v. Ohio Department of Youth Services*, the Court addressed whether "majority-group" plaintiffs alleging employment discrimination under Title VII must satisfy a heightened pleading standard.[120] The Court unanimously held that Title VII protects individuals, not groups.[121] Discrimination claims must rise or fall based on the statutory elements regardless of the plaintiff's race, gender, or majority status. In concurrence, Justices Thomas and Gorsuch questioned the continued validity of burden-shifting frameworks like *McDonnell Douglas*[122], suggesting that procedural streamlining may lie on the Court's horizon.[123]

The Court's textualist approach was also evident in *Medical Marijuana, Inc. v. Horn*, a case exploring the scope of civil RICO liability.[124] Plaintiffs alleged that they suffered economic injuries from misbranded and deceptively marketed CBD products, even though the alleged harms were entangled with personal injury.[125] The petitioners argued that such injuries were not actionable under RICO, which permits recovery for harm to "business or property."[126] The Court disagreed, holding 5-4 that financial losses stemming from fraudulent labeling, regardless of whether they intersected with personal injury, fell within the statute's reach.[127] Justice Jackson emphasized Congress's instruction that RICO be "liberally construed," and found no categorical exclusion of economic losses merely because they arose in a consumer context.[128]

In both cases, the Court resisted attempts to narrow access to relief or import atextual requirements. Instead, it adhered closely to statutory language and structural logic. In *Ames*, that meant eliminating judge-made hurdles that favored group-based assumptions over individualized claims. In

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[120] Ames v. Ohio Dep't of Youth Servs., 605 U.S. 303 (U.S., 2025)

[121] *Id.* at 310.

[122] *See* McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). The *McDonnell Douglas* burden shifting framework is an evidentiary tool used to assess whether a plaintiff's disparate treatment discrimination claim can survive summary judgment. Under its three-step analysis, the plaintiff must first establish a *prima facie* case by showing they are a member of a protected class, were qualified and applied for a position, were rejected despite their qualifications, and that the employer continued to seek similarly qualified applicant. The burden then shifts to the employer to provide a legitimate, non-discriminatory reason for the action. Finally, the plaintiff must show that the stated reason was merely pretextual for disclination.

[123] *Id.* at 1 (Thomas, J., concurring).

[124] Med. Marijuana, Inc. v. Horn, 604 U.S. 593 (2025).

[125] *Id.* at 597-99.

[126] *Id.* at 601-02.

[127] *Id.* at 613-14.

[128] *Id.* at 614 (Jackson, J., concurring).

*Horn*, it meant acknowledging Congress's choice to draft RICO expansively and allow business plaintiffs to recover for financial injuries even when those harms overlap with personal health consequences.

## VII. Policing Government Power in Criminal and Police Contexts

While much of the Term centered on structural and procedural themes in administrative and civil litigation, several key decisions reflected similar principles in the criminal and policing context. Here too, the Court exhibited a preference for doctrinal clarity and constitutional fidelity over innovation or expansion.

In *Barnes v. Felix*, the Court addressed the proper framework for evaluating excessive force claims brought under the Fourth Amendment.[129] The Fifth Circuit had employed a narrow "moment of threat" analysis that focused solely on the instant a suspect was shot, disregarding preceding events that may have escalated or mitigated that use of force.[130] The Court unanimously rejected that approach, holding that courts must assess the totality of the circumstances, including the officers' conduct leading up to the moment of confrontation, when determining whether a seizure was objectively reasonable.[131] In doing so, the Court reaffirmed its precedents in *Graham v. Connor* and *Tennessee v. Garner*, emphasizing that Fourth Amendment reasonableness is not reducible to a snapshot in time.[132] The decision clarified the judiciary's role in scrutinizing police conduct through a holistic, constitutional lens and curbed the trend in some circuits toward compartmentalized analysis.

In *Thompson v. United States,* the Court declined to expand the reach of 18 U.S.C. § 1014, a statute that criminalizes making false statements to federally insured banks.[133] Prosecutors had argued that misleading or incomplete statements should suffice to trigger liability under the statute.[134] The Supreme Court disagreed and determined unanimously that § 1014 requires proof of a knowingly false statement, not merely one that may be construed as

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[129] Barnes v. Felix, 605 U.S. 73, 76 (2025).

[130] *Id.* at 97-98 (citing Barnes v. Felix, 91 F.4th 393 (5th Cir. 2024), *cert. granted*, 145 S. Ct. 118 (2024), *and vacated and remanded*, 605 U.S. 73 (2025), *and cert. granted, judgment vacated*, 145 S. Ct. 2730 (2025)).

[131] *Id.* at 79-84.

[132] *Id.* at 76.

[133] Thompson v. United States, 604 U.S. 408 (2025).

[134] *Id.* at 410-12.

misleading in context.[135] The decision reaffirmed longstanding principles of statutory interpretation and mens rea, insisting that Congress, not prosecutors or courts, must define the reach of federal criminal law.[136]

These rulings reinforce the legal constraints on how and when the state may exercise its coercive power. In both policing and prosecution, fidelity to constitutional text and statutory structure takes precedence over convenience or expediency. More broadly, these decisions reaffirm the Court's view that even in high-stakes domains like public safety and federal criminal law, procedural rules serve not as obstacles but as safeguards.

## VIII. The Emergency Docket's Increasing Impact

The Supreme Court's emergency docket has become increasingly consequential. Though often resolved through terse orders lacking full briefing or oral argument, these "decisions" are nonetheless just as binding and impactful as any decision on the merits docket. While not ideal, the decisions are not triggered by any action of the Court but by parties asserting that their appeal involves an emergency that needs to be resolved—at least on an interim basis—immediately. Across a series of politically charged and procedurally complex cases, the Court's emergency decisions spanned immigration enforcement, legislative censure, executive removals, and military and education policy.

What distinguishes the emergency docket is not just the speed of decision-making, but the streamlined reasoning in the decisions. Many orders are unsigned and accompanied by only a sentence or two of explanation. Because of the need for expedited, interim relief, the process circumvents the Court's traditional deliberative framework, including extensive briefing, amicus support, and oral argument.

Immigration enforcement proved to be the most active front for emergency relief. In *Noem v. Doe*, the Court stayed a district court order blocking the termination of the CHNV (Cuban, Haitian, Nicaraguan, and Venezuelan) parole program, which had provided temporary status to migrants from those countries.[137] The lower court had found that the Department of Homeland Security (DHS) lacked authority to revoke the program en masse without case-by-case consideration. The Court's majority allowed the termination

[135] *Id.* at 418.
[136] *Id.* at 409.
[137] Noem v. Doe, 145 U.S. 1524 (2025).

to proceed, over the dissent of Justices Jackson and Sotomayor, who warned that the government had failed to demonstrate specific harms justifying emergency relief.[138] Similarly, in *Noem v. TPS Alliance*, the Court granted an emergency application permitting DHS to revoke Temporary Protected Status for Venezuelan nationals.[139]

The Court also weighed in on the scope of judicial power in response to executive overreach. In *Noem v. Abrego Garcia*, the justices partially stayed a district court order that required the government to return a noncitizen mistakenly deported in violation of a court order.[140] While declining to vacate the order in full, the Court suspended the deadline for return and asked the lower court to clarify its mandate.[141] The justices took a firmer stance in *Trump v. JGG*[142] and *AARP v. Trump,*[143] two related challenges to the Trump Administration's summary removal of Venezuelan nationals under the Alien Enemies Act (AEA). In both, the Court emphasized that such removals must comply with habeas corpus procedures and afford detainees adequate notice—but the Court did not, or could not, define "adequate."[144] Concurring opinions underscored the centrality of procedural safeguards, while dissents warned that the Court was stretching *habeas* doctrine and circumventing class certification rules.[145]

The Court's emergency docket also extended into educational and military policy. In *United States v. Shilling,* it allowed the Department of Defense to enforce a new rule disqualifying individuals with gender dysphoria from military service, reversing a universal injunction issued by the lower court.[146] In *Department of Education v. California*, the justices permitted the government to halt previously mandated education-related grant payments, finding the Administrative Procedure Act's waiver of sovereign immunity insufficient to support such financial remedies.[147] Both decisions provoked dissents

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[138] *Id.* at 1525 (Jackson, J., dissenting from the grant of the application for a stay).

[139] Noem v. Natl. TPS All., 145 U.S. 2728, 2729 (2025) (docket entry granting application for stay).

[140] Noem v. Abrego Garcia, 145 U.S. 1017, 1018 (2025).

[141] *Id.* at 1018.

[142] Trump v. J.G.G., 604 U.S. 670 (2025) (order granting application for stay).

[143] AARP. v. Trump, 605 U.S. 91 (2025) (order granting application for stay).

[144] *See J.G.G.,* 604 U.S. at 672; *see also AARP v. Trump,* 605 U.S. at 95-96.

[145] *See e.g., J.G.G.*, at 685-88 (Sotomayor, J., dissenting), *AARP*, at 107-11 (Alito, J., dissenting).

[146] United States v. Shilling, No. 24A1030 (U.S. May 6, 2025) (docket entry granting application for stay).

[147] Dept. of Educ. v. California, 604 U.S. 650, 650-52 (2025).

expressing concerns about the Court facilitating abrupt policy reversals without due process or institutional accountability.

In *Libby v. Fecteau*, the Court turned to legislative censure.[148] Maine State Representative Laurel Libby had been censured and barred from voting on the Maine House floor after publicly criticizing the state's transgender athlete policy. The Court restored her voting rights, signaling a potential willingness to look past legislative immunity when internal discipline potentially chills political speech. Justice Jackson dissented, warning that the Court's "intervention" was premature and potentially disruptive.[149]

Finally, in *Trump v. New York*, the justices declined to stay the sentencing in the criminal trial of then President-Elect Trump.[150] The application sought to stay proceedings based on presidential immunity claims and evidentiary objections. Though Justices Thomas, Alito, and Kavanaugh would have granted relief, the majority found the alleged harms insufficiently immediate to warrant emergency intervention.[151]

Across these (and many other) cases, the Court has resolved major disputes through emergency relief. And emergencies naturally require fast action. But there are tradeoffs with rapid resolution.

> Problems with the emergency docket have been hotly debated for years. Critics have charged that emergency cases get too little process, that they are disposed of with rushed reasoning, and that the Court's decisionmaking is not transparent enough.[152]

Of course this just states the obvious. Indeed, the Federal Rules of Civil Procedure explicitly anticipate emergency relief—temporary restraining orders—with little time for reflection.[153] And, unsurprisingly, emergency relief at the lower court level is often the impetus for emergency appeals. Consequently, the emergency docket is "a byproduct of urgency. Emergency cases are often pleas for the Court to stop judicial or executive decisions from going into effect. If the Court does not act fast, it may be too late to make a difference."[154]

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[148] Libby v. Fecteau, 145 U.S. 1378 (2025) (order granting application for stay).

[149] *Id.* at 1378-81 (Jackson, J., dissenting).

[150] Trump v. New York, 145 U.S. 1038 (2025) (docket entry denying the application for stay).

[151] *Id.*

[152] Edward L. Pickup & Hannah L. Templin, *Emergency-Docket Experiments,* 98 NOTRE DAME L. REV. REFLECTION 1, 3 (2022).

[153] *See, e.g.,* FED. R. CIV. P. 65(b) (regarding issuance of Temporary Restraining Orders).

[154] Pickup & Templin, *supra* note 152, at 2.

And if there is truly an emergency, it is entirely appropriate for the Court to act quickly—which means there is no time to follow the full process.

## IX. Conclusion

Throughout the October 2024 Term, the Supreme Court has made it clear that fidelity to structure is not a constraint on justice, but a condition of it. While the conservative majority generally asserted a restrained and text-bound approach to judging, internal divisions occasionally emerged over how far to go in modifying or dismantling legacy doctrines or policing federal overreach. The liberal bloc raised concerns about the real-world consequences of curtailed remedies and reduced access to judicial review.

The Court has built the legal scaffolding that will govern the scope of power, discretion, and restraint for years to come. Not every jurisprudential shift is seismic; indeed, the law is often molded not through rapture, but through rigor.