

U.S. Supreme Court issues reactionary rulings as summer recess approaches

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On Tuesday, in advance of the summer recess that will start before the July 4 holiday, the U.S. Supreme Court decided five cases, four by identical 6-3 votes along the now familiar ideological lines and one unanimously. Collectively, the rulings slash protections for individuals and allow US multinational corporations to sue Cuba for billions to recoup expropriations following the revolution 66 years ago.

Another tranche of Supreme Court opinions will be released Thursday, with all argued cases likely decided by the end of next week. The 11 cases still pending include whether Trump can summarily remove without cause appointees to the Federal Trade Commission or Federal Reserve Board, the protection of transgender athletes from discrimination, the timing of mail-in ballots, and First Amendment protection for political contributions to the Republican National Committee.

All eyes are on *Trump v. Barbara*, however, which should decide the validity of Trump's outrageous executive order that purportedly revokes the Fourteenth Amendment's guarantee of birthright citizenship. Indicating at least some measure of skepticism, the Supreme Court put the executive order on hold while the merits were briefed and argued. Trump is clamoring for a ruling in his favor on the factually incorrect basis that the Fourteenth Amendment was meant only for "babies of slaves."

Barbara may well be the last case decided before the summer recess, and there are signs it will be authored by Chief Justice John Roberts, whose behind-the-scenes maneuvering delivered Trump the immunity decision that let him off the hook for the January 6, 2021 coup attempt.

None of Tuesday's rulings came as a surprise. In *Pung v. Isabella County*, the only decision without a dissent, Justice Samuel Alito upheld the forced sale of a Michigan home appraised at almost \$200,000 to satisfy a disputed property tax bill of \$2,241.93. None of the so-called

liberal justices came to the homeowner's defense, but the litigation was underwritten by the right-wing Pacific Legal Foundation and was in essence an act of anti-tax grandstanding by libertarians.

Tuesday's decision in *Exxon Mobile Corp. v. Corporación Cimex, SA*, is intended to increase imperialist pressure on Cuba by exposing its nationalized industries to billions of dollars in potential liability. Justice Brett Kavanaugh's decision begins, "In 1960, a year after assuming power in Cuba, Fidel Castro declared that the new Communist government would seize all 'Yankee property.' Castro made good on that promise."

The ruling reverses lower courts that recognized the sovereign immunity of Cuba, along with all other foreign governments, citing the "Cuban Liberty and Democratic Solidarity Act" that Democratic President Bill Clinton signed in 1996 to give "victims of Castro's wrongful seizures a judicial remedy in the courts of the United States." Until now the Act was read to be limited to suits against private individuals.

With this Supreme Court, "a judicial remedy in the courts of the United States" depends entirely on who is suing whom rather than discernible legal principles. When a multinational corporation is accused of aiding and abetting religious and political repression and torture, rather than seeking to recoup entirely justified expropriations a lifetime ago, the outcome flips.

Thus in *Cisco Systems, Inc. v. Doe*, also decided Tuesday, the reactionary six-justice majority ruled that neither the Alien Tort Statute, which was passed in 1798, nor the Torture Victim Protection Act of 1991, gives followers of Falun Gong, a religious movement persecuted by the Chinese government, any right to sue Cisco Systems for constructing a massive surveillance system under contract with the government of China to monitor their internet traffic.

The plaintiffs argued that the surveillance led to arrests

and “forced conversion through torture” of Falun Gong devotees. To let Cisco Systems off the hook, the opinion by Justice Amy Coney Barrett had to overrule a 2004 Supreme Court decision on the Alien Tort Statute and ignore the plain language of the anti-torture act.

Paul Hoffman, who argued for the plaintiffs in the Supreme Court last April, told the *World Socialist Web Site*:

It is up to Congress to act so that victims of serious human rights violations at the hands of US corporations may hold those corporations accountable in US courts under the Alien Tort Statute. The founding generation would have been shocked that this Court held the statute to be a dead letter when only 20 years ago the same Court held the opposite.

The pettiness and hypocrisy of the six-justice right-wing Supreme Court super-majority was exemplified Tuesday in *Landor v. Louisiana Department of Corrections*, a case for money damages brought by Damon Landor, a Rastafarian, whose dreadlocks were forcibly shaved by Louisiana prison guards shortly before his release after serving a five-month sentence.

In 2000, Congress enacted the Religious Land Use and Institutionalized Persons Act (RLUIPA), requiring as a condition of federal funding that state prisons respect the religious practices of inmates. Over a period of 20 years, Landor grew dreadlocks that extended to the back of his knees because his faith considers uncut hair “the physical embodiment of spiritual identity and connection to God.”

To protect his dreadlocks while in custody, Landor carried a copy of *Ware v. Louisiana Department of Corrections*, a published precedent of the Fifth Circuit Court of Appeals in New Orleans that holds that RLUIPA prevents prison officials from forcing Rastafarian inmates to cut their hair. Landor was allowed to keep his hair at the first two facilities where he was held, but when transferred to Raymond Laborde Correctional Center three weeks before his release date Landor was told he had to cut it. When he protested, guards threw “Landor’s papers in the trash” and then “handcuffed him to a chair, held him down, and shaved his head.”

According to an amicus curiae brief filed by “Scholars on Rastafarianism,” the forced head-shaving “uncrowned him before God.”

Because it was too late for an injunction and previous Supreme Court decisions give state governments “Eleventh Amendment immunity” from money damages in civil rights lawsuits, Landor was compelled to sue the responsible prison officials individually to vindicate his rights.

Writing for the right-wing majority, which seems to never miss an opportunity to rule in favor of Christian fundamentalists, Justice Neil Gorsuch blew off Landor’s religious claim.

According to Gorsuch, RLUIPA applies only to the prison, not its employees. “Mr. Landor does not have a federal RLUIPA cause of action against the officers,” Gorsuch explained, “because they never agreed to answer suits like this one,” although their employer did as a condition for federal funding. Gorsuch concluded, “Mr. Landor’s case cannot proceed against them any more than a breach of contract action might proceed against a defendant who never formed a contract.”

Gorsuch’s reduction of the enforcement of a fundamental civil right for an otherwise powerless inmate to contract doctrine is ludicrous on its face. Gorsuch brushes aside centuries of legal doctrine that impose the obligations owed by the employer onto the employees under the rubric of “respondeat superior” and “vicarious liability.”

Justice Ketanji Brown Jackson explained the obvious in her dissent: “The individuals RLUIPA exposes to liability are agents of the State who voluntarily seek the State’s employ and wield its power.” Under the majority decision, “Prisoners like Landor who suffer violations of their religious freedom in state prisons—no matter how blatant—will often be left remediless,” Brown Jackson concluded. She added that “encroachments on prisoners’ statutory rights are likely to happen with fair frequency, as state-empowered prison officials will have little incentive to abide by federal law, even if it is handed to them on a piece of paper.”

Landor said in a statement, “I am disappointed but not defeated. What happened to me violated my faith and my dignity. I will continue pursuing accountability. What happened to me should not happen to anyone else.”



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