

Immigration at the Supreme Court: 2020

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Time-Stop Rules

Niz-Chavez, Barton

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Niz-Chavez v. Barr, 789 Fed. Appx. 523 (6th Cir. 2019).

- Granted: June 8, 2020
- Oral Argument: November 9, 2020
- Question Presented: Whether, to serve notice in accordance with 8 U.S.C. § 1229(a) and trigger the stop-time rule, the government must serve a specific document that includes all the information identified in 8 U.S.C. § 1229(a), or whether the government can serve that information over the course of as many documents and as much time as it chooses.

Barton v. Barr, 140 S. Ct. 1442 (2020)

- Argued: November 4, 2019
- Decided: April 23, 2020
- Holding: A lawful permanent resident who commits a serious crime during the initial seven years of residence attains “inadmissible” status for the purposes of the stop-time rule, regardless of whether he is seeking admission, and thus is ineligible for cancellation of removal.

Reviewability Cases

Nasrallah, Thuraissigiam & Guerrero-Lasprilla

Lily S. Axelrod

Nasrallah v. Barr, 140 S. Ct. 1683 (2020)

- Argued: March 2, 2020
- Decided: June 1, 2020
- Holding: Federal courts have jurisdiction to review a noncitizen's factual challenges to an administrative order denying relief under the Convention Against Torture

DHS v. Thuraissigiam, 140 S. Ct. 1959 (2020)

- Argued: March 2, 2020
- Decided: June 25, 2020
- Holding: 8 U.S.C. § 1252(e)(2)—which limits the habeas review obtainable by an alien detained for expedited removal—does not violate the Suspension or Due Process Clauses.

Guerrero-Lasprilla v. Barr, 140 S. Ct. 1062 (2020)

- Argued: December 9, 2019
- Decided: March 23, 2020
- Holding: The phrase “questions of law” in the Immigration and Nationality Act’s Limited Review Provision, 8 U. S. C. §1252(a)(2)(D), includes the application of a legal standard to undisputed or established facts.

Crimmigration Cases

Sineneng-Smith, Pereida & Shular

William Gill

United States v. Sineneng-Smith, 140 S. Ct. 1575 (2020)

- Argued: February 25, 2020
- Decided: May 7, 2020
- Holding: The Ninth Circuit panel abused its discretion when it “drastic[ally]” departed from the principle of party presentation in ruling on the issue of constitutional overbreadth. The Ninth Circuit did not address the party-presented controversy, but instead addressed a different question that the parties did not raise, constituting a “radical transformation” of the case.

Pereida v. Barr, 916 F.3d 1128 (8th Cir. 2018), *cert. granted* (U.S. Dec. 18, 2019) (No. 19-438)

- Eighth Circuit Holding: Because the Petitioner could not prove that he was not convicted of a crime involving moral turpitude, he did not establish his eligibility for cancellation of removal.
- Argued before U.S. Supreme Court: October 14, 2020
- Question Presented: Does a criminal conviction bar a noncitizen from applying for relief from removal when the record of conviction is ambiguous as to whether it corresponds to an offense listed in the Immigration and Nationality Act?

Shular v. United States, 140 S. Ct. 779 (2020)

- Argued: January 21, 2020
- Decided: February 26, 2020
- Holding: The definition of “serious drug offense” in the Armed Career Criminal Act requires only that the state offense involve the conduct specified in the statute; it does not require that the state offense match certain generic offenses.

Ongoing DACA Litigation

William Gill

DHS v. Regents of the Univ. of Cal., 140 S. Ct. 1891 (2020)

- Argued: November 12, 2019
- Decided: on June 18, 2020
- Holdings: (1) DHS's decision to rescind DACA is reviewable under the Administrative Procedure Act (APA) and is within the Court's jurisdiction; and (2) DHS's decision to rescind DACA was arbitrary and capricious under the APA.

Asylum

Karla McKanders

Albence v. Guzman Chavez

Reinstatement and Withholding or Deferral of Removal

- Docket Number 19-897
- Granted: Jun 15, 2020
- Question Presented: Whether the respondents—who were subject to reinstated removal orders, but with pending claims for withholding of removal—detained under 8 U.S.C. § 1226 or under 8 U.S.C. § 1231?

Credibility Cases out of Ninth Circuit

SCOTUS granted Certiorari

Solicitor General is seeking to overturn the Ninth Circuit's approach to credibility in asylum cases

Barr v. Min Dai, 884 F.3d 858 (9th Cir. 2019).

Consolidated with Barr v. Alcaraz-Enriquez, 727 Fed. Appx. 260 (9th Cir. 2018).

- Docket Number: 19-1155
- Granted: October 2, 2020
- Question Presented: Whether a court of appeals may conclusively presume an applicant's testimony is credible and true whenever an immigration judge or the Board of Immigration Appeals adjudicates a withholding-of-removal application without making an explicit adverse credibility determination.

Wolf v. Immigration Law Lab,

- Migration Protection Protocols, Remain in Mexico Policy
- Docket Number: 19-1212
- Cert. Granted: Oct 19, 2020
- Questions Presented:
 - Whether the Department of Homeland Security's Migrant Protection Protocols, also known as the “remain in Mexico” policy, violate federal immigration law?
 - Whether the district court have the authority to issue a universal preliminary injunction in this case?

E. Bay Sanctuary Covenant v. Barr, 964 F.3d 832 (9th Cir. 2020)

- Third Country Transit Ban
- Decided: July 6, 2020.
- The circuit panel affirmed the district court's grant of a preliminary injunction against enforcement, in the four states on the United States-Mexico border, of a Department of Justice and Department of Homeland Security joint interim final rule, entitled "Asylum Eligibility and Procedural Modifications" (the "Rule"), which—with limited exceptions—categorically denies asylum to aliens arriving at the border with Mexico unless they have first applied for, and have been denied, asylum in Mexico or another country through which they have traveled.

Misc. Cases

William Gill

Trump v. New York, No. 20-366, *cert. granted* (Oct. 16, 2020)

- Argument: November 30, 2020
- Questions Presented: (1) Whether a group of states and local governments have standing under Article III of the Constitution to challenge a July 21, 2020, memorandum by President Donald Trump instructing the secretary of commerce to include in his report on the 2020 census information enabling the president to exclude noncitizens from the base population number for purposes of apportioning seats in the House of Representatives; and (2) whether the memorandum is a permissible exercise of the president's discretion under the provisions of law governing congressional apportionment.

Trump v. Sierra Club, No. 20-138, *cert. granted* (Oct. 19, 2020)

- Argument: TBD
- Question Presented: Whether Section 8005 of the Department of Defense Appropriations Act authorize President Trump to divert \$2.5 billion in military funds to pay for the border wall?

Questions

