



Lesson 122

The Supreme Supermajority

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Understanding external events is a key aspect of this Movement. Laws passed by United States Congress, protests around the world, and the actions of dictators are among the events that we should understand. But there is another form of external event that we need to keep an eye on - the actions of the United States Supreme Court. This year, the Supreme Court has made judgments on a number of important court cases, and in this lesson we'll examine these court cases to get a feel of the direction in which the United States is headed.

A Conservative Court and Originalism

The 6-3 majority

Donald Trump was elected by Republicans to implement their conservative agenda: one of his most successful projects was the takeover of the United States Supreme Court. On February 13, 2016 conservative Supreme Court Justice Antonin Scalia died, this happened in Barack Obama's presidency, so he should have been able to replace him. Instead Mitch McConnell, the former Senate majority leader, didn't allow Obama to appoint another justice (it would have been his third appointment). He argued that since it was an election year the next president should appoint the justice; and it is the Senate's job to approve them so McConnell could hold up the process. As we know, Trump was elected in November of that year, and right after he was elected - on January 31, 2017 he nominated Neil Gorsuch for the Supreme Court. Next in 2018, Anthony Kennedy retired and Trump replaced him with Brett Kavanaugh that same year (both men are conservatives). Then on September 18, 2020 Ruth Bader Ginsburg died. She was a liberal justice, but instead of waiting for the election (in two months) McConnell allowed the Senate to vote on another justice to replace her. Trump nominated Amy Coney Barrett - a conservative - and on October 26th she was approved by the Senate. With her appointment the Supreme Court was shifted fully to the right. When Trump was elected the Supreme Court was 5-4 in favor of conservatives; but when he left office it was 6-3. Supreme Court justices serve for life (unless they get impeached) so the Court will stay conservative for a long time.

What is originalism?

Originalism is "the principle or belief that a text should be interpreted in a way consistent with how it would have been understood or was intended to be understood at the time it was written," according to Oxford Languages. Simply, originalism is the philosophy that the United States Constitution, and similar documents, should be interpreted how the founders intended them to be interpreted. Those who agree with originalism believe that it is a good thing because it promotes consistency. They believe that judges should not impose their own personal or political beliefs onto the law and instead focus on understanding what the original founders meant. This ideology would prevent judges and other elected officials from furthering their own agendas. However, those who do not support originalism argue that what the founders meant might no longer be applicable today and could prevent change and progress from happening. They believe that being able to apply the meaning to current events is preferable, especially in the case of social change.

This Year's Major Cases

Sackett v. Environmental Protection Agency

The authority of the Environmental Protection Agency (EPA) was decided in a United States Supreme Court case this year (2023). In 2005, the Sackett family bought a plot of land near Priest Lake, Idaho. Two years later they started building a house on their property, but the EPA told them to stop construction, threatening tens of thousands of dollars in fines per day. Because the construction was 500 feet away from a lake, the EPA said the Sacketts were violating the Clean Water Act by not first obtaining a permit to disturb the wetlands on their property. As you can expect, the Sacketts sued the EPA to confirm that it had no authority over what they do with their property. At first, no lower court wanted to hear the case, but eventually in 2012 the Supreme Court unanimously decided that the Sacketts had the right to have their case heard. For a whole 10 years after that, the case never received a final decision in lower courts, so in 2022 the Supreme Court agreed to rule on it. On May 25, 2023 the Supreme Court ruled on Sackett v. Environmental Protection Agency. It sided with the Sacketts, confirming that the EPA didn't have basically unlimited authority. However, even though all nine justices sided with the Sacketts, five conservative justices took the opportunity to further regulate the EPA. They ruled that the Clean Water Act can't regulate pollution into wetlands near bodies of water unless they have "a continuous surface connection" to those waters. This basically removed the EPA's power to regulate water pollution if the pollution isn't being directly dumped into the body of water. Because of this, many wetlands can be polluted without penalty.

Moore v. Harper

On December 7, 2022 the United States Supreme Court heard arguments in a case about how elections are held. This was the Moore v. Harper case. Every ten years the United States holds a census and in 2020 the state of North Carolina gained a seat in the US House of Representatives (because its population grew) this meant that the election map had to be redrawn to give the new representative a district. The state legislature in North Carolina is Republican controlled and the Democrats claimed that the map they drew wasn't fair: it was gerrymandered; they said that in ten particular districts the Republicans favored themselves - while this happened to the Democrats in only four. A North Carolina court sided with the Republican drawn map in January of 2022, but in February of that same year the North Carolina Supreme Court said that the map was gerrymandered and ordered the state to redraw it. After a failed attempt the state had to bring in some outside people to draw the district map. On February 25th, the state legislator tried to stop the map from going into effect until the Supreme Court heard the case; that didn't happen, but the Court did agree to hear the case on June 30th and it became Moore v. Harper. This is an important case because it relies on the Independent state legislature doctrine (ISLD). The ISLD is an example of originalism; it was derived from a couple of lines in the United States Constitution and it is taken to mean (on the extreme end) that the state legislature have complete power over federal elections and nothing - not even the courts - can correct them. The Supreme Court has rejected this reading of the Constitution several times, but going into this case it was widely known that a few of the conservatives on the Court (Thomas, Alito, and Gorsuch) really supported this doctrine. If the ISLD is followed, states like North Carolina will be able to pass laws that effectively disenfranchise people of color from the election process - or make their votes worthless. The case wasn't

heard until December, many people worried that since the Court has a conservative supermajority, and since it is conservatives who support this doctrine, the Court would side with the North Carolina legislature and allow them to use their gerrymandered maps using the ISLD as justification. But on June 27, 2023 the Court decided otherwise. In a 6-3 decision the three liberals sided with Chief justice Roberts, as well as Kavanaugh and Barrett to reject the Independent state legislature doctrine and essentially keep federal election rules the same as they've always been.

Allen v. Milligan

Gerrymandering is when a political party manipulates electoral boundaries to ensure that their party wins the elections. The term gerrymander itself came from a combination of Elbridge Gerry and salamander. In 1811, Gerry, the governor of Massachusetts, approved a redistricting plan that gave the Republican Party advantage in the state's Senatorial elections. It was supposedly shaped like a salamander. The purpose of gerrymandering is to make it impossible for a certain demographic (people of color) to have a more powerful voice even in areas where they are more populous. For example, say there were six white people and nine Black people in an area. Fairly distributed, there would be, for example, two white people and three Black people in each group, which would give the Black people the majority. But gerrymandered, in two groups there would be three white people and two Black, and in the final group it would be all Black people. That way, white people, although in the minority, would have the majority in two groups and therefore the majority overall. This causes the people who are elected to only represent the smaller part of the population. In addition to that, they can continuously be elected because they won't face much opposition from minorities. Allen v. Milligan is a recent court case that deals with this issue. It was argued that Alabama's districts were gerrymandered to put Black voters at a disadvantage. On June 8, 2023, the Supreme Court ruled 5-4 that the districts had put Black voters at a disadvantage. Justice Thomas wrote the dissent. The Northern District of Alabama said they would redraw the map by July 21st.

Gonzalez v. Google, Twitter v. Taamneh

This year the United States Supreme Court made a decision on whether to punish three big tech companies for the actions of terrorists who use their platforms. The decision combined two similar lawsuits against the three tech companies that began as far back as 2015. Gonzalez v. Google was the first of these two court cases. In 2015 there was a terrorist attack in Paris (France) that killed over 130 people; ISIS claimed responsibility for the attack in a YouTube video. The family of one of the victims sued YouTube's parent company Google for being partially responsible for the casualties. They claimed that YouTube's recommendation system leads people to watch recruitment videos for ISIS. A District Court ruled in Google's favor, and an appeal to a Circuit Court resulted in another ruling in Google's favor. So the family appealed to the Supreme court, and in May of this year (2023) it ruled on the case. But before we discuss the decision, we still have to examine the background of the second court case that was intertwined in this one. That second case is Twitter v. Taamneh, and it began in 2017. That year ISIS carried out a terrorist attack in Istanbul (Turkey) that killed 39 people. The family of one of the victims sued Facebook, Twitter and Google for "aiding and abetting" in an act of terrorism. Initially, a District Court dismissed the lawsuit, but the case was appealed and went to a Circuit Court. Unlike the previous court, the Circuit court agreed with the family in stating that the big tech companies had indeed "aided and abetted" in terrorism. Twitter then appealed the case to the

Supreme Court. On May 18, 2023 The Supreme court ruled on both Twitter v. Taamneh and Google v. Gonzalez. It was concluded that the families' claims were false, the big tech companies were not responsible for terrorism on their platforms. This decision was unanimous, meaning both liberal and conservative justices joined forces to support three of the largest tech companies.

303 Creative LLC v. Elenis

Another important case was decided in the United States Supreme Court's 2022-2023 session. The case 303 Creative LLC v. Elenis surrounded the issues of free speech and LGBTQ+ rights. In Colorado a web designer and founder of the company 303 Creative LLC wanted to expand her business. She decided to start making wedding websites for people, but because of her Christian beliefs, she put a disclaimer on her website saying she would not make a wedding website for same-sex couples. In Colorado, both refusing to do business with someone for being LGBTQ+, as well as posting the message that you will refuse someone service for identifying with this community, is illegal - according to the Colorado Anti-Discrimination Act. Her company challenged this law in court - but both the District Court and the Court of Appeals (for the Tenth Circuit) sided with the state of Colorado. The Supreme Court accepted the case in February of last year and oral arguments took place on December 5th. On Friday (June 30, 2023), the decision was published. The web design company argued that it was allowed to not serve LGBTQ+ individuals because it had a right to free speech and the Colorado law was hindering that right. In a 6-3 split the Court's conservatives sided with the company. They said that the First Amendment (which guarantees free speech, among other things) prohibits the Colorado law in this case. They essentially gave businesses the right to discriminate against LGBTQ+ individuals because of the beliefs of the owners (a case similar to this took place back in 2018 involving a Colorado baker - with the same outcome). This is another example of the anti-LGBTQ+ bills and laws that are being passed now.

Students for Fair Admissions v. University of North Carolina and

Students for Fair Admissions v. President and fellows of Harvard University

According to the dictionary, "Affirmative action refers to a policy aimed at increasing workplace and educational opportunities for people who are underrepresented in various areas of our society. It focuses on demographics with historically low representation in leadership and professional roles." Affirmative action was first introduced under President John F. Kennedy to deal with discrimination in the workplace. Today, it has expanded to multiple different sectors. Those who support affirmative action believe that it is necessary to promote diversity and reverse the effects of hundreds of years of discrimination. However, those who don't support it say that it can cause reverse-discrimination by preferring a person of color over a possibly more qualified white person simply because of the former's race. One area where affirmative action has been used is education. Late last year, a group of Asian Americans sued Harvard University because they were not accepted into the university. Their claim was that if affirmative action hadn't been in place, they would have been accepted. But because they didn't fit into the certain demographic that affirmative action was reserved for, they were rejected. On June 29, 2023, the United States Supreme Court ruled in favor of those families, now making it illegal for Harvard University and other universities to take the applicant's race into consideration when making an admission decision.

In summary:

A Conservative Court and Originalism

6-3 Majority

Because of Trump's actions when he was president, the Supreme Court now has 6 conservatives and 3 liberals. This gives the conservatives a supermajority which means they effectively control the Supreme court

Originalism

Originalism is a belief that documents should be read and understood literally, without putting them in context with the modern climate. The conservative Supreme Court justices support this belief.

This Year's Major Cases

Allen v. Milligan

The outcome: Alabama, which gerrymandered its districts, has to redraw them to be more fair.

Twitter v. Taamneh and

Google v. Gonzalez

The outcome: big tech companies won't be held responsible for the promotion of terrorism on their platforms.

This Year's Major Cases

Sackett v. Environmental Protection Agency

The outcome: the EPA's power to regulate water pollution was limited.

Moore v. Harper

The outcome: voting rights will mostly stay the same. An attempt to give state legislatures full control over elections failed.

303 Creative LLC v. Elenis

The outcome: a website design company was allowed to refuse LGBTQ+ customers, which essentially gives businesses the right to discriminate based on the owner's beliefs.

Students for Fair Admissions v.

UNC & Harvard

The outcome: Affirmative Action (a method used to promote diversity in education and employment by considering a person's race) is now illegal.

Official Youth Prophecy Group website:

youthprophecygroup.org

If you have any questions or comments on any of the material contact us at:

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https://www.youtube.com/channel/UCeltzVajTXgSQRL-o2XOq_g

Link to YPG Zoom meetings which are at 10:00am Pacific Time on the 1st Sundays of the month:

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