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Tuesday round-up

Posted By [Nabiha Syed](#) On November 30, 2010 @ 10:09 am In [Round-up](#) | [Comments Disabled](#)

Today, the Court will hear oral argument in [Schwarzenegger v. Plata](#) ^[1], presenting the question whether a federal court's order requiring California to release prisoners to reduce prison overcrowding was consistent with the 1996 Prison Litigation Reform Act. Nina Totenberg of [NPR](#) ^[2] provides a detailed account of prison overcrowding in California, while the [Washington Post](#) ^[3], [Fresno Bee](#) ^[4], [Contra Costa Times](#) ^[5], [Agence-France Presse](#) ^[6], [Forbes](#) ^[7], [Politics Daily](#) ^[8], and ABC ([video](#) ^[9]) all offer more coverage. Sherrilyn Ifill of [The Root](#) ^[10] argues the case goes beyond the "the age-old state sovereignty versus federal courts story"; rather, she contends, "the condition of our prison system is a reflection of irresponsible state and federal policies that have often been expedient, but fiscally and morally unsound." The editorial board of the the Riverside (Calif.) [Press-Enterprise](#) ^[11] reasons that "even a victory" for the state "will not excuse California legislators from fixing a state corrections system that is too crowded and too flawed." The editorial board of the [Los Angeles Times](#) ^[12], however, maintains that expecting politicians to fix the system is "unrealistic," and it urges the Court to uphold the lower court's order.

Yesterday's oral arguments in [Wall v. Kholi](#) ^[13] and [Walker v. Martin](#) ^[14] also drew coverage. [JURIST](#) ^[15] briefly summarizes both federal habeas cases. The [Providence Journal](#) ^[16] focuses on *Kholi*, while [Crime and Consequences](#) ^[17] discusses *Martin*.

Perhaps earning the most attention, however, was yesterday's order list. Virtually every news outlet – including The [National Law Journal](#) ^[18], the [Los Angeles Times](#) ^[19], [Reuters](#) ^[20], [Washington Post](#) ^[21], [Huffington Post](#) ^[22], [Courthouse News Service](#) ^[23], [New York Times](#) ^[24], and [this blog](#) ^[25], among others – covered the Court's grant of certiorari in two cases involving Arizona's campaign finance laws: [Arizona Free Enterprise Club's Freedom PAC v. Bennett](#) ^[26] and [McComish v. Bennett](#) ^[27]. At [Cato@Liberty](#) ^[28], Ilya Shapiro applauds the move, arguing that Arizona's public financing system permits a privately funded candidate to be "penalized for working too hard and speaking too much." But supporters of public funding, reports the [Christian Science Monitor](#) ^[29], say that the law has "helped move the state beyond egregious corruption and recurrent scandal." Jess Bravin of the [Wall Street Journal](#) ^[30] and Joan Biskupic of [USA Today](#) ^[31] have additional coverage of the issues at stake in the case.

The Court also granted review in [Microsoft v. I4i Limited Partnership](#) ^[32], in which it will consider the proper standard for determining validity of a patent. The [Wall Street Journal](#) ^[33] and Reuters (via the [New York Times](#) ^[34]) have coverage, while Tony Mauro at the [National Law Journal](#) ^[35] examines other issues in the case. Greg Stohr at [Bloomberg](#) ^[36] reports on a third case, [CSX Transportation v. McBride](#) ^[37], in which cert. was also granted yesterday.

Headlines focused on denials of petitions for certiorari as well. As [Bloomberg](#) ^[38], [Law & Disorder](#) ^[39], and the [Wall Street Journal](#) ^[40] all report, the Court denied cert. in [Tiffany \(NJ\) Inc. v eBay](#) ^[41], a trademark infringement suit. Over a dissent from Justice Alito, the Court also denied cert. in [Harper v. Maverick Recording Company](#) ^[42], a case involving the issue of liability for "innocent infringement." The [Christian Science Monitor](#) ^[43] has coverage, as does the [ABA Law Journal](#) ^[44], [CNN](#) ^[45], and [Wired](#) ^[46] have more on *Harper*. And finally, the Court also denied cert. in [Friends of the Everglades v. South Florida Water Management District](#) ^[47], a case involving whether the Clean Water Act requires a permit in order to transfer polluted water between bodies of water. Greenwire (via the [New York Times](#) ^[48]) and [Courthouse News Service](#) ^[49] have coverage of that case.

Briefly:

- [Sentencing Law and Policy](#) ^[50] has a post on yesterday's statement respecting the denial of certiorari in *Gamache v. California*, in which Justices Ginsburg, Breyer, and Kagan joined

Justice Sotomayor in emphasizing that “in future cases the California courts should take care to ensure that their burden allocation [to prove harmlessness] conforms to the” Court’s precedent. Doug Berman observes that the statement provides “still more evidence of the extra special attention given to capital cases by at least some Justices.”

- And at the [Volokh Conspiracy](#) ^[51], John Elwood focuses on “a couple of apparent relists” from yesterday.
- [Election Law Blog](#) ^[52] and [Appellate Daily](#) ^[53] highlight snippets of Justice Stevens’ interview with 60 Minutes (which [James](#) ^[54] mentioned yesterday).

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[1] *Schwarzenegger v. Plata*: <http://www.scotusblog.com/case-files/cases/schwarzenegger-v-plata>

[2] NPR: <http://www.npr.org/2010/11/29/131679857/supreme-court-to-hear-california-prisons-case>

[3] Washington Post: <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/29/AR2010112903047.html>

[4] Fresno Bee: <http://www.fresnobee.com/2010/11/29/2177877/supreme-court-to-hear-prison-overcrowding.html>

[5] Contra Costa Times: http://www.contracostatimes.com/california/ci_16737140

[6] Agence-France Presse: http://www.google.com/hostednews/afp/article/ALeqM5h_QI3SwCvYIj9EQr-TrjIWU5BLGg?docId=CNG.62e2ef48ba21cd681bc33ad3486cb2bf.01

[7] Forbes: http://www.forbes.com/feeds/ap/2010/11/29/general-us-california-prisons_8168676.html?boxes=Homepagebusinessnews

[8] Politics Daily: <http://www.politicsdaily.com/2010/11/28/the-supreme-court-tackles-californias-prisons-crisis/>

[9] video: <http://abclocal.go.com/kabc/story?section=news/state&id=7815678>

[10] The Root: <http://www.theroot.com/views/keeping-americas-prisons-overcrowded>

[11] Press-Enterprise: http://www.pe.com/localnews/opinion/editorials/stories/PE_OpEd_Opinion_D_op_30_ed_prisoncase.3929e83.html

[12] Los Angeles Times: <http://www.latimes.com/news/opinion/editorials/la-ed-prisons-20101130,0,3867868.story>

[13] *Wall v. Kholi*: <http://www.scotusblog.com/case-files/cases/wall-v-kholi>

[14] *Walker v. Martin*: <http://www.scotusblog.com/case-files/cases/walker-v-martin>

[15] JURIST: <http://jurist.org/paperchase/2010/11/supreme-court-considers-federal-habeas-corporus-cases.php>

[16] Providence Journal: http://www.projo.com/news/courts/content/ACI_US_SUPREME_11-30-10_8IL76CI_v29.37b27f6.html

[17] Crime and Consequences: <http://www.crimeandconsequences.com/crimblog/2010/11/procedural-default.html>

[18] National Law Journal: <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202475425349>

[19] Los Angeles Times: <http://www.latimes.com/news/nationworld/nation/sc-dc-1130-court-arizona-web-20101129,0,7059355.story>

[20] Reuters: <http://www.reuters.com/article/idUSTRE6AS45920101129>

[21] Washington Post: <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/29/AR2010112906019.html>

[22] Huffington Post: http://www.huffingtonpost.com/2010/11/29/supreme-court-clean-elections-law-mccomish-bennett_n_789353.html

[23] Courthouse News Service: <http://www.courthousenews.com/2010/11/29/32154.htm>

[24] New York Times: <http://www.nytimes.com/2010/11/30/us/30scotus.html>

[25] this blog: <http://www.scotusblog.com..//2010/11/court-returns-to-campaign-finance/>

[26] *Arizona Free Enterprise Club’s Freedom PAC v. Bennett*: <http://www.scotusblog.com/case-files/cases/arizona-free-enterprise-clubs-freedom-club-pac-v-bennett/>

[27] *McComish v. Bennett*: <http://www.scotusblog.com/case-files/cases/mccomish-v-bennett/>