

The Daily Tar Heel

These three Supreme Court cases could affect North Carolinians

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The cases being considered in the U.S. Supreme Court this term are set to have major ramifications for political representation, constitutional rights and anti-discrimination laws across the country.

The court's calendar, which began in October, is packed with high-profile cases — addressing a range of issues from the constitutionality of political gerrymandering to Fourth Amendment rights.

Gill v. Whitford

The court's decision on Wisconsin's political gerrymandering could open the door for legal challenges to maps in states like North Carolina.

The plaintiffs in the case allege the map adopted by the state's Republican-majority legislature in 2011 violates their First Amendment freedom of association and the Equal Protection Clause. The state argued the Republican Party had a natural advantage because their voter base was spread out, while Democrats were clustered in cities.

In November 2016, a three-judge federal panel sided with the plaintiffs, arguing the political geography was not enough to explain the “disparate effect” seen in the election results. Despite Democrats securing a majority of the votes for Wisconsin's state assembly in 2012, Republicans won 60 of 99 seats.

While the Supreme Court ruled North Carolina's 2011 redistricting plan was illegally drawn based on race, the panel's decision in the Wisconsin case marked the first time in more than three decades that a court has ruled against a partisan redistricting plan.

Chris Brook, legal director of the North Carolina ACLU, said if the Supreme Court strikes down Wisconsin's map, it could raise questions about the constitutionality of North Carolina's map, which was redrawn by state legislators and submitted to federal judges in late August.

If North Carolina's maps are approved by the judges, around two-thirds of the districts in the state House and Senate will lean Republican. President Donald Trump and former Republican Gov. Pat McCrory received less than half the state's popular vote in the 2016 election.

Brook said it would be reasonable to expect the Congressional delegation to lean slightly Republican, but the current divide is clearly caused by partisan gerrymandering. Ilya Shapiro, a senior fellow in Constitutional studies at the libertarian Cato Institute, said if the Supreme Court sides with the plaintiffs, it could cause a slew of legal challenges in other states. “It would potentially open the door to judges having to take up every single change of district drawing around the country which is why I think they won’t go that far,” he said. The Supreme Court began hearing arguments for the case Oct. 3.

Masterpiece Cakeshop v. Colorado Civil Rights Commission

In 2012, a bakery owner in Colorado refused to bake a wedding cake for a gay couple. The couple filed a complaint with the Colorado Civil Rights Commission arguing the bakery had violated the state’s anti-discrimination laws by refusing to serve them based on their sexual orientation.

The commission found the baker had discriminated against the couple — a finding which the the Colorado Court of Appeals unanimously affirmed. The Supreme Court will hear oral arguments for the case Dec. 5, and its decision could have ramifications for the entire LGBT community. Businesses and individuals across the country have filed “friend of the court” briefs in support of the gay couple, including Bill Smith Jr., head chef at Crook’s Corner in Chapel Hill. Supporters, and the ACLU, which is defending the couple, say the case resembles Jim Crow era discrimination.

Brook said the ruling will indicate how the court will enforce LGBTQ+ rights post-marriage equality.

“The LGBT community have lives outside of marriages as well,” he said. “I think it’s not only appropriate but soundly constitutional to ensure that LGBTQ Americans can live those full lives without fear of being discriminated against in public.”

A ruling in favor of the couple would be at odds with laws like North Carolina’s House Bill 2. While the bill was repealed earlier this year, the compromise reached included a provision banning cities from passing anti-discrimination ordinances.

Greg Wallace, a law professor at Campbell University, said because the baker would have had create a special cake for the wedding, it can be considered freedom of expression. “What the case is really about is compelled speech — whether the government, through the use of anti-discrimination laws can compel people to convey messages that they do not want to convey.”

Carpenter v. United States

The court will hear arguments Nov. 29 to determine whether or not the government is required to obtain a warrant to obtain cellphone records in investigations.

While investigating a string of robberies in Detroit, the government applied for court orders to obtain the cellphone location data, under the Stored Communications Act. The law requires there be a “reasonable suspicion” to obtain the records, while the Fourth Amendment requires probable cause.

One of the suspects, Timothy Carpenter, was sentenced partially based on the evidence from his cellphone’s location data. The ACLU is representing Carpenter in the case and arguing the Fourth Amendment should apply to cellphone location records.

Brook said it's reasonable for the government to need a warrant to obtain data on someone's location.

“Our cell phones are constantly communicating with cell phone towers that convey pretty accurately where we are at any given moment,” he said. “If the government can get access to that information, then they’re going to potentially know what political organizations we’re members of, what religious establishments we frequent, where we sleep at night — really the most intimate details of our lives.”