



Welcome Back, SCOTUS: 3 Supreme Court Cases to Watch in October 2014

Damon Root

October 2, 2014

The U.S. Supreme Court has returned from its summer break and will begin hearing new cases on Monday from its 2014-2015 term. As in previous years, the Court once again finds itself at the center of some of the most contentious disputes in American politics, from the conflict over aggressive law enforcement tactics to the debate over government accommodations for religious liberty to the argument about occupational licensing abuse. Here are three Supreme Court cases to watch in October 2014.

1. Heien v. North Carolina

In 2009, North Carolina police stopped a vehicle on account of a broken right brake light. The car's left brake light worked just fine. That traffic stop led to a search of the vehicle, which in turn led to the discovery of a plastic sandwich bag filled with cocaine. The driver, Nicholas Heien, was arrested and charged with attempted drug trafficking.

But there was a problem. According to North Carolina law, motor vehicles are only required to have "a stop lamp." In other words, it's perfectly legal to drive around the state with one busted brake light so long as the other one works. The arresting officer in this case was wrong about the law and had no legal basis for the original traffic stop.

Did the officer's mistaken actions violate the Fourth Amendment's guarantee against unreasonable searches and seizures? The North Carolina Supreme Court thought not. "So long as an officer's mistake is reasonable," that court ruled, "it may give rise to reasonable suspicion."

The Supreme Court will now review that court's questionable judgment. "The officer's mistake here derived from his own aggressive interpretation of the law," Heien's lawyers told the Court in their main brief. "Only by refusing to excuse such mistakes can officers be properly deterred from engaging in such overly ambitious readings of the traffic code, at the expense of individual liberty."

Oral argument in Heien v. North Carolina is scheduled for October 6.

2. Holt v. Hobbs

According to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), "no government shall impose a substantial burden on the religious exercise" of prisoners residing in institutions that receive federal funding, unless the government can demonstrate that the burden furthers "a compelling government interest" and "is the least restrictive means" of furthering that interest.

According to Gregory Houston Holt (also known as Abdul Maalik Muhammed), a prisoner currently incarcerated by the Arkansas Department of Corrections, that state's refusal to let him grow a one-half inch beard in accordance with his religious views burdens his religious liberty in violation of the RLUIPA. Representing Holt in his legal challenge is the Becket Fund for Religious Liberty, a Washington-based public interest law firm that recently prevailed before the Supreme Court in *Burwell v. Hobby Lobby Stores, Inc.*, the June 2014 ruling in which the Court held that the Patient Protection and Affordable Care Act violated the religious freedom of several "closely held" private corporations. The Becket Fund represented Hobby Lobby in that case.

According to the Arkansas Department of Corrections, the no-beard rule is necessary to protect the safety and security of inmates. But as the Beckett Fund counters, the state's "defense is not tenable when forty-four other state and federal prisons with the same security interests allow the beards that Arkansas forbids." The state's rule, the Becket Fund argues in its main brief, "is too weak to satisfy [the] compelling interest test or to merit any deference."

Oral argument in *Holt v. Hobbs* is scheduled for October 7.

3. North Carolina Board of Dental Examiners v. Federal Trade Commission

In 2006 the North Carolina State Board of Dental Examiners began sending out cease-and-desist letters to non-dentists who offered teeth-whitening services to paying customers. According to the Board, those services amounted to the illegal practice of unlicensed dentistry.

The eight-member Board is a state agency authorized to wield certain government powers. But the Board also bears many of the hallmarks of a private trade association. For example, six of the Board's eight members are licensed practicing dentists (elected to their positions by other licensed practicing dentists), one member is a licensed dental hygienist, and the final member is a consumer representative. Put differently, the overwhelming majority of the Board's members have a direct financial stake in preventing non-dentists from offering teeth-whitening services.

That conflict of interests did not escape the attention of the federal courts. In March 2014, the U.S. Court of Appeals for the 4th Circuit found the board's anti-competitive actions to be in violation of federal antitrust laws. "At the end of the day," the 4th Circuit declared, "this case is about a state board run by private actors in the marketplace taking action outside of the procedures mandated by state law to expel a competitor from the market."

Not surprisingly, the Board disagrees. It maintains that the 4th Circuit erred by treating its conduct as effectively private rather than public. Instead, the Board argues, its anticompetitive restrictions should be granted a "state action" exemption from federal antitrust law.

Yet as the Pacific Legal Foundation and the Cato Institute point out in a joint friend of the court brief, "It makes little sense to impose powerful civil and criminal punishments on private parties who are deemed to have engaged in anti-competitive conduct, while exempting government entities—or, worse, private parties acting under the government's aegis—when they engage in the exact same conduct."

Oral arguments in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* are scheduled for October 14.