Wednesday round-up

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Court-watchers continue to discuss the Supreme Court's recent announcement that it will hear a high-profile partisan-gerrymandering case from Wisconsin, *Gill v. Whitford*. In The Economist, Steven Mazie notes that "the justices have looked the other way when oddly drawn districts clump voters based on party rather than race," and that "[i]f the challenge to hyper-partisan line-drawing succeeds, the shape of districts to come may tighten the link between voters' preferences and who gets elected." Nina Totenberg reports on the case for NPR, pointing out that "Republicans have more to lose in next term's case because they control state legislatures in many more states than the Democrats do, and they stand to maximize that advantage again after the 2020 census." At the Cato Institute's Cato at Liberty blog, Walter Olson observes that "the five-member majority to stay the Wisconsin order … suggests that at this point it is the conservative side's case to lose." Lisa Soronen discusses the case at the National Conference of State Legislatures' blog, noting that the "challengers propose a standard for determining the influence of partisan gerrymandering in the district-drawing process" that is based on 'wasted votes'–votes in each district cast for a non-winning party's candidate." At PrawfsBlawg, Daniel Rodriguez questions whether "we [can] truly get our arms around a constitutional jurisprudence that sorts and separates good from bad politics." Additional commentary comes from John Nichols in The Nation and Ryan Lockman at Lock Law Blog.

At The Pacific Legal Foundation's Liberty Blog, Caleb Trotter weighs in on the court's holding Monday in *Matal v. Tam*, in which the justices held that a ban on the registration of disparaging trademarks violates the First Amendment, arguing that "the decision reaffirms the First Amendment's requirement of viewpoint neutrality when government attempts to regulate private speech." In The Daily Signal, Elizabeth Slattery discusses the effect of the ruling on other cases involving offensive trademarks, such as the one brought by the Washington Redskins, noting that "[i]t would be hard to square a ruling against the Redskins [with] the Supreme Court's full-throated defense of free speech." Lisa Soronen looks at the case at the Council of State Governments' Knowledge Center blog, noting that "the Supreme Court rejected the federal government's claim that trademarks are government speech or a form of government subsidy."

At NPR, Nina Totenberg reports on Monday's decision in *Ziglar v. Abbasi*, in which the justices limited the ability to bring suit under the Constitution against federal officials for detentions in the wake of the September 11 terrorist attacks, observing that "[j]ust how far reaching the

decision is, remains unclear." At Stanford Law School's Legal Aggregate blog, Shirin Sinnar argues that "[s]tepping back from the line of *Bivens* decisions that makes *Abbasi* seem normal, it's striking how far we've departed from two very basic premises: first, that where there's a constitutional right at stake, there ought to be a way to vindicate it, and second, that the very point of including guarantees of individual rights in the Constitution was to guard against legislative temptations to overlook them." At Balkinization, Deborah Lind maintains that *Abbasi* "should not be, as some colleagues have suggested, … fodder for the broader debate … about whether and when the President's reasoning is entitled to judicial deference in matters of national security."

At Vox, Dara Lind discusses the challenges to the Trump administration's temporary ban on entry into the U.S. by nationals of six Muslim-majority countries now pending before the court, maintaining that "[h]ow the Supreme Court feels about the ban itself isn't yet clear, or even relevant," and that the "question is how it feels about its own role in the fight over the ban — and whether that leads the justices to try to get the case over with, or to proceed with deliberate caution." At Take Care, Leah Litman highlights an amicus brief opposing the government's motion to freeze the injunctions preventing implementation of the entry ban; "the brief argues that the entry ban violates the Establishment Clause's prohibition on animus toward particular religions."

Briefly:

- At The George Washington Law Review's On the Docket blog, Alan Morrison looks at Monday's decision in *Bristol-Myers Squibb Co. v. Superior Court of California*, in which the justices reversed a state court finding of specific personal jurisdiction over out-of-state plaintiffs in a multistate lawsuit, calling it the last in a series of recent rulings "that, taken together, have seriously limited the ability of plaintiffs to obtain personal jurisdiction over defendants in their preferred forum."[**Disclosure**: Goldstein & Russell, P.C., whose attorneys contribute to this blog in various capacities, is among the counsel to the respondents in this case.]
- At the Pacific Legal Foundation's Liberty Blog, Deborah LaFetra bemoans the court's decision not to review a case that gives "a green light" to a plaintiff "to pursue her 'representative' action against [a former employer] despite her written agreement to arbitrate any disputes that arose during the course of her employment," arguing that "only the Supreme Court can remedy this hostility to arbitration that leads lower courts to treat contracts with arbitration provisions as poor relations."