

# 8 Cases That Demonstrate How the Next Supreme Court Could Dramatically Change America

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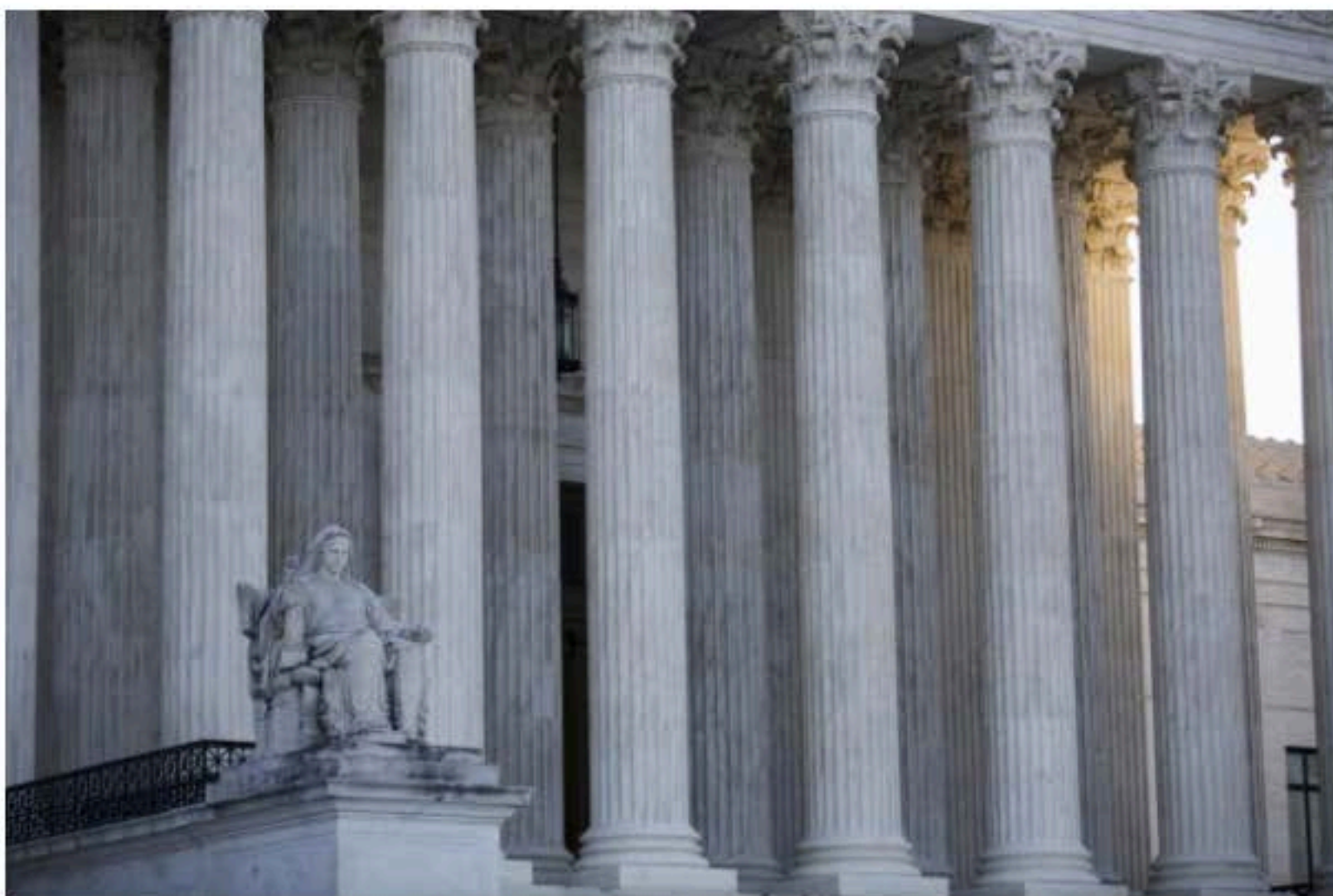
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Both Democrats and Republicans insist that shifting the balance of the Supreme Court in the fight to replace deceased Associate Justice Antonin Scalia — be it by confirming President Barack Obama's high court pick Judge Merrick Garland or a nominee by the next president — will have profound implications on America regarding religious freedom, abortion, gun rights and the executive powers of the president.

Today, interest groups are waiting to overturn decisions from recent years such as the Hobby Lobby religious freedom ruling, the Heller ruling in favor of the individual right to bear arms and the Citizens United free speech case. But there also cases that have either been argued before or are working their way up the pipeline to the Supreme Court that will have profound effects on the country.



A view of the Supreme Court in Washington, D.C. (Drew Angerer/Getty Images)



The justices will announce Friday whether the high court will hear several cases.

“My prediction is cases that are really controversial will be held until the court has nine justices. The court will want some of these matters to be settled,” Phoenix attorney and [legal commentator James Goodnow](#) told TheBlaze. “We are at the crossroads on a lot of issues. The next full court will be deciding matters that have a long-lasting impact on our country. You could have a lot of decisions reversed, attacked or gutted by the composition of the court.”

Many of the pending cases before the court should be settled rather than left for another day with a 4-4 split, said Martha Barnette, the former president of the American Bar Association, who urged for Senate hearing on Garland’s nomination during a White House-sponsored conference call for reporters.

“These decisions could affect the real lives, health and employment of people in this country,” Barnette said. “When this gets to the public arena and the people realize how a court nominee could affect them day in and day out of their lives, that personalizes this issue in a big way.”

Here are eight cases with potentially far-reaching outcomes on a range of issues, from gun rights to religious freedom to the Fourth Amendment, should a full court rule.

#### **No. 1: Obama’s Executive Powers**

The [high court agreed](#) in January to hear the case of U.S. v. Texas, a case in which 26 states are challenging executive actions by President Barack Obama to shield about 5 million illegal aliens from deportation. The president justified the actions by arguing the he is only giving prosecutorial discretion to the Department of Homeland Security.

“The high court will decide on the executive amnesty plan and it could be a lot of 4-4 split,” Hans von Spavasky, a senior legal fellow with the Heritage Foundation, told TheBlaze.

Two lower courts have already sided with the states against the Obama administration and blocked some of the actions. Obama’s uses of executive actions have long raised constitutional questions, and the immigration actions were potentially a significant aspect



of his legacy. The court ruling will be a key test of how far the president can go without congressional approval.

## **No. 2: Judging Parents**

The case of *Lynch v. Morales-Santana* will determine if the complex 1952 Nationality Act, which distinguishes between a natural born citizens born abroad to married parents and those born to unwed parents is constitutional. The law makes a distinction of whether the mother or father was a non-citizen.

The Second Circuit Court of Appeals [ruled in July](#) that Luis Ramon Morales-Santana, the plaintiff suing to block his deportation, derived U.S. citizenship at birth, after he was born to an unwed U.S. citizen father and non-citizen mother. The decision reversed the Board of Immigration Appeals denial of his request to reopen his removal proceedings.

Morales-Santana was born in the Dominican Republic in 1962 and came to the United States in 1975 on a green card. Deportation proceedings began in 2000 after he was charged with felonies.

Under the law, a child born abroad to an unwed citizen mother and non-citizen father would have citizenship at birth — as long as the mother was in the United States for at least a year before the child was born.

However, if a child is born abroad to an unwed citizen father and non-citizen mother, the child would be a citizen if the father was present in the United States for at least 10 years before the child was born. Morales-Santana's citizen father did not meet these requirements.

The Second Circuit sided with the plaintiff that the unwed fathers should have the same benefits as unwed mothers under the Constitution's equal protection guarantee.

## **No. 3: Instructions on 3-D Guns**

In a case that touches both the First and Second Amendments, the case of *Defense Distributed v. State Department* is working its way to the U.S. Supreme Court. It is currently pending before the U.S. Fifth Circuit Court of Appeals.



Defense Distributed, in 2013, [posted instructions for making a 3-D-printed](#), single-shot hand gun, and the files were downloaded more than 100,000 times. The State Department ordered Defense Distributed to remove the instructions, citing the [International Traffic in Arms Regulations](#), which could carry heavy fines or jail time for violating.

Defense Distributed sued the State Department last year on First Amendment grounds.

In August, a U.S. District Judge Robert Pitman denied the plaintiff's request for an injunction but said the case had merit, and the case was [appealed](#).

"We would expect an appeal regardless of how the Fifth Circuit rules," Goodnow said.



A gun piece printed on a 3-D printer from an existing design (WikiWep DevBlog)

#### **No. 4: Concealed Carry Rights**

The case of [Peruta v. San Diego](#) is a challenge to a local government's constitutional authority to require an individual to show "good cause" when applying for a concealed carry permit.

There are five plaintiffs in the case who were denied a concealed carry permit by the San Diego County Sheriff's Department. Peruta, the lead plaintiff, is a retired police officer who in 2010 was denied a concealed carry permit for not showing "good cause." Attorneys general in 23 states filed briefs backing Peruta. A three-judge panel on the Ninth Circuit



Court of Appeals sided with Peruta in a 2014 ruling, but the full 11-member court decided to rehear the case, where it is still pending.

The California law specifically requires a concealed permit hold to be a resident of their respective city or county, have “good moral character” and have “good cause” for getting a license.

#### **No. 5: Gun Tax**

Another case working its way along the legal pipeline will affect whether guns and ammunition can face a special tax.

In December, a King County Superior Court Judge Palmer Robinson sided against two gun owners who were challenging a “[gun violence tax](#)” in the case of *Watson v. City of Seattle*. The National Rifle Association argued that the tax measure violates state law preventing municipalities from enacting gun control laws. But the judge asserted it was a “lawful exercise of Seattle’s taxing authority.”

In August, the Seattle City Council approved a \$25 tax on each firearm sold and a 5-cent tax on ammunition.

“It’s not being challenged on Second Amendment grounds, but on 10th Amendment and Fourth Amendment grounds. It’s more procedural, but does have a big impact,” Goodnow said.

#### **No. 6: Does Hobby Lobby Precedent Apply to States?**

The Supreme Court will also decide Friday whether to accept the case of [Stormans v. Weisman](#).

Washington state has sought to force owners of a local grocery store and pharmacy in Olympia, Washington, owned by the Stormans family, to carry the Plan B, abortion-inducing drug.

Though the case is in some ways similar to the Obamacare religious freedom challenges, this matter began in 2007 when Planned Parenthood and other advocacy groups demanded that the state intervene to force the store to carry the drug. The Washington



Pharmacy Commission issued new guideline that prevented pharmacies from opting not to carry Plan B on religious grounds.

A lower court ruled the state's Pharmacy Commission violated religious freedom and that no Plan B customer was unable to obtain the drug because of the decision by the owners of one store since the drug would be available elsewhere. However, the Ninth Circuit Court of Appeals reversed the decision, holding that pharmacies must stock the drug.

"It is the Hobby Lobby case for local laws," Goodnow said. "This will answer whether the Hobby Lobby precedent applies to states."

#### **No. 7: Bathroom Bills**

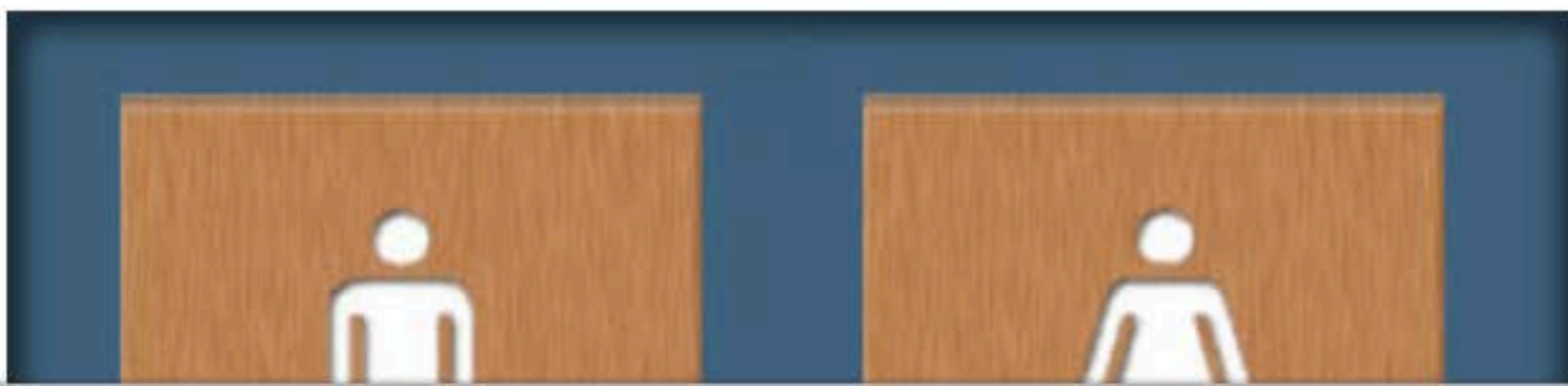
With the issue of same-sex marriage settled, the battle of transgender bathrooms is the newest battleground on the LGBT front.

The American Civil Liberties Union is [suing North Carolina](#) over a law that would allow private businesses to set their own policies for public restrooms and would also restrict local governments from passing anti-discrimination laws on public restroom use. The North Carolina law further states that students at public schools must use the public restroom that comports with their biological sex.

The law was in response to a Charlotte ordinance that allowed people to use the restroom of their choice.

Since North Carolina passed the law, Mississippi passed a similar "[bathroom bill](#)," and the Tennessee state legislature is considering such legislation.

[Proponents](#) of the law say it is to protect women and children from being in the same bathroom as a potential predator that might take advantage of a local restroom law. However, LGBT advocates contend the law is discriminatory.





## No. 8: Search Warrants and DUI

In December, the high court agreed to hear cases regarding whether states can criminalize a driver's refusal to comply with an alcohol test on blood, breath or urine.

The high court will rule on the [consolidated cases](#) of *Birchfield v. North Dakota*, *Bernard v. Minnesota* and *Beylund v. Grant Levi*.

Though only the laws in Minnesota and North Dakota are on trial, at least a dozen states penalize refusal to be tested, according to the Associated Press. So the decision will affect all of those state laws. And it could go beyond just drunken driving.

"If you agree, is it voluntary or coercion?" Goodnow asked. "It has far reaching Fourth Amendment implications, even though it's about DUIs. The same principle could be applied to terrorism suspects or anytime there is a prosecution for failing to cooperate."

### Cases Awaiting Ruling by the Sitting Eight Justices

Two potentially landmark cases on religious freedom and affirmative action have already been argued before high court.

The Little Sisters of the Poor case will determine whether the federal government can force religious charities to provide contraception for employees. [Little Sisters of the Poor](#), a Catholic charity, was joined by 37 organizations in the consolidated case of *Zubik v. Burwell*.

Based on arguments, the case appears headed to a 4-4 split along the liberal and conservative wings. The case is the latest high court test of the Affordable Care Act, or Obamacare.

Conversely, a key affirmative action case likely will be settled. The high court has heard arguments in the case of *Fisher v. University of Texas at Austin*, which could potentially render sweeping change regarding race-based college admissions.

This will be the second time the Supreme Court has ruled on race-based admission, after previously holding that a school must prove that using race is narrowly tailored to further a



compelling public interest. The plaintiff in this case, [Abigail Fisher contends](#) the university [can't demonstrate why](#) its use of race is compelling and that the school's "qualitative" diversity argument isn't constitutional.

It's likely to be settled even before a ninth justice is added, said von Spavasky. That's because Justice Elena Kagan, a reliably liberal vote, is out. That leaves swing vote Justice Anthony Kennedy to decide.

"Justice Kagan is recusing her self from that case because she worked on it as the solicitor general," von Spavasky said. "I would expect a 4-3 ruling on that one. So it all hinges on Justice Kennedy."