

New Supreme Court Session Begins

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The last few Supreme Court terms were blockbusters, featuring a historic gay marriage decision, Obamacare cliffhangers, and a ruling on racial preferences in college admissions. The new term, which began Monday and runs through the end of June, will be different. The unexpected death of Justice Antonin Scalia last February and the failure of the Senate to confirm a replacement have left an eight-member court that seems to be shying away hot-button issues that might produce unsatisfying 4-4 votes.

A New Session Begins

The Supreme Court is the nation's top court in the judicial branch of government. They rule on cases that are appealed from the lower courts. [*Nota bene*: There is a grammatical error in the previous sentence – can you find it? Note it on the top of the worksheet for this article if you can.] Often the Supreme Court justices look at how the Supreme Court ruled on previous cases as precedent to decide who should win the argument.

By tradition, it's term begins on the first Monday in October and runs for one year. Until a new justice is appointed, eight supreme court justices will hear oral arguments, complete their deliberations, and hand down all decisions in pending cases by the end of June. Between October and June, the supreme court typically reviews between 70 and 80 cases. It has already agreed to hear 30 cases and will likely add more to the schedule.

An Aging and Divided Court

Nominated by the president and then voted in by the Senate, the justices currently include three women and five men. One justice is African American, one is Latino, and one is Italian-American; six justices are Roman Catholic, and three are Jewish. (The Court did not hear argument on its opening day, as it usually does, because of Rosh Hashanah.) Every current justice has an Ivy League background. The average age is 69 years, making it one of the oldest Supreme Courts in history.

In recent years, the start of a new term has been accompanied by speculation over who might soon retire. In addition, this year speculation is over who will be elected president and nominate the next justice for Justice Scalia's seat. (The Senate has refused to consider President Obama's nominee, Merrick Garland, who was nominated more than 200 days ago).

The internal dynamics of the court are well established. In high-profile cases the court frequently splits into liberal and conservative camps: now a bloc of four conservative justices – all appointees of Republican presidents – on one side and on the other side, four liberal justices – all nominees of Democratic presidents. By the time the next president is inaugurated, Justice Stephen G. Breyer will be 78, Justice Kennedy will be 80, and Justice Ruth Bader Ginsburg will be approaching 84. The next president could have a powerful impact during his or her administration; he or she may have more than one Supreme Court seat to fill.

Nota bene: This article and the summaries on the back page were compiled from a number of different news sources.

The Current Docket: The new term that started Monday may currently be short on the sort of high-profile battles over health care and gay marriage that have marked the previous three years. But this term's docket includes several interesting cases. Here are some of the top cases the court has agreed to hear thus far:

Separation of church and state. In Trinity Lutheran Church of Columbia v. Pauley, a Missouri church applied for a grant from Missouri's Scrap Tire Grant program for assistance resurfacing a playground at its preschool with a safer, rubber top made of old tires. While the church's grant proposal was well rated, the state ultimately turned it down because the state constitution prohibits direct aid to a church (just as the U.S. Constitution prohibits direct aid under the First Amendment's freedom of religion protection). The church sued arguing that Missouri's prohibition is wrong as the money was going to a purely secular (nonreligious) use. Should taxpayers be forced to underwrite improvements to church property? Or does it constitute government support of religion, which the Founders deeply opposed?

Racial discrimination. In Pena-Rodriguez v. Colorado, the court will take up the issue of racial bias on juries. By law, jury deliberations can't be used to help a defendant appeal a negative sentence. But in this case, it was reported that one of the jurors, who convicted Miguel Pena-Rodriguez of misdemeanor charges related to sexual harassment, insisted during the deliberations that he didn't believe the defendant or his alibi witness because they were Mexican. Pena-Rodriguez is seeking a new trial on the basis of the juror's behavior, and the question before the court is whether there can be exceptions to jury deliberation confidentiality in the interest of granting defendants their Sixth Amendment right to an impartial jury.

Derogatory trademarks. Lee v. Tam involves The Slants, an Asian American dance band that tried to trademark its name. Because some consider the name a slur, the U.S. Patent and Trademark Office rejected the trademark application (federal law allows trademarks considered disparaging to be denied federal registration). The Slants sued and prevailed in the lower court, which found the trademark ban unconstitutional. The most obvious beneficiary of a Supreme Court ruling in the band's favor, however, would be the Washington Redskins football team. Last year, a federal judge ordered the patent office to revoke the federal trademark registrations for the team after they were challenged in court by Native Americans who find the NFL team name offensive. A win for The Slants would be a win for the Redskins, too.

Discrimination against students with disabilities. The most media-friendly case of the term could be Fry v. Napoleon Community Schools. In 2009, when Ehlena Fry was five years old, Michigan school officials banned her from bringing her Goldendoodle therapy dog, Wonder, to class with her. Ehlena suffers from cerebral palsy that affects her hands, legs, and body, and her doctor-prescribed therapy dog gave her some measure of independence by opening doors and helping her take off her coat, get out of chairs, and pick up pencils. The school had allowed Wonder to assist her for a trial period, but later refused to permit Ehlena to bring Wonder to school, arguing that the school already provided a human classroom aide to assist her. Ehlena's family sued, alleging violations of the Americans With Disabilities Act (ADA). The school district fought the case all the way to the Supreme Court, arguing that the family needed to request a special education due process hearing under another law, before suing under the ADA for relief. The school argued that the ADA encourages parents and schools to work together to determine the best plan for each child and is a cheaper way to resolve educational disputes. The family wants the justices to declare that children prevented from using service animals at school can proceed directly to court without having to go through administrative hearings that can be costly, time consuming, and burdensome.