

US Supreme Court begins new term

By Alan Gilman
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The US Supreme Court opened its new term last Monday with newly appointed Justice Neil Gorsuch beginning his first full term. Gorsuch joined the court in late April, near the end of last year's term, filling the seat vacated by the 2016 death of arch-reactionary Antonin Scalia.

While more polished, tactful and amiable than the crass and bullying Scalia, Gorsuch is expected to vote along the same reactionary lines. Gorsuch will restore the dominant right-wing bloc that, when joined by the conservative Justice Anthony Kennedy, over the last decade destroyed the Voting Rights Act, opened the floodgates to unlimited corporate campaign contributions, empowered corporate bosses to impose their religious views and practices on employees, dismantled environmental protections, stripped workers and consumers of their rights to file lawsuits, eviscerated search-and-seizure protections, and expanded immunity for police murders and other official misconduct, among other things.

Gorsuch not only will have a decisive impact on a number of new issues raised during the new term, but the court may order rehearings on several cases from last year where no action was taken because the justices were deadlocked 4-4.

Justice Ruth Bader Ginsburg, the 84-year-old leader of the liberal wing of the court, recently said in describing the upcoming term, "There's only one prediction and that is it will be momentous."

During this term the court is expected to issue well over 50 decisions, with several significantly impacting presidential power, immigration rights, democratic rights, privacy rights, and workers rights.

One of the most controversial cases that was expected to be heard by the court was the legal challenge to President Trump's "travel ban" executive order which bars admission to the United States for individuals from a number of Muslim-majority countries. This case

was originally scheduled to be heard on October 10, but after Trump issued a new travel ban last week, superseding the previous version, the court canceled this hearing and asked for briefing on how the new proclamation affects the existing case. The court could then restore the case to its calendar, or decide not to hear it at all.

The following cases could have the most impact on the rights of the working class:

- *Sessions v. Dimaya* is the first of two immigration cases before the court. Defendant, James Dimaya, a legal resident, was convicted of two nonviolent burglaries that were classified by the federal government as violent, resulting in his deportation. Current law dictates that immigrants—including those here legally—can be deported if they commit a "crime of violence." The 9th U.S. Circuit Court of Appeals ruled the law is ambiguous as to what constitutes a "crime of violence" and therefore is unconstitutional. The government, in facilitating its policy of mass deportations, is claiming that a broader definition is necessary and this law is sufficiently precise.

- In the second immigration case, *Jennings v. Rodriguez*, the court will determine whether immigrants subject to mandatory detention must be afforded bond hearings with the possibility of being released from custody pending their hearings. Plaintiff Alejandro Rodriguez, who was brought to the U.S. as a child and is a permanent legal resident, was convicted of two misdemeanors and sat in jail for over three years without a bond hearing. Current law denies bond hearings to immigrants with criminal records, including minor offenses. The 9th Circuit Court of Appeals had previously ruled in favor of an injunction requiring immigrants to receive a bond hearing every six months, which the government is now seeking to have the court reverse.

- In an election law case, *Gill v. Whitford*, the court

will decide the constitutionality of political gerrymandering, the common practice of the political party in power drawing the boundaries of legislative districts for partisan advantage. Though racial gerrymandering is unconstitutional, the courts have been reluctant to get involved in partisan gerrymandering because this has historically been deemed a legislative matter. In recent years, however, with the advent of computer technology, these redistricting lines have been drawn with such precision, that the party in power can still maintain political control, even if its members represent a clear minority of voters in the state. The Democratic Party is now posing as an opponent of gerrymandering, which it has employed enthusiastically when in power, because Republicans currently control far more state governments and are using gerrymandering to make this a permanent state of affairs.

- The civil rights case of *Masterpiece Cake Shop v. Colorado* involves a baker who refused to make a wedding cake for a same-sex couple. The baker, who opposes gay marriage on religious grounds, has asserted that to compel him to do so would be in violation of his First Amendment right of freedom of religion. In 2014 in *Burwell v. Hobby Lobby* the Supreme Court ruled that a corporation or business could deny their employees insurance coverage for birth control as long as the owners claimed their religious beliefs oppose contraception. This reactionary decision permitting business owners to impose their religious beliefs on their workers, is now being relied upon in the *Masterpiece Cake Shop* case to expand this ruling to cover the “right” of business owners to justify bigotry towards customers based on their religious beliefs.

- *Carpenter v. United States* is a case with significant implications for both privacy and government surveillance. Currently the police need a showing of probable cause to obtain the content of cellphone communications, but no such showing is necessary to obtain one’s cellphone records, such as those showing the time, place, and location of a cellphone user’s activity, as well as numbers dialed and received. What underlies this case is how the state has utilized advances in technology to obtain without limitation massive amounts of personal information about any individual they chose to target. This case has also has

implications concerning ongoing litigation involving NSA metadata surveillance.

- In *Janus v. AFSCME* the court will consider whether public-sector unions may collect compulsory union dues from nonmembers. The Supreme Court previously considered a similar case, but deadlocked 4-4 after the death of Scalia, which meant it issued no decision, and a lower court ruling favorable to the unions was left to stand. Now that the court again has nine members, it will be able to decide this case, and it seems certain that Justice Gorsuch will join the court’s other conservatives and vote that it violates nonmembers’ First Amendment rights to compel them to pay union dues. Neither side in this case—ultra-right groups peddling “right-to-work” laws and union bureaucrats defending their incomes at the expense of the workers they are selling out—represents the interests of the working class.

The decisions ultimately reached by Supreme Court in each of these cases will have a profound impact on the rights and interests of the working class. Though one cannot forecast with legal precision the outcome of each, what can be predicted with political precision is that the US Supreme Court, composed of many of the most class conscious representatives of the ruling class, will ultimately decide all of these cases based upon what it believes will best serve the interests of the financial elite.

The author also recommends:

Supreme Court ruling favors unions in agency shop dues case

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