

MONDAY, MARCH 2, 2020

CERTIORARI -- SUMMARY DISPOSITIONS

18-309 SWARTZ, LONNIE V. RODRIGUEZ, ARACELI

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Ninth Circuit for further consideration in light of *Hernandez v. Mesa*, 589 U. S. ____ (2020).

18-9164 MURO, ANTONIO V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *Holguin-Hernandez v. United States*, 589 U. S. ____ (2020).

19-675) BANK OF AMERICA CORP., ET AL. V. MIAMI, FL
19-688) WELLS FARGO & CO., ET AL. V. MIAMI, FL

The petitions for writs of certiorari are granted. The judgment of the United States Court of Appeals for the Eleventh Circuit is vacated as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950).

19-5601 HICKS, CLINTON D. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United

States Court of Appeals for the Fifth Circuit for further consideration in light of *Rehaif v. United States*, 588 U. S. ____ (2019).

19-5789 McMILLAN, JAMAR L. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Third Circuit for further consideration in light of *Rehaif v. United States*, 588 U. S. ____ (2019).

ORDERS IN PENDING CASES

19A748 GOAD, DAVID V. GARY L. STEEL, JUDGE, ET AL.

The application for stay addressed to Justice Ginsburg and referred to the Court is denied.

19M103 ELAM, LINDA S., ET VIR V. AURORA LOAN SERVICES, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

19M104 HAIRSTON, ARTHUR L. V. DEPARTMENT OF VETERANS AFFAIRS

The motion for leave to proceed as a veteran is denied.

19M105 MILLER, MARLON R. V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is granted.

19M106 TORRES, RUTH V. CONTINENTAL APARTMENTS, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

18-540 RUTLEDGE, ATT'Y GEN. OF AR V. PHARMACEUTICAL CARE MANAGEMENT

The motion of petitioner for leave to file Volume II of the joint appendix under seal is granted.

18-956 GOOGLE LLC V. ORACLE AMERICA, INC.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

19-465) CHIAFALO, PETER B., ET AL. V. WASHINGTON

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19-518) CO DEPT. OF STATE V. BACA, MICHEAL, ET AL.

The motion of petitioners in No. 19-465 to dispense with printing the joint appendix is granted.

19-7073 THOMAS, ANTHONY V. KENMARK VENTURES, LLC

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until March 23, 2020, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

19-547 FISH AND WILDLIFE SERV., ET AL. V. SIERRA CLUB, INC.

The petition for a writ of certiorari is granted.

19-840) CALIFORNIA, ET AL. V. TEXAS, ET AL.

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19-1019) TEXAS, ET AL. V. CALIFORNIA, ET AL.

The motion of 33 State Hospital Associations for leave to file a brief as *amici curiae* in No. 19-840 is granted. **The petitions for writs of certiorari are granted.** The cases are consolidated, and a total of one hour is allotted for oral argument.

19-5410 BORDEN, CHARLES V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted limited to Question 1 presented by the petition.

CERTIORARI DENIED

18-7105 HUNTER, TAVARIS J. V. UNITED STATES

18-7797 PATRICK, COREE V. UNITED STATES

18-8380 PRESSEY, WOODROW V. UNITED STATES

18-8447 WILSON, JAVIS V. UNITED STATES

18-9547 WILLIAMS, ANTWAN B. V. UNITED STATES

18-9772 HOWARD, WILLIAM J. V. UNITED STATES

18-9796 JIMERSON, ANTHONY B. V. UNITED STATES

19-28 DANIELS, KENNETH V. UNITED STATES

19-229 C. D., ET AL. V. NATICK PUBLIC SCH. DIST., ET AL.

19-550 WATSO, KIMBERLY, ET AL. V. HARPSTEAD, JODI, ET AL.

19-572 SINGH, RAVNEET V. UNITED STATES

19-592 CARROLL CTY. MD COMM'RS V. MD DEPT. OF THE ENVIRONMENT

19-689 CHAPMAN, MARK, ET AL. V. ACE AMERICAN INSURANCE CO.

19-714 PENNSYLVANIA V. LANDIS, WILLIAM R.

19-806 BARTH, MICHAEL S. V. BERNARDS, NJ, ET AL.

19-808 LEIBUNDGUTH STORAGE & VAN SERV. V. DOWNERS GROVE, IL

19-810 BADWAL, AVTAR S. V. BADWAL, RAMANDEEP, ET AL.

19-817 SHANDS, ANNETTE V. LAKELAND CENTRAL SCHOOL, ET AL.

19-821 NSEJJERE, ISAAC M. V. SMITH, REUBEN, ET UX.

19-853 SANDRA R., ET AL. V. ARIZONA DEPT. OF CHILD SAFETY

19-866 UBINAS-BRACHE, EMMANUEL E. V. SURGERY CENTER OF TX, LP

19-898 COLLINS, KIMBERLY D. V. THORNTON, GWENDOLYN

19-927 KLOCKE, WAYNE M. V. UNIV. OF TX AT ARLINGTON

19-928 JOHNSON, KENNETH F. V. DARNELL, SHERIFF, ET AL.
19-929 SHUMAN, LOUIS S., ET UX. V. CIR
19-942 ZUCKERMAN, LAUREL V. METROPOLITAN MUSEUM OF ART
19-944 SELDIN, SCOTT A. V. SELDIN, THEODORE M., ET AL.
19-952 GOODWIN, MICHAEL D. V. UNITED STATES
19-954 HARRISS, BRIAN E. V. CIR
19-965 EDWARDS, KENIN L. V. ATTERBERRY, MICHAEL L., ET AL.
19-969 MARSHALL, JOHN M., ET AL. V. CIR
19-973 SWANSON, BRIAN D. V. UNITED STATES
19-5037 VILLANUEVA, GILBERTO V. UNITED STATES
19-5247 HEDLUND, CHARLES M. V. ARIZONA
19-5309 MITCHELL, WILLIAM D. V. UNITED STATES
19-5478 MADRIGAL, WILFREDO R. V. UNITED STATES
19-5480 DORSEY, ANDREW V. UNITED STATES
19-5575 YARBROUGH, ANTWAIN E. V. UNITED STATES
19-5923 HAYES, JAMAAR D. V. UNITED STATES
19-6078 McDANIEL, TERREALL V. UNITED STATES
19-6148 WILSON, CORNELIUS L. V. GRIMES, DENNIS, ET AL.
19-6213 BOOKER, MARCUS B. V. TEXAS
19-6230 FINCHER, CLAUDIUS L. V. UNITED STATES
19-6249 FAIRCLOTH, MICHAEL T. V. UNITED STATES
19-6405 VEREEN, ERNEST V. UNITED STATES
19-6426 RAMIREZ, JOHN H. V. DAVIS, DIR. TX DCJ
19-6596 HETTINGA, WYLMINA V. LOUMENA, TIMOTHY P.
19-6675 BISHOP, MICHAEL R. V. UNITED STATES
19-6773 ORTEGA-LIMONES, EDGAR V. UNITED STATES
19-6910 MOLIERE, ALFRED T. V. TEXAS
19-7064 BEANBLOSSOM, JOHANNA V. BAY DISTRICT SCHOOLS

19-7091 CHAMPAGNE, ALAN M. V. ARIZONA
19-7095 SMITH, DAVID L. V. USDC ED NC
19-7101 NOWAKOWSKI, DAVID V. E.E. AUSTIN AND SON, ET AL.
19-7108 MOORE, DEVELL V. LeGRAND, ROBERT, ET AL.
19-7110 JOHNSON, ROBERT W. V. McMAHON, CHIEF JUDGE, ET AL.
19-7111 JOHNSON, ROBERT W. V. PORTNOY, KEVIN S., ET AL.
19-7120 SANCHEZ, GILBERT V. TEXAS
19-7124 BUTLER, DERWIN L. V. CALIFORNIA
19-7129 MOORE, BRIAN V. NEW JERSEY
19-7135 PARK, HYE-YOUNG V. SECOLSKY, CHARLES, ET AL.
19-7140 ORTIZ, ANTONIO M. V. SOLOMON, GEORGE T., ET AL.
19-7150 WALTON, MICHAEL J. V. KOWALSKI, WARDEN
19-7157 MOTHER V. LORAIN CTY. CHILDREN SERVICES
19-7158 MONTANEZ, ISAAC V. McDEAN LLC
19-7160 ESPINOZA, ERNEST J. V. ASHE, MATT A., ET AL.
19-7162 NEGRON, CARLOS J. V. INCH, SEC., FL DOC, ET AL.
19-7166 KARNOFEL, ANN V. SUPERIOR WATERPROOFING, INC.
19-7168 JOHNSON, TRACY E. V. ILLINOIS
19-7181 BELL, ANNA V. OR HEALTH & SCIENCE UNIVERSITY
19-7184 BREWER, STANLEY V. CUNNINGHAM, SUPT., FISHKILL
19-7241 COX, WILLIAM G. V. LOUISIANA
19-7277 MOREIRA, DORA V. UNITED STATES
19-7284 WALLACE, BOBBY Y. V. VANNOY, WARDEN
19-7297 BURTON, CHRISTOPHER J. V. CLARKE, DIR., VA DOC
19-7329 WILLIAMS, JAMAAR J. V. GENTRY, WARDEN, ET AL.
19-7357 FORDHAM, CHRIS V. MANZOLA, CORR. OFFICER, ET AL.
19-7372 TAYLOR, SAUNDRA V. DISTRICT OF COLUMBIA
19-7376 TRAPPLER, ALICE C. V. NEW YORK

19-7399 HARRIS, FREDERICK C. V. UNITED STATES
19-7427 PEREZ-JIMENEZ, RODOLFO V. UNITED STATES
19-7437 SPARKS, TONY V. UNITED STATES
19-7446 ECHEVERRIA-BENITEZ, ENRIQUE A. V. UNITED STATES
19-7450 STEELE, GEORGE M. V. UNITED STATES
19-7454 BARFIELD, KENNETH J. V. UNITED STATES
19-7457 VILLARREAL-ESTEBIS, ROGELIO V. UNITED STATES
19-7460 WRIGHT, DAVID V. UNITED STATES
19-7467 BEQIRAJ, FRANKIE V. UNITED STATES
19-7477 MEJIA, RAUL V. UNITED STATES
19-7478 PYE, DANIEL V. UNITED STATES
19-7490 HERNANDEZ, OMAR E. V. UNITED STATES
19-7492 JENSEN, INGER L. V. UNITED STATES
19-7494 THOMAS, RICKY L. V. UNITED STATES
19-7498 SANDERS, JAMES E. V. UNITED STATES
19-7502 PETERS, SCOTT V. ILLINOIS
19-7507 GURULE, TOMMY V. UNITED STATES
19-7510 BLOCK, FRANCIS D. V. UNITED STATES
19-7512 URIAS-MARQUEZ, JOSE L. V. UNITED STATES
19-7514 ESSIEN, EKANEM K. V. PEERY, WARDEN
19-7518 GARCIA, BALTAZAR R., ET AL. V. UNITED STATES
19-7519 HERNANDEZ-NUNEZ, ERICKA V. UNITED STATES
19-7522 MATTHEWS, DEDRICK V. LOUISIANA
19-7540 JACKSON, RANDOM V. INCH, SEC., FL DOC

The petitions for writs of certiorari are denied.

18-7833 HAYES, JEROME V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this

petition.

19-7122 RAGHUBIR, VINODH V. INCH, SEC., FL DOC

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

19-7186 YOUNG, JAMES R. V. UNITED STATES, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

19-7189 MOORE, KEVIN D. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

19-7458 MYERS, KALEB J. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Gorsuch took no part in the consideration or decision of this petition.

19-7486 LINDSAY, MICHAEL V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Breyer took no part in the consideration or decision of this petition.

19-7489 DURAN, PAUL E. V. DIAZ, SEC., CA DOC

The petition for a writ of certiorari before judgment is denied.

HABEAS CORPUS DENIED

19-7564 IN RE MICHAEL D. SEIBERT

19-7643 IN RE STEPHEN D. LEONARD

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

19-7143 IN RE STEVEN D. McDONALD

The petition for a writ of mandamus is denied.

19-7435 IN RE ROBERT N. BROOKS

The petition for a writ of mandamus and/or prohibition is denied.

REHEARINGS DENIED

19-6153 NELSON, DAVONTAH L. V. BURT, WARDEN

19-6337 BIRCH-MIN, MONICA V. MIDDLESEX COUNTY BOARD, ET AL.

19-6457 D. B. V. TX DEPT. OF FAMILY

19-6470 MARSHALL, DARRELL L. V. STEEH, GEORGE C., ET AL.

19-6537 EVERSON, CHRISTOPHER V. LANTZ, THERESA, ET AL.

The petitions for rehearing are denied.

18-9296 IN RE ALLEN J. DANNEWITZ, JR.

The motion for leave to file a petition for rehearing is denied.

Statement of GORSUCH, J.

SUPREME COURT OF THE UNITED STATES

DAMIEN GUEDES, ET AL. *v.* BUREAU OF ALCOHOL,
TOBACCO, FIREARMS AND EXPLOSIVES, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE DISTRICT
OF COLUMBIA CIRCUIT

No. 19–296. Decided March 2, 2020

The petition for a writ of certiorari is denied.

Statement of JUSTICE GORSUCH.

Does owning a bump stock expose a citizen to a decade in federal prison? For years, the government didn’t think so. But recently the Bureau of Alcohol, Tobacco, Firearms and Explosives changed its mind. Now, according to a new interpretive rule from the agency, owning a bump stock is forbidden by a longstanding federal statute that outlaws the “possession [of] a machinegun.” 26 U. S. C. §5685(b), 18 U. S. C. §924(a)(2). Whether bump stocks can be fairly reclassified and effectively outlawed as machineguns under existing statutory definitions, I do not know and could not say without briefing and argument. Nor do I question that Congress might seek to enact new legislation directly regulating the use and possession of bump stocks. But at least one thing should be clear: Contrary to the court of appeals’s decision in this case, *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.* 467 U. S. 837 (1984), has nothing to say about the proper interpretation of the law before us.

In the first place, the government expressly waived reliance on *Chevron*. The government told the court of appeals that, if the validity of its rule (re)interpreting the machinegun statute “turns on the applicability of *Chevron*, it would prefer that the [r]ule be set aside rather than up-

held.” 920 F. 3d 1, 21 (CADDC 2019) (Henderson, J., concurring in part and dissenting in part) (noting concession). Yet, despite this concession, the court proceeded to uphold the agency’s new rule *only* on the strength of *Chevron* deference. Think about it this way. The executive branch and affected citizens asked the court to do what courts usually do in statutory interpretation disputes: supply its best independent judgment about what the law means. But, instead of deciding the case the old-fashioned way, the court placed an uninvited thumb on the scale in favor of the government.

That was mistaken. This Court has often declined to apply *Chevron* deference when the government fails to invoke it. See Eskridge & Baer, *The Continuum of Deference: Supreme Court Treatment of Agency Statutory Interpretations From Chevron to Hamdan*, 96 *Geo. L. J.* 1083, 1121–1124 (2008) (collecting cases); Merrill, *Judicial Deference to Executive Precedent*, 101 *Yale L. J.* 969, 982–984 (1992) (same); see *BNSF R. Co. v. Loos*, 586 U. S. ___ (2019). Even when *Chevron* deference is sought, this Court has found it inappropriate where “the Executive seems of two minds” about the result it prefers. *Epic Systems Corp. v. Lewis*, 584 U. S. ___, ___ (2018) (slip op., at 20). Nor is it a surprise that the government can lose the benefit of *Chevron* in situations like these and ours. If the justification for *Chevron* is that “‘policy choices’ should be left to executive branch officials ‘directly accountable to the people,’” *Epic Systems*, 584 U. S., at ___ (slip op., at 20) (quoting *Chevron*, 467 U. S., at 865), then courts must equally respect the Executive’s decision *not* to make policy choices in the interpretation of Congress’s handiwork.

To make matters worse, the law before us carries the possibility of criminal sanctions. And, as the government itself may have recognized in offering its disclaimer, whatever else one thinks about *Chevron*, it has no role to play when

Statement of GORSUCH, J.

liberty is at stake. Under our Constitution, “[o]nly the people’s elected representatives in the legislature are authorized to ‘make an act a crime.’” *United States v. Davis*, 588 U. S. ___, ___ (2019) (slip op., at 5) (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)). Before courts may send people to prison, we owe them an independent determination that the law actually forbids their conduct. A “reasonable” prosecutor’s say-so is cold comfort in comparison. That’s why this Court has “never held that the Government’s reading of a criminal statute is entitled to any deference.” *United States v. Apel*, 571 U. S. 359, 369 (2014). Instead, we have emphasized, courts bear an “obligation” to determine independently what the law allows and forbids. *Abramski v. United States*, 573 U. S. 169, 191 (2014); see also 920 F. 3d, at 39–40 (opinion of Henderson, J.); *Esquivel-Quintana v. Lynch*, 810 F. 3d 1019, 1027–1032 (CA6 2016) (Sutton, J., concurring in part and dissenting in part). That obligation went unfulfilled here.

Chevron’s application in this case may be doubtful for other reasons too. The agency used to tell everyone that bump stocks don’t qualify as “machineguns.” Now it says the opposite. The law hasn’t changed, only an agency’s interpretation of it. And these days it sometimes seems agencies change their statutory interpretations almost as often as elections change administrations. How, in all this, can ordinary citizens be expected to keep up—required not only to conform their conduct to the fairest reading of the law they might expect from a neutral judge, but forced to guess whether the statute will be declared ambiguous; to guess again whether the agency’s initial interpretation of the law will be declared “reasonable”; and to guess *again* whether a later and opposing agency interpretation will *also* be held “reasonable”? And why should courts, charged with the independent and neutral interpretation of the laws Congress has enacted, defer to such bureaucratic pirouetting?

Despite these concerns, I agree with my colleagues that

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Statement of GORSUCH, J.

the interlocutory petition before us does not merit review. The errors apparent in this preliminary ruling might yet be corrected before final judgment. Further, other courts of appeals are actively considering challenges to the same regulation. Before deciding whether to weigh in, we would benefit from hearing their considered judgments—provided, of course, that they are not afflicted with the same problems. But waiting should not be mistaken for lack of concern.