

UNITED STATES SUPREME COURT
CRIMINAL LAW DECISIONS FOR THE 2015-2016 TERM (as of 2 May 2016)

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FORFEITURE: LUIS V UNITED STATES, 578 U.S. ____ (MARCH 30, 2016)

In a 5 to 3 Decision, by Justice Breyer, the Supreme Court ruled that federal prosecutors cannot freeze assets someone needs in order to hire a lawyer unless the funds are linked to the alleged crime, disabling a “substitute forfeiture” tool authorities had used against suspects in bank and health-care fraud cases. The Court suggested the Due Process requires tracing forfeitable assets to the charged offense, which may now be problematic to seizing “substitute assets.”

The case originated from Miami, where federal prosecutors accused Sila Luis, whose business provided care to home-bound patients, of defrauding Medicare of \$45 million. The government won a court order freezing 2 million Ms. Luis had when she was arrested. She challenged the order, saying it effectively eliminated her right to hire a lawyer of her choosing. Justice Breyer’s opinion stressed the importance of a client’s confidence in his or her lawyer and the Right to Counsel of choice. Justices Kennedy, Alito, and Kagan dissented.

SECOND AMENDMENT: CATEANO V MASSACHUSETTS, 577 U.S. ____ (MARCH 21, 2016). SECOND AMENDMENT APPLIES TO STUN GUNS.

In a unanimous per curiam decision, the Court held that the Second Amendment extends to all instruments that constitute bearable arms, including Stun guns, even though those instruments were not in existence at the time of original Constitution. The U.S. Supreme Court unanimously reversed a Massachusetts Supreme Judicial Court case which held that a state statute prohibiting stun guns was constitutional.

DISCOVERY VIOLATION AND PROSECUTORIAL MISCONDUCT: WEARRY V CAIN, 577 U.S. ____ (MARCH 7, 2016)

In a per curiam decision, the Supreme Court held that the prosecution’s failure to disclose material evidence violated Wearry’s due process rights. The prosecution withheld relevant information that could have advanced Wearry’s claims of innocence.

MANDATORY LIFE SENTENCES FOR JUVENILES ARE UNCONSTITUTIONAL AND RETROACTIVE: MONTGOMERY V LOUISIANA, 577 U.S. ____ (JAN 25, 2017)

The Court applied *Miller v Alabama*, which held that Mandatory Life Sentences for Juveniles are unconstitutional, retroactively. The Court applied the principles of Retroactivity announced in *Teague v Lane* and *Penry v Lynaugh*, to the situation where Court has announced a new substantive rule and held that Juveniles are entitled to retroactive application of the *Miller* decision.

DEATH PENALTY: HURST V FLORIDA, 577 U.S. ____ (JANUARY 12, 2016). JURY DETERMINATION, NOT JUDGE, ON DEATH PENALTY.

In a 7 to 1 decision, by Justice Sotomayer, the Court held that a jury, not Judge, must decide on the findings of aggravating and mitigating circumstances. While this proposition was decided a while ago in *Ring v Arizona*, Florida's scheme required that a jury decide whether there were sufficient facts to make the defendant ELIGIBLE for capital punishment. Then the Judge would make the final determination. The Supreme Court struck this method as a 6th Amendment Jury violation.

DEATH PENALTY: KANSAS V GLEASON; KANSAS V CARR, NOT YET DECIDED AS A 2 MAY 2016.

The Supreme Court will decide these cases out of Kansas. In *Gleason*, the Kansas Supreme Court vacated a death penalty sentence because the jury was not instructed that Defendant *Gleason* did not have to prove mitigating factors beyond a reasonable doubt. The state argues that the Constitution requires that the jury be permitted to consider all relevant mitigating evidence and does not mandate a burden of proof.

In the consolidated *Carr* decision, the *Carr* brothers were sentenced together over objection. The Kansas Supreme Court reversed their sentences, finding that the judge's decision not to sever violated the *Carr* brothers' right to an individualized sentencing determination.

FORENSIC SCIENCE & INEFFECTIVE ASSISTANCE OF COUNSEL ON COMPARATIVE BULLET LEAD ANALYSIS: MARYLAND V KULVICKI, 577 U.S. ____ (OCTOBER 5, 2015).

While the Court held that it was NOT INEFFECTIVE ASSISTANCE OF COUNSEL to fail to contest Comparative Bullet Lead Analysis at trial, the opinion is interested for adopting the new Forensic Science that Comparative Bullet Analysis is not reliable. In this case, an expert testified that the composition of elements in the molten lead of a bullet fragment found in Defendant's truck matched the composition of lead in a bullet fragment removed from the

victim's brain was similar enough that the two bullets likely came from the same weapon. Since then, forensics has found that Comparative Bullet Analysis is not generally accepted by the scientific community.

SPEEDY SENTENCING: BETTERMAN V MONTANA. DECISION PENDING. DOES THE SPEEDY TRIAL RIGHT APPLY TO SENTENCING?

The Court heard arguments on 28 March 2016, whether the accused who suffered a 14 month wait for sentencing was denied his speedy trial right.

JURY BATSON VIOLATION ON RACE: FOSTER V CHATHAM. DECISION PENDING.

Before trial, the prosecutor, struck all four qualified black jurors from the jury pool, creating an all-white jury that convicted Foster. The prosecutor offered race-neutral reasons for striking the black jurors. After trial, the defense discovered the prosecutor's notes, in which the prosecutor had identified the race of the black jurors to be excluded. The Supreme Court will determine if this new evidence is sufficient to demonstrate racial discrimination in jury selection.

WARRANTLESS SEIZURE OF CELL PHONE TOWER NUMBERS: UTAH V STRIEFF. DECISION PENDING.

In *Riley v California*, (2014), the Court ruled that the police must obtain a search warrant before searching a cell phone seized incident to an arrest. In this case, the issue is whether the government may seize cell phone location records from service providers without a warrant. The lower courts disagree about whether these records are subject to the third party doctrine.

RECUSAL OF APPELLATE JUDGE. WILLIAMS V PENNSYLVANIA. NOT DECIDED YET.

This case will determine whether the appellate judge's failure to recuse himself based on a conflict of interest violated Defendant's rights and whether it matters that the appellate judge did not cast the deciding vote.

