

## 2012 Supreme Court Cases to Watch

### ***Fisher v. University of Texas*** (Affirmative Action)

The Court has heard several arguments about affirmative action over the past 40 years. As it stands, public Universities are allowed to use race as a potential “plus” factor for an applicant as part of a holistic application process in order to achieve a critical mass of diversity, but cannot assign any points or specific slots for minority students. This case challenges that precedent on the basis that there are other, race-neutral means of achieving a critical mass of minority students at the University of Texas at Austin.

### ***Bailey v. United States*** (Seizure Case)

The Fourth Amendment protects us from unreasonable searches and seizures. At issue in this case is whether it is reasonable to seize and detain a suspect outside of the vicinity of his or her home immediately before a search warrant for the home is executed. Older cases have said that detentions in and near the home are reasonable, but this detention occurred almost a mile away.

### ***Kirtsaeng v. John Wiley & Sons, Inc.*** (Imports and Copyrights)

Copyright holders in the United States often authorize subsidiaries in other countries to copy and sell their goods. What happens, though, when these goods are then imported back into the United States? Kirtsaeng is a student from Thailand who imported and then sold textbooks to his classmates. The publisher of the books in the United States says that such secondary sales are illegal, but Kirtsaeng argues that since he bought them legally he can legally resell them. The resolution of this case will have a huge impact on reselling goods that were purchased outside of the United States.

### ***Florida v. Jardines* and *Florida v. Harris*** (Dog Sniffs)

The Court has taken two cases about dog sniffs. In *Florida v. Jardines*, a drug-sniffing dog went up to the front of a house and alerted for possible narcotics. *Florida v. Harris* is similar, but involves a car instead of a house. The outcome of these cases will determine the uses for drug sniffing dogs far into the future. At issue is the reliability of the training that drug sniffing dogs receive, whether or not their alert is a “search” under the Fourth Amendment, and whether or not such alerts are sufficient to establish the probable cause necessary to secure a warrant. Current precedent is favorable to the government, but precedent was also favorable to the government in the Fourth Amendment GPS tracking case from last year.

### ***Evans v. Michigan*** (Double Jeopardy)

When a trial judge issues an acquittal due to his own misunderstanding of the law, can the state try the defendant again? The double jeopardy clause of the Fifth Amendment prevents a defendant from being charged with the same offense after an acquittal, but the Court must decide whether or not this equally applies when a clear mistake has occurred.

### **The Same-Sex Marriage Cases**

There are at least eight cases relating to gay marriage that have been filed in the Supreme Court this term. Though the Court has yet to accept them, many believe that they will hear at least one of these cases this term. Most of these cases have arisen because several Federal Court of Appeals judges have ruled that the Defense of Marriage Act, a piece of federal

legislation that defined marriage as being between one man and one woman, was unconstitutional. It is also possible, though less likely, that a case involving the constitutionality of California's Prop 8 will be accepted. Regardless of what comes before the Court, the main issues debated will be the proper understanding of the Fourteenth Amendment's "Due Process" and "Equal Protection" clauses.