



ALERTS

SCOTUS Cert Recap: DNA Testing And Personal Jurisdiction

April 28, 2022

Highlights

On April 25, the Supreme Court agreed to consider the following two questions:

Does the Due Process Clause prohibit states from requiring out-of-state corporations to consent to personal jurisdiction as a condition of doing business?

When does the statute of limitations begin to run on a due-process claim seeking to compel DNA testing of crime-scene evidence?

On April 25, the U.S. Supreme Court added two more cases to its docket for next term. The first addresses whether states may require corporations to consent to personal jurisdiction as a condition of doing business, and the second concerns when the limitations period begins for constitutional claims seeking to force state officials to conduct DNA tests of crime-scene evidence.

Notably, though the personal jurisdiction case drew no cert-stage amicus briefs, it could end up as one of the most important of next term: if the Court were to hold that states can indeed require corporations to consent

RELATED PEOPLE



Kian Hudson

Partner
Indianapolis

P 317-229-3111
F 317-231-7433
kian.hudson@btlaw.com

RELATED PRACTICE AREAS

Appeals and Critical Motions
Litigation
Trial and Global Disputes

to personal jurisdiction, many states would likely jump at the chance to do so – after all, many states already have “long-arm” statutes that extend their courts’ personal jurisdiction as far as the Due Process Clause allows. And just as the Supreme Court’s personal-jurisdiction decisions affect nearly all civil litigators, the Court’s crime-scene-evidence case could have significant ramifications for lawyers who practice criminal law, especially those who work in the post-conviction context.

Notably, these two cases bring the current total for the upcoming term, which starts in October, to 13 – a bit more than 50 shy of the 67 cases to which the Court is set to give plenary consideration this term. And even as the Court continues to fill out its docket for next term, these two cases in particular will remain high on litigators’ must-watch lists.

Whether States Can Require Corporations to Consent to Personal Jurisdiction

As every first-year law student learns, a court’s authority to act depends on both its subject-matter jurisdiction (power to hear this specific claim) and its personal jurisdiction (power over this particular defendant). And in [*Mallory v. Norfolk Southern Railway Co.*](#), the Supreme Court will address jurisdiction of the second sort: Can a state – here, Pennsylvania – expand the class of defendants over which its courts have authority by adopting a statute that requires out-of-state corporations to consent to personal jurisdiction as a condition of doing business?

The defendant, Norfolk Southern Railway, argues that the Fourteenth Amendment’s Due Process Clause prohibits states from doing so. It notes that in *Goodyear Dunlop Tires Operations, S.A. v. Brown and Daimler AG v. Bauman* (decided in 2011 and 2014, respectively) the Supreme Court applied the Due Process Clause to limit the circumstances in which a state’s courts have “general” personal jurisdiction – that is, have authority over a defendant even in cases that do not arise out of the defendant’s contacts with their state. And it observes that *Goodyear* and *Chrysler* refused to subject corporations to general personal jurisdiction in every state in which they engage in business; instead, corporations are ordinarily subject to general jurisdiction only where they are incorporated or headquartered. From this Norfolk Southern contends that “*Daimler* and *Goodyear* recognize that corporations have a fundamental due process right not be haled into court anywhere they might do business,” and it argues that the Constitution therefore prohibits states from forcing corporations to give up this right as a condition of doing business.

The plaintiff, however, insists that nothing in the Constitution limits states in this regard. He argues that the Supreme Court has both upheld similar statutes in the nineteenth century and has held more recently that consent is an independent and alternative ground for personal jurisdiction that does not depend on the extent of the defendant’s contacts with the state. The plaintiff further contends that such statutes offer corporations a reasonable choice – either consent to be sued in a state’s courts or give up access to the state’s market.

The Pennsylvania Supreme Court’s decision below sided with Norfolk Southern, and the decision underscores the stakes of the case: the plaintiff’s position, it concluded, “eviscerates the Supreme Court’s general jurisdiction framework set forth in *Goodyear* and *Daimler*.”

With the Supreme Court now agreeing to review that decision, civil

litigators around the country should be watching carefully to see what the Court says.

Statutes of Limitation for DNA-Testing Claims

[Reed v. Goertz](#), meanwhile, confronts the Court with a narrower question concerning due-process claims that seek to force state officials to conduct DNA tests of crime-scene evidence: When does the limitations period on such claims begin to run?

Eleven years ago, in *Skinner v. Switzer*, the Supreme Court held that these sorts of claims – where a “convicted state prisoner seek[s] DNA testing of crime-scene evidence” under the Due Process Clause – may be brought “in a civil rights action under 42 U.S.C. § 1983.” The applicable limitations period for these and other Section 1983 claims is borrowed from the relevant state’s personal-injury statute of limitations, but federal law governs the accrual date for Section 1983 claims, which means federal courts need to decide when these due-process DNA-testing claims accrue for statute-of-limitations purposes.

The federal courts of appeals have reached given different answers to this question. Here, the U.S. Court of Appeals for the Fifth Circuit held that the prisoner’s Section 1983 claim accrued – and the statute of limitations began to run – when the state trial court first denied the prisoner’s request for DNA testing, because at that point the prisoner “had the necessary information to know that his rights were allegedly being violated.” On the other hand, the U.S. Court of Appeals for the Eleventh Circuit has held that these claims do not accrue until the conclusion of the prisoner’s state court litigation, including the denial of any Supreme Court cert. petition: Because these claims allege the constitutional inadequacy of the state-law procedures available to the prisoner, the Eleventh Circuit has reasoned, the prisoner cannot know whether those procedures were in fact inadequate until his state-court litigation has definitively ended.

The Supreme Court is now set to resolve this inter-circuit dispute. And its answer will not only affect state post-conviction proceedings, but could also suggest how the Court thinks about the accrual of Section 1983 claims more broadly.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work or Kian Hudson at 317-229-3111 or kian.hudson@btlaw.com.

© 2022 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg LLP.

This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.