I. Introduction
   a. Court dynamics
   b. Ethics: Court announced a new code of conduct in November 2023
      i. Questions about enforcement
   c. Shrinking docket: just 59 cases
      i. Not entirely clear why the justices are taking up so few cases
   d. The Roberts Court moves to the right
      i. Relatively few "victories" for liberals
      ii. Chief Justice John Roberts decidedly in the driver's seat
   e. Commentary on and coverage of the role of Justice Amy Coney Barrett

II. The "Trump docket" – Former President (and now President-elect) Donald Trump, immunity, the insurrection clause, & obstruction charges
   a. Trump v. United States: 6-3, opinion by Roberts
      i. Court holds that former presidents have absolute immunity from criminal prosecution for actions relating to the core powers of their office, and they are presumptively immune for their official acts more broadly.
         1. Broad rationale: Ruling will allow presidents to do their job without worrying about possibility of being prosecuted after they leave office
         2. Court also addressed specific allegations in the election-interference case in Washington, D.C.
      ii. Concurring opinions by Justices Thomas and Barrett
      iii. Dissents by Justices Sotomayor and Jackson
      iv. Effect on other charges against Trump?
      v. Long-term effect?
      vi. New York Times story on the case
   b. Trump v. Anderson: 9-0, per curiam opinion in which the Court agreed unanimously that states cannot disqualify Trump from the ballot for his role in the Jan. 6 attacks. Only Congress (not the states) can enforce Section 3 of the 14th Amendment.
      i. Text of Fourteenth Amendment provides that no one "shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State," if that person had previously sworn, "as a member of Congress, or as an officer of the United States" to support the U.S. Constitution but then "engaged in insurrection or rebellion" against the federal government.
      ii. Colorado Supreme Court relied on provision to hold in December 2023 that Trump is ineligible to be president
      iii. Supreme Court agreed to take up the case and reversed

iv. Separate concurring opinion by Barrett, along with a joint opinion by Sotomayor, Kagan, & Jackson

c. Fischer v. United States: 6-3, Roberts opinion
    i. Court throws out charges against former Pennsylvania police officer who entered the Capitol on Jan. 6 and was charged (along with hundreds of other Jan. 6 defendants and Trump) with obstruction of an official proceeding
    ii. Barrett dissents, joined by Sotomayor and Kagan

III. Grants Pass v. Johnson: 6-3 decision by Justice Neil Gorsuch
    a. Challenge to an Oregon city's ban on public camping, which bars people who are experiencing homelessness from using blankets, pillows, or cardboard for protection from the elements
    b. The Supreme Court rejected the argument that the ban violated the Eighth Amendment's ban on cruel and unusual punishment
    c. Sotomayor dissented, joined by Justices Kagan and Jackson.
    d. What does this mean for governments going forward?
        i. No Eighth Amendment challenges
        ii. But other possible arguments against such bans

IV. United States v. Rahimi
    a. Court upheld a federal law prohibiting the possession of firearms by persons subject to a domestic violence restraining order
    b. Opinion by Roberts "clarifying" how similar modern gun restrictions need to be to historical regulations to pass constitutional muster
    c. Thomas dissented
    d. Post-Rahimi developments:
        i. Sent cases back to lower courts for another look in light of Rahimi
        ii. But cases are already coming back up to the court
    e. Broader question is that this "history and tradition" test is hard for courts to apply

V. The "war on the administrative state"
    a. Loper-Bright Enterprises v. Raimondo & Relentless v. Department of Commerce, in which the court (by a vote of 6-3) overturned the Chevron doctrine.
        i. Roberts opinion:
            1. Text of the Administrative Procedure Act provides that courts decide "ALL relevant questions of law"
            2. Ambiguities in a statute are not a delegation to the agency to resolve the ambiguities
            3. Chevron doctrine is unworkable – because it was so difficult to determine whether a statute is ambiguous
            4. No reliance on Chevron doctrine to justify keeping it
        ii. What will the impact of the decision be?

1. Even if courts are not going to DEFER to agency interpretations, they can give them "respect."
    a. Analogous to Skidmore deference: based on 1944 case that predated Chevron
2. Overruling Chevron does not open the floodgates to overrule other cases that relied on Chevron
    a. It's not enough for stare decisis analysis to simply say that a case was wrongly decided – need more than that

iii. Kagan dissent, joined by Sotomayor and Jackson
1. Big picture concern
2. Chevron doctrine itself: Congress often enacts laws with ambiguities and gaps
    a. Until now, there has been a presumption that an agency's interpretation should generally prevail as long as it is reasonable
3. Pushes back against suggestion that overruling Chevron will create more consistency in judicial review of agency interpretation. Suggests it is just substituting one problem for another.
4. Also rejects the idea that this won't open the floodgates to revisit old decisions relying on Chevron:

iv. What happens next?
1. Congress will need to be clearer in drafting laws
2. What will agencies do going forward?
3. Possible influence on state administrative law?

b. Corner Post v. Board of Governors of the Federal Reserve: In a 6-3 opinion by Justice Barrett, the Court ruled that for purposes of the statute of limitations, a claim under the Administrative Procedure Act does not accrue until the plaintiff is injured by final agency action.
    i. Jackson dissents, joined by Sotomayor and Kagan

c. SEC v. Jarkesy: In a 6-3 opinion by Roberts, the Court invalidated a law that gave the SEC the power to seek civil penalties for violations of securities laws through in-house proceedings before an administrative law judge
    i. Sotomayor dissent, joined by Kagan and Jackson

d. Ohio v. EPA: In a 5-4 opinion by Gorsuch, the Court temporarily blocks an EPA rule intended to reduce air pollution from power plants and industrial facilities in 23 states
    i. Barrett dissented, joined by Sotomayor, Kagan, and Jackson
    ii. Unusual procedural posture: Came to the court on the "shadow docket"
    iii. Possible effect on rulemaking?

VI. Devillier v. Texas – Fifth Amendment takings clause case

a. A Texas property owner whose land was flooded by a barrier that the state placed on an interstate highway to ensure that it could be used for evacuation during a hurricane asked the Supreme Court to decide whether a property owner can sue for just compensation directly under the takings clause
b. In a unanimous opinion by Justice Thomas, the Court ruled that it didn't need to decide that question because the property owner had a state-law cause of action available to him.

VII. The First Amendment

a. Lindke v. Freed (along with O'Connor-Ratcliff v. Garnier): The Court outlined the test for when a public official's use of social media accounts constitutes state action so that government officials can be held liable for blocking their critics
    i. The justices sent a similar case, involving then-former President Donald Trump, back to the lower court in 2021
    ii. In both cases, public officials (school board members and a city manager) blocked constituents from their personal social media accounts after the constituents posted critical or repetitive comments.
    iii. The Supreme Court (in a decision by Justice Barrett) ruled that public officials who post on their personal social media accounts about topics related to their work can only be held liable for blocking their critics when they have the power to speak on behalf of the government and are actually exercising that power when they create the social media post at the center of the dispute

a. Moody v. NetChoice & NetChoice v. Paxton: Challenges by tech groups to the constitutionality of controversial laws in Texas and Florida that would regulate how large social media companies control content posted on their sites
    i. Background: States passed the laws in 2021 in response to a belief that social media companies were censoring their users, especially those with conservative views.
    ii. In a decision by Justice Elena Kagan on July 1, the Supreme Court sent both cases back to the courts of appeals for another look
        1. She wrote that the question before the justices is whether "a substantial number of the law's applications are unconstitutional" when you compare them with the law's constitutional applications. But lower courts didn't really focus on this comparison.
        2. The Kagan opinion suggested that, at least as applied to large social media platforms, the Texas law likely does violate the First Amendment.
    ii. Justice Samuel Alito wrote 33-page opinion concurring in the decision to send the case back.

b. National Rifle Association v. Vullo: In a 9-0 opinion by Sotomayor, the Court allowed a lawsuit by the NRA, alleging that a New York official violated the First Amendment when she urged banks and insurance companies not to do business with the group, to go forward.
    i. The Supreme Court ruled that if the NRA's allegations are true, the NRA has made out a First Amendment claim.
        1. But justices also left open the possibility that when the case returns to the lower court, it could again consider whether Vullo is entitled to qualified immunity.
c. Murthy v. Missouri: 6-3, Barrett opinion
    i. Two states and several individuals whose social media posts were removed or downgraded challenged the Biden administration's efforts to restrict misinformation about COVID-19 and the 2020 election
    ii. The court ruled instead that the plaintiffs did not have standing to bring their lawsuit.
    iii. Alito dissented, joined by Thomas and Gorsuch

II. Alexander v. South Carolina Conference of the NAACP: A 6-3 decision by Justice Samuel Alito that cleared the way for South Carolina to use a map of a congressional district on the state's coast drawn by the Republican-controlled legislature, rejecting the holding by a federal district court that the map was the product of racial gerrymandering.
a. Majority holds that there is a high bar for the challengers in these cases to show that race was the primary factor behind the legislature's decision to move voters into or out of a district
b. Kagan dissent, joined by Sotomayor and Jackson

III. Abortion-related issues after Dobbs
a. Moyle v. United States: Dismissed as improvidently granted – means it made a mistake in agreeing to take the case
b. Biden administration argued that the Emergency Medical Treatment and Labor Act superseded Idaho's general ban on abortion, which contains only narrow exceptions, including to save the life of the mother
c. Ruling dismissing the case cleared the way for emergency abortions to go forward, at least for now, in Idaho
d. Justices issued four separate decisions
    i. Kagan (joined by Sotomayor)
    ii. Barrett (joined by Roberts and Kavanaugh)
    iii. Jackson
    iv. Alito (joined by Thomas and (in part) Gorsuch)
e. What next for EMTALA?
    i. Case went back to the Ninth Circuit – argument slated for early December
    ii. Similar case out of the Fifth Circuit in which the Biden administration lost

iii. Second Trump administration not likely to continue the case

IV. Harrington v. Purdue Pharma: In a 5-4 decision by Justice Gorsuch, the Court blocked a multi-billion-dollar bankruptcy plan for Purdue Pharma, the maker of OxyContin, because it shielded members of the Sackler family from liability for opioid-related claims even though they did not declare bankruptcy

a. Supreme Court agreed to put the plan on hold to give it time to review the dispute on the merits
b. Two questions:
    i. Whether the trustee has standing to challenge the confirmation of the plan
    ii. Legality of the plan
c. Justice Kavanaugh dissented, joined by Roberts, Sotomayor, and Kagan, called the ruling "devastating for more than 100,000 opioid victims and their families"

V. Sheetz v. El Dorado County: The Court holds (in a 9-0 opinion by Justice Barrett) that there is no exception to ordinary takings rules for legislatures.

a. Case was brought by a California man to challenge the "traffic impact mitigation fee" he was required to pay to receive a permit to build a home on land he owned.
    i. He argued that requiring him to pay the fee as a condition of receiving the building permit violated the Constitution's takings clause, and that to determine whether it is a taking, courts should apply the test outlined in Nollan v. California Coastal Commission and Dolan v. City of Tigard.
    ii. California state courts held that the Nollan/Dolan test only applies to permit conditions imposed on an individual and discretionary basis
    iii. By the time the case made its way to oral argument, the parties (and therefore the Supreme Court) agreed that the Nollan/Dolan test also applies to conditions imposed by legislation.
    iv. Three concurring opinions "planted" flags for some of the issues that could come up again in state court.

VI. Snyder v. United States: In a 6-3 opinion by Justice Kavanaugh, the Court held that a federal law criminalizing before-the-fact bribes to state and local officials does not criminalize after-the-fact gratuities given as a token of appreciation

a. This was the latest in a line of recent cases in which the court has limited the scope of federal fraud statutes that apply to corruption in state and local governments.
b. Federal law at the center of the case was 18 U.S.C. § 666, which makes it a crime for state and local officials to "corruptly" solicit, accept, or agree to accept "anything of value from any person, intending to be influenced or rewarded" for an official act

c. The defendant, James Snyder, an Indiana mayor, was convicted of accepting an illegal gratuity in violation of Section 666(a)(1)(B) and sentenced to 21 months in prison.
d. The Supreme Court agreed with Snyder that Section "666 is a bribery statute and not a gratuities statute," pointing to six reasons:
    i. Text of the statute
    ii. History of Section 666
    iii. Structure of Section 666
    iv. Punishments imposed by the statute
    v. Federalism
    vi. Fair notice
e. Timing is key.
f. Other laws may make gratuities unethical or illegal.
g. Congress can always change the law if it wants to criminalize gratuities to state and local officials.
h. Gorsuch concurring opinion
i. Jackson dissent, joined by Sotomayor and Kagan

VII. Garland v. Cargill: 6-3 opinion by Justice Thomas in which the Court struck down the federal government's ban on "bump stocks" – attachments that can transform a semiautomatic rifle into a weapon that can discharge at a rate of hundreds of rounds per minute.
a. Highly technical opinion in which the court ruled that the Bureau of Alcohol, Tobacco, Firearms, and Explosives exceeded its authority when it interpreted the federal ban on machine guns to apply to bump stocks
b. Sotomayor dissent, joined by Kagan and Jackson

VIII. Looking ahead at the 2024-25 term
a. Current term is relatively low-key
b. But some high-profile cases already on the Court's docket
    i. United States v. Skrmetti
    ii. Free Speech Coalition v. Paxton
    iii. Glossip v. Oklahoma
    iv. Louisiana v. Callais