

Friday, 21 June 2024

## Weekly International Law Review

Editor: Dr Harry Melkonian, Adjunct Fellow, Macquarie Law School

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### Executive Summary (One Minute Read)

**Garland, Attorney General v Cargill** (SCOTUS) - Bureau of Alcohol, Firearms and Explosives regulation that classified firearms equipped with bump stocks as machine guns exceeded the agency's statutory authority

**Food and Drug Administration v Alliance for Hippocratic Medicine** (SCOTUS) - Plaintiff pro-life doctors and medical associations challenged Food and Drug Administration (FDA) decision to relax prescribing restrictions on a drug used to terminate pregnancies. The Court held the plaintiffs lacked standing to challenge the FDA decision



## HABEAS CANEM

Small dog, big surf



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## Summaries With Link (Five Minute Read)

### **Garland, Attorney General v Cargill [2024] 602 US** \_\_\_\_\_

Supreme Court of the United States

In the aftermath of a mass shooting in Las Vegas that left 58 people dead and 500 wounded, the Trump administration outlawed semi-automatic weapons equipped with bump stocks. The addition of a bump stock permits a semi-automatic weapon to operate very rapidly at speeds less than but approaching that of a machine gun. The *National Firearms Act of 1934* (The Act) outlawed private ownership of machine guns. The Act defined a machine gun as a weapon that can automatically fire more than one round without manual reloading by a single function of the trigger. In a traditional firearm, the expended shell casing must be manually ejected, and a new round inserted in the firing chamber after each shot. In a semi-automatic weapon, the re-loading after each round is automatic but the trigger must be manually pulled before each round can be fired. Bump stocks are devices that permit semi-automatic weapons to operate faster than an individual could pull the trigger. The bump stock is a device that allows the recoil of the gun to bump-up against the trigger finger allowing the gun to fire without the shooter consciously re-engaging the trigger. Historically, bump stock equipped firearms were lawful and not deemed by the Bureau of Alcohol, Firearms and Explosives (ATF) to constitute a machine gun. The ATF changed position after the 2017 Las Vegas shootings. In a 6-3 vote, the Court held that the ATF's ability to regulate machine guns did not allow for regulation of bump stock equipped weapons because these weapons required individual trigger action for each round. The Court held that the bump stock allowed the trigger action to be accomplished more rapidly but did not convert the semi-automatic weapon into a fully automatic machine gun as defined by the Act. In dissent, Justice Sotomayor wrote, 'When I see a bird that walks like a duck, swims like a duck, and quacks like a duck, I call that bird a duck'. Consequently, in the case of a semi-automatic weapon equipped with a bump stock that permits the firing of more than one shot without manual reloading by a single action of the trigger, that firearm is a machine gun.

[Garland, Attorney General](#)

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### **Food and Drug Administration v Alliance for Hippocratic Medicine [2024] 602 US** \_\_\_\_\_

Supreme Court of the United States

In 2021, the Food and Drug Administration (FDA) relaxed regulations for prescribing mifepristone, an abortion drug, to make the drug more accessible to women. The plaintiffs, consisting of pro-life doctors and medical associations, brought suit, alleging that the FDA regulations violated the *Administrative Procedure Act*. The District Court granted plaintiffs an injunction. The Court of Appeals found that plaintiffs had standing to sue and were likely to win on the merits. Reversing the lower courts, a unanimous Supreme Court held that the doctors and medical societies lacked standing to bring suit. Article III of the US Constitution limits the jurisdiction of federal courts to actual cases and controversies. The Court said that this is a matter of separation of powers. General complaints about how the government conducts its business are matters for the legislative and executive branches, not the judiciary. To establish

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standing, a plaintiff must demonstrate that (1) the plaintiff will likely suffer an injury in fact; (2) that the injury would likely be caused by the defendant; and (3) that the injury can be redressed by judicial relief. The plaintiffs are pro-life and do not prescribe the abortion drug. Nothing contained in the FDA regulations requires doctors to prescribe this drug. In short, the plaintiffs are acting to restrict the availability of the drug to others. While plaintiffs argued that they have suffered injury because doctors may suffer conscience objections when forced to perform abortions or perform abortion related treatment, the argument failed because federal conscience laws explicitly protect doctors from being required to perform abortions or other treatment that violates their consciences. The Court also rejected arguments that, if plaintiffs were not allowed to sue, then no one would have standing to challenge the FDA's actions. The Court said that even if this were true, it could not create standing and that some issues must be dealt with through the political and democratic processes and not the courts.

[Food and Drug Administration](#)

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## Poem for Friday

### "Hope" is the thing with feathers (314)

By Emily Dickinson (10 December, 1830-15 May, 1886)

Hope is the thing with feathers -  
That perches in the soul -  
And sings the tune without the words -  
And never stops - at all -

And sweetest - in the Gale - is heard -  
And sore must be the storm -  
That could abash the little Bird  
That kept so many warm -

I've heard it in the chilliest land -  
And on the strangest Sea -  
Yet - never - in Extremity,  
It asked a crumb - of me.

Emily Dickinson [https://en.wikipedia.org/wiki/Emily\\_Dickinson](https://en.wikipedia.org/wiki/Emily_Dickinson)

Emily Dickinson Museum [https://en.wikipedia.org/wiki/Emily\\_Dickinson\\_Museum](https://en.wikipedia.org/wiki/Emily_Dickinson_Museum)

Hope is the thing with feathers, sung by Nazareth College Treble Choir, Linehan Chapel,  
Nazareth College

<https://www.youtube.com/watch?v=gDlSo4hEzmE>

Recitation by **Patricia Conolly**. With seven decades experience as a professional actress in three continents, Patricia Conolly has credits from most of the western world's leading theatrical centres. She has worked extensively in her native Australia, in London's West End, at The Royal Shakespeare Company, on Broadway, off Broadway, and widely in the USA and Canada.

Her professional life includes noted productions with some of the greatest names in English speaking theatre, a partial list would include: Sir Peter Hall, Peter Brook, Sir

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Laurence Olivier, Dame Maggie Smith, Rex Harrison, Dame Judi Dench, Tennessee Williams, Lauren Bacall, Rosemary Harris, Tony Randall, Marthe Keller, Wal Cherry, Alan Seymour, and Michael Blakemore.

She has played some 16 Shakespearean leading roles, including both Merry Wives, both Viola and Olivia, Regan (with Sir Peter Ustinov as Lear), and The Fool (with Hal Holbrook as Lear), a partial list of other classical work includes: various works of Moliere, Sheridan, Congreve, Farquar, Ibsen, and Shaw, as well as roles such as, Jocasta in Oedipus, The Princess of France in Love's Labour's Lost, and Yelena in Uncle Vanya (directed by Sir Tyrone Guthrie), not to mention three Blanche du Bois and one Stella in A Streetcar Named Desire.

Patricia has also made a significant contribution as a guest speaker, teacher and director, she has taught at The Julliard School of the Arts, Boston University, Florida Atlantic University, The North Carolina School of the Arts, University of Southern California, University of San Diego, and been a guest speaker at NIDA, and the Delaware MFA program.

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