

The Supreme Court Update - October 14, 2026

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by Andrew Brantingham, Liz Kramer, Ian Blodger, Jessica M. Leano, and Brok Humbert

On October 13, 2026, the Supreme Court of the United States granted certiorari in three cases:

U.S. DOGE Service v. U.S. District Court for the District of Columbia, No. 25-1103:

Citizens for Responsibility and Ethics in Washington sued to obtain U.S. DOGE Service records under the Freedom of Information Act ("FOIA"), and the district court authorized discovery to determine whether DOGE is an agency subject to that statute. After the Supreme Court directed the D.C. Circuit to narrow discovery in light of separation-of-powers concerns, the D.C. Circuit excluded certain requests but declined to block the remaining discovery, including a deposition of DOGE's acting administrator. The questions presented are: (1) Whether the court of appeals' order departed from the Supreme Court's instructions and the separation-of-powers principles that the Supreme Court articulated in *Cheney v. United States District Court*, 542 U.S. 367 (2004); and (2) Whether a court may order broad discovery against an Executive office advisory body—potentially providing much information sought on the merits of a plaintiff's FOIA claims—to determine whether FOIA's disclosure requirements apply in the first place.

Blanche v. Ozurumba, No. 25-1343: Under the "material support bar" of the Immigration and Nationality Act ("INA"), an alien is removable and ineligible for various immigration benefits if he has given "material support" to a terrorist organization. 8 U.S.C. § 1182(a)(3)(B)(iv)(VI)(aa), (cc), (dd). The INA itself does not define "material support," but provides some illustrative examples. The question presented is: Whether, under Section 1182(a)(3)(B)(iv)(VI), such support must advance the organization's actual commission of terrorism to qualify for that bar.

Berry v. United States, No. 25-7026: The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") governs the circumstances under which an individual can challenge his criminal conviction through federal habeas corpus proceedings. Specifically, AEDPA prohibits individuals from appealing denials of habeas petitions unless there has been a "substantial showing" that the individual was denied a constitutional right. Petitioner

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Corey Berry argues that the presence of a circuit court split on the constitutional issue he seeks to raise on appeal meets the “substantial showing” requirement. The question presented is: Whether a certificate of appealability under 28 U.S.C. § 2253 should be granted where the issue that the petitioner seeks to raise on appeal has been resolved against him by binding circuit precedent but has been resolved in his favor by another circuit.