**[<The Supreme Court will begin a new term with more contentious cases on its docket](https://www.npr.org/2022/10/03/1126041958/supreme-court-new-term)**

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A MARTINEZ, HOST:

After a tumultuous first term that ended in June, the U.S. Supreme Court returns today to officially open a second potentially turbulent term. As NPR legal affairs correspondent Nina Totenberg reports, abortion may not be on the docket this term, but the court may take action on other long established decisions that conservatives have opposed.

NINA TOTENBERG, BYLINE: It may be hard to beat last term's sustained and dramatic turn to the right, which included most prominently the overturning of a half-century of precedents that previously had guaranteed women the right to terminate most pregnancies. But the court may well rock the boat again, despite the fact that it finds its approval ratings plummeting to historic lows, so much so that Chief Justice John Roberts sought to defend the court's legitimacy while speaking to a conference of judges and lawyers in Colorado.

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JOHN ROBERTS: Decisions have always been subject to intense criticism. And that is entirely appropriate. But lately, the criticism is phrased in terms of the legitimacy of the court. And I think it's a mistake to view those criticisms in that light.

TOTENBERG: It is the job of the court to say what the law is, he said.

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ROBERTS: And that role doesn't change simply because people disagree with this opinion or that opinion. You don't want the political branches telling you what the law is. And you don't want public opinion to be the guide of what the appropriate decision is.

TOTENBERG: But Justice Elena Kagan pointedly disagreed with some of what Roberts said, noting in three separate appearances that in her view, a court's legitimacy has to be earned. Here she is at Northwestern's Pritzker law school talking about why precedent should be reversed only in the most rare cases. Precedent, she said, is a foundation stone of law, a doctrine of stability that tells people they can rely on the law. But if...

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ELENA KAGAN: All of a sudden everything is up for grabs, all of a sudden very fundamental principles of law are being overthrown, then people have a right to say, like, you know, what's going on there? That doesn't seem very law-like.

TOTENBERG: Or as she put it at Salve Regina University in Rhode Island.

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KAGAN: The court shouldn't be, like, wandering around just inserting itself into every hot-button issue in America. And it especially shouldn't be doing that in a way that reflects one set of political views over another.

TOTENBERG: Kagan can see, probably better than the rest of us, that there may well be more dramatic right turns again this year on everything from affirmative action to voting rights, to clean water regulations and an asserted First Amendment right to discriminate against same-sex couples in public accommodations. Indeed, the conservative court's appetite for hot-button issues appears unabated. The question of precedent will rear its head again this term in a case challenging the affirmative action programs at Harvard and the University of North Carolina.

For more than four decades, the court has ruled that race may be one of many factors considered in college admissions. But the issue is back this term before a very different court. The starkest question is whether the previous decisions were grievously wrong, the same rationale the court majority used last term in overturning Roe v. Wade. Supreme Court advocate Roman Martinez (ph) notes that the challengers in this case rest heavily on the Supreme Court's 1954 decision outlawing segregation in public schools. In other words, affirmative action, they say, is a form of discrimination.

ROMAN MARTINEZ: The challengers essentially argue that the Constitution and the equal protection clause are colorblind.

TOTENBERG: Race is also at the heart of a new challenge to a provision of the Voting Rights Act. Since 2013, the court has struck down or neutered key provisions of the landmark 1965 law. And it appears poised to do it again in a case that involves allegations that Alabama engaged in racial gerrymandering to limit the influence of African American voters. And race is central to a challenge to the 1978 Indian Child Welfare Act. Texas and a group of white adoptive parents are challenging the law because it mandates that where at all possible, Indian children are to be adopted or fostered in Indian homes.

There are two other huge cases before the court that will garner lots of attention. One is a test of civil rights laws that exist in most states requiring that when a commercial entity offers products or services to the public, the business may not discriminate based on race, religion, national origin or gender. Challenging these laws is Lorie Smith, a web designer in Colorado who doesn't want to make designs for same-sex couples because, she asserts, that would violate her religious principles. As Georgetown University's Kelsey Corcoran puts it, because the court has limited the argument to Smith's contention that the Colorado law violates her right of free expression...

KELSI CORKRAN: If Smith is correct that there's a free speech right to selectively choose her customers based on the messages she wants to endorse, I think it would apply to a white supremacist who doesn't want to provide services to people of color because that would be expressing a message of endorsement.

TOTENBERG: And lastly, the court will hear a major election law case involving the so-called independent state legislature theory. In the current case, the North Carolina Supreme Court struck down a congressional redistricting plan on the grounds that it was an unconstitutional racial gerrymander barred by the state constitution. The Republican leaders of the state legislature challenged the state court decision. Their argument in its most extreme form is that no state court and no state agency may interfere with the state legislature's declaration of election rules. Opponents contend that would mean the state legislatures would be free to do almost anything they want without any supervision by state courts and without being able to delegate to local officials rules on how to run elections. While state judges frequently disagree, in this case, the Conference of Chief Justices, representing all the chief legal officers in the States, has filed a brief opposing much of North Carolina's argument. State judges, they say, do indeed have the power under the Constitution to review state election laws.

Nina Totenberg, NPR News, Washington.

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