The Shadow Docket

INTRODUCTION

William Baude, American legal scholar, in 2015, coined the phrase "shadow docket" because "the Court issued a number of noteworthy rulings which merit more scrutiny than they have gotten. In important cases, it granted stays and injunctions that were both debatable and mysterious. The Court has not explained their legal basis, and it is not even clear to what extent individual justices agree with those decisions... understanding the Court requires us to understand its non-merits work - the Shadow Docket." Shadow docket case opinions, court orders, and changes in stays and injunctions have been issued in the middle of the night; they've been issued without disclosing which justices weighed in; and they've been issued without a written reasoning of the ruling. Each of these elements are departures from the Supreme Court's merits docket proceedings.

In a one-paragraph, unsigned opinion issued without any oral argument, the Supreme Court foreshadowed the overturning of *Roe v. Wade*. The Texas Heartbeat Law, along with several other cases, shows the Court's current pattern of using the shadow docket to resolve constitutional or statutory questions with little or no rationale, no vote count, and no accountability. The impact is the perception that their rulings are predicated on political ideology rather than judicial principles, which then undermines a key source of the Court's legitimacy. Justice Kagan, for example, describes the Court's shadow-docket decision-making as "every day becoming more unreasoned, inconsistent, and impossible to defend" in a dissent to a denial of an application for injunctive relief in the case, *Whole Woman's Health v. Jackson* (2021).

How Cases Are Decided

The Supreme Court has a merits docket and a non-merits docket. In the merits docket the Supreme Court waits for lower courts to reach a final decision before they decide whether to hear the case. Once at the Supreme Court, the cases include oral arguments and legal briefs by the relevant parties and by interested third parties, "friends of the court," and can often take months before a decision is issued. The cases result in lengthy opinions detailing the reasoning of the majority and concurring and dissenting justices, if any. This extended, transparent, and rigorous process required of cases in the merits docket serves in part to let the public understand the reasoning behind a ruling and to strengthen public trust in the judicial system. This is a key source of the Court's legitimacy. Further, it sets a precedent for lower courts to follow in their proceedings.

The non-merits docket cases, currently called the shadow docket, receive very limited briefings and are typically decided a week or less after an application is filed. These applications ask the Supreme Court to step in while a case is working its way through the courts, to either freeze (stay) a lower court ruling or block government action that a lower court refuses to block. The process generally results in short, unsigned rulings without detailed explanations. Historically, it was used for issuing routine orders, such as giving parties more time to file a brief, scheduling oral arguments, or to grant or deny a request for a preliminary injunction. Though the non-merits docket has been in use for over 100 years, little use was made of its emergency application. On a few occasions it was used in response to emergency applications from parties seeking immediate intervention by the Court, such as the stay of execution by prisoners on death row. It was rarely used for rulings of serious legal or political significance.

What Changed

A dramatic shift occurred during the Trump administration. The Department of Justice (DOJ) took advantage of the conservative majority on the court to increase the use of the emergency application for important rulings. The DOJ filed 41 emergency applications over Trump's four years in office; by comparison, over the prior 16 years the Obama administration and the Bush administration together filed only eight emergency applications. Notably, more than two-thirds of the Trump DOJ's emergency requests—28 out of 41—were granted, in whole or in part, while in the 16 years prior, only four were granted. With President Biden, the Court used the shadow

docket to rule against Biden's federal moratorium on residential evictions as well as Biden's bid to rescind Trump's immigration policy.

The Supreme Court is increasingly taking up important legal issues (gerrymandering, vaccination rules, environmental regulation, immigration) using the non-merits emergency procedure. When these cases come to the justices this way, they are usually at a very early stage of litigation; it is often unclear exactly what the relevant facts are, and the legal arguments have not been fully developed. These cases are resolved by the justices even as lower courts are continuing to assess them - sometimes before all the evidence is known. These shadow docket cases do not receive extensive written briefing or a hearing. The decisions are accompanied by little or no explanations and often lack clarity on which justices are in the majority or minority. They are sometimes released in the middle of the night, and as Stephen Vladeck, a professor at the School of Law of the University of Texas at Austin, noted in testimony before Congress, "Owing to their unpredictable timing, their lack of transparency, and their usual inscrutability, these rulings come both literally and figuratively in the shadows."

According to Vladeck, the court for the first time is treating these orders as precedential - meaning that the Supreme Court is expecting lower courts to follow these orders, not just in the cases in which they're handed down, but in other cases raising similar issues. However, because these rulings come with little or no guidance or rationale, the lower courts and relevant government officials do not know what their responsibilities are. Further, in a CNN interview, he pointed out, "What is different about what is happening today is a combination of three things. It is how often this is happening. It is how widespread the effect of these rulings are. And it's the court's own insistence that these rulings are precedential."

The recent cases discussed below demonstrate the Supreme Court's use of the shadow docket to issue consequential decisions without explanation and rationale. The following definitions will be helpful in understanding the cases:

Injunction: A court order that requires a person to either stop doing something or to take a particular action.

Stay: A ruling by a court to stop or suspend a proceeding or trial temporarily or indefinitely. For example, if a court issues an injunction suspending the enforcement of a law, and that injunction is appealed, an appellate court may stay the injunction. In that case, the injunction would not go into effect and the law would continue to be enforceable pending further legal proceedings.

Writ of Certiorari: A request to the United States Supreme Court to hear a case. Writs of certiorari are filed when someone is arguing that a lower court has incorrectly decided an important question of law and that the mistake should be fixed to prevent confusion in similar cases. If the Court grants a writ of certiorari, it will decide the case on its merits after consideration of the full record in the lower courts and written and oral argument made by the parties to the Supreme Court. The Court's decision to grant a writ of certiorari is discretionary.

There are three levels of federal court:

- District Courts: These courts are the lowest level of federal court and are the general trial courts of the federal system. This is the level of court where a case is first filed.
- Federal Appellate Courts: These courts hear appeals from the district courts. Federal appellate courts are sometimes referred to as circuit courts.
- Supreme Court of the United States: This court hears appeals from the federal appellate (or circuit) courts. It can also hear appeals from state supreme court decisions when those decisions involve a federal law.

<u>IMPACT OF THE SHADOW DOCKET IN SPECIFIC SUPREME COURT DECISIONS</u>

Texas Heartbeat Act: This Texas law (SB8) went into effect on September 1, 2021 and banned abortions upon detection of a fetal heartbeat, usually after the sixth week of pregnancy. The law also made it very difficult to challenge in court because it authorized enforcement by private parties rather than by the state attorney general or other state officials. So an injunction against the state attorney general to prevent enforcement of the law

was not possible because the attorney general did not have authority to enforce the law. The law allowed any person to sue an abortion provider whether or not the person had any connection to a specific abortion procedure. The law also allowed for "damages" of at least $10,000 to be paid by the defendant to the person(s) bringing the suit, thus encouraging suits by citizens.

A group of abortion providers filed a lawsuit in federal district court to challenge the law one week before the law was to go into effect. Because an injunction against the state attorney general could not prevent enforcement of the law, the lawsuit included as defendants not only the attorney general and state health officials, but also a state court and a state judge (on behalf of all the state's courts and judges). The abortion providers' reason for this was that Texas state courts would be involved in any enforcement of the Texas Heartbeat law and if the providers could obtain an injunction prohibiting all state judges from hearing claims under the law, then enforcement would effectively be blocked.

The district court judge scheduled a hearing to consider whether an injunction should be issued. The hearing was scheduled for two days before the law's effective date. Before the hearing could take place, the defendants convinced the federal appellate court to stay all district court proceedings. The abortion providers petitioned the Supreme Court for emergency relief to either vacate the appellate court's stay of the district court proceedings, which would allow it to hold a hearing and issue a ruling, or to issue an injunction directly blocking the enforcement of the law pending further litigation.

On September 1, 2021, the Supreme Court refused to block the Texas Heartbeat Act. This ruling repudiated the constitutional right to an abortion that the Court had recognized in *Roe v. Wade*. The Supreme Court provided a single unsigned paragraph justifying its decision, thus denying emergency relief without resolving any question of law. The opening sentence of Justice Sotomeyer's dissent read: "The Court's order is stunning. Presented with an application to enjoin a flagrantly unconstitutional law engineered to prohibit women from exercising their constitutional rights and evade judicial scrutiny, a majority of Justices have opted to bury their heads in the sand."

Travel Ban: In January 2017 President Trump signed an executive order that barred for 90 days all foreign nationals from Iran, Iraq, Somalia, Sudan, Syria, and Yemen from coming into the United States. The order also barred the entry of all Syrian refugees indefinitely and prohibited other refugees from entering the country for 120 days. The ban applied to dual citizens and green card holders who were returning to the U.S. from any of these countries. Within 48 hours of the ban, five different federal district court judges had blocked the order. Rather than appeal to the Supreme Court, the Trump administration issued a new executive order replacing the original travel ban.

The second ban, affecting predominately Muslim countries, would be in effect for six months but would allow anyone who already had a visa to enter the U.S. regardless of their country of origin. District courts in Hawaii and Maryland issued injunctions prohibiting enforcement of the second ban. The Trump administration asked the court of appeals to stay those injunctions in order to allow the ban to go into effect. The court of appeals refused, and the Trump administration then asked the Supreme Court to stay both of the injunctions. The Supreme Court issued an unsigned opinion which created a new distinction between those foreign nationals with "a bona fide relationship with a person or entity in the United States" and those without such a relationship. The court then ordered that, for those individuals who had a bona fide relationship, the ban would remain on hold. However, the ban would be allowed to go into effect as to those persons without such a bona fide relationship. The court then set the matter for oral argument to fully consider the merits of the second ban. However, the date set for argument was after the date the ban was set to expire.

Before the second ban could be argued before the Supreme Court on its merits, the Trump administration replaced it with yet a third travel ban. The third ban added North Korea and Venezuela to the list of countries from which travel was banned. It also added a hardship waiver process for travelers to request an exemption from the ban and incorporated the bona fide relationship distinction that had been articulated by the Supreme Court. Similar to what happened with the second travel ban, district courts in Hawaii and Maryland issued injunctions prohibiting enforcement of the third ban. The Trump administration asked the appellate court to stay the district court injunctions and the appellate court refused. The Trump administration then sought stays from the Supreme Court, which were granted. The Supreme Court's stays allowed the third travel ban to go into effect. Six months later, in June 2018, the Supreme Court held a hearing on the merits of the third travel ban and upheld the ban.

The aggressive litigation in the travel ban issue set the tone for the shadow docket: The Supreme Court allowed the government to implement a policy (the second travel ban) that no court would ever uphold, because the ban was set to expire before the date set for a hearing on its merits. Additionally, the justices seemed to accept that any injunction of the government causes irreparable harm requiring emergency relief.

Mountain Valley Pipeline: The Mountain Valley Pipeline is a 300-mile pipeline that is under construction to transport natural gas from northern West Virginia to southern Virginia. The project has been under construction for several years and has faced many legal challenges from environmental groups. In June 2023, Congress passed a debt ceiling bill that included a provision to fast-track the remaining approvals needed to complete the pipeline and stripped the court's power to review permits given to the project by federal departments. In July 2023, the United States Court of Appeals for the Fourth Circuit in Richmond, Virginia, issued an order temporarily blocking the remaining construction. On July 27, 2023, while the hearing in the Court of Appeals was going on, the Supreme Court lifted the stay on the pipeline, issuing a brief order without providing any reasons for their decision. As a result, construction of the pipeline continued.

COVID Restrictions and Religious Freedom. The first case involving COVID restrictions and limitations on the size of religious gatherings was *South Bay United Pentecostal Church* v. *Newsom* (*South Bay I*) in 2020, in which churches with large congregations were subject to the same limitations in gatherings as small businesses. The church asked the federal district court to issue an injunction, arguing that this impairment of religious practice was illegal. California responded with examples of numerous occasions in which COVID was spread in larger groups of people during a religious service and noted the limits on secular indoor gatherings, such as concerts and movies. The state also mentioned its intention to relax restrictions when public health experts recommended this. The district court refused to issue an injunction, and the church appealed to the federal appellate court, which also declined to issue an injunction. The church then sought an emergency writ of injunction from the Supreme Court. The church needed to show that their right to relief was "indisputably clear" for the justices to have the authority to issue an injunction to prevent the law from being applied to churches. The Court issued a one-sentence order denying the injunction. There was no majority opinion but a solo opinion by Chief Justice Roberts spoke to the stricter standards for emergency relief. His opinion said in part that the "indisputably clear" position that the government's limitations (during a pandemic) are unconstitutional seems quite improbable.

The makeup of the court changed with the replacement of Justice Ginsburg with Justice Barrett in October 2020. After that change, the court received a similar suit by the Roman Catholic Diocese of Brooklyn challenging New York's COVID restrictions based on the degree of new infections. As in *South Bay I*, the district courts and appellate courts refused requests for injunctions prohibiting enforcement of the laws, based on Justice Roberts's opinion in *South Bay 1.* His opinion said that the government is allowed great latitude in managing the spread of deadly diseases. The diocese applied to the Supreme Court for an emergency injunction. Before the Court issued a decision, the restrictions had been loosened because infection rates had gone down. Even though the restrictions were no longer a problem, the diocese argued that the restrictions were a "Sword of Damocles"

hanging over their heads if infection rates were to increase again. In a decision that was handed down four minutes before midnight on the day before Thanksgiving, the Court, with no public warning, issued its 5-4 decision to block the restrictions on church gatherings. The short unsigned opinion did not use the previous standard of whether there was an indisputably clear reason to prevent the limitations from going into effect. Rather the Court considered whether the diocese was likely to succeed on the merits and whether it would be irreparably harmed if the restriction remained in place while the legal challenges worked their way through the courts.

After the Supreme Court's ruling in *South Bay I*, California revised its COVID restrictions. The South Bay Pentecostal Church challenged the revised restrictions, which the state government continued to defend, introducing significant new evidence, including detailed scientific reports and expert testimony supporting its revised restrictions. Included in these was evidence that indoor religious services had become a significant vector for the spread of COVID across the state. Based on this evidence, the district courts concluded that these cases didn't suffer from the same infirmities that the Court had identified in the Roman *Catholic Diocese of Brooklyn* and refused to issue an injunction against the revised restrictions. The church appealed, and the appellate court also refused to issue an injunction. The church then appealed to the Supreme Court for an emergency injunction and in February of 2021, the Court issued its opinion in *South Bay II*, invalidating most of California's restrictions. That ruling was a six to three decision announced in a one-paragraph, unsigned order. Chief Justice Roberts (two paragraphs) and Justice Barrett (one paragraph, joined by Justice Kavanaugh) wrote short concurring opinions, while Justice Kagan wrote a dissent joined by Justices Breyer and Sotomayor. The Court's opinion broadly exempted religious services from restriction.

Roman Catholic Diocese of Brooklyn has since been cited hundreds of times, including by the Supreme Court, in spite of its emergency posture, lack of oral argument, and truncated briefing schedule. This decision effectively set the rule that religious gatherings were above any attempts of the local and state government to control the spread of COVID-19, and that individuals could gather indoors in large, though limited, numbers for an extended period of time to worship, despite continued prohibitions against identical behavior for non-religious gatherings (theaters, political rallies, etc.). *South Bay II* established a new legal rule--which came only six days after briefing, with no oral argument, less than a full page opinion, and in complete opposition to the lower court's fully researched and analyzed twenty-three-page opinion on the matter. Shortly after this decision, the Court decided a second case*, Gish v. Newsom* by citing the decision in *South Bay II*, thus sealing its precedential value. Lower courts are expected to follow this precedent, despite difficulty in "follow(ing) the Supreme Court's lead without an explanation of where they are being led," or how they got there in the first place.

Environmental Protection Agency (EPA) and Trump Environmental Regulations. The Supreme Court has also used the shadow docket to reinstate Trump-era environmental rules. Under longstanding federal regulations, states can issue or deny permits for projects, such as the construction of new pipelines, that could pollute rivers or streams. But industry groups complained that some states were abusing their permitting authority to stymie projects for reasons that had nothing to do with water quality, such as climate change impacts. In response to those concerns, the EPA under the Trump administration issued Executive Order 13868 on June 1, 2020, that curtailed the role of the states in the permitting process. Environmental groups challenged that regulation. While the challenge was pending, President Joe Biden took office, and his administration announced its intent to replace the Trump-era regulation with its own policy.

In October 2021, a federal district judge in California vacated the Trump regulation while the Biden EPA worked on a replacement. Fossil-fuel groups and some red states came to the Supreme Court on an emergency basis in *Louisiana* v. *American Rivers,* asking the justices to put the California judge's ruling on hold while the litigation continued. They argued that the judge did not have the authority to vacate the regulation in these circumstances.

A five-justice majority of the Supreme Court sided with the red states and industry groups, but the court did not explain why. In a brief order that did not offer any reasoning, the court put the California ruling on hold, effectively restoring the Trump policy.

Joined in her dissent by Justices Roberts, Sotomayor, and Breyer, Justice Kagan accused the majority (which consisted of Justices Thomas, Alito, Gorsuch, Kavanaugh, and Coney Barrett) of ignoring the court's own standards for granting emergency relief. She noted that "traditionally, the Supreme Court has been reluctant to freeze lower-court rulings on an emergency basis unless a litigant can show a significant risk that the ruling will cause imminent and irreversible harm. The red states and industry groups have not shown any such risk", Kagan noted. Justice Kagan also said the case did not belong on the emergency docket, because the petitioners had not identified any threat of immediate harm. By granting relief anyway, the majority "signals its view of the merits" and "renders the Court's emergency docket not for emergencies at all. "

Curbside Voting: Curbside voting would allow a person to vote by driving to a polling place and having an elections worker meet them at their car to take their ballot. In 2020, Alabama law did not explicitly prohibit curbside voting and at least two counties were interested in using curbside voting during the COVID 19 pandemic for the November 2020 election. However, the state's position was that curbside voting was prohibited.

In May 2020, a lawsuit was filed challenging Alabama's de facto ban on curbside voting and requesting the court to issue a preliminary injunction that would permit the use of curbside voting in the November 2020 election. The parties challenging the ban argued that it forced voters, especially those whose age, race, disabilities, or health conditions placed them at heightened risk from COVID, to make a choice between jeopardizing their health or exercising their right to vote.

Alabama argued that the existing voting requirements were necessary to preserve election legitimacy by preventing voter fraud and safeguarding voter confidence and that enjoining the challenged provisions so close to the election would result in voter confusion and unduly burden the defendants.

A federal district court considered whether the state's de facto curbside voting ban violated the right to vote in light of the COVID 19 pandemic. After a trial, the court found that, as applied during the COVID-19 pandemic, the prohibition against curbside voting unduly burdened the fundamental constitutional rights of Alabama's most vulnerable voters and violated federal laws designed to protect America's most marginalized citizens. Additionally, because the de facto curbside voting ban made voting inaccessible for voters with disabilities, it violated the Americans with Disabilities Act during the pandemic. Accordingly, on September 30, 2020, the federal district court issued an injunction prohibiting Alabama from enforcing a ban on curbside voting for the November 2020 election.

Alabama asked the Supreme Court to intervene and on October 21, 2020, a 5-3 conservative majority granted a stay, thereby allowing the curbside voting ban to remain in place. It did not issue an opinion explaining the reasons for granting the stay. A dissenting opinion was filed by Justice Sotomayor on behalf of herself and Justices Breyer and Kagan. That dissent noted that leaving the injunction in place (allowing curbside voting) would not have carried any risk of voter confusion because it lifted burdensome requirements rather than imposed them.

As a result of the Supreme Court's stay, curbside voting was not implemented for the 2020 election. It is unknown what impact the ban had related to voter turnout for the 2020 election.

In May 2021, Alabama amended its election laws to clearly ban curbside voting.

Mifepristone: The federal Food and Drug Administration (FDA) approved the use of the abortion drug mifepristone in 2000 and later modified the original conditions for the use of the drug to make it more easily accessible.

In November 2022, the Alliance for Hippocratic Medicine sued the FDA to challenge the FDA's approval of the drug mifepristone. The lawsuit was strategically filed in Amarillo, Texas, a city with only one federal judge, a conservative Trump appointee. The lawsuit argued that the drug was unsafe and requested that the original FDA approval of the drug be overturned. In April 2023, that court granted a preliminary injunction suspending the FDA's approval of mifepristone, an action that would effectively ban its use nationwide. The judge delayed the effective date of his order for seven days to give the FDA an opportunity to file an appeal.

The Biden administration asked the Fifth Circuit Appellate Court to put the injunction on hold. That court overturned the portion of the injunction suspending the FDA's initial approval of mifepristone. However, it left in place provisions of the injunction that invalidated FDA actions taken after the original approval which expanded access to the drug. This ruling would mean that the drug would continue to be available but that patients using the drug would be required to have three in-person office visits and could not receive the drug through the mail or telehealth services.

The Biden administration then requested the Supreme Court to stay the injunction invalidating the FDA approvals. The Supreme Court granted a stay on April 21, 2023, that allowed mifepristone to continue to be available under the current regulations. The terms of the stay state that it will remain in effect pending disposition of the appeal in the Court of Appeals and disposition of a petition for a writ of certiorari, if such a writ is filed after a final ruling by the Court of Appeals. As is often the case with shadow docket matters, the Supreme Court's order did not include any explanation of the reasons for granting the stay. Dissents were filed by Justices Alito and Thomas.

After the Supreme Court granted its stay, the Appellate Court concluded its proceedings and issued a ruling which upheld the original approval of mifepristone but overturned later FDA actions to increase access to the drug. The Justice Department has filed a petition for a writ of certiorari requesting Supreme Court review of that decision.

The Supreme Court announced on December 13, 2023, that it will grant the writ for certiorari and hear the case. It will place the matter on the merits docket and make a decision after considering written and oral arguments by the parties. It has not yet set the date for oral argument. The stay will remain in place until the Court issues its decision.

CONCLUSION

"If the justices can make significant decisions without giving any reasons, then there's really no limit to what they can do," said David Cole, legal director of the American Civil Liberties Union.

LEAGUE OF WOMEN VOTERS POSITION

The League of Women Voters of the United States (LWVUS) does not have a specific policy regarding the U.S. Supreme Court or the judicial system in general, but it does have the following position with regard to government in general:

The LWVUS has the following position regarding a citizen's right to know and citizen participation in government: The League of Women Voters of the United States believes that democratic government depends upon informed and active participation at all levels of government. The League further believes that governmental bodies must protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible.

DISCUSSION QUESTIONS

1. If precedence is important, how necessary is it for the Supreme Court to provide a full explanation of its decision? What does a full explanation require?

2. How much transparency should there be in the shadow docket: who voted for it, the arguments for and against?

3. Is the recent change by the Supreme Court in its use of the shadow docket from administrative/emergency issues to a role of policy creation, an appropriate change? What are the pros and cons?

RESOURCES

"Alabama Judge Signs Bill to Ban Curbside Voting" https://apnews.com/article/al-state-wire-alabama-bills-voting health-72ad59fa58777feb539d83d22b63ec5c

Alliance for Hippocratic Medicine v. US Food and Drug Administration - Memorandum and Order (United States District Court for the Northern District of Texas Amarillo Division) Case No, 2:22-CV-223-Z, https://law.justia.com/cases/federal/district-courts/texas/txndce/2:2022cv00223/370067/137/

Alliance for Hippocratic Medicine v. US Food and Drug Administration – Unpublished Order dated April 12, 2023, United States Court of Appeals for the Fifth Circuit, Case No. 23-10362, https://law.justia.com/cases/federal/appellate-courts/ca5/23-10362/23-10362-2023-04-12.html Alliance for Hippocratic Medicine v. US Food and Drug Administration, Vol. 598 U. S. Reports (2023); this volume of Supreme Court decisions is not yet publlshed. https://www.supremecourt.gov/opinions/22pdf/22a901_3d9g.pdf

Alliance for Hippocratic Medicine v. US Food and Drug Administration Ruling on Appeal dated August 16, 2023, United States Court of Appeals for the Fifth Circuit, Case No. 23-10362, https://law.justia.com/cases/federal/appellate-courts/ca5/23-10362/23-10362-2023-08-16.htm

Britannica Library, Encyclopedia Britannica, 20 Mar 2023

Denny, Alexis, "Clarity in Light: Rejecting the Opacity of the Supreme Court's Shadow Docket", UMKC Law Review, Vol.90.3, CLARITY%20IN%20LIGHT%20REJECTING%20THE%20OPACITY%20OF%20THE %20SUPREME%20COURT%E2%80%99S%20SHADOW%20DOCKET.pdf

Elbeshbishi, Sarah, "Federal Court Dismisses Mountain Valley Pipeline Lawsuits", https://mountain statespotlight.org/2023/08/11/mountain-valley-pipeline-lawsuits-dismissed/ (accessed 8/14/23)

"Foreword: The Supreme Court's Shadow Docket", New York University Journal of Law and Liberty (January 2015)

Lefebvre, Ben and Guillen, Alex, "Mountain Valley Pipeline", https://www.politico.com/news/2023/07/27 /supreme-court-clears-path-for-mountain-valley-construction-to-resume-00108076 (accessed 8/14/2023)

LWVUS position https://www.lwv.org/sites/default/files/2023-02/LWV_ImpactOnIssues2022-2024.pdf (accessed 7/26/2023)

Merrill v. People First of Ala. 141 S. Ct. 25 (2020)

People First v. Merrill 491 F. Supp.3d 1076 (N.D. Ala 2020)

Reuters, Laurence Hurley, August 27, 2021

VanSickle, Abbie, "Justice Dept. asks Supreme Court to Hear Abortion Pill Case: https://www.nytimes.com/2023/09/08/us/politics/supreme-court-abortion-pill.html

Vladeck, Stephen, The Shadow Docket, 2023, Hachette Book Group, Inc.

"What is the Supreme Court Shadow Docket" https://usafacts.org/articles/what-is-the-supreme-court-shadow docket/ (accessed 7/26/2023)

[Material prepared by Sharon Amasha, Lori Barker, Nancy Mills, Susan Tavakolian; proofread by Merle Bottge]