

# UT CLE

## U.S. Supreme Court Update – 2020 Term

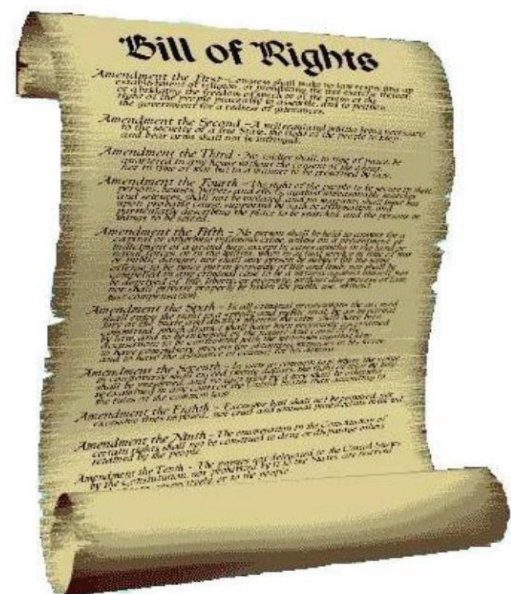
### May 13, 2021

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## Presentation Overview

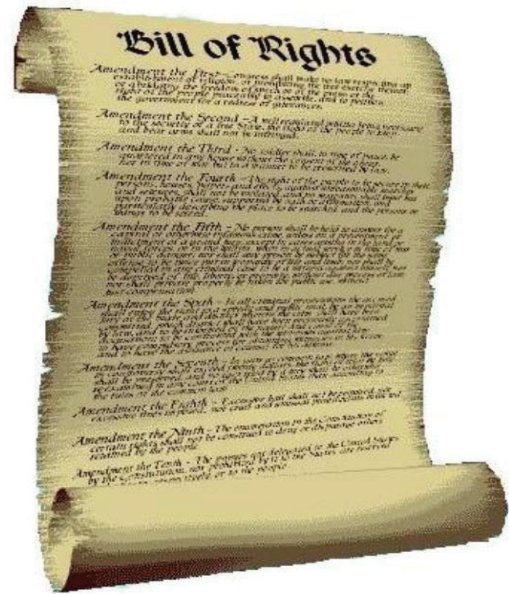
- **Fourth Amendment**
  - *Torres v. Madrid*
  - *Caniglia v. Strom*
  - *Lange v. California*
- **Sixth Amendment**
  - *Edwards v. Vannoy*
- **Eighth Amendment**
  - *Jones v. Mississippi*



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# Presentation Overview

- **Coming Attractions**
  - *Hemphill v. New York*
  - *U.S. v. Tsarnaev*



## But First – Some Themes

- Remote argument
  - Draws out Justice Thomas
  - Cases of mistaken identity
- Fourth Amendment originalism ascendant
- Abortion proxy wars continue
- Occasional fissures in conservative bloc: Chief Justice and *Kavanaugh v. Thomas*, Alito, Gorsuch and Barrett



# Fourth Amendment

- **Torres v. Madrid, 141 S. Ct. 989 (2021)**
  - **Question presented:** Is an unsuccessful attempt to detain a suspect by use of physical force a “seizure” within the meaning of the Fourth Amendment?



# Fourth Amendment

- **Torres v. Madrid, 141 S. Ct. 989 (2021)**
  - **Held (5-3, Chief Justice Roberts writing):** Yes. “[T]he application of physical force to the body of a person with intent to restrain is a seizure even if the person does not submit and is not subdued.” (Torres was “seized” when officers shot her with intent to restrain her movement.)
    - *California v. Hodari D.*, 499 U. S. 621 (1991), informs analysis (and name-checking the late Justice Scalia)
    - Canvassing the common law



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