

16-476 MURPHY, GOVERNOR OF NJ V. NCAA

DECISION BELOW: 832 F.3d 389

LOWER COURT CASE NUMBER: 14-4546, 14-4568, 14-4569

QUESTION PRESENTED:

This Court's decision in *New York v. United States*, 505 U.S. 144 (1992), holds that the Constitution's fundamental federal structure does not permit Congress to "directly . . . compel the States to require or prohibit [certain] acts." *Id.* at 166. In September 2013, the U.S. Court of Appeals for the Third Circuit upheld the Professional and Amateur Sports Protection Act ("PASPA"), 28 U.S.C. § 3701 *et seq.*, against a constitutional challenge under *New York* by construing PASPA's proscription against States "authoriz[ing]" sports wagering "by law" narrowly to prohibit only the "affirmative 'authorization by law' of gambling schemes," and not repeals by States of existing sports wagering prohibitions. See *Nat'l Collegiate Athletic Ass'n v. Gov. of N.J. (Christie I)*, 730 F.3d 218, 233 (3d Cir. 2013). After New Jersey then proceeded to repeal certain of its prohibitions on sports wagering in specified venues in the State, the *en banc* court reversed course and interpreted PASPA as making it "unlawful" for New Jersey to repeal its prohibitions and affirmed an injunction that requires the State to reinstate the repealed state-law prohibitions. The court then held that it was constitutional for federal law to dictate the extent to which States must maintain their prohibitions on sports wagering.

The question presented is:

Does a federal statute that prohibits modification or repeal of state-law prohibitions on private conduct impermissibly commandeer the regulatory power of States in contravention of *New York v. United States*, 505 U.S. 144 (1992)?

CONSOLIDATED WITH 16-477 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 6/27/2017