

JUSTICE ELENA KAGAN

THE BOBBLEHEAD

"It is 'inherent in the nature of sovereignty not to be amenable' to suit without consent. And the qualified nature of Indian sovereignty modifies that principle only by placing a tribe's immunity, like its other governmental powers and attributes, in Congress's hands." *Michigan v. Bay Mills Indian Community*, 572 U.S. 782 (2014).

"Colonel Mustard, in the conservatory, with the rope, on a snowy day, to cover up his affair with Mrs. Peacock?" *Descamps v. U.S.*, 570 U.S. 254 (2013).

"[T]he Third Circuit's Goldilocks position is the legally right one." *U.S. ex rel. Polansky v. Executive Health Res.*, 599 U.S. 419 (2023).

"[T]he fundamental strangeness of giving a debtor an allowance for loan or lease payments when he has not a penny of loan or lease costs." *Ransom v. FLA Card Services*, 562 U.S. 61 (2011).

"But if the plaintiffs have already proved by a preponderance of the evidence that race predominated in drawing district lines, then we have no warrant to demand that they jump through additional evidentiary hoops (whether the exercise would cost a hundred dollars or a million, a week's more time or a year's)." *Cooper v. Harris*, 581 U.S. 285 (2017).

"But the courts below did not gaze into crystal balls, as the majority tries to suggest." *Rucho v. Common Cause*, 588 U.S. 684 (2019).

"The answer appears from 30,000 feet not very hard." *Axon v. FTC*, 598 U.S. 175 (2023).

"Is the person risk-preferring or risk-averse – a high-roller or a penny-ante type?" *Kirtsaeng v. John Wiley & Sons, Inc.*, 579 U.S. 197 (2016).

TBH, this was supposed to be an unexplained puzzler (there's always at least one), but it is annoying so many thoughtful people that we've opted to explain it here: This is a dual-use *U.S. Reports*. The volume (591) is, as usual, a reference to several especially interesting opinions by the Justice. The date (2009) is, unusually, a reference to the volume (561) in which Kagan appears both as an oral advocate for the U.S. (as the Solicitor General) and as a judge of the U.S. (as a Justice). Compare, e.g., *Holder v. Humanitarian Law Project*, 561 U.S. 1, with *Orders*, 561 U.S. 1048-58. This has happened once before.

For the art on the box (see below), read *U.S. ex rel. Polansky v. Executive Health Resources, Inc.*, 599 U.S. 419 (2023), *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508 (2023), and *Advocate Health Care Network v. Stapleton*, 581 U.S. 468 (2017), and the stories behind the pictures.



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