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## Recent Developments

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## Recent Developments

### BUCKLEW V. PRECYTHE

A prisoner sought to prevent his execution by the state of Missouri in an applied challenge, arguing that Missouri's method of implementation of the death penalty would present him with a substantial risk of severe pain due to his unique medical condition, and, thus, would violate the Eighth Amendment. A plurality of the Court clarified that the *Baze* and *Glossip* test governs all Eighth Amendment death penalty challenges.<sup>1</sup> Under the *Baze* and *Glossip* test, "a prisoner must show a feasible and readily implemented alternative method of execution that would significantly reduce a substantial risk of severe pain and that the State has refused to adopt without a legitimate penological reason."<sup>2</sup> The plurality reaffirmed that the prohibition on cruel and unusual punishment "does not guarantee a prisoner a painless death."<sup>3</sup>

### MADISON V. ALABAMA

An Alabama death-row inmate challenged his execution on grounds his vascular dementia precluded him from understanding the rationale for his execution, and, thus, violate the Eighth Amendment. The inmate argued that *Panetti v. Quarterman* which prevented execution of a prisoner whose "mental state is so distorted by a mental illness" that he has no "rational understanding" of the reasons for execution precluded his execution.<sup>4</sup> Alabama claimed *Panetti* did not apply because the prisoner here suffered from vascular dementia and not psychotic delusions as in *Panetti*. The Supreme Court held that the *Panetti* analysis applies, regardless of the origin of the "mental

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<sup>1</sup> *Bucklew v. Precythe*, No. 17-8151, slip op. at 5-8 (U.S. Apr. 1, 2019); *see also Baze v. Rees*, 553, U.S. 35 (2008); *Glossip v. Gross*, 135 S.Ct. 2726 (2015).

<sup>2</sup> *Bucklew*, No. 17-8151, slip op. at 13 (U.S. Apr. 1, 2019).

<sup>3</sup> *Bucklew v. Precythe*, No. 17-8151, slip op. at 12 (U.S. Apr. 1, 2019)

<sup>4</sup> 551 US. 930, 958-59 (2007).

shortfalls.”<sup>5</sup> Thus, the Eight Amendment ban on cruel and unusual punishment may prohibit executing a prisoner who suffers from dementia or other cognitive disorders.

#### NEW PRIME INC. V. OLIVEIRA,<sup>6</sup>

A trucker sued New Prime, Inc., a trucking company, alleging that it underpaid him by misclassifying him as an independent contractor. He argued that, pursuant to the Federal Arbitration Act (“FAA”), the threshold question of arbitrability should be determined by a court, rather than an arbitrator, despite an arbitration clause in his contract with the trucking company. He also argued that “contracts of employment,” referenced in Section 1 of the FAA applies to independent contractor agreements. The Court held that a court should determine the threshold question of arbitrability for disputes of certain transportation workers, and also that “contracts of employment” in FAA Section 1 includes independent contractors.

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<sup>5</sup> *Madison v. Alabama*, 139 S.Ct. 718, 727-28 (2019).

<sup>6</sup> 139 S.Ct. 532 (2019).

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