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Supreme Court Accepts Two Cases Affecting Cities during its "Long" Conference.

Every year before the Supreme Court's term officially begins on the first Monday in October, the Court holds its "long" conference, where it considers whether to hear about 2,000 cases. On October 1st the Court accepted eight of those cases, two of which will have an impact on cities.

In *Marvin M. Brandt Revocable Trust v. United States* the Court will decide who owns an abandoned railroad right-of-way: the United States government or a private land owner living next to the right-of-way. In 1875, Congress passed a law granting rights-of-way to railroads through public land. Over the course of the next century, as trucking became a more popular method of transport, numerous railroads abandoned these rights-of-way. The United States argues that a 1922 federal statute allows the U.S. to retain the railroad right-of-way if it is abandoned.

If the United States retains the abandoned right-of-way and it is located in a city, the city automatically receives it from the federal government for free. If the abandoned right-of-way is located elsewhere, a state or local government receives it for free if it establishes a "public highway" on the right-of-way within one year. State and local governments typically convert abandoned railroad rights-of-way into "Rails-to-Trails."

The Supreme Court usually accepts cases where at least two federal circuit courts of appeals have ruled differently on the same issue. In *Marvin M. Brandt Revocable Trust v. United States* the Tenth Circuit ruled in favor of the United States. In a similar case, *Samuel C. Johnson 1988 Trust v. Bayfield County, Wisconsin*, the Seventh Circuit ruled against Bayfield County, who intended to build snowmobile trails on the abandoned railroad right-of-way.

The question the Court will decide in *Navarette v. California* is whether the Fourth Amendment requires a police officer who receives an anonymous tip regarding drunken or reckless driving to corroborate dangerous driving before stopping the vehicle. This case stems from an incident in which Mendocino County, California's 911 call center received a tip that a vehicle had driven the caller off the road. The caller gave a description of the make, model, and license plate number of the vehicle along with the road and mile marker the vehicle was on and the direction it was headed. Two state police officers quickly located the vehicle based on the description, pulled the driver over, and searched the car after smelling marijuana. The officers discovered four large bags of marijuana.

In this case, the police officers did not actually observe any erratic driving before pulling the vehicle over. The California Court of Appeals held that officers do not need to wait to pull someone over when an anonymous tip is about erratic driving and the officer is able to corroborate other details, as in this case.

Before the long conference the Court already agreed to hear a number of cases during its Term October 2013 that will impact local governments. The Court is still likely to pick about 30 more cases to decide during its Term October 2013. It is likely that some of these cases will impact cities.

Learn more about cases from this term affecting cities at the State and Local Legal Center's (SLLC)

Supreme Court Preview webinar on Tuesday, October 22 from 1:00 - 2:30 pm EDT. Register for this free event at the SLLC's website.

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