

**16-477 NJ THOROUGHBRED HORSEMEN V. NCAA**

DECISION BELOW: 832 F.3d 389

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

QUESTION PRESENTED:

In September 2013, the United States 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 commandeering challenge by construing its proscription against States "authoriz[ing]" sports wagering "by law" as a narrow prohibition reaching only the "affirmative 'authorization by law' of gambling schemes," and not repeals by States of 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). However, after New Jersey repealed certain of its prohibitions on sports wagering as applied to specific venues in the State, the *en banc* Court reversed course and broadly interpreted PASPA as making it "unlawful" for New Jersey to enact such a repeal. The Court further held that it was constitutional for federal law to dictate in this manner the extent to which States prohibit sports wagering.

The question presented is:

Does a federal statute that prohibits adjustment 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), and *Printz v. United States*, 521

U. S. 898 (1997)?

CONSOLIDATED WITH 16-476 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 6/27/2017