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SCOTUS Speaks: Guilty Pleas Don't Waive All Appellate Claims



On February 21, 2018, in [Class v. United States](#), the U.S. Supreme Court reaffirmed that a defendant who pleads guilty can still raise on appeal any constitutional claim that does not depend on challenging his or her "factual guilt."



The Court's holding preserves a federal criminal defendant's ability to challenge the constitutionality of the statute underlying his or her conviction, even in the event of a guilty plea. In other words, where the appellate claim implicates "the very power of the State" to prosecute the defendant, a guilty plea alone cannot bar it. In general, a guilty plea, by itself, waives certain rights on appeal, such as the right to jury trial or the right to assert certain defenses to the underlying charge. However, the scope of what is waived by a guilty plea, absent an express waiver of appeal, continues to be the subject of debate. In *Class*, the defendant Rodney Class pled guilty to possessing a firearm on the U.S. Capitol grounds, but argued on appeal that the underlying criminal statute violated the Second Amendment, and that the signage in the parking lot area of the U.S. Capitol denied him "fair notice" under the due process clause of the U.S. Constitution. Class' plea agreement did not contain an express waiver of appeal. Nonetheless, the D.C. Circuit denied his appeal on the grounds that he had **implicitly** waived his constitutional attacks on his conviction by pleading guilty. The Supreme Court reversed the D.C. Circuit's decision, reaffirming its prior rulings in [Blackledge v. Perry](#) and [Menna v. New York](#). While the holding of *Class* seems to focus on federal convictions and challenging the constitutionality of an underlying statute, the opinion could be interpreted to apply more broadly. First, the holding could be interpreted to apply to state convictions,

given that the Court cites both state and federal cases, and notes that its decision reflects an understanding of the nature of guilty pleas expressed by "federal **and state courts** throughout the 19th and 20th centuries." Second, the holding may preserve more than just a challenge to the overall constitutionality of the statute, given that the Court determined that Class may pursue his constitutional **claims** on direct appeal, which suggests that Class did not waive his right to pursue his due process claim concerning the lack of signage in the parking lot. Mr. Class' due process claim is a challenge to how the statute was applied in his particular case. As a practical matter, *Class* may help some defendants with current appeals of their guilty plea convictions, but going forward, prosecutors may respond to *Class* by requiring more fulsome and express waivers of appeal as part of a plea bargain. The Supreme Court has yet to address the circuit court split on the constitutionality or limitations of such express waivers; in the meantime, the Court has made clear that pleading guilty does not waive a defendant's right to challenge that conviction, notwithstanding the facts admitted during the plea allocution.

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