***South Dakota v. Wayfair, Inc.*, No. 17-494**

In a pair of decades-old decisions—*National Bellas Hess, Inc. v. Department of Revenue*, 386 U.S. 753 (1967), and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992)—the Supreme Court held that, under the dormant Commerce Clause, a State could not require a business to collect its sales tax if the business lacks a physical presence in the State. Today, in a 5-4 decision, the Supreme Court overruled those decisions. Justice Kennedy, in an opinion joined by Justices Thomas, Ginsburg, Alito, and Gorsuch, concluded that the *Quill* rule was based on flawed reasoning and that a business need not have a physical presence in a State to have the required "substantial nexus" with the State to permit that State to require that business to collect its tax consistent with the Commerce Clause. The Court rested its holding on its observations that the *Quill* physical-presence rule created market distortions by putting businesses with a physical presence at a competitive disadvantage relative to remote sellers and by incentivizing businesses to avoid having a physical presence in multiple States; created arbitrary distinctions between businesses that could be taxed and those that could not; and failed to account for technological and social changes that have changed how remote retailers interact with customers. The Court rejected the argument that it should adhere to *stare decisis*, concluding that changes in the economy—most notably, the rise of e-commerce—and difficulties implementing the physical-presence rule eroded the force of its precedents.

Justice Thomas filed a concurring opinion, as did Justice Gorsuch. Justice Roberts filed a dissenting opinion, which was joined by Justices Breyer, Sotomayor, and Kagan, that would have adhered to the Court's precedents.