

**18-966 DEPARTMENT OF COMMERCE V. NEW YORK**

DECISION BELOW: 2019 WL 190285

LOWER COURT CASE NUMBER: 19-212

QUESTION PRESENTED:

1. Whether the district court erred in enjoining the Secretary of Commerce from reinstating a question about citizenship to the 2020 decennial census on the ground that the Secretary's decision violated the Administrative Procedure Act (APA), 5 U.S.C. 701 *et seq.*

2. Whether, in an action seeking to set aside agency action under the APA, a district court may order discovery outside the administrative record to probe the mental processes of the agency decisionmaker-including by compelling the testimony of high-ranking Executive Branch officials-without a strong showing that the decisionmaker disbelieved the objective reasons in the administrative record, irreversibly prejudged the issue, or acted on a legally forbidden basis.

ORDER OF MARCH 15, 2019:

THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING  
ADDITIONAL QUESTION: WHETHER THE SECRETARY OF COMMERCE'S  
DECISION TO ADD A CITIZENSHIP QUESTION TO THE DECENNIAL CENSUS  
VIOLATED THE ENUMERATION CLAUSE OF THE U.S. CONSTITUTION, ART.I, §2,  
CL. 3.

CERT. GRANTED 2/15/2019