

(ORDER LIST: 598 U.S.)

MONDAY, MARCH 20, 2023

ORDERS IN PENDING CASES

22M77 DAVIS, TONI M. V. ADAMS, MAYOR, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

22M78 IN RE DONALD L. MARTIN

The motion for leave to proceed as a veteran is denied.

22M79 McWHERTER, DAVID W. V. LUMPKIN, DIR., TX DCJ

22M80 A. H. V. S. W.

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

22M81 GOSSAGE, HENRY E. V. OPM, ET AL.

The motion for leave to proceed as a veteran is denied.

22M82 BROOKS, MICHAEL T. V. AGATE RESOURCES, INC., ET AL.

The motion of respondents for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is granted.

22M83 GORDON, MICHAEL L. V. DOE, OFFICIAL, ET AL.

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

22M84 LAROCHE-ST. FLEUR, MAUDE V. BD. OF BAR OVERSEERS OF MA

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is denied.

21-1326) U.S., ET AL., EX REL. SCHUTTE, ET AL. V. SUPERVALU INC., ET AL.

)

22-111) U.S., ET AL., EX REL. PROCTOR V. SAFEWAY, INC.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae*, for divided argument, and for enlargement of time for oral argument is granted in part, and the time is divided as follows: 20 minutes for petitioners, 10 minutes for the Solicitor General, and 30 minutes for respondents.

22-459 OHIO V. CSX TRANSP., INC.

The Solicitor General is invited to file a brief in this case expressing the views of the United States.

22-5971 LADEAIROUS, JOSEPH M. V. GARLAND, ATT'Y GEN., ET AL.

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied. Justice Kavanaugh took no part in the consideration or decision of this motion.

22-6785 GAGE, IAN V. MIDWESTERN UNIVERSITY

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until April 10, 2023, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

22-332 TERRAFORM LABS PTE LTD., ET AL. V. SEC

22-388 KEISTER, RODNEY V. BELL, STUART, ET AL.

22-404 GOE, JANE, ET AL. V. McDONALD, JAMES V., ET AL.

22-418 DEVERAUX, GENE V. MONTANA

22-443 ZUMMER, MICHAEL S. V. SALLET, JEFFREY S., ET AL.

22-562 DOUGLASS, STEPHEN, ET AL. V. NIPPON YUSEN KABUSHKI KAISHA

22-618 MORNINGSTAR FELLOWSHIP CHURCH V. YORK COUNTY, SC, ET AL.

22-635 D. B. V. COLORADO, ET AL.
22-647 SCOTT, ROSS A. V. TEXAS
22-648 LUKASHIN, IGOR V. USCA 9
22-651 KELLOGG, KENNETH, ET AL. V. WATTS GUERRA LLP, ET AL.
22-655 SULGROVE, DAN, ET AL. V. SPOKANE INDIAN TRIBE, ET AL.
22-667 BING, CHEN V. BIDEN, PRESIDENT OF U.S., ET AL.
22-668 KAMA, NACHAIYA V. MEMORIAL HERMANN HEALTH, ET AL.
22-689 DRIESSEN, ROCHELLE Y. V. BARCLAYS BANK, PLC
22-691 AKRAWI, LOUIS J. V. GARLAND, ATT'Y GEN.
22-722 CALAPRISTI, FRANK V. UNITED STATES
22-736 BAXTER, WILLIE L. V. UNITED STATES
22-742 UNITED MINE WORKERS, ET AL. V. ENERGY WEST MINING CO.
22-746 WHITE, DAMION K. V. UNITED STATES
22-765 CYRUS CAPITAL PARTNERS, L.P. V. SEARS HOLDINGS CORP.
22-777 HENRY, WILLIAM E. V. MARSHALL, ATT'Y GEN. OF AL
22-781 OCHOA, FABIO V. UNITED STATES
22-783 ORENA, VICTOR J. V. UNITED STATES
22-784 FILLER, AARON G. V. CIR
22-796 SMITH, JOHNNY E. V. UNITED STATES
22-797 SHEPPARD, MARQUAY Q. V. UNITED STATES
22-798 CROTHERS, WILLIAM M. V. WYOMING
22-801 SALAAM, AMEEN V. ILLINOIS, EX. REL. FOXX
22-5546 CARRIZALES PRETELL, JHON A. V. FLORIDA
22-5866 MILTON, GREGORY A. V. UNITED STATES
22-5982 JACKSON, RICHARD A. V. UNITED STATES
22-6191 LOTTER, JOHN L. V. NEBRASKA
22-6224 SHAHROKHI, ALI V. BURROW, KIZZY J. S.
22-6264 MELLON, RANDALL E. V. UNITED STATES

22-6445 RAMIREZ, JUAN V. V. CALIFORNIA
22-6480 ROHLF, ANTHONY V. LUMPKIN, DIR., TX DCJ
22-6485 RIETHMILLER, ANNAMARIE V. UNNAMED DEFENDANTS
22-6488 MOSLEY, JOHN F. V. FLORIDA
22-6490 JOHNSON, WAYNE V. COURT OF APPEAL OF CA, ET AL.
22-6492 AJJAHNON, ZOE V. SANDLER HOLDINGS
22-6494 WELCH, JESSE V. FLORIDA
22-6495 ZUNIGA, GENERO J. V. COLORADO
22-6504 HERRINGTON, DONALD V. CLARKE, DIR., VA DOC
22-6506 SIMPSON, ANDREW V. DAVIS, CARL, ET AL.
22-6508 EVANS, JOSEPH M. V. ZUBRENSKY, AMY H.
22-6525 ARLINE, KEITH D. V. CALIFORNIA
22-6526 KUBICA, ANTON M. V. CALIFORNIA
22-6529 HAVENS, WARREN V. LEONG, ARNOLD, ET AL.
22-6530 HAVENS, WARREN V. LEONG, ARNOLD, ET AL.
22-6534 KING, TERRY L. V. MAYS, WARDEN
22-6539 ROMERO, ISRAEL V. ABSOLUTE TOTAL CARE, ET AL.
22-6546 MARCEL, ARTY V. HOOPER, WARDEN
22-6548 U.S., EX REL. SHU V. HUTT, NANCY, ET AL.
22-6549 JORDAN, ANNE M. V. HISTORIC LOG CABINS, INC., ET AL.
22-6550 ZORIKOVA, ALLA V. PYLE, JULIE, ET AL.
22-6555 HILL, STEVEN C. V. TEXAS
22-6559 MINKOVITCH, YAN V. TICOR TITLE CO. OF CA, ET AL.
22-6605 KOMATSU, TOWAKI V. NEW YORK, NY, ET AL.
22-6655 WASHINGTON, THEODORE V. THORNELL, DIR., AZ DOC
22-6663 JANAKIEVSKI, STEVEN V. GRIFFIN, PHILIP
22-6670 LACY, JIMMY R. V. CHEEKS, CHANDLER
22-6673 MASON, LENWOOD V. HARRY, SEC., PA DOC, ET AL.

22-6686 ROSS, JERAD M. V. VIRGINIA, ET AL.
22-6711 WALTON, ANTONIO V. UNITED STATES
22-6723 RAFI, SYED K. V. YALE SCHOOL OF MEDICINE, ET AL.
22-6726 HYMAN, TERRENCE L. V. BUFFALOE, SEC., NC DPS
22-6732 ALVARADO-RIOS, DAVID V. UNITED STATES
22-6741 MBANEFO, DONATUS O. V. UNITED STATES
22-6742 GAWLIK, JAN M. V. LAMONT, GOV. OF CT, ET AL.
22-6744 GORDON, MICHAEL L. V. UNITED STATES
22-6745 HILL, ROBERT V. UNITED STATES
22-6750 AGUSTIN-BASILIO, PASCUAL V. UNITED STATES
22-6756 HAMMOUD, WISSAM T. V. UNITED STATES
22-6762 VAN DYCK, RYAN G. V. ARIZONA
22-6763 WILLIAMSON, CECIL W. V. HEINRICY, WARDEN
22-6764 DAVIS, MICHAEL R. V. UNITED STATES
22-6769 FAST, THOMAS L. V. FLORIDA
22-6771 CONDON, ROBERT A. V. UNITED STATES
22-6775 MARQUEZ-OSGUERA, JOSUE A. V. UNITED STATES
22-6779 KIM, JONG S. V. UNITED STATES
22-6784 SOUTH, JERRY D. V. UNITED STATES
22-6786 COAXUM, CLEVELAND L. V. SNODDY, WARDEN
22-6790 JAIMEZ, ALEXIS V. UNITED STATES
22-6791 SIMMONS, JEROME V. UNITED STATES
22-6792 SWIERSKI, GARY D. V. KOENIG, ACTING WARDEN
22-6793 LOYA, ROBERT V. UNITED STATES
22-6794 SUGGS, ANTHONY V. McCONAHAY, WARDEN
22-6795 POSSO, JACOBO R. V. UNITED STATES
22-6802 SIERRA-AYALA, LUIS M. V. UNITED STATES
22-6804 WILLIAMS, JOSEPH M. V. UNITED STATES

22-6808 RIKER, ERICH D. V. UNITED STATES
22-6809 AHMED, MOHAMED I. V. UNITED STATES
22-6810 JARVIS, JASON V. UNITED STATES
22-6812 TAYLOR, ERNEST L. V. UNITED STATES
22-6813 GLOWACKI, JOSHUA V. UNITED STATES
22-6816 CATO, MONTRAY L. V. UNITED STATES
22-6824 DIETZ, DANIEL V. UNITED STATES
22-6828 ESPINOZA, LUIS V. FOSS, WARDEN
22-6833 FLOYD, JAMES V. TEXAS
22-6834 LAURY, MICHAEL V. UNITED STATES
22-6835 REED, DEON'TE V. UNITED STATES
22-6837 SHERMAN, JAMES R. V. UNITED STATES
22-6843 BARRERA, EDGAR V. UNITED STATES
22-6845 LOPEZ, JESUS V. UNITED STATES
22-6847 CLOSE, PHILIP M. V. UNITED STATES
22-6849 PELULLO, SALVATORE V. UNITED STATES
22-6854 SIMS, XAVIER V. UNITED STATES
22-6855 JOHNSON, ALVIN L. V. MISSISSIPPI
22-6866 ROSELLO, ANTONIO V. UNITED STATES
22-6885 PEDRAZA, JUAN M. V. UNITED STATES

The petitions for writs of certiorari are denied.

22-679 NYC C.L.A.S.H., INC., ET AL. V. FUDGE, SEC. OF HUD, ET AL.

The petition for a writ of certiorari is denied. Justice Jackson took no part in the consideration or decision of this petition.

22-713 GLADDEN, SHANNON V. PROCTER & GAMBLE DISTRIBUTING

The petition for a writ of certiorari is denied. Justice Alito took no part in the consideration or decision of this

petition.

22-6496 WELSH, LONNIE K. V. COLLIER, BRYAN, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

22-6516 AUGUSTIN, ABRAHAM A. V. TN DEPT. OF SAFETY

22-6532 CARAFFA, ALFRED E. V. BIDEN, PRESIDENT OF U.S., ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

22-6544 MILLER, BRADLEY B. V. PLUMLEE, ANDREA

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

22-6595 HARRINGTON, SOLITA V. MEDSTAR HOSPITAL CENTER, ET AL.

The petition for a writ of certiorari is denied. Justice

Jackson took no part in the consideration or decision of this petition.

22-6642 SULLIVAN, LEIHINAHINA V. BUREAU OF PRISONS, ET AL.

22-6650 ROOKS-BYRD, ANTONIO V. COURT OF APPEALS OF NE

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

22-6712 WRIGHT, RAMONE L. V. UNITED STATES

The petition for a writ of certiorari before judgment is denied.

22-6836 SPEED, ROBERT V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor and Justice Kagan took no part in the consideration or decision of this petition.

22-6848 DANIELS, MAURICE V. UNITED STATES

The petition for a writ of certiorari before judgment is denied.

HABEAS CORPUS DENIED

22-6252 IN RE JAMES E. HITCHCOCK

22-6858 IN RE ZUMAR H. DUBOSE

22-6864 IN RE ABDUSH S. DuBOSE

22-6892 IN RE WILLIE THOMAS

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

22-619 IN RE LARRY E. KLAYMAN

22-657 IN RE ROGER TOWERS, ET UX.

22-6518 IN RE BEVERLY A. JENKINS

22-6604 IN RE DANIEL SHEEHAN

The petitions for writs of mandamus are denied.

22-6505 IN RE ROSALIND HOLMES

The petition for a writ of mandamus and/or prohibition is denied.

REHEARINGS DENIED

22-263 WANTOU, YVES V. WAL-MART STORES TEXAS
22-444 KHAN, NAZIR V. PRESENCE CHICAGO HOSP., ET AL.
22-505 PLEDGER, TAMIKA J. V. GEITHER, WARDEN
22-550 JACKSON, CARLOS V. MISSISSIPPI
22-5184 STOUTAMIRE, DWAYNE V. SHOOP, WARDEN
22-5412 TRIBBLE, CLIFTON L. V. LUMPKIN, DIR., TX DCJ
22-5618 BROOKING, RONALD J. V. PRINCE GEORGE'S COUNTY, MD
22-5852 WEBSTER, BRENT E. V. SELECT PORTFOLIO SERVICING, INC.
22-5907 BROOKING, RONALD J. V. MOLONEY, DANIEL
22-5932 CASAVELLI, NICK, ET UX. V. JOHANSON, DONNA
22-6008 TYSON, DAVID J. V. FBI, ET AL.
22-6093 LONDON, STEVEN L. V. McDONOUGH, SEC. OF VA
22-6193 ASSA'AD-FALTAS, MARIE V. SOUTH CAROLINA
22-6227 CORINES, PETER V. NEW YORK

The petitions for rehearing are denied.

ATTORNEY DISCIPLINE

D-3101 IN THE MATTER OF DISBARMENT OF JESSICA ARONG O'BRIEN

Jessica Arong O'Brien, of Chicago, Illinois, having been suspended from the practice of law in this Court by order of December 12, 2022; and a rule having been issued and served upon her requiring her to show cause why she should not be disbarred; and a response having been filed;

It is ordered that Jessica Arong O'Brien is disbarred from the practice of law in this Court.

JACKSON, J., dissenting

SUPREME COURT OF THE UNITED STATES

MICHELLE CHAPMAN, CLERK, CIRCUIT COURT OF
MISSOURI, RANDOLPH COUNTY *v.* JANE DOE, BY
NEXT FRIEND ANTHONY E. ROTHERT

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 22–312. Decided March 20, 2023

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Eighth Circuit with instructions to dismiss the case as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950).

JUSTICE JACKSON, dissenting.

I am concerned that contemporary practice related to so-called “*Munsingwear* vacatur” has drifted away from the doctrine’s foundational moorings.

* * *

When a case becomes moot, the losing party is generally deprived of the right to appeal the merits of an adverse decision. *U. S. Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U. S. 18, 21–22 (1994). In *United States v. Munsingwear, Inc.*, 340 U. S. 36, 38–39 (1950), this Court observed that, sometimes, that result might be especially unfair, and thus a request for vacatur of the lower court’s judgment may be entertained, and granted, to address the inequity. But the Court declined to do so in *Munsingwear* itself because the equities did not favor the party requesting that relief, as the party had “slept on its rights.” *Id.*, at 41. Later, this Court clarified that this “*Munsingwear* vacatur” remedy is available only in “extraordinary” or “exceptional” cases where a party meets the burden of demonstrating equitable entitlement to vacatur in an otherwise moot case. *Bancorp*, 513 U. S., at 26, 29.

JACKSON, J., dissenting

Here, the majority has acquiesced to the parties' joint request for a *Munsingwear* vacatur. This case involves a lawsuit that respondent Doe filed in the U. S. District Court for the Eastern District of Missouri, invoking Rev. Stat. §1979, 42 U. S. C. §1983 and alleging that petitioner Chapman violated the Fourteenth Amendment when she denied Doe access to a judicial bypass for an abortion without parental notification. The Eighth Circuit rejected Chapman's plea for quasi-judicial and qualified immunity, see 30 F. 4th 766 (2022), after which this Court issued *Dobbs v. Jackson Women's Health Organization*, 597 U. S. ___ (2022). That decision led the parties to jointly stipulate to dismiss Doe's civil action under Federal Rule of Civil Procedure 41(a)(1)(A)(ii), thereby mooting the case. Doe could only have effectuated a dismissal of her case without a court order if Chapman agreed to the dismissal, see *ibid.*, and, apparently, Chapman agreed on the condition that Doe did not object to a request for *Munsingwear* vacatur from this Court.

Whatever the parties might have seen fit to agree to, we have long recognized that the equities generally do not favor *Munsingwear* vacatur when the party requesting such relief played a role in rendering the case moot. See, e.g., *Bancorp*, 513 U. S., at 25; *United States v. Hamburg-Amerikanische Packetfahrt-Actien Gesellschaft*, 239 U. S. 466, 478 (1916). Chapman contributed to the mootness of this case insofar as she stipulated to its dismissal. And it is not unfair for us to now deprive her of the benefit of this bargain, since this form of relief is discretionary, and Chapman had other viable options including relying on her original request that the Court grant a petition for certiorari, vacate the Eighth Circuit's judgment, and remand in light of *Dobbs*—our ordinary process for addressing intervening developments in the law.

Even more fundamentally, this case presents absolutely no “extraordinary” circumstances justifying *Munsingwear*

JACKSON, J., dissenting

relief. *Bancorp*, 513 U. S., at 26, 29. The underlying matter was voluntarily dismissed, and Chapman does not contend that she is somehow bound to the judgment below; thus, no unfairness inures from Chapman’s loss of the right to appeal. Indeed, Chapman’s only argument in support of vacatur is that the Eighth Circuit’s opinion was wrongly decided. But mere disagreement with the decision that one seeks to have vacated cannot suffice to warrant equitable relief under *Munsingwear*. See *Bancorp*, 513 U. S., at 27 (finding it “inappropriate . . . to vacate mooted cases, in which we have no constitutional power to decide the merits, on the basis of assumptions about the merits,” and emphasizing that issuance of vacatur should turn on the equities of the individual case).

In my view, it is crucial that we hold the line and limit the availability of *Munsingwear* vacatur to truly exceptional cases. To do otherwise risks considerable damage to first principles of appellate review, since at least three background precepts counsel against indiscriminate vacatur of a lower court’s judgment:

(1) an appellate court generally does not have jurisdiction to review a moot case, much less issue an order awarding relief in the matter;

(2) *Munsingwear* vacatur is an exception to the statutorily prescribed path for obtaining relief from adverse judgments (namely, appeals as of right and certiorari); and

(3) our common-law system assumes that judicial decisions are valuable and should not be cast aside lightly, especially because judicial precedents “are not merely the property of private litigants,” but also belong to the public and “legal community as a whole.” *Bancorp*, 513 U. S., at 21, 26–27 (citation omitted). Injudicious awards of *Munsingwear* vacatur can also incentivize gamesmanship, as it, for example, enables parties to disclaim potential mootness before the lower court, and, if unsuccessful on the merits at

JACKSON, J., dissenting

that stage, argue mootness on appeal to eliminate the adverse decision through vacatur.*

* * *

While these core principles warrant an exceedingly cautious approach to *Munsingwear* vacatur requests, our recent practices reflect a sharp uptick in the number of vacatur awards. I would not add this far-from-exceptional case to that growing list.

*See, e.g., *Mayorkas v. Innovation Law Lab*, 594 U. S. ___ (2021) (issuing *Munsingwear* vacatur in a case where, after a preliminary injunction against the Government was imposed and the appellate court affirmed, the Government ceased the challenged policy and then asked this Court to vacate the lower court opinion as moot); *Maryland v. United States Dept. of Ed.*, 2020 WL 7773390, *1 (D DC, Dec. 29, 2020) (party argued to District Court that an issue was not moot but reversed course and argued to the appellate court that the issue *was* moot, so as to obtain vacatur of the adverse decision).