(ORDER LIST: 586 U.S.)

TUESDAY, FEBRUARY 19, 2019

ORDERS IN PENDING CASES

17A612 SCHNEIDER, CHRISTOPHER D. V. BANK OF AMERICA, N.A., ET AL.

The application for injunctive relief addressed to Justice Ginsburg and referred to the Court is denied.

18A554 HARIHAR, MOHAN V. US BANK NA, ET AL.

18A692 GOLZ, WILLIAM J. V. CARSON, SEC. OF HUD

The applications for stay addressed to the Chief Justice and referred to the Court are denied.

18M91 ROMAIN, THERESA S. V. O'CONNOR, KIMBERLY, ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time under Rule 14.5 is denied.

18M92 SMITH, ERIK L. V. UNITED STATES

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

18M94 IN RE ROBERT K. HUDNALL

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

18M95 MORALES, RICHARD V. UNITED STATES

18M96 GOLDEN, ERIC V. PFISTER, WARDEN

18M97 MATTHEWS, FLOYD E. V. JONES, SEC., FL DOC

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

18M98 A. R. V. FL DEPT. OF CHILDREN, ET AL.

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

18M99 WONG, GRACE S. V. LUBETKIN, JAY L., ET AL.

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

18M100 RPX CORPORATION V. APPLICATIONS INTERNET, ET AL.

18M101 RODRIGUEZ, ALEX V. NEW JERSEY

The motions for leave to file petitions for writs of certiorari with the supplemental appendices under seal are granted.

18M102 THOMPSON, THAD V. UEHARA, NOLAN

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

17-1594 RETURN MAIL, INC. V. USPS, ET AL.

The motion of Electronic Frontier Foundation for leave to file a brief as *amicus curiae* is granted.

17-9107 GRIGSBY, PHILIP A. V. UNITED STATES

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied.

18-281 VA HOUSE OF DELEGATES, ET AL. V. GOLDEN BETHUNE-HILL, ET AL.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted. The joint motion of appellees for enlargement of time for oral argument and for divided argument is granted in part, and the time is divided as follows: 25 minutes for appellants, 10 minutes for the Solicitor General as *amicus curiae*, 10 minutes for appellees Virginia State Board of Elections, et al., and 15 minutes for appellees Golden Bethune-Hill, et al.

18-431 UNITED STATES V. DAVIS, MAURICE L., ET AL.

The motion of petitioner to dispense with printing the joint appendix is granted.

18-948 IN RE GRAND JURY SUBPOENA

The motion of Reporters Committee for Freedom of the Press to intervene is denied. The motion of respondent for leave to file redacted copies of the application for stay, response, and reply is granted.

18-6823 WILLIAMS, JAMES D. V. LOS ANGELES CTY., CA, ET AL.

18-6857 MUNT, JOEL M. V. SCHNELL, COMM'R, MN DOC, ET AL.

18-6907 KULICK, ROBERT J. V. LEISURE VILLAGE ASSN., INC.

18-7013 IN RE E. EDWARD ZIMMERMAN

18-7241 KERRIGAN, MARY-ANN B. V. QBE INS. CORP.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until March 12, 2019, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

18-260 COUNTY OF MAUI, HI V. HAWAII WILDLIFE FUND, ET AL.

The petition for a writ of certiorari is granted limited to Question 1 presented by the petition.

CERTIORARI DENIED

17-1386 WILSON, KYLE V. BRIDGES, JANELLE, ET AL.

18-99 BARNES, JOHNNY V. GERHART, JOSEPH, ET AL.

18-265 PATTERSON, MICAH V. CLARKE, DIR., VA DOC

18-295 ALIMANESTIANU, A., ET AL. V. UNITED STATES

18-306 LARRABEE, STEVEN M. V. UNITED STATES

18-377 MONTANANS FOR COMMUNITY DEV. V. MANGAN, JEFFREY A., ET AL.

18-392 RICHARDSON, AARON M. V. UNITED STATES

18-410) YATES, COREY D. V. UNITED STATES
)
18-6336) WALKER, CHAMONTAE V. UNITED STATES

18-423 BARRELLA, CHRISTOPHER V. FREEPORT, NY, ET AL.

18-444 MONTANA V. TIPTON, RONALD D.

18-546 FROSH, ATT'Y GEN. OF MD, ET AL. V. ASSOC. FOR ACCESSIBLE MEDICINES

18-560 PEAJE INVESTMENTS LLC V. FINANCIAL OVERSIGHT, ET AL.

18-580 NU IMAGE, INC. V. INT'L ALLIANCE OF THEATRICAL

18-597 LEE, JOHN C. V. UNITED STATES

18-622 WHOLE WOMAN'S HEALTH, ET AL. V. TX CATHOLIC CONFERENCE, ET AL.

18-652 EL OMARI, OUSSAMA V. RAS AL KHAIMAH FREE TRADE

18-669 GATES, SHANE M. V. REED, WALTER, ET AL.

18-681 NWOKE, CHINYERE U. V. CONSULATE OF NIGERIA

18-686 KING, LAZINA, ET AL. V. CALIBER HOME LOANS INC.

18-687 FRETT, AURIEL D. V. VIRGIN ISLANDS

18-691 SNELLING, LONNIE V. SEGBERS, KEVIN, ET AL.

18-692 MYLAN PHARMACEUTICALS, ET AL. V. UCB, INC., ET AL.

18-695 CHUNG, CHRISTOPHER, ET AL. V. SILVA, GULSTAN E., ET AL.

18-697 CARRUTHERS, TONY VON V. MAYS, WARDEN

18-700 SAUNDERS-GOMEZ, TIBY J. V. RUTLEDGE MAINTENANCE CORP.

18-701 TANKSLEY, CLAYTON P. V. DANIELS, LEE, ET AL.

18-703 UNIV. OF S. CA, ET AL. V. MUNRO, ALLEN L., ET AL.

18-705 GRIFFEN, JUDGE V. KEMP, CHIEF JUSTICE, ET AL.

18-707 BECTON, MARIE A. V. SSA, ET AL.

18-712 ARTRIP, JERRY V. BALL CORPORATION, ET AL.

18-713 WRIGHT, STUART V. UNITED STATES

18-718 YOUNG, GEOFFREY M. V. OVERLY, SANNIE L., ET AL.

18-720 DUHE, RONALD, ET AL. V. LITTLE ROCK, AR, ET AL.

18-721 BLOOM, NORMAN V. AFTERMATH PUB. ADJUSTERS, ET AL.

18-723 RODRIGUEZ, JOSE V. BANK OF AMERICA, N.A.

18-724 SANDPOINT, ID, ET AL. V. MADDOX, DANA, ET AL.

18-727 MANLEY, CHENE D. V. ARIZONA

18-731 DURON, STEFANY V., ET AL. V. JOHNSON, RON, ET AL.

18-732 COULTER, JEAN V. TATANANNI, BLAZE, ET AL.

18-734 SZMANIA, DANIEL G. V. E-LOAN, INC., ET AL.

18-736 LAWSON, CARL, ET UX. V. BELL SPORTS USA

18-741 ODERMATT, EMILY M. V. AMY WAY, ET AL.

18-743 WHITE OAK REALTY, LLC, ET AL. V. ARMY CORPS OF ENGINEERS, ET AL.

18-744 UNGER, MARK V. BERGH, WARDEN

18-748 WILSON, RICHARD M. V. COMM'R OF REVENUE, ET AL.

18-749 CROSSETT, JoELLEN MARY V. MICHIGAN

18-751 METROPOLITAN INTERPRETERS V. BATES, FRANCISCO, ET AL.

18-752 TAUPIER, EDWARD V. CONNECTICUT

18-753 COUTURIER, ROBERT S. V. PRESIDING JUDGE, ET AL.

18-754 RAMIREZ, DAVID A. V. WALMART

18-757 CHUANG, TEDDY V. CALIFORNIA

18-758 IVY, JOHNNIE C., ET AL. V. MORAN, H. THOMAS

18-765 BRADY, JAMES H. V. NEW YORK, ET AL.

18-767 ANCIENT COIN COLLECTORS GUILD V. UNITED STATES

18-769 MINNESOTA LIVING ASSISTANCE V. PETERSON, KEN B., ET AL.

18-770 WEBTRENDS, INC. V. IANCU, ANDREI

18-771 VAIGASI, PEDRO V. SOLOW MANAGEMENT CORP., ET AL.

18-775 CHIEN, ANDREW V. RYAN, LeCLAIR, ET AL.

18-777 BUENO-MUELA, JORGE V. WHITAKER, ACTING ATT'Y GEN.

18-778 ST. LOUIS HEART CENTER, INC. V. NOMAX, INC.

18-780 KERR, LISA M. V. MARSHALL UNIV. BD. OF GOVERNORS

18-787 RHOE, ROBERT L. V. MONTGOMERY COUNTY

18-789 HYLTON, CECILIA M. V. CIR

18-791 MOESCH, KYLE J. V. TEXAS

18-794 SHEA, RONALD R. V. WINNEBAGO COUNTY SHERIFF

18-795 BUSH, WILLIAM J. V. DEPT. OF AGRICULTURE, ET AL.

18-796 ALEXANDER, BRUCE V. TRUMP, PRESIDENT OF U.S., ET AL.

18-797 BURMASTER, BRIAN M. V. HERMAN, STEPHEN J., ET AL.

18-799 DAVIS, DEBORAH J. V. BHATT, MEHUL

18-804 DRY, WANDA McCLURE V. STEELE, CHRISTI L., ET AL.

18-806 HOHMAN, JODI C., ET AL. V. UNITED STATES, ET AL.

18-808 WEBSTER, KIRK E. V. SHANAHAN, ACTING SEC. OF DEFENSE

18-818 THOMPSON, HUBERT V. ROVELLA, JAMES C., ET AL.

18-820 WEINACKER, TERESA Y. V. NATIONAL LOAN ACQUISITIONS CO.

18-823 ZUP, LLC V. NASH MANUFACTURING, INC.

18-825 SHUMPERT, PEGGY, ET AL. V. TUPELO, MS, ET AL.

18-826 SHELTON, KENNETH V. PATTERSON, ANTHONEE

18-828 GHIRINGHELLI, ROBERT, ET AL. V. ASSURANCE GROUP, INC.

18-833 STOKES, BRANDI K. V. COMM'N FOR LAWYER DISCIPLINE

18-839 COLON, PABLO V. ILLINOIS

18-841 HOFFMAN, MICHALE A. V. FLORIDA

18-846 ANDERTON, DAVID A. V. UNITED STATES

18-850 ALTSTATT, DAVID V. FRUENDT, MELINDA, ET AL.

18-851 MARSHALL, BRYAN C. V. UNITED STATES

18-856 ANTONIN, SERGE V. BALTIMORE POLICE DEPARTMENT

18-857 BOYD, PATRICK V. MS DEPT. OF PUB. SAFETY, ET AL.

18-858 McCULLARS, JAMES V. UNITED STATES

18-860 PARRISH, LARRY E. V. BD. OF PROF. RESPONSIBILITY

18-861 WESTERNGECO LLC V. ION GEOPHYSICAL CORP.

18-863 EDMOND, TRALVIS V. UNITED STATES

18-864 TATUM, JOHN, ET UX. V. DALLAS MORNING NEWS, ET AL.

18-872 DOLACINSKI, DARIUSZ, ET UX. V. BANK OF AMERICA

18-874 HOUSTON AUTO M. IMPORTS GREENWAY V. ZASTROW, MARK, ET AL.

18-878 STEVENS, ROBERT, ET AL. V. CORELOGIC, INC.

18-884 JEFFREY, BRENDA V. WEST VIRGINIA

18-888 BENT, MICHAEL S. V. STRANGE, CHERYL, ET AL.

18-902 POUPART, PAUL V. HOOPER, WARDEN

18-903 PERRY, ROBBIE, ET AL. V. COLES COUNTY, ILLINOIS

18-931 HESSE, DAVID C. V. HOWELL, JASON K.

18-6009 MYRTHIL, EMILE V. UNITED STATES

18-6011 HAMIDULLIN, IREK I. V. UNITED STATES

18-6061 ORTIZ-MARTINEZ, ROGELIO V. UNITED STATES

18-6096 JACKSON, MICHAEL V. UNITED STATES

18-6147 NETTLES, MACKING V. HORTON, WARDEN

18-6157 SEALED APPELLEE V. UNITED STATES

18-6185 BECKMAN, JASON V. FLORIDA

18-6187 MARTINEZ-LOPEZ, ANTONIO V. UNITED STATES

18-6212 BURGESS, THOMAS V. ENGLISH, WARDEN

18-6258 LAZAR, STEVEN V. CAPOZZA, SUPT., FAYETTE, ET AL.

18-6269 LLOYD, MATTHEW C. V. UNITED STATES

18-6273 DAVIS, ANTOINE V. UNITED STATES

18-6292 ROBINSON, ANTHONY V. UNITED STATES

18-6374 WELSH, WILLIAM C. V. UNITED STATES

18-6385 BEEMAN, JEFFREY B. V. UNITED STATES

18-6409 MORROW, SCOTTY G. V. FORD, WARDEN

18-6563 GONZALEZ-NEGRON, JESUS R. V. UNITED STATES

18-6588 WARREN, LESLEY E. V. THOMAS, WARDEN

18-6608 O'NEIL, WILLIAM C. V. WARDEN, FCC COLEMAN

18-6679 GRAHAM, DONATE V. ILLINOIS

18-6716 WALKER, JERRY V. UNITED STATES

18-6741 MAMOU, CHARLES V. DAVIS, DIR., TX DCJ

18-6766 GULBRANDSON, DAVID V. RYAN, DIR., AZ DOC

18-6773 KNOX, TITO V. PLOWDEN, DAVID

18-6776 OWEN, DUANE E. V. FLORIDA

18-6779 HEFFINGTON, GUY V. PULEO, PAMELA, ET AL.

18-6794 BRADSHAW, CHARLTON V. DAVIS, DIR., TX DCJ

18-6796 MUCKLE, PAUL L. V. WELLS FARGO BANK, ET AL.

18-6799 NASH, MAURICE R. V. WACHOVIA BANK, ET AL.

18-6802 KITLAS, PATRICK V. HAWS, WARDEN

18-6803 McNEIL, ANTHONY V. MR. GRIM, ET AL.

18-6805 RODRIGUEZ, JOSE V. PARAMO, WARDEN

18-6815 IBENYENWA, MICHEAL J. V. DAVIS, DIR., TX DCJ

18-6835 SANCHEZ, RICARDO E. V. DAVIS, DIR., TX DCJ, ET AL.

18-6836 RIVAS, CARLOS D. V. SPEARMAN, WARDEN

18-6837 SWINTON, ROBERT L. V. JONES, SEC., FL DOC. ET AL.

18-6840 ROSKY, JOHN H. V. BAKER, WARDEN, ET AL.

18-6849 JAMES, STEVEN V. MASSACHUSETTS

18-6850 ESPARZA, STEVEN M. V. DAVIS, DIR., TX DCJ

18-6866 SPERBER, THOMAS E. V. PENNSYLVANIA

18-6876 JOSHLIN, PIERRE D. V. NEVEN, WARDEN, ET AL.

18-6877 SHERE, RICHARD E. V. FLORIDA

18-6878 DALEY, SHOMARI S. V. MARYLAND, ET AL.

18-6881 ALSTON, JASON V. MS DEPT. OF EMPLOYMENT SECURITY

18-6883 CATERBONE, STAN J. V. UNITED STATES

18-6884 TRYON, ISAIAH G. V. OKLAHOMA

18-6885 MARQUEZ, STEPHEN A. V. DAVIS, DIR., TX DCJ

18-6886 JOHNSON, VINITA V. BERRYHILL, NANCY A.

18-6887 WILSON, MICHAEL A. V. BERRYHILL, NANCY A.

18-6888 CLAY, KATHY G. V. PAPIK, PEACE OFFICER

18-6899 URANGA, JOHN V. DAVIS, DIR., TX DCJ

18-6902 MANSFIELD, SCOTT V. FLORIDA

18-6903 McLAURIN, CURTIS V. NEW YORK

18-6909 LUCERO, ALBERT A. V. HOLLAND, WARDEN

18-6921 STEVENSON, STEVIE J. V. RICHMAN, JUDGE, ETC., ET AL.

18-6925 TARVER, WARREN V. FLORIDA

18-6928 JOHNSON, ASIA V. WYLIE, CHRISTOPHER, ET AL.

18-6929 JOHNSON, ASIA V. ELIZABETH, QUEEN

18-6930 JOHNSON, ASIA V. ROTHSCHILD, JACOB

18-6931 JOHNSON, ASIA V. ROTHSCHILD

18-6932 JOHNSON, ASIA V. GERMAN AEROSPACE CENTER

18-6933 JOHNSON, ASIA V. CHILDREN YOUTH AND FAMILIES

18-6938 PHILLIPS, JARROD V. WASHBURN, WARDEN

18-6940 ANDREWS, DALRAY K. V. MONTGOMERY, WARDEN

18-6942 ZAPATA, MONSERRATE V. PECO

18-6944 VIZCAINO-RAMOS, JOSE L. V. LINDAMOOD, WARDEN

18-6946 TREVINO, SERGIO L. V. TEXAS

18-6947 GILLARD, LISA J. V. ILLINOIS

18-6950 McBRIDE, JASON W. V. TEXAS

18-6953 JIMENEZ, JESUS J. V. TEXAS

18-6954 WELLS, STEVEN S. V. CALIFORNIA

18-6956 WALTON, JASON D. V. FLORIDA, ET AL.

18-6957 SULTAANA, HAKEEM V. HARRIS, WARDEN

18-6958 VELAYO, BENJAMIN D. V. TALAMAYAN, JOHN, ET AL.

18-6959 KINGHAM, GLENN L. V. DAVIS, DIR., TX DCJ

18-6960 MACK, CRAIG V. DAVIS, DIR., TX DCJ

18-6965 YIN, LEI V. BIOGEN, INC.

18-6966 WAGONER, TINA L. V. NEW YORK

18-6968 LEYVA, ALEJANDRO Q. V. USDC SC

18-6975 VAN NORTRICK, ROY A. V. LOUISIANA

18-6976 EWALAN, JOSEPH L. V. WASHINGTON

18-6977 MITCHELL, JAMES E. V. CALIFORNIA

18-6978 MASCARENA, RONALD F. V. MONTANA

18-6987 SANDERS, JAVON V. KELLEY, DIR., AR DOC, ET AL.

18-6988 SANDERS, DONALD V. URIBE, WARDEN

18-6991 RAMBO, JULIUS K. V. KANSAS

18-6997 T. H.-H. V. OFFICE OF CHILDREN, ET AL.

18-6998 CLEVELAND, GEORGE V. SOUTH CAROLINA

18-6999 McQUEEN, JOHN V. FISHER, LYNN

18-7003 RAMIREZ, JOSE J. V. RYAN, DIR., AZ DOC, ET AL.

18-7006 REID, GORDON C. V. WARDEN, ET AL.

18-7008 WHITE, DANIEL L. V. JONES, SEC., FL DOC, ET AL.

18-7011 MYZER, JOHN S. V. BUSH, GEORGE W., ET AL.

18-7014 COLLINS, MURIEL V. EPSTEIN, ALAN B., ET AL.

18-7015 WEST, JOE A. V. SPENCER, SEC. OF NAVY

18-7016 WASHINGTON, TUAD D. V. DAVIS, DIR., TX DCJ

18-7017 BLACK, DONNA A. V. LINDSAY, JEROME

18-7018 LaGAITE, LUIS S. V. FOLEY, JAMES, ET AL.

18-7019 JONES, JEFF V. BYRNE, WARDEN

18-7024 VILLAFANA, JACQUES V. CLARKE, DIR., VA DOC

18-7025 BURT, TYREE M. V. CALIFORNIA

18-7027 KURI, CRYSTAL N. V. ADDICTIVE BEHAVIORAL CHANGE

18-7030 S. R. V. WV DEPT. OF HEALTH, ET AL.

18-7031 LEWIS, KACEY V. QUIROS, ANGEL, ET AL.

18-7034 SADIK, SHAWN V. PENNSYLVANIA

18-7040 PERRY, ADAM L. V. UNITED STATES

18-7041 DONALDSON, MARK P. V. MI DEPT. OF H&HS, ET AL.

18-7042 WARTERFIELD, ROBERT T. V. TEXAS

18-7043 TUTON, COLEMAN V. UNITED STATES

18-7045 GILKERS, CHRIS G. V. VANNOY, WARDEN

18-7046 CASTILLO, TOMAS L. V. UNITED STATES

18-7047 CASANOVA, ANTHONY V. MICHIGAN

18-7049 MUNT, JOEL M. V. LARSON, NANETTE, ET AL.

18-7051 TAYLOR, JACQUELINE L. V. CVS CAREMARK CORPORATION

18-7052 WILKERSON, GWENDOLYN V. WOODS, TIMOTHY

18-7053 VARNER, KEVIN S. V. CHRISTIANSEN, WARDEN

18-7054 WHITE, BRENDA F. V. MATTHEWS, O. L., ET AL.

18-7055 WHITE, BRENDA V. SOUTHEAST MI SURGICAL, ET AL.

18-7056 JOHNSON, DAVID L. V. CALIFORNIA

18-7057 ROYSTON, MARCUS J. V. UNITED STATES

18-7058 RAMIREZ, JOSE J. V. NEW YORK, ET AL.

18-7059 ROSKY, JOHN H. V. BYRNE, WARDEN, ET AL.

18-7062 CLEMENTS, LOUIS M. V. FL DOC, ET AL.

18-7064 MACKENZIE, THOMAS W. V. JONES, SEC., FL DOC, ET AL.

18-7068 FIGUEROA, NELSON V. UNITED STATES

18-7069 LUDOVICI, JOHN V. MARSH, SUPT., BENNER, ET AL.

18-7070 JACKSON, CORLA V. GMAC MORTGAGE CORPORATION

18-7071 BREWER, CHAD P. V. UNITED STATES

18-7075 MARTINEZ, PATRICK V. TEXAS

18-7080 DANMOLA, YUSUFU V. UNITED STATES

18-7081 WILLIAMS, MARLON D. V. DAVIS, DIR., TX DCJ

18-7082 CUELLAR, JUAN B. R. V. UNITED STATES

18-7083 WALTER-EZE, SYLVIA O. V. UNITED STATES

18-7084 YOUNG, ANTHONY S. V. UNITED STATES

18-7085 McGHEE, LARRY A. V. MICHIGAN

18-7087 LOPEZ, DANIEL V. UNITED STATES

18-7088 MORA, OSCAR R. V. UNITED STATES

18-7089 MILLINER, ESAU V. LITTERAL, WARDEN

18-7092 CAIN, ILEEN V. ATELIER ESTHETIQUE INSTITUTE

18-7093 CLARK, DEIDRE H. V. ALLEN & OVERY, LLP

18-7095 ROBINSON, MIGUEL V. UNITED STATES

18-7100 SIMMONS, BRIAN V. CAPRA, SUPT., SING SING

18-7101 GHOBRIAL, JOHN S. V. CALIFORNIA

18-7102 HULING, CURTIS D. V. UNITED STATES

18-7103 GARCIA-MONTEJO, RENE V. UNITED STATES

18-7104 IRIZARRY-ROSARIO, AXEL V. UNITED STATES

18-7106 PLASCENCIA-OROZCO, RAMIRO V. UNITED STATES

18-7107 ODUMS, NAEEM L. V. UNITED STATES

18-7109 MILLER, TSHOMBE V. OHIO

18-7111 GUERRA, JOHNNY J. V. UNITED STATES

18-7114 WILLIAMS, EARLE D. V. CALIFORNIA

18-7116 JONES, LONNIE A. V. UNITED STATES

18-7117 MAYBERRY, CHARLES J. V. DITTMAN, WARDEN

18-7119 GRIGSBY, STANLEY V. LOUISIANA

18-7120 HERNANDEZ, CARLOS Z. V. UNITED STATES

18-7121 HIGGS, DONALD V. NEW JERSEY

18-7122 GOLA, JEFFREY T. V. UNITED STATES

18-7124 HERNANDEZ, RUBEN G. V. TEXAS

18-7125 HOSN, REFAAT F. A. V. DEPT. OF STATE, ET AL.

18-7126 ABDULLAH, ISHMAEL V. UNITED STATES

18-7127 FRENCH, CHRISTOPHER V. UNITED STATES

18-7128 BEBO, JOSEPH A. V. MEDEIROS, SUPT., NORFOLK

18-7129 CHRISTIAN, BRENNAN V. UNITED STATES

18-7131 LOTT, ANDRECO V. UNITED STATES

18-7133 BURKS, PAUL V. UNITED STATES

18-7134 LOWE, LINDSEY B. V. TENNESSEE

18-7141 GONZALEZ, LUIS R. V. UNITED STATES

18-7142 TALLEY, EVELYN V. PRIDE MOBILITY PRODUCTS, ET AL.

18-7143 EIDSON, DERIAN V. UNITED STATES

18-7145 SADOWSKI, WILLIAM V. GROUNDS, WARDEN

18-7147 SMITH, ABASI A. V. UNITED STATES

18-7150 HOSTETLER, DANIEL V. KENTUCKY

18-7153 J. E. V. OR DEPT. OF HUMAN SERVICES

18-7154 VISCONTI, JOHN V. UNITED STATES

18-7158 KNOX, TONY V. CLARKE, DIR., VA DOC

18-7161 MARTIN, RAYMOND R. V. WHITAKER, ACTING ATT'Y GEN.

18-7162 JAMA, MUNA O. V. UNITED STATES

18-7163 MAYFIELD, KENT, ET UX. V. HARVEY CTY. SHERIFF, ET AL.

18-7167 KIRSH, CORNELIUS T. V. LOUISIANA

18-7169 WRIGHT, STEVE L. V. UNITED STATES

18-7176 GARCIA-ORTIZ, JOSE A. V. UNITED STATES

18-7177 GONZALES, ROBERT J. V. SANTORO, WARDEN

18-7178 TRAN, DAVID K. V. UNITED STATES

18-7180 URQUIA-MELENDEZ, MIGUEL A. V. UNITED STATES

18-7181 WHITE, ANTONIO A. V. UNITED STATES

18-7183 MARTIN, CHRISTOPHER J. V. UNITED STATES

18-7184 CHAMBERS, ANTIONE V. UNITED STATES

18-7185 DIAZ-MARTINEZ, SANTOS O. V. UNITED STATES

18-7186 WEIDNER, COREY I. V. TAYLOR, SUPT., EASTERN OR

18-7189 MANLOVE, GEORGE L. V. UNITED STATES

18-7191 PENDERGRAFT, SCOTT R. V. NON INC.

18-7192 PHILLIPS, LAVELL V. UNITED STATES

18-7193 COLLINS, BRYAN D. V. BERRYHILL, NANCY A.

18-7194 COLBERT, BRANDON L. V. CALIFORNIA

18-7195 GOMEZ, EDUARDO V. ILLINOIS

18-7196 McELROY, EDWARD A. V. UNITED STATES

18-7197 LEWIS, JOHNNIE O. V. UNITED STATES

18-7198 CRUZ, JULIO V. HALLENBECK, SUPT., HALE CREEK

18-7199 FAUNTLEROY, ADELMO A. V. VIRGINIA

18-7200 RILEY, DAYVON B. V. UNITED STATES

18-7206 KEGLER, CHRISTOPHER T. V. UNITED STATES

18-7209 OBERACKER, DANIEL V. NOBLE, WARDEN

18-7210 PRAILOW, GORDON V. MARYLAND

18-7212 DAILEY, ANTHONY R. V. UNITED STATES

18-7214 McLAUGHLIN, WAYMON S. V. UNITED STATES

18-7215 UCES, SALIH Z. V. UNITED STATES

18-7216 DUHAMEL, JASON V. MILLER, WARDEN

18-7222 JIAU, WINIFRED V. UNITED STATES

18-7227 JONES, ANTONIO L. V. UNITED STATES

18-7228 BROWN, DASHAWN D. V. UNITED STATES

18-7229 BLACKMAN, TELISA D. V. DAVIS, DIR., TX DCJ

18-7230 ASHLEY, ANTWAIN D. V. JONES, SEC., FL DOC, ET AL.

18-7231 AVERY, MARK J. V. UNITED STATES

18-7236 STOUTAMIRE, DWAYNE V. LA ROSE, WARDEN

18-7238 EDWARDS, ANTRON V. UNITED STATES

18-7239 CANNON, DANIEL P. V. UNITED STATES

18-7240 KING, CHARLES J. V. UNITED STATES

18-7243 ROJAS-CISNEROS, JAVIER V. UNITED STATES

18-7245 RODRIGUEZ, RONNIE J. V. UNITED STATES

18-7249 DOE, JOHN V. UNITED STATES

18-7251 JORDAN, CONSUELO V. EEOC, ET AL.

18-7253 FORTE, EUGENE E. V. UNITED STATES

18-7254 THOMAS, ALVIN E. V. UNITED STATES

18-7256 DE CASTRO, AMIN V. UNITED STATES

18-7263 PATMON, GERALD V. UNITED STATES

18-7267 GREENE, MASHAWN V. SEMPLE, COMM'R, CT DOC

18-7268 BERRY, CHRISTOPHER V. McGINLEY, SUPT., COAL TOWNSHIP

18-7269 ALLISON, LARRY V. UNITED STATES

18-7270 BRYANT, ANTONIO V. ILLINOIS

18-7272 ARREOLA, JUAN P. V. UNITED STATES

18-7274 SPEARS, REGINALD L. V. UNITED STATES

18-7275 POWERS, THOMAS V. BLOCK, JENNIFER, ET AL.

18-7278 WILLIAMS, BRIAND V. CALIFORNIA

18-7282 BRADLEY, BENJAMIN E. V. UNITED STATES

18-7284 BARLOW, ROGER L. V. GARMAN, SUPT., ROCKVIEW, ET AL.

18-7287 LaPRADE, LAMONT V. UNITED STATES

18-7289 BOMMERITO, PETER D. V. DIAZ, ACTING SEC., CA DOC

18-7292 WHITLEY, MARCO V. UNITED STATES

18-7293 WALKER, NEIL V. ALABAMA

18-7294 ZAMBRANO, SERGIO A. V. UNITED STATES

18-7296 CISNEROS, DEMETRIO V. UNITED STATES

18-7297 HOWARD, DONNIE V. CALIFORNIA

18-7300 MILLIS, MICHAEL L. V. KALLIS, WARDEN

18-7303 RIVERA, JOEL V. UNITED STATES

18-7304 RODRIGUEZ-MANTOS, JUAN V. UNITED STATES

18-7305 HILTS, WILLIAM V. UNITED STATES

18-7306 STEELE, MICHAEL M. V. UNITED STATES

18-7307 RAYO-ESPINOZA, YONI V. UNITED STATES

18-7308 RODRIGUEZ, RONNIE J. V. UNITED STATES

18-7309 BALFOUR, KEVIN V. UNITED STATES

18-7310 THOMAS, KADEEM V. UNITED STATES

18-7313 TEMPLETON, LEWIS V. UNITED STATES

18-7317 DAVIS, WILLIE V. UNITED STATES

18-7320 FORD, NEHEMIAH W. V. JONES, SEC., FL DOC, ET AL.

18-7323 WILLIS, ROBERT V. UNITED STATES

18-7325 ZINKAND, JOHN J. V. HERNANDEZ, SUPT., AVERY-MITCHELL

18-7327 JOHNSON, TREVOR V. VANNOY, WARDEN

18-7329 SELFA, PHILLIP D. V. UNITED STATES

18-7330 GARRETT, MICHAEL A. V. UNITED STATES

18-7333 MOFFETT, DeSHAWN M. V. UNITED STATES

18-7340 DILLON, ERIC V. UNITED STATES

18-7341 BURTON, RODERICK V. V. UNITED STATES

18-7344 DICKINSON, TONY V. UNITED STATES

18-7345 GONZALEZ, MARIO V. UNITED STATES

18-7348 GARCIA, EDGAR A. V. UNITED STATES

18-7350 FLORES-BOTELLO, RAFAEL V. UNITED STATES

18-7351 GEDDES, RAHMAD L. V. UNITED STATES

18-7352 ELLIS, GIOVANNI V. UNITED STATES

18-7355 HAYNES, MICHAEL R. V. OR BD. OF PAROLE, ET AL.

18-7356 GOSSETT, JACK V. UNITED STATES

18-7358 FORD, AARON V. UNITED STATES

18-7360 MATHIS, PETER V. UNITED STATES

18-7361 GIBBONS, JOHN E. V. UNITED STATES

18-7365 DeVORE, ROBERT A. V. KELLY, SUPT., OR

18-7367 HUGGANS, DARWIN M. V. UNITED STATES

18-7371 JOHNSON, NICOLE V. CALIFORNIA

18-7372 CUEVAS, SANTOS V. KELLY, SUPT., OR

18-7374 MEJIA, DAVID V. DAVIS, DIR., TX DCJ

18-7375 NICOLAISON, WAYNE V. COUNTY OF HENNEPIN, MN

18-7377 HARRIS, JARVIS V. EASTERLING, WARDEN

18-7387 LENIHAN, JAMES D. V. UNITED STATES

18-7388 ROMO, DAVID V. ORMOND, WARDEN

18-7390 STANCIK, MARTIN R. V. UNITED STATES

18-7391 ROMERO, GADIEL V. UNITED STATES

18-7393 ROMAN, RODRIGO V. UNITED STATES

18-7400 SLEUGH, DAMION V. UNITED STATES

18-7417 ROBINSON, OMARI V. ILLINOIS

18-7418 SEALS, DERRICK T. V. UNITED STATES

18-7419 BECERRA, FAUSTO V. UNITED STATES

18-7420 ALIRES, JOE R. V. UNITED STATES

18-7424 VAIL, WILLIAM F. V. LOUISIANA

18-7434 GRAHAM, CHRISTOPHER A. V. UNITED STATES

18-7463 KOYLE, SHERWIN V. V. SAND CANYON CORP., ET AL.

18-7466 BENNETT, GLENN V. JONES, SEC., FL DOC, ET AL.

18-7467 LaPOINTE, PHILLIP E. V. ILLINOIS

18-7469 ARZATE, DAVID V. V. ROBERTSON, WARDEN

18-7484 NAPHAENG, NIMON V. UNITED STATES

18-7496 ALLAN, NEMIAH V. CONNECTICUT

18-7506 TURNER, JONATHAN G. V. UNITED STATES

18-7512 JACKSON, RONALD V. ILLINOIS

18-7515 NEWTON, JAFARIA D. V. ILLINOIS

18-7518 HOLT, KEVIN V. TERRIS, WARDEN

18-7555 GRAY, DOIAKAH V. DORETHY, WARDEN

The petitions for writs of certiorari are denied.

18-404 COLORADO INDEPENDENT V. DISTRICT COURT OF CO, ET AL.

The motion of respondent Sir Mario Owens for leave to proceed *in forma pauperis* is granted. The motion of respondent District Court of Colorado for leave to file a supplemental appendix under seal is granted. The petition for a writ of certiorari is denied.

18-446 TAUNTON, MA V. EPA

The motion of City of Dover, New Hampshire for leave to file out of time a brief as *amicus curiae* is denied. The petition for a writ of certiorari is denied.

18-462 GUNDERSON, BOBBIE, ET VIR V. INDIANA, ET AL.

The motion of Minnesota Association of Realtors for leave to file a brief as *amicus curiae* is granted. The motion of Cato Institute, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

18-548 ADORERS BLOOD OF CHRIST, ET AL. V. FERC, ET AL.

The motion of The Rutherford Institute for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

18-717 PMCM TV LLC V. FCC, ET AL.

The motion of petitioner to defer consideration of the petition for a writ of certiorari is denied. The petition for a writ of certiorari is denied. The Chief Justice and Justice Kavanaugh took no part in the consideration or decision of this motion and this petition.

18-747 RITTER, SONJA V. BRADY, LOIS

The motion of the Honorable Eugene Wedoff, et al. for leave to file a brief as *amici curiae* is granted. The motion of Professor Margaret Howard for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

18-6901 HALL, ENOCH D. V. FLORIDA

The petition for a writ of certiorari is denied. Justice Sotomayor, dissenting from the denial of certiorari: I dissent for the reasons set out in *Reynolds* v. *Florida*, 586 U. S. ___ (2018) (Sotomayor, J., dissenting).

18-6982 WALDEN, JERRY V. UNITED STATES

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

18-6990 STURDZA, ELENA V. UNITED ARAB EMIRATES

18-7002 DIAZ, CLIFTON S. V. WMATA

The petitions for writs of certiorari are denied. Justice Kavanaugh took no part in the consideration or decision of these petitions.

18-7073 LUH, TODD J. V. FULTON STATE HOSPITAL, 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*).

18-7086 HERNANDEZ, ALEX J. V. UNITED STATES

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

18-7090 MORALES, LEONARDO T. V. FLORIDA

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. Justice Kagan took no part in the consideration or decision of this motion and this petition.

18-7112 HILL, BRIEN O. V. ASSOC. FOR RENEWAL IN EDUCATION

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

18-7132 BRIGHT, JAMES R. V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor, with whom Justice Ginsburg joins, dissenting from the denial of certiorari: I dissent for the reasons set out in

Brown v. *United States*, 586 U. S. ___ (2018) (Sotomayor, J., dissenting).

18-7148 RAY, AUSTIN V. UNITED STATES

18-7264 MILLER, JOEL E. V. UNITED STATES

18-7266 BROWN, DYMOND C. V. UNITED STATES

The petitions for writs of certiorari are denied. Justice Gorsuch took no part in the consideration or decision of these petitions.

18-7286 MASTERS, JOHNATHAN V. KENTUCKY

The motion of Student Press Law Center, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

18-7346 FORD, MARK R. V. UNITED STATES

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

18-7421 ALLEN, TORRENCE V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor, with whom Justice Ginsburg joins, dissenting from the denial of certiorari: I dissent for the reasons set out in *Brown* v. *United States*, 586 U. S. ___ (2018) (Sotomayor, J., dissenting).

18-7432 BARBER, CORNELL W. V. UNITED STATES

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

18-7501 KIM, GWANJUN V. GRAND VALLEY STATE UNIV., 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*).

HABEAS CORPUS DENIED

18-7247 IN RE DENNIS R. BOLZE

18-7392 IN RE JAMES RUDNICK

18-7461 IN RE BRANDON LEE

18-7507 IN RE DWIGHT CARTER

18-7528 IN RE KEITH E. DOYLE

The petitions for writs of habeas corpus are denied.

18-7260 IN RE VERNON S. DANIELS, JR.

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

18-7526 IN RE ROBERT HEFFERNAN

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of habeas corpus is dismissed. See Rule 39.8.

MANDAMUS DENIED

18-768 IN RE KENNETH P. KELLOGG, ET AL.

18-6962 IN RE WALTER E. KOSTICH

The petitions for writs of mandamus are denied.

18-7001 IN RE MICHAEL KENNEDY

18-7205 IN RE ARTHUR O. ARMSTRONG

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

18-7255 IN RE ANDRE BARNES

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

PROHIBITION DENIED

18-7207 IN RE ANDREW JOHNSTON

The petition for a writ of prohibition is denied.

REHEARINGS DENIED

16-8635 DEAN, TODD G. V. UNITED STATES

17-1641 THOMAS, BARBARA A., ET VIR V. WILLIAMS, J. J.

17-7345 GREEN, FELTON B. V. McGILL-JOHNSTON, DENISE, ET AL.

17-8355 ISMAY, J. V. UNITED STATES

17-8719 DE VERA, MARIO V. UNITED AIRLINES, INC.

17-8845 EASON, ANTHONY J. V. CLARKE, DIR., VA DOC

17-8959 GIBSON, EARNEST V. UNITED STATES

17-9085 WESTINE, JOHN G. V. UNITED STATES

17-9118 WILLIAMS, ANTWAIN L. V. CALIFORNIA

17-9138 HILL, JOSEPH W. V. DAVIS, DIR., TX DCJ

17-9319 GIVENS, CHARLES V. ALLEN, WARDEN

17-9383 MITCHELL, JOHN D. V. DAVIS, DIR., TX DCJ

18-331 PABON ORTEGA, RAFAEL V. LLOMPART ZENO, ISABEL, ET AL.

18-393 MOODY, AURA V. NATIONAL FOOTBALL LEAGUE

18-399 FINK, JOHN W. V. KIRCHNER, J. PHILIP, ET AL.

18-413 BOSCH, DAVID R. V. AZ DEPT. OF REVENUE

18-538 NORA, WENDY A. V. WI OFFICE OF LAWYER REGULATION

18-541 DEOL, LAKHDEEP V. DEPRETA, GARY W., ET AL.

18-569 SHAO, LINDA V. WANG, TSAN-KUEN

18-577 NETZER, DAVID V. SHELL OIL CO., ET AL.

18-5200 KRUSKAL, KERRY V. MELTZER, ALLAN, ET AL.

18-5425 RAMIREZ, JOSE J. V. APONTE, JOSEPH, ET AL.

18-5537 OPENGEYM, ALLA V. HEARTLAND EMPLOYMENT SERVICES

18-5584 THOMPSON, LAWRENCE L. V. COPELAND, PETE, ET AL.

18-5591 MASON, VALERIE V. POLSTER, JUDGE, USDC, ET AL.

18-5621 TORKORNOO, BISMARK K. V. HELWIG, NINA, ET AL.

18-5628 TACQUARD, JOHN R. V. ARIZONA

18-5718 CAMPBELL, JAMES W. V. VIRGINIA

18-5722 LUGO, KEITH R. V. CALIFORNIA

18-5742 ROBERTS, SOLOMON D. V. FLORIDA

18-5765 RUSSELL, DeANDRE V. REDSTONE FED. CREDIT UNION

18-5888 MORRISON, JARED V. DAVIS, DIR., TX DCJ

18-5931 LASCHKEWITSCH, JOHN V. LEGAL & GENERAL AMERICA, INC.

18-6020 RODGERS, STEFAN V. MILLER, WARDEN

18-6055 TRIPLETT, WILLIE V. VANNOY, WARDEN

18-6093 TATE, BRIAN V. MARYLAND

18-6106 MILLER, JAMES L. V. KASHANI, AMIR, ET AL.

18-6134 PETERS, SCOTT V. BALDWIN, JOHN, ET AL.

18-6164 LASCHKEWITSCH, JOHN B. V. RELIASTAR LIFE INSURANCE CO.

18-6168 KIM, SOON Y. V. CALIFORNIA

18-6228 LASCHKEWITSCH, JOHN V. AMERICAN NATIONAL LIFE INSURANCE

18-6288 COOLEY, JESSE V. DIR., OWCP, ET AL.

18-6386 ADKINS, DORA L. V. WHOLE FOODS MARKET GROUP, INC.

18-6486 IN RE STEVE G. HERNANDEZ

18-6526 IN RE MASAO YONAMINE

18-6630 IN RE TAQUAN GULLETT

18-6652 LOWE, MICHAEL C. V. ROY, COMM'R, MN DOC

18-6743 KULICK, ROBERT J. V. LEISURE VILLAGE ASSN., INC.

The petitions for rehearing are denied.

18-5538 GIESWEIN, SHAWN J. V. UNITED STATES

The petition for rehearing is denied. Justice Kagan and Justice Gorsuch took no part in the consideration or decision of this petition.

18-6003 KAVANDI, DAVID V. TIME WARNER CABLE, INC., ET AL.

The petition for rehearing is denied. The Chief Justice took no part in the consideration or decision of this petition.

ATTORNEY DISCIPLINE

D-3014 IN THE MATTER OF DISBARMENT OF JEFFREY ADAM WERTKIN

Jeffrey Adam Wertkin, of Washington, District of Columbia, having been suspended from the practice of law in this Court by order of April 2, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Jeffrey Adam Wertkin is disbarred from the practice of law in this Court.

D-3028 IN THE MATTER OF DISBARMENT OF STEPHEN HOWARD SACKS

Stephen Howard Sacks, of Baltimore, Maryland, having been suspended from the practice of law in this Court by order of

April 16, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Stephen Howard Sacks is disbarred from the practice of law in this Court.

D-3029 IN THE MATTER OF DISBARMENT OF NATHANIEL H. SPEIGHTS, III

Nathaniel H. Speights, III of Washington, District of Columbia, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Nathaniel H. Speights, III is disbarred from the practice of law in this Court.

D-3031 IN THE MATTER OF DISBARMENT OF RICHARD ALLEN ROBERTS

Richard Allen Roberts, of White Plains, New York, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Richard Allen Roberts is disbarred from the practice of law in this Court.

D-3032 IN THE MATTER OF DISBARMENT OF ROGER N. POWELL

Roger N. Powell, of Reisterstown, Maryland, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Roger N. Powell is disbarred from the practice of law in this Court.

D-3033 IN THE MATTER OF DISBARMENT OF MICHAEL J. CASALE, JR.

Michael J. Casale, Jr., of Montoursville, Pennsylvania, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Michael J. Casale, Jr. is disbarred from the practice of law in this Court.

D-3034 IN THE MATTER OF DISBARMENT OF W. JAMES JONAS, III

W. James Jonas, III of San Antonio, Texas, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that W. James Jonas, III is disbarred from the practice of law in this Court.

D-3037 IN THE MATTER OF DISBARMENT OF JOHN EDWIN COOPER

John Edwin Cooper, of Erie, Pennsylvania, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that John Edwin Cooper is disbarred from the practice of law in this Court.

D-3038 IN THE MATTER OF DISBARMENT OF THOMAS STEPHEN HICKS

Thomas Stephen Hicks, of Snow Camp, North Carolina, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Thomas Stephen Hicks is disbarred from the practice of law in this Court.

D-3039 IN THE MATTER OF DISBARMENT OF JOHN BERNARD MARCIN

John Bernard Marcin, of Las Vegas, Nevada, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that John Bernard Marcin is disbarred from the practice of law in this Court.

D-3040 IN THE MATTER OF DISBARMENT OF DAVID BEN MANDELBAUM

David Ben Mandelbaum, of Overland Park, Kansas, having been suspended from the practice of law in this Court by order of October 29, 2018; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that David Ben Mandelbaum is disbarred from the practice of law in this Court.

Per Curiam

SUPREME COURT OF THE UNITED STATES

BOBBY JAMES MOORE *v.* TEXAS

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF TEXAS

No. 18–443. Decided February 19, 2019

PER CURIAM.

In 2015, the Texas Court of Criminal Appeals held that petitioner, Bobby James Moore, did *not* have intellectual disability and consequently was eligible for the death penalty. *Ex parte Moore*, 470 S. W. 3d 481, 527–528 (*Ex parte Moore I*). We previously considered the lawfulness of that determination, vacated the appeals court's decision, and remanded the case for further consideration of the issue. *Moore* v. *Texas*, 581 U. S. ___, ___ (2017) (slip op., at 18). The appeals court subsequently reconsidered the matter but reached the same conclusion. *Ex parte Moore*, 548 S. W. 3d 552, 573 (Tex. Crim. App. 2018) (*Ex parte Moore II*). We again review its decision, and we reverse its determination.

I

When we first heard this case, in *Moore*, we noted that the state trial court (a state habeas court) "received affidavits and heard testimony from Moore's family members, former counsel, and a number of court-appointed mental-health experts." 581 U. S., at ___ (slip op., at 3). We described the evidence as "reveal[ing]" the following:

> "Moore had significant mental and social difficulties beginning at an early age. At 13, Moore lacked basic understanding of the days of the week, the months of the year, and the seasons; he could scarcely tell time or comprehend the standards of measure or the basic principle that subtraction is the reverse of addition. At school, because of his limited ability to read and

> write, Moore could not keep up with lessons. Often, he was separated from the rest of the class and told to draw pictures. Moore's father, teachers, and peers called him 'stupid' for his slow reading and speech. After failing every subject in the ninth grade, Moore dropped out of high school. Cast out of his home, he survived on the streets, eating from trash cans, even after two bouts of food poisoning." *Ibid.* (citations omitted).

On the basis of this and other evidence, the trial court found that Moore had intellectual disability and thus was ineligible for the death penalty under *Atkins* v. *Virginia*, 536 U. S. 304 (2002). App. to Pet. for Cert. 310a–311a. The Texas Court of Criminal Appeals reversed that determination, *Ex parte Moore I*, 470 S. W. 3d 481, and we reviewed its decision, *Moore*, 581 U. S. ___.

At the outset of our opinion, we recognized as valid the three underlying legal criteria that both the trial court and appeals court had applied. *Id.*, at ___–___ (slip op., at 3–4) (citing American Association on Intellectual and Developmental Disabilities, Intellectual Disability: Definition, Classification, and Systems of Supports (11th ed. 2010) (AAIDD–11); American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (5th ed. 2013) (DSM–5)). To make a finding of intellectual disability, a court must see: (1) deficits in intellectual functioning—primarily a test-related criterion, see DSM–5, at 37; (2) adaptive deficits, "assessed using both clinical evaluation and individualized . . . measures," *ibid.*; and (3) the onset of these deficits while the defendant was still a minor, *id.*, at 38. With respect to the first criterion, we wrote that Moore's intellectual testing indicated his was a borderline case, but that he had demonstrated sufficient intellectual-functioning deficits to require consideration of the second criterion—adaptive functioning. *Moore*, 581

U. S., at ___–___ (slip op., at 10–12). With respect to the third criterion, we found general agreement that any onset took place when Moore was a minor. *Id.*, at ___, n. 3 (slip op., at 4, n. 3).

But there was significant disagreement between the state courts about whether Moore had the adaptive deficits needed for intellectual disability. "In determining the significance of adaptive deficits, clinicians look to whether an individual's adaptive performance falls two or more standard deviations below the mean in any of the three adaptive skill sets (conceptual, social, and practical)." *Id.*, at ___ (slip op., at 4) (citing AAIDD–11, at 43). Based on the evidence before it, the trial court found that "Moore's performance fell roughly two standard deviations below the mean in *all three* skill categories." 581 U. S., at ___ (slip op., at 4); see App. to Pet. for Cert. 309a. Reversing that decision, the appeals court held that Moore had "not proven by a preponderance of the evidence" that he possessed the requisite adaptive deficits, and thus was eligible for the death penalty. *Ex parte Moore I*, 470 S. W. 3d, at 520. We disagreed with the appeals court's adaptive-functioning analysis, however, and identified at least five errors.

First, the Texas Court of Criminal Appeals "overemphasized Moore's perceived adaptive strengths." *Moore*, 581 U. S., at ___ (slip op., at 12). "But the medical community," we said, "focuses the adaptive-functioning inquiry on adaptive *deficits*." *Ibid.*

Second, the appeals court "stressed Moore's improved behavior in prison." *Id.*, at ___ (slip op., at 13). But "[c]linicians . . . caution against reliance on adaptive strengths developed 'in a controlled setting,' as a prison surely is." *Ibid.* (quoting DSM–5, at 38).

Third, the appeals court "concluded that Moore's record of academic failure, . . . childhood abuse[,] and suffering . . . detracted from a determination that his intellectual

and adaptive deficits were related." 581 U. S., at ___ (slip op., at 13). But "in the medical community," those "traumatic experiences" are considered "'*risk factors*' *for* intellectual disability." *Ibid.* (quoting AAIDD–11, at 59–60).

Fourth, the Texas Court of Criminal Appeals required "Moore to show that his adaptive deficits were not related to 'a personality disorder.'" 581 U. S., at ___ (slip op., at 14) (quoting *Ex parte Moore I*, 470 S. W. 3d, at 488). But clinicians recognize that the "existence of a personality disorder or mental-health issue . . . is 'not evidence that a person does not also have intellectual disability.'" 581 U. S., at ___ (slip op., at 14) (quoting Brief for American Psychological Association et al. as *Amici Curiae* in *Moore* v. *Texas*, O. T. 2016, No. 15–797, p. 19).

Fifth, the appeals court directed state courts, when examining adaptive deficits, to rely upon certain factors set forth in a Texas case called *Ex parte Briseno*, 135 S. W. 3d 1 (Tex. Crim. App. 2004). *Ex parte Moore I*, 470 S. W. 3d, at 486, 489. The *Briseno* factors were: whether "those who knew the person best during the developmental stage" thought of him as "mentally retarded"; whether he could "formulat[e] plans" and "car[ry] them through"; whether his conduct showed "leadership"; whether he showed a "rational and appropriate" "response to external stimuli"; whether he could answer questions "coherently" and "rationally"; whether he could "hide facts or lie effectively"; and whether the commission of his offense required "forethought, planning, and complex execution of purpose." 135 S. W. 3d, at 8–9.

We criticized the use of these factors both because they had no grounding in prevailing medical practice, and because they invited "lay perceptions of intellectual disability" and "lay stereotypes" to guide assessment of intellectual disability. *Moore*, 581 U. S., at ___ (slip op., at 15). Emphasizing the *Briseno* factors over clinical factors, we said, "'creat[es] an unacceptable risk that persons with

intellectual disability will be executed.'" 581 U. S., at ___ (slip op., at 14) (quoting *Hall* v. *Florida*, 572 U. S. 701, 704 (2014)). While our decisions in "*Atkins* and *Hall* left to the States 'the task of developing appropriate ways to enforce' the restriction on executing the intellectually disabled," 581 U. S., at ___ (slip op., at 9) (quoting *Hall*, 572 U. S., at 719), a court's intellectual disability determination "must be 'informed by the medical community's diagnostic framework,'" 581 U. S., at ___ (slip op., at 9) (quoting *Hall*, 572 U. S., at 721).

Three Members of this Court dissented from the majority's treatment of Moore's intellectual functioning and with aspects of its adaptive-functioning analysis, but all agreed about the impropriety of the *Briseno* factors. As THE CHIEF JUSTICE wrote in his dissenting opinion, the *Briseno* factors were "an unacceptable method of enforcing the guarantee of *Atkins*" and the Texas Court of Criminal Appeals "therefore erred in using them to analyze adaptive deficits." *Moore*, 581 U. S., at ___ (opinion of ROBERTS, C. J.) (slip op., at 1).

For the reasons we have described, the Court set aside the judgment of the appeals court and remanded the case "for further proceedings not inconsistent with this opinion." *Id.*, at ___ (slip op., at 18).

II

On remand the Texas Court of Criminal Appeals reconsidered the appeal and reached the same basic conclusion, namely, that Moore had not demonstrated intellectual disability. *Ex parte Moore II*, 548 S. W. 3d, at 555. The court again noted the three basic criteria: intellectual-functioning deficits, adaptive deficits, and early onset. *Id.*, at 560–562. But this time it focused almost exclusively on the second criterion, adaptive deficits. The court said that, in doing so, it would "abandon reliance on the *Briseno* evidentiary factors." *Id.*, at 560. It would instead

use "'current medical diagnostic standards'" set forth in the American Psychiatric Association's DSM–5. *Id.*, at 559–560. In applying those standards to the trial court record, it found the State's expert witness, Dr. Kristi Compton, "'far more credible and reliable'" than the other experts considered by the trial court. *Id.*, at 562. (As in our last opinion, we neither second nor second-guess that judgment.) And, as we have said, it reached the same conclusion it had before.

Moore has now filed a petition for certiorari in which he argues that the trial court record demonstrates his intellectual disability. He asks us to reverse the appeals court's contrary holding. Pet. for Cert. 2. The prosecutor, the district attorney of Harris County, "agrees with the petitioner that he is intellectually disabled and cannot be executed." Brief in Opposition 9. The American Psychological Association (APA), American Bar Association (ABA), and various individuals have also filed *amicus curiae* briefs supporting the position of Moore and the prosecutor. Brief for APA et al. as *Amici Curiae*; Brief for ABA as *Amicus Curiae*; Brief for Donald B. Ayer et al. as *Amici Curiae*. The Attorney General of Texas, however, has filed a motion for leave to intervene, and asks us to deny Moore's petition. Motion for Leave to Intervene as a Respondent.

III

After reviewing the trial court record and the court of appeals' opinion, we agree with Moore that the appeals court's determination is inconsistent with our opinion in *Moore*. We have found in its opinion too many instances in which, with small variations, it repeats the analysis we previously found wanting, and these same parts are critical to its ultimate conclusion.

For one thing, the court of appeals again relied less upon the adaptive *deficits* to which the trial court had

referred than upon Moore's apparent adaptive *strengths*. See *Moore*, 581 U. S., at ___ (slip op., at 12) (criticizing the appeals court's "overemphas[is]" upon Moore's "perceived adaptive strengths"); *supra*, at 3. The appeals court's discussion of Moore's "[c]ommunication [s]kills" does not discuss the evidence relied upon by the trial court. *Ex parte Moore II*, 548 S. W. 3d, at 563–565. That evidence includes the young Moore's inability to understand and answer family members, even a failure on occasion to respond to his own name. App. to Pet. for Cert. 289a–290a. Its review of Moore's "[r]eading and [w]riting" refers to deficits only in observing that "in prison, [Moore] progressed from being illiterate to being able to write at a seventh-grade level." *Ex parte Moore II*, 548 S. W. 3d, at 565. But the trial court heard, among other things, evidence that in school Moore was made to draw pictures when other children were reading, and that by sixth grade Moore struggled to read at a second-grade level. App. to Pet. for Cert. 290a, 295a.

Instead, the appeals court emphasized Moore's capacity to communicate, read, and write based in part on *pro se* papers Moore filed in court. *Ex parte Moore II*, 548 S. W. 3d, at 565–566. That evidence is relevant, but it lacks convincing strength without a determination about whether Moore wrote the papers on his own, a finding that the court of appeals declined to make. Rather, the court dismissed the possibility of outside help: Even if other inmates "composed" these papers, it said, Moore's "ability to copy such documents by hand" was "within the realm of only a few intellectually disabled people." *Id.*, at 565. Similarly, the court of appeals stressed Moore's "coherent" testimony in various proceedings, but acknowledged that Moore had "a lawyer to coach him" in all but one. *Id.*, at 564, and n. 95. As for that *pro se* hearing, the court observed that Moore read letters into the record "without any apparent difficulty." *Ibid.*

For another thing, the court of appeals relied heavily upon adaptive improvements made in prison. See *Moore*, 581 U. S., at ___ (slip op., at 13) ("caution[ing] against reliance on adaptive strengths developed" in "prison"); *supra*, at 3. It concluded that Moore has command of elementary math, but its examples concern trips to the prison commissary, commissary purchases, and the like. *Ex parte Moore II*, 548 S. W. 3d, at 566–569. It determined that Moore had shown leadership ability in prison by refusing, on occasion, "to mop up some spilled oatmeal," shave, get a haircut, or sit down. *Id.*, at 570–571, and n. 149. And as we have said, it stressed correspondence written in prison. *Id.*, at 565. The length and detail of the court's discussion on these points is difficult to square with our caution against relying on prison-based development.

Further, the court of appeals concluded that Moore failed to show that the "cause of [his] deficient social behavior was related to any deficits in general mental abilities" rather than "emotional problems." *Id.*, at 570. But in our last review, we said that the court of appeals had "departed from clinical practice" when it required Moore to prove that his "problems in kindergarten" stemmed from his intellectual disability, rather than "'emotional problems.'" *Moore*, 581 U. S., at ___ (slip op., at 14) (quoting *Ex parte Moore I*, 470 S. W. 3d, at 488, 526)). And we pointed to an *amicus* brief in which the APA explained that a personality disorder or mental-health issue is "not evidence that a person does not also have intellectual disability." 581 U. S., at ___ (slip op., at 14) (quoting Brief for APA et al. as *Amici Curiae* in No. 15–797, at 19).

Finally, despite the court of appeals' statement that it would "abandon reliance on the *Briseno* evidentiary factors," *Ex parte Moore II*, 548 S. W. 3d, at 560, it seems to have used many of those factors in reaching its conclusion. See *supra*, at 4 (detailing those factors). Thus, *Briseno*

asked whether the "offense require[d] forethought, planning, and complex execution of purpose." 135 S. W. 3d, at 9. The court of appeals wrote that Moore's crime required "a level of planning and forethought." *Ex parte Moore II*, 548 S. W. 3d, at 572, 603 (observing that Moore "w[ore] a wig, conceal[ed] the weapon, and fle[d]" after the crime).

Briseno asked whether the defendant could "respond coherently, rationally, and on point to oral and written questions." 135 S. W. 3d, at 8. The court of appeals found that Moore "responded rationally and coherently to questions." *Ex parte Moore II*, 548 S. W. 3d, at 564.

And *Briseno* asked whether the defendant's "conduct show[s] leadership or . . . that he is led around by others." 135 S. W. 3d, at 8. The court of appeals wrote that Moore's "refus[al] to mop up some spilled oatmeal" (and other such behavior) showed that he "influences others and stands up to authority." *Ex parte Moore II*, 548 S. W. 3d, at 570–571.

Of course, clinicians also ask questions to which the court of appeals' statements might be relevant. See AAIDD–11, at 44 (noting that how a person "follows rules" and "obeys laws" can bear on assessment of her social skills). But the similarity of language and content between *Briseno*'s factors and the court of appeals' statements suggests that *Briseno* continues to "pervasively infec[t] the [the appeals courts'] analysis." *Moore*, 581 U. S., at ___ (slip op., at 18).

To be sure, the court of appeals opinion is not identical to the opinion we considered in *Moore*. There are sentences here and there suggesting other modes of analysis consistent with what we said. But there are also sentences here and there suggesting reliance upon what we earlier called "lay stereotypes of the intellectually disabled." *Id.*, at ___ (slip op., at 15). Compare *Ex parte Moore II*, 548 S. W. 3d, at 570–571 (finding evidence that Moore "had a girlfriend" and a job as tending to show he lacks intellec-

tual disability), with AAIDD–11, at 151 (criticizing the "incorrect stereotypes" that persons with intellectual disability "never have friends, jobs, spouses, or children"), and Brief for APA et al. as *Amici Curiae* 8 ("[I]t is estimated that between nine and forty percent of persons with intellectual disability have some form of paid employment").

We conclude that the appeals court's opinion, when taken as a whole and when read in the light both of our prior opinion and the trial court record, rests upon analysis too much of which too closely resembles what we previously found improper. And extricating that analysis from the opinion leaves too little that might warrant reaching a different conclusion than did the trial court. We consequently agree with Moore and the prosecutor that, on the basis of the trial court record, Moore has shown he is a person with intellectual disability.

* * *

The petition for certiorari is granted. The Attorney General of Texas' motion to intervene is denied; we have considered that filing as an *amicus* brief. The judgment of the Texas Court of Criminal Appeals is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

BOBBY JAMES MOORE *v.* TEXAS

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF TEXAS

No. 18–443. Decided February 19, 2019

CHIEF JUSTICE ROBERTS, concurring.

When this case was before us two years ago, I wrote in dissent that the majority's articulation of how courts should enforce the requirements of *Atkins* v. *Virginia*, 536 U. S. 304 (2002), lacked clarity. *Moore* v. *Texas*, 581 U. S. ___, ___–___ (2017) (slip op., at 10–11). It still does. But putting aside the difficulties of applying *Moore* in other cases, it is easy to see that the Texas Court of Criminal Appeals misapplied it here. On remand, the court repeated the same errors that this Court previously condemned—if not quite *in haec verba*, certainly in substance. The court repeated its improper reliance on the factors articulated in *Ex parte Briseno*, 135 S. W. 3d 1, 8 (Tex. Crim. App. 2004), and again emphasized Moore's adaptive strengths rather than his deficits. That did not pass muster under this Court's analysis last time. It still doesn't. For those reasons, I join the Court's opinion reversing the judgment below.

SUPREME COURT OF THE UNITED STATES

BOBBY JAMES MOORE *v.* TEXAS

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF TEXAS

No. 18–443. Decided February 19, 2019

JUSTICE ALITO, with whom JUSTICE THOMAS and JUSTICE GORSUCH join, dissenting.

Two years ago, this Court vacated a judgment of the Texas Court of Criminal Appeals holding that Bobby James Moore was not intellectually disabled and was therefore eligible for the death penalty. *Moore* v. *Texas*, 581 U. S. ___ (2017). While the Court divided on the appropriate disposition, both the majority and the dissent agreed that the Court of Criminal Appeals should have assessed Moore's claim of intellectual disability under contemporary standards rather than applying the outdated evidentiary factors laid out in *Ex parte Briseno*, 135 S. W. 3d 1, 8 (Tex. Crim. App. 2004). *Moore*, 581 U. S., at ___ (slip op., at 2); *id.*, at ___ (ROBERTS, C. J., dissenting) (slip op., at 1). On remand, the Court of Criminal Appeals adopted the leading contemporary clinical standards for assessing intellectual disability, applied those standards to the record, and once again determined that Moore is eligible for the death penalty. *Ex parte Moore*, 548 S. W. 3d 552, 555 (2018).

Today, the Court reverses that most recent decision, holding that the Court of Criminal Appeals failed to follow our decision in *Moore*. Such a failure would be understandable given the "lack of guidance [*Moore*] offers to States seeking to enforce the holding of *Atkins*." *Moore*, 581 U. S., at ___ (ROBERTS, C. J., dissenting) (slip op., at 10). Indeed, each of the errors that the majority ascribes to the state court's decision is traceable to *Moore*'s failure to provide a clear rule. For example, the majority faults

the Court of Criminal Appeals for "rel[ying] less upon the adaptive *deficits* . . . than upon Moore's apparent adaptive *strengths*," *ante*, at 6–7, and for "rel[ying] heavily upon adaptive improvements made in prison," *ante*, at 8. But in *Moore*, we said only that a court ought not "overemphasiz[e]" adaptive strengths or place too much "stres[s]" on improved behavior in prison. This left "the line between the permissible—consideration, maybe even emphasis—and the forbidden—'overemphasis'—. . . not only thin, but totally undefined . . . ." *Moore*, 581 U. S., at ___ (ROBERTS, C. J., dissenting) (slip op., at 11). The majority's belief that the state court failed to follow *Moore* on remand merely proves that "[n]either the Court's articulation of this standard [in *Moore*] nor its application sheds any light on what it means." *Id.*, at ___ (ROBERTS, C. J., dissenting) (slip op., at 10).

Having concluded that the Court of Criminal Appeals failed to apply the standard allegedly set out in *Moore*, the Court today takes it upon itself to correct these factual findings and reverse the judgment.* This is not our role. "We do not grant a certiorari to review evidence and discuss specific facts." *United States* v. *Johnston*, 268 U. S. 220, 227 (1925); see also *Salazar-Limon* v. *Houston*, 581 U. S. ___, ___ (2017) (ALITO, J., concurring in denial of certiorari) (slip op., at 2) ("[W]e rarely grant review where the thrust of the claim is that a lower court simply erred in applying a settled rule of law to the facts of a particular case"). If the Court is convinced that the Court of Criminal Appeals made a legal error, it should vacate the judg-

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*The Court excuses its usurpation of the factfinding role by contrasting the conclusions of "the trial court," *ante*, at 6–7, 10, with the views of "the court of appeals," *ante*, at 7–9. But in Texas habeas proceedings, the Texas Court of Criminal Appeals is "the ultimate factfinder" and has authority to accept, alter, or reject the "recommendation" of the habeas court. *Ex parte Reed*, 271 S. W. 3d 698, 727 (2008).

ment below, pronounce the standard that we failed to provide in *Moore*, and remand for the state court to apply that standard. The Court's decision, instead, to issue a summary reversal belies our role as "a court of review, not of first view." *Cutter* v. *Wilkinson*, 544 U. S. 709, 718, n. 7 (2005).

The Court's foray into factfinding is an unsound departure from our usual practice. The error in this litigation was not the state court's decision on remand but our own failure to provide a coherent rule of decision in *Moore*. I would deny the petition for a writ of certiorari. I certainly would not summarily reverse and make our own finding of fact without even giving the State the opportunity to brief and argue the question. I therefore respectfully dissent.

SUPREME COURT OF THE UNITED STATES

AARON J. SCHOCK *v.* UNITED STATES

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

No. 18–406. Decided February 19, 2019

The petition for a writ of certiorari is denied.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

Petitioner Aaron Schock, a former Congressman from Illinois, asks us to decide whether he may immediately appeal, as a collateral order, the denial of his motion to dismiss part of a criminal indictment against him for running afoul of the Constitution's Rulemaking Clause. See Art. I, §5. He argues that certain charges against him would require the District Court for the Central District of Illinois to interpret internal rules adopted by the House of Representatives to govern its own Members, and thus would violate separation-of-powers doctrine. The Court of Appeals for the Seventh Circuit held that denials of such Rulemaking Clause challenges are not collateral orders subject to immediate appeal, 891 F. 3d 334 (2018), in disagreement with at least one other Court of Appeals, see *United States* v. *Rostenkowski*, 59 F. 3d 1291, 1297 (CADC 1995). Although this question does not arise frequently—presumably because criminal charges against Members of Congress are rare—the sensitive separation-of-powers questions that such prosecutions raise ought to be handled uniformly.

It is not clear, however, that this case cleanly presents the question whether such orders are, as a general matter, immediately appealable. The District Court here denied the motion to dismiss on Rulemaking Clause grounds only provisionally, stating that it would revisit the matter "if at

any time it becomes apparent that the prosecution will rely upon evidence that requires the interpretation of House Rules." 2017 WL 4780614, *7, and n. 6 (CD Ill., Oct. 23, 2017). Indeed, the District Court dismissed the only count of the indictment that did, in its view, necessarily turn on an interpretation of the House Rules. *Id.,* at *8–*11. As a result, the District Court's order may have been insufficiently "conclusive" to support collateral-order appellate jurisdiction, whether or not such jurisdiction would otherwise have been proper. See *Swint* v. *Chambers County Comm'n*, 514 U. S. 35, 42 (1995). The Court of Appeals did not address that alternative ground for affirmance, the presence of which might complicate our review.

I therefore concur in the Court's decision to deny certiorari. I do so on the understanding, however, that Schock remains free to reassert his Rulemaking Clause challenge in the District Court should subsequent developments warrant.*

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*In its briefing to the Court of Appeals, the Government argued that the House regulations were, in fact, "'necessary'" and "important" to prove other charges still pending. Brief for Appellee in No. 17–3277 (CA7), p. 55. Those representations may be pertinent to the District Court's further consideration of Schock's arguments.

SUPREME COURT OF THE UNITED STATES

KATHRINE MAE MCKEE *v.* WILLIAM H. COSBY, JR.

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

No. 17–1542 Decided February 19, 2019

The petition for a writ of certiorari is denied.

JUSTICE THOMAS, concurring in the denial of certiorari.

In December 2014, petitioner Kathrine McKee publicly accused actor and comedian Bill Cosby of forcibly raping her some 40 years earlier. McKee contends that Cosby's attorney responded on his behalf by writing and leaking a defamatory letter. According to McKee, the letter deliberately distorts her personal background to "damage her reputation for truthfulness and honesty, and further to embarrass, harass, humiliate, intimidate, and shame" her. App. to Pet. for Cert. 93a. She alleges that excerpts of the letter were disseminated via the Internet and published by news outlets around the world.

McKee filed suit in federal court for defamation under state law, but her case was dismissed. Applying *New York Times Co.* v. *Sullivan*, 376 U. S. 254 (1964), and its progeny, the Court of Appeals concluded that, by disclosing her accusation to a reporter, McKee had "'thrust' herself to the 'forefront'" of the public controversy over "sexual assault allegations implicating Cosby" and was therefore a "limited-purpose public figure." 874 F. 3d 54, 61–62 (CA1 2017) (citing *Gertz* v. *Robert Welch*, *Inc.*, 418 U. S. 323, 345 (1974)). Under this Court's First Amendment precedents, public figures are barred from recovering damages for defamation unless they can show that the statement at issue was made with "'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not." *New York Times*, *supra*, at

280. Like many plaintiffs subject to this "almost impossible" standard, McKee was unable to make that showing. See *Dun & Bradstreet, Inc.* v. *Greenmoss Builders, Inc.*, 472 U. S. 749, 771 (1985) (White, J., concurring in judgment).

McKee asks us to review her classification as a limited-purpose public figure. I agree with the Court's decision not to take up that factbound question. I write to explain why, in an appropriate case, we should reconsider the precedents that require courts to ask it in the first place.

New York Times and the Court's decisions extending it were policy-driven decisions masquerading as constitutional law. Instead of simply applying the First Amendment as it was understood by the people who ratified it, the Court fashioned its own "'federal rule[s]'" by balancing the "competing values at stake in defamation suits." *Gertz*, *supra*, at 334, 348 (quoting *New York Times*, *supra*, at 279).

We should not continue to reflexively apply this policy-driven approach to the Constitution. Instead, we should carefully examine the original meaning of the First and Fourteenth Amendments. If the Constitution does not require public figures to satisfy an actual-malice standard in state-law defamation suits, then neither should we.

I

From the founding of the Nation until 1964, the law of defamation was "almost exclusively the business of state courts and legislatures." *Gertz*, *supra*, at 369–370 (White, J., dissenting). But beginning with *New York Times*, the Court "federalized major aspects of libel law by declaring unconstitutional in important respects the prevailing defamation law in all or most of the 50 States." *Gertz*, *supra*, at 370. These decisions made little effort to ground their holdings in the original meaning of the Constitution.

A

New York Times involved a full-page advertisement soliciting support for the civil-rights movement and the legal defense of Dr. Martin Luther King, Jr. 376 U. S., at 256–257. The advertisement asserted that the movement was facing an "'unprecedented wave of terror by those who would deny and negate'" the protections of the Constitution. *Id.*, at 256. As an example, the advertisement claimed that "'truckloads of police'" in Montgomery, Alabama, "'armed with shotguns and tear-gas,'" had surrounded a college campus following a student demonstration. *Id.*, at 257. It further claimed that "'[w]hen the entire student body protested to state authorities by refusing to re-register, their dining hall was padlocked in an attempt to starve them into submission.'" *Ibid.* The advertisement also stated that "'the Southern violators'" had "'answered Dr. King's peaceful protests with intimidation and violence,'" "'bombed his home almost killing his wife and child,'" "'assaulted his person,'" "'arrested him seven times,'" and "'charged him with "perjury."'" *Id.*, at 257–258.

The Times made no independent effort to confirm the truth of these claims, and they contained numerous inaccuracies. *Id.*, at 261.[1] The Times eventually retracted the advertisement. *Ibid.*

L. B. Sullivan served as Montgomery's commissioner of public affairs when the advertisement was published. *Id.*, at 256. Although none of the "Southern violators" was identified in the advertisement, Sullivan filed a libel suit

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[1] For example, the police did not "at any time" surround the campus when deployed near it; the dining hall "was not padlocked on any occasion"; the student protesters had not "refus[ed] to register" but rather "boycott[ed] classes on a single day"; "Dr. King had not been arrested seven times, but only four"; and the police "were not only not implicated in the bombings, but had made every effort to apprehend those who were." *New York Times*, 376 U. S., at 259.

alleging that the statements implicating Montgomery police officers were made "'of and concerning'" him because his responsibilities included supervising the police department. *Id.*, at 256, 262. A jury awarded Sullivan $500,000, and the Supreme Court of Alabama affirmed. *Id.*, at 256.

This Court reversed. *Id.*, at 264. It held that the evidence in the record was "incapable of supporting the jury's finding" that the false statements were made about Sullivan, who was not mentioned "by name or official position" in the advertisement. *Id.*, at 288. The advertisement was an "impersonal attack on governmental operations" and could not by "legal alchemy" be transformed into "a libel of an official responsible for those operations." *Id.*, at 292. This holding was sufficient to resolve the case.

But the Court also addressed "the extent to which the constitutional protections for speech and press limit a State's power to award damages in a libel action brought by a public official against critics of his official conduct." *Id.*, at 256. The Court took it upon itself "to define the proper accommodation between" two competing interests—"the law of defamation and the freedoms of speech and press protected by the First Amendment." *Gertz*, 418 U. S., at 325 (majority opinion). It consulted a variety of materials to assist it in its analysis: "general proposition[s]" about the value of free speech and the inevitability of false statements, *New York Times*, 376 U. S., at 269–272, and n. 13; judicial decisions involving criminal contempt and official immunity, *id.*, at 272–273, 282–283; public responses to the Sedition Act of 1798, *id.*, at 273–277; comparisons of civil libel damages to criminal fines, *id.*, at 277–278; policy arguments against "self-censorship," *id.*, at 278–279; the "consensus of scholarly opinion," *id.*, at 280, n. 20; and state defamation laws, *id.*, at 280–282. These materials led the Court to promulgate a "federal rule" that "prohibits a public official from recov-

ering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not." *Id.*, at 279–280. Although the Court held that its newly minted actual-malice rule was "required by the First and Fourteenth Amendments," *id.*, at 283, it made no attempt to base that rule on the original understanding of those provisions.

B

New York Times was "the first major step in what proved to be a seemingly irreversible process of constitutionalizing the entire law of libel and slander." *Dun & Bradstreet*, 472 U. S., at 766 (White, J., concurring in judgment). The Court promptly expanded the actual-malice rule to all defamed "'public figures,'" *Curtis Publishing Co.* v. *Butts*, 388 U. S. 130, 134 (1967), which it defined to include private persons who "thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved," *Gertz*, *supra*, at 345. The Court also extended the actual-malice rule to criminal libel prosecutions, *Garrison* v. *Louisiana*, 379 U. S. 64 (1964), and even restricted the situations in which private figures could recover for defamation against media defendants, *Gertz*, *supra*, at 347, 349; *Philadelphia Newspapers*, *Inc.* v. *Hepps*, 475 U. S. 767 (1986).

None of these decisions made a sustained effort to ground their holdings in the Constitution's original meaning. As the Court itself acknowledged, "the rule enunciated in the *New York Times* case" is "largely a judge-made rule of law," the "content" of which is "given meaning through the evolutionary process of common-law adjudication." *Bose Corp.* v. *Consumers Union of United States*, *Inc.*, 466 U. S. 485, 501–502 (1984). Only Justice White grappled with the historical record, and he concluded that "there

are wholly insufficient grounds for scuttling the libel laws of the States in such wholesale fashion, to say nothing of deprecating the reputation interest of ordinary citizens and rendering them powerless to protect themselves." *Gertz*, *supra*, at 370 (dissenting opinion).

II

The constitutional libel rules adopted by this Court in *New York Times* and its progeny broke sharply from the common law of libel, and there are sound reasons to question whether the First and Fourteenth Amendments displaced this body of common law.

A

The common law of libel at the time the First and Fourteenth Amendments were ratified did not require public figures to satisfy any kind of heightened liability standard as a condition of recovering damages. Typically, a defamed individual needed only to prove "a false written publication that subjected him to hatred, contempt, or ridicule." *Dun & Bradstreet*, *supra*, at 765 (White, J., concurring in judgment); see 4 W. Blackstone, Commentaries *150 (Blackstone); H. Folkard, Starkie on Slander and Libel *156 (H. Wood ed., 4th Eng. ed. 1877) (Starkie). Malice was presumed in the absence of an applicable privilege, right, or duty. *Id.*, at *293–*294. General injury to reputation was also presumed, special damages could be recovered, and punitive damages were available if actual malice was established. *Dun & Bradstreet*, *supra*, at 765 (White, J., concurring in judgment); see Starkie *151, *322–*323; M. Newell, Defamation, Libel and Slander 842–843 (1890) (Newell). Truth was a defense to a civil libel claim. See Starkie *170, *528–*530; 4 Blackstone *150–*151. But where the publication was false, even if the defendant could show that no reputational injury occurred, the prevailing rule was that at least nominal

damages were to be awarded. *Dun & Bradstreet*, *supra*, at 765 (White, J., concurring in judgment) (citing Restatement of Torts §569, Comment *b*, p. 166 (1938)); see Starkie *492; Newell 839.

Libel was also a "common-law crime, and thus criminal in the colonies." *Beauharnais* v. *Illinois*, 343 U. S. 250, 254 (1952); see 4 Blackstone *150–*153. The same principles generally applied, except that truth traditionally was not a defense to libel prosecutions—the crime was intended to punish provocations to a breach of the peace, not the falsity of the statement. See *id*., at *150–*151; Starkie *712–*713. Laws authorizing the criminal prosecution of libel were both widespread and well established at the time of the founding. See *Roth* v. *United States*, 354 U. S. 476, 482, and n. 11 (1957); Newell 28–29 (describing colonial statutes dating back to 1645 and 1701). And they remained so when the Fourteenth Amendment was adopted, although many States by then allowed truth or good motives to serve as a defense to a libel prosecution. *Beauharnais*, *supra*, at 254–255, and n. 4.

Far from increasing a public figure's burden in a defamation action, the common law deemed libels against public figures to be, if anything, *more* serious and injurious than ordinary libels. See 3 Blackstone *124 ("Words also tending to scandalize a magistrate, or person in a public trust, are reputed more highly injurious than when spoken of a private man"); 4 *id.,* at *150 (defining libels as "malicious defamations of any person, *and especially a magistrate*, made public by either printing, writing, signs, or pictures, in order to provoke him to wrath, or expose him to public hatred, contempt, and ridicule" (emphasis added)). Libel of a public official was deemed an offense "'most dangerous to the people, and deserv[ing of] punishment, because the people may be deceived and reject the best citizens to their great injury, and it may be to the loss of their liberties.'" Newell 533 (quoting *Common-*

wealth v. *Clap*, 4 Mass. 163, 169–170 (1808)); accord, *White* v. *Nicholls*, 3 How. 266, 290 (1845).[2]

The common law did afford defendants a privilege to comment on public questions and matters of public interest. Starkie *237–*238. This privilege extended to the "public conduct of a public man," which was a "matter of public interest" that could "be discussed with the fullest freedom" and "made the subject of hostile criticism." *Id.*, at *242. Under this privilege, "criticism may reasonably be applied to a public man in a public capacity which might not be applied to a private individual." *Ibid.* And the privilege extended to the man's character "'so far as it may respect his fitness and qualifications for the office,'" which was in the interest of the people to know. *White*, *supra*, at 290 (quoting *Clap*, *supra*, at 169).

But the purposes underlying this privilege also defined its limits. Thus, the privilege applied only when the facts stated were true. Starkie *238, n. 4; *White*, *supra*, at 290. And the privilege did not afford the publisher an opportunity to defame the officer's private character. Starkie *238; see *id.*, at *242 ("The question for the jury is, whether the writer has transgressed the bounds within which comments upon the character of a public man ought to be confined . . . "); *ibid.* (distinguishing between criticism of public conduct and the "imputation of motives by which

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[2] In England, "[w]ords spoken in derogation of a peer, a judge, or other great officer of the realm" were called *scandalum magnatum* and were "held to be still *more* heinous"; such words could support a claim that "would not be actionable in the case of a common person." 3 Blackstone *123 (emphasis added); Starkie *142–*143. This action, recognized by English statutes dating back to 1275, had fallen into disuse by the 19th century and was not employed in the United States. See *id.,* at *142, n. 1 ("In this country, no distinction as to persons is recognized, and in practice, a person holding a high office is regarded as a target at whom any person may let fly his poisonous words"). Nevertheless, the action of *scandalum magnatum* confirms that the law of defamation historically did not impose a heightened burden on public figures as plaintiffs.

that conduct may be supposed to be actuated"). "One may in good faith publish the truth concerning a public officer, but if he states that which is false and aspersive, he is liable therefor however good his motives may be; and the same is true whether the party defamed be an officer or a candidate for an office, elective or appointive." Newell 533 (footnote omitted).

B

These common-law protections for the "core private righ[t]" of a person's "'uninterrupted enjoyment of . . . his reputation'" formed the backdrop against which the First and Fourteenth Amendments were ratified. Nelson, Adjudication in the Political Branches, 107 Colum. L. Rev. 559, 567 (2007) (quoting 1 Blackstone *129). Before our decision in *New York Times*, we consistently recognized that the First Amendment did not displace the common law of libel. As Justice Story explained,

> "The liberty of speech, or of the press, has nothing to do with this subject. They are not endangered by the punishment of libellous publications. The liberty of speech and the liberty of the press do not authorize malicious and injurious defamation." *Dexter* v. *Spear*, 7 F. Cas. 624 (No. 3,867) (CC RI 1825).

The Court consistently listed libel among the "well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem." *Chaplinsky* v. *New Hampshire*, 315 U. S. 568, 571–572 (1942); see, *e.g.*, *Beauharnais*, *supra*, at 254–256, and nn. 4–5, 266 (libelous utterances are "not . . . within the area of constitutionally protected speech"); *Near* v. *Minnesota ex rel. Olson*, 283 U. S. 697, 715 (1931) ("[T]he common law rules that subject the libeler to responsibility for the public offense, as well as for the private injury, are not abolished by the protection

extended in our constitutions").

New York Times marked a fundamental change in the relationship between the First Amendment and state libel law. Although the Court did not repudiate its earlier statements that libel is constitutionally unprotected, it nevertheless was unable to "accept the generality of this historic view." *Gertz*, 418 U. S., at 386 (White, J., dissenting). The Court instead observed that it had never upheld the use of libel law "to impose sanctions upon expression critical of the official conduct of public officials." *New York Times*, 376 U. S., at 268. In the Court's view, it was "writing upon a clean slate," *id.*, at 299 (Goldberg, J., concurring in result), and thus free to work a "substantial abridgement" of the common law of libel based on its balancing of competing interests, *Gertz*, *supra*, at 343 (majority opinion).

C

There are sound reasons to question whether either the First or Fourteenth Amendment, as originally understood, encompasses an actual-malice standard for public figures or otherwise displaces vast swaths of state defamation law.

The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech, or of the press." See *Schneider* v. *State* (*Town of Irvington*), 308 U. S. 147, 160 (1939) (applying these protections against the States through the Fourteenth Amendment).[3] Justice White's dissenting opinion in *Gertz* provides a helpful starting point in interpreting these terms. Justice White had joined the majority opinion in *New York Times*. But after canvassing historical practice under similar state

[3] By its terms, the First Amendment addresses only "law[s]" "ma[d]e" by "Congress." For present purposes, I set aside the question whether the speech and press rights incorporated against the States restrict common-law rights of action that are not codified by state legislatures.

constitutions, treatises, scholarly commentary, the ratification debates, and our precedent, he concluded that "[s]cant, if any, evidence exists that the First Amendment was intended to abolish the common law of libel, at least to the extent of depriving ordinary citizens of meaningful redress against their defamers." *Gertz*, 418 U. S., at 381; see *id.*, at 380–388. Justice White later expressed "doubts about the soundness of the Court's approach" in *New York Times* "and about some of the assumptions underlying it." *Dun & Bradstreet*, 472 U. S., at 767 (concluding that the Court "struck an improvident balance in the *New York Times* case").

Historical practice further suggests that protections for free speech and a free press—whether embodied in state constitutions, the First Amendment, or the Fourteenth Amendment—did not abrogate the common law of libel. See generally Chase, Criticism of Public Officers and Candidates for Office, 23 Am. L. Rev. 346 (1889) (surveying American defamation decisions). Public officers and public figures continued to be able to bring civil libel suits for unprivileged statements without showing proof of actual malice as a condition for liability. See, *e.g.*, *Root* v. *King*, 7 Cow. 613, 628 (N. Y. 1827) (lieutenant governor); *White*, 3 How., at 291 (customs collector); *Hamilton* v. *Eno*, 81 N. Y. 116, 126 (1880) (assistant health inspector) (citing *Lewis* v. *Few*, 5 Johns. 1 (N. Y. 1809) (Governor)); *Royce* v. *Maloney*, 58 Vt. 437, 447–448, 5 A. 395, 400 (1886) (chief judge and chancellor); *Wheaton* v. *Beecher*, 66 Mich. 307, 309–310, 33 N. W. 503, 505–506 (1887) (candidate for city comptroller); *Prosser* v. *Callis*, 117 Ind. 105, 108–109, 19 N. E. 735, 737 (1889) (county auditor). The States continued to criminalize libel, including of public figures. *E.g.*, *People* v. *Croswell*, 3 Johns. Cas. 337, 377–378, 393–394 (N. Y. 1804) (opinion of Kent, J.), and *id.*, at 403–404, 410 (opinion of Lewis, J.) (President Jefferson); *Clap*, 4 Mass., at 169–170 (auctioneer); see also *Common-*

wealth v. *Blanding*, 20 Mass. 304, 311–314 (1825) (elaborating on legal standard); *Beauharnais*, 343 U. S., at 254–255 (noting that many States in the first decades after the founding began to allow truth or good motives to serve as a defense, but "nowhere was there any suggestion that the crime of libel be abolished"). As of 1952, "every American jurisdiction . . . punish[ed] libels directed at individuals." *Id.*, at 255, and n. 5. And "Congresses, during the period while [the Fourteenth] Amendment was being considered or was but freshly adopted, approved Constitutions of 'Reconstructed' States that expressly mentioned state libel laws, and also approved similar Constitutions for States erected out of the federal domain." *Id.*, at 293–294, and nn. 7–8 (Jackson, J., dissenting). Criticism of the public actions of public figures remained privileged, allowing latitude for public discourse and disagreement on matters of public concern.

As against this body of historical evidence, *New York Times* pointed only to opposition surrounding the Sedition Act of 1798, which prohibited "any false, scandalous and malicious writing" against "the government of the United States, or either house of the Congress . . . , or the President." §2, 1 Stat. 596; see *New York Times*, 376 U. S., at 273–277. Most prominently, the opinion discusses a report written by James Madison in support of the Virginia Resolutions of 1798, which protested the Act. *Id.*, at 274–275. The opinion highlights Madison's view that the press in every State had "'exerted a freedom in canvassing the merits and measures of public men, of every description, which has not been confined to the strict limits of the common law.'" *Id.*, at 275 (quoting 4 Debates on the Federal Constitution 570 (J. Elliot ed. 1876) (Elliot's Debates)). It also emphasizes Madison's point that "'[s]ome degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true than in that of the press.'" 376 U. S., at 271 (quoting 4 Elliot's Debates

571). After discussing other opposition to the Act, the Court concluded that "the attack upon its validity has carried the day in the court of history." 376 U. S., at 276; see *id.*, at 273–277.

The Court gleaned from this evidence a "broad consensus" that the First Amendment protects "criticism of government and public officials." *Id.*, at 276. And the Court further inferred that because the Act allowed truth to be offered as a defense and applied to defamatory statements, a libel law prohibiting only false defamation could still fail First Amendment scrutiny. *Id.*, at 273–274. But constitutional opposition to the Sedition Act—a federal law directly criminalizing criticism of the Government—does not necessarily support a constitutional actual-malice rule in all civil libel actions brought by public figures. Madison did not contend that the Constitution abrogated the common law applicable to these private actions. Instead, he seemed to contemplate that "those who administer [the Federal Government]" retain "a remedy, for their injured reputations, under the same laws, and in the same tribunals, which protect their lives, their liberties, and their properties." 4 Elliot's Debates 573. Moreover, a central assumption of Madison's view was the historical absence of a national common law "pervading and operating through" each colony "as one society." *Id.*, at 561. Yet the Court elevated just such a rule to constitutional status in *New York Times*.

It is certainly true that defamation law did not remain static after the founding. For example, many States acted "by judicial decision, statute or constitution" during the early 19th century to allow truth or good motives to serve as a defense to a libel prosecution. *Beauharnais*, *supra*, at 254–255, and n. 4. Eventually, changing views led to the "virtual disappearance" of criminal libel prosecutions involving individuals. *Garrison*, 379 U. S., at 69. But these changes appear to have reflected changing policy

judgments, not a sense that existing law violated the original meaning of the First or Fourteenth Amendment.

In short, there appears to be little historical evidence suggesting that the *New York Times* actual-malice rule flows from the original understanding of the First or Fourteenth Amendment.

III

Like Justice White, I assume that *New York Times* and our other constitutional decisions displacing state defamation law have been popular in some circles, "but this is not the road to salvation for a court of law." *Gertz*, 418 U. S., at 370 (dissenting opinion). We did not begin meddling in this area until 1964, nearly 175 years after the First Amendment was ratified. The States are perfectly capable of striking an acceptable balance between encouraging robust public discourse and providing a meaningful remedy for reputational harm. We should reconsider our jurisprudence in this area.