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CASES ADJUDGED

IN

# THE SUPREME COURT

AT

OCTOBER TERM, 2015

BEGINNING OF TERM

OCTOBER 5, 2015, THROUGH MARCH 28, 2016

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CHRISTINE LUCHOK FALLON

REPORTER OF DECISIONS

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ERRATUM

487 U. S. 725, line 30: "interefere" should be "interfere".

# JUSTICES

OF THE

# SUPREME COURT

DURING THE TIME OF THESE REPORTS

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JOHN G. ROBERTS, JR., CHIEF JUSTICE.
ANTONIN SCALIA, ASSOCIATE JUSTICE.*
ANTHONY M. KENNEDY, ASSOCIATE JUSTICE.
CLARENCE THOMAS, ASSOCIATE JUSTICE.
RUTH BADER GINSBURG, ASSOCIATE JUSTICE.
STEPHEN BREYER, ASSOCIATE JUSTICE.
SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE.
SONIA SOTOMAYOR, ASSOCIATE JUSTICE.
ELENA KAGAN, ASSOCIATE JUSTICE.

RETIRED

JOHN PAUL STEVENS, ASSOCIATE JUSTICE.
SANDRA DAY O'CONNOR, ASSOCIATE JUSTICE.
DAVID H. SOUTER, ASSOCIATE JUSTICE.

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OFFICERS OF THE COURT

LORETTA E. LYNCH, ATTORNEY GENERAL.
DONALD B. VERRILLI, JR., SOLICITOR GENERAL.
SCOTT S. HARRIS, CLERK.
CHRISTINE LUCHOK FALLON, REPORTER OF DECISIONS.
PAMELA TALKIN, MARSHAL.
LINDA S. MASLOW, LIBRARIAN.

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*JUSTICE SCALIA died in Shafter, Texas, on February 13, 2016. Services were held at the Basilica of the National Shrine of the Immaculate Conception in Washington, D. C., on February 20, 2016, and interment was in Fairfax Memorial Park in Fairfax, Virginia, on the same date. See *post*, p. VII.

# SUPREME COURT OF THE UNITED STATES

## Allotment of Justices

*It is ordered* that the following allotment be made of the Chief Justice and Associate Justices of this Court among the circuits, pursuant to Title 28, United States Code, Section 42, and that such allotment be entered of record, effective September 28, 2010, viz.:

For the District of Columbia Circuit, John G. Roberts, Jr., Chief Justice.

For the First Circuit, Stephen Breyer, Associate Justice.

For the Second Circuit, Ruth Bader Ginsburg, Associate Justice.

For the Third Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Fourth Circuit, John G. Roberts, Jr., Chief Justice.

For the Fifth Circuit, Antonin Scalia, Associate Justice.

For the Sixth Circuit, Elena Kagan, Associate Justice.

For the Seventh Circuit, Elena Kagan, Associate Justice.

For the Eighth Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Ninth Circuit, Anthony M. Kennedy, Associate Justice.

For the Tenth Circuit, Sonia Sotomayor, Associate Justice.

For the Eleventh Circuit, Clarence Thomas, Associate Justice.

For the Federal Circuit, John G. Roberts, Jr., Chief Justice.

September 28, 2010.

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(For next previous allotment, see 561 U. S., p. vi.)
(For next subsequent allotment, see *post*, p. v.)

# SUPREME COURT OF THE UNITED STATES

## Allotment of Justices

*It is ordered* that the following allotment be made of the Chief Justice and Associate Justices of this Court among the circuits, pursuant to Title 28, United States Code, Section 42, and that such allotment be entered of record, effective February 25, 2016, viz.:

For the District of Columbia Circuit, John G. Roberts, Jr., Chief Justice.

For the First Circuit, Stephen Breyer, Associate Justice.

For the Second Circuit, Ruth Bader Ginsburg, Associate Justice.

For the Third Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Fourth Circuit, John G. Roberts, Jr., Chief Justice.

For the Fifth Circuit, Clarence Thomas, Associate Justice.

For the Sixth Circuit, Elena Kagan, Associate Justice.

For the Seventh Circuit, Elena Kagan, Associate Justice.

For the Eighth Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Ninth Circuit, Anthony M. Kennedy, Associate Justice.

For the Tenth Circuit, Sonia Sotomayor, Associate Justice.

For the Eleventh Circuit, Clarence Thomas, Associate Justice.

For the Federal Circuit, John G. Roberts, Jr., Chief Justice.

February 25, 2016.

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(For next previous allotment, see *ante*, p. iv.)

# DEATH OF JUSTICE SCALIA

## Supreme Court of the United States

FEBRUARY, 22, 2016

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Present: Chief Justice Roberts, Justice Kennedy, Justice Thomas, Justice Ginsburg, Justice Breyer, Justice Alito, Justice Sotomayor, and Justice Kagan.

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The Chief Justice said:

The memorial drapery on the bench and chair beside me signifies mourning for a Justice who has died in active service on the Court. Today, it marks the loss of our friend and colleague, Antonin Scalia, who died unexpectedly on February 13, 2016.

Justice Scalia was born in Trenton, New Jersey, on March 11, 1936, to parents of Italian descent. He attended public grade school in Queens, New York, and then a Jesuit military school in Manhattan, graduating first in his class. He enrolled at Georgetown University, graduating summa cum laude and as valedictorian in 1957. He next attended Harvard Law School, graduating magna cum laude in 1960.

While at Harvard, he met Maureen McCarthy, and they married in 1960. Their devoted union produced nine beloved children: Ann Forrest; Eugene; John Francis; Catherine Elisabeth; Mary Clare; Paul David; Matthew; Christopher James; and Margaret Jane.

After graduating from law school, Justice Scalia embarked on a career in private practice in Cleveland, Ohio, but his love of knowledge drew him to academia. In 1967, he received an appointment to the faculty of the University of

Virginia Law School. After four years of teaching and writing, he entered public service as General Counsel of the White House Office of Telecommunications Policy, at the dawn of the cable television age. He later served as Chairman of the Administrative Conference of the United States, and as Assistant Attorney General for the Office of Legal Counsel at the Department of Justice. In 1976, during his tenure at the Justice Department, Justice Scalia argued his first and only Supreme Court case. He prevailed, establishing a perfect record before the Court.

Justice Scalia returned to teaching as Professor of Law at the University of Chicago Law School. In 1982, President Reagan appointed him to the United States Court of Appeals for the District of Columbia Circuit. On June 24, 1986, President Reagan nominated him to this Court. Justice Scalia took his seat on September 26 of that year, becoming the 103d Justice to serve on this Court.

Justice Scalia devoted nearly 30 years of his life to this Court in service to the country he so loved. He authored 292 majority opinions for the Court. He was also known, on occasion, to dissent. We remember his incisive intellect, his agile wit, and his captivating prose. But we cannot forget his irrepressible *spirit*. He was our man for all seasons, and we shall miss him beyond measure. We extend our condolences to his wife Maureen, his children, and the entire Scalia family.

At an appropriate time, the traditional memorial service of the Court and the bar will be held in this courtroom.

And now we turn to the business of the Court.

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# CASES ADJUDGED

IN THE

# SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 2015

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## MARYLAND *v.* KULBICKI

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

No. 14–848. Decided October 5, 2015

At respondent Kulbicki's 1995 murder trial, the State of Maryland's ballistics expert testified, based on Comparative Bullet Lead Analysis (CBLA), that bullet fragments from the crime scene were similar in composition to a fragment found in Kulbicki's truck and a bullet found in his gun. The jury convicted Kulbicki of first-degree murder. Years later, after CBLA was discredited and abandoned as a mode of ballistics analysis, Kulbicki argued on state postconviction review that his trial attorneys were ineffective because they had not questioned CBLA's legitimacy. The Court of Appeals of Maryland held that trial counsel's failure to discover a 1991 report coauthored by the State's expert witness, to identify a methodological flaw contained therein, and to use that flaw to cast doubt on CBLA during cross-examination, amounted to deficient performance. Concluding further that counsel's deficiency was prejudicial, the court set aside Kulbicki's conviction and ordered a new trial.

*Held*: Kulbicki's trial attorneys were not constitutionally ineffective. Under the "rule of contemporary assessment of counsel's conduct," *Lockhart* v. *Fretwell*, 506 U. S. 364, 372, the Maryland Court of Appeals should have "judge[d] the reasonableness of counsel's challenged conduct . . . viewed as of the time of counsel's conduct," *Strickland* v. *Washington*, 466 U. S. 668, 690. Had it done so, it would have acknowledged

that counsel's failure to poke methodological holes in a then-uncontroversial mode of ballistics analysis did not amount to deficient performance. There is no reason to believe that a diligent search would have discovered the supposedly crucial 1991 report. The State Court of Appeals' demand for something close to "perfect advocacy" is far more than the "reasonable competence" the Sixth Amendment right to counsel guarantees. *Yarborough* v. *Gentry*, 540 U. S. 1, 8.

Certiorari granted; 440 Md. 33, 99 A. 3d 730, reversed.

PER CURIAM.

A criminal defendant "shall enjoy the right . . . to have the Assistance of Counsel for his defence." U. S. Const., Amdt. 6. We have held that this right requires effective counsel in both state and federal prosecutions, even if the defendant is unable to afford counsel. *Gideon* v. *Wainwright*, 372 U. S. 335, 344 (1963). Counsel is unconstitutionally *in*effective if his performance is both deficient, meaning his errors are "so serious" that he no longer functions as "counsel," and prejudicial, meaning his errors deprive the defendant of a fair trial. *Strickland* v. *Washington*, 466 U. S. 668, 687 (1984). Applying this standard in name only, the Court of Appeals of Maryland held that James Kulbicki's defense attorneys were unconstitutionally ineffective. We summarily reverse.

In 1993, Kulbicki shot his 22-year-old mistress in the head at pointblank range. The two had been ensnarled in a paternity suit, and the killing occurred the weekend before a scheduled hearing about unpaid child support. At Kulbicki's trial, commencing in 1995, Agent Ernest Peele of the FBI testified as the State's expert on Comparative Bullet Lead Analysis, or CBLA. In testimony of the sort CBLA experts had provided for decades, Peele testified that the composition of elements in the molten lead of a bullet fragment found in Kulbicki's truck matched the composition of lead in a bullet fragment removed from the victim's brain; a similarity of the sort one would "'expect'" if "'examining two pieces of the same bullet.'" 440 Md. 33, 41, 99 A. 3d

730, 735 (2014). He further testified that a bullet taken from Kulbicki's gun was not an "exac[t]" match to the bullet fragments, but was similar enough that the two bullets likely came from the same package. *Id.*, at 42–44, 99 A. 3d, at 735–736. After considering this ballistics evidence, additional physical evidence from Kulbicki's truck, and witness testimony, the jury convicted Kulbicki of first-degree murder.

Kulbicki then filed a petition for postconviction relief, which lingered in state court until 2006 when Kulbicki added a claim that his defense attorneys were ineffective for failing to question the legitimacy of CBLA. By then, 11 years after his conviction, CBLA had fallen out of favor. Indeed, Kulbicki supplemented his petition once more in 2006 after the Court of Appeals of Maryland held for the first time that CBLA evidence was not generally accepted by the scientific community and was therefore inadmissible. See *Clemons* v. *State*, 392 Md. 339, 371, 896 A. 2d 1059, 1078 (2006).

Kulbicki lost in the lower state courts and appealed to the Court of Appeals of Maryland. At that point, Kulbicki abandoned his claim of ineffective assistance with respect to the CBLA evidence, but the high court vacated Kulbicki's conviction on that ground alone. Kulbicki's counsel, according to the court, should have found a report coauthored by Agent Peele in 1991 that "presaged the flaws in CBLA evidence." 440 Md., at 40, 99 A. 3d, at 734. One of the many findings of the report was that the composition of lead in some bullets was the same as that of lead in other bullets packaged many months later in a separate box. Rather than conduct "further research to explain the existence of overlapping compositions," the authors "speculated" that coincidence (or, in one case, the likelihood that separately packaged bullets originated from the same source of lead) caused the overlap. *Id.*, at 49, 99 A. 3d, at 739. The Court of Appeals opined that this lone finding should have caused the report's authors to doubt "that bullets produced from different sources of lead would have a unique chemical composition," the faulty as-

sumption that ultimately led the court to reject CBLA evidence 15 years later. *Ibid.*; see *Clemons*, *supra*, at 369–370, 896 A. 2d, at 1077. The authors' "failure to fully explore the variance," the Court of Appeals concluded, was "at odds with the scientific method." 440 Md., at 50, 99 A. 3d, at 740.

In the Court of Appeals' view, any good attorney should have spotted this methodological flaw. The court held that counsel's failure to unearth the report, to identify one of its findings as "at odds with the scientific method," and to use this methodological flaw to cast doubt on CBLA during counsel's cross-examination of Peele, "fell short of prevailing professional norms." *Id.*, at 50–53, 99 A. 3d, at 740–742. Concluding that counsel's supposed deficiency was prejudicial, the court set aside the conviction and ordered a new trial. *Id.*, at 56, 99 A. 3d, at 743–744.

We reverse. The Court of Appeals offered no support for its conclusion that Kulbicki's defense attorneys were constitutionally required to predict the demise of CBLA. Instead, the court indulged in the "natural tendency to speculate as to whether a different trial strategy might have been more successful." *Lockhart* v. *Fretwell*, 506 U. S. 364, 372 (1993). To combat this tendency, we have "adopted the rule of contemporary assessment of counsel's conduct." *Ibid.* Had the Court of Appeals heeded this rule, it would have "judge[d] the reasonableness of counsel's challenged conduct . . . viewed as of the time of counsel's conduct." *Strickland*, *supra*, at 690.

At the time of Kulbicki's trial in 1995, the validity of CBLA was widely accepted, and courts regularly admitted CBLA evidence until 2003. See *United States* v. *Higgs*, 663 F. 3d 726, 738 (CA4 2011). As the Court of Appeals acknowledged, even the 1991 report itself did not question the validity of CBLA, concluding that it was a valid and useful forensic tool to match suspect to victim. 440 Md., at 51, n. 11, 99 A. 3d, at 740, n. 11. Counsel did not perform deficiently by dedicating their time and focus to elements of the

defense that did not involve poking methodological holes in a then-uncontroversial mode of ballistics analysis.

That is especially the case here, since there is no reason to believe that a diligent search would even have discovered the supposedly crucial report. The Court of Appeals offered a single citation in support of its sweeping statement that the report "was available" to Kulbicki's counsel in 1995—a Government Printing Office web page accessed by the Court of Appeals, apparently conducting its own Internet research nearly two decades after the trial. *Id.*, at 51, and n. 12, 99 A. 3d, at 740–741, and n. 12; see also Brief in Opposition 14. The web page indicates that a compilation of forensic studies that included the report was "distributed to various public libraries in 1994." 440 Md., at 51, n. 12, 99 A. 3d, at 741, n. 12. But which ones? And in an era of card catalogues, not a worldwide web, what efforts would counsel have had to expend to find the compilation? And had they found it, would counsel really have combed through the entire compilation, and have identified the one (of many) findings in one of the reports, the disregard of which counsel would have recognized to be "at odds with the scientific method"? And then, would effective counsel really have brought to the attention of the jury a report whose *conclusion* was that CBLA was a valid investigative technique in cases just like Kulbicki's? Neither the Court of Appeals nor Kulbicki has answers. Given the uncontroversial nature of CBLA at the time of Kulbicki's trial, the effect of the judgment below is to demand that lawyers go "looking for a needle in a haystack," even when they have "reason to doubt there is any needle there." *Rompilla* v. *Beard*, 545 U. S. 374, 389 (2005). The Court of Appeals demanded something close to "perfect advocacy"—far more than the "reasonable competence" the right to counsel guarantees. *Yarborough* v. *Gentry*, 540 U. S. 1, 8 (2003) (*per curiam*).

Kulbicki's trial counsel did not provide deficient performance when they failed to uncover the 1991 report and to use

the report's so-called methodological flaw against Peele on cross-examination. (We need not, and so do not, decide whether the supposed error prejudiced Kulbicki.) The petition for writ of certiorari is granted, and the judgment of the Court of Appeals of Maryland is reversed.

*It is so ordered.*

Syllabus

# MULLENIX *v.* LUNA, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF LEIJA, ET AL.

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

No. 14–1143. Decided November 9, 2015

Israel Leija, Jr., led officers on a high-speed car chase in an attempt to evade service of an arrest warrant. During the chase, he twice told a police dispatcher that he had a gun and would shoot officers if they did not abandon their pursuit. The dispatcher relayed the threats, together with a report that Leija might be intoxicated, to all concerned officers, including petitioner Chadrin Mullenix, who had driven ahead to an overpass above the interstate. Once there, Mullenix discussed with other officers the idea of shooting Leija's car to disable it, even though he had not been trained in this tactic and had not attempted it before. Mullenix nonetheless took up a shooting position and learned that another officer was beneath the overpass. As Leija approached, Mullenix fired multiple shots, killing Leija. Respondents sued Mullenix under 42 U. S. C. §1983, alleging that he had violated the Fourth Amendment by using excessive force against Leija. Mullenix moved for summary judgment on the ground of qualified immunity, but the District Court denied the motion. The Fifth Circuit affirmed, concluding that Mullenix was not entitled to qualified immunity because the law clearly established "that a reasonable officer would have known that the use of deadly force, absent a sufficiently substantial and immediate threat, violated the Fourth Amendment." 773 F. 3d 712, 725.

*Held*: Because the constitutional rule applied by the Fifth Circuit was not "'beyond debate,'" *Stanton* v. *Sims*, 571 U. S. 3, 6, the Fifth Circuit wrongly decided that Mullenix was not entitled to qualified immunity. In assessing whether Mullenix violated clearly established statutory or constitutional rights of which a reasonable person would have known, the court improperly defined the clearly established law at a high level of generality rather than asking whether the violative nature of the particular conduct is clearly established. *Ashcroft* v. *al-Kidd*, 563 U. S. 731, 742. Here, Mullenix confronted a reportedly intoxicated fugitive, set on avoiding capture through high-speed vehicular flight, who twice during his flight had threatened to shoot police officers, and who was moments away from encountering an officer underneath the overpass. Far from clarifying the issue, this Court's excessive force cases involving car chases reveal the hazy legal backdrop against which Mullenix

acted. See *Brosseau* v. *Haugen*, 543 U. S. 194; *Scott* v. *Harris*, 550 U. S. 372; and *Plumhoff* v. *Rickard*, 572 U. S. 765. Nor have cases decided by lower courts since *Brosseau* clearly established that deadly force is inappropriate in response to conduct like Leija's. Finally, the fact that the danger Leija represented was less substantial than the threats that courts have previously found sufficient to justify deadly force says little, if anything, about whether such force was reasonable in the circumstances here because qualified immunity protects actions in "the 'hazy border between excessive and acceptable force.'" *Brosseau*, 573 U. S., at 201 (quoting *Saucier* v. *Katz*, 533 U. S. 194, 206).

Certiorari granted; 773 F. 3d 712, reversed.

PER CURIAM.

On the night of March 23, 2010, Sergeant Randy Baker of the Tulia, Texas, Police Department followed Israel Leija, Jr., to a drive-in restaurant, with a warrant for his arrest. 773 F. 3d 712, 715–716 (CA5 2014). When Baker approached Leija's car and informed him that he was under arrest, Leija sped off, headed for Interstate 27. 2013 WL 4017124, *1 (ND Tex., Aug. 7, 2013). Baker gave chase and was quickly joined by Trooper Gabriel Rodriguez of the Texas Department of Public Safety (DPS). 773 F. 3d, at 716.

Leija entered the interstate and led the officers on an 18-minute chase at speeds between 85 and 110 miles per hour. *Ibid.* Twice during the chase, Leija called the Tulia Police dispatcher, claiming to have a gun and threatening to shoot at police officers if they did not abandon their pursuit. The dispatcher relayed Leija's threats, together with a report that Leija might be intoxicated, to all concerned officers.

As Baker and Rodriguez maintained their pursuit, other law enforcement officers set up tire spikes at three locations. Officer Troy Ducheneaux of the Canyon Police Department manned the spike strip at the first location Leija was expected to reach, beneath the overpass at Cemetery Road. Ducheneaux and the other officers had received training on the deployment of spike strips, including on how to take a defensive position so as to minimize the risk posed by the passing driver. *Ibid.*

DPS Trooper Chadrin Mullenix also responded. He drove to the Cemetery Road overpass, initially intending to set up a spike strip there. Upon learning of the other spike strip positions, however, Mullenix began to consider another tactic: shooting at Leija's car in order to disable it. 2013 WL 4017124, *1. Mullenix had not received training in this tactic and had not attempted it before, but he radioed the idea to Rodriguez. Rodriguez responded "10–4," gave Mullenix his position, and said that Leija had slowed to 85 miles per hour. Mullenix then asked the DPS dispatcher to inform his supervisor, Sergeant Byrd, of his plan and ask if Byrd thought it was "'worth doing.'" 773 F. 3d, at 716–717. Before receiving Byrd's response, Mullenix exited his vehicle and, armed with his service rifle, took a shooting position on the overpass, 20 feet above I–27. Respondents allege that from this position, Mullenix still could hear Byrd's response to "'stand by'" and "'see if the spikes work first.'" *Ibid.**

As Mullenix waited for Leija to arrive, he and another officer, Randall County Sheriff's Deputy Tom Shipman, discussed whether Mullenix's plan would work and how and where to shoot the vehicle to best carry it out. 2013 WL 4017124, *2. Shipman also informed Mullenix that another officer was located beneath the overpass. 773 F. 3d, at 717.

Approximately three minutes after Mullenix took up his shooting position, he spotted Leija's vehicle, with Rodriguez in pursuit. As Leija approached the overpass, Mullenix fired six shots. Leija's car continued forward beneath the overpass, where it engaged the spike strip, hit the median, and rolled 2½ times. It was later determined that Leija had been killed by Mullenix's shots, four of which struck his upper body. There was no evidence that any of Mullenix's

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*Although Mullenix disputes hearing Byrd's response, we view the facts in the light most favorable to respondents, who oppose Mullenix's motion for summary judgment. See *Tolan* v. *Cotton*, 572 U. S. 650, 651 (2014) (*per curiam*).

shots hit the car's radiator, hood, or engine block. *Id.*, at 716–717; 2013 WL 4017124, *2–*3.

Respondents sued Mullenix under Rev. Stat. § 1979, 42 U. S. C. § 1983, alleging that he had violated the Fourth Amendment by using excessive force against Leija. Mullenix moved for summary judgment on the ground of qualified immunity, but the District Court denied his motion, finding that "[t]here are genuine issues of fact as to whether Trooper Mullenix acted recklessly, or acted as a reasonable, trained peace officer would have acted in the same or similar circumstances." 2013 WL 4017124, *6.

Mullenix appealed, and the Court of Appeals for the Fifth Circuit affirmed. 765 F. 3d 531 (2014). The court agreed with the District Court that the "immediacy of the risk posed by Leija is a disputed fact that a reasonable jury could find either in the plaintiffs' favor or in the officer's favor, precluding us from concluding that Mullenix acted objectively reasonably as a matter of law." *Id.*, at 538.

Judge King dissented. She described the " 'fact issue' referenced by the majority" as "simply a restatement of the objective reasonableness test that applies to Fourth Amendment excessive force claims," which, she noted, the Supreme Court has held " 'is a pure question of law.' " *Id.*, at 544–545 (quoting *Scott* v. *Harris*, 550 U. S. 372, 381, n. 8 (2007)). Turning to that legal question, Judge King concluded that Mullenix's actions were objectively reasonable. When Mullenix fired, she emphasized, he knew not only that Leija had threatened to shoot the officers involved in his pursuit, but also that Leija was seconds away from encountering such an officer beneath the overpass. Judge King also dismissed the notion that Mullenix should have given the spike strips a chance to work. She explained that because spike strips are often ineffective, and because officers operating them are vulnerable to gunfire from passing cars, Mullenix reasonably feared that the officers manning them faced a significant risk of harm. 765 F. 3d, at 548–549.

Mullenix sought rehearing en banc before the Fifth Circuit, but the court denied his petition. Judge Jolly dissented, joined by six other members of the court. Judge King, who joined Judge Jolly's dissent, also filed a separate dissent of her own. 777 F. 3d 221 (2014) (*per curiam*). On the same day, however, the two members forming the original panel's majority withdrew their previous opinion and substituted a new one. 773 F. 3d 712. The revised opinion recognized that objective unreasonableness is a question of law that can be resolved on summary judgment—as Judge King had explained in her dissent—but reaffirmed the denial of qualified immunity. *Id.*, at 715, 718. The majority concluded that Mullenix's actions were objectively unreasonable because several of the factors that had justified deadly force in previous cases were absent here: There were no innocent bystanders, Leija's driving was relatively controlled, Mullenix had not first given the spike strips a chance to work, and Mullenix's decision was not a split-second judgment. *Id.*, at 720–724. The court went on to conclude that Mullenix was not entitled to qualified immunity because "the law was clearly established such that a reasonable officer would have known that the use of deadly force, absent a sufficiently substantial and immediate threat, violated the Fourth Amendment." *Id.*, at 725.

We address only the qualified immunity question, not whether there was a Fourth Amendment violation in the first place, and now reverse.

The doctrine of qualified immunity shields officials from civil liability so long as their conduct "'does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Pearson* v. *Callahan*, 555 U. S. 223, 231 (2009) (quoting *Harlow* v. *Fitzgerald*, 457 U. S. 800, 818 (1982)). A clearly established right is one that is "sufficiently clear that every reasonable official would have understood that what he is doing violates that right." *Reichle* v. *Howards*, 566 U. S. 658, 664 (2012) (internal quota-

tion marks and alteration omitted). "We do not require a case directly on point, but existing precedent must have placed the statutory or constitutional question beyond debate." *Ashcroft* v. *al-Kidd*, 563 U. S. 731, 741 (2011). Put simply, qualified immunity protects "all but the plainly incompetent or those who knowingly violate the law." *Malley* v. *Briggs*, 475 U. S. 335, 341 (1986).

"We have repeatedly told courts . . . not to define clearly established law at a high level of generality." *al-Kidd*, *supra*, at 742. The dispositive question is "whether the violative nature of *particular* conduct is clearly established." *Ibid.* (emphasis added). This inquiry "'must be undertaken in light of the specific context of the case, not as a broad general proposition.'" *Brosseau* v. *Haugen*, 543 U. S. 194, 198 (2004) (*per curiam*) (quoting *Saucier* v. *Katz*, 533 U. S. 194, 201 (2001)). Such specificity is especially important in the Fourth Amendment context, where the Court has recognized that "[i]t is sometimes difficult for an officer to determine how the relevant legal doctrine, here excessive force, will apply to the factual situation the officer confronts." 533 U. S., at 205.

In this case, the Fifth Circuit held that Mullenix violated the clearly established rule that a police officer may not "'use deadly force against a fleeing felon who does not pose a sufficient threat of harm to the officer or others.'" 773 F. 3d, at 725. Yet this Court has previously considered—and rejected—almost that exact formulation of the qualified immunity question in the Fourth Amendment context. In *Brosseau*, which also involved the shooting of a suspect fleeing by car, the Ninth Circuit denied qualified immunity on the ground that the officer had violated the clearly established rule, set forth in *Tennessee* v. *Garner*, 471 U. S. 1 (1985), that "deadly force is only permissible where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others." *Haugen* v. *Brosseau*, 339 F. 3d 857, 873 (CA9 2003) (internal quotation

marks omitted). This Court summarily reversed, holding that use of *Garner*'s "general" test for excessive force was "mistaken." *Brosseau*, 543 U. S., at 199. The correct inquiry, the Court explained, was whether it was clearly established that the Fourth Amendment prohibited the officer's conduct in the " 'situation [she] confronted': whether to shoot a disturbed felon, set on avoiding capture through vehicular flight, when persons in the immediate area are at risk from that flight." *Id.*, at 199–200. The Court considered three Court of Appeals cases discussed by the parties, noted that "this area is one in which the result depends very much on the facts of each case," and concluded that the officer was entitled to qualified immunity because "[n]one of [the cases] *squarely governs* the case here." *Id.*, at 201 (emphasis added).

*Anderson* v. *Creighton*, 483 U. S. 635 (1987), is also instructive on the required degree of specificity. There, the lower court had denied qualified immunity based on the clearly established "right to be free from warrantless searches of one's home unless the searching officers have probable cause and there are exigent circumstances." *Id.*, at 640. This Court faulted that formulation for failing to address the actual question at issue: whether "the circumstances with which Anderson was confronted . . . constitute[d] probable cause and exigent circumstances." *Id.*, at 640–641. Without answering that question, the Court explained, the conclusion that Anderson's search was objectively unreasonable did not "follow immediately" from—and thus was not clearly established by—the principle that warrantless searches not supported by probable cause and exigent circumstances violate the Fourth Amendment. *Id.*, at 641.

In this case, Mullenix confronted a reportedly intoxicated fugitive, set on avoiding capture through high-speed vehicular flight, who twice during his flight had threatened to shoot police officers, and who was moments away from encountering an officer at Cemetery Road. The relevant inquiry is

whether existing precedent placed the conclusion that Mullenix acted unreasonably in these circumstances "beyond debate." *al-Kidd*, *supra*, at 741. The general principle that deadly force requires a sufficient threat hardly settles this matter. See *Pasco* v. *Knoblauch*, 566 F. 3d 572, 580 (CA5 2009) ("[I]t would be unreasonable to expect a police officer to make the numerous legal conclusions necessary to apply *Garner* to a high-speed car chase . . . ").

Far from clarifying the issue, excessive force cases involving car chases reveal the hazy legal backdrop against which Mullenix acted. In *Brosseau* itself, the Court held that an officer did not violate clearly established law when she shot a fleeing suspect out of fear that he endangered "other officers on foot who [she] *believed* were in the immediate area," "the occupied vehicles in [his] path," and "any other citizens who *might* be in the area." 543 U. S., at 197 (first alteration in original; internal quotation marks omitted; emphasis added). The threat Leija posed was at least as immediate as that presented by a suspect who had just begun to drive off and was headed only in the general direction of officers and bystanders. *Id.*, at 196–197. By the time Mullenix fired, Leija had led police on a 25-mile chase at extremely high speeds, was reportedly intoxicated, had twice threatened to shoot officers, and was racing toward an officer's location.

This Court has considered excessive force claims in connection with high-speed chases on only two occasions since *Brosseau*. In *Scott* v. *Harris*, 550 U. S. 372, the Court held that an officer did not violate the Fourth Amendment by ramming the car of a fugitive whose reckless driving "posed an actual and imminent threat to the lives of any pedestrians who might have been present, to other civilian motorists, and to the officers involved in the chase." *Id.*, at 384. And in *Plumhoff* v. *Rickard*, 572 U. S. 765 (2014), the Court reaffirmed *Scott* by holding that an officer acted reasonably when he fatally shot a fugitive who was "intent on resuming" a

chase that "pose[d] a deadly threat for others on the road." 572 U. S., at 777. The Court has thus never found the use of deadly force in connection with a dangerous car chase to violate the Fourth Amendment, let alone to be a basis for denying qualified immunity. Leija in his flight did not pass as many cars as the drivers in *Scott* or *Plumhoff*; traffic was light on I–27. At the same time, the fleeing fugitives in *Scott* and *Plumhoff* had not verbally threatened to kill any officers in their path, nor were they about to come upon such officers. In any event, none of our precedents "squarely governs" the facts here. Given Leija's conduct, we cannot say that only someone "plainly incompetent" or who "knowingly violate[s] the law" would have perceived a sufficient threat and acted as Mullenix did. *Malley*, 475 U. S., at 341.

The dissent focuses on the availability of spike strips as an alternative means of terminating the chase. It argues that even if Leija posed a threat sufficient to justify deadly force in some circumstances, Mullenix nevertheless contravened clearly established law because he did not wait to see if the spike strips would work before taking action. Spike strips, however, present dangers of their own, not only to drivers who encounter them at speeds between 85 and 110 miles per hour, but also to officers manning them. See, *e. g.*, *Thompson* v. *Mercer*, 762 F. 3d 433, 440 (CA5 2014); Brief for National Association of Police Organizations et al. as *Amici Curiae* 15–16. Nor are spike strips always successful in ending the chase. See, *e. g.*, *Cordova* v. *Aragon*, 569 F. 3d 1183, 1186 (CA10 2009); Brief for National Association of Police Organizations et al. as *Amici Curiae* 16 (citing examples). The dissent can cite no case from this Court denying qualified immunity because officers entitled to terminate a high-speed chase selected one dangerous alternative over another.

Even so, the dissent argues, there was no governmental interest that justified acting before Leija's car hit the spikes. Mullenix explained, however, that he feared Leija might attempt to shoot at or run over the officers manning the spike

strips. Mullenix also feared that even if Leija hit the spike strips, he might still be able to continue driving in the direction of other officers. The dissent ignores these interests by suggesting that there was no "possible marginal gain in shooting at the car over using the spike strips already in place." *Post*, at 23 (opinion of SOTOMAYOR, J.). In fact, Mullenix hoped his actions would stop the car in a manner that avoided the risks to other officers and other drivers that relying on spike strips would entail. The dissent disputes the merits of the options available to Mullenix, *post*, at 22–23, but others with more experience analyze the issues differently. See, *e. g.*, Brief for National Association of Police Organizations et al. as *Amici Curiae* 15–16. Ultimately, whatever can be said of the wisdom of Mullenix's choice, this Court's precedents do not place the conclusion that he acted unreasonably in these circumstances "beyond debate." *al-Kidd*, 563 U. S., at 741.

More fundamentally, the dissent repeats the Fifth Circuit's error. It defines the qualified immunity inquiry at a high level of generality—whether any governmental interest justified choosing one tactic over another—and then fails to consider that question in "the specific context of the case." *Brosseau*, *supra*, at 198 (internal quotation marks omitted). As in *Anderson*, the conclusion that Mullenix's reasons were insufficient to justify his actions simply does not "follow immediately" from the general proposition that force must be justified. 483 U. S., at 641.

Cases decided by the lower courts since *Brosseau* likewise have not clearly established that deadly force is inappropriate in response to conduct like Leija's. The Fifth Circuit here principally relied on its own decision in *Lytle* v. *Bexar County*, 560 F. 3d 404 (2009), denying qualified immunity to a police officer who had fired at a fleeing car and killed one of its passengers. That holding turned on the court's assumption, for purposes of summary judgment, that the car was moving away from the officer and had already traveled

some distance at the moment the officer fired. See *id.*, at 409. The court held that a reasonable jury could conclude that a receding car "did not pose a sufficient threat of harm such that the use of deadly force was reasonable." *Id.*, at 416. But, crucially, the court also recognized that if the facts were as the officer alleged, and he fired as the car was coming toward him, "he would likely be entitled to qualified immunity" based on the "threat of immediate and severe physical harm." *Id.*, at 412. Without implying that *Lytle* was either correct or incorrect, it suffices to say that *Lytle* does not clearly dictate the conclusion that Mullenix was unjustified in perceiving grave danger and responding accordingly, given that Leija was speeding toward a confrontation with officers he had threatened to kill.

Cases that the Fifth Circuit ignored also suggest that Mullenix's assessment of the threat Leija posed was reasonable. In *Long* v. *Slaton*, 508 F. 3d 576 (2007), for example, the Eleventh Circuit held that a sheriff's deputy did not violate the Fourth Amendment by fatally shooting a mentally unstable individual who was attempting to flee in the deputy's car, even though at the time of the shooting the individual had not yet operated the cruiser dangerously. The court explained that "the law does not require officers in a tense and dangerous situation to wait until the moment a suspect uses a deadly weapon to act to stop the suspect" and concluded that the deputy had reason to believe Long was dangerous based on his unstable state of mind, theft of the cruiser, and failure to heed the deputy's warning to stop. *Id.*, at 581–582. The court also rejected the notion that the deputy should have first tried less lethal methods, such as spike strips. "[C]onsidering the unpredictability of Long's behavior and his fleeing in a marked police cruiser," the court held, "we think the police need not have taken that chance and hoped for the best." *Id.*, at 583 (alteration and internal quotation marks omitted). But see *Smith* v. *Cupp*, 430 F. 3d 766, 774–777 (CA6 2005) (denying qualified immunity to an

officer who shot an intoxicated suspect who had stolen the officer's cruiser where a reasonable jury could have concluded that the suspect's flight did not immediately threaten the officer or any other bystander).

Other cases cited by the Fifth Circuit and respondents are simply too factually distinct to speak clearly to the specific circumstances here. Several involve suspects who may have done little more than flee at relatively low speeds. See, *e. g.*, *Walker* v. *Davis*, 649 F. 3d 502, 503 (CA6 2011); *Kirby* v. *Duva*, 530 F. 3d 475, 479–480 (CA6 2008); *Adams* v. *Speers*, 473 F. 3d 989, 991 (CA9 2007); *Vaughan* v. *Cox*, 343 F. 3d 1323, 1330–1331, and n. 7 (CA11 2003). These cases shed little light on whether the far greater danger of a speeding fugitive threatening to kill police officers waiting in his path could warrant deadly force. The court below noted that "no weapon was ever seen," 773 F. 3d, at 723, but surely in these circumstances the police were justified in taking Leija at his word when he twice told the dispatcher he had a gun and was prepared to use it.

Finally, respondents argue that the danger Leija represented was less substantial than the threats that courts have found sufficient to justify deadly force. But the mere fact that courts have approved deadly force in more extreme circumstances says little, if anything, about whether such force was reasonable in the circumstances here. The fact is that when Mullenix fired, he reasonably understood Leija to be a fugitive fleeing arrest, at speeds over 100 miles per hour, who was armed and possibly intoxicated, who had threatened to kill any officer he saw if the police did not abandon their pursuit, and who was racing toward Officer Ducheneaux's position. Even accepting that these circumstances fall somewhere between the two sets of cases respondents discuss, qualified immunity protects actions in the "'hazy border between excessive and acceptable force.'" *Brosseau*, 543 U. S., at 201 (quoting *Saucier*, 533 U. S., at 206; some internal quotation marks omitted).

Because the constitutional rule applied by the Fifth Circuit was not "'beyond debate,'" *Stanton* v. *Sims*, 571 U. S. 3, 11 (2013) (*per curiam*), we grant Mullenix's petition for certiorari and reverse the Fifth Circuit's determination that Mullenix is not entitled to qualified immunity.

*It is so ordered.*

JUSTICE SCALIA, concurring in the judgment.

I join the judgment of the Court, but would not describe what occurred here as the application of deadly force in effecting an arrest. Our prior cases have reserved that description to the directing of force sufficient to kill *at the person* of the desired arrestee. See, *e. g.*, *Plumhoff* v. *Rickard*, 572 U. S. 765 (2014); *Brosseau* v. *Haugen*, 543 U. S. 194 (2004) (*per curiam*); *Tennessee* v. *Garner*, 471 U. S. 1 (1985). It does not assist analysis to refer to all use of force that happens to kill the arrestee as the application of deadly force. The police might, for example, attempt to stop a fleeing felon's car by felling a large tree across the road; if they drop the tree too late, so that it crushes the car and its occupant, I would not call that the application of deadly force. Though it was force sufficient to kill, it was not applied with the object of harming the body of the felon.

Thus, in *Scott* v. *Harris*, 550 U. S. 372 (2007), we declined to characterize officer Scott's use of his pursuing vehicle's bumper to push the fleeing vehicle off the road as the application of deadly force. Whether or not it was that, we said, "all that matters is whether Scott's actions were reasonable." *Id.*, at 383. So also here. But it stacks the deck against the officer, it seems to me, to describe his action as the application of deadly force.

It was at least arguable in *Scott* that pushing a speeding vehicle off the road is targeting its occupant for injury or death. Here, however, it is conceded that Trooper Mullenix did not shoot to wound or kill the fleeing Leija, nor even to drive Leija's car off the road, but only to cause the car to

stop by destroying its engine. That was a risky enterprise, as the outcome demonstrated; but determining whether it violated the Fourth Amendment requires us to ask, not whether it was reasonable to kill Leija, but whether it was reasonable to shoot at the engine in light of the risk to Leija. It distorts that inquiry, I think, to make the question whether it was reasonable for Mullenix to "apply deadly force."

JUSTICE SOTOMAYOR, dissenting.

Chadrin Mullenix fired six rounds in the dark at a car traveling 85 miles per hour. He did so without any training in that tactic, against the wait order of his superior officer, and less than a second before the car hit spike strips deployed to stop it. Mullenix's rogue conduct killed the driver, Israel Leija, Jr. Because it was clearly established under the Fourth Amendment that an officer in Mullenix's position should not have fired the shots, I respectfully dissent from the grant of summary reversal.

## I

Resolving all factual disputes in favor of plaintiffs, as the Court must on a motion for summary judgment, Mullenix knew the following facts before he shot at Leija's engine block: Leija had led police officers on an 18-minute car chase, at speeds ranging from 85 to 110 miles per hour. 773 F. 3d 712, 716 (CA5 2014). Leija had twice called the police dispatcher threatening to shoot at officers if they did not cease the pursuit. *Ibid.* Police officers were deploying three sets of spike strips in order to stop Leija's flight. *Ibid.* The officers were trained to stop a car using spike strips. This training included how to take a defensive position to minimize the risk of danger from the target car. *Ibid.* Mullenix knew that spike strips were being set up directly beneath the overpass where he was stationed. *Id.*, at 723. There is no evidence below that any of the officers with whom Mul-

lenix was in communication—including Officer Troy Duchen-eaux, whom Mullenix believed to be below the overpass—had expressed any concern for their safety. *Id.*, at 720.

Mullenix had no training in shooting to disable a moving vehicle and had never seen the tactic done before. *Id.*, at 716. He also lacked permission to take the shots: When Mullenix relayed his plan to his superior officer, Robert Byrd, Byrd responded "stand by" and "see if the spikes work first." *Id.*, at 716–717. Three minutes after arriving at the overpass, Mullenix fired six rounds at Leija's car. None hit the car's engine block; at least four struck Leija in the upper body, killing Leija. *Id.*, at 717.

## II

When confronting a claim of qualified immunity, a court asks two questions. First, the court considers whether the officer in fact violated a constitutional right. *Saucier* v. *Katz*, 533 U. S. 194, 201 (2001). Second, the court asks whether the contours of the right were "sufficiently clear that a reasonable official would [have understood] that what he is doing violates that right." *Id.*, at 202 (quoting *Anderson* v. *Creighton*, 483 U. S. 635, 640 (1987)). This Court has rejected the idea that "an official action is protected by qualified immunity unless the very action in question has previously been held unlawful." *Id.*, at 640. Instead, the crux of the qualified immunity test is whether officers have "fair notice" that they are acting unconstitutionally. *Hope* v. *Pelzer*, 536 U. S. 730, 739 (2002).

Respondents here allege that Mullenix violated the Fourth Amendment's prohibition on unreasonable seizures by using deadly force to apprehend Leija. This Court's precedents clearly establish that the Fourth Amendment is violated unless the "'governmental interests'" in effectuating a particular kind of seizure outweigh the "'nature and quality of the intrusion on the individual's Fourth Amendment interests.'" *Scott* v. *Harris*, 550 U. S. 372, 383 (2007) (quoting *United*

*States* v. *Place*, 462 U. S. 696, 703 (1983)). There must be a "governmental interes[t]" not only in effectuating a seizure, but also in "how [the seizure] is carried out." *Tennessee* v. *Garner*, 471 U. S. 1, 8 (1985).

Balancing a particular governmental interest in the use of deadly force against the intrusion occasioned by the use of that force is inherently a fact-specific inquiry, not susceptible to bright lines. But it is clearly established that the government must have *some* interest in using deadly force over other kinds of force.

Here, then, the clearly established legal question—the question a reasonable officer would have asked—is whether, under all the circumstances as known to Mullenix, there was a governmental interest in shooting at the car rather than waiting for it to run over spike strips.

The Court does not point to *any* such interest here. It claims that Mullenix's goal was not merely to stop the car, but to stop the car "in a manner that avoided the risks" of relying on spike strips. *Ante*, at 16. But there is no evidence in the record that shooting at Leija's engine block would stop the car in such a manner.

The majority first suggests that Mullenix did not wait for the results of the spikes, as his superior advised, because of his concern for the officers manning the strips. But Leija was going to come upon those officers whether or not Mullenix's shooting tactic was successful: Mullenix took his shot when Leija was between 25 and 30 yards away from the spike strip, traveling at 85 miles per hour. Even if his shots hit Leija's engine block, the car would not have stopped instantly. Mullenix would have bought the officers he was trying to protect—officers who had been trained to take defensive positions—less than three-quarters of a second over waiting for the spike strips. And whatever threat Leija posed after his car was stopped existed whether the car was stopped by a shot to the engine block or by the spike strips.

Nor was there any evidence that shooting at the car was more reliable than the spike strips. The majority notes that

spike strips are fallible. *Ante*, at 15. But Mullenix had no information to suggest that shooting to disable a car had a higher success rate, much less that doing so with no training and at night was more likely to succeed. Moreover, not only did officers have training in setting up the spike strips, but they had also placed two backup strips farther north along the highway in case the first set failed. A reasonable officer could not have thought that shooting would stop the car with less danger or greater certainty than waiting.

The majority cites *Long* v. *Slaton*, 508 F. 3d 576 (CA11 2007), for the proposition that Mullenix need not have "first tried less lethal methods, such as spike strips." *Ante*, at 17. But in that case, there was a clear reason to prefer deadly force over the alternatives. In *Long*, an officer fired to stop a suspect from fleeing in a stolen police cruiser. 508 F. 3d, at 583. When the officer fired, there were no alternative means of stopping the car in place. The Eleventh Circuit held that the governmental interest against waiting for a future deployment of spike strips that may never materialize justified the use of deadly force. *Ibid.*

In this case, by contrast, neither petitioner nor the majority can point to any possible marginal gain in shooting at the car over using the spike strips already in place. It is clearly established that there must be some governmental interest that necessitates deadly force, even if it is not always clearly established what level of governmental interest is sufficient.

Under the circumstances known to him at the time, Mullenix puts forth no plausible reason to choose shooting at Leija's engine block over waiting for the results of the spike strips. I would thus hold that Mullenix violated Leija's clearly established right to be free of intrusion absent some governmental interest.

## III

The majority largely evades this key legal question by focusing primarily on the governmental interest in *whether* the car should be stopped rather than the dispositive question of *how* the car should be stopped. But even assuming

that Leija posed a "sufficient," *ante*, at 15, or "immediate," *ante*, at 14, threat, Mullenix did not face a "choice between two evils" of shooting at a suspect's car or letting him go. *Scott*, 550 U. S., at 384; see, *e. g.*, *Plumhoff* v. *Rickard*, 572 U. S. 765, 769–770 (2014); *Brosseau* v. *Haugen*, 543 U. S. 194, 196–197 (2004) (*per curiam*). Instead, Mullenix chose to employ a potentially lethal tactic (shooting at Leija's engine block) in addition to a tactic specifically designed to accomplish the same result (spike strips).* By granting Mullenix qualified immunity, this Court goes a step further than our previous cases and does so without full briefing or argument.

Thus framed, it is apparent that the majority's exhortation that the right at stake not be defined at "a high level of generality," *ante*, at 16, is a red herring. The majority adduces various facts that the Fifth Circuit supposedly ignored in its qualified immunity analysis, including that Leija was "a reportedly intoxicated fugitive, set on avoiding capture through high-speed vehicular flight, who twice during his flight had threatened to shoot police officers, and who was moments away from encountering an officer at Cemetery Road." *Ante*, at 13. But not one of those facts goes to the governmental interest in shooting over awaiting the spike strips. The majority also claims that established law does not make clear that "Mullenix's reasons were insufficient to justify" his choice of shooting over following his superior's orders to wait for the spikes. *Ante*, at 16. But Mullenix

*The majority describes the choice between spike strips and shooting as the choice between "one dangerous alternative" and another, noting that spike strips can pose a danger to drivers that encounter them. *Ante*, at 15. But Mullenix could not have thought that awaiting the spikes was anywhere near as dangerous as shooting immediately before Leija hit the spikes. For one thing, Mullenix had no training in shooting to disable the vehicle and so no idea of the relative danger that shooting posed to a driver. For another, Leija would be subjected to the danger posed by the spike strips whether Mullenix shot or not. And, in fact, that is what happened: Leija's car hit the spike strips and then rolled 2½ times.

seemed to have *no* reasons to prefer shooting to following orders.

Instead of dealing with the question whether Mullenix could constitutionally fire on Leija's car rather than waiting for the spike strips, the majority dwells on the imminence of the threat posed by Leija. The majority recharacterizes Mullenix's decision to shoot at Leija's engine block as a split-second, heat-of-the-moment choice, made when the suspect was "moments away." *Ante*, at 13. Indeed, reading the majority opinion, one would scarcely believe that Mullenix arrived at the overpass several minutes before he took his shot, or that the rural road where the car chase occurred had few cars and no bystanders or businesses. 773 F. 3d, at 717, 720. The majority also glosses over the facts that Mullenix had time to ask Byrd for permission to fire upon Leija and that Byrd—Mullenix's superior officer—told Mullenix to "stand by." *Id.*, at 717. There was no reason to believe that Byrd did not have all the same information Mullenix did, including the knowledge that an officer was stationed beneath the overpass. Even after receiving Byrd's response, Mullenix spent minutes in shooting position discussing his next step with a fellow officer, minutes during which he received no information that would have made his plan more suitable or his superior's orders less so. *Ibid.*

An appropriate reading of the record on summary judgment would thus render Mullenix's choice even more unreasonable. And asking the appropriate legal question would leave the majority with no choice but to conclude that Mullenix ignored the longstanding and well-settled Fourth Amendment rule that there must be a governmental interest not just in seizing a suspect, but in the level of force used to effectuate that seizure.

* * *

When Mullenix confronted his superior officer after the shooting, his first words were, "How's that for proactive?"

*Ibid.* (Mullenix was apparently referencing an earlier counseling session in which Byrd suggested that he was not enterprising enough. *Ibid.*) The glib comment does not impact our legal analysis; an officer's actual intentions are irrelevant to the Fourth Amendment's "objectively reasonable" inquiry. See *Graham* v. *Connor*, 490 U. S. 386, 397 (1989). But the comment seems to me revealing of the culture this Court's decision supports when it calls it reasonable—or even reasonably reasonable—to use deadly force for no discernible gain and over a supervisor's express order to "stand by." By sanctioning a "shoot first, think later" approach to policing, the Court renders the protections of the Fourth Amendment hollow.

For the reasons discussed, I would deny Mullenix's petition for a writ of certiorari. I thus respectfully dissent.

Syllabus

# OBB PERSONENVERKEHR AG *v.* SACHS

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 13–1067. Argued October 5, 2015—Decided December 1, 2015

Respondent Carol Sachs, a California resident, purchased a Eurail pass over the Internet from a Massachusetts-based travel agent. While using that pass to board a train in Austria operated by petitioner OBB Personenverkehr AG (OBB), the Austrian state-owned railway, Sachs fell to the tracks and suffered traumatic personal injuries. She sued OBB in Federal District Court. OBB moved to dismiss, claiming that her suit was barred by the Foreign Sovereign Immunities Act, which shields foreign states and their agencies and instrumentalities from suit in United States courts, unless a specified exception applies. Sachs countered that her suit fell within the Act's commercial activity exception, which abrogates sovereign immunity for suits "based upon a commercial activity carried on in the United States by [a] foreign state," 28 U. S. C. § 1605(a)(2), reasoning that her suit was "based upon" the Massachusetts-based travel agent's sale of the Eurail pass in the United States, and that the travel agent's sale of that pass could be attributed to OBB through common law principles of agency. The District Court held that Sachs's suit did not fall within § 1605(a)(2) and dismissed the suit, but the en banc Ninth Circuit reversed. The court first concluded that the Eurail pass sale by the travel agent could be attributed to OBB through common law principles of agency, and then determined that Sachs's suit was "based upon" that Eurail pass sale because the sale established a single element necessary to recover under each cause of action brought by Sachs.

*Held*: Sachs's suit falls outside the commercial activity exception and is therefore barred by sovereign immunity. Pp. 32–38.

(a) Sachs's suit is not "based upon" the sale of the Eurail pass for purposes of § 1605(a)(2). Therefore, the Court has no need to address whether the Act allows the travel agent's sale of the Eurail pass to be attributed to OBB through common law principles of agency. Pp. 32–36.

(1) Although the Act does not elaborate on the phrase "based upon," *Saudi Arabia* v. *Nelson*, 507 U. S. 349, provides sufficient guidance to resolve this case. There, the Court held that the "based upon" inquiry requires a court to determine the "particular conduct on which the action is 'based,'" *id.*, at 356, and identified that conduct by looking to "the 'gravamen of the complaint,'" *id.*, at 357. Pp. 33–34.

Syllabus

(2) The Ninth Circuit used a flawed approach when it found that the "based upon" inquiry would be satisfied if the sale of the Eurail pass provided "*an element*" of each of Sachs's claims. This Court's approach in *Nelson* is flatly incompatible with such a one-element approach, which necessarily requires a court to identify all the elements of each claim before finding that the claim falls outside § 1605(a)(2). The *Nelson* Court did not undertake such an exhaustive claim-by-claim, element-by-element analysis or engage in the choice-of-law analysis necessary to such an undertaking. See 507 U. S., at 356–358. Pp. 34–35.

(3) As opposed to adopting a one-element test, the *Nelson* Court zeroed in on the core of the plaintiffs' suit—the conduct that actually injured the plaintiffs—to identify the conduct that the suit was "based upon." See 507 U. S., at 358. All of Sachs's claims turn on the same tragic episode in Austria, allegedly caused by wrongful conduct and dangerous conditions in Austria, which led to injuries suffered in Austria. However Sachs frames her suit, the incident in Innsbruck, Austria, remains at its foundation. Any other approach would allow plaintiffs to evade the Act's restrictions through artful pleading. See *id.*, at 363. Pp. 35–36.

(b) Sachs now contends that her claims are "based upon" OBB's entire railway enterprise. Because that argument was never presented to any lower court, it is forfeited. See *Taylor* v. *Freeland & Kronz*, 503 U. S. 638, 645–646. Pp. 36–38.

737 F. 3d 584, reversed.

ROBERTS, C. J., delivered the opinion for a unanimous Court.

*Juan C. Basombrio* argued the cause for petitioner. With him on the briefs were *Steven J. Wells* and *Timothy J. Droske.*

*Deputy Solicitor General Kneedler* argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli*, *Principal Deputy Assistant Attorney General Mizer*, *Elaine J. Goldenberg*, *Sharon Swingle*, and *Sushma Soni.*

*Jeffrey L. Fisher* argued the cause for respondent. With him on the brief was *Geoffrey Becker.**

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*Briefs of *amici curiae* urging reversal were filed for the International Rail Transport Committee (CIT) by *Benjamin G. Shatz*; and for the Kingdom of the Netherlands et al. by *Donald I. Baker*, *W. Todd Miller*, and *Ishai Mooreville.*

*Matthew D. McGill*, *Theodore B. Olson*, and *Scott P. Martin* filed a brief for NML Capital, LTD, as *amicus curiae* urging affirmance.

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

The Foreign Sovereign Immunities Act shields foreign states and their agencies from suit in United States courts unless the suit falls within one of the Act's specifically enumerated exceptions. This case concerns the scope of the commercial activity exception, which withdraws sovereign immunity in any case "in which the action is based upon a commercial activity carried on in the United States by [a] foreign state." 28 U. S. C. § 1605(a)(2).

Respondent Carol Sachs is a resident of California who purchased in the United States a Eurail pass for rail travel in Europe. She suffered traumatic personal injuries when she fell onto the tracks at the Innsbruck, Austria, train station while attempting to board a train operated by the Austrian state-owned railway. She sued the railway in Federal District Court, arguing that her suit was not barred by sovereign immunity because it is "based upon" the railway's sale of the pass to her in the United States. We disagree and conclude that her action is instead "based upon" the railway's conduct in Innsbruck. We therefore hold that her suit falls outside the commercial activity exception and is barred by sovereign immunity.

## I

### A

Petitioner OBB Personenverkehr AG (OBB) operates a railway that carries nearly 235 million passengers each year on routes within Austria and to and from points beyond Austria's frontiers. OBB is wholly owned by OBB Holding Group, a joint-stock company created by the Republic of Austria. OBB Holding Group in turn is wholly owned by the Austrian Federal Ministry of Transport, Innovation, and Technology. *Sachs* v. *Republic of Austria*, 737 F. 3d 584, 587 (CA9 2013).

OBB—along with 29 other railways throughout Europe—is a member of the Eurail Group, an association responsible

for the marketing and management of the Eurail pass program. Brief for International Rail Transport Committee as *Amicus Curiae* 12; 737 F. 3d, at 587. Eurail passes allow their holders unlimited passage for a set period of time on participating Eurail Group railways. They are available only to non-Europeans, who may purchase them both directly from the Eurail Group and indirectly through a worldwide network of travel agents. Brief for International Rail Transport Committee as *Amicus Curiae* 12–13, and n. 3; Brief for Respondent 4–5.

Carol Sachs is a resident of Berkeley, California. In March 2007, she purchased a Eurail pass over the Internet from The Rail Pass Experts, a Massachusetts-based travel agent. The following month, Sachs arrived at the Innsbruck train station, planning to use her Eurail pass to ride an OBB train to Prague. As she attempted to board the train, Sachs fell from the platform onto the tracks. OBB's moving train crushed her legs, both of which had to be amputated above the knee. 737 F. 3d, at 587–588.

Sachs sued OBB in the United States District Court for the Northern District of California, asserting five causes of action: (1) negligence; (2) strict liability for design defects in the train and platform; (3) strict liability for failure to warn of those design defects; (4) breach of an implied warranty of merchantability for providing a train and platform unsafe for their intended uses; and (5) breach of an implied warranty of fitness for providing a train and platform unfit for their intended uses. App. 14–18. OBB claimed sovereign immunity and moved to dismiss the suit for lack of subject matter jurisdiction. 737 F. 3d, at 588.

## B

The Foreign Sovereign Immunities Act "provides the sole basis for obtaining jurisdiction over a foreign state in the courts of this country." *Argentine Republic* v. *Amerada Hess Shipping Corp.*, 488 U. S. 428, 443 (1989). The Act defines "foreign state" to include a state "agency or instrumen-

tality," 28 U. S. C. § 1603(a), and both parties agree that OBB qualifies as a "foreign state" for purposes of the Act. OBB is therefore "presumptively immune from the jurisdiction of United States courts" unless one of the Act's express exceptions to sovereign immunity applies. *Saudi Arabia* v. *Nelson*, 507 U. S. 349, 355 (1993). Sachs argues that her suit falls within the Act's commercial activity exception, which provides in part that a foreign state does not enjoy immunity when "the action is based upon a commercial activity carried on in the United States by the foreign state." § 1605(a)(2).[1]

The District Court concluded that Sachs's suit did not fall within § 1605(a)(2) and therefore granted OBB's motion to dismiss. 2011 WL 816854, *1, *4 (ND Cal., Jan. 28, 2011). A divided panel of the United States Court of Appeals for the Ninth Circuit affirmed. 695 F. 3d 1021 (2012). The full court ordered rehearing en banc and, with three judges dissenting, reversed the panel decision. 737 F. 3d 584.

The en banc majority first observed that, "based on the agreement of the parties," "the only relevant commercial activity within the United States was [Sachs's] March 2007 purchase of a Eurail pass from the Rail Pass Experts," a Massachusetts company. *Id.*, at 591, n. 4 (internal quotation marks omitted). The court concluded that The Rail Pass Experts had acted as OBB's agent and, using common law principles of agency, attributed that Eurail pass sale to OBB. *Id.*, at 591–598.

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[1] Section 1605(a)(2) contains three separate clauses. In full, the section provides:

"A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case . . . in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States."

As Sachs relies only on the first clause to establish jurisdiction over her suit, we limit our inquiry to that clause.

The court next asked whether Sachs's claims were "based upon" the sale of the Eurail pass within the meaning of § 1605(a)(2). The "based upon" determination, the court explained, requires that the commercial activity within the United States be "connected with the conduct that gives rise to the plaintiff's cause of action." *Id.*, at 590. But, the court continued, "it is not necessary that the entire claim be based upon the commercial activity of OBB." *Id.*, at 599. Rather, in the court's view, Sachs would satisfy the "based upon" requirement for a particular claim "if *an element* of [that] claim consists in conduct that occurred in commercial activity carried on in the United States." *Ibid.* (internal quotation marks omitted).

Applying California law, see *id.*, at 600, n. 14, the court analyzed Sachs's causes of action individually and concluded that the sale of the Eurail pass established a necessary element of each of her claims. Turning first to the negligence claim, the court found that Sachs was required to show that OBB owed her a duty of care as a passenger as one element of that claim. The court concluded that such a duty arose from the sale of the Eurail pass. *Id.*, at 600–602. Turning next to the other claims, the court determined that the existence of a "transaction between a seller and a consumer" was a necessary element of Sachs's strict liability and breach of implied warranty claims. *Id.*, at 602. The sale of the Eurail pass, the court noted, provided proof of such a transaction. *Ibid.* Having found that "the sale of the Eurail pass in the United States forms an essential element of each of Sachs's claims," the court concluded that each claim was "based upon a commercial activity carried on in the United States" by OBB. *Ibid.*

We granted certiorari. 574 U. S. 1133 (2015).

## II

OBB contends that the sale of the Eurail pass is not attributable to the railway, reasoning that the Foreign Sovereign

Immunities Act does not allow attribution through principles found in the common law of agency. OBB also argues that even if such attribution were allowed under the Act, Sachs's suit is not "based upon" the sale of the Eurail pass for purposes of § 1605(a)(2). We agree with OBB on the second point and therefore do not reach the first.

## A

The Act itself does not elaborate on the phrase "based upon." Our decision in *Saudi Arabia* v. *Nelson*, 507 U. S. 349, however, provides sufficient guidance to resolve this case. In *Nelson*, a husband and wife brought suit against Saudi Arabia and its state-owned hospital, seeking damages for intentional and negligent torts stemming from the husband's allegedly wrongful arrest, imprisonment, and torture by Saudi police while he was employed at a hospital in Saudi Arabia. *Id.*, at 351, 353–354. The Saudi defendants claimed sovereign immunity under the Act, arguing, *inter alia*, that § 1605(a)(2) was inapplicable because the suit was "based upon" sovereign acts—the exercise of Saudi police authority—and not upon commercial activity. See Brief for Petitioners in *Saudi Arabia* v. *Nelson*, O. T. 1992, No. 91–552, pp. 12–14. The Nelsons countered that their suit was "based upon" the defendants' commercial activities in "recruit[ing] Scott Nelson for work at the hospital, sign[ing] an employment contract with him, and subsequently employ[ing] him." 507 U. S., at 358. We rejected the Nelsons' arguments.

The Act's "based upon" inquiry, we reasoned, first requires a court to "identify[ ] the particular conduct on which the [plaintiff's] action is 'based.' " *Id.*, at 356. Considering dictionary definitions and lower court decisions, we explained that a court should identify that "particular conduct" by looking to the "basis" or "foundation" for a claim, *id.*, at 357 (citing dictionary definitions), "those elements . . . that, if proven, would entitle a plaintiff to relief," *ibid.*, and "the

'gravamen of the complaint,'" *ibid.* (quoting *Callejo* v. *Bancomer, S. A.*, 764 F. 2d 1101, 1109 (CA5 1985)). Under that analysis, we found that the commercial activities, while they "led to the conduct that eventually injured the Nelsons," were not the particular conduct upon which their suit was based. The suit was instead based upon the Saudi sovereign acts that actually injured them. 507 U. S., at 358. The Nelsons' suit therefore did not fit within § 1605(a)(2). *Id.*, at 361–362.

B

The Ninth Circuit held that Sachs's claims were "based upon" the sale of the Eurail pass because the sale of the pass provided "*an element*" of each of her claims. 737 F. 3d, at 599. Under *Nelson*, however, the mere fact that the sale of the Eurail pass would establish a single element of a claim is insufficient to demonstrate that the claim is "based upon" that sale for purposes of § 1605(a)(2).

The Ninth Circuit apparently derived its one-element test from an overreading of one part of one sentence in *Nelson*, in which we observed that "the phrase ['based upon'] is read most naturally to mean those elements of a claim that, if proven, would entitle a plaintiff to relief under his theory of the case." 507 U. S., at 357. We do not see how that mention of elements—plural—could be considered an endorsement of a *one*-element test, nor how the particular element the Ninth Circuit singled out for each of Sachs's claims could be construed to entitle her to relief.

Be that as it may, our analysis in *Nelson* is flatly incompatible with a one-element approach. A one-element test necessarily requires a court to identify *all* the elements of each claim in a complaint before that court may reject those claims for falling outside § 1605(a)(2). But we did not undertake such an exhaustive claim-by-claim, element-by-element analysis of the Nelsons' 16 causes of action, nor did we engage in the choice-of-law analysis that would have been a necessary prelude to such an undertaking. Compare *id.*, at

356–358, with 737 F. 3d, at 600, n. 14 (noting disagreement over whether state or federal common law principles govern suits under the Foreign Sovereign Immunities Act).

*Nelson* instead teaches that an action is "based upon" the "particular conduct" that constitutes the "gravamen" of the suit. Rather than individually analyzing each of the Nelsons' causes of action, we zeroed in on the core of their suit: the Saudi sovereign acts that actually injured them. As the Court explained:

> "Even taking each of the Nelsons' allegations about Scott Nelson's recruitment and employment as true, those facts alone entitle the Nelsons to nothing under their theory of the case. The Nelsons have . . . alleged . . . personal injuries caused by [the defendants'] intentional wrongs and by [the defendants'] negligent failure to warn Scott Nelson that they might commit those wrongs. Those torts, and not the arguably commercial activities that preceded their commission, form the basis for the Nelsons' suit." 507 U. S., at 358.

Under this analysis, the conduct constituting the gravamen of Sachs's suit plainly occurred abroad. All of her claims turn on the same tragic episode in Austria, allegedly caused by wrongful conduct and dangerous conditions in Austria, which led to injuries suffered in Austria.

Sachs maintains that some of those claims are not limited to negligent conduct or unsafe conditions in Austria, but rather involve at least some wrongful action in the United States. Her strict liability claim for failure to warn, for example, alleges that OBB should have alerted her to the dangerous conditions at the Innsbruck train station when OBB sold the Eurail pass to her *in the United States*. Under any theory of the case that Sachs presents, however, there is nothing wrongful about the sale of the Eurail pass standing alone. Without the existence of the unsafe boarding conditions in Innsbruck, there would have been nothing to warn

Sachs about when she bought the Eurail pass. However Sachs frames her suit, the incident in Innsbruck remains at its foundation.

As we explained in *Nelson*, any other approach would allow plaintiffs to evade the Act's restrictions through artful pleading. For example, any plaintiff "could recast virtually any claim of intentional tort . . . as a claim of failure to warn, simply by charging the defendant with an obligation to announce its own tortious propensity before indulging it." *Id.*, at 363. To allow such "recast[ing]" of a complaint, we reasoned, would "give jurisdictional significance to [a] feint of language," thereby "effectively thwart[ing] the Act's manifest purpose." *Ibid.*

A century ago, in a letter to then-Professor Frankfurter, Justice Holmes wrote that the "essentials" of a personal injury narrative will be found at the "point of contact"—"the place where the boy got his fingers pinched." Letter (Dec. 19, 1915), in Holmes and Frankfurter: Their Correspondence, 1912–1934, p. 40 (R. Mennel & C. Compston eds. 1996). At least in this case, that insight holds true. Regardless of whether Sachs seeks relief under claims for negligence, strict liability for failure to warn, or breach of implied warranty, the "essentials" of her suit for purposes of § 1605(a)(2) are found in Austria.[2]

## III

Sachs raises a new argument in this Court in an attempt to fit her claims within § 1605(a)(2). In addition to arguing that her claims are "based upon" the sale of the Eurail pass, she now contends that her suit is "based upon" "OBB's over-

[2] We cautioned in *Nelson* that the reach of our decision was limited, see *Saudi Arabia* v. *Nelson*, 507 U. S. 349, 358, n. 4 (1993), and similar caution is warranted here. Domestic conduct with respect to different types of commercial activity may play a more significant role in other suits under the first clause of § 1605(a)(2). In addition, we consider here only a case in which the gravamen of each claim is found in the same place.

all commercial railway enterprise." Brief for Respondent 24; see also Tr. of Oral Arg. 38.

"[C]ommercial activity carried on in the United States by the foreign state," as used in § 1605(a)(2), is defined to mean "commercial activity carried on by such state and having substantial contact with the United States." § 1603(e). Sachs's new theory is that OBB's *entire* railway enterprise constitutes the "commercial activity" that has the requisite "substantial contact with the United States," because OBB reaches out to American customers by marketing and selling Eurail passes in the United States.

That argument was never presented to any lower court and is therefore forfeited. Sachs argued in the courts below only that her claims were "based upon" the sale of the Eurail pass, and the lower courts resolved the case on that understanding. See, *e. g.*, 737 F. 3d, at 591, n. 4 ("The district court concluded, based on the agreement of the parties, that 'the only relevant commercial activity within the United States was plaintiff's March 2007 purchase of a Eurail Pass from the Rail Pass Experts.' We consider only the relevant conduct as defined by the district court.").[3] Indeed, when we granted certiorari, the relevant question presented for our review was whether Sachs's claims were "based upon" the "sale of the ticket in the United States." Pet. for

[3] See also Points and Authorities in Opposition to OBB Personenverkehr AG's Motion To Dismiss in No. 08–01840 (ND Cal.), p. 8 ("The claims herein are based on the purchase of the Eurail pass."); Appellant's Opening Brief in No. 11–15458 (CA9), p. 10 ("[T]he claims are 'based upon' the purchase of the ticket which occurred in the United States."); Appellant's Reply Brief in No. 11–15458 (CA9), p. 8 ("[H]er claim was based on the purchase/sale of the ticket."). The District Court decided the case on that understanding of Sachs's argument. See 2011 WL 816854, *2 (ND Cal., Jan. 28, 2011); see also 2010 WL 4916394, *1 (ND Cal., Nov. 22, 2010). As did the Ninth Circuit panel, see 695 F. 3d 1021, 1024 (2012), and, as noted, the Ninth Circuit en banc. When OBB petitioned this Court for writ of certiorari, Sachs's brief in opposition repeated her earlier arguments. See Brief in Opposition 2; see also this Court's Rule 15.2.

Cert. i; accord, Brief for Respondent i. We have answered that question in the negative. Absent unusual circumstances—none of which is present here—we will not entertain arguments not made below. *Taylor* v. *Freeland & Kronz*, 503 U. S. 638, 645–646 (1992).

We therefore conclude that Sachs has failed to demonstrate that her suit falls within the commercial activity exception in § 1605(a)(2). OBB has sovereign immunity under the Act, and accordingly the courts of the United States lack jurisdiction over the suit.

The judgment of the United States Court of Appeals for the Ninth Circuit is reversed.

*It is so ordered.*

Syllabus

# SHAPIRO ET AL. *v.* McMANUS, CHAIRMAN, MARYLAND STATE BOARD OF ELECTIONS, ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 14–990. Argued November 4, 2015—Decided December 8, 2015

Since 1976, federal law has mandated that a "district court of three judges shall be convened . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts . . . ," 28 U. S. C. § 2284(a), and has provided that "the judge [presented with a request for a three-judge court] shall, unless he determines that three judges are not required, immediately notify the chief judge of the circuit, who shall designate two other judges" to serve, § 2284(b)(1).

Petitioners requested that a three-judge court be convened to consider their claim that Maryland's 2011 congressional redistricting plan burdens their First Amendment right of political association. Concluding that no relief could be granted for this claim, the District Judge dismissed the action instead of notifying the Chief Judge of the Circuit to convene a three-judge court. The Fourth Circuit affirmed.

*Held*: Section 2284 entitles petitioners to make their case before a three-judge court. Pp. 42–46.

(a) Section 2284(a)'s prescription could not be clearer. Because the present suit is indisputably "an action . . . challenging the constitutionality of the apportionment of congressional districts," the District Judge was *required* to refer the case to a three-judge court. Section 2284(a) admits of no exception, and "the mandatory 'shall' . . . normally creates an obligation impervious to judicial discretion." *Lexecon Inc.* v. *Milberg Weiss Bershad Hynes & Lerach*, 523 U. S. 26, 35. The subsequent provision of § 2284(b)(1), that the district judge shall commence the process for appointment of a three-judge panel "unless he determines that three judges are not required," should be read not as a grant of discretion to the district judge to ignore § 2284(a), but as a compatible administrative detail requiring district judges to "determin[e]" only whether the "request for three judges" is made in a case covered by § 2284(a). This conclusion is bolstered by § 2284(b)(3)'s explicit command that "[a] single judge shall not . . . enter judgment on the merits." Pp. 42–44.

(b) Respondents' alternative argument, that the District Judge should have dismissed petitioners' claim as "constitutionally insubstantial" under *Goosby* v. *Osser*, 409 U. S. 512, is unpersuasive. This Court has long distinguished between failing to raise a substantial federal

question for jurisdictional purposes—what *Goosby* addressed—and failing to state a claim for relief on the merits—what the District Judge found here; only "wholly insubstantial and frivolous" claims implicate the former, *Bell* v. *Hood*, 327 U. S. 678, 682–683. Absent such obvious frivolity, "the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction." *Id.*, at 682. Petitioners' plea for relief, which was based on a legal theory put forward in JUSTICE KENNEDY's concurrence in *Vieth* v. *Jubelirer*, 541 U. S. 267, 315, and uncontradicted in subsequent majority opinions, easily clears *Goosby*'s low bar. Pp. 44–46.

584 Fed. Appx. 140, reversed and remanded.

SCALIA, J., delivered the opinion for a unanimous Court.

*Michael B. Kimberly* argued the cause for petitioners. With him on the briefs was *Paul W. Hughes.*

*Steven M. Sullivan*, Chief of Civil Litigation, argued the cause for respondents. With him on the brief were *Brian E. Frosh*, Attorney General of Maryland, *Julia Doyle Bernhardt*, Deputy Chief of Civil Litigation, and *Jennifer L. Katz* and *Patrick B. Hughes*, Assistant Attorneys General.*

JUSTICE SCALIA delivered the opinion of the Court.

We consider under what circumstances, if any, a district judge is free to "determin[e] that three judges are not required" for an action "challenging the constitutionality of the apportionment of congressional districts." 28 U. S. C. §§ 2284(a), (b)(1).

## I

### A

Rare today, three-judge district courts were more common in the decades before 1976, when they were required for various adjudications, including the grant of an "interlocutory

*Briefs of *amici curiae* urging reversal were filed for Common Cause et al. by *Emmet J. Bondurant* and *J. Gerald Hebert*; for Judicial Watch, Inc., by *Meir Feder* and *Rajeev Muttreja*; for the Virginia Conference of the NAACP by *Anita Earls* and *Allison Riggs*; and for Joshua A. Douglas et al. by *Ashley C. Parrish* and *Ethan P. Davis*.

or permanent injunction restraining the enforcement, operation or execution of any State statute . . . upon the ground of the unconstitutionality of such statute." 28 U. S. C. § 2281 (1970 ed.), repealed, Pub. L. 94–381, § 1, 90 Stat. 1119. See Currie, The Three-Judge District Court in Constitutional Litigation, 32 U. Chi. L. Rev. 1, 3–12 (1964). Decisions of three-judge courts could, then as now, be appealed as of right directly to this Court. 28 U. S. C. § 1253.

In 1976, Congress substantially curtailed the circumstances under which a three-judge court is required. It was no longer required for the grant of an injunction against state statutes, see Pub. L. 94–381, § 1, 90 Stat. 1119 (repealing 28 U. S. C. § 2281), but was mandated for "an action . . . challenging the constitutionality of the apportionment of congressional districts or the apportionment of any statewide legislative body." *Id.*, § 3, now codified at 28 U. S. C. § 2284(a).

Simultaneously, Congress amended the procedures governing three-judge district courts. The prior statute had provided: "The district judge to whom the application for injunction or other relief is presented shall constitute one member of [the three-judge] court. On the filing of the application, he shall immediately notify the chief judge of the circuit, who shall designate two other judges" to serve. 28 U. S. C. § 2284(1) (1970 ed.). The amended statute provides: "Upon the filing of a request for three judges, the judge to whom the request is presented shall, *unless he determines that three judges are not required*, immediately notify the chief judge of the circuit, who shall designate two other judges" to serve. 28 U. S. C. § 2284(b)(1) (2012 ed.) (emphasis added). The dispute here concerns the scope of the italicized text.

B

In response to the 2010 Census, Maryland enacted a statute in October 2011 establishing—or, more pejoratively, gerrymandering—the districts for the State's eight congres-

sional seats. Dissatisfied with the crazy-quilt results, see App. to Pet. for Cert. 23a, petitioners, a bipartisan group of citizens, filed suit *pro se* in Federal District Court. Their amended complaint alleges, *inter alia*, that Maryland's redistricting plan burdens their First Amendment right of political association. Petitioners also requested that a three-judge court be convened to hear the case.

The District Judge, however, thought the claim "not one for which relief can be granted." *Benisek* v. *Mack*, 11 F. Supp. 3d 516, 526 (Md. 2014). "[N]othing about the congressional districts at issue in this case affects in any proscribed way [petitioners'] ability to participate in the political debate in any of the Maryland congressional districts in which they might find themselves. They are free to join preexisting political committees, form new ones, or use whatever other means are at their disposal to influence the opinions of their congressional representatives." *Ibid.* (brackets, ellipsis, and internal quotation marks omitted).

For that reason, instead of notifying the Chief Judge of the Circuit of the need for a three-judge court, the District Judge dismissed the action. The Fourth Circuit summarily affirmed in an unpublished disposition. *Benisek* v. *Mack*, 584 Fed. Appx. 140 (2014). Seeking review in this Court, petitioners pointed out that at least two other Circuits consider it reversible error for a district judge to dismiss a case under § 2284 for failure to state a claim for relief rather than refer it for transfer to a three-judge court. See *LaRouche* v. *Fowler*, 152 F. 3d 974, 981–983 (CADC 1998); *LULAC* v. *Texas*, 113 F. 3d 53, 55–56 (CA5 1997) (*per curiam*). We granted certiorari. *Shapiro* v. *Mack*, 576 U. S. 1003 (2015).

## II

Petitioners' sole contention is that the District Judge had no authority to dismiss the case rather than initiate the procedures to convene a three-judge court. Not so, argue respondents; the 1976 addition to § 2284(b)(1) of the clause "un-

less he determines that three judges are not required" is precisely such a grant of authority. Moreover, say respondents, Congress declined to specify a standard to constrain the exercise of this authority. Choosing, as the District Judge did, the familiar standard for dismissal under Federal Rule of Civil Procedure 12(b)(6) best serves the purposes of a three-judge court, which (in respondents' view) is to protect States from "hasty, imprudent invalidation" of their statutes by rogue district judges acting alone. Brief for Respondents 27.

Whatever the purposes of a three-judge court may be, respondents' argument needlessly produces a contradiction in the statutory text. That text's initial prescription could not be clearer: "A district court of three judges *shall be convened* . . . when an action is filed challenging the constitutionality of the apportionment of congressional districts . . . ." 28 U. S. C. § 2284(a) (emphasis added). Nobody disputes that the present suit is "an action . . . challenging the constitutionality of the apportionment of congressional districts." It follows that the district judge was *required* to refer the case to a three-judge court, for § 2284(a) admits of no exception, and "the mandatory 'shall' . . . normally creates an obligation impervious to judicial discretion." *Lexecon Inc.* v. *Milberg Weiss Bershad Hynes & Lerach*, 523 U. S. 26, 35 (1998); see also *National Assn. of Home Builders* v. *Defenders of Wildlife*, 551 U. S. 644, 661–662 (2007) (same).

The subsequent provision of § 2284(b)(1), that the district judge shall commence the process for appointment of a three-judge panel "unless he determines that three judges are not required," need not and therefore should not be read as a grant of discretion to the district judge to ignore § 2284(a). It is not even framed as a proviso, or an exception from that provision, but rather as an administrative detail that is entirely compatible with § 2284(a). The old § 2284(1) triggered the district judge's duty to refer the matter for the convening of a three-judge court "[o]n the filing of the application" to

enjoin an unconstitutional state law. By contrast, the current § 2284(b)(1) triggers the district judge's duty "[u]pon the filing of a *request* for three judges" (emphasis added). But of course a party may—whether in good faith or bad, through ignorance or hope or malice—file a *request* for a three-judge court even if the case does not merit one under § 2284(a). Section 2284(b)(1) merely clarifies that a district judge need not unthinkingly initiate the procedures to convene a three-judge court without first examining the allegations in the complaint. In short, all the district judge must "determin[e]" is whether the "request for three judges" is made in a case covered by § 2284(a)—no more, no less.

That conclusion is bolstered by § 2284(b)(3)'s explicit command that "[a] single judge shall not . . . enter judgment on the merits." It would be an odd interpretation that allowed a district judge to do under § 2284(b)(1) what he is forbidden to do under § 2284(b)(3). More likely that Congress intended a three-judge court, and not a single district judge, to enter all final judgments in cases satisfying the criteria of § 2284(a).

## III

Respondents argue in the alternative that a district judge is not required to refer a case for the convening of a three-judge court if the constitutional claim is (as they assert petitioners' claim to be) "insubstantial." In *Goosby* v. *Osser*, 409 U. S. 512 (1973), we stated that the filing of a "constitutionally insubstantial" claim did not trigger the three-judge-court requirement under the pre-1976 statutory regime. *Id.*, at 518. *Goosby* rested not on an interpretation of statutory text, but on the familiar proposition that "[i]n the absence of diversity of citizenship, it is essential to jurisdiction that a *substantial* federal question should be presented." *Ex parte Poresky*, 290 U. S. 30, 31 (1933) (*per curiam*) (emphasis added). Absent a substantial federal question, even a single-judge district court lacks jurisdiction, and "[a] three-judge court is not required where the district court itself lacks jurisdiction of the complaint or the complaint is not

justiciable in the federal courts." *Gonzalez* v. *Automatic Employees Credit Union*, 419 U. S. 90, 100 (1974).

In the present case, however, the District Judge dismissed petitioners' complaint not because he thought he lacked jurisdiction, but because he concluded that the allegations failed to state a claim for relief on the merits, citing *Ashcroft* v. *Iqbal*, 556 U. S. 662 (2009), and *Bell Atlantic Corp.* v. *Twombly*, 550 U. S. 544 (2007). See 11 F. Supp. 3d, at 520. That was in accord with Fourth Circuit precedent, which holds that where the "pleadings do not state a claim, then *by definition they are insubstantial* and so properly are subject to dismissal by the district court without convening a three-judge court." *Duckworth* v. *State Admin. Bd. of Election Laws*, 332 F. 3d 769, 772–773 (CA4 2003) (emphasis added).

We think this standard both too demanding and inconsistent with our precedents. "[C]onstitutional claims will not lightly be found insubstantial for purposes of" the three-judge-court statute. *Washington* v. *Confederated Tribes of Colville Reservation*, 447 U. S. 134, 147–148 (1980). We have long distinguished between failing to raise a substantial federal question for jurisdictional purposes—which is what *Goosby* addressed—and failing to state a claim for relief on the merits; only "wholly insubstantial and frivolous" claims implicate the former. *Bell* v. *Hood*, 327 U. S. 678, 682–683 (1946); see also *Hannis Distilling Co.* v. *Mayor and City Council of Baltimore*, 216 U. S. 285, 288 (1910) ("obviously frivolous or plainly insubstantial"); *Bailey* v. *Patterson*, 369 U. S. 31, 33 (1962) (*per curiam*) ("wholly insubstantial," "legally speaking nonexistent," "essentially fictitious"); *Steel Co.* v. *Citizens for Better Environment*, 523 U. S. 83, 89 (1998) ("frivolous or immaterial"). Absent such frivolity, "the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction." *Bell*, *supra*, at 682. Consistent with this principle, *Goosby* clarified that "'[c]onstitutional insubstantiality' for this purpose has been equated with such concepts as 'essentially fictitious,' 'wholly insubstantial,' 'obviously frivo-

lous,' and 'obviously without merit.' " 409 U. S., at 518 (citations omitted). And the adverbs were no mere throwaways; "[t]he limiting words 'wholly' and 'obviously' have cogent legal significance." *Ibid.*

Without expressing any view on the merits of petitioners' claim, we believe it easily clears *Goosby*'s low bar; after all, the amended complaint specifically challenges Maryland's apportionment "along the lines suggested by Justice Kennedy in his concurrence in *Vieth* [v. *Jubelirer*, 541 U. S. 267 (2004)]." App. to Brief in Opposition 44. Although the *Vieth* plurality thought all political gerrymandering claims nonjusticiable, JUSTICE KENNEDY, concurring in the judgment, surmised that if "a State did impose burdens and restrictions on groups or persons by reason of their views, there would likely be a First Amendment violation, unless the State shows some compelling interest. . . . Where it is alleged that a gerrymander had the purpose and effect of imposing burdens on a disfavored party and its voters, the First Amendment may offer a sounder and more prudential basis for intervention than does the Equal Protection Clause." *Vieth* v. *Jubelirer*, 541 U. S. 267, 315 (2004). Whatever "wholly insubstantial," "obviously frivolous," etc., mean, at a minimum they cannot include a plea for relief based on a legal theory put forward by a Justice of this Court and uncontradicted by the majority in any of our cases. Accordingly, the District Judge should not have dismissed the claim as "constitutionally insubstantial" under *Goosby*. Perhaps petitioners will ultimately fail on the merits of their suit, but § 2284 entitles them to make their case before a three-judge district court.

* * *

The judgment of the Fourth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

Syllabus

# DIRECTV, INC. *v.* IMBURGIA ET AL.

## CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION ONE

No. 14–462. Argued October 6, 2015—Decided December 14, 2015

Petitioner DIRECTV, Inc., and its customers entered into a service agreement that included a binding arbitration provision with a class-arbitration waiver. It specified that the entire arbitration provision was unenforceable if the "law of your state" made class-arbitration waivers unenforceable. The agreement also declared that the arbitration clause was governed by the Federal Arbitration Act. At the time that respondents, California residents, entered into that agreement with DIRECTV, California law made class-arbitration waivers unenforceable, see *Discover Bank* v. *Superior Court*, 36 Cal. 4th 148, 113 P. 3d 1100. This Court subsequently held in *AT&T Mobility LLC* v. *Concepcion*, 563 U. S. 333, however, that California's *Discover Bank* rule was pre-empted by the Federal Arbitration Act, 9 U. S. C. § 2.

When respondents sued petitioner, the trial court denied DIRECTV's request to order the matter to arbitration, and the California Court of Appeal affirmed. The court thought that California law would render class-arbitration waivers unenforceable, so it held the entire arbitration provision was unenforceable under the agreement. The fact that the Federal Arbitration Act pre-empted that California law did not change the result, the court said, because the parties were free to refer in the contract to California law as it would have been absent federal pre-emption. The court reasoned that the phrase "law of your state" was both a specific provision that should govern more general provisions and an ambiguous provision that should be construed against the drafter. Therefore, the court held, the parties had in fact included California law as it would have been without federal pre-emption.

*Held*: Because the California Court of Appeal's interpretation is pre-empted by the Federal Arbitration Act, that court must enforce the arbitration agreement. Pp. 53–59.

(a) No one denies that lower courts must follow *Concepcion*, but that elementary point of law does not resolve the case because the parties are free to choose the law governing an arbitration provision, including California law as it would have been if not pre-empted. The state court interpreted the contract to mean that the parties did so, and the interpretation of a contract is ordinarily a matter of state law to which this

Syllabus

Court defers, *Volt Information Sciences, Inc.* v. *Board of Trustees of Leland Stanford Junior Univ.*, 489 U. S. 468, 474. The issue here is not whether the court's decision is a correct statement of California law but whether it is consistent with the Federal Arbitration Act. Pp. 53–54.

(b) The California court's interpretation does not place arbitration contracts "on equal footing with all other contracts," *Buckeye Check Cashing, Inc.* v. *Cardegna*, 546 U. S. 440, 443, because California courts would not interpret contracts other than arbitration contracts the same way. Several considerations lead to this conclusion.

First, the phrase "law of your state" is not ambiguous and takes its ordinary meaning: valid state law. Second, California case law—that under "general contract principles," references to California law incorporate the California Legislature's power to change the law retroactively, *Doe* v. *Harris*, 57 Cal. 4th 64, 69–70, 302 P. 3d 598, 601–602—clarifies any doubt about how to interpret it. Third, because the court nowhere suggests that California courts would reach the same interpretation in any other context, its conclusion appears to reflect the subject matter, rather than a general principle that would include state statutes invalidated by other federal law. Fourth, the language the court uses to frame the issue focuses only on arbitration. Fifth, the view that state law retains independent force after being authoritatively invalidated is one courts are unlikely to apply in other contexts. Sixth, none of the principles of contract interpretation relied on by the California court suggests that other California courts would reach the same interpretation elsewhere. The court applied the canon that contracts are construed against the drafter, but the lack of any similar case interpreting similar language to include invalid laws indicates that the antidrafter canon would not lead California courts to reach a similar conclusion in cases not involving arbitration. Pp. 54–58.

225 Cal. App. 4th 338, 170 Cal. Rptr. 3d 190, reversed and remanded.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and KAGAN, JJ., joined. THOMAS, J., filed a dissenting opinion, *post*, p. 59. GINSBURG, J., filed a dissenting opinion, in which SOTOMAYOR, J., joined, *post*, p. 59.

*Christopher Landau* argued the cause for petitioner. With him on the briefs were *Melissa D. Ingalls*, *Robyn E. Bladow*, and *Shaun Paisley*.

*Thomas C. Goldstein* argued the cause for respondents. With him on the brief were *F. Edie Mermelstein*, *Paul D. Stevens*, and *Ingrid Maria Evans*.*

JUSTICE BREYER delivered the opinion of the Court.

The Federal Arbitration Act states that a "written provision" in a contract providing for "settle[ment] by arbitration" of "a controversy . . . arising out of" that "contract . . . shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U. S. C. §2. We here consider a California court's refusal to enforce an arbitration provision in a contract. In our view, that decision does not rest "upon such grounds as exist . . . for the revocation of any contract," and we consequently set that judgment aside.

I

DIRECTV, Inc., the petitioner, entered into a service agreement with its customers, including respondents Amy

*Briefs of *amici curiae* urging reversal were filed for the Atlantic Legal Foundation et al. by *Martin S. Kaufman* and *Mary-Christine Sungaila*; for the Chamber of Commerce of the United States of America et al. by *Andrew J. Pincus*, *Archis A. Parasharami*, *Richard B. Katskee*, *Kate Comerford Todd*, *Warren Postman*, and *Deborah White*; for DRI–The Voice of the Defense Bar by *David M. Axelrad*, *Felix Shafir*, and *John F. Querio*; for the Equal Employment Advisory Council by *Rae T. Vann* and *Amy Beth Leasure*; for the New England Legal Foundation by *Benjamin G. Robbins* and *Martin J. Newhouse*; for the Pacific Legal Foundation by *Deborah J. La Fetra* and *Ernesto J. Sanchez*; and for the Washington Legal Foundation by *Cory L. Andrews*.

Briefs of *amici curiae* urging affirmance were filed for Arbitration and Contracts Scholars by *Francis J. Balint, Jr.*, *Andrew S. Friedman*, and *Richard H. Frankel*; for California Law Professors by *Holly McGregor Mosier*; for Law Professors by *Kristen Marquis Fritz* and *Gregory G. Rizio*; for Law Professors by *Imre S. Szalai*; for Public Citizen, Inc., by *Scott L. Nelson* and *Allison M. Zieve*; for Peter Linzer by *Mr. Linzer, pro se*; for Michael Vachon by *Mr. Vachon, pro se*; and for William R. Weinstein by *Mr. Weinstein, pro se.*

Imburgia and Kathy Greiner. Section 9 of that contract provides that "any Claim either of us asserts will be resolved only by binding arbitration." App. 128. It then sets forth a waiver of class arbitration, stating that "[n]either you nor we shall be entitled to join or consolidate claims in arbitration." *Id.*, at 128–129. It adds that if the "law of your state" makes the waiver of class arbitration unenforceable, then the entire arbitration provision "is unenforceable." *Id.*, at 129. Section 10 of the contract states that § 9, the arbitration provision, "shall be governed by the Federal Arbitration Act." *Ibid.*

In 2008, the two respondents brought this lawsuit against DIRECTV in a California state court. They seek damages for early termination fees that they believe violate California law. After various proceedings not here relevant, DIRECTV, pointing to the arbitration provision, asked the court to send the matter to arbitration. The state trial court denied that request, and DIRECTV appealed.

The California Court of Appeal thought that the critical legal question concerned the meaning of the contractual phrase "law of your state," in this case the law of California. Does the law of California make the contract's class-arbitration waiver unenforceable? If so, as the contract provides, the entire arbitration provision is unenforceable. Or does California law permit the parties to agree to waive the right to proceed as a class in arbitration? If so, the arbitration provision is enforceable.

At one point, the law of California would have made the contract's class-arbitration waiver unenforceable. In 2005, the California Supreme Court held in *Discover Bank* v. *Superior Court*, 36 Cal. 4th 148, 162–163, 113 P. 3d 1100, 1110, that a "waiver" of class arbitration in a "consumer contract of adhesion" that "predictably involve[s] small amounts of damages" and meets certain other criteria not contested here is "unconscionable under California law and should not be enforced." See *Cohen* v. *DirecTV, Inc.*, 142 Cal. App. 4th

1442, 1446–1447, 48 Cal. Rptr. 3d 813, 815–816 (2006) (holding a class-action waiver similar to the one at issue here unenforceable pursuant to *Discover Bank*); see also Consumers Legal Remedies Act, Cal. Civ. Code Ann. §§ 1751, 1781(a) (West 2009) (invalidating class-action waivers for claims brought under that statute). But in 2011, this Court held that California's *Discover Bank* rule " 'stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress' " embodied in the Federal Arbitration Act. *AT&T Mobility LLC* v. *Concepcion*, 563 U. S. 333, 352 (2011) (quoting *Hines* v. *Davidowitz*, 312 U. S. 52, 67 (1941)); see *Sanchez* v. *Valencia Holding Co., LLC*, 61 Cal. 4th 899, 923–924, 353 P. 3d 741, 757 (2015) (holding that *Concepcion* applies to the Consumers Legal Remedies Act to the extent that it would have the same effect as *Discover Bank*). The Federal Arbitration Act therefore pre-empts and invalidates that rule. 563 U. S., at 352; see U. S. Const., Art. VI, cl. 2.

The California Court of Appeal subsequently held in this case that, despite this Court's holding in *Concepcion*, "the law of California would find the class action waiver unenforceable." 225 Cal. App. 4th 338, 342, 170 Cal. Rptr. 3d 190, 194 (2014). The court noted that *Discover Bank* had held agreements to dispense with class-arbitration procedures unenforceable under circumstances such as these. 225 Cal. App. 4th, at 341, 170 Cal. Rptr. 3d, at 194. It conceded that this Court in *Concepcion* had held that the Federal Arbitration Act invalidated California's rule. 225 Cal. App. 4th, at 341, 170 Cal. Rptr. 3d, at 194. But it then concluded that this latter circumstance did not change the result—that the "class action waiver is unenforceable under California law." *Id.*, at 347, 170 Cal. Rptr. 3d, at 198.

In reaching that conclusion, the Court of Appeal referred to two sections of California's Consumers Legal Remedies Act, §§ 1751, 1781(a), rather than *Discover Bank* itself. See 225 Cal. App. 4th, at 344, 170 Cal. Rptr. 3d, at 195. Section

1751 renders invalid any waiver of the right under § 1781(a) to bring a class action for violations of that Act. The Court of Appeal thought that applying "state law alone" (that is, those two sections) would render unenforceable the class-arbitration waiver in § 9 of the contract. *Id.*, at 344, 170 Cal. Rptr. 3d, at 195. But it nonetheless recognized that if it applied federal law "then the class action waiver is enforceable and any state law to the contrary is preempted." *Ibid.* As far as those sections apply to class-arbitration waivers, they embody the *Discover Bank* rule. The California Supreme Court has recognized as much, see *Sanchez*, *supra*, at 923–924, 353 P. 3d, at 757, and no party argues to the contrary, see Supp. Brief for Respondents 2 ("The ruling in *Sanchez* tracks respondents' position precisely"). We shall consequently refer to the here-relevant rule as the *Discover Bank* rule.

The court reasoned that just as the parties were free in their contract to refer to the laws of different States or different nations, so too were they free to refer to California law as it would have been without this Court's holding invalidating the *Discover Bank* rule. The court thought that the parties in their contract had done just that. And it set forth two reasons for believing so.

First, § 10 of the contract, stating that the Federal Arbitration Act governs § 9 (the arbitration provision), is a *general* provision. But the provision voiding arbitration if the "law of your state" would find the class-arbitration waiver unenforceable is a *specific* provision. The court believed that the specific provision "'is paramount to'" and must govern the general. 225 Cal. App. 4th, at 344, 170 Cal. Rptr. 3d, at 195 (quoting *Prouty* v. *Gores Technology Group*, 121 Cal. App. 4th 1225, 1235, 18 Cal. Rptr. 3d 178, 185–186 (2004); brackets omitted).

Second, the court said that "'a court should construe ambiguous language against the interest of the party that drafted it.'" 255 Cal. App. 4th, at 345, 170 Cal. Rptr. 3d, at

196 (quoting *Mastrobuono* v. *Shearson Lehman Hutton, Inc.*, 514 U. S. 52, 62 (1995)). DIRECTV had drafted the language; to void the arbitration provision was against its interest. Hence the arbitration provision was void. The Court of Appeal consequently affirmed the trial court's denial of DIRECTV's motion to enforce the arbitration provision.

The California Supreme Court denied discretionary review. App. to Pet. for Cert. 1a. DIRECTV then filed a petition for a writ of certiorari, noting that the Ninth Circuit had reached the opposite conclusion on precisely the same interpretive question decided by the California Court of Appeal. *Murphy* v. *DirecTV, Inc.*, 724 F. 3d 1218, 1226–1228 (2013). We granted the petition.

## II

No one denies that lower courts must follow this Court's holding in *Concepcion*. The fact that *Concepcion* was a closely divided case, resulting in a decision from which four Justices dissented, has no bearing on that undisputed obligation. Lower court judges are certainly free to note their disagreement with a decision of this Court. But the "Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source." *Howlett* v. *Rose*, 496 U. S. 356, 371 (1990); cf. *Khan* v. *State Oil Co.*, 93 F. 3d 1358, 1363–1364 (CA7 1996), vacated, 522 U. S. 3 (1997). The Federal Arbitration Act is a law of the United States, and *Concepcion* is an authoritative interpretation of that Act. Consequently, the judges of every State must follow it. U. S. Const., Art. VI, cl. 2 ("[T]he Judges in every State shall be bound" by "the Laws of the United States").

While all accept this elementary point of law, that point does not resolve the issue in this case. As the Court of Appeal noted, the Federal Arbitration Act allows parties to an arbitration contract considerable latitude to choose what law

governs some or all of its provisions, including the law governing enforceability of a class-arbitration waiver. 225 Cal. App. 4th, at 342–343, 170 Cal. Rptr. 3d, at 194. In principle, they might choose to have portions of their contract governed by the law of Tibet, the law of prerevolutionary Russia, or (as is relevant here) the law of California including the *Discover Bank* rule and irrespective of that rule's invalidation in *Concepcion*. The Court of Appeal decided that, as a matter of contract law, the parties did mean the phrase "law of your state" to refer to this last possibility. Since the interpretation of a contract is ordinarily a matter of state law to which we defer, *Volt Information Sciences, Inc.* v. *Board of Trustees of Leland Stanford Junior Univ.*, 489 U. S. 468, 474 (1989), we must decide not whether its decision is a correct statement of California law but whether (assuming it is) that state law is consistent with the Federal Arbitration Act.

## III

Although we may doubt that the Court of Appeal has correctly interpreted California law, we recognize that California courts are the ultimate authority on that law. While recognizing this, we must decide whether the decision of the California court places arbitration contracts "on equal footing with all other contracts." *Buckeye Check Cashing, Inc.* v. *Cardegna*, 546 U. S. 440, 443 (2006). And in doing so, we must examine whether the Court of Appeal's decision in fact rests upon "grounds as exist at law or in equity for the revocation of any contract." 9 U. S. C. §2. That is to say, we look not to grounds that the California court might have offered but rather to those it did in fact offer. Neither this approach nor our result "steps beyond *Concepcion*" or any other aspect of federal arbitration law. See *post*, at 67 (GINSBURG, J., dissenting) (hereinafter the dissent).

We recognize, as the dissent points out, *post*, at 62, that when DIRECTV drafted the contract, the parties likely believed that the words "law of your state" included California

law that then made class-arbitration waivers unenforceable. But that does not answer the legal question before us. That is because this Court subsequently held in *Concepcion* that the *Discover Bank* rule was invalid. Thus the underlying question of contract law at the time the Court of Appeal made its decision was whether the "law of your state" included *invalid* California law. We must now decide whether answering *that* question in the affirmative is consistent with the Federal Arbitration Act. After examining the grounds upon which the Court of Appeal rested its decision, we conclude that California courts would not interpret contracts other than arbitration contracts the same way. Rather, several considerations lead us to conclude that the court's interpretation of this arbitration contract is unique, restricted to that field.

First, we do not believe that the relevant contract language is ambiguous. The contract says that "[i]f . . . the law of your state would find this agreement to dispense with class arbitration procedures unenforceable, then this entire Section 9 [the arbitration section] is unenforceable." App. 129. Absent any indication in the contract that this language is meant to refer to *invalid* state law, it presumably takes its ordinary meaning: *valid* state law. Indeed, neither the parties nor the dissent refer us to any contract case from California or from any other State that interprets similar language to refer to state laws authoritatively held to be invalid. While we recognize that the dissent believes this phrase to be "ambiguous," *post,* at 65, 67, or "anomalous," *post,* at 68, we cannot agree with that characterization.

Second, California case law itself clarifies any doubt about how to interpret the language. The California Supreme Court has held that under "general contract principles," references to California law incorporate the California Legislature's power to change the law retroactively. *Doe* v. *Harris*, 57 Cal. 4th 64, 69–70, 302 P. 3d 598, 601–602 (2013) (holding that plea agreements, which are governed by general con-

tract principles, are "'"deemed to incorporate and contemplate not only the existing law but the reserve power of the state to amend the law or enact additional laws"'" (quoting *People* v. *Gipson*, 117 Cal. App. 4th 1065, 1070, 12 Cal. Rptr. 3d 478, 481 (2004))). And judicial construction of a statute ordinarily applies retroactively. *Rivers* v. *Roadway Express, Inc.*, 511 U. S. 298, 312–313 (1994). As far as we are aware, the principle of California law announced in *Harris*, not the Court of Appeal's decision here, would ordinarily govern the scope of phrases such as "law of your state."

Third, nothing in the Court of Appeal's reasoning suggests that a California court would reach the same interpretation of "law of your state" in any context other than arbitration. The Court of Appeal did not explain why parties might generally intend the words "law of your state" to encompass "*invalid* law of your state." To the contrary, the contract refers to "state law" that makes the waiver of class arbitration "unenforceable," while an invalid state law would not make a contractual provision unenforceable. Assuming—as we must—that the court's reasoning is a correct statement as to the meaning of "law of your state" in this arbitration provision, we can find nothing in that opinion (nor in any other California case) suggesting that California would generally interpret words such as "law of your state" to include state laws held invalid because they conflict with, say, federal labor statutes, federal pension statutes, federal antidiscrimination laws, the Equal Protection Clause, or the like. Even given our assumption that the Court of Appeal's conclusion is correct, its conclusion appears to reflect the subject matter at issue here (arbitration), rather than a general principle that would apply to contracts using similar language but involving state statutes invalidated by other federal law.

Fourth, the language used by the Court of Appeal focused only on arbitration. The court asked whether "law of your

state" "mean[s] 'the law of your state to the extent it is not preempted by the [Federal Arbitration Act],' or 'the law of your state without considering the preemptive effect, if any, of the [Federal Arbitration Act].'" 225 Cal. App. 4th, at 344, 170 Cal. Rptr. 3d, at 195. Framing the question in such terms, rather than in generally applicable terms, suggests that the Court of Appeal could well have meant that its holding was limited to the specific subject matter of this contract—arbitration.

Fifth, the Court of Appeal reasoned that invalid state arbitration law, namely, the *Discover Bank* rule, maintained legal force despite this Court's holding in *Concepcion*. The court stated that "[i]f we apply state law alone . . . to the class action waiver, then the waiver is unenforceable." 225 Cal. App. 4th, at 344, 170 Cal. Rptr. 3d, at 195. And at the end of its opinion it reiterated that "[t]he class action waiver is unenforceable under California law, so the entire arbitration agreement is unenforceable." *Id.*, at 347, 170 Cal. Rptr. 3d, at 198. But those statements do not describe California law. See *Concepcion*, 563 U. S., at 344, 352; *Sanchez*, 61 Cal. 4th, at 923–924, 353 P. 3d, at 757. The view that state law retains independent force even after it has been authoritatively invalidated by this Court is one courts are unlikely to accept as a general matter and to apply in other contexts.

Sixth, there is no other principle invoked by the Court of Appeal that suggests that California courts would reach the same interpretation of the words "law of your state" in other contexts. The court said that the phrase "law of your state" constitutes "'a specific *exception*'" to the agreement's "'*general* adoption of the [Federal Arbitration Act].'" 225 Cal. App. 4th, at 344, 170 Cal. Rptr. 3d, at 195. But that tells us nothing about how to interpret the words "law of your state" elsewhere. It does not answer the relevant question: whether those words encompass laws that have been author-

itatively held invalid. Cf. *Prouty*, 121 Cal. App. 4th, at 1235, 18 Cal. Rptr. 3d, at 185–186 (specific words govern only "when a general and a particular provision are inconsistent").

The court added that it would interpret "'ambiguous language against the interest of the party that drafted it,'" namely, DIRECTV. 225 Cal. App. 4th, at 345, 170 Cal. Rptr. 3d, at 196 (quoting *Mastrobuono*, 514 U. S., at 62). The dissent adopts a similar argument. See *post*, at 65–67. But, as we have pointed out, *supra*, at 56, were the phrase "law of your state" ambiguous, surely some court would have construed that term to incorporate state laws invalidated by, for example, federal labor law, federal pension law, or federal civil rights law. Yet, we have found no such case. Moreover, the reach of the canon construing contract language against the drafter must have limits, no matter who the drafter was. The fact that we can find no similar case interpreting the words "law of your state" to include *invalid* state laws indicates, at the least, that the antidrafter canon would not lead California courts to reach a similar conclusion in similar cases that do not involve arbitration.

* * *

Taking these considerations together, we reach a conclusion that, in our view, falls well within the confines of (and goes no further than) present well-established law. California's interpretation of the phrase "law of your state" does not place arbitration contracts "on equal footing with all other contracts," *Buckeye Check Cashing, Inc.*, 546 U. S., at 443. For that reason, it does not give "due regard . . . to the federal policy favoring arbitration." *Volt Information Sciences*, 489 U. S., at 476. Thus, the Court of Appeal's interpretation is pre-empted by the Federal Arbitration Act. See *Perry* v. *Thomas*, 482 U. S. 483, 493, n. 9 (1987) (noting that the Federal Arbitration Act pre-empts decisions that take their "meaning precisely from the fact that a contract to arbi-

trate is at issue"). Hence, the California Court of Appeal must "enforc[e]" the arbitration agreement. 9 U. S. C. § 2.

The judgment of the California Court of Appeal is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

JUSTICE THOMAS, dissenting.

I remain of the view that the Federal Arbitration Act (FAA), 9 U. S. C. § 1 *et seq.*, does not apply to proceedings in state courts. See *Allied-Bruce Terminix Cos.* v. *Dobson*, 513 U. S. 265, 285–297 (1995) (dissenting opinion); see also *Preston* v. *Ferrer*, 552 U. S. 346, 363 (2008) (same); *Buckeye Check Cashing, Inc.* v. *Cardegna*, 546 U. S. 440, 449 (2006) (same); *Green Tree Financial Corp.* v. *Bazzle*, 539 U. S. 444, 460 (2003) (same); *Doctor's Associates, Inc.* v. *Casarotto*, 517 U. S. 681, 689 (1996) (same). Thus, the FAA does not require state courts to order arbitration. Accordingly, I would affirm the judgment of the California Court of Appeal.

JUSTICE GINSBURG, with whom JUSTICE SOTOMAYOR joins, dissenting.

It has become routine, in a large part due to this Court's decisions, for powerful economic enterprises to write into their form contracts with consumers and employees no-class-action arbitration clauses. The form contract in this case contains a Delphic provision stating that "if the law of your state" does not permit agreements barring class arbitration, then the entire agreement to arbitrate becomes unenforceable, freeing the aggrieved customer to commence class-based litigation in court. This Court reads that provision in a manner most protective of the drafting enterprise. I would read it, as the California court did, to give the customer, not the drafter, the benefit of the doubt. Acknowledging the precedent so far set by the Court, I would take

no further step to disarm consumers, leaving them without effective access to justice.

I

This case began as a putative class action in state court claiming that DIRECTV, by imposing hefty early-termination fees, violated California consumer-protective legislation, including the Consumers Legal Remedies Act (CLRA), Cal. Civ. Code Ann. §1750 *et seq.* (West 2015). App. 58. DIRECTV did not initially seek to stop the lawsuit and compel bilateral arbitration. See *id.*, at 52–53. The reason for DIRECTV's failure to oppose the litigation is no mystery. The version of DIRECTV's service agreement applicable in this case (the 2007 version) requires consumers to arbitrate all disputes and to forgo class arbitration. *Id.*, at 128–129. If the relevant provision stopped there, the Court's recent precedent, see *American Express Co.* v. *Italian Colors Restaurant*, 570 U. S. 228 (2013); *AT&T Mobility LLC* v. *Concepcion*, 563 U. S. 333 (2011), would control, and DIRECTV could have resisted the lawsuit. But DIRECTV's form contract continued: The entire arbitration clause is unenforceable "[i]f . . . the law of your state would find" unenforceable the agreement's class-arbitration prohibition. App. 129. At the time plaintiff-respondents Imburgia and Greiner commenced their court action, class-arbitration bars like the one in DIRECTV's agreement were *per se* unenforceable as unconscionable under the law of California. See *Discover Bank* v. *Superior Court*, 36 Cal. 4th 148, 162–163, 113 P. 3d 1100, 1110 (2005).

Nearly three years into the litigation, this Court held in *Concepcion*, 563 U. S., at 338–351, that the Federal Arbitration Act (FAA), 9 U. S. C. §1 *et seq.*, preempts state rules that render class-arbitration bans unenforceable. DIRECTV then moved to halt the long-pending lawsuit and compel bilateral arbitration. App. to Pet. for Cert. 4a. The California Superior Court denied DIRECTV's motion, No. BC398295 (Super. Ct. Los Angeles Cty., Jan. 26, 2012), App. to Pet. for Cert. 17a–20a, and the California Court of Appeal

affirmed. The Court of Appeal first observed that, under the California law DIRECTV confronted when it drafted the clause in question, provisions relinquishing the right to proceed under the CLRA on behalf of a class would not be enforced. 225 Cal. App. 4th 338, 342, 170 Cal. Rptr. 3d 190, 194 (2014). The question dispositive of DIRECTV's motion, the California court explained, trains on the meaning of the atypical contractual phrase "the law of your state": "[D]oes it mean 'the law of your state to the extent it is not preempted by the FAA,' or 'the law of your state without considering the preemptive effect, if any, of the FAA'?" *Id.*, at 344, 170 Cal. Rptr. 3d, at 195.

In resolving this question, the California court emphasized that DIRECTV drafted the service agreement, giving its customers no say in the matter, and reserving to itself the right to modify the agreement unilaterally at any time. *Id.*, at 345, 170 Cal. Rptr. 3d, at 196. See also Brief for Respondents 1–2. DIRECTV used the same take-it-or-leave-it contract everywhere it did business. *Ibid.* "[T]o protect the party who did not choose the language from an unintended or unfair result," the California court applied "the common-law rule of contract interpretation that a court should construe ambiguous language against the interest of the party that drafted it." 225 Cal. App. 4th, at 345, 170 Cal. Rptr. 3d, at 196 (quoting *Mastrobuono* v. *Shearson Lehman Hutton, Inc.*, 514 U. S. 52, 62–63 (1995)). That rule was particularly appropriate in this case, the court reasoned, for, "as a practical matter, it seems unlikely that plaintiffs anticipated in 2007 that the Supreme Court would hold in 2011 that the FAA preempts" state-law protection against compelled class-arbitration waivers. 255 Cal. App. 4th, at 345, 170 Cal. Rptr. 3d, at 196 (internal quotation marks omitted).

## II

The Court today holds that the California Court of Appeal interpreted the language in DIRECTV's service agreement so unreasonably as to suggest discrimination against arbitra-

tion in violation of the FAA. *Ante,* at 58. As I see it, the California court's interpretation of the "law of your state" provision is not only reasonable, it is entirely right.

Arbitration is a matter of "consent, not coercion." *Stolt-Nielsen S. A.* v. *AnimalFeeds Int'l Corp.*, 559 U. S. 662, 681 (2010) (internal quotation marks omitted). The FAA "requires courts to enforce privately negotiated agreements to arbitrate, like other contracts, in accordance with their terms." *Volt Information Sciences, Inc.* v. *Board of Trustees of Leland Stanford Junior Univ.*, 489 U. S. 468, 478 (1989). "[T]he interpretation of private contracts is ordinarily a question of state law, which this Court does not sit to review." *Id.*, at 474. See also *First Options of Chicago, Inc.* v. *Kaplan*, 514 U. S. 938, 944 (1995) (when interpreting arbitration agreements, courts "should apply ordinary state-law principles that govern the formation of contracts"). Historically, this Court has respected state-court interpretations of arbitration agreements. See *Mastrobuono*, 514 U. S., at 60, n. 4; *Volt Information Sciences*, 489 U. S., at 484. Indeed, in the more than 25 years between *Volt Information Sciences* and this case, not once has this Court reversed a state-court decision on the ground that the state court misapplied state contract law when it determined the meaning of a term in a particular arbitration agreement. Today's decision is a dangerous first.

Beyond genuine debate, DIRECTV originally meant the "law of your state" clause to refer to its customer's home state law untouched by federal preemption. As DIRECTV explained in a state-court filing, the clause prevented enforcement of the arbitration agreement in those States, California among them, where the class-arbitration proscription was unenforceable as a matter of state law, while requiring bilateral arbitration in States that did not outlaw purported waivers of class proceedings. App. 52 ("The Customer Agreement between DIRECTV and its customers provides that the customer's home state laws will govern the relation-

ship, and that any disputes will be resolved in individual arbitration *if* the customer's home state laws enforce the parties' arbitration agreement." (emphasis added)).

According to DIRECTV, because the class-arbitration ban, post-*Concepcion*, is enforceable in all States, this case must now be resolved, if at all, in bilateral arbitration. The Court agrees. After *Concepcion*, the Court maintains, it no longer matters whether DIRECTV meant California's "home state laws" when it drafted the 2007 version of its service agreement. But *Concepcion* held only that a State cannot *compel* a party to engage in class arbitration when the controlling agreement unconditionally prohibits class procedures. See 563 U. S., at 351 ("Arbitration is a matter of contract, and the FAA requires courts to honor parties' expectations," so parties may consent to class procedures even though such procedures "may not be required by state law."). Just as a contract itself may provide for class arbitration, so the parties may *choose* to be bound by a particular state law, in this case, the CLRA, even if the FAA would otherwise displace that state law. *Hall Street Associates, L. L. C.* v. *Mattel, Inc.*, 552 U. S. 576, 586 (2008) ("[T]he FAA lets parties tailor some, even many, features of arbitration by contract, including . . . procedure and choice of substantive law.").[1] "In principle," the Court acknowledges, parties "might choose to have portions of their contract governed by the law of Tibet, [or] the law of prerevolutionary Russia." *Ante*, at 54; see Brief for Petitioner 20 (observing that the FAA would allow parties "to bind themselves by reference to the rules of a

[1] FAA preemption is distinct from federal preemption in other contexts. Unlike "state laws invalidated by, for example, federal labor law, federal pension law, or federal civil rights law," *ante*, at 58, state laws are preempted by the FAA only to the extent that they conflict with the contracting parties' intent. See *Mastrobuono* v. *Shearson Lehman Hutton, Inc.*, 514 U. S. 52, 59 (1995) ("*[I]n the absence of contractual intent to the contrary*, the FAA would pre-empt" a particular state law. (emphasis added)); Brief for Law Professors as *Amici Curiae* 10 ("FAA preemption cannot occur without reference to a particular agreement of the parties . . . .").

board game"). Prerevolutionary Russian law, but not California's "home state laws" operative and unquestionably valid in 2007? Makes little sense to me.

Nothing in *Concepcion* or the FAA nullifies provisions of the CLRA. They hold sway when parties elect judicial resolution of their disputes, and should similarly control when parties choose that consumer-protective law to govern their arbitration agreements. See *Volt Information Sciences*, 489 U. S., at 475 (where parties had "incorporat[ed] . . . California rules of arbitration into their agreement," they had no "FAA-guaranteed right to compel arbitration" on terms inconsistent with those California rules).[2] Thus, even after *Concepcion*, one could properly refer to the CLRA's class-waiver proscription as "California law." To repeat, the dispositive question in this case is whether the parties intended the "law of your state" provision to mean state law as preempted by federal law, as the Court today reads the provision, or home state law as framed by the California Legislature, without considering the preemptive effect of federal law, as the California court read it.

The latter reading is the better one. DIRECTV had no occasion to refer to "the law of [its customer's] state" had it meant to incorporate state law as preempted by the FAA. That is, DIRECTV, like virtually every other company with a similar service agreement, could have employed a clause directly conditioning enforceability of the arbitration agreement on the exclusion of class arbitration. Indeed, DIRECTV

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[2] The Court refers to the relevant California law as the "*Discover Bank* rule" and suggests that, "under 'general contract principles,' references to California law incorporate the California Legislature's power to change the law retroactively." *Ante*, at 55. But despite this Court's rejection of the *Discover Bank* rule in *Concepcion*, the California Legislature has not capitulated; it has retained without change the CLRA's class-waiver prohibition. The *Discover Bank* rule relied on an interpretation of the FAA, see 36 Cal. 4th 148, 162–173, 113 P. 3d 1100, 1100–1117 (2005); in contrast, the CLRA's class-waiver proscription reflects California's legislative policy judgment.

has done just that in service agreements both before and after 2007. App. 121 (the 2004 version provides that "[a] court may sever any portion of [the arbitration agreement] that it finds to be unenforceable, except for the prohibition on class or representative arbitration"); Brief for Respondents 35–36 (stating that the June 2015 version of DIRECTV's agreement provides that "[a] court may sever any portion of [the arbitration agreement] that it finds to be unenforceable, except for the prohibition on [class arbitration]" (internal quotation marks omitted)). Had DIRECTV followed this pattern in its 2007 form contract, the arbitration agreement, post-*Concepcion*, unquestionably would have been enforceable in all States. In the 2007 version, however, DIRECTV chose a different formulation, one referring to the "law of [its customer's] state." I would not translate that term to be synonymous with "federal law." If DIRECTV meant to exclude the application of California legislation, it surely chose a bizarre way to accomplish that result.

As earlier noted, see *supra*, at 61, and as the California court appreciated, courts generally construe ambiguous contractual terms against the drafter. See *Mastrobuono*, 514 U. S., at 63 ("Respondents drafted an ambiguous document, and they cannot now claim the benefit of the doubt."). This "common-law rule of contract interpretation," *id.*, at 62, reflects the principle that a party should not be permitted to write an ambiguous term, lock another party into agreeing to that term, and then reap the benefit of the ambiguity once a dispute emerges. The rule has particular force where, as here, a court is interpreting a "standardized contrac[t]" that was not the product of bilateral bargaining. Restatement (Second) of Contracts § 206, Comment *a* (1979).

Allowing DIRECTV to reap the benefit of an ambiguity it could have avoided would ignore not just the hugely unequal bargaining power of the parties, but also their reasonable expectations at the time the contract was formed. See

*Mastrobuono*, 514 U. S., at 63 (it is particularly appropriate to construe terms against the drafter where the other party had no reason to anticipate or intend the drafter's preferred result). See also *Trans World Airlines, Inc.* v. *Franklin Mint Corp.*, 466 U. S. 243, 262 (1984) ("[C]ontract[s] . . . are to be read in the light of the conditions and circumstances existing at the time they were entered into, with a view to effecting the objects and purposes of the [parties] thereby contracting." (quoting *Rocca* v. *Thompson*, 223 U. S. 317, 331–332 (1912); ellipsis in original)). At the time DIRECTV imposed this agreement on its customers, it assumed that the arbitration clause would be unenforceable in California. App. 52 (explaining in state-court filing that, "[b]ecause California law would not enforce the arbitration agreement . . . , DIRECTV has not sought and will not seek to arbitrate disputes with California customers"). Likewise, any California customer who read the agreement would scarcely have understood that she had submitted to bilateral arbitration of any and all disputes with DIRECTV. She certainly would have had no reason to anticipate the Court's decision in *Concepcion*, rendered four years later, or to consider whether "law of your state" is a chameleon term meaning California legislation when she received her service contract, but preemptive federal law later on.

DIRECTV primarily responds that the FAA requires construction of all terms in arbitration agreements in favor of arbitrability. True, this Court has found in the FAA a "federal policy favoring arbitration." *Ante*, at 58 (quoting *Volt Information Sciences*, 489 U. S., at 476). But the Court has also cautioned that an arbitration-favoring presumption applies "only where it reflects, and derives its legitimacy from, a judicial conclusion that arbitration of a particular dispute is what the parties intended because their express agreement to arbitrate was validly formed[, is] legally enforceable[,] and [is] best construed to encompass the dispute." *Granite Rock Co.* v. *Teamsters*, 561 U. S. 287, 303 (2010).

DIRECTV acknowledges that "[t]his case . . . involves a threshold dispute over the enforceability of the parties' arbitration agreement" in its entirety. Reply Brief 7. Like the California court, I would resolve that dispute by employing traditional rules of contract interpretation *sans* any arbitration-favoring presumption, including the rule that ambiguous language should be construed against the drafter. See *supra*, at 61, 65.

## III

Today's decision steps beyond *Concepcion* and *Italian Colors*. There, as here, the Court misread the FAA to deprive consumers of effective relief against powerful economic entities that write no-class-action arbitration clauses into their form contracts. In *Concepcion*, 563 U. S., at 336, customers brought a class action claiming that AT&T Mobility had improperly charged $30.22 in sales tax while advertising cellular telephones as free. AT&T Mobility's form consumer contract contained a mandatory arbitration clause and a class-arbitration proscription. Because consumers lacked input into the contractual terms, and because few rational consumers would go through the hassle of pursuing a $30.22 claim in bilateral arbitration, the California courts deemed the arbitration agreement unenforceable as unconscionable. See *id.*, at 365 (BREYER, J., dissenting) ("'[T]he maximum gain to a customer for the hassle of arbitrating a $30.22 dispute is still just $30.22.'" (quoting *Laster* v. *AT&T Mobility LLC*, 584 F. 3d 849, 856 (CA9 2009))); *Carnegie* v. *Household Int'l, Inc.*, 376 F. 3d 656, 661 (CA7 2004) ("The *realistic* alternative to a class action is not 17 million individual suits, but zero individual suits, as only a lunatic or a fanatic sues for $30."), cert. denied, 543 U. S. 1051 (2005). Nonetheless, the Court held that the FAA mandated enforcement of the entire arbitration agreement, including the class-arbitration ban. *Concepcion*, 563 U. S., at 343. Two years later, in *Italian Colors*, 570 U. S., at 235, the Court reaffirmed that class-arbitration prohibitions are enforceable even where claim-

ants "have no economic incentive to pursue their . . . claims individually in arbitration." Today, the Court holds that consumers lack not only protection against unambiguous class-arbitration bans in adhesion contracts. They lack even the benefit of the doubt when anomalous terms in such contracts reasonably could be construed to protect their rights.[3]

These decisions have predictably resulted in the deprivation of consumers' rights to seek redress for losses, and, turning the coin, they have insulated powerful economic interests from liability for violations of consumer-protection laws. See N. Y. Times, Nov. 1, 2015, p. A1, col. 5 ("By insert-

[3] It has not always been this way. In *Wilko* v. *Swan*, 346 U. S. 427, 435, 438 (1953), the Court unanimously held that an arbitration clause in a brokerage agreement was unenforceable. The Court noted that the Securities Act was "drafted with an eye to the disadvantages under which buyers labor" when negotiating brokerage agreements, *id.*, at 435, and described arbitration as less protective of the rights of stock buyers than litigation, *id.*, at 435–437. The Court later overruled *Wilko*, rejecting what it described as *Wilko*'s "suspicion of arbitration as a method of weakening the protections afforded in the substantive law." *Rodriguez de Quijas* v. *Shearson/American Express, Inc.*, 490 U. S. 477, 481 (1989). See also *Gilmer* v. *Interstate/Johnson Lane Corp.*, 500 U. S. 20, 33 (1991) (relying on *Rodriguez de Quijas* to conclude that "[m]ere inequality in bargaining power . . . is not a sufficient reason to hold that arbitration agreements are never enforceable in the employment context"). Similarly, before *Italian Colors*, the Court had suggested that "the existence of large arbitration costs could preclude a litigant . . . from effectively vindicating her federal statutory rights in the arbitral forum," and when that is so, an arbitration agreement may be unenforceable. *Green Tree Financial Corp.-Ala.* v. *Randolph*, 531 U. S. 79, 90 (2000). Although the Court in *Italian Colors* did not expressly reject this "effective vindication" principle, the Court's refusal to apply the principle in that case suggests that the principle will no longer apply in any case. See 570 U. S., at 240–241 (KAGAN, J., dissenting); *CompuCredit Corp.* v. *Greenwood*, 565 U. S. 95, 110 (2012) (GINSBURG, J., dissenting) (criticizing the Court for ignoring a federal statutory "right to sue" and for holding "that credit repair organizations can escape suit by providing in their take-it-or-leave-it contracts that arbitration will serve as the parties' sole dispute-resolution mechanism").

ing individual arbitration clauses into a soaring number of consumer and employment contracts, companies [have] devised a way to circumvent the courts and bar people from joining together in class-action lawsuits, realistically the only tool citizens have to fight illegal or deceitful business practices."). Studies confirm that hardly any consumers take advantage of bilateral arbitration to pursue small-dollar claims. Resnik, Diffusing Disputes: The Public in the Private of Arbitration, the Private in Courts, and the Erasure of Rights, 124 Yale L. J. 2804, 2900–2910 (2015) (Resnik, Diffusing Disputes). Because consumers lack bargaining power to change the terms of consumer adhesion contracts *ex ante*, "[t]he providers [have] won the power to impose a mandatory, no-opt-out system in their own private 'courts' designed to preclude aggregate litigation." Resnik, Fairness in Numbers: A Comment on *AT&T* v. *Concepcion*, *Wal-Mart* v. *Dukes*, and *Turner* v. *Rogers*, 125 Harv. L. Rev. 78, 133 (2011). See also Miller, Simplified Pleading, Meaningful Days in Court, and Trials on the Merits: Reflections on the Deformation of Federal Procedure, 88 N. Y. U. L. Rev. 286, 323 (2013) ("[P]owerful economic entities can impose no-class-action-arbitration clauses on people with little or no bargaining position—through adhesion contracts involving securities accounts, credit cards, mobile phones, car rentals, and many other social amenities and necessities.").[4] The proliferation of take-it-or-leave-it agreements mandating arbitration and banning class procedures, and this Court's readiness to enforce such one-sided agreements, have disabled consumers from "shop[ping] to avoid arbitration mandates." Resnik, Diffusing Disputes 2839. See also *id.*, at

[4] The Consumer Financial Protection Bureau recently published a study documenting the proliferation of mandatory arbitration clauses containing class-arbitration waivers in consumer financial-services contracts, as well as the vanishingly small number of claims brought by financial-services consumers in bilateral arbitration. See Consumer Financial Protection Bureau, Arbitration Study § 1, pp. 9–13 (2015).

2872 ("[T]he numbers of clauses mandating arbitration are soaring across many sectors.").

The Court has suggested that these anticonsumer outcomes flow inexorably from the text and purpose of the FAA. But Congress passed the FAA in 1925 as a response to the reluctance of some judges to enforce commercial arbitration agreements between merchants with relatively equal bargaining power. Moses, Arbitration Law: Who's in Charge? 40 Seton Hall L. Rev. 147, 170–171 (2010). See also *id.*, at 170 (contract disputes between merchants have been a proper subject of arbitration since the 1600's). The FAA's purpose was to "make the contracting party live up to his agreement." H. R. Rep. No. 68–96, p. 1 (1924). See also Moses, *supra*, at 147 (Congress sought to "provide federal courts with procedural law that would permit the enforcement of arbitration agreements between merchants in diversity cases."). Congress in 1925 could not have anticipated that the Court would apply the FAA to render consumer adhesion contracts invulnerable to attack by parties who never meaningfully agreed to arbitration in the first place. See Resnik, Diffusing Disputes 2860 ("The merchants and lawyers who forged the public law of arbitration in the United States sought federal legislation to enforce *consensual* agreements." (emphasis added)).

Nor does the text of the FAA compel this result. Section 2, on which the Court relied in *Concepcion*, *Italian Colors*, and this case, prescribes simply that arbitration provisions are to be treated the same as other contractual terms: "A written provision in . . . a contract evidencing a transaction involving commerce to settle by arbitration a controversy . . . shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U. S. C. §2. As Justice O'Connor observed when the Court was just beginning to transform the FAA into what it has become, "the Court has abandoned all pretense of ascertaining congressional intent with respect to the Federal Arbitration Act, building instead, case by case,

an edifice of its own creation." *Allied-Bruce Terminix Cos.* v. *Dobson*, 513 U. S. 265, 283 (1995) (concurring opinion). See also Miller, *supra*, at 324 ("[O]ver the years the Act has been transformed by the Supreme Court through constant expansion into an expression of a 'federal policy' favoring arbitration, whether it involves a bilateral business dispute or not.").

The Court's ever-larger expansion of the FAA's scope contrasts sharply with how other countries treat mandatory arbitration clauses in consumer contracts of adhesion. A 1993 European Union Directive forbids binding consumers to unfair contractual terms, defined as those "not . . . individually negotiated" that "caus[e] a significant imbalance in the parties' rights and obligations . . . to the detriment of the consumer." Coun. Directive 93/13, Art. 3, 1993 O. J. (L. 95) 31. A subsequent EU Recommendation interpreted this Directive to bar enforcement of one-party-dictated mandatory consumer arbitration agreements. Comm'n Recommendation 98/257, 1998 O. J. (L. 115) 34 ("The consumer's recourse to the out-of-court procedure may not be the result of a commitment prior to the materialisation of the dispute, where such commitment has the effect of depriving the consumer of his right to bring an action before the courts for the settlement of the dispute."). As a result of this Directive and Recommendation, disputes between providers and consumers in the EU are arbitrated only when the parties mutually agree to arbitration on a "post-dispute basis." Sternlight, Is the U. S. Out on a Limb? Comparing the U. S. Approach to Mandatory Consumer and Employment Arbitration to That of the Rest of the World, 56 U. Miami L. Rev. 831, 847–848 (2002) (emphasis deleted); see *id.*, at 852 (enforcement of mandatory arbitration clauses in consumer contracts of adhesion "is quite rare, if not nonexistent," outside the United States).

* * *

The California Court of Appeal appropriately applied traditional tools of state contract law to interpret DIRECTV's

reference to the home state laws of its customers. Demeaning that court's judgment through harsh construction, this Court has again expanded the scope of the FAA, further degrading the rights of consumers and further insulating already powerful economic entities from liability for unlawful acts. I resist the Court's bent, and would affirm the judgment of the California Court of Appeal.

Syllabus

# WHITE, WARDEN *v.* WHEELER

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

No. 14–1372. Decided December 14, 2015

During the jury selection process in respondent Roger Wheeler's state murder trial, the prosecution moved to strike Juror 638 for cause based on his inconsistent replies to the question whether he could consider voting to impose the death penalty. The trial judge initially found the juror unproblematic but, after deliberating and reviewing the relevant testimony, excused the juror, concluding that he could not give sufficient assurance of neutrality or impartiality in considering whether the death penalty should be imposed. Respondent was convicted and sentenced to death, and the Kentucky Supreme Court affirmed. After exhausting available state postconviction procedures, respondent sought a writ of habeas corpus in Federal District Court, asserting, *inter alia*, that the trial court erred in striking Juror 638. The District Court dismissed the petition, but the Sixth Circuit granted relief as to respondent's sentence, holding that the exclusion of Juror 638 was an unreasonable application of *Witherspoon* v. *Illinois*, 391 U. S. 510, *Wainwright* v. *Witt*, 469 U. S. 412, and their progeny.

*Held*: The Sixth Circuit's determination contravenes this Court's controlling precedents. Under the Antiterrorism and Effective Death Penalty Act of 1996, federal habeas review of respondent's claim—much like that of an ineffective-assistance-of-counsel claim—must be "'"doubly deferential."'" *Burt* v. *Titlow*, 571 U. S. 12, 15. The Court of Appeals did not afford the proper deference to the state-court ruling. Juror 638's statement that he was "not absolutely certain whether [he] could realistically consider" the death penalty, App. to Pet. for Cert. 132a, was a reasonable basis for the trial judge's conclusion that the juror was unable to give that penalty fair consideration. Her decision to excuse Juror 638 thus did not violate clearly established federal law. See, *e. g.*, *Witt*, *supra*, at 425–426. Nor was the Kentucky Supreme Court's ruling that there was no error "'beyond any possibility for fairminded disagreement.'" *White* v. *Woodall*, 572 U. S. 415, 420. The Sixth Circuit's suggestion that a trial judge is entitled to less deference for having deliberated after her initial ruling is wrong. While a trial court's contemporaneous assessment of a juror's demeanor and its bearing on how to interpret or understand the juror's responses are entitled to substantial deference, see *Uttecht* v. *Brown*, 551 U. S. 1, 17, a trial court ruling

is likewise entitled to deference when made after a careful review of a formal transcript or recording.

Certiorari granted; 779 F. 3d 366, reversed and remanded.

PER CURIAM.

A death sentence imposed by a Kentucky trial court and affirmed by the Kentucky Supreme Court has been overturned, on habeas corpus review, by the Court of Appeals for the Sixth Circuit. During the jury selection process, the state trial court excused a juror after concluding he could not give sufficient assurance of neutrality or impartiality in considering whether the death penalty should be imposed. The Court of Appeals, despite the substantial deference it must accord to state-court rulings in federal habeas proceedings, determined that excusing the juror in the circumstances of this case violated the Sixth and Fourteenth Amendments. That ruling contravenes controlling precedents from this Court, and it is now necessary to reverse the Court of Appeals by this summary disposition.

Warden Randy White is the petitioner here, and the convicted prisoner, Roger Wheeler, is the respondent.

In October 1997, police in Louisville, Kentucky, found the bodies of Nigel Malone and Nairobi Warfield in the apartment the couple shared. Malone had been stabbed nine times. Warfield had been strangled to death and a pair of scissors stuck out from her neck. She was pregnant. DNA taken from blood at the crime scene matched respondent's. Respondent was charged with the murders.

During *voir dire*, Juror 638 gave equivocal and inconsistent answers when questioned about whether he could consider voting to impose the death penalty. In response to the judge's questions about his personal beliefs on the death penalty, Juror 638 said, "I'm not sure that I have formed an opinion one way or the other. I believe there are arguments on both sides of the—of it." App. to Pet. for Cert. 126a. When asked by the prosecution about his ability to consider

all available penalties, Juror 638 noted he had "never been confronted with that situation in a, in a real-life sense of having to make that kind of determination." *Id.*, at 131a. "So it's difficult for me," he explained, "to judge how I would I guess act, uh." *Ibid.* The prosecution sought to clarify Juror 638's answer, asking if the juror meant he was "not absolutely certain whether [he] could realistically consider" the death penalty. *Id.*, at 132a. Juror 638 replied, "I think that would be the most accurate way I could answer your question." *Ibid.* During defense counsel's examination, Juror 638 described himself as "a bit more contemplative on the issue of taking a life and, uh, whether or not we have the right to take that life." *Id.*, at 133a. Later, however, he expressed his belief that he could consider all the penalty options. *Id.*, at 134a.

The prosecution moved to strike Juror 638 for cause based on his inconsistent replies, as illustrated by his statement that he was not absolutely certain he could realistically consider the death penalty. The defense opposed the motion, arguing that Juror 638's answers indicated his ability to consider all the penalty options, despite having some reservations about the death penalty. The judge said that when she was done questioning Juror 638, she wrote in her notes that the juror "'could consider [the] entire range'" of penalties. *Id.*, at 138a. She further stated that she did not "see him as problematic" at the end of her examination. *Ibid.* But she also noted that she did not "hear him say that he couldn't realistically consider the death penalty," and reserved ruling on the motion until she could review Juror 638's testimony. *Ibid.* The next day, after reviewing the relevant testimony, the judge struck Juror 638 for cause. When she announced her decision to excuse the juror, the trial judge stated, "And when I went back and reviewed [the juror's] entire testimony, [the prosecution] concluded with saying, 'Would it be accurate to say that you couldn't, couldn't consider the entire range?' And his response is—I think was, 'I think that

would be pretty accurate.' So, I'm going to sustain that one, too." *Id.*, at 139a–140a.

The case proceeded to trial. Respondent was convicted of both murders and sentenced to death. The Kentucky Supreme Court affirmed the convictions and the sentence. *Wheeler* v. *Commonwealth*, 121 S. W. 3d 173, 189 (2003). In considering respondent's challenges to the trial court's excusal of certain jurors for cause, the Kentucky Supreme Court held that the trial judge "appropriately struck for cause those jurors that could not impose the death penalty. . . . There was no error and the rights of the defendant to a fair trial by a fair and impartial jury . . . under both the federal and state constitutions were not violated." *Id.*, at 179.

After exhausting available state postconviction procedures, respondent sought a writ of habeas corpus under 28 U. S. C. § 2254 from the United States District Court for the Western District of Kentucky. He asserted, *inter alia*, that the Kentucky trial court erred in striking Juror 638 during *voir dire* on the ground that the juror could not give assurances that he could consider the death penalty as a sentencing option. The District Court dismissed the petition; but a divided panel of the Court of Appeals for the Sixth Circuit reversed, granting habeas relief as to respondent's sentence. *Wheeler* v. *Simpson*, 779 F. 3d 366, 379 (2015). While acknowledging the deferential standard required on federal habeas review of a state conviction, the Court of Appeals held that allowing the exclusion of Juror 638 was an unreasonable application of *Witherspoon* v. *Illinois*, 391 U. S. 510 (1968), *Wainwright* v. *Witt*, 469 U. S. 412 (1985), and their progeny. 779 F. 3d, at 372–374.

Under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), habeas relief is authorized if the state court's decision "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States." 28 U. S. C. § 2254(d)(1). This Court, time and again, has in-

structed that AEDPA, by setting forth necessary predicates before state-court judgments may be set aside, "erects a formidable barrier to federal habeas relief for prisoners whose claims have been adjudicated in state court." *Burt* v. *Titlow*, 571 U. S. 12, 19 (2013). Under § 2254(d)(1), "'a state prisoner must show that the state court's ruling on the claim being presented in federal court was so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement.'" *White* v. *Woodall*, 572 U. S. 415, 419–420 (2014) (quoting *Harrington* v. *Richter*, 562 U. S. 86, 103 (2011)).

The Court of Appeals was required to apply this deferential standard to the state court's analysis of respondent's juror exclusion claim. In *Witherspoon*, this Court set forth the rule for juror disqualification in capital cases. *Witherspoon* recognized that the Sixth Amendment's guarantee of an impartial jury confers on capital defendants the right to a jury not "uncommonly willing to condemn a man to die." 391 U. S., at 521. But the Court with equal clarity has acknowledged the State's "strong interest in having jurors who are able to apply capital punishment within the framework state law prescribes." *Uttecht* v. *Brown*, 551 U. S. 1, 9 (2007). To ensure the proper balance between these two interests, only "a juror who is substantially impaired in his or her ability to impose the death penalty under the state-law framework can be excused for cause." *Ibid.* As the Court explained in *Witt*, a juror may be excused for cause "where the trial judge is left with the definite impression that a prospective juror would be unable to faithfully and impartially apply the law." 469 U. S., at 425–426.

Reviewing courts owe deference to a trial court's ruling on whether to strike a particular juror "regardless of whether the trial court engages in explicit analysis regarding substantial impairment; even the granting of a motion to excuse for cause constitutes an implicit finding of bias." *Uttecht*, 551 U. S., at 7. A trial court's "finding may be up-

held even in the absence of clear statements from the juror that he or she is impaired . . . ." *Ibid.* And where, as here, the federal courts review a state-court ruling under the constraints imposed by AEDPA, the federal court must accord an additional and "independent, high standard" of deference. *Id.*, at 10. As a result, federal habeas review of a *Witherspoon-Witt* claim—much like federal habeas review of an ineffective-assistance-of-counsel claim—must be "'"doubly deferential."'" *Burt*, *supra,* at 15 (quoting *Cullen* v. *Pinholster*, 563 U. S. 170, 190 (2011)).

The Court of Appeals held that the Kentucky Supreme Court unreasonably applied *Witherspoon*, *Witt*, and their progeny when it determined that removing Juror 638 for cause was constitutional. 779 F. 3d, at 372–374. The Court of Appeals determined Juror 638 "understood the decisions he would face and engaged with them in a thoughtful, honest, and conscientious manner." *Id.*, at 373. In the Court of Appeals' estimation, the trial judge concluded the juror was not qualified only by "misapprehending a single question and answer exchange" between Juror 638 and the prosecution, *id.*, at 374—the exchange in which Juror 638 stated he was not absolutely certain he could realistically consider the death penalty, *id.*, at 372. According to the Court of Appeals, Juror 638 "agreed *he did not know* to an absolute certainty whether he could realistically consider the death penalty, but the court proceeded as if *he knew he could not*." *Ibid.* The Court of Appeals further determined that if the trial judge, when reviewing Juror 638's examination, had "properly processed that exchange" between Juror 638 and the prosecution, Juror 638 would not have been excused. *Id.*, at 374.

Both the analysis and the conclusion in the decision under review were incorrect. While the Court of Appeals acknowledged that deference was required under AEDPA, it failed to ask the critical question: Was the Kentucky Supreme Court's decision to affirm the excusal of Juror 638 for

cause "'so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement'"? *Woodall*, *supra*, at 420 (quoting *Harrington*, *supra*, at 103).

The Court of Appeals did not properly apply the deference it was required to accord the state-court ruling. A fairminded jurist could readily conclude that the trial judge's exchange with Juror 638 reflected a "diligent and thoughtful *voir dire*"; that she considered with care the juror's testimony; and that she was fair in the exercise of her "broad discretion" in determining whether the juror was qualified to serve in this capital case. *Uttecht*, 551 U. S., at 20. Juror 638's answers during *voir dire* were at least ambiguous as to whether he would be able to give appropriate consideration to imposing the death penalty. And as this Court made clear in *Uttecht*, "when there is ambiguity in the prospective juror's statements," the trial court is "'entitled to resolve it in favor of the State.'" *Id.*, at 7 (quoting *Witt*, 469 U. S., at 434).

The Court of Appeals erred in its assessment of the trial judge's reformulation of an important part of Juror 638's questioning. 779 F. 3d, at 372. When excusing the juror the day after the *voir dire*, the trial judge said that the prosecution had asked whether the juror "couldn't consider the entire range" of penalties. App. to Pet. for Cert. 139a. The prosecution in fact asked if the juror was "not absolutely certain whether [he] could realistically consider" the entire range of penalties. *Id.*, at 132a. The juror's confirmation that he was "not absolutely certain whether [he] could realistically consider" the death penalty, *ibid.*, was a reasonable basis for the trial judge to conclude that the juror was unable to give that penalty fair consideration. The trial judge's decision to excuse Juror 638 did not violate clearly established federal law by concluding that Juror 638 was not qualified to serve as a member of this capital jury. See *Witt*, *supra*, at 424–426. And similarly, the Kentucky Supreme Court's

ruling that there was no error is not beyond any possibility for fairminded disagreement.

The Court of Appeals noted that the deference toward trial courts recognized in *Uttecht* "was largely premised on the trial judge's ability to 'observe the demeanor of'" the juror. 779 F. 3d, at 373 (quoting 551 U. S., at 17). It concluded that deference to the trial court here supported habeas relief, because the trial judge's "initial assessment of [the juror's] answers and demeanor" did not lead her to immediately strike Juror 638 for cause. 779 F. 3d, at 373–374.

The Court of Appeals' conclusion conflicts with the meaning and holding of *Uttecht* and with a commonsense understanding of the jury selection process. Nothing in *Uttecht* limits the trial court to evaluating demeanor alone and not the substance of a juror's response. And the implicit suggestion that a trial judge is entitled to less deference for having deliberated after her initial ruling is wrong. In the ordinary case the conclusion should be quite the opposite. It is true that a trial court's contemporaneous assessment of a juror's demeanor and its bearing on how to interpret or understand the juror's responses are entitled to substantial deference; but a trial court ruling is likewise entitled to deference when made after a careful review of a formal transcript or recording. If the trial judge chooses to reflect and deliberate further, as this trial judge did after the proceedings recessed for the day, that is not to be faulted; it is to be commended.

This is not a case where "the record discloses no basis for a finding of substantial impairment." *Uttecht*, *supra*, at 20. The two federal judges in the majority below might have reached a different conclusion had they been presiding over this *voir dire*. But simple disagreement does not overcome the two layers of deference owed by a federal habeas court in this context.

* * *

The Kentucky Supreme Court was not unreasonable in its application of clearly established federal law when it concluded that the exclusion of Juror 638 did not violate the Sixth Amendment. Given this conclusion, there is no need to consider petitioner's further contention that, if there were an error by the trial court in excluding the juror, it should be subject to harmless-error analysis. And this Court does not review the other rulings of the Court of Appeals that are not addressed in this opinion.

As a final matter, this Court again advises the Court of Appeals that the provisions of AEDPA apply with full force even when reviewing a conviction and sentence imposing the death penalty. See, *e. g.*, *Parker* v. *Matthews*, 567 U. S. 37 (2012) (*per curiam*); *Bobby* v. *Dixon*, 565 U. S. 23 (2011) (*per curiam*); *Bobby* v. *Mitts*, 563 U. S. 395 (2011) (*per curiam*); *Bobby* v. *Van Hook*, 558 U. S. 4 (2009) (*per curiam*).

The petition for certiorari and respondent's motion to proceed *in forma pauperis* are granted. The judgment of the Court of Appeals for the Sixth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

Syllabus

# BRUCE *v.* SAMUELS ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14–844. Argued November 4, 2015—Decided January 12, 2016

The Prison Litigation Reform Act of 1995 provides that prisoners qualified to proceed *in forma pauperis* (IFP) must nonetheless pay an initial partial filing fee, set as "20 percent of the greater of" the average monthly deposits in the prisoner's account or the average monthly balance of the account over the preceding six months. 28 U. S. C. § 1915(b)(1). They must then pay the remainder of the fee in monthly installments of "20 percent of the preceding month's income credited to the prisoner's account." § 1915(b)(2). The initial partial fee is assessed on a per-case basis, *i. e.*, each time the prisoner files a lawsuit. The initial payment may not be exacted if the prisoner has no means to pay it, § 1915(b)(4), and no monthly installments are required unless the prisoner has more than $10 in his account, § 1915(b)(2). In contest here is the calculation of subsequent monthly installment payments when more than one fee is owed.

Petitioner Antoine Bruce, a federal inmate and a frequent litigant, argued that the monthly filing-fee payments do not become due until filing-fee obligations previously incurred in other cases are satisfied. The D. C. Circuit disagreed, holding that Bruce's monthly payments were due simultaneously with monthly payments in the earlier cases.

*Held*: Section 1915(b)(2) calls for simultaneous, not sequential, recoupment of multiple monthly installment payments. Pp. 87–91.

(a) Bruce and the Government present competing interpretations of the IFP statute, which does not explicitly address how multiple filing fees should be paid. In urging a per-prisoner approach under which he would pay 20 percent of his monthly income regardless of the number of cases he has filed, Bruce relies principally on the contrast between the singular "clerk" and the plural "fees" as those nouns appear in § 1915(b)(2), which requires payments to be forwarded "to the clerk of the court . . . until the filing fees are paid." Even when more than one filing fee is owed, Bruce contends, § 1915(b)(2) instructs that only one clerk will receive payment each month. In contrast, the Government urges a per-case approach. Emphasizing that § 1915 as a whole has a single-case focus, providing instructions for *each* case, the Government contends that it would be anomalous to treat paragraph (b)(1)'s initial partial payment, admittedly directed at a single case, differently than paragraph (b)(2)'s subsequent monthly payments. Pp. 87–89.

(b) Section 1915's text and context support the per-case approach. Just as § 1915(b)(1) calls for assessment of "*an* initial partial filing fee" each time a prisoner "brings *a* civil action or files *an* appeal" (emphasis added), so its allied provision, § 1915(b)(2), calls for monthly 20 percent payments simultaneously for each action pursued. Section 1915(b)(3), which imposes a ceiling on fees permitted "for the commencement of *a* civil action or *an* appeal" (emphasis added), and § 1915(b)(4), which protects the right to bring "*a* civil action or appea[l] *a* . . . judgment" (emphasis added), confirm that subsection (b) as a whole is written from the perspective of a single case. Pp. 89–90.

761 F. 3d 1, affirmed.

GINSBURG, J., delivered the opinion for a unanimous Court.

*Anthony F. Shelley* argued the cause for petitioner. With him on the briefs were *Laura G. Ferguson*, *Dawn E. Murphy-Johnson*, and *Kathleen T. Wach.*

*Nicole A. Saharsky* argued the cause for respondents. With her on the brief were *Solicitor General Verrilli*, *Principal Deputy Assistant Attorney General Mizer*, *Deputy Solicitor General Gershengorn*, *Barbara L. Herwig*, and *Benjamin M. Shultz.**

JUSTICE GINSBURG delivered the opinion of the Court.

This case concerns the payment of filing fees for civil actions commenced by prisoners in federal courts. Until 1996, indigent prisoners, like other indigent persons, could file a

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*A brief of *amici curiae* urging affirmance was filed for the State of Michigan et al. by *Bill Schuette*, Attorney General of Michigan, and *Aaron D. Lindstrom*, Solicitor General, and by the Attorneys General for their respective States as follows: *Luther Strange* of Alabama, *Craig Richards* of Alaska, *Mark Brnovich* of Arizona, *Leslie Rutledge* of Arkansas, *Cynthia Coffman* of Colorado, *Pamela Jo Bondi* of Florida, *Douglas S. Chin* of Hawaii, *Lawrence G. Wasden* of Idaho, *Derek Schmidt* of Kansas, *James D. "Buddy" Caldwell* of Louisiana, *Jim Hood* of Mississippi, *Adam Paul Laxalt* of Nevada, *Wayne Stenehjem* of North Dakota, *Michael DeWine* of Ohio, *E. Scott Pruitt* of Oklahoma, *Kathleen G. Kane* of Pennsylvania, *Alan Wilson* of South Carolina, *Ken Paxton* of Texas, and *Patrick Morrisey* of West Virginia.

*Clifford M. Sloan* and *Paul M. Kerlin* filed a brief for the Southern Poverty Law Center et al. as *amici curiae.*

civil action without paying any filing fee. See 28 U. S. C. § 1915(a)(1). In the Prison Litigation Reform Act of 1995 (PLRA), 110 Stat. 1321–66, Congress placed several limitations on prisoner litigation in federal courts. Among those limitations, Congress required prisoners qualified to proceed *in forma pauperis* nevertheless to pay an initial partial filing fee. That fee is statutorily set as "20 percent of the greater of" the average monthly deposits in the prisoner's account or the average monthly balance of the account over the preceding six months. § 1915(b)(1). Thereafter, to complete payment of the filing fee, prisoners must pay, in monthly installments, "20 percent of the preceding month's income credited to the prisoner's account." § 1915(b)(2). The initial partial filing fee may not be exacted if the prisoner has no means to pay it, § 1915(b)(4), and no monthly installments are required unless the prisoner has more than $10 in his account, § 1915(b)(2).

It is undisputed that the initial partial filing fee is to be assessed on a per-case basis, *i. e.*, each time the prisoner files a lawsuit. In contest here is the calculation of subsequent monthly installment payments. Petitioner Antoine Bruce urges a per-prisoner approach under which he would pay 20 percent of his monthly income regardless of the number of cases he has filed. The Government urges, and the court below followed, a per-case approach under which a prisoner would pay 20 percent of his monthly income for each case he has filed. Courts of Appeals have divided on which of these two approaches § 1915(b)(2) orders.[1] To resolve the conflict, we granted certiorari. 576 U. S. 1021 (2015).

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[1] Compare *Atchison* v. *Collins*, 288 F. 3d 177, 181 (CA5 2002) (*per curiam*); *Newlin* v. *Helman*, 123 F. 3d 429, 436 (CA7 1997), overruled in part on other grounds by *Lee* v. *Clinton*, 209 F. 3d 1025 (CA7 2000), and *Walker* v. *O'Brien*, 216 F. 3d 626 (CA7 2000); *Lefkowitz* v. *Citi-Equity Group, Inc.*, 146 F. 3d 609, 612 (CA8 1998); *Christensen* v. *Big Horn Cty. Bd. of Cty. Comm'rs*, 374 Fed. Appx. 821, 829–833 (CA10 2010); and *Pinson* v. *Samuels*, 761 F. 3d 1, 7–10 (CADC 2014) (case below) (adopting per-case approach), with *Whitfield* v. *Scully*, 241 F. 3d 264, 276–277 (CA2 2001); *Siluk* v. *Merwin*, 783 F. 3d 421, 427–436 (CA3 2015); and *Torres* v. *O'Quinn*, 612 F. 3d 237, 241–248 (CA4 2010) (adopting per-prisoner approach).

We hold that monthly installment payments, like the initial partial payment, are to be assessed on a per-case basis. Nothing in § 1915's current design supports treating a prisoner's second or third action unlike his first lawsuit.

## I

### A

In 1892, Congress enacted the *in forma pauperis* (IFP) statute, now codified at 28 U. S. C. § 1915, "to ensure that indigent litigants have meaningful access to the federal courts." *Neitzke* v. *Williams*, 490 U. S. 319, 324 (1989). Reacting to "a sharp rise in prisoner litigation," *Woodford* v. *Ngo*, 548 U. S. 81, 84 (2006), Congress in 1996 enacted the PLRA, which installed a variety of measures "designed to filter out the bad claims [filed by prisoners] and facilitate consideration of the good," *Coleman* v. *Tollefson*, 575 U. S. 532, 535 (2015) (quoting *Jones* v. *Bock*, 549 U. S. 199, 204 (2007); alteration in original).

Among those measures, Congress required prisoners to pay filing fees for the suits or appeals they launch. The provisions on fee payment, set forth in § 1915(b), read:

> "(1) . . . [I]f a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—
>
> "(A) the average monthly deposits to the prisoner's account; or
>
> "(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.
>
> "(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's

> account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid."

The monthly installment scheme described in § 1915(b)(2) also applies to costs awarded against prisoners when they are judgment losers. § 1915(f)(2)(B).

To further contain prisoner litigation, the PLRA introduced a three-strikes provision: Prisoners whose suits or appeals are dismissed three or more times as frivolous, malicious, or failing to state a claim on which relief may be granted are barred from proceeding IFP "unless the prisoner is under imminent danger of serious physical injury." § 1915(g). In other words, for most three strikers, all future filing fees become payable in full upfront.

Congress included in its 1996 overhaul of § 1915 a safety-valve provision to ensure that the fee requirements would not bar access to the courts: "In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee." § 1915(b)(4).

B

Petitioner Antoine Bruce, a federal inmate serving a 15-year sentence, is a frequent litigant.[2] In the instant case, Bruce challenges his placement in a special management unit at the Federal Correctional Institution in Talladega, Alabama. *Pinson* v. *Samuels*, 761 F. 3d 1, 3–4 (CADC 2014).[3] Bruce had previously incurred filing-fee obligations in other

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[2] At oral argument, Bruce's counsel informed the Court that Bruce had framed or joined 19 prison-litigation cases, although "the last seven or so have not been filed . . . because [Bruce] had had three strikes by the 12th." Tr. of Oral Arg. 23. See Brief for Respondents 40 (stating that Bruce filed three new lawsuits during the pendency of his case before this Court).

[3] The Court of Appeals construed the pleadings in this case as a petition for a writ of mandamus. 761 F. 3d, at 3. We assume without deciding that a mandamus petition qualifies as a "civil action" or "appeal" for purposes of 28 U. S. C. § 1915(b).

cases and maintained that the monthly filing-fee payments for this case would not become due until those prior obligations were satisfied. *Id.*, at 4, 7. The Court of Appeals for the District of Columbia Circuit, whose decision is before us for review, rejected Bruce's argument. *Id.*, at 8–10. Bruce must make monthly filing-fee payments in this case, the court held, simultaneously with such payments in earlier commenced cases. *Id.*, at 8. We agree with the appeals court that § 1915(b)(2) calls for simultaneous, not sequential, recoupment of multiple filing fees.

## II

The IFP statute does not explicitly address whether multiple filing fees (after the initial partial payment) should be paid simultaneously or sequentially. Bruce and the Government present competing interpretations.

### A

In support of the per-prisoner approach, Bruce relies principally on what he sees as a significant contrast between the singular "clerk" and the plural "fees" as those nouns appear in 28 U. S. C. § 1915(b)(2). That provision requires payments to be forwarded "to the *clerk of the court* . . . until the *filing fees* are paid." *Ibid.* (emphasis added). Even when more than one filing fee is owed, Bruce contends, the statute instructs that only one clerk will receive payment each month; in other words, fee payments are to be made sequentially rather than simultaneously.

The initial partial payment, which is charged on a per-case basis, plus the three-strikes provision, Bruce urges, together suffice to satisfy the PLRA's purpose, which is to "force prisoners to think twice about the case and not just file reflexively," 141 Cong. Rec. 14572 (1995) (remarks of Sen. Kyl). The additional economic disincentive that the per-case approach would occasion, Bruce asserts, could excessively encumber access to federal courts.

Furthermore, Bruce points out, the per-case approach breaks down when a prisoner incurs more than five obligations. Nothing will be left in the account to pay the sixth fee, Bruce observes. Necessarily, therefore, its payment will be entirely deferred. Why treat the second obligation unlike the sixth, Bruce asks. Isn't the statute sensibly read to render all monthly payments sequential? Bruce notes in this regard that, under the per-case approach, his ability to use his account to purchase amenities will be progressively curtailed; indeed, the account might be reduced to zero upon his filing or joining a fifth case.

Finally, Bruce argues, administrative difficulties counsel against the per-case approach. Costs could dwarf the monetary yield if prisons, under a per-case regime, were obliged to send as many as five checks to five different courts each month. And the problems faced by state-prison officials—who sometimes must choose which of several claims on a prisoner's income (*e. g.*, child-support, medical copayments) should take precedence—would be exacerbated under a system demanding simultaneous payment of multiple litigation charges.

B

The Government emphasizes that § 1915 as a whole has a single-case focus, providing instructions for *each* case. It would be anomalous, the Government urges, to treat paragraph (b)(1)'s initial partial payment, which Bruce concedes is directed at a single case, differently than paragraph (b)(2)'s subsequent monthly payments. The two paragraphs, the Government observes, are linked by paragraph (b)(2)'s opening clause: "After payment of the initial partial filing fee."

The per-case approach, the Government adds, better comports with the purpose of the PLRA to deter frivolous suits. See *Newlin* v. *Helman*, 123 F. 3d 429, 436 (CA7 1997) (Easterbrook, J.) ("Otherwise a prisoner could file multiple suits for the price of one, postponing payment of the fees for later-

filed suits until after the end of imprisonment (and likely avoiding them altogether [because fees are often uncollectable on a prisoner's release])."), overruled in part on other grounds by *Lee* v. *Clinton*, 209 F. 3d 1025 (CA7 2000), and *Walker* v. *O'Brien*, 216 F. 3d 626 (CA7 2000). The Government further observes that the generally small size of the initial partial fee—here, $0.64, App. to Pet. for Cert. 21a—provides scant disincentive, on its own, for multiple filings.

Responding to Bruce's observation that, for a prisoner with more than five charges, even the per-case approach resorts to sequential payments, the Government agrees, but tells us that this scenario arises infrequently. "[M]ost prisoners," the Government states, "would accrue three strikes (and therefore be required to pay the full filing fees upfront) by the time they incurred the obligation for their sixth case." Brief for Respondents 29.

Finally, answering Bruce's concern that the per-case approach could leave a prisoner without money for amenities, the Government points out that prisons "are constitutionally bound to provide inmates with adequate food, clothing, shelter, and medical care," *id.*, at 48 (citing *Farmer* v. *Brennan*, 511 U. S. 825, 832 (1994)), and must furnish "'paper and pen to draft legal documents' and 'stamps to mail them,'" Brief for Respondents 48 (quoting *Bounds* v. *Smith*, 430 U. S. 817, 824, 825 (1977)). Moreover, the Government notes, the Federal Bureau of Prisons "goes beyond those requirements," providing inmates "articles necessary for maintaining personal hygiene," and free postage "not only for legal mailings but also to enable the inmate to maintain community ties." Brief for Respondents 48, n. 21 (internal quotation marks omitted).

## III

The Circuits following the per-case approach, we conclude, better comprehend the statute. Just as § 1915(b)(1) calls for assessment of "*an* initial partial filing fee" each time a pris-

oner "brings *a* civil action or files *an* appeal" (emphasis added), so its allied provision, § 1915(b)(2), triggered immediately after, calls for "monthly payments of 20 percent of the preceding month's income" simultaneously for each action pursued. The other two paragraphs of § 1915(b) confirm that the subsection as a whole is written from the perspective of a single case. See § 1915(b)(3) (imposing a ceiling on fees permitted "for the commencement of *a* civil action or *an* appeal" (emphasis added)); § 1915(b)(4) (protecting the right to "brin[g] *a* civil action or appea[l] *a* civil or criminal judgment" (emphasis added)). There is scant indication that the statute's perspective shifts partway through paragraph (2).[4]

Bruce's extratextual points do not warrant a departure from the interpretation suggested by the text and context. The per-case approach more vigorously serves the statutory objective of containing prisoner litigation, while the safety-valve provision, see *supra*, at 86, ensures against denial of access to federal courts. Bruce's administrability concerns carry little weight given reports from several States that the per-case approach is unproblematic. See Brief for State of Michigan et al. as *Amici Curiae* 18–20.

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[4] Use of the plural "fees" in that paragraph does not persuade us otherwise. Congress has been less than meticulous in its employment of the singular "fee" and the plural "fees," sometimes using those words interchangeably. See, *e. g.,* 28 U. S. C. § 1930(a) ("The parties commencing a case under title 11 shall pay to the clerk . . . the following filing *fees*: [enumerating several options]. In addition to the filing *fee* paid to the clerk, [an additional fee shall be paid]." (emphasis added)); 42 U. S. C. § 1988(b) ("[T]he court . . . may allow the prevailing party . . . a reasonable attorney's *fee* as part of the costs, except that in any action brought against a judicial officer . . . such officer shall not be held liable for any costs, including attorney's *fees* . . . ." (emphasis added)). See also Dictionary Act, 1 U. S. C. § 1 ("In determining the meaning of any Act of Congress, unless the context indicates otherwise—words importing the singular include and apply to several persons, parties, or things; words importing the plural include the singular . . . .").

* * *

For the reasons stated, the judgment of the Court of Appeals for the District of Columbia Circuit is

*Affirmed.*

Syllabus

# HURST *v.* FLORIDA

## CERTIORARI TO THE SUPREME COURT OF FLORIDA

No. 14–7505. Argued October 13, 2015—Decided January 12, 2016

Under Florida law, the maximum sentence a capital felon may receive on the basis of a conviction alone is life imprisonment. He may be sentenced to death, but only if an additional sentencing proceeding "results in findings by the court that such person shall be punished by death." Fla. Stat. § 775.082(1). In that proceeding, the sentencing judge first conducts an evidentiary hearing before a jury. § 921.141(1). Next, the jury, by majority vote, renders an "advisory sentence." § 921.141(2). Notwithstanding that recommendation, the court must independently find and weigh the aggravating and mitigating circumstances before entering a sentence of life or death. § 921.141(3).

A Florida jury convicted petitioner Timothy Hurst of first-degree murder for killing a co-worker and recommended the death penalty. The court sentenced Hurst to death, but he was granted a new sentencing hearing on appeal. At resentencing, the jury again recommended death, and the judge again found the facts necessary to sentence Hurst to death. The Florida Supreme Court affirmed, rejecting Hurst's argument that his sentence violated the Sixth Amendment in light of *Ring* v. *Arizona*, 536 U. S. 584, in which this Court found unconstitutional an Arizona capital sentencing scheme that permitted a judge rather than the jury to find the facts necessary to sentence a defendant to death.

*Held*: Florida's capital sentencing scheme violates the Sixth Amendment in light of *Ring*. Pp. 97–103.

(a) Any fact that "expose[s] the defendant to a greater punishment than that authorized by the jury's guilty verdict" is an "element" that must be submitted to a jury. *Apprendi* v. *New Jersey*, 530 U. S. 466, 494. Applying *Apprendi* to the capital punishment context, the *Ring* Court had little difficulty concluding that an Arizona judge's independent factfinding exposed Ring to a punishment greater than the jury's guilty verdict authorized. 536 U. S., at 604. *Ring*'s analysis applies equally here. Florida requires not the jury but a judge to make the critical findings necessary to impose the death penalty. That Florida provides an advisory jury is immaterial. See *Walton* v. *Arizona*, 497 U. S. 639, 648. As with Ring, Hurst had the maximum authorized punishment he could receive increased by a judge's own factfinding. Pp. 97–99.

(b) Florida's counterarguments are rejected. Pp. 99–102.

Syllabus

(1) In arguing that the jury's recommendation necessarily included an aggravating circumstance finding, Florida fails to appreciate the judge's central and singular role under Florida law, which makes the court's findings necessary to impose death and makes the jury's function advisory only. The State cannot now treat the jury's advisory recommendation as the necessary factual finding required by *Ring*. Pp. 99–100.

(2) Florida's reliance on *Blakely* v. *Washington*, 542 U. S. 296, is misplaced. There, this Court stated that under *Apprendi*, a judge may impose any sentence authorized "on the basis of the facts . . . admitted by the defendant," 542 U. S., at 303. Florida alleges that Hurst's counsel admitted the existence of a robbery, but *Blakely* applied *Apprendi* to facts admitted in a guilty plea, in which the defendant necessarily waived his right to a jury trial, while Florida has not explained how Hurst's alleged admissions accomplished a similar waiver. In any event, Hurst never admitted to either aggravating circumstance alleged by the State. Pp. 100–101.

(3) That this Court upheld Florida's capital sentencing scheme in *Hildwin* v. *Florida*, 490 U. S. 638, and *Spaziano* v. *Florida*, 468 U. S. 447, does not mean that *stare decisis* compels the Court to do so here, see *Alleyne* v. *United States*, 570 U. S. 99, 119 (SOTOMAYOR, J., concurring). Time and subsequent cases have washed away the logic of *Spaziano* and *Hildwin*. Those decisions are thus overruled to the extent they allow a sentencing judge to find an aggravating circumstance, independent of a jury's factfinding, that is necessary for imposition of the death penalty. Pp. 101–102.

(4) The State's assertion that any error was harmless is not addressed here, where there is no reason to depart from the Court's normal pattern of leaving such considerations to state courts. P. 102.

147 So. 3d 435, reversed and remanded.

SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, GINSBURG, and KAGAN, JJ., joined. BREYER, J., filed an opinion concurring in the judgment, *post*, p. 103. ALITO, J., filed a dissenting opinion, *post*, p. 103.

*Seth P. Waxman* argued the cause for petitioner. With him on the briefs were *Catherine M. A. Carroll*, *David M. Lehn*, *Francesco Valentini*, *David A. Davis*, and *Mark E. Olive*.

*Allen Winsor*, Solicitor General of Florida, argued the cause for respondent. With him on the brief were *Pamela*

*Jo Bondi*, Attorney General, *Carolyn M. Snurkowski*, Associate Deputy Attorney General, and *Denise Harles*, *Rachel Nordby*, and *Osvaldo Vazquez*, Deputy Solicitors General.*

JUSTICE SOTOMAYOR delivered the opinion of the Court.

A Florida jury convicted Timothy Lee Hurst of murdering his co-worker, Cynthia Harrison. A penalty-phase jury recommended that Hurst's judge impose a death sentence. Notwithstanding this recommendation, Florida law required the judge to hold a separate hearing and determine whether sufficient aggravating circumstances existed to justify imposing the death penalty. The judge so found and sentenced Hurst to death.

We hold this sentencing scheme unconstitutional. The Sixth Amendment requires a jury, not a judge, to find each fact necessary to impose a sentence of death. A jury's mere recommendation is not enough.

## I

On May 2, 1998, Cynthia Harrison's body was discovered in the freezer of the restaurant where she worked—bound, gagged, and stabbed over 60 times. The restaurant safe was unlocked and open, missing hundreds of dollars. The State of Florida charged Harrison's co-worker, Timothy Lee Hurst, with her murder. See 819 So. 2d 689, 692–694 (Fla. 2002).

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*Briefs of *amici curiae* urging reversal were filed for the American Bar Association by *William C. Hubbard* and *Rory K. Little*; for the American Civil Liberties Union et al. by *Brian W. Stull*, *Cassandra Stubbs*, *Steven R. Shapiro*, *Nancy G. Abudu*, *Elizabeth B. Wydra*, *Brianne J. Gorod*, *Clifford M. Sloan*, and *Paul M. Kerlin*; for Former Florida Circuit Court Judges by *Sonya Rudenstine* and *Stuart L. Hartstone*; and for Former Justices of the Supreme Court of Florida by *Karen M. Gottlieb* and *Stephen K. Harper*.

A brief of *amici curiae* urging affirmance was filed for the State of Alabama et al. by *Luther Strange*, Attorney General of Alabama, *Andrew L. Brasher*, Solicitor General, *Megan A. Kirkpatrick*, Deputy Solicitor General, and *Tim Fox*, Attorney General of Montana.

During Hurst's 4-day trial, the State offered substantial forensic evidence linking Hurst to the murder. Witnesses also testified that Hurst announced in advance that he planned to rob the restaurant; that Hurst and Harrison were the only people scheduled to work when Harrison was killed; and that Hurst disposed of bloodstained evidence and used stolen money to purchase shoes and rings.

Hurst responded with an alibi defense. He claimed he never made it to work because his car broke down. Hurst told police that he called the restaurant to let Harrison know he would be late. He said she sounded scared and he could hear another person—presumably the real murderer—whispering in the background.

At the close of Hurst's defense, the judge instructed the jury that it could find Hurst guilty of first-degree murder under two theories: premeditated murder or felony murder for an unlawful killing during a robbery. The jury convicted Hurst of first-degree murder but did not specify which theory it believed.

First-degree murder is a capital felony in Florida. See Fla. Stat. § 782.04(1)(a) (2010). Under state law, the maximum sentence a capital felon may receive on the basis of the conviction alone is life imprisonment. § 775.082(1). "A person who has been convicted of a capital felony shall be punished by death" only if an additional sentencing proceeding "results in findings by the court that such person shall be punished by death." *Ibid.* "[O]therwise such person shall be punished by life imprisonment and shall be ineligible for parole." *Ibid.*

The additional sentencing proceeding Florida employs is a "hybrid" proceeding "in which [a] jury renders an advisory verdict but the judge makes the ultimate sentencing determinations." *Ring* v. *Arizona*, 536 U. S. 584, 608, n. 6 (2002). First, the sentencing judge conducts an evidentiary hearing before a jury. Fla. Stat. § 921.141(1). Next, the jury renders an "advisory sentence" of life or death without specify-

ing the factual basis of its recommendation. § 921.141(2). "Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, shall enter a sentence of life imprisonment or death." § 921.141(3). If the court imposes death, it must "set forth in writing its findings upon which the sentence of death is based." *Ibid.* Although the judge must give the jury recommendation "great weight," *Tedder* v. *State*, 322 So. 2d 908, 910 (Fla. 1975) (*per curiam*), the sentencing order must "reflect the trial judge's independent judgment about the existence of aggravating and mitigating factors," *Blackwelder* v. *State*, 851 So. 2d 650, 653 (Fla. 2003) (*per curiam*).

Following this procedure, Hurst's jury recommended a death sentence. The judge independently agreed. See 819 So. 2d, at 694–695. On postconviction review, however, the Florida Supreme Court vacated Hurst's sentence for reasons not relevant to this case. See 18 So. 3d 975 (2009).

At resentencing in 2012, the sentencing judge conducted a new hearing during which Hurst offered mitigating evidence that he was not a "major participant" in the murder because he was at home when it happened. App. 505–507. The sentencing judge instructed the advisory jury that it could recommend a death sentence if it found at least one aggravating circumstance beyond a reasonable doubt: that the murder was especially "heinous, atrocious, or cruel" or that it occurred while Hurst was committing a robbery. *Id.*, at 211–212. The jury recommended death by a vote of 7 to 5.

The sentencing judge then sentenced Hurst to death. In her written order, the judge based the sentence in part on her independent determination that both the heinous-murder and robbery aggravators existed. *Id.*, at 261–263. She assigned "great weight" to her findings as well as to the jury's recommendation of death. *Id.*, at 271.

The Florida Supreme Court affirmed 4 to 3. 147 So. 3d 435 (2014). As relevant here, the court rejected Hurst's ar-

gument that his sentence violated the Sixth Amendment in light of *Ring*, 536 U. S. 584. *Ring*, the court recognized, "held that capital defendants are entitled to a jury determination of any fact on which the legislature conditions an increase in the maximum punishment." 147 So. 3d, at 445. But the court considered *Ring* inapplicable in light of this Court's repeated support of Florida's capital sentencing scheme in pre-*Ring* cases. 147 So. 3d, at 446–447 (citing *Hildwin* v. *Florida*, 490 U. S. 638 (1989) (*per curiam*)); see also *Spaziano* v. *Florida*, 468 U. S. 447, 457–465 (1984). Specifically, in *Hildwin*, this Court held that the Sixth Amendment "does not require that the specific findings authorizing the imposition of the sentence of death be made by the jury." 490 U. S., at 640–641. The Florida court noted that we have "never expressly overruled *Hildwin*, and did not do so in *Ring*." 147 So. 3d, at 446–447.

Justice Pariente, joined by two colleagues, dissented from this portion of the court's opinion. She reiterated her view that "*Ring* requires any fact that qualifies a capital defendant for a sentence of death to be found by a jury." *Id.*, at 450 (opinion concurring in part and dissenting in part).

We granted certiorari to resolve whether Florida's capital sentencing scheme violates the Sixth Amendment in light of *Ring*. 575 U. S. 902 (2015). We hold that it does, and reverse.

## II

The Sixth Amendment provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . ." This right, in conjunction with the Due Process Clause, requires that each element of a crime be proved to a jury beyond a reasonable doubt. *Alleyne* v. *United States*, 570 U. S. 99, 104 (2013). In *Apprendi* v. *New Jersey*, 530 U. S. 466, 494 (2000), this Court held that any fact that "expose[s] the defendant to a greater punishment than that authorized by the jury's guilty verdict" is an "element" that must be submitted to a jury. In the

years since *Apprendi*, we have applied its rule to instances involving plea bargains, *Blakely* v. *Washington*, 542 U. S. 296 (2004), sentencing guidelines, *United States* v. *Booker*, 543 U. S. 220 (2005), criminal fines, *Southern Union Co.* v. *United States*, 567 U. S. 343 (2012), mandatory minimums, *Alleyne*, 570 U. S., at 117, and, in *Ring*, 536 U. S. 584, capital punishment.

In *Ring*, we concluded that Arizona's capital sentencing scheme violated *Apprendi*'s rule because the State allowed a judge to find the facts necessary to sentence a defendant to death. An Arizona jury had convicted Timothy Ring of felony murder. 536 U. S., at 591. Under state law, "Ring could not be sentenced to death, the statutory maximum penalty for first-degree murder, unless further findings were made." *Id.*, at 592. Specifically, a judge could sentence Ring to death only after independently finding at least one aggravating circumstance. *Id.*, at 592–593. Ring's judge followed this procedure, found an aggravating circumstance, and sentenced Ring to death.

The Court had little difficulty concluding that "'the required finding of an aggravated circumstance exposed Ring to a greater punishment than that authorized by the jury's guilty verdict.'" *Id.*, at 604 (quoting *Apprendi*, 530 U. S., at 494; alterations omitted). Had Ring's judge not engaged in any factfinding, Ring would have received a life sentence. *Ring*, 536 U. S., at 597. Ring's death sentence therefore violated his right to have a jury find the facts behind his punishment.

The analysis the *Ring* Court applied to Arizona's sentencing scheme applies equally to Florida's. Like Arizona at the time of *Ring*, Florida does not require the jury to make the critical findings necessary to impose the death penalty. Rather, Florida requires a judge to find these facts. Fla. Stat. § 921.141(3). Although Florida incorporates an advisory jury verdict that Arizona lacked, we have previously made clear that this distinction is immaterial: "It is true that

in Florida the jury recommends a sentence, but it does not make specific factual findings with regard to the existence of mitigating or aggravating circumstances and its recommendation is not binding on the trial judge. A Florida trial court no more has the assistance of a jury's findings of fact with respect to sentencing issues than does a trial judge in Arizona." *Walton* v. *Arizona*, 497 U. S. 639, 648 (1990); accord, *State* v. *Steele*, 921 So. 2d 538, 546 (Fla. 2005) ("[T]he trial court alone must make detailed findings about the existence and weight of aggravating circumstances; it has no jury findings on which to rely").

As with Timothy Ring, the maximum punishment Timothy Hurst could have received without any judge-made findings was life in prison without parole. As with Ring, a judge increased Hurst's authorized punishment based on her own factfinding. In light of *Ring*, we hold that Hurst's sentence violates the Sixth Amendment.

## III

Without contesting *Ring*'s holding, Florida offers a bevy of arguments for why Hurst's sentence is constitutional. None holds water.

### A

Florida concedes that *Ring* required a jury to find every fact necessary to render Hurst eligible for the death penalty. But Florida argues that when Hurst's sentencing jury recommended a death sentence, it "necessarily included a finding of an aggravating circumstance." Brief for Respondent 44. The State contends that this finding qualified Hurst for the death penalty under Florida law, thus satisfying *Ring*. "[T]he additional requirement that a judge *also* find an aggravator," Florida concludes, "only provides the defendant additional protection." Brief for Respondent 22.

The State fails to appreciate the central and singular role the judge plays under Florida law. As described above and by the Florida Supreme Court, the Florida sentencing stat-

ute does not make a defendant eligible for death until "findings *by the court* that such person shall be punished by death." Fla. Stat. § 775.082(1) (emphasis added). The trial court *alone* must find "the facts . . . [t]hat sufficient aggravating circumstances exist" and "[t]hat there are insufficient mitigating circumstances to outweigh the aggravating circumstances." § 921.141(3); see *Steele*, 921 So. 2d, at 546. "[T]he jury's function under the Florida death penalty statute is advisory only." *Spaziano* v. *State*, 433 So. 2d 508, 512 (Fla. 1983). The State cannot now treat the advisory recommendation by the jury as the necessary factual finding that *Ring* requires.

B

Florida launches its second salvo at Hurst himself, arguing that he admitted in various contexts that an aggravating circumstance existed. Even if *Ring* normally requires a jury to hear all facts necessary to sentence a defendant to death, Florida argues, "*Ring* does not require jury findings on facts defendants have admitted." Brief for Respondent 41. Florida cites our decision in *Blakely*, 542 U. S. 296, in which we stated that under *Apprendi*, a judge may impose any sentence authorized "on the basis of the facts reflected in the jury verdict or admitted by the defendant." 542 U. S., at 303 (emphasis deleted). In light of *Blakely*, Florida points to various instances in which Hurst's counsel allegedly admitted the existence of a robbery. Florida contends that these "admissions" made Hurst eligible for the death penalty. Brief for Respondent 42–44.

*Blakely*, however, was a decision applying *Apprendi* to facts admitted in a guilty plea, in which the defendant necessarily waived his right to a jury trial. See 542 U. S., at 310–312. Florida has not explained how Hurst's alleged admissions accomplished a similar waiver. Florida's argument is also meritless on its own terms. Hurst never admitted to either aggravating circumstance alleged by the State. At most, his counsel simply refrained from challenging the ag-

gravating circumstances in parts of his appellate briefs. See, *e. g.*, Initial Brief for Appellant in No. SC12–1947 (Fla.), p. 24 ("not challeng[ing] the trial court's findings" but arguing that death was nevertheless a disproportionate punishment).

C

The State next argues that *stare decisis* compels us to uphold Florida's capital sentencing scheme. As the Florida Supreme Court observed, this Court "repeatedly has reviewed and upheld Florida's capital sentencing statute over the past quarter of a century." *Bottoson* v. *Moore*, 833 So. 2d 693, 695 (2002) (*per curiam*) (citing *Hildwin*, 490 U. S. 638; *Spaziano*, 468 U. S. 447). "In a comparable situation," the Florida court reasoned, "the United States Supreme Court held:

> 'If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the [other courts] should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions.'" *Bottoson*, 833 So. 2d, at 695 (quoting *Rodriguez de Quijas* v. *Shearson/American Express, Inc.*, 490 U. S. 477, 484 (1989)); see also 147 So. 3d, at 446–447 (case below).

We now expressly overrule *Spaziano* and *Hildwin* in relevant part.

*Spaziano* and *Hildwin* summarized earlier precedent to conclude that "the Sixth Amendment does not require that the specific findings authorizing the imposition of the sentence of death be made by the jury." *Hildwin*, 490 U. S., at 640–641. Their conclusion was wrong, and irreconcilable with *Apprendi*. Indeed, today is not the first time we have recognized as much. In *Ring*, we held that another pre-*Apprendi* decision—*Walton*, 497 U. S. 639—could not "survive the reasoning of *Apprendi*." 536 U. S., at 603. *Wal-*

*ton*, for its part, was a mere application of *Hildwin*'s holding to Arizona's capital sentencing scheme. 497 U. S., at 648.

"Although '"the doctrine of *stare decisis* is of fundamental importance to the rule of law[,]" . . . [o]ur precedents are not sacrosanct.' . . . '[W]e have overruled prior decisions where the necessity and propriety of doing so has been established.'" *Ring*, 536 U. S., at 608 (quoting *Patterson* v. *McLean Credit Union*, 491 U. S. 164, 172 (1989)). And in the *Apprendi* context, we have found that "*stare decisis* does not compel adherence to a decision whose 'underpinnings' have been 'eroded' by subsequent developments of constitutional law." *Alleyne*, 570 U. S., at 119 (SOTOMAYOR, J., concurring); see also *United States* v. *Gaudin*, 515 U. S. 506, 519–520 (1995) (overruling *Sinclair* v. *United States*, 279 U. S. 263 (1929)); *Ring*, 536 U. S., at 609 (overruling *Walton*, 497 U. S., at 639); *Alleyne*, 570 U. S., at 116 (overruling *Harris* v. *United States*, 536 U. S. 545 (2002)).

Time and subsequent cases have washed away the logic of *Spaziano* and *Hildwin*. The decisions are overruled to the extent they allow a sentencing judge to find an aggravating circumstance, independent of a jury's factfinding, that is necessary for imposition of the death penalty.

D

Finally, we do not reach the State's assertion that any error was harmless. See *Neder* v. *United States*, 527 U. S. 1, 18–19 (1999) (holding that the failure to submit an uncontested element of an offense to a jury may be harmless). This Court normally leaves it to state courts to consider whether an error is harmless, and we see no reason to depart from that pattern here. See *Ring*, 536 U. S., at 609, n. 7.

* * *

The Sixth Amendment protects a defendant's right to an impartial jury. This right required Florida to base Timothy Hurst's death sentence on a jury's verdict, not a judge's fact-

finding. Florida's sentencing scheme, which required the judge alone to find the existence of an aggravating circumstance, is therefore unconstitutional.

The judgment of the Florida Supreme Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*So ordered.*

JUSTICE BREYER, concurring in the judgment.

For the reasons explained in my opinion concurring in the judgment in *Ring* v. *Arizona*, 536 U. S. 584, 613–619 (2002), I cannot join the Court's opinion. As in that case, however, I concur in the judgment here based on my view that "the Eighth Amendment requires that a jury, not a judge, make the decision to sentence a defendant to death." *Id.*, at 614; see *id.*, at 618 ("[T]he danger of unwarranted imposition of the [death] penalty cannot be avoided unless 'the decision to impose the death penalty is made by a jury rather than by a single governmental official'" (quoting *Spaziano* v. *Florida*, 468 U. S. 447, 469 (1984) (Stevens, J., concurring in part and dissenting in part))). No one argues that Florida's juries actually sentence capital defendants to death—that job is left to Florida's judges. See Fla. Stat. § 921.141(3) (2010). Like the majority, therefore, I would reverse the judgment of the Florida Supreme Court.

JUSTICE ALITO, dissenting.

As the Court acknowledges, "this Court 'repeatedly has reviewed and upheld Florida's capital sentencing statute over the past quarter of a century.'" *Ante*, at 101. And as the Court also concedes, our precedents hold that "'the Sixth Amendment *does not* require that the specific findings authorizing the imposition of the sentence of death be made by the jury.'" *Ibid.* (quoting *Hildwin* v. *Florida*, 490 U. S. 638, 640–641 (1989) (*per curiam*); emphasis added); see also *Spaziano* v. *Florida*, 468 U. S. 447, 460 (1984). The Court

now reverses course, striking down Florida's capital sentencing system, overruling our decisions in *Hildwin* and *Spaziano*, and holding that the Sixth Amendment *does* require that the specific findings authorizing a sentence of death be made by a jury. I disagree.

## I

First, I would not overrule *Hildwin* and *Spaziano* without reconsidering the cases on which the Court's present decision is based. The Court relies on later cases holding that any fact that exposes a defendant to a greater punishment than that authorized by the jury's guilty verdict is an element of the offense that must be submitted to a jury. *Ante*, at 97–98. But there are strong reasons to question whether this principle is consistent with the original understanding of the jury trial right. See *Alleyne* v. *United States*, 570 U. S. 99, 133–134 (2013) (ALITO, J., dissenting). Before overruling *Hildwin* and *Spaziano*, I would reconsider the cases, including most prominently *Ring* v. *Arizona*, 536 U. S. 584 (2002), on which the Court now relies.

Second, even if *Ring* is assumed to be correct, I would not extend it. Although the Court suggests that today's holding follows ineluctably from *Ring*, the Arizona sentencing scheme at issue in that case was much different from the Florida procedure now before us. In *Ring*, the jury found the defendant guilty of felony murder and did no more. It did not make the findings required by the Eighth Amendment before the death penalty may be imposed in a felony-murder case. See *id.*, at 591–592, 594; *Enmund* v. *Florida*, 458 U. S. 782 (1982); *Tison* v. *Arizona*, 481 U. S. 137 (1987). Nor did the jury find the presence of any aggravating factor, as required for death eligibility under Arizona law. *Ring*, *supra*, at 592–593. Nor did it consider mitigating factors. And it did not determine whether a capital or noncapital sentence was appropriate. Under that system, the jury played *no* role in the capital sentencing process.

The Florida system is quite different. In Florida, the jury sits as the initial and primary adjudicator of the factors bearing on the death penalty. After unanimously determining guilt at trial, a Florida jury hears evidence of aggravating and mitigating circumstances. See Fla. Stat. § 921.141(1) (2010). At the conclusion of this separate sentencing hearing, the jury may recommend a death sentence only if it finds that the State has proved one or more aggravating factors beyond a reasonable doubt and only after weighing the aggravating and mitigating factors. § 921.141(2).

Once the jury has made this decision, the trial court performs what amounts, in practical terms, to a reviewing function. The judge duplicates the steps previously performed by the jury and, while the court can impose a sentence different from that recommended by the jury, the judge must accord the jury's recommendation "great weight." See *Lambrix* v. *Singletary*, 520 U. S. 518, 525–526 (1997) (recounting Florida law and procedure). Indeed, if the jury recommends a life sentence, the judge may override that decision only if "the facts suggesting a sentence of death [were] so clear and convincing that virtually no reasonable person could differ." *Tedder* v. *State*, 322 So. 2d 908, 910 (Fla. 1975) (*per curiam*). No Florida trial court has overruled a jury's recommendation of a life sentence for more than 15 years.

Under the Florida system, the jury plays a critically important role. Our decision in *Ring* did not decide whether this procedure violates the Sixth Amendment, and I would not extend *Ring* to cover the Florida system.

## II

Finally, even if there was a constitutional violation in this case, I would hold that the error was harmless beyond a reasonable doubt. See *Chapman* v. *California*, 386 U. S. 18, 24 (1967). Although petitioner attacks the Florida system on numerous grounds, the Court's decision is based on a single

perceived defect, *i. e.*, that the jury's determination that at least one aggravating factor was proved is not binding on the trial judge. *Ante*, at 98–99. The Court makes no pretense that this supposed defect could have prejudiced petitioner, and it seems very clear that it did not.

Attempting to show that he might have been prejudiced by the error, petitioner suggests that the jury might not have found the existence of an aggravating factor had it been instructed that its finding was a prerequisite for the imposition of the death penalty, but this suggestion is hard to credit. The jury was told to consider two aggravating factors: that the murder was committed during the course of a robbery and that it was especially "heinous, atrocious, or cruel." App. 212. The evidence in support of both factors was overwhelming.

The evidence with regard to the first aggravating factor—that the murder occurred during the commission of a robbery—was as follows. The victim, Cynthia Harrison, an assistant manager of a Popeye's restaurant, arrived at work between 7 a.m. and 8:30 a.m. on the date of her death. When other employees entered the store at about 10:30 a.m., they found that she had been stabbed to death and that the restaurant's safe was open and the previous day's receipts were missing. At trial, the issue was whether Hurst committed the murder. There was no suggestion that the murder did not occur during the robbery. Any alternative scenario—for example, that Cynthia Harrison was first murdered by one person for some reason other than robbery and that a second person came upon the scene shortly after the murder and somehow gained access to and emptied the Popeye's safe—is fanciful.

The evidence concerning the second aggravating factor—that the murder was especially "heinous, atrocious, or cruel"—was also overwhelming. Cynthia Harrison was bound, gagged, and stabbed more than 60 times. Her injuries included "facial cuts that went all the way down to the

underlying bone," "cuts through the eyelid region" and "the top of her lip," and "a large cut to her neck which almost severed her trachea." *Id.*, at 261. It was estimated that death could have taken as long as 15 minutes to occur. The trial court characterized the manner of her death as follows: "The utter terror and pain that Ms. Harrison likely experienced during the incident is unfathomable. Words are inadequate to describe this death, but the photographs introduced as evidence depict a person bound, rendered helpless, and brutally, savagely, and unmercifully slashed and disfigured. The murder of Ms. Harrison was conscienceless, pitiless, and unnecessarily torturous." *Id.*, at 261–262.

In light of this evidence, it defies belief to suggest that the jury would not have found the existence of either aggravating factor if its finding was binding. More than 17 years have passed since Cynthia Harrison was brutally murdered. In the interest of bringing this protracted litigation to a close, I would rule on the issue of harmless error and would affirm the decision of the Florida Supreme Court.

Syllabus

# KANSAS *v.* CARR

## CERTIORARI TO THE SUPREME COURT OF KANSAS

No. 14–449. Argued October 7, 2015—Decided January 20, 2016*

A Kansas jury sentenced respondent Sidney Gleason to death for killing a co-conspirator and her boyfriend to cover up the robbery of an elderly man.

A Kansas jury sentenced respondents Reginald and Jonathan Carr, brothers, to death after a joint sentencing proceeding. Respondents were convicted of various charges stemming from a notorious crime spree that culminated in the brutal rape, robbery, kidnaping, and execution-style shooting of five young men and women.

The Kansas Supreme Court vacated the death sentences in each case, holding that the sentencing instructions violated the Eighth Amendment by failing "to affirmatively inform the jury that mitigating circumstances need only be proved to the satisfaction of the individual juror in that juror's sentencing decision and not beyond a reasonable doubt." It also held that the Carrs' Eighth Amendment right "to an individualized capital sentencing determination" was violated by the trial court's failure to sever their sentencing proceedings.

*Held*:

1. The Eighth Amendment does not require capital-sentencing courts to instruct a jury that mitigating circumstances need not be proved beyond a reasonable doubt. Pp. 117–122.

(a) Because the Kansas Supreme Court left no doubt that its ruling was based on the Federal Constitution, Gleason's initial argument—that this Court lacks jurisdiction to hear his case because the state court's decision rested on adequate and independent state-law grounds—is rejected. See *Kansas* v. *Marsh*, 548 U. S. 163, 169. Pp. 117–118.

(b) This Court's capital-sentencing case law does not support requiring a court to instruct a jury that mitigating circumstances need not be proved beyond a reasonable doubt. See, *e. g.*, *Buchanan* v. *Angelone*, 522 U. S. 269, 275. Nor was such an instruction constitutionally necessary in these particular cases to avoid confusion. Ambiguity in capital-sentencing instructions gives rise to constitutional error only if "there is a reasonable likelihood that the jury has applied the challenged

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*Together with No. 14–450, *Kansas* v. *Carr*, and No. 14–452, *Kansas* v. *Gleason*, also on certiorari to the same court.

instruction in a way that prevents the consideration of constitutionally relevant evidence," *Boyde* v. *California*, 494 U. S. 370, 380, a bar not cleared here. Even assuming that it would be unconstitutional to require the defense to prove mitigating circumstances beyond a reasonable doubt, the record belies the defendants' contention that the instructions caused jurors to apply such a standard of proof here. The instructions make clear that both the existence of aggravating circumstances and the conclusion that they outweigh mitigating circumstances must be proved beyond a reasonable doubt but that mitigating circumstances must merely be "found to exist," which does not suggest proof beyond a reasonable doubt. No juror would have reasonably speculated that "beyond a reasonable doubt" was the correct burden for mitigating circumstances. Pp. 118–122.

2. The Constitution did not require severance of the Carrs' joint sentencing proceedings. The Eighth Amendment is inapposite when a defendant's claim is, at bottom, that evidence was improperly admitted at a capital-sentencing proceeding. The question is whether the allegedly improper evidence "so infected the sentencing proceeding with unfairness as to render the jury's imposition of the death penalty a denial of due process." *Romano* v. *Oklahoma*, 512 U. S. 1, 12. In light of all the evidence presented at the guilt and penalty phases relevant to the jury's sentencing determination, the contention that the admission of mitigating evidence by one Carr brother could have "so infected" the jury's consideration of the other's sentence as to amount to a denial of due process is beyond the pale. The Court presumes that the jury followed its instructions to "give separate consideration to each defendant." *Bruton* v. *United States*, 391 U. S. 123, distinguished. Joint proceedings are permissible and often preferable when the joined defendants' criminal conduct arises out of a single chain of events. *Buchanan* v. *Kentucky*, 483 U. S. 402, 418. Limiting instructions, like those given in the Carrs' proceeding, "often will suffice to cure any risk of prejudice," *Zafiro* v. *United States*, 506 U. S. 534, 539, that might arise from codefendants' "antagonistic" mitigation theories, *id.*, at 538. It is improper to vacate a death sentence based on pure "speculation" of fundamental unfairness, "rather than reasoned judgment." *Romano*, *supra*, at 13–14. Only the most extravagant speculation would lead to the conclusion that any supposedly prejudicial evidence rendered the Carr brothers' joint sentencing proceeding fundamentally unfair when their acts of almost inconceivable cruelty and depravity were described in excruciating detail by the sole survivor, who, for two days, relived the Wichita Massacre with the jury. Pp. 122–126.

No. 14–449, 300 Kan. 340, 329 P. 3d 1195; No. 14–450, 300 Kan. 1, 331 P. 3d 544; and No. 14–452, 299 Kan. 1127, 329 P. 3d 1102, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, GINSBURG, BREYER, ALITO, and KAGAN, JJ., joined. SOTOMAYOR, J., filed a dissenting opinion, *post*, p. 127.

*Derek L. Schmidt*, Attorney General of Kansas, argued the cause for petitioner in all cases (Burden). With him on the briefs in No. 14–452 were *Jeffrey A. Chanay*, Chief Deputy Attorney General, *Stephen R. McAllister*, Solicitor General, *Kristafer R. Ailslieger*, Deputy Solicitor General, and *Natalie Chalmers*, Assistant Solicitor General. *Mr. McAllister* argued the cause for petitioner in Nos. 14–449 and 14–550 (Severance). With him on the briefs were *Messrs. Schmidt*, *Chanay*, and *Ailslieger*, *Ms. Chalmers*, and *David Lowden*.

*Rachel P. Kovner* argued the cause for the United States as *amicus curiae* in support of petitioner. With her on the briefs were *Solicitor General Verrilli*, *Assistant Attorney General Caldwell*, and *Deputy Solicitor General Dreeben*.

*Jeffrey T. Green* argued the cause for respondents in Nos. 14–449 and 14–452. With him on the briefs in both cases were *Sarah Ellen Johnson*, *Meryl Carver-Allmond*, and *Sarah O'Rourke Schrup*. *Neal Kumar Katyal* (Burden) and *Frederick Liu* (Severance) argued the cause for respondent in No. 14–450. With them on the brief were *Jaclyn L. DiLauro* and *Debra J. Wilson*.†

JUSTICE SCALIA delivered the opinion of the Court.

The Supreme Court of Kansas vacated the death sentences of Sidney Gleason and brothers Reginald and Jonathan Carr.

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†*Kent S. Scheidegger* filed a brief of *amici curiae* urging reversal for the Criminal Justice Legal Foundation et al. in all cases.

*G. Ben Cohen* and *Michael Admirand* filed a brief of *amicus curiae* urging affirmance for the Promise of Justice Initiative in Nos. 14–449 and 14–450.

Gleason killed one of his co-conspirators and her boyfriend to cover up the robbery of an elderly man. The Carrs' notorious Wichita crime spree culminated in the brutal rape, robbery, kidnaping, and execution-style shooting of five young men and women. We first consider whether the Constitution required the sentencing courts to instruct the juries that mitigating circumstances "need not be proved beyond a reasonable doubt." And second, whether the Constitution required severance of the Carrs' joint sentencing proceedings.

## I

### A

Less than one month after Sidney Gleason was paroled from his sentence for attempted voluntary manslaughter, he joined a conspiracy to rob an elderly man at knifepoint.[1] Gleason and a companion "cut up" the elderly man to get $10 to $35 and a box of cigarettes. 299 Kan. 1127, 1136, 329 P. 3d 1102, 1115 (2014). Fearing that their female co-conspirators would snitch, Gleason and his cousin, Damien Thompson, set out to kill co-conspirator Mikiala Martinez. Gleason shot and killed Martinez's boyfriend, and then Gleason and Thompson drove Martinez to a rural location, where Thompson strangled her for five minutes and then shot her in the chest, Gleason standing by and providing the gun for the final shot.

The State ultimately charged Gleason with capital murder for killing Martinez and her boyfriend, first-degree premeditated murder of the boyfriend, aggravating kidnaping of Martinez, attempted first-degree murder and aggravated robbery of the elderly man, and criminal possession of a firearm. He was convicted on all counts except the attempted first-degree murder charge. *Id.*, at 1134–1135,

[1] The facts for this portion of the opinion come from the Kansas Supreme Court, 299 Kan. 1127, 1134–1147, 329 P. 3d 1102, 1113–1121 (2014), and the parties' briefs.

1146, 329 P. 3d, at 1114, 1120. The jury also found that the State proved beyond a reasonable doubt the existence of four aggravating circumstances and unanimously agreed to a sentence of death. *Id.*, at 1146–1147, 329 P. 3d, at 1120–1121.

B

In December 2000, brothers Reginald and Jonathan Carr set out on a crime spree culminating in the Wichita Massacre.[2] On the night of December 7, Reginald Carr and an unknown man carjacked Andrew Schreiber, held a gun to his head, and forced him to make cash withdrawals at various ATMs.

On the night of December 11, the brothers followed Linda Ann Walenta, a cellist for the Wichita symphony, home from orchestra practice. One of them approached her vehicle and said he needed help. When she rolled down her window, he pointed a gun at her head. When she shifted into reverse to escape, he shot her three times, ran back to his brother's car, and fled the scene. One of the gunshots severed Walenta's spine, and she died one month later as a result of her injuries.

On the night of December 14, the brothers burst into a triplex at 12727 Birchwood, where roommates Jason, Brad, and Aaron lived. Jason's girlfriend, Holly, and Heather, a friend of Aaron's, were also in the house. Armed with handguns and a golf club, the brothers forced all five into Jason's bedroom. They demanded that they strip naked and later ordered them into the bedroom closet. They took Holly and Heather from the bedroom, demanded that they perform oral sex and digitally penetrate each other as the Carrs looked on and barked orders. They forced each of the men to have

[2] The facts for this portion of the opinion come from the Kansas Supreme Court, 300 Kan. 1, 18–38, 331 P. 3d 544, 575–586 (2014), and witness testimony. See 21–A Tr. 59–75 (Oct. 7, 2002), 22–B Tr. 39–124 (Oct. 8, 2002), 23–A Tr. 4–118 (Oct. 9, 2002), 23–B Tr. 5–133 (Oct. 9, 2002), and 24–A Tr. 4–93 (Oct. 10, 2002).

sex with Holly and then with Heather. They yelled that the men would be shot if they could not have sex with the women, so Holly—fearing for Jason's life—performed oral sex on him in the closet before he was ordered out by the brothers.

Jonathan then snatched Holly from the closet. He ordered that she digitally penetrate herself. He set his gun between her knees on the floor. And he raped her. Then he raped Heather.

Reginald took Brad, Jason, Holly, and Aaron one-by-one to various ATMs to withdraw cash. When the victims returned to the house, their torture continued. Holly urinated in the closet because of fright. Jonathan found an engagement ring hidden in the bedroom that Jason was keeping as a surprise for Holly. Pointing his gun at Jason, he had Jason identify the ring while Holly was sitting nearby in the closet. Then Reginald took Holly from the closet, said he was not going to shoot her yet, and raped her on the dining-room floor strewn with boxes of Christmas decorations. He forced her to turn around, ejaculated into her mouth, and forced her to swallow. In a nearby bathroom, Jonathan again raped Heather and then again raped Holly.

At 2 a.m.—three hours after the mayhem began—the brothers decided it was time to leave the house. They attempted to put all five victims in the trunk of Aaron's Honda Civic. Finding that they would not all fit, they jammed the three young men into the trunk. They directed Heather to the front of the car and Holly to Jason's pickup truck, driven by Reginald. Once the vehicles arrived at a snow-covered field, they instructed Jason and Brad, still naked, and Aaron to kneel in the snow. Holly cried, "Oh, my God, they're going to shoot us." Holly and Heather were then ordered to kneel in the snow. Holly went to Jason's side; Heather, to Aaron.

Holly heard the first shot, heard Aaron plead with the brothers not to shoot, heard the second shot, heard the

screams, heard the third shot, and the fourth. She felt the blow of the fifth shot to her head, but remained kneeling. They kicked her so she would fall face-first into the snow and ran her over in the pickup truck. But she survived, because a hair clip she had fastened to her hair that night deflected the bullet. She went to Jason, took off her sweater, the only scrap of clothing the brothers had let her wear, and tied it around his head to stop the bleeding from his eye. She rushed to Brad, then Aaron, and then Heather.

Spotting a house with white Christmas lights in the distance, Holly started running toward it for help—naked, skull shattered, and without shoes, through the snow and over barbed-wire fences. Each time a car passed on the nearby road, she feared it was the brothers returning and camouflaged herself by lying down in the snow. She made it to the house, rang the doorbell, knocked. A man opened the door, and she relayed as quickly as she could the events of the night to him, and minutes later to a 911 dispatcher, fearing that she would not live.

Holly lived, and retold this play-by-play of the night's events to the jury. Investigators also testified that the brothers returned to the Birchwood house after leaving the five friends for dead, where they ransacked the place for valuables and (for good measure) beat Holly's dog, Nikki, to death with a golf club.

The State charged each of the brothers with more than 50 counts, including murder, rape, sodomy, kidnaping, burglary, and robbery, and the jury returned separate guilty verdicts. It convicted Reginald of one count of kidnaping, aggravated robbery, aggravated battery, and criminal damage to property for the Schreiber carjacking, and one count of first-degree felony murder for the Walenta shooting. Jonathan was acquitted of all counts related to the Schreiber carjacking but convicted of first-degree felony murder for the Walenta shooting. For the Birchwood murders, the jury con-

victed each brother of 4 counts of capital murder, 1 count of attempted first-degree murder, 5 counts of aggravated kidnaping, 9 counts of aggravated robbery, 20 counts of rape or attempted rape, 3 counts of aggravated criminal sodomy, 1 count each of aggravated burglary and burglary, 1 count of theft, and 1 count of cruelty to animals. The jury also convicted Reginald of three counts of unlawful possession of a firearm. 300 Kan. 1, 15–16, 331 P. 3d 544, 573–574 (2014).

The State sought the death penalty for each of the four Birchwood murders, and the brothers were sentenced together. The State relied on the guilt-phase evidence, including Holly's two days of testimony, as evidence of four aggravating circumstances: that the defendants knowingly or purposely killed or created a great risk of death to more than one person; that they committed the crimes for the purpose of receiving money or items of monetary value; that they committed the crimes to prevent arrest or prosecution; and that they committed the crimes in an especially heinous, atrocious, or cruel manner. *Id.*, at 258–259, 331 P. 3d, at 708. After hearing each brother's case for mitigation, the jury issued separate verdicts of death for Reginald and Jonathan. It found unanimously that the State proved the existence of the four aggravating circumstances beyond a reasonable doubt and that those aggravating circumstances outweighed the mitigating circumstances, justifying four separate verdicts of death for each brother for the murders of Jason, Brad, Aaron, and Heather. App. in No. 14–449 etc., pp. 461–492.

C

The Kansas Supreme Court vacated the death penalties in both cases. It held that the instructions used in both Gleason's and the Carrs' sentencing violated the Eighth Amendment because they "failed to affirmatively inform the jury that mitigating circumstances need only be proved to the satisfaction of the individual juror in that juror's sentencing decision and not beyond a reasonable doubt." 299 Kan., at

1196, 329 P. 3d, at 1147 (Gleason); 300 Kan., at 303, 331 P. 3d, at 733 (Reginald Carr); 300 Kan. 340, 369–370, 329 P. 3d 1195, 1213 (2014) (Jonathan Carr). Without that instruction, according to the court, the jury "was left to speculate as to the correct burden of proof for mitigating circumstances, and reasonable jurors might have believed they could not consider mitigating circumstances not proven beyond a reasonable doubt." 299 Kan., at 1197, 329 P. 3d, at 1148. This, the court concluded, might have caused jurors to exclude relevant mitigating evidence from their consideration. *Ibid.*

The Kansas Supreme Court also held that the Carrs' death sentences had to be vacated because of the trial court's failure to sever their sentencing proceedings, thereby violating the brothers' Eighth Amendment right "to an individualized capital sentencing determination." 300 Kan., at 275, 331 P. 3d, at 717; 300 Kan., at 368, 329 P. 3d, at 1212. According to the court, the joint trial "inhibited the jury's individualized consideration of [Jonathan] because of family characteristics tending to demonstrate future dangerousness that he shared with his brother"; and his brother's visible handcuffs prejudiced the jury's consideration of his sentence. 300 Kan., at 275, 331 P. 3d, at 717. As for Reginald, he was prejudiced, according to the Kansas Supreme Court, by Jonathan's portrayal of him as the corrupting older brother. *Id.*, at 276, 331 P. 3d, at 717. Moreover, Reginald was prejudiced by his brother's cross-examination of their sister, who testified that she thought Reginald had admitted to her that he was the shooter. *Id.*, at 279, 331 P. 3d, at 719. (She later backtracked and testified, "'I don't remember who was, you know, shot by who[m].'" *Ibid.*) The Kansas Supreme Court opined that the presumption that the jury followed its instructions to consider each defendant separately was "defeated by logic." *Id.*, at 280, 331 P. 3d, at 719. "[T]he defendants' joint upbringing in the maelstrom that was their family and their influence on and interactions with one an-

other . . . simply was not amenable to orderly separation and analysis." *Ibid.*, 331 P. 3d, at 719–720. The Kansas Supreme Court found itself unable to "say that the death verdict was unattributable, at least in part, to this error." *Id.*, at 282, 331 P. 3d, at 720. We granted certiorari. 575 U. S. 934 (2015).

## II

We first turn to the Kansas Supreme Court's contention that the Eighth Amendment required these capital-sentencing courts to instruct the jury that mitigating circumstances need not be proved beyond a reasonable doubt.

### A

Before considering the merits of that contention, we consider Gleason's challenge to our jurisdiction. According to Gleason, the Kansas Supreme Court's decision rests on adequate and independent state-law grounds. This argument is a familiar one. We rejected it in *Kansas* v. *Marsh*, 548 U. S. 163, 169 (2006). Like the defendant in that case, Gleason urges that the decision below rests only on a rule of Kansas law announced in *State* v. *Kleypas*, 272 Kan. 894, 40 P. 3d 139 (2001) (*per curiam*)—a rule later reiterated in *State* v. *Scott*, 286 Kan. 54, 183 P. 3d 801 (2008) (*per curiam*). As we stated in *Marsh*, "*Kleypas*, itself, rested on federal law." 548 U. S., at 169. So too does the relevant passage of *Scott*, which rested on *Kleypas*'s discussion of the constitutional rule that jurors need not agree on mitigating circumstances. See *Scott*, *supra*, at 106–107, 183 P. 3d, at 837–838. The Kansas Supreme Court's opinion in this case acknowledged as much, saying that "statements from *Kleypas* implicate the broader Eighth Amendment principle prohibiting barriers that preclude a sentencer's consideration of all relevant mitigating evidence." 299 Kan., at 1195, 329 P. 3d, at 1147.

The Kansas Supreme Court's opinion leaves no room for doubt that it was relying on the Federal Constitution. It

stated that the instruction it required "protects a capital defendant's *Eighth Amendment* right to individualized sentencing," that the absence of the instruction "implicat[ed] Gleason's right to individualized sentencing under the *Eighth Amendment*," and that vacatur of Gleason's death sentence was the "[c]onsequen[ce]" of *Eighth Amendment* error. *Id.*, at 1196–1197, 329 P. 3d, at 1147–1148 (emphasis added).

For this reason, the criticism leveled by the dissent is misdirected. It generally would have been "none of our business" had the Kansas Supreme Court vacated Gleason's and the Carrs' death sentences on state-law grounds. *Marsh*, 548 U. S., at 184 (SCALIA, J., concurring). But it decidedly did not. And when the Kansas Supreme Court time and again invalidates death sentences because it says the Federal Constitution *requires* it, "review by this Court, far from *undermining* state autonomy, is the only possible way to *vindicate* it." *Ibid.* "When we correct a state court's federal errors, *we return power to the State, and to its people.*" *Ibid.* The state courts may experiment all they want with their own constitutions, and often do in the wake of this Court's decisions. See Sutton, *San Antonio Independent School District v. Rodriguez* And Its Aftermath, 94 Va. L. Rev. 1963, 1971–1977 (2008). But what a state court cannot do is experiment with our Federal Constitution and expect to elude this Court's review so long as victory goes to the criminal defendant. "Turning a blind eye" in such cases "would change the uniform 'law of the land' into a crazy quilt." *Marsh*, *supra*, at 185. And it would enable state courts to blame the unpopular death-sentence reprieve of the most horrible criminals upon the Federal Constitution when it is in fact their own doing.

B

We turn, then, to the merits of the Kansas Supreme Court's conclusion that the Eighth Amendment requires capital-sentencing courts in Kansas "to affirmatively inform the jury that mitigating circumstances need not be proven

beyond a reasonable doubt." 299 Kan., at 1197, 329 P. 3d, at 1148.

Approaching the question in the abstract, and without reference to our capital-sentencing case law, we doubt whether it is even possible to apply a standard of proof to the mitigating-factor determination (the so-called "selection phase" of a capital-sentencing proceeding). It is possible to do so for the aggravating-factor determination (the so-called "eligibility phase"), because that is a purely factual determination. The facts justifying death set forth in the Kansas statute either did or did not exist—and one can require the finding that they did exist to be made beyond a reasonable doubt. Whether mitigation exists, however, is largely a judgment call (or perhaps a value call); what one juror might consider mitigating another might not. And of course the ultimate question whether mitigating circumstances outweigh aggravating circumstances is mostly a question of mercy—the quality of which, as we know, is not strained. It would mean nothing, we think, to tell the jury that the defendants must deserve mercy beyond a reasonable doubt; or must more-likely-than-not deserve it. It *would* be possible, of course, to instruct the jury that *the facts establishing* mitigating circumstances need only be proved by a preponderance, leaving the judgment whether those facts are indeed mitigating, and whether they outweigh the aggravators, to the jury's discretion without a standard of proof. If we were to hold that the Constitution requires the mitigating-factor determination to be divided into its factual component and its judgmental component, and the former to be accorded a burden-of-proof instruction, we doubt whether that would produce anything but jury confusion. In the last analysis, jurors will accord mercy if they deem it appropriate, and withhold mercy if they do not, which is what our case law is designed to achieve.

In any event, our case law does not require capital-sentencing courts "to affirmatively inform the jury that miti-

gating circumstances need not be proved beyond a reasonable doubt." *Ibid.* In *Buchanan* v. *Angelone*, 522 U. S. 269 (1998), we upheld a death sentence even though the trial court "failed to provide the jury with express guidance on the concept of mitigation." *Id.*, at 275. Likewise in *Weeks* v. *Angelone*, 528 U. S. 225 (2000), we reaffirmed that the Court has "never held that the State must structure in a particular way the manner in which juries consider mitigating evidence" and rejected the contention that it was constitutionally deficient to instruct jurors to "'consider a mitigating circumstance if you find there is evidence to support it,'" without additional guidance. *Id.*, at 232–233.

Equally unavailing is the contention that even if an instruction that mitigating evidence need not be "proven beyond a reasonable doubt" is not always required, it was constitutionally necessary in *these* cases to avoid confusion. Ambiguity in capital-sentencing instructions gives rise to constitutional error only if "there is a *reasonable likelihood* that the jury has applied the challenged instruction in a way that prevents the consideration of constitutionally relevant evidence." *Boyde* v. *California*, 494 U. S. 370, 380 (1990) (emphasis added). The alleged confusion stemming from the jury instructions used at the defendants' sentencings does not clear that bar. A meager "possibility" of confusion is not enough. *Ibid.*

As an initial matter, the defendants' argument rests on the assumption that it would be unconstitutional to require the defense to prove mitigating circumstances beyond a reasonable doubt. Assuming without deciding that that is the case, the record belies the defendants' contention that the instructions caused jurors to apply that standard of proof. The defendants focus upon the following instruction: "The State has the burden to prove beyond a reasonable doubt that there are one or more aggravating circumstances and that they are not outweighed by any mitigating circum-

stances found to exist." App. to Pet. for Cert. in No. 14–452, p. 133 (Instr. 8).[3] The juxtaposition of aggravating and mitigating circumstances, so goes the argument, caused the jury to speculate that mitigating circumstances must also be proved beyond a reasonable doubt. 299 Kan., at 1197, 329 P. 3d, at 1148. It seems to us quite the opposite. The instruction makes clear that both the existence of aggravating circumstances and the conclusion that they outweigh mitigating circumstances must be proved beyond a reasonable doubt; mitigating circumstances themselves, on the other hand, must merely be "found to exist." That same description, mitigating circumstances "*found to exist*," is contained in three other instructions, App. to Pet. for Cert. in No. 14–452, at 133 (Instrs. 7, 9, and 10) (emphasis added)—unsurprisingly, since it recites the Kansas statute, see Kan. Stat. Ann. § 21–4624(e) (1995). "Found to exist" certainly does not suggest proof beyond a reasonable doubt. The instructions as a whole distinguish clearly between aggravating and mitigating circumstances: "*The State* has the burden to prove beyond a reasonable doubt that there are one or more aggravating circumstances . . . ," and the jury must decide unanimously that the State met that burden. App. to Pet. for Cert. in No. 14–452, at 133 (Instrs. 8 and 10) (emphasis added). "[M]itigating circumstances," on the other hand, "do not need to be found by all members of the jury" to "be considered by an individual juror in arriving at his or her sentencing decision." *Id.*, at 131 (Instr. 7). Not once do the instructions say that defense counsel bears the burden of proving the facts constituting a mitigating circumstance beyond a reasonable doubt—nor would that make much sense, since one of the mitigating circumstances is (curiously) "mercy," which simply is not a factual determination.

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[3] The relevant penalty-phase instructions from the Carrs' sentencing proceedings are materially indistinguishable. See App. to Pet. for Cert. in No. 14–450, pp. 501–510.

We reject the Kansas Supreme Court's decision that jurors were "left to speculate as to the correct burden of proof for mitigating circumstances." 299 Kan., at 1197, 329 P. 3d, at 1148. For the reasons we have described, no juror would reasonably have speculated that mitigating circumstances must be proved by any particular standard, let alone beyond a reasonable doubt. The reality is that jurors do not "pars[e] instructions for subtle shades of meaning in the same way that lawyers might." *Boyde*, *supra*, at 381. The instructions repeatedly told the jurors to consider *any* mitigating factor, meaning any aspect of the defendants' background or the circumstances of their offense. Jurors would not have misunderstood these instructions to prevent their consideration of constitutionally relevant evidence.

## III

We turn next to the contention that a joint capital-sentencing proceeding in the Carrs' cases violated the defendants' Eighth Amendment right to an "individualized sentencing determination." 300 Kan., at 276, 331 P. 3d, at 717.

The Kansas Supreme Court agreed with the defendants that, because of the joint sentencing proceeding, one defendant's mitigating evidence put a thumb on death's scale for the other, in violation of the other's Eighth Amendment rights. *Ibid.* It accepted Reginald's contention that he was prejudiced by his brother's portrayal of him as the corrupting older brother. And it agreed that Reginald was prejudiced by his brother's cross-examination of their sister, who equivocated about whether Reginald admitted to her that he was the shooter. (Reginald has all but abandoned that implausible theory of prejudice before this Court and contends only that the State "likely would not have introduced any such testimony" had he been sentenced alone. Brief for Respondent in No. 14–450, p. 34, n. 3.) Jonathan asserted that he was prejudiced by evidence associating him with his dangerous older brother, which caused the jury to perceive him

as an incurable sociopath.[4] Both speculate that the evidence assertedly prejudicial to them would have been inadmissible in severed proceedings under Kansas law. The Kansas Supreme Court also launched a broader attack on the joint proceedings, contending that the joinder rendered it impossible for the jury to consider the Carrs' relative moral culpability and to determine individually whether they were entitled to "mercy." 300 Kan., at 278, 331 P. 3d, at 718–719.

Whatever the merits of defendants' procedural objections, we will not shoehorn them into the Eighth Amendment's prohibition of "cruel and unusual punishments." As the United States as *amicus curiae* intimates, the Eighth Amendment is inapposite when each defendant's claim is, at bottom, that the jury considered evidence that would not have been admitted in a severed proceeding, and that the joint trial clouded the jury's consideration of mitigating evidence like "mercy." Brief for United States 24, n. 8. As we held in *Romano* v. *Oklahoma*, 512 U. S. 1 (1994), it is not the role of the Eighth Amendment to establish a special "federal code of evidence" governing "the admissibility of evidence at capital sentencing proceedings." *Id.*, at 11–12. Rather, it is the Due Process Clause that wards off the introduction of "unduly prejudicial" evidence that would "rende[r] the trial fundamentally unfair." *Payne* v. *Tennessee*, 501 U. S. 808, 825 (1991); see also *Brown* v. *Sanders*, 546 U. S. 212, 220–221 (2006).

The test prescribed by *Romano* for a constitutional violation attributable to evidence improperly admitted at a capital-sentencing proceeding is whether the evidence "so infected the sentencing proceeding with unfairness as to ren-

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[4] Jonathan also alleges that he was prejudiced by the jury's witnessing his brother's handcuffs, which his brother requested remain visible before the penalty phase commenced. That allegation is mystifying. That his brother's handcuffs were visible (while his own restraints were not) more likely caused the jury to see Jonathan as the *less* dangerous of the two.

der the jury's imposition of the death penalty a denial of due process." 512 U. S., at 12. The mere admission of evidence that might not otherwise have been admitted in a severed proceeding does not demand the automatic vacatur of a death sentence.

In light of all the evidence presented at the guilt and penalty phases relevant to the jury's sentencing determination, the contention that the admission of mitigating evidence by one brother could have "so infected" the jury's consideration of the other's sentence as to amount to a denial of due process is beyond the pale. To begin with, the court instructed the jury that it "must give separate consideration to each defendant," that each was "entitled to have his sentence decided on the evidence and law which is applicable to him," and that any evidence in the penalty phase "limited to only one defendant should not be considered by you as to the other defendant." App. to Pet. for Cert. in No. 14–450, at 501 (Instr. 3). The court gave defendant-specific instructions for aggravating and mitigating circumstances. *Id.*, at 502–508 (Instrs. 5, 6, 7, and 8). And the court instructed the jury to consider the "individual" or "particular defendant" by using four separate verdict forms for each defendant, one for each murdered occupant of the Birchwood house. *Id.*, at 509 (Instr. 10); App. in No. 14–449 etc., at 461–492. We presume the jury followed these instructions and considered each defendant separately when deciding to impose a sentence of death for each of the brutal murders. *Romano*, *supra*, at 13.

The contrary conclusion of the Kansas Supreme Court—that the presumption that jurors followed these instructions was "defeated by logic," 300 Kan., at 280, 331 P. 3d, at 719—is untenable. The Carrs implausibly liken the prejudice resulting from the joint sentencing proceeding to the prejudice infecting the joint trial in *Bruton* v. *United States*, 391 U. S. 123 (1968), where the prosecution admitted hearsay evidence of a codefendant's confession implicating the defendant.

That particular violation of the defendant's confrontation rights, incriminating evidence of the most persuasive sort, ineradicable, as a practical matter, from the jury's mind, justified what we have described as a narrow departure from the presumption that jurors follow their instructions, *Richardson* v. *Marsh*, 481 U. S. 200, 207 (1987). We have declined to extend that exception, *id.*, at 211, and have continued to apply the presumption to instructions regarding mitigating evidence in capital-sentencing proceedings, see, *e. g.*, *Weeks*, 528 U. S., at 234. There is no reason to think the jury could not follow its instruction to consider the defendants separately in this case.

Joint proceedings are not only permissible but are often preferable when the joined defendants' criminal conduct arises out of a single chain of events. Joint trial may enable a jury "to arrive more reliably at its conclusions regarding the guilt or innocence of a particular defendant and to assign fairly the respective responsibilities of each defendant in the sentencing." *Buchanan* v. *Kentucky*, 483 U. S. 402, 418 (1987). That the codefendants might have "antagonistic" theories of mitigation, *Zafiro* v. *United States*, 506 U. S. 534, 538 (1993), does not suffice to overcome Kansas's "interest in promoting the reliability and consistency of its judicial process," *Buchanan*, *supra*, at 418. Limiting instructions, like those used in the Carrs' sentencing proceeding, "often will suffice to cure any risk of prejudice." *Zafiro*, *supra*, at 539 (citing *Richardson*, *supra*, at 211). To forbid joinder in capital-sentencing proceedings would, perversely, *increase* the odds of "wanto[n] and freakis[h]" imposition of death sentences. *Gregg* v. *Georgia*, 428 U. S. 153, 206–207 (1976) (joint opinion of Stewart, Powell, and Stevens, JJ.). Better that two defendants who have together committed the same crimes be placed side-by-side to have their fates determined by a single jury.

It is improper to vacate a death sentence based on pure "speculation" of fundamental unfairness, "rather than rea-

soned judgment," *Romano*, *supra*, at 13–14. Only the most extravagant speculation would lead to the conclusion that the supposedly prejudicial evidence rendered the Carr brothers' joint sentencing proceeding fundamentally unfair. It is beyond reason to think that the jury's death verdicts were caused by the identification of Reginald as the "corrupter" or of Jonathan as the "corrupted," the jury's viewing of Reginald's handcuffs, or the sister's retracted statement that Reginald fired the final shots. None of that mattered. What these defendants did—acts of almost inconceivable cruelty and depravity—was described in excruciating detail by Holly, who relived with the jury, for two days, the Wichita Massacre. The joint sentencing proceedings did not render the sentencing proceedings fundamentally unfair.

## IV

When we granted the State's petition for a writ of certiorari for the Carrs' cases, we declined to review whether the Confrontation Clause, U. S. Const., Amdt. 6, requires that defendants be allowed to cross-examine witnesses whose statements are recorded in police reports referred to by the State in penalty-phase proceedings. The Kansas Supreme Court did not make the admission of those statements a basis for its vacating of the death sentences, but merely "caution[ed]" that in the resentencing proceedings these out-of-court testimonial statements should be omitted, 300 Kan., at 288, 331 P. 3d, at 724. We are confident that cross-examination regarding these police reports would not have had the slightest effect upon the sentences. See *Delaware* v. *Van Arsdall*, 475 U. S. 673, 684 (1986).

* * *

The judgments of the Supreme Court of Kansas are reversed, and these cases are remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

JUSTICE SOTOMAYOR, dissenting.

I respectfully dissent because I do not believe these cases should ever have been reviewed by the Supreme Court. I see no reason to intervene in cases like these—and plenty of reasons not to. Kansas has not violated any federal constitutional right. If anything, the State has overprotected its citizens based on its interpretation of state and federal law. For reasons ably articulated by my predecessors and colleagues and because I worry that cases like these prevent States from serving as necessary laboratories for experimenting with how best to guarantee defendants a fair trial, I would dismiss the writs as improvidently granted.

I

In 2014, the Kansas Supreme Court vacated three death sentences—the sentences of Sidney Gleason and the Carr brothers, Reginald and Jonathan—because of constitutional errors in the penalty phases of their trials.

All three men were tried under jury instructions that did not include language previously mandated by the Kansas Supreme Court. The instructions did not state that, under Kansas' statutory scheme, mitigating circumstances need only be proved to an individual juror's satisfaction and not beyond a reasonable doubt. 299 Kan. 1127, 1192–1197, 329 P. 3d 1102, 1145–1148 (2014) (Sidney Gleason); 300 Kan. 1, 302–303, 331 P. 3d 544, 732–733 (2014) (Reginald Carr); 300 Kan. 340, 368–369, 329 P. 3d 1195, 1213 (2014) (Jonathan Carr). The court found that the instructions therefore both undermined Kansas' state law and created a "reasonable likelihood that the jury . . . applied the challenged instruction in a way that prevents consideration" of mitigating evidence as required by the Federal Constitution. 299 Kan., at 1191–1197, 329 P. 3d, at 1144–1148 (quoting *Boyde* v. *California*, 494 U. S. 370, 380 (1990)).

The Kansas Supreme Court also vacated the Carr brothers' death sentences because they were jointly tried at the

penalty phase. The court concluded that each brother's particular case for mitigation compromised the other brother's case and therefore that trying them jointly violated the Eighth Amendment right to individualized sentencing. The error was not harmless, the Kansas Supreme Court found, because an "especially damning subset" of the evidence presented might not have been admitted in separate penalty proceedings. 300 Kan., at 275–282, 331 P. 3d, at 717–720; 300 Kan., at 369–370, 329 P. 3d, at 1212.

The Kansas attorney general requested certiorari, alleging that it would best serve the State's interest for a federal court to intervene and correct the Kansas Supreme Court. This Court complied, even though there was no suggestion that the Kansas Supreme Court had violated any federal constitutional right. The majority now reverses the Kansas Supreme Court on both points.

## II

### A

Even where a state court has wrongly decided an "important question of federal law," this Court's Rule 10, we often decline to grant certiorari, instead reserving such grants for instances where the benefits of hearing a case outweigh the costs of so doing. My colleagues and predecessors have effectively set forth many of the costs of granting certiorari in cases where state courts grant relief to criminal defendants: We risk issuing opinions that, while not strictly advisory, may have little effect if a lower court is able to reinstate its holding as a matter of state law. *Florida* v. *Powell*, 559 U. S. 50, 66 (2010) (Stevens, J., dissenting). We expend resources on cases where the only concern is that a State has "'overprotected'" its citizens. *Michigan* v. *Long*, 463 U. S. 1032, 1068 (1983) (Stevens, J., dissenting). We intervene in an intrastate dispute between the State's executive and its judiciary rather than entrusting the State's structure of government to sort it out. See *Coleman* v. *Thompson*, 501 U. S.

722, 766–767 (1991) (Blackmun, J., dissenting). And we lose valuable data about the best methods of protecting constitutional rights—a particular concern in cases like these, where the federal constitutional question turns on the "reasonable likelihood" of jury confusion, an empirical question best answered with evidence from many state courts. Cf. *Arizona* v. *Evans*, 514 U. S. 1, 30–31 (1995) (GINSBURG, J., dissenting).

B

The cases here demonstrate yet another cost of granting certiorari to correct a state court's overprotection of federal rights: In explaining that the Federal Constitution does not protect some particular right, it is natural to buttress the conclusion by explaining why that right is not very important. In so doing, the Court risks discouraging States from adopting valuable procedural protections even as a matter of their own state law.

State experimentation with how best to guarantee a fair trial to criminal defendants is an essential aspect of our federalism scheme. See, *e. g.*, Linde, First Things First: Rediscovering the States' Bill of Rights, 9 U. Balt. L. Rev. 379, 393 (1980). The Federal Constitution guarantees only a minimum slate of protections; States can and do provide individual rights above that constitutional floor. See, *e. g.*, Brennan, The Bill of Rights and the States: The Revival of State Constitutions as Guardians of Constitutional Rights, 61 N. Y. U. L. Rev. 535, 548–550 (1986). That role is particularly important in the criminal arena because state courts preside over many millions more criminal cases than their federal counterparts and so are more likely to identify protections important to a fair trial. Compare Court Statistics Project, Examining the Work of State Courts: An Analysis of 2010 State Court Caseloads 19–21 (2012), with Dept. of Justice, Bureau of Justice Statistics, Federal Justice Statistics 2011–2012, pp. 19–20 (Jan. 2015) (Tables 11 and 12).

The majority's opinion in these cases illustrates how an unnecessary grant of certiorari can lead to unexpected costs by disrupting this sort of state experimentation. Take the first question presented in these cases. The majority's actual holding is that the Eighth Amendment does not require an instruction specifying that mitigating factors need not be proved beyond a reasonable doubt. *Ante*, at 119–121. The Eighth Amendment has nothing to say about whether such an instruction is wise as a question of state law or policy. But the majority nonetheless uses this Court's considerable influence to call into question the logic of specifying *any* burden of proof as to mitigating circumstances. The majority claims that while assessing an aggravating factor is "a purely factual determination," assessing mitigation involves "a judgment call (or perhaps a value call)" and is thus not amenable to burdens of proof. *Ante*, at 119. Short of dividing the mitigating factor "into its factual component and its judgmental component," and issuing burden-of-proof instructions only as to the former, the majority wonders "whether it is even possible to apply a standard of proof to the mitigating-factor determination." *Ibid.*

By this observation, and with no experience with the needs of juries, the majority denigrates the many States that *do* specify a burden of proof for the existence of mitigating factors as a matter of state law, presumably under the belief that it is, in fact, "possible" to do so.* Brief for Respondent in No. 14–452, pp. 28–29, and n. 6. Some States even recommend an instruction specifying that mitigating factors need not be proved beyond a reasonable doubt. See, *e. g.*, Idaho

*I leave aside the merits of the majority's questionable distinction, though I cannot see how the jury's conclusion that the Carr brothers committed their crime "in an especially heinous, atrocious or cruel manner"—one of the aggravating circumstances found by the Carr brothers' jury—involved any less of a judgment or value call than the mitigating circumstances alleged. See 300 Kan. 1, 282–283, 331 P. 3d 544, 721 (2014).

Jury Instr., Crim., ICJI 1718, Jury Deliberations (2010); Okla. Jury Instr., Crim., OUJI–CR 4–78 (2015).

The majority's discussion of severance likewise short circuits state experimentation. The majority is not content to hold that the Eighth Amendment does not, strictly speaking, require severance of capital penalty proceedings. Instead, it goes on to explain why joint capital sentencing proceedings are not only permissible under the Federal Constitution but are, in fact, preferable as a policy matter: "Better that two defendants who have together committed the same crimes be placed side-by-side to have their fates determined by a single jury." *Ante*, at 125. The majority even intimates that severed proceedings may be worse for defendants: "To forbid joinder in capital-sentencing proceedings would, perversely, *increase* the odds of 'wanto[n] and freakis[h]' imposition of death sentences." *Ibid.* (quoting *Gregg* v. *Georgia*, 428 U. S. 153, 206–207 (1976) (joint opinion of Stewart, Powell, and Stevens, JJ.).

So much for Ohio's, Georgia's, and Mississippi's sentencing regimes, all of which routinely allow severance at both phases of capital proceedings. See Ga. Code Ann. §17–8–4 (2013) (upon request, defendants must be tried separately in capital cases); Miss. Code Ann. §99–15–47 (2015) (same); Ohio Rev. Code Ann. §2945.20 (Lexis 2014) (capital defendants shall be tried separately unless good cause is shown for a joint trial). There is no evidence that any of those three States adopted a severance regime based on a misunderstanding of the Eighth Amendment. But without any empirical foundation or any basis in experience, the majority asserts that such regimes may increase the odds of arbitrariness.

The majority claims that we "'return power to the State, and to its people,'" when we explain that the Federal Constitution does not require a particular result. *Ante*, at 118 (emphasis deleted). But that is only so when the Court is able to pass solely on the federal constitutional ground and

not the wisdom of a state holding on an equivalent question. Though the Court pretends that it sends back cases like this one with a clean slate, it rarely fully erases its thoughts on the virtues of the procedural protection at issue. By placing a thumb on the scale against a State adopting—even as a matter of state law—procedural protections the Constitution does not require, the Court risks turning the Federal Constitution into a ceiling, rather than a floor, for the protection of individual liberties.

## III

I see no reason why these three cases out of the Kansas Supreme Court warranted our intervention given the costs that I have just described and those described by my predecessors and colleagues, see *supra*, at 128–129. No federal right has been compromised. And nobody disputes that the State of Kansas could, as a matter of state law, reach the same outcome.

Perhaps most importantly, both of the questions on which the Court granted certiorari turn on specific features of Kansas' sentencing scheme. As a result, the Kansas Supreme Court's opinion is unlikely to have much salience for other States. If the Kansas Supreme Court was wrong, its wrong opinion will not subvert federal law on a broader scale.

First, the Kansas court's decision on the jury instruction question aimed to "*both* preserv[e] the [state] statute's favorable distinction *and* protec[t] a capital defendant's Eighth Amendment right to individualized sentencing by ensuring jurors are not precluded from considering all relevant mitigating evidence." 299 Kan., at 1196, 329 P. 3d, at 1147 (emphasis added). The Kansas Supreme Court's decision was thus informed by a combination of federal and state considerations. A decision that expressly relies on a State's unique statutory scheme—as did the Kansas Supreme Court's here—has limited potential for influencing other States.

It is not absurd to conclude that a juror unfamiliar with the mechanics of the law might be confused by Kansas' jury

instructions, which almost always mention aggravating and mitigating instructions in the same breath. *Id.*, at 1196–1197, 329 P. 3d, at 1147–1148. The Kansas Supreme Court's opinion rested largely on the specific language and ordering of that State's instructions. Other States' jury instructions may be less likely to have the same effect.

Moreover, the decision below was made against the unique backdrop of trial courts' failure to implement the Kansas Supreme Court's earlier demands for a change to jury instructions in capital cases. In a 2001 case, the Kansas Supreme Court considered the jury instructions insufficiently confusing to reverse the judgment, but sufficiently confusing to demand higher clarity going forward: "[A]ny instruction dealing with the consideration of mitigating circumstances should state (1) they need to be proved only to the satisfaction of the individual juror in the juror's sentencing decision and not beyond a reasonable doubt and (2) mitigating circumstances do not need to be found by all members of the jury in order to be considered in an individual juror's sentencing decision." *State* v. *Kleypas*, 272 Kan. 894, 1078, 40 P. 3d 139, 268. The Kansas pattern instructions were then revised to include consideration (2), but—"inexplicably," as the court noted in *Gleason*—not consideration (1). 299 Kan., at 1193, 329 P. 3d, at 1145. The Kansas Supreme Court reiterated the two requirements for any jury instruction in 2008, see *State* v. *Scott*, 286 Kan. 54, 106–108, 183 P. 3d 801, 837, and the pattern instructions were finally changed in 2011, see 299 Kan., at 1193, 329 P. 3d, at 1145. But Gleason and the Carr brothers were tried in the 10-year delay between the Kansas Supreme Court's initial admonition and when the jury instructions were finally edited. The Kansas Supreme Court's opinion in *Gleason* may have rested in part on a "broader Eighth Amendment principle," but it also rested on some lower courts' failure to give instructions reflecting the Kansas Supreme Court's "repeated recognition of the required content." *Id.*, at 1195, 329 P. 3d, at 1146, 1147.

Given this context, the Kansas Supreme Court's decision is particularly unlikely to undermine other States or the Federal Constitution.

The same goes for the severance question. The Kansas Supreme Court's decision depended on the "especially damning subset" of the aggravating evidence presented that may not have been admitted in a severed proceeding under Kansas' capital punishment scheme and evidentiary rules, such as evidence that one brother was a bad influence on the other. *Ibid.* But the difference between a joint penalty phase and a severed penalty phase may be of limited significance in States where the same evidence may be admitted in joint and severed proceedings. Cf. *Brown* v. *Sanders*, 546 U. S. 212, 217 (2006); L. Palmer, The Death Penalty in the United States: A Complete Guide to Federal and State Laws 137 (2d ed. 2014). It thus seems to me unlikely that the Kansas Supreme Court's opinion would have proven instructive in other States, even though it was couched in the language of the Federal Constitution.

## IV

There may, of course, be rare cases where certiorari is warranted in which a state prosecutor alleges that a State's highest court has overprotected a criminal defendant. These circumstances may include: Where a state court's decision in favor of a criminal defendant implicates another constitutional right, see, *e. g.*, *Nebraska Press Assn.* v. *Stuart*, 427 U. S. 539, 547 (1976); where a state court indicates a hostility to applying federal precedents, *Florida* v. *Meyers*, 466 U. S. 380, 383 (1984) (*per curiam*) (Stevens, J., dissenting); or where a state court's grant of relief is particularly likely to destabilize or significantly interfere with federal policy. None of those circumstances, and no comparable interest, is present in these cases.

The Carr brothers committed acts of "almost inconceivable cruelty and depravity," and the majority is understandably

anxious to ensure they receive their just deserts. (So anxious, in fact, that it reaches out to address a question on which we did not grant certiorari at all. *Ante*, at 126.) But I do not believe that interest justifies not only "correcting" the Kansas Supreme Court's error but also calling into question the procedures of other States.

The standard adage teaches that hard cases make bad law. See *Northern Securities Co.* v. *United States*, 193 U. S. 197, 400 (1904) (Holmes, J., dissenting). I fear that these cases suggest a corollary: Shocking cases make too much law. Because I believe the Court should not have granted certiorari here, I respectfully dissent.

Syllabus

# MONTANILE *v.* BOARD OF TRUSTEES OF THE NATIONAL ELEVATOR INDUSTRY HEALTH BENEFIT PLAN

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 14–723. Argued November 9, 2015—Decided January 20, 2016

Employee benefits plans regulated by the Employee Retirement Income Security Act of 1974 (ERISA) often contain subrogation clauses requiring a plan participant to reimburse the plan for medical expenses if the participant later recovers money from a third party for his injuries. Here, petitioner Montanile was seriously injured by a drunk driver, and his ERISA plan paid more than $120,000 for his medical expenses. Montanile later sued the drunk driver, obtaining a $500,000 settlement. Pursuant to the plan's subrogation clause, respondent plan administrator (the Board of Trustees of the National Elevator Industry Health Benefit Plan, or Board), sought reimbursement from the settlement. Montanile's attorney refused that request and subsequently informed the Board that the fund would be transferred from a client trust account to Montanile unless the Board objected. The Board did not respond, and Montanile received the settlement.

Six months later, the Board sued Montanile in Federal District Court under § 502(a)(3) of ERISA, which authorizes plan fiduciaries to file suit "to obtain . . . appropriate equitable relief . . . to enforce . . . the terms of the plan." 29 U. S. C. § 1132(a)(3). The Board sought an equitable lien on any settlement funds or property in Montanile's possession and an order enjoining Montanile from dissipating any such funds. Montanile argued that because he had already spent almost all of the settlement, no identifiable fund existed against which to enforce the lien. The District Court rejected Montanile's argument, and the Eleventh Circuit affirmed, holding that even if Montanile had completely dissipated the fund, the plan was entitled to reimbursement from Montanile's general assets.

*Held*: When an ERISA-plan participant wholly dissipates a third-party settlement on nontraceable items, the plan fiduciary may not bring suit under § 502(a)(3) to attach the participant's separate assets. Pp. 142–151.

(a) Plan fiduciaries are limited by § 502(a)(3) to filing suits "to obtain . . . equitable relief." Whether the relief requested "is legal or equitable depends on [1] the basis for [the plaintiff's] claim and [2] the nature

of the underlying remedies sought." *Sereboff* v. *Mid Atlantic Medical Services, Inc.*, 547 U. S. 356, 363. Pp. 142–146.

(1) This Court's precedents establish that the basis for the Board's claim—the enforcement of a lien created by an agreement to convey a particular fund to another party—is equitable. See *Sereboff*, 547 U. S., at 363–364. The Court's precedents also establish that the nature of the Board's underlying remedy—enforcement of a lien against "'specifically identifiable' funds that were within [Montanile's] possession and control," *id.*, at 362–363—would also have been equitable had the Board immediately sued to enforce the lien against the fund. But those propositions do not resolve the question here: whether a plan is still seeking an equitable remedy when the defendant has dissipated all of a separate settlement fund, and the plan then seeks to recover out of the defendant's general assets. Pp. 142–144.

(2) This Court holds today that a plan is not seeking equitable relief under those circumstances. In premerger equity courts, a plaintiff could ordinarily enforce an equitable lien, including, as here, an equitable lien by agreement, only against specifically identified funds that remained in the defendant's possession or against traceable items that the defendant purchased with the funds. See 4 S. Symons, Pomeroy's Equity Jurisprudence § 1234, pp. 693–695. If a defendant dissipated the entire fund on nontraceable items, the lien was eliminated and the plaintiff could not attach the defendant's general assets instead. See Restatement of Restitution § 215(1), p. 866. Pp. 144–146.

(b) The Board's arguments in favor of the enforcement of an equitable lien against Montanile's general assets are unsuccessful. *Sereboff* does not contain an exception to the general asset-tracing requirement for equitable liens by agreement. See 547 U. S., at 365. Nor does historical equity practice support the enforcement of an equitable lien against general assets. And the Board's claim that ERISA's objectives are best served by allowing plans to enforce such liens is a "vague notio[n] of [the] statute's 'basic purpose' . . . inadequate to overcome the words of its text regarding the *specific* issue under consideration." *Mertens* v. *Hewitt Associates*, 508 U. S. 248, 261. Pp. 146–151.

(c) The case is remanded for the District Court to determine, in the first instance, whether Montanile kept his settlement fund separate from his general assets and whether he dissipated the entire fund on nontraceable assets. P. 151.

593 Fed. Appx. 903, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, BREYER, SOTOMAYOR, and KAGAN, JJ., joined, and

in which ALITO, J., joined except for Part III–C. GINSBURG, J., filed a dissenting opinion, *post*, p. 151.

*Peter K. Stris* argued the cause for petitioner. With him on the briefs were *Brendan S. Maher* and *Shaun P. Martin.*

*Ginger D. Anders*, Assistant to the Solicitor General, argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Kneedler*, *M. Patricia Smith*, and *Elizabeth Hopkins.*

*Neal Kumar Katyal* argued the cause for respondent. With him on the brief were *Jessica L. Ellsworth*, *Mary Helen Wimberly*, *Sean Marotta*, and *John D. Kolb.**

JUSTICE THOMAS delivered the opinion of the Court.†

When a third party injures a participant in an employee benefits plan under the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, as amended, 29 U. S. C. § 1001 *et seq.*, the plan frequently pays covered medical expenses. The terms of these plans often include a subrogation clause requiring a participant to reimburse the plan if the participant later recovers money from the third party for his injuries. And under ERISA § 502(a)(3), 29 U. S. C. § 1132(a)(3), plan fiduciaries can file civil suits "to obtain . . . appropriate equitable relief . . . to enforce . . . the terms of the plan."[1]

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*Briefs of *amici curiae* urging reversal were filed for AARP by *Mary Ellen Signorille*; for the American Association for Justice by *Jeffrey R. White* and *Lisa Blue*; and for United Policyholders by *Mark D. DeBofsky*, *Martina B. Sherman*, and *Tybe A. Brett.*

†JUSTICE ALITO joins this opinion, except for Part III–C.

[1] In full, the provision states: "A civil action may be brought— . . . (3) by a participant, beneficiary, or fiduciary (A) to enjoin any act or practice which violates any provision of this subchapter or the terms of the plan, or (B) to obtain other appropriate equitable relief (i) to redress such violations or (ii) to enforce any provisions of this subchapter or the terms of the plan." 29 U. S. C. § 1132(a)(3).

In this case, we consider what happens when a participant obtains a settlement fund from a third party, but spends the whole settlement on nontraceable items (for instance, on services or consumable items like food). We evaluate in particular whether a plan fiduciary can sue under § 502(a)(3) to recover from the participant's remaining assets the medical expenses it paid on the participant's behalf. We hold that, when a participant dissipates the whole settlement on nontraceable items, the fiduciary cannot bring a suit to attach the participant's general assets under § 502(a)(3) because the suit is not one for "appropriate equitable relief." In this case, it is unclear whether the participant dissipated all of his settlement in this manner, so we remand for further proceedings.

## I

Petitioner Robert Montanile was a participant in a health benefits plan governed by ERISA and administered by respondent, the Board of Trustees of the National Elevator Industry Health Benefit Plan (Board of Trustees or Board). The plan must pay for certain medical expenses that beneficiaries or participants incur. The plan may demand reimbursement, however, when a participant recovers money from a third party for medical expenses. The plan states: "Amounts that have been recovered by a [participant] from another party are assets of the Plan . . . and are not distributable to any person or entity without the Plan's written release of its subrogation interest." App. 45. The plan also provides that "any amounts" that a participant "recover[s] from another party by award, judgment, settlement or otherwise . . . will promptly be applied first to reimburse the Plan in full for benefits advanced by the Plan . . . and without reduction for attorneys' fees, costs, expenses or damages claimed by the covered person." *Id.*, at 46. Participants must notify the plan and obtain its consent before settling claims.

In December 2008, a drunk driver ran through a stop sign and crashed into Montanile's vehicle. The accident severely injured Montanile, and the plan paid at least $121,044.02 for his initial medical care. Montanile signed a reimbursement agreement reaffirming his obligation to reimburse the plan from any recovery he obtained "as a result of any legal action or settlement or otherwise." *Id.*, at 51 (emphasis deleted).

Thereafter, Montanile filed a negligence claim against the drunk driver and made a claim for uninsured motorist benefits under Montanile's car insurance. He obtained a $500,000 settlement. Montanile then paid his attorneys $200,000 and repaid about $60,000 that they had advanced him. Thus, about $240,000 remained of the settlement. Montanile's attorneys held most of that sum in a client trust account. This included enough money to satisfy Montanile's obligations to the plan.

The Board of Trustees sought reimbursement from Montanile on behalf of the plan, and Montanile's attorney argued that the plan was not entitled to any recovery. The parties attempted but failed to reach an agreement about reimbursement. After discussions broke down, Montanile's attorney informed the Board that he would distribute the remaining settlement funds to Montanile unless the Board objected within 14 days. The Board did not respond within that time, so Montanile's attorney gave Montanile the remainder of the funds.

Six months after negotiations ended, the Board sued Montanile in District Court under ERISA § 502(a)(3), 29 U. S. C. § 1132(a)(3), seeking repayment of the $121,044.02 the plan had expended on his medical care. The Board asked the court to enforce an equitable lien upon any settlement funds or any property which is "'in [Montanile's] actual or constructive possession.'" 593 Fed. Appx. 903, 906 (CA11 2014) (quoting complaint). Because Montanile had already taken possession of the settlement funds, the Board also sought an

order enjoining Montanile from dissipating any such funds. Montanile then stipulated that he still possessed some of the settlement proceeds.

The District Court granted summary judgment to the Board. No. 12–80746–Civ. (SD Fla., Apr. 18, 2014), 2014 WL 8514011, *1. The court rejected Montanile's argument that, because he had by that time spent almost all of the settlement funds, there was no specific, identifiable fund separate from his general assets against which the Board's equitable lien could be enforced. *Id.*, at *8–*11. The court held that, even if Montanile had dissipated some or all of the settlement funds, the Board was entitled to reimbursement from Montanile's general assets. *Id.*, at *10–*11. The court entered judgment for the Board in the amount of $121,044.02.

The Court of Appeals for the Eleventh Circuit affirmed. It reasoned that a plan can always enforce an equitable lien once the lien attaches, and that dissipation of the specific fund to which the lien attached cannot destroy the underlying reimbursement obligation. The court therefore held that the plan can recover out of a participant's general assets when the participant dissipates the specifically identified fund. 593 Fed. Appx., at 908.

We granted certiorari to resolve a conflict among the Courts of Appeals over whether an ERISA fiduciary can enforce an equitable lien against a defendant's general assets under these circumstances.[2] 575 U. S. 934 (2015). We hold that it cannot, and accordingly reverse the judgment of the Eleventh Circuit and remand for further proceedings.

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[2] Compare *Thurber* v. *Aetna Life Ins. Co.*, 712 F. 3d 654 (CA2 2013), *Funk* v. *CIGNA Group Ins.*, 648 F. 3d 182 (CA3 2011), *Cusson* v. *Liberty Life Assurance Co. of Boston*, 592 F. 3d 215 (CA1 2010), *Longaberger Co.* v. *Kolt*, 586 F. 3d 459 (CA6 2009), and *Gutta* v. *Standard Select Trust Ins. Plans*, 530 F. 3d 614 (CA7 2008), with *Treasurer, Trustees of Drury Industries, Inc. Health Care Plan & Trust* v. *Goding*, 692 F. 3d 888 (CA8 2012), and *Bilyeu* v. *Morgan Stanley Long Term Disability Plan*, 683 F. 3d 1083 (CA9 2012).

## II

### A

As previously stated, § 502(a)(3) of ERISA authorizes plan fiduciaries like the Board of Trustees to bring civil suits "to obtain other appropriate equitable relief . . . to enforce . . . the terms of the plan." 29 U. S. C. § 1132(a)(3). Our cases explain that the term "equitable relief" in § 502(a)(3) is limited to "those categories of relief that were *typically* available in equity" during the days of the divided bench (meaning, the period before 1938 when courts of law and equity were separate). *Mertens* v. *Hewitt Associates*, 508 U. S. 248, 256 (1993). Under this Court's precedents, whether the remedy a plaintiff seeks "is legal or equitable depends on [(1)] the basis for [the plaintiff's] claim and [(2)] the nature of the underlying remedies sought." *Sereboff* v. *Mid Atlantic Medical Services, Inc.*, 547 U. S. 356, 363 (2006) (internal quotation marks omitted). Our precedents also prescribe a framework for resolving this inquiry. To determine how to characterize the basis of a plaintiff's claim and the nature of the remedies sought, we turn to standard treatises on equity, which establish the "basic contours" of what equitable relief was typically available in premerger equity courts. *Great-West Life & Annuity Ins. Co.* v. *Knudson*, 534 U. S. 204, 217 (2002).

We have employed this approach in three earlier cases where, as here, the plan fiduciary sought reimbursement for medical expenses after the plan beneficiary or participant recovered money from a third party. Under these precedents, the basis for the Board's claim is equitable. But our cases do not resolve whether the *remedy* the Board now seeks—enforcement of an equitable lien by agreement against the defendant's general assets—is equitable in nature.

First, in *Great-West*, we held that a plan with a claim for an equitable lien was—in the circumstances presented—

seeking a legal rather than an equitable remedy. In that case, a plan sought to enforce an equitable lien by obtaining a money judgment from the defendants. The plan could not enforce the lien against the third-party settlement that the defendants had obtained because the defendants never actually possessed that fund; the fund went directly to the defendants' attorneys and to a restricted trust. We held that the plan sought a legal remedy, not an equitable one, even though the plan claimed that the money judgment was a form of restitution. *Id.*, at 208–209, 213–214. We explained that restitution in equity typically involved enforcement of "a constructive trust or an equitable lien, where money or property identified as belonging in good conscience to the plaintiff could clearly be traced to particular funds or property in the defendant's possession." *Id.*, at 213. But the restitution sought in *Great-West* was legal—not equitable—because the specific funds to which the fiduciaries "claim[ed] an entitlement . . . [we]re not in [the defendants'] possession." *Id.*, at 214. Since both the basis for the claim and the particular remedy sought were not equitable, the plan could not sue under § 502(a)(3).

Next, in *Sereboff*, we held that both the basis for the claim and the remedy sought were equitable. The plan there sought reimbursement from beneficiaries who had retained their settlement fund in a separate account. 547 U. S., at 359–360. We held that the basis for the plan's claim was equitable because the plan sought to enforce an equitable lien by agreement, a type of equitable lien created by an agreement to convey a particular fund to another party. See *id.*, at 363–364. The lien existed in *Sereboff* because of the beneficiaries' agreement with the plan to convey the proceeds of any third-party settlement. We explained that a claim to enforce such a lien is equitable because the plan "could rely on a familiar rul[e] of equity" to collect—specifically, the rule "that a contract to convey a specific object even before it is acquired will make the contractor a trustee

as soon as he gets a title to the thing." *Ibid.* (internal quotation marks omitted; alteration in original). The underlying remedies that the plan sought also were equitable, because the plan "sought specifically identifiable funds that were within the possession and control" of the beneficiaries—not recovery from the beneficiaries' "assets generally." *Id.*, at 362–363 (internal quotation marks omitted).

Finally, in *US Airways, Inc.* v. *McCutchen*, 569 U. S. 88 (2013), we reaffirmed our analysis in *Sereboff* and again concluded that a plan sought to enforce an equitable claim by seeking equitable remedies. As in *Sereboff*, "the basis for [the plan's] claim was equitable" because the plan's terms created an equitable lien by agreement on a third-party settlement. See 569 U. S., at 95 (internal quotation marks omitted). And, as in *Sereboff*, "[t]he nature of the recovery requested" by the plan "was equitable because [it] claimed specifically identifiable funds within the [beneficiaries'] control—that is, a portion of the settlement they had gotten." 569 U. S., at 95 (internal quotation marks omitted).

Under these principles, the basis for the Board's claim here is equitable: The Board had an equitable lien by agreement that attached to Montanile's settlement fund when he obtained title to that fund. And the nature of the Board's underlying *remedy* would have been equitable had it immediately sued to enforce the lien against the settlement fund then in Montanile's possession. That does not resolve this case, however. Our prior cases do not address whether a plan is still seeking an equitable remedy when the defendant, who once possessed the settlement fund, has dissipated it all, and the plan then seeks to recover out of the defendant's general assets.

B

To resolve this issue, we turn to standard equity treatises. As we explain below, those treatises make clear that a plaintiff could ordinarily enforce an equitable lien only against specifically identified funds that remain in the defendant's

possession or against traceable items that the defendant purchased with the funds (*e. g.*, identifiable property like a car). A defendant's expenditure of the entire identifiable fund on nontraceable items (like food or travel) destroys an equitable lien. The plaintiff then may have a personal claim against the defendant's general assets—but recovering out of those assets is a *legal* remedy, not an equitable one.

Equitable remedies "are, as a general rule, directed against some specific thing; they give or enforce a right to or over some particular thing . . . rather than a right to recover a sum of money generally out of the defendant's assets." 4 S. Symons, Pomeroy's Equity Jurisprudence § 1234, p. 694 (5th ed. 1941) (Pomeroy). Equitable liens thus are ordinarily enforceable only against a specifically identified fund because an equitable lien "is simply a right of a special nature *over* the thing . . . so that the very thing itself may be proceeded against in an equitable action." *Id.*, § 1233, at 692; see also Restatement of Restitution § 215, Comment *a*, p. 866 (1936) (Restatement) (enforcement of equitable lien requires showing that the defendant "still holds the property or property which is in whole or in part its product"); 1 D. Dobbs, Law of Remedies § 1.4, p. 19 (2d ed. 1993) (Dobbs) (similar). This general rule's application to equitable liens includes equitable liens by agreement, which depend on "the notion . . . that the contract creates some right or interest in or over specific property," and are enforceable only if "the decree of the court can lay hold of" that specific property. 4 Pomeroy § 1234, at 694–695.

If, instead of preserving the specific fund subject to the lien, the defendant dissipated the entire fund on nontraceable items, that complete dissipation eliminated the lien. Even though the defendant's conduct was wrongful, the plaintiff could not attach the defendant's general assets instead. Absent specific exceptions not relevant here, "where a person wrongfully dispose[d] of the property of another but the property cannot be traced into any product, the other . . .

cannot enforce a constructive trust or lien *upon any part of the wrongdoer's property.*" Restatement § 215(1), at 866 (emphasis added); see also *Great-West*, 534 U. S., at 213–214 (citing Restatement § 160). The plaintiff had "merely a personal claim against the wrongdoer"—a quintessential action at law. *Id.*, § 215(1), at 866.

In sum, at equity, a plaintiff ordinarily could not enforce any type of equitable lien if the defendant once possessed a separate, identifiable fund to which the lien attached, but then dissipated it all. The plaintiff could not attach the defendant's general assets instead because those assets were not part of the specific thing to which the lien attached. This rule applied to equitable liens by agreement as well as other types of equitable liens.

## III

The Board of Trustees nonetheless maintains that it can enforce its equitable lien against Montanile's general assets. We consider the Board's arguments in turn.

### A

First, the Board argues that, while equity courts ordinarily required plaintiffs to trace a specific, identifiable fund in the defendant's possession to which the lien attached, there is an exception for equitable liens by agreement. The Board asserts that equitable liens by agreement require no such tracing, and can be enforced against a defendant's general assets. According to the Board, we recognized this exception in *Sereboff* by distinguishing between equitable restitution (where a lien attaches because the defendant misappropriated property from the plaintiff) and equitable liens by agreement.

The Board misreads *Sereboff*, which left untouched the rule that *all* types of equitable liens must be enforced against a specifically identified fund in the defendant's possession. See 1 Dobbs § 4.3(3), at 601, 603. The question we

faced in *Sereboff* was whether plaintiffs seeking an equitable lien by agreement must "identify an asset they originally possessed, which was improperly acquired and converted into property the defendant held." 547 U. S., at 365. We observed that such a requirement, although characteristic of restitutionary relief, does not "appl[y] to equitable liens by agreement or assignment." *Ibid.* (discussing *Barnes* v. *Alexander*, 232 U. S. 117 (1914)). That is because the basic premise of an equitable lien by agreement is that, rather than physically taking the plaintiff's property, the defendant constructively possesses a fund to which the plaintiff is entitled. But the plaintiff must still identify a specific fund in the defendant's possession to enforce the lien. See *id.*, at 123 ("Having a lien upon the fund, as soon as it was identified they could follow it into the hands of the appellant").

B

Second, the Board contends that historical equity practice supports enforcement of its equitable lien against Montanile's general assets. The Board identifies three methods that equity courts purportedly employed to effectuate this principle: substitute money decrees, deficiency judgments, and the swollen assets doctrine. This argument also fails.

We have long rejected the argument that "equitable relief" under § 502(a)(3) means "whatever relief a court of equity is empowered to provide in the particular case at issue," including ancillary legal remedies. *Mertens*, 508 U. S., at 256. In "many situations . . . an equity court could establish purely legal rights and grant legal remedies which would otherwise be beyond the scope of its authority." *Ibid.* (internal quotation marks omitted). But these legal remedies were not relief "typically available in equity," and interpreting them as such would eliminate any limit on the meaning of "equitable relief" and would "render the modifier superfluous." *Id.*, at 256, 258 (emphasis deleted); see also *Great-West*, *supra*, at 210. As we have explained—and as the

Board conceded at oral argument—as a general rule, plaintiffs cannot enforce an equitable lien against a defendant's general assets. See Part II–B, *supra*. The Board contends that there is an exception if the defendant wrongfully dissipates the equitable lien to thwart its enforcement. But none of the Board's examples show that such relief was "typically available" in equity.[3]

The specific methods by which equity courts might have awarded relief from a defendant's general assets only confirm that the Board seeks legal, not equitable, remedies. While equity courts sometimes awarded money decrees as a substitute for the value of the equitable lien, they were still legal remedies, because they were "wholly pecuniary and personal." 4 Pomeroy § 1234, at 694. The same is true with respect to deficiency judgments. Equity courts could award both of these remedies as part of their ancillary jurisdiction to award complete relief. But the treatises make clear that when equity courts did so, "the rights of the parties are strictly legal, and the final remedy granted is of the kind which might be conferred by a court of law." 1 *id.*, § 231, at 410; see also 1 Dobbs § 2.7, at 180–181, and § 4.3(3), at 602 (similar); New Federal Equity Rules 10 (rev. 5th ed. 1925) (authorizing equity courts to award such relief). But

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[3] The Board also interprets *CIGNA Corp.* v. *Amara*, 563 U. S. 421 (2011), as all but overruling *Mertens* v. *Hewitt Associates*, 508 U. S. 248 (1993), and *Great-West Life & Annuity Ins. Co.* v. *Knudson*, 534 U. S. 204 (2002), in favor of the Board's broad interpretation of "equitable relief" under § 502(a)(3). But *CIGNA* reaffirmed that "traditionally speaking, relief that sought a lien or a constructive trust was legal relief, not equitable relief, unless the funds in question were 'particular funds or property in the defendant's possession.'" 563 U. S., at 439 (quoting *Great-West*, *supra*, at 213; emphasis deleted). In any event, the Court's discussion of § 502(a)(3) in *CIGNA* was not essential to resolving that case, and—as our later analysis in *US Airways, Inc.* v. *McCutchen*, 569 U. S. 88 (2013), reinforces—our interpretation of "equitable relief" in *Mertens*, *Great-West*, and *Sereboff* v. *Mid Atlantic Medical Services, Inc.*, 547 U. S. 356 (2006), remains unchanged. See *McCutchen*, *supra*, at 94–95.

legal remedies—even legal remedies that a court of equity could sometimes award—are not "equitable relief" under § 502(a)(3). See *Mertens*, *supra*, at 256–258.

The swollen assets doctrine also does not establish that the relief the Board seeks is equitable. Under the Board's view of this doctrine, even if a defendant spends all of a specifically identified fund, the mere fact that the defendant wrongfully had assets that belonged to another increased the defendant's available assets, and justifies recovery from his general assets. But most equity courts and treatises rejected that theory. See Taft, Note, A Defense of a Limited Use of the Swollen Assets Theory Where Money Has Wrongfully Been Mingled With Other Money, 39 Colum. L. Rev. 172, 175 (1939) (describing the swollen assets doctrine as "often . . . rejected by the courts"); see also Oesterle, Deficiencies of the Restitutionary Right To Trace Misappropriated Property in Equity and in UCC § 9–306, 68 Cornell L. Rev. 172, 189, and n. 33 (1983) (similar). To the extent that courts endorsed any version of the swollen assets theory, they adopted a more limited rule: that commingling a specifically identified fund—to which a lien attached—with a different fund of the defendant's did not destroy the lien. Instead, that commingling allowed the plaintiff to recover the amount of the lien from the entire pot of money. See Restatement § 209, at 844; Scott, The Right To Follow Money Wrongfully Mingled With Other Money, 27 Harv. L. Rev. 125, 125–126 (1913). Thus, even under the version of the swollen assets doctrine adopted by some courts, recovery out of Montanile's general assets—in the absence of commingling—would not have been "typically available" relief.

## C

Finally, the Board argues that ERISA's objectives—of enforcing plan documents according to their terms and of protecting plan assets—would be best served by allowing plans to enforce equitable liens against a participant's general

assets. The Board also contends that, unless plans can enforce reimbursement provisions against a defendant's general assets, plans will lack effective or cost-efficient remedies, and participants will dissipate any settlement as quickly as possible, before fiduciaries can sue.

We have rejected these arguments before, and do so again. "[ V ]ague notions of a statute's 'basic purpose' are . . . inadequate to overcome the words of its text regarding the *specific* issue under consideration." *Mertens*, 508 U. S., at 261. Had Congress sought to prioritize the Board's policy arguments, it could have drafted § 502(a)(3) to mirror ERISA provisions governing civil actions. One of those provisions, for instance, allows participants and beneficiaries to bring civil actions "to enforce [their] rights under the terms of the plan" and does not limit them to equitable relief. *Great-West*, 534 U. S., at 221 (quoting 29 U. S. C. § 1132(a)(1)(B) (1994 ed.)).

In any event, our interpretation of § 502(a)(3) promotes ERISA's purposes by "allocat[ing] liability for plan-related misdeeds in reasonable proportion to respective actors' power to control and prevent the misdeeds." *Mertens*, *supra*, at 262. More than a decade has passed since we decided *Great-West*, and plans have developed safeguards against participants' and beneficiaries' efforts to evade reimbursement obligations. Plans that cover medical expenses know how much medical care that participants and beneficiaries require, and have the incentive to investigate and track expensive claims. Plan provisions—like the ones here—obligate participants and beneficiaries to notify the plan of legal process against third parties and to give the plan a right of subrogation.

The Board protests that tracking and participating in legal proceedings is hard and costly, and that settlements are often shrouded in secrecy. The facts of this case undercut that argument. The Board had sufficient notice of Montanile's settlement to have taken various steps to preserve those funds. Most notably, when negotiations broke down and

Montanile's lawyer expressed his intent to disburse the remaining settlement funds to Montanile unless the plan objected within 14 days, the Board could have—but did not—object. Moreover, the Board could have filed suit immediately, rather than waiting half a year.

## IV

Because the lower courts erroneously held that the plan could recover out of Montanile's general assets, they did not determine whether Montanile kept his settlement fund separate from his general assets or dissipated the entire fund on nontraceable assets. At oral argument, Montanile's counsel acknowledged "a genuine issue of . . . material fact on how much dissipation there was" and a lack of record evidence as to whether Montanile mixed the settlement fund with his general assets. Tr. of Oral Arg. 4. A remand is necessary so that the District Court can make that determination.

* * *

We reverse the judgment of the Eleventh Circuit and remand the case for further proceedings consistent with this opinion.

*It is so ordered.*

JUSTICE GINSBURG, dissenting.

Montanile received a $500,000 settlement out of which he had pledged to reimburse his health benefit plan for expenditures on his behalf of at least $121,044.02. See *ante*, at 140. He can escape that reimbursement obligation, the Court decides, by spending the settlement funds rapidly on nontraceable items. See *ante*, at 145–146. What brings the Court to that bizarre conclusion? As developed in my dissenting opinion in *Great-West Life & Annuity Ins. Co.* v. *Knudson*, 534 U. S. 204, 224–234 (2002), the Court erred profoundly in that case by reading the work product of a Congress sitting in 1974 as "unravel[ling] forty years of fusion of law and

equity, solely by employing the benign sounding word 'equitable' when authorizing 'appropriate equitable relief.'" Langbein, What ERISA Means by "Equitable": The Supreme Court's Trail of Error in *Russell*, *Mertens*, and *Great-West*, 103 Colum. L. Rev. 1317, 1365 (2003). The Court has been persuasively counseled "to confess its error." *Ibid.* I would not perpetuate *Great-West*'s mistake, and would therefore affirm the judgment of the Court of Appeals for the Eleventh Circuit.

Syllabus

# CAMPBELL-EWALD CO. *v.* GOMEZ

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 14–857. Argued October 14, 2015—Decided January 20, 2016

The United States Navy contracted with petitioner Campbell-Ewald Company (Campbell) to develop a multimedia recruiting campaign that included the sending of text messages to young adults, but only if those individuals had "opted in" to receipt of marketing solicitations on topics that included Navy service. Campbell's subcontractor Mindmatics LLC generated a list of cellular phone numbers for consenting 18- to 24-year-old users and then transmitted the Navy's message to over 100,000 recipients, including respondent Jose Gomez, who alleges that he did not consent to receive text messages and, at age 40, was not in the Navy's targeted age group. Gomez filed a nationwide class action, alleging that Campbell violated the Telephone Consumer Protection Act (TCPA), 47 U. S. C. § 227(b)(1)(A)(iii), which prohibits "using any automatic dialing system" to send a text message to a cellular telephone, absent the recipient's prior express consent. He sought treble statutory damages for a willful and knowing TCPA violation and an injunction against Campbell's involvement in unsolicited messaging.

Before the deadline for Gomez to file a motion for class certification, Campbell proposed to settle Gomez's individual claim and filed an offer of judgment pursuant to Federal Rule of Civil Procedure 68. Gomez did not accept the offer and allowed the Rule 68 submission to lapse on expiration of the time (14 days) specified in the Rule. Campbell then moved to dismiss the case pursuant to Rule 12(b)(1) for lack of subject-matter jurisdiction. Campbell argued first that its offer mooted Gomez's individual claim by providing him with complete relief. Next, Campbell urged that Gomez's failure to move for class certification before his individual claim became moot caused the putative class claims to become moot as well. The District Court denied the motion. After limited discovery, the District Court granted Campbell's motion for summary judgment. Relying on *Yearsley* v. *W. A. Ross Constr. Co.*, 309 U. S. 18, the court held that Campbell, as a contractor acting on the Navy's behalf, acquired the Navy's sovereign immunity from suit under the TCPA. The Ninth Circuit reversed. It agreed that Gomez's case remained live but concluded that Campbell was not entitled

Syllabus

to "derivative sovereign immunity" under *Yearsley* or on any other basis.

*Held*:

1. An unaccepted settlement offer or offer of judgment does not moot a plaintiff's case, so the District Court retained jurisdiction to adjudicate Gomez's complaint.

Article III's "cases" and "controversies" limitation requires that "an actual controversy . . . be extant at all stages of review, not merely at the time the complaint is filed," *Arizonans for Official English* v. *Arizona*, 520 U. S. 43, 67 (internal quotation marks omitted), but a case does not become moot as "long as the parties have a concrete interest, however small," in the litigation's outcome, *Chafin* v. *Chafin*, 568 U. S. 165, 172 (internal quotation marks omitted).

Gomez's complaint was not effaced by Campbell's unaccepted offer to satisfy his individual claim. Under basic principles of contract law, Campbell's settlement bid and Rule 68 offer of judgment, once rejected, had no continuing efficacy. With no settlement offer operative, the parties remained adverse; both retained the same stake in the litigation they had at the outset. Neither Rule 68 nor the 19th-century railroad tax cases, *California* v. *San Pablo & Tulare R. Co.*, 149 U. S. 308, *Little* v. *Bowers*, 134 U. S. 547, and *San Mateo County* v. *Southern Pacific R. Co.*, 116 U. S. 138, support the argument that an unaccepted settlement offer can moot a complaint. Pp. 160–166.

2. Campbell's status as a federal contractor does not entitle it to immunity from suit for its violation of the TCPA. Unlike the United States and its agencies, federal contractors do not enjoy absolute immunity. A federal contractor who simply performs as directed by the Government may be shielded from liability for injuries caused by its conduct. See *Yearsley*, 309 U. S., at 20–21. But no "derivative immunity" exists when the contractor has "exceeded [its] authority" or its authority "was not validly conferred." *Id.*, at 21. The summary judgment record includes evidence that the Navy authorized Campbell to send text messages only to individuals who had "opted in" to receive solicitations, as required by the TCPA. When a contractor violates both federal law and the Government's explicit instructions, as alleged here, no immunity shields the contractor from suit. Pp. 166–169.

768 F. 3d 871, affirmed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which KENNEDY, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. THOMAS, J., filed an opinion concurring in the judgment, *post*, p. 169. ROBERTS, C. J., filed a dissenting opinion, in which SCALIA and ALITO, JJ., joined, *post*, p. 175. ALITO, J., filed a dissenting opinion, *post*, p. 184.

Counsel

*Gregory G. Garre* argued the cause for petitioner. With him on the briefs were *Melissa Arbus Sherry*, *Michael E. Bern*, *Nicole Ries Fox*, *Laura A. Wytsma*, and *Meredith J. Siller*.

*Jonathan F. Mitchell* argued the cause for respondent. With him on the brief were *Scott L. Nelson*, *Myles McGuire*, *Evan M. Meyers*, and *Michael J. McMorrow*.

*Anthony A. Yang* argued the cause for the United States as *amicus curiae* urging affirmance. With him on the brief were *Solicitor General Verrilli*, *Principal Deputy Assistant Attorney General Mizer*, *Deputy Solicitor General Stewart*, and *Mark B. Stern*.*

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*Briefs of *amici curiae* urging reversal were filed for the Chamber of Commerce of the United States of America et al. by *Theodore J. Boutrous, Jr.*, *Kathryn Comerford Todd*, and *Warren Postman*; for the Consumer Data Industry Association by *Robert A. Long, Jr.*, and *David M. Zionts*; for DRI–The Voice of the Defense Bar et al. by *Lawrence S. Ebner*, *Jessica Abrahams*, *Tami Lyn Azorsky*, *Robin S. Conrad*, and *John Parker Sweeney*; for KBR, Inc., by *Paul D. Clement* and *Jeffrey M. Harris*; for Lawyers for Civil Justice by *Alexander R. Dahl*; for the Legal Aid Society of the District of Columbia et al. by *Michael R. Smith*, *David A. Reiser*, *Chinh Q. Le*, and *Jonathan H. Levy*; for the National Black Chamber of Commerce by *Andrew M. Grossman*, *Deborah H. Renner*, and *John B. Lewis*; for the National Defense Industrial Association by *Raymond B. Biagini*, *Robert S. Nichols*, *Herbert L. Fenster*, and *Kurt J. Hamrock*; for Trans Union LLC by *James C. Martin*, *Colin E. Wrabley*, and *Michael O'Neil*; and for the Washington Legal Foundation by *Richard A. Samp*.

Briefs of *amici curiae* urging affirmance were filed for the American Federation of Labor and Congress of Industrial Organizations by *Lynn K. Rhinehart*, *Harold C. Becker*, *James B. Coppess*, and *Matthew J. Ginsburg*; for the Constitutional Accountability Center by *Douglas T. Kendall*, *Elizabeth B. Wydra*, *Brianne J. Gorod*, and *David H. Gans*; for the National Employment Lawyers Association et al. by *Adam W. Hansen* and *Catherine K. Ruckelshaus*; for the National Right to Work Legal Defense Foundation, Inc., by *W. James Young*, *Milton L. Chappell*, and *William H. DuRoss III*; for NECA–IBEW Welfare Trust Fund by *Darren J. Robbins* and *Eric Alan Isaacson*; and for Public Justice, P. C., et al. by *Jason L. Lichtman*, *Jonathan D. Selbin*, *Leslie A. Brueckner*, and *Julie Nepveu*.

JUSTICE GINSBURG delivered the opinion of the Court.

Is an unaccepted offer to satisfy the named plaintiff's individual claim sufficient to render a case moot when the complaint seeks relief on behalf of the plaintiff and a class of persons similarly situated? This question, on which Courts of Appeals have divided, was reserved in *Genesis Health-Care Corp.* v. *Symczyk*, 569 U. S. 66, 72, 73, n. 4 (2013). We hold today, in accord with Rule 68 of the Federal Rules of Civil Procedure, that an unaccepted settlement offer has no force. Like other unaccepted contract offers, it creates no lasting right or obligation. With the offer off the table, and the defendant's continuing denial of liability, adversity between the parties persists.

This case presents a second question. The claim in suit concerns performance of the petitioner's contract with the Federal Government. Does the sovereign's immunity from suit shield the petitioner, a private enterprise, as well? We hold that the petitioner's status as a Government contractor does not entitle it to "derivative sovereign immunity," *i. e.*, the blanket immunity enjoyed by the sovereign.

## I

The Telephone Consumer Protection Act (TCPA or Act), 48 Stat. 1064, 47 U. S. C. § 227(b)(1)(A)(iii), prohibits any person, absent the prior express consent of a telephone-call recipient, from "mak[ing] any call . . . using any automatic telephone dialing system . . . to any telephone number assigned to a paging service [or] cellular telephone service." A text message to a cellular telephone, it is undisputed, qualifies as a "call" within the compass of § 227(b)(1)(A)(iii). 768 F. 3d 871, 874 (CA9 2014). For damages occasioned by conduct violating the TCPA, § 227(b)(3) authorizes a private right of action. A plaintiff successful in such an action may recover her "actual monetary loss" or $500 for each violation, "whichever is greater." Damages may be trebled if "the defendant willfully or knowingly violated" the Act.

Petitioner Campbell-Ewald Company (Campbell) is a nationwide advertising and marketing communications agency. Beginning in 2000, the United States Navy engaged Campbell to develop and execute a multimedia recruiting campaign. In 2005 and 2006, Campbell proposed to the Navy a campaign involving text messages sent to young adults, the Navy's target audience, encouraging them to learn more about the Navy. The Navy approved Campbell's proposal, conditioned on sending the messages only to individuals who had "opted in" to receipt of marketing solicitations on topics that included service in the Navy. App. 42. In final form, the message read:

> "Destined for something big? Do it in the Navy. Get a career. An education. And a chance to serve a greater cause. For a FREE Navy video call [phone number]." 768 F. 3d, at 873.

Campbell then contracted with Mindmatics LLC, which generated a list of cellular phone numbers geared to the Navy's target audience—namely, cellular phone users between the ages of 18 and 24 who had consented to receiving solicitations by text message. In May 2006, Mindmatics transmitted the Navy's message to over 100,000 recipients.

Respondent Jose Gomez was a recipient of the Navy's recruiting message. Alleging that he had never consented to receiving the message, that his age was nearly 40, and that Campbell had violated the TCPA by sending the message (and perhaps others like it), Gomez filed a class-action complaint in the District Court for the Central District of California in 2010. On behalf of a nationwide class of individuals who had received, but had not consented to receipt of, the text message, Gomez sought treble statutory damages, costs, and attorney's fees, also an injunction against Campbell's involvement in unsolicited messaging. App. 16–24.

Prior to the agreed-upon deadline for Gomez to file a motion for class certification, Campbell proposed to settle Go-

mez's individual claim and filed an offer of judgment pursuant to Federal Rule of Civil Procedure 68. App. to Pet. for Cert. 52a–61a.[1] Campbell offered to pay Gomez his costs, excluding attorney's fees, and $1,503 per message for the May 2006 text message and any other text message Gomez could show he had received, thereby satisfying his personal treble-damages claim. *Id.*, at 53a. Campbell also proposed a stipulated injunction in which it agreed to be barred from sending text messages in violation of the TCPA. The proposed injunction, however, denied liability and the allegations made in the complaint, and disclaimed the existence of grounds for the imposition of an injunction. *Id.*, at 56a. The settlement offer did not include attorney's fees, Campbell observed, because the TCPA does not provide for an attorney's-fee award. *Id.*, at 53a. Gomez did not accept the settlement offer and allowed Campbell's Rule 68 submission to lapse after the time, 14 days, specified in the Rule.

Campbell thereafter moved to dismiss the case pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction. No Article III case or controversy remained, Campbell urged, because its offer mooted Gomez's individual claim by providing him with complete relief. Gomez had not moved for class certification before

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[1] Federal Rule of Civil Procedure 68 provides, in relevant part:

"**(a) Making an Offer; Judgment on an Accepted Offer.** At least 14 days before the date set for trial, a party defending against a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service. The clerk must then enter judgment.

"**(b) Unaccepted Offer.** An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs.

. . . . . .

"**(d) Paying Costs After an Unaccepted Offer.** If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made."

his claim became moot, Campbell added, so the putative class claims also became moot. The District Court denied Campbell's motion. 805 F. Supp. 2d 923 (CD Cal. 2011).[2] Gomez was not dilatory in filing his certification request, the District Court determined; consequently, the court noted, the class claims would "relat[e] back" to the date Gomez filed the complaint. *Id.*, at 930–931.

After limited discovery, Campbell moved for summary judgment on a discrete ground. The U. S. Navy enjoys the sovereign's immunity from suit under the TCPA, Campbell argued. The District Court granted the motion. Relying on our decision in *Yearsley* v. *W. A. Ross Constr. Co.*, 309 U. S. 18 (1940), the court held that, as a contractor acting on the Navy's behalf, Campbell acquired the Navy's immunity. No. CV 10–02007 DMG (CD Cal., Feb. 22, 2013), App. to Pet. for Cert. 22a–34a, 2013 WL 655237.

The Court of Appeals for the Ninth Circuit reversed the summary judgment entered for Campbell. 768 F. 3d 871. The appeals court disagreed with the District Court's ruling on the immunity issue, but agreed that Gomez's case remained live. Concerning Gomez's individual claim, the Court of Appeals relied on its then-recent decision in *Diaz* v. *First American Home Buyers Protection Corp.*, 732 F. 3d 948 (2013). *Diaz* held that "an unaccepted Rule 68 offer that would fully satisfy a plaintiff's [individual] claim is insufficient to render th[at] claim moot." *Id.*, at 950. As to the class relief Gomez sought, the Ninth Circuit held that "an unaccepted Rule 68 offer of judgment—for the full amount of the named plaintiff's individual claim and made before the named plaintiff files a motion for class certification—does not moot a class action." 768 F. 3d, at 875 (quoting *Pitts* v. *Terrible Herbst, Inc.*, 653 F. 3d 1081, 1091–1092 (CA9 2011)).

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[2] Because Campbell had already answered the complaint, the District Court construed Campbell's motion as a request for summary judgment. 805 F. Supp. 2d, at 927, n. 2.

Next, the Court of Appeals held that Campbell was not entitled to "derivative sovereign immunity" under this Court's decision in *Yearsley* or on any other basis. 768 F. 3d, at 879–881. Vacating the District Court's judgment, the Ninth Circuit remanded the case for further proceedings.[3]

We granted certiorari to resolve a disagreement among the Courts of Appeals over whether an unaccepted offer can moot a plaintiff's claim, thereby depriving federal courts of Article III jurisdiction. Compare *Bais Yaakov* v. *Act, Inc.*, 798 F. 3d 46, 52 (CA1 2015); *Hooks* v. *Landmark Industries, Inc.*, 797 F. 3d 309, 315 (CA5 2015); *Chapman* v. *First Index, Inc.*, 796 F. 3d 783, 787 (CA7 2015); *Tanasi* v. *New Alliance Bank*, 786 F. 3d 195, 200 (CA2 2015); *Stein* v. *Buccaneers Limited Partnership*, 772 F. 3d 698, 703 (CA11 2014); *Diaz*, 732 F. 3d, at 954–955 (holding that an unaccepted offer does not render a plaintiff's claim moot), with *Warren* v. *Sessoms & Rogers, P. A.*, 676 F. 3d 365, 371 (CA4 2012); *O'Brien* v. *Ed Donnelly Enterprises, Inc.*, 575 F. 3d 567, 574–575 (CA6 2009); *Weiss* v. *Regal Collections*, 385 F. 3d 337, 340 (CA3 2004) (noting that an unaccepted offer can moot an individual plaintiff's claim). We granted review as well to resolve the federal contractor immunity question Campbell's petition raised. 575 U. S. 1008 (2015).

## II

Article III of the Constitution limits federal-court jurisdiction to "cases" and "controversies." U. S. Const., Art. III, § 2. We have interpreted this requirement to demand that "an actual controversy . . . be extant at all stages of review, not merely at the time the complaint is filed." *Arizonans for Official English* v. *Arizona*, 520 U. S. 43, 67 (1997) (quoting *Preiser* v. *Newkirk*, 422 U. S. 395, 401 (1975)). "If an intervening circumstance deprives the plaintiff of a 'personal

[3] The Court of Appeals stayed its mandate pending proceedings in this Court. App. to Pet. for Cert. 62a–63a.

stake in the outcome of the lawsuit,' at any point during litigation, the action can no longer proceed and must be dismissed as moot." *Genesis HealthCare Corp.*, 569 U. S., at 72 (quoting *Lewis* v. *Continental Bank Corp.*, 494 U. S. 472, 477–478 (1990)). A case becomes moot, however, "only when it is impossible for a court to grant any effectual relief whatever to the prevailing party." *Knox* v. *Service Employees*, 567 U. S. 298, 307 (2012) (internal quotation marks omitted). "As long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." *Chafin* v. *Chafin*, 568 U. S. 165, 172 (2013) (internal quotation marks omitted).

In *Genesis HealthCare*, the Court considered a collective action brought by Laura Symczyk, a former employee of Genesis HealthCare Corp. Symczyk sued on behalf of herself and similarly situated employees for alleged violations of the Fair Labor Standards Act of 1938, 29 U. S. C. § 201 *et seq.* In that case, as here, the defendant served the plaintiff with an offer of judgment pursuant to Rule 68 that would have satisfied the plaintiff's individual damages claim. 569 U. S., at 69. Also as here, the plaintiff allowed the offer to lapse by failing to respond within the time specified in the Rule. *Id.*, at 70. But unlike the case Gomez mounted, Symczyk did not dispute in the lower courts that Genesis HealthCare's offer mooted her individual claim. *Id.*, at 72–73. Because of that failure, the *Genesis HealthCare* majority refused to rule on the issue. Instead, the majority simply assumed, without deciding, that an offer of complete relief pursuant to Rule 68, even if unaccepted, moots a plaintiff's claim. *Id.*, at 73. Having made that assumption, the Court proceeded to consider whether the action remained justiciable on the basis of the collective-action allegations alone. Absent a plaintiff with a live individual case, the Court concluded, the suit could not be maintained. *Ibid.*

JUSTICE KAGAN, writing in dissent, explained that she would have reached the threshold question and would have

held that "an unaccepted offer of judgment cannot moot a case." *Id.*, at 81. She reasoned:

> "When a plaintiff rejects such an offer—however good the terms—her interest in the lawsuit remains just what it was before. And so too does the court's ability to grant her relief. An unaccepted settlement offer—like any unaccepted contract offer—is a legal nullity, with no operative effect. As every first-year law student learns, the recipient's rejection of an offer 'leaves the matter as if no offer had ever been made.' *Minneapolis & St. Louis R. Co.* v. *Columbus Rolling Mill*, 119 U. S. 149, 151 (1886). Nothing in Rule 68 alters that basic principle; to the contrary, that rule specifies that '[a]n unaccepted offer is considered withdrawn.' Fed. Rule Civ. Proc. 68(b). So assuming the case was live before—because the plaintiff had a stake and the court could grant relief—the litigation carries on, unmooted." *Ibid.*

We now adopt JUSTICE KAGAN's analysis, as has every Court of Appeals ruling on the issue post *Genesis HealthCare*.[4] Accordingly, we hold that Gomez's complaint was not effaced by Campbell's unaccepted offer to satisfy his individual claim.

As earlier recounted, see *supra*, at 157–158, Gomez commenced an action against Campbell for violation of the TCPA, suing on behalf of himself and others similarly situated. Gomez sought treble statutory damages and an injunction on behalf of a nationwide class, but Campbell's settlement offer proposed relief for Gomez alone, and it did not admit liability.

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[4] See *Bais Yaakov* v. *Act, Inc.*, 798 F. 3d 46, 51–52 (CA1 2015); *Hooks* v. *Landmark Industries, Inc.*, 797 F. 3d 309, 314–315 (CA5 2015); *Chapman* v. *First Index, Inc.*, 796 F. 3d 783, 786–787 (CA7 2015); *Tanasi* v. *New Alliance Bank*, 786 F. 3d 195, 199–200 (CA2 2015); *Stein* v. *Buccaneers Limited Partnership*, 772 F. 3d 698, 702–703 (CA11 2014); *Diaz* v. *First American Home Buyers Corp.*, 732 F. 3d 948, 953–955 (CA9 2013).

App. to Pet. for Cert. 58a. Gomez rejected Campbell's settlement terms and the offer of judgment.

Under basic principles of contract law, Campbell's settlement bid and Rule 68 offer of judgment, once rejected, had no continuing efficacy. See *Genesis HealthCare*, 569 U. S., at 81 (KAGAN, J., dissenting). Absent Gomez's acceptance, Campbell's settlement offer remained only a proposal, binding neither Campbell nor Gomez. See App. to Pet. for Cert. 59a ("Please advise whether Mr. Gomez will accept [Campbell's] offer . . . ."). Having rejected Campbell's settlement bid, and given Campbell's continuing denial of liability, Gomez gained no entitlement to the relief Campbell previously offered. See *Eliason* v. *Henshaw*, 4 Wheat. 225, 228 (1819) ("It is an undeniable principle of the law of contracts, that an offer of a bargain by one person to another, imposes no obligation upon the former, until it is accepted by the latter . . . ."). In short, with no settlement offer still operative, the parties remained adverse; both retained the same stake in the litigation they had at the outset.

The Federal Rule in point, Rule 68, hardly supports the argument that an unaccepted settlement offer can moot a complaint. An offer of judgment, the Rule provides, "is considered withdrawn" if not accepted within 14 days of its service. Fed. Rule Civ. Proc. 68(a), (b). The sole built-in sanction: "If the [ultimate] judgment . . . is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made." Rule 68(d).

In urging that an offer of judgment can render a controversy moot, Campbell features a trio of 19th-century railroad tax cases: *California* v. *San Pablo & Tulare R. Co.*, 149 U. S. 308 (1893), *Little* v. *Bowers*, 134 U. S. 547 (1890), and *San Mateo County* v. *Southern Pacific R. Co.*, 116 U. S. 138 (1885). None of those decisions suggests that an *unaccepted* settlement offer can put a plaintiff out of court. In *San Pablo*, California had sued to recover state and county taxes due from a railroad. In response, the railroad had

not merely offered to pay the taxes in question. It had actually deposited the full amount demanded in a California bank in the State's name, in accord with a California statute that "extinguished" the railroad's tax obligations upon such payment. 149 U. S., at 313–314. *San Pablo* thus rested on California's substantive law, which required the State to accept a taxpayer's full payment of the amount in controversy. *San Mateo* and *Little* similarly involved actual payment of the taxes for which suit was brought. In all three cases, the railroad's payments had fully satisfied the asserted tax claims, and so extinguished them. *San Mateo*, 116 U. S., at 141–142; *Little*, 134 U. S., at 556.[5]

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[5] In addition to *California* v. *San Pablo & Tulare R. Co.*, 149 U. S. 308 (1893), THE CHIEF JUSTICE maintains, two recent decisions of the Court support its position: *Alvarez* v. *Smith*, 558 U. S. 87 (2009), and *Already, LLC* v. *Nike, Inc.*, 568 U. S. 85 (2013). See *post*, at 180–182 (dissenting opinion). The Court's reasoning in those opinions, however, is consistent with our decision in this case. In *Alvarez*, the Court found moot claims for injunctive and declaratory relief in relation to cars and cash seized by the police. Through separate state-court proceedings, the State had "returned all the cars that it seized," and the plaintiff-property owners had "either forfeited any relevant cash or ha[d] accepted as final the State's return of some of it." 558 U. S., at 89, 95–96. *Alvarez* thus resembles the railroad tax cases described above: The *Alvarez* plaintiffs had in fact received all the relief they could claim, all "underlying property disputes" had ended, *id.*, at 89, and as the complaint sought "only declaratory and injunctive relief, not damages," *id.*, at 92, no continuing controversy remained.

*Already* concerned a trademark owned by Nike. Already sought a declaratory judgment invalidating the trademark. The injury Already asserted was the ongoing threat that Nike would sue for trademark infringement. In response to Already's claim, Nike filed a "Covenant Not to Sue," in which it promised not to bring any trademark claims based on Already's existing or similar footwear designs. 568 U. S., at 88–89. The Court found this covenant sufficient to overcome the rule that "voluntary cessation" is generally inadequate to moot a claim. *Id.*, at 93. True, Nike's covenant was unilateral, but it afforded Already blanket protection from future trademark litigation. *Id.*, at 95. The risk that underpinned Already's standing—the Damocles' sword of a trademark infringement

In contrast to the cases Campbell highlights, when the settlement offer Campbell extended to Gomez expired, Gomez remained emptyhanded; his TCPA complaint, which Campbell opposed on the merits, stood wholly unsatisfied. Because Gomez's individual claim was not made moot by the expired settlement offer, that claim would retain vitality during the time involved in determining whether the case could proceed on behalf of a class. While a class lacks independent status until certified, see *Sosna* v. *Iowa*, 419 U. S. 393, 399 (1975), a would-be class representative with a live claim of her own must be accorded a fair opportunity to show that certification is warranted.

The Chief Justice's dissent asserts that our decision transfers authority from the federal courts and "hands it to the plaintiff." *Post*, at 184. Quite the contrary. The dissent's approach would place the defendant in the driver's seat. We encountered a kindred strategy in *U. S. Bancorp Mortgage Co.* v. *Bonner Mall Partnership*, 513 U. S. 18 (1994). The parties in *Bancorp* had reached a voluntary settlement while the case was pending before this Court. *Id.*, at 20. The petitioner then sought vacatur of the Court of Appeals' judgment, contending that it should be relieved from the adverse decision on the ground that the settlement made the dispute moot. The Court rejected this gambit. *Id.*, at 25. Similarly here, Campbell sought to avoid a potential adverse decision, one that could expose it to damages a thousandfold larger than the bid Gomez declined to accept.

In sum, an unaccepted settlement offer or offer of judgment does not moot a plaintiff's case, so the District Court

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suit—thus ceased to exist given Nike's embracive promise not to sue. In short, in both *Alvarez* and *Already*, the plaintiffs had received full redress for the injuries asserted in their complaints. Here, by contrast, Campbell's revocable offer, far from providing Gomez the relief sought in his complaint, gave him nary a penny.

retained jurisdiction to adjudicate Gomez's complaint. That ruling suffices to decide this case. We need not, and do not, now decide whether the result would be different if a defendant deposits the full amount of the plaintiff's individual claim in an account payable to the plaintiff, and the court then enters judgment for the plaintiff in that amount. That question is appropriately reserved for a case in which it is not hypothetical.

## III

The second question before us is whether Campbell's status as a federal contractor renders it immune from suit for violating the TCPA by sending text messages to unconsenting recipients. The United States and its agencies, it is undisputed, are not subject to the TCPA's prohibitions because no statute lifts their immunity. Brief for Petitioner 2; Brief for Respondent 43. Do federal contractors share the Government's unqualified immunity from liability and litigation? We hold they do not.

"[G]overnment contractors obtain certain immunity in connection with work which they do pursuant to their contractual undertakings with the United States." *Brady* v. *Roosevelt S. S. Co.*, 317 U. S. 575, 583 (1943). That immunity, however, unlike the sovereign's, is not absolute. See *id.*, at 580–581. Campbell asserts "derivative sovereign immunity," Brief for Petitioner 35, but can offer no authority for the notion that private persons performing Government work acquire the Government's embracive immunity. When a contractor violates both federal law and the Government's explicit instructions, as here alleged, no "derivative immunity" shields the contractor from suit by persons adversely affected by the violation.

Campbell urges that two of our decisions support its "derivative immunity" defense: *Yearsley*, 309 U. S. 18, and *Filarsky* v. *Delia*, 566 U. S. 377 (2012). In *Yearsley*, a landowner asserted a claim for damages against a private company whose work building dikes on the Missouri River pursuant

to its contract with the Federal Government had washed away part of the plaintiff's land. We held that the contractor was not answerable to the landowner. "[T]he work which the contractor had done in the river bed," we observed, "was all authorized and directed by the Government of the United States" and "performed pursuant to the Act of Congress." 309 U. S., at 20 (internal quotation marks omitted). Where the Government's "authority to carry out the project was validly conferred, that is, if what was done was within the constitutional power of Congress," we explained, "there is no liability on the part of the contractor" who simply performed as the Government directed. *Id.*, at 20–21.[6] The Court contrasted with *Yearsley* cases in which a Government agent had "exceeded his authority" or the authority "was not validly conferred"; in those circumstances, the Court said, the agent could be held liable for conduct causing injury to another. *Id.*, at 21.[7]

In *Filarsky*, we considered whether a private attorney temporarily retained by a municipal government as an investigator could claim qualified immunity in an action brought under 42 U. S. C. § 1983. Finding no distinction in the common law "between public servants and private individuals engaged in public service," we held that the investigator could assert "qualified immunity" in the lawsuit. 566 U. S., at 387, 384. Qualified immunity reduces the risk that contractors will shy away from government work. But the doctrine is bounded in a way that Campbell's "derivative immunity" plea is not. "Qualified immunity may be over-

[6] If there had been a taking of the plaintiff's property, the Court noted, "a plain and adequate remedy" would be at hand, *i. e.*, recovery from the United States of "just compensation." *Yearsley*, 309 U. S., at 21.

[7] We disagree with the Court of Appeals to the extent that it described *Yearsley* as "establish[ing] a narrow rule regarding claims arising out of property damage caused by public works projects." 768 F. 3d, at 879. Critical in *Yearsley* was not the involvement of public works, but the contractor's performance in compliance with all federal directions.

come . . . if the defendant knew or should have known that his conduct violated a right 'clearly established' at the time of the episode in suit." *Id.*, at 394 (GINSBURG, J., concurring) (citing *Harlow* v. *Fitzgerald*, 457 U. S. 800, 818 (1982)). Campbell does not here contend that the TCPA's requirements or the Navy's instructions failed to qualify as "clearly established."

At the pretrial stage of litigation, we construe the record in a light favorable to the party seeking to avoid summary disposition, here, Gomez. *Matsushita Elec. Industrial Co.* v. *Zenith Radio Corp.*, 475 U. S. 574, 587 (1986). In opposition to summary judgment, Gomez presented evidence that the Navy authorized Campbell to send text messages only to individuals who had "opted in" to receive solicitations. App. 42–44; 768 F. 3d, at 874. A Navy representative noted the importance of ensuring that the message recipient list be "kosher" (*i. e.*, that all recipients had consented to receiving messages like the recruiting text), and made clear that the Navy relied on Campbell's representation that the list was in compliance. App. 43. See also *ibid.* (noting that Campbell itself encouraged the Navy to use only an opt-in list in order to meet national and local law requirements). In short, the current record reveals no basis for arguing that Gomez's right to remain message-free was in doubt or that Campbell complied with the Navy's instructions.

We do not overlook that subcontractor Mindmatics, not Campbell, dispatched the Navy's recruiting message to unconsenting recipients. But the Federal Communications Commission has ruled that, under federal common-law principles of agency, there is vicarious liability for TCPA violations. *In re Joint Petition Filed by Dish Network, LLC*, 28 FCC Rcd. 6574 (2013). The Ninth Circuit deferred to that ruling, 768 F. 3d, at 878, and we have no cause to question it. Campbell's vicarious liability for Mindmatics' conduct, however, in no way advances Campbell's contention that it

acquired the sovereign's immunity from suit based on its contract with the Navy.

* * *

For the reasons stated, the judgment of the Court of Appeals for the Ninth Circuit is affirmed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

JUSTICE THOMAS, concurring in the judgment.

The Court correctly concludes that an offer of complete relief on a claim does not render that claim moot. But, in my view, the Court does not advance a sound basis for this conclusion. The Court rests its conclusion on modern contract law principles and a recent dissent concerning Federal Rule of Civil Procedure 68. See *ante*, at 160–163. I would rest instead on the common-law history of tenders. That history—which led to Rule 68—demonstrates that a mere offer of the sum owed is insufficient to eliminate a court's jurisdiction to decide the case to which the offer related. I therefore concur only in the judgment.

I

The text of Article III's case-or-controversy requirement, that requirement's drafting history, and our precedents do not appear to provide sufficiently specific principles to resolve this case. When faced with such uncertainty, it seems particularly important for us to look to how courts traditionally have viewed a defendant's offer to pay the plaintiff's alleged damages. That history—which stretches from the common law directly to Rule 68 and modern settlement offers—reveals one unbroken practice that should resolve this case: A defendant's offer to pay the plaintiff—without more—would not have deprived a court of jurisdiction. Campbell-Ewald's offers thus do not bar federal courts from continuing to hear this case.

A

Modern settlement procedure has its origins in the law of tenders, as refined in the 18th and 19th centuries. As with much of the early common law, the law of tenders had many rigid formalities. These formalities make clear that, around the time of the framing, a mere offer of relief was insufficient to deprive a court of jurisdiction.

At common law, a prospective defendant could prevent a case from proceeding, but he needed to provide substantially more than a bare offer. A "mere proposal or proposition" to pay a claim was inadequate to end a case. A. Hunt, A Treatise on the Law of Tender, and Bringing Money Into Court §§ 1–2, 3–4 (1903) (Hunt) (citing cases from the 1800's). Nor would a defendant's "readiness and an ability to pay the money" suffice to end a case. *Holmes* v. *Holmes*, 12 Barb. 137, 144 (N. Y. 1851). Rather, a prospective defendant needed to provide a "tender"—an offer to pay the entire claim before a suit was filed, accompanied by "actually produc[ing]" the sum "at the time of tender" in an "unconditional" manner. M. Bacon, A New Abridgment of the Law 314–315, 321 (1856) (citing cases from the early 1800's).

Furthermore, in state and federal courts, a tender of the amount due was deemed "an admission of a liability" on the cause of action to which the tender related, so any would-be defendant who tried to deny liability could not effectuate a tender. Hunt § 400, at 448; see *Cottier* v. *Stimpson*, 18 F. 689, 691 (Ore. 1883) (explaining that a tender constitutes "an admission of the cause of action"); *The Rossend Castle Dillenback* v. *The Rossend Castle*, 30 F. 462, 464 (SDNY 1887) (same). As one treatise explained, "[a] tender must be of a specific sum which the tenderor *admits* to be due"—"[t]here must be no denial of the debt." Hunt § 242, at 253 (emphasis added). The tender had to offer and actually deliver complete relief. See *id.*, § 2, at 4; *Sheredine* v. *Gaul*, 2 Dall. 190, 191 (Pa. 1792) (defendant must "brin[g] the money into Court"). And an offer to pay less than what was demanded

was not a valid tender. See, *e. g.*, *Elderkin* v. *Fellows*, 60 Wis. 339, 340–341, 19 N. W. 101, 102 (1884).

Even when a potential defendant properly effectuated a tender, the case would not necessarily end. At common law, a plaintiff was entitled to "deny that [the tender was] sufficient to satisfy his demand" and accordingly "go on to trial." *Raiford* v. *Governor*, 29 Ala. 382, 384 (1856); see also Hunt § 511, at 595.*

This history demonstrates that, at common law, a defendant or prospective defendant had to furnish far more than a mere offer of settlement to end a case. This history also demonstrates that courts at common law would not have understood a mere offer to strip them of jurisdiction.

B

Although 19th-century state statutes expanded the common-law tender regime, the law retained its essential features. See Bone, "To Encourage Settlement": Rule 68, Offers of Judgment, and the History of the Federal Rules of Civil Procedure, 102 Nw. U. L. Rev. 1561, 1585 (2008) (Bone). These changes, for example, allowed defendants to offer a tender "during the pendency of an action," as well as before it commenced. *Taylor* v. *Brooklyn Elevated R. Co.*, 119 N. Y. 561, 565, 23 N. E. 1106, 1107 (1890); cf. *Colby* v. *Reed*, 99 U. S. 560, 566 (1879) (at common law, generally no "right of tender after action brought"). Statutes also expanded the right of tender to cover types of actions in which damages were not certain. Compare *Dedekam* v. *Vose*, 7 F. Cas. 337, 338 (SDNY 1853) ("[T]ender could not be maintained,

*Nevertheless, the common law strongly encouraged a plaintiff to accept a tender by penalizing plaintiffs who improperly rejected them. A plaintiff would not be able to recover any damages that accrued after the tender, nor could he receive the costs of the suit if the jury returned a verdict for either the amount offered or less. See Hunt §§ 363–364, at 403–404. This rule remains today. See Fed. Rule Civ. Proc. 68(d) (taxing costs to plaintiff who fails to recover more than the offer of judgment).

according to the strict principles of the common law," in cases where damages were not easily ascertainable), with *Patrick* v. *Illawaco Oyster Co.*, 189 Wash. 152, 155, 63 P. 2d 520, 521 (1937) (state statute "extend[ed] the common-law rule" to tort actions).

Nevertheless, state statutes generally retained the core of the common-law tender rules. Most critically for this case, a mere offer remained insufficient to end a lawsuit. See, *e. g.*, *Kilts* v. *Seeber*, 10 How. Pr. 270, 271 (N. Y. 1854) (under New York law, a mere offer was insufficient to preclude litigation). Like the common-law tender rules, state statutes recognized that plaintiffs could continue to pursue litigation by rejecting an offer. See Bone 1586.

C

The offer-of-judgment procedure in Rule 68 was modeled after a provision in the New York Field Code that was enacted in the mid-19th century. See *id.*, at 1583–1584. That code abrogated many of the common-law formalities governing civil procedure. Among its innovations, the code allowed defendants in any cause of action to make an offer in writing to the plaintiff proposing to accept judgment against the defendant for a specified sum. See The Code of Procedure of the State of New York From 1848 to 1871: Comprising the Act as Originally Enacted and the Various Amendments Made Thereto, to the Close of the Session of 1870, § 385, p. 274 (1870). The plaintiff could accept the offer, which would end the litigation, or reject the offer, in which case the offer was considered withdrawn without any admission of liability by the defendant. *Ibid.*

In 1938, Rule 68 was adopted as part of the Federal Rules of Civil Procedure, and has subsisted throughout the years without material changes. See Bone 1564. As it did in 1938, Rule 68 now authorizes "a party defending against a claim" to "serve on an opposing party an offer to allow judgment on specified terms." Rule 68(a). Rule 68 also

provides a plaintiff the option to accept or reject an offer. If the plaintiff accepts the offer, the "clerk must then enter judgment," but "[a]n unaccepted offer is considered withdrawn." Rules 68(a)–(b). Withdrawn offers (unlike common-law tenders) cannot be used in court as an admission against defendants. Rule 68(b).

D

In light of the history discussed above, a rejected offer does not end the case. And this consistent historical practice demonstrates why Campbell-Ewald's offers do not divest a federal court of jurisdiction to entertain Gomez's suit. Campbell-Ewald made two settlement offers after Gomez sued—one filed with the District Court under Rule 68 and one freestanding settlement offer. But with neither of these offers did the company make payment; it only declared its intent to pay. Because Campbell-Ewald only offered to pay Gomez's claim but took no further steps, the court was not deprived of jurisdiction.

II

Although the Court reaches the right result, I cannot adopt its reasoning. Building on the dissent in *Genesis HealthCare Corp.* v. *Symczyk*, 569 U. S. 66 (2013), the Court relies on principles of contract law that an unaccepted offer is a legal nullity. But the question here is not whether Campbell-Ewald's offer formed an enforceable contract. The question is whether its continuing offer of complete relief eliminated the case or controversy required by Article III. By looking only to contract law and one recent Rule 68 opinion, the Court fails to confront this broader issue. Instead, I believe that we must resolve the meaning of "case" and "controversy" in Article III by looking to "the traditional, fundamental limitations upon the powers of common-law courts" because "cases" and "controversies" "have virtually no meaning except by reference to that tradi-

tion." *Honig* v. *Doe*, 484 U. S. 305, 340 (1988) (SCALIA, J., dissenting).

THE CHIEF JUSTICE's dissent argues that examining whether the requirements of common-law tenders have been met does not answer "whether there is a case or controversy for purposes of Article III." *Post*, at 183, n. 3. As explained above, however, courts have historically refused to dismiss cases when an offer did not conform to the strict tender rules. The logical implications of THE CHIEF JUSTICE's reasoning are that the common-law tender rules conflict with Article III and that the Constitution bars Article III courts from following those principles. But see *Colby*, 99 U. S., at 566 (stating that, to stop litigation, a party "must adopt the measure prescribed by the common law, except in jurisdictions where a different mode of proceeding is prescribed by statute"). That reasoning, therefore, calls into question the history and tradition that the case-or-controversy requirement embodies.

THE CHIEF JUSTICE also contends that our precedents "plainly establish that an admission of liability is not required for a case to be moot under Article III." *Post*, at 183, n. 3. But we need not decide today whether compliance with every common-law formality would be necessary to end a case. The dispositive point is that state and federal courts have not considered a mere offer, without more, sufficient to moot the case. None of the cases cited by THE CHIEF JUSTICE hold that a retrospective claim for money damages can become moot based on a mere offer. *California* v. *San Pablo & Tulare R. Co.*, 149 U. S. 308 (1893), is inapposite because that decision involved a fully tendered offer that extinguished the tax debt under California law. *Id.*, at 313–314. *Alvarez* v. *Smith*, 558 U. S. 87 (2009), and *Already, LLC* v. *Nike, Inc.*, 568 U. S. 85 (2013), are also not on point. Both involved claims for injunctive or declaratory relief that became moot when the defendants ceased causing actual or threatened injury. But whether a claim for prospective re-

lief is moot is different from the issue in this case, which involves claims for damages to remedy past harms. See, *e. g.*, *Parents Involved in Community Schools* v. *Seattle School Dist. No. 1*, 551 U. S. 701, 720 (2007) (plaintiff "sought damages in her complaint, which is sufficient to preserve our ability to consider the question"); *Alvarez*, *supra*, at 92 (suggesting that a "continuing controversy over damages" would mean that the case was not moot).

As explained above, I would follow history and tradition in construing Article III, and so I find that Campbell-Ewald's mere offers did not deprive the District Court of jurisdiction. Accordingly, I concur in the judgment only.

CHIEF JUSTICE ROBERTS, with whom JUSTICE SCALIA and JUSTICE ALITO join, dissenting.

This case is straightforward. Jose Gomez alleges that the marketing firm Campbell-Ewald (Campbell) sent him text messages without his permission, and he requests relief under the Telephone Consumer Protection Act. That Act permits consumers to recover statutory damages for unauthorized text messages. Based on Gomez's allegations, the maximum that he could recover under the Act is $1500 per text message, plus the costs of filing suit. Campbell has offered to pay Gomez that amount, but it turns out he wants more. He wants a federal court to say he is right.

The problem for Gomez is that the federal courts exist to resolve real disputes, not to rule on a plaintiff's entitlement to relief already there for the taking. As this Court has said, "[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies." *Raines* v. *Byrd*, 521 U. S. 811, 818 (1997) (quoting *Simon* v. *Eastern Ky. Welfare Rights Organization*, 426 U. S. 26, 37 (1976)). If there is no actual case or controversy, the lawsuit is moot, and the power of the federal courts to declare the law has come to an end. Here, the

District Court found that Campbell agreed to fully satisfy Gomez's claims. That makes the case moot, and Gomez is not entitled to a ruling on the merits of a moot case.

I respectfully dissent.

## I

### A

In 1793, President George Washington sent a letter to Chief Justice John Jay and the Associate Justices of the Supreme Court, asking for the opinion of the Court on the rights and obligations of the United States with respect to the war between Great Britain and France. The Supreme Court politely—but firmly—refused the request, concluding that "the lines of separation drawn by the Constitution between the three departments of the government" prohibit the federal courts from issuing such advisory opinions. 3 Correspondence and Public Papers of John Jay 486–489 (H. Johnston ed. 1890–1893).

That prohibition has remained "the oldest and most consistent thread in the federal law of justiciability." *Flast* v. *Cohen*, 392 U. S. 83, 96 (1968) (internal quotation marks omitted). And for good reason. It is derived from Article III of the Constitution, which limits the authority of the federal courts to the adjudication of "Cases" or "Controversies." U. S. Const., Art. III, § 2. The case or controversy requirement is at once an important check on the powers of the Federal Judiciary and the source of those powers. In *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803), Chief Justice Marshall established that it is "the province and duty of the judicial department to say what the law is." Not because there is a provision in the Constitution that says so—there isn't. Instead, the federal courts wield that power because they have to decide cases and controversies, and "[t]hose who apply [a] rule to particular cases, must of necessity expound and interpret that rule." *Ibid.* Federal courts may exercise their authority "only in the last resort, and as a necessity

in the determination of real, earnest and vital controversy between individuals." *Chicago & Grand Trunk R. Co.* v. *Wellman*, 143 U. S. 339, 345 (1892); see also *Allen* v. *Wright*, 468 U. S. 737, 752 (1984). "If a dispute is not a proper case or controversy, the courts have no business deciding it, or expounding the law in the course of doing so." *DaimlerChrysler Corp.* v. *Cuno*, 547 U. S. 332, 341 (2006).

A case or controversy exists when both the plaintiff and the defendant have a "personal stake" in the lawsuit. *Camreta* v. *Greene*, 563 U. S. 692, 701 (2011). A plaintiff demonstrates a personal stake by establishing standing to sue, which requires a "personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen*, 468 U. S., at 751. A defendant demonstrates a personal stake through "an ongoing interest in the dispute." *Camreta*, 563 U. S., at 701.

The personal stake requirement persists through every stage of the lawsuit. It "is not enough that a dispute was very much alive when suit was filed"; the "parties must continue to have a personal stake in the outcome of the lawsuit" to prevent the case from becoming moot. *Lewis* v. *Continental Bank Corp.*, 494 U. S. 472, 477–478 (1990) (internal quotation marks omitted). If either the plaintiff or the defendant ceases to have a concrete interest in the outcome of the litigation, there is no longer a live case or controversy. A federal court that decides the merits of such a case runs afoul of the prohibition on advisory opinions.

## B

Applying those basic principles to this case, it is clear that the lawsuit is moot. All agree that at the time Gomez filed suit, he had a personal stake in the litigation. In his complaint, Gomez alleged that he suffered an injury in fact when he received unauthorized text messages from Campbell. To remedy that injury, he requested $1500 in statutory damages

for each unauthorized text message. (It was later determined that he received only one text message.)

What happened next, however, is critical: After Gomez's initial legal volley, Campbell did not return fire. Instead, Campbell responded to the complaint with a freestanding offer to pay Gomez the maximum amount that he could recover under the statute: $1500 per unauthorized text message, plus court costs. Campbell also made an offer of judgment on the same terms under Rule 68 of the Federal Rules of Civil Procedure, which permits a defendant to recover certain attorney's fees if the Rule 68 offer is unaccepted and the plaintiff later recovers no more than the amount of the offer. Crucially, the District Court found that the "parties do not dispute" that Campbell's Rule 68 offer—reflecting the same terms as the freestanding offer—"would have fully satisfied the individual claims asserted, or that could have been asserted," by Gomez. 805 F. Supp. 2d 923, 927 (CD Cal. 2011).

When a plaintiff files suit seeking redress for an alleged injury, and the defendant *agrees* to fully redress that injury, there is no longer a case or controversy for purposes of Article III. After all, if the defendant is willing to remedy the plaintiff's injury without forcing him to litigate, the plaintiff cannot demonstrate an injury in need of redress by the court, and the defendant's interests are not adverse to the plaintiff. At that point, there is no longer any "necessity" to "expound and interpret" the law, *Marbury*, 1 Cranch, at 177, and the federal courts lack authority to hear the case. That is exactly what happened here: Once Campbell offered to fully remedy Gomez's injury, there was no longer any "necessity" for the District Court to hear the merits of his case, rendering the lawsuit moot.[1]

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[1] The Court does not reach the question whether Gomez's claim for class relief prevents this case from becoming moot. The majority nevertheless suggests that Campbell "sought to avoid a potential adverse decision, one that could expose it to damages a thousandfold larger than the bid Gomez declined to accept." *Ante*, at 165. But under this Court's precedents

It is true that although Campbell has offered Gomez full relief, Campbell has not yet paid up. That does not affect the mootness inquiry under the facts of this case. Campbell is a multimillion dollar company, and the settlement offer here is for a few thousand dollars. The settlement offer promises "prompt payment," App. to Pet. for Cert. 59a, and it would be mere pettifoggery to argue that Campbell might not make good on that promise. In any event, to the extent there is a question whether Campbell is willing and able to pay, there is an easy answer: have the firm deposit a certified check with the trial court.

## II

The Court today holds that Gomez's lawsuit is not moot. According to the Court, "An unaccepted settlement offer—like any unaccepted contract offer—is a legal nullity, with no operative effect." *Ante*, at 162 (quoting *Genesis HealthCare Corp.* v. *Symczyk*, 569 U. S. 66, 81 (2013) (KAGAN, J., dissenting)). And so, the Court concludes, if a plaintiff does not feel like accepting the defendant's complete offer of relief, the lawsuit cannot be moot because it is as if no offer had ever been made.

But a plaintiff is not the judge of whether federal litigation is necessary, and a mere *desire* that there be federal litigation—for whatever reason—does not make it *necessary.* When a lawsuit is filed, it is up to the federal court to determine whether a concrete case or controversy exists between

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Gomez does not have standing to seek relief based solely on the alleged injuries of others, and Gomez's interest in sharing attorney's fees among class members or in obtaining a class incentive award does not create Article III standing. See *Lewis* v. *Continental Bank Corp.*, 494 U. S. 472, 480 (1990) (An "interest in attorney's fees is, of course, insufficient to create an Article III case or controversy where none exists on the merits of the underlying claim."); *Steel Co.* v. *Citizens for Better Environment*, 523 U. S. 83, 107 (1998) ("Obviously, however, a plaintiff cannot achieve standing to litigate a substantive issue by bringing suit for the cost of bringing suit. The litigation must give the plaintiff some other benefit besides reimbursement of costs that are a byproduct of the litigation itself.").

the parties. That remains true throughout the litigation. Article III does not require the parties to affirmatively agree on a settlement before a case becomes moot. This Court has long held that when a defendant unilaterally remedies the injuries of the plaintiff, the case is moot—even if the plaintiff disagrees and refuses to settle the dispute, and even if the defendant continues to deny liability.

In *California* v. *San Pablo & Tulare R. Co.*, 149 U. S. 308 (1893), the State of California brought suit against a railroad company for back taxes. Before oral argument in this Court, the railroad offered to pay California the entire sum at issue, "together with interest, penalties and costs." *Id.*, at 313. Although California continued to litigate the case despite the railroad's offer of complete relief, the Court concluded that the offer to pay the full sum, in addition to "the deposit of the money in a bank, which by a statute of the State ha[s] the same effect as actual payment and receipt of the money," mooted the case. *Id.*, at 314.

The Court grounded its decision in *San Pablo* on the prohibition against advisory opinions, explaining that "the court is not empowered to decide moot questions or abstract propositions, or to declare, for the government of future cases, principles or rules of law which cannot affect the result as to the thing in issue in the case." *Ibid.* Although the majority here places great weight on Gomez's rejection of Campbell's offer of complete relief, *San Pablo* did not consider the agreement of the parties to be relevant to the question of mootness. As the Court said then, "[n]o stipulation of parties or counsel, whether in the case before the court or in any other case, can enlarge the power, or affect the duty, of the court." *Ibid.*

More recently, in *Alvarez* v. *Smith*, 558 U. S. 87 (2009), the Court found that a plaintiff's refusal to settle a case did not prevent it from becoming moot. In *Alvarez*, Chicago police officers had seized vehicles and cash from six individuals. The individuals filed suit against the city and two officials,

claiming that they were entitled to a timely post-seizure hearing to seek the return of their property. The Court of Appeals ruled for the plaintiffs, and this Court granted certiorari.

At oral argument, the parties informed the Court that the cars and some of the cash had been returned, and that the plaintiffs no longer sought the return of the remainder of the cash. *Id.*, at 92. Nevertheless, the plaintiffs—much like Gomez—"continue[d] to dispute the lawfulness of the State's hearing procedures." *Id.*, at 93. Although the plaintiffs refused to settle the case, and the defendants would not concede that the hearing procedures were unlawful, the Court held that the case was moot. As the Court explained, the "dispute is no longer embedded in any actual controversy about the plaintiffs' particular legal rights," and "a dispute solely about the meaning of a law, abstracted from any concrete actual or threatened harm, falls outside the scope of the constitutional words 'Cases' and 'Controversies.'" *Ibid.*

The Court reached a similar conclusion in *Already, LLC* v. *Nike, Inc.*, 568 U. S. 85 (2013). In that case, Nike filed suit alleging that two of Already's athletic shoes violated Nike's Air Force 1 trademark. In response, Already filed a counterclaim alleging that Nike's trademark was invalid. Instead of litigating the counterclaim, Nike issued a *unilateral* covenant not to sue Already. In that covenant, Nike "unconditionally and irrevocably" promised not to raise any trademark or unfair competition claims against Already based on its current shoe designs or any future "colorable imitations" of those designs. *Id.*, at 93. Nike did not, however, admit that its trademark was invalid. After issuing the covenant, Nike asked the District Court to dismiss the counterclaim as moot. *Id.*, at 89.

Already did not agree to Nike's covenant, and it did not view the covenant as sufficient to protect it from future trademark litigation. Already argued that without judicial resolution of the dispute, "Nike's trademarks [would] hang

over Already's operations like a Damoclean sword." *Id.*, at 96. This Court disagreed and dismissed the suit. It found that because Nike had demonstrated "that the covenant encompasses all of [Nike's] allegedly unlawful conduct," and that the "challenged conduct cannot reasonably be expected to recur," the counterclaim was moot. *Id.*, at 94–95.

These precedents reflect an important constitutional principle: The agreement of the plaintiff is not required to moot a case. In *San Pablo*, California did not accept the railroad's money in exchange for settling the State's legal claims; in *Alvarez*, the plaintiffs did not receive their cars and cash in return for an agreement to stop litigating the case; and in *Already*, the eponymous shoe company never agreed to Nike's covenant not to sue. In each of those cases, despite the plaintiff's desire not to settle, the Court held that the lawsuit was moot.

The majority attempts to distinguish these precedents by emphasizing that the plaintiffs in all three cases received complete relief, but that is not the point. I had thought that the theory of the Court's opinion was that acceptance is required before complete relief will moot a case. But consider the majority's discussion of *Already*: What did Nike's covenant do? It "afforded Already blanket protection from future trademark litigation." *Ante*, at 164, n. 5. What happened as a result of this complete relief? "The risk that underpinned Already's standing" thus "ceased to exist." *Ibid.* Even though what? Even though "Nike's covenant was unilateral," and not accepted by Already. *Ibid.*

The majority is correct that because Gomez did not accept Campbell's settlement, it is a "legal nullity" as a matter of contract law. The question, however, is not whether there is a contract; it is whether there is a case or controversy under Article III.[2] If the defendant is willing to give the

[2] The majority suggests that this case is analogous to *U. S. Bancorp Mortgage Co.* v. *Bonner Mall Partnership*, 513 U. S. 18 (1994), where the Court declined to vacate a lower court decision that became moot on cer-

plaintiff everything he asks for, there is no case or controversy to adjudicate, and the lawsuit is moot.[3]

* * *

The case or controversy requirement serves an essential purpose: It ensures that the federal courts expound the law "only in the last resort, and as a necessity." *Allen*, 468 U. S., at 752 (internal quotation marks omitted). It is the necessity of resolving a live dispute that reconciles the exercise of profound power by unelected judges with the principles of self-governance, ensuring adherence to "the proper—and

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tiorari when the parties voluntarily settled the case. *Bancorp* is inapposite—it involves the equitable powers of the courts to vacate judgments in moot cases, not the Article III question whether a case is moot in the first place. The premise of *Bancorp* is that it is up to the federal courts—and not the parties—to decide what to do once a case becomes moot. The majority's position, in contrast, would leave it to the plaintiff to decide whether a case is moot.

[3] To further support its Article III-by-contract theory of the case, the Court looks to Federal Rule of Civil Procedure 68, which states that an unaccepted offer of judgment "is considered withdrawn." Rule 68(b). But Campbell made Gomez both a Rule 68 offer *and* a freestanding settlement offer. By its terms, Rule 68 does not apply to the latter. The majority's only argument with respect to the freestanding settlement offer is that under the rules of contract law, an unaccepted offer is a "legal nullity." *Ante*, at 162. As explained, however, under the principles of Article III, an unaccepted offer of complete relief moots a case.

JUSTICE THOMAS, concurring in the judgment, would decide the case based on whether there was a formal tender under the common law. This suffers from the same flaw as the majority opinion. The question is not whether the requirements of the common law of tender have been met, but whether there is a case or controversy for purposes of Article III. The Supreme Court cases we have discussed make clear that the two questions are not the same. To cite just one example, JUSTICE THOMAS argues that a tender under the common law must include an admission of liability. *Ante*, at 170–171. Our precedents, however, plainly establish that an admission of liability is not required for a case to be moot under Article III. See *supra*, at 181–182. We are not at liberty to proceed as if those Article III precedents do not exist.

properly limited—role of the courts in a democratic society." *Id.*, at 750 (internal quotation marks omitted).

There is no such necessity here. As the District Court found, Campbell offered Gomez full relief. Although Gomez nonetheless wants to continue litigating, the issue is not what the plaintiff *wants*, but what the federal courts may do. It is up to those courts to decide whether each party continues to have the requisite personal stake in the lawsuit, and if not, to dismiss the case as moot. The Court today takes that important responsibility away from the federal courts and hands it to the plaintiff.

The good news is that this case is limited to its facts. The majority holds that an *offer* of complete relief is insufficient to moot a case. The majority does not say that *payment* of complete relief leads to the same result. For aught that appears, the majority's analysis may have come out differently if Campbell had deposited the offered funds with the District Court. See *ante*, at 165–166. This Court leaves that question for another day—assuming there are other plaintiffs out there who, like Gomez, won't take "yes" for an answer.

JUSTICE ALITO, dissenting.

I join THE CHIEF JUSTICE's dissent. I agree that a defendant may extinguish a plaintiff's personal stake in pursuing a claim by offering complete relief on the claim, even if the plaintiff spurns the offer. Our Article III precedents make clear that, for mootness purposes, there is nothing talismanic about the plaintiff's acceptance. *E. g.*, *Already, LLC* v. *Nike, Inc.*, 568 U. S. 85 (2013) (holding that Nike's unilateral covenant not to sue mooted Already's trademark invalidity claim). I write separately to emphasize what I see as the linchpin for finding mootness in this case: There is no real dispute that Campbell would "make good on [its] promise" to pay Gomez the money it offered him if the case were dismissed. *Ante*, at 179 (opinion of ROBERTS, C. J.).

Absent this fact, I would be compelled to find that the case is not moot.

Our "voluntary cessation" cases provide useful guidance. Those cases hold that, when a plaintiff seeks to enjoin a defendant's conduct, a defendant's "voluntary cessation of challenged conduct does not ordinarily render a case moot because a dismissal for mootness would permit a resumption of the challenged conduct as soon as the case is dismissed." *Knox* v. *Service Employees*, 567 U. S. 298, 307 (2012). To obtain dismissal in such circumstances, the defendant must "'bea[r] the formidable burden of showing that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur.'" *Already*, *supra*, at 91 (quoting *Friends of the Earth, Inc.* v. *Laidlaw Environmental Services (TOC), Inc.*, 528 U. S. 167, 190 (2000)). We have typically applied that rule in cases involving claims for prospective relief, see *Knox*, *supra*, at 307, but the basic principle easily translates to cases, like this one, involving claims for damages: When a defendant offers a plaintiff complete relief on a damages claim, the case will be dismissed as moot if—but only if—it is "'absolutely clear'" that the plaintiff will be able to receive the offered relief. *Already*, *supra*, at 95.[1]

Consider an offer of complete relief from a defendant that has no intention of actually paying the promised sums, or from a defendant whose finances are so shaky that it cannot produce the necessary funds. In both instances, there is a question whether the defendant will back up its offer to pay with an actual payment. If those cases were dismissed as moot, the defendant's failure to follow through on its promise to pay would leave the plaintiff forever emptyhanded. In

[1] I say it must be clear that the plaintiff "will *be able to* receive" the relief, rather than that the plaintiff "*will* receive" the relief, to account for the possibility of an obstinate plaintiff who refuses to take any relief even if the case is dismissed. A plaintiff cannot thwart mootness by refusing complete relief presented on a silver platter.

the language of our mootness cases, those cases would *not* be moot because a court could still grant the plaintiff "effectual relief," *Knox*, *supra*, at 307 (internal quotation marks omitted)—namely, the relief sought in the first place. The plaintiff retains a "personal stake" in continuing the litigation. *Genesis HealthCare Corp.* v. *Symczyk*, 569 U. S. 66, 71 (2013) (internal quotation marks omitted). An offer of complete relief thus will not always warrant dismissal.

Campbell urges that a plaintiff could simply move to reopen a dismissed case if a defendant fails to make good on its offer. Reply Brief 10. I assume that is true. But the prospect of having to reopen litigation is precisely why our voluntary cessation cases require defendants to prove, *before* dismissal, that the plaintiff's injury cannot reasonably be expected to recur. I see no reason not to impose a similar burden when a defendant asserts that it has rendered a damages claim moot.

How, then, can a defendant make "absolutely clear" that it will pay the relief it has offered? The most straightforward way is simply to pay over the money. The defendant might hand the plaintiff a certified check or deposit the requisite funds in a bank account in the plaintiff's name. See *California* v. *San Pablo & Tulare R. Co.*, 149 U. S. 308, 313–314 (1893). Alternatively, a defendant might deposit the money with the district court (or another trusted intermediary) on the condition that the money be released to the plaintiff when the court dismisses the case as moot. See Fed. Rule Civ. Proc. 67; 28 U. S. C. §§ 2041, 2042. In these situations, there will rarely be any serious doubt that the plaintiff can obtain the offered money.[2]

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[2] Depositing funds with the district court or another intermediary may be particularly attractive to defendants because it would ensure that the plaintiff can obtain the money, yet allow the defendant to reclaim the funds if the court refuses to dismiss the case (for example, because it determines the offer is for less than full relief). Contrary to the views of Gomez's

While outright payment is the surest way for a defendant to make the requisite mootness showing, I would not foreclose other means of doing so. The question is whether it is certain the defendant will pay, not whether the defendant has already paid. I believe Campbell clears the mark in this case. As THE CHIEF JUSTICE observes, there is no dispute Campbell has the means to pay the few thousand dollars it offered Gomez, and there is no basis "to argue that Campbell might not make good on that promise" if the case were dismissed. *Ante*, at 179. Thus, in the circumstances of this case, Campbell's offer of complete relief should have rendered Gomez's damages claim moot. But the same would not necessarily be true for other defendants, particularly those that face more substantial claims, possess less secure finances, or extend offers of questionable sincerity. Cf. *Already*, 568 U. S., at 105 (KENNEDY, J., concurring) (emphasizing the "formidable burden on the party asserting mootness" and noting possible "doubts that Nike's showing [of mootness] would suffice in other circumstances").

The Court does not dispute Campbell's ability or willingness to pay, but nonetheless concludes that its unaccepted offer did not moot Gomez's claim. While I disagree with that result on these facts, I am heartened that the Court appears to endorse the proposition that a plaintiff's claim *is* moot once he has "received full redress" from the defendant for the injuries he has asserted. *Ante*, at 165, n. 5 (discussing *Already*, *supra*, and *Alvarez* v. *Smith*, 558 U. S. 87 (2009)).

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*amicus*, there is no reason to force a defendant to effect an "'irrevocable transfer of title'" to the funds without regard to whether doing so succeeds in mooting the case. Brief for American Federation of Labor and Congress of Industrial Organizations 10. Likewise, because I believe our precedents "provide sufficiently specific principles to resolve this case," I would not apply the "rigid formalities" of common-law tender in this context. *Ante*, at 169, 170 (THOMAS, J., concurring in judgment). Article III demands that a plaintiff always have a personal stake in continuing the litigation, and that stake is extinguished if the plaintiff is freely able to obtain full relief in the event the case is dismissed as moot.

Today's decision thus does not prevent a defendant who actually pays complete relief—either directly to the plaintiff or to a trusted intermediary—from seeking dismissal on mootness grounds.[3]

[3] Although it does not resolve the issue, the majority raises the possibility that a defendant must *both* pay the requisite funds *and* have "the court . . . ente[r] judgment for the plaintiff in that amount." *Ante*, at 166. I do not see how that can be reconciled with *Already*, which affirmed an order of dismissal—not judgment for the plaintiff—where the plaintiff had received full relief from the defendant. *Already, LLC* v. *Nike, Inc.*, 568 U. S. 85, 89–90, 101 (2013).

Per Curiam

# DUNCAN, WARDEN *v.* OWENS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 14–1516. Argued January 12, 2016—Decided January 20, 2016
Certiorari dismissed. Reported below: 781 F. 3d 360.

*Carolyn E. Shapiro*, Solicitor General of Illinois, argued the cause for petitioner. With her on the briefs were *Lisa Madigan*, Attorney General, *Brett E. Legner*, Deputy Solicitor General, and *Michael M. Glick* and *Garson S. Fischer*, Assistant Attorneys General.

*Barry Levenstam* argued the cause for respondent. With him on the brief were *Andrew W. Vail*, *Skyler J. Silvertrust*, *Jessica Ring Amunson*, and *Ishan K. Bhabha*.*

PER CURIAM.

The writ of certiorari is dismissed as improvidently granted.

*It is so ordered.*

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*A brief of *amici curiae* urging reversal was filed for the State of Washington et al. by *Robert W. Ferguson*, Attorney General of Washington, *Noah G. Purcell*, Solicitor General, *Alan D. Copsey*, Deputy Solicitor General, and *John J. Samson*, Assistant Attorney General, and by the Attorneys General and other officials for their respective States as follows: *Luther Strange* of Alabama, *Craig W. Richards* of Alaska, *Mark Brnovich* of Arizona, *Matthew P. Denn* of Delaware, *Pamela Jo Bondi* of Florida, *Lawrence G. Wasden* of Idaho, *Gregory F. Zoeller* of Indiana, *Derek Schmidt* of Kansas, *Bill Schuette* of Michigan, *Jim Hood* of Mississippi, *Timothy C. Fox* of Montana, *Douglas J. Peterson* of Nebraska, *Adam Paul Laxalt* of Nevada, *Joseph A. Foster* of New Hampshire, *Michael DeWine* of Ohio, *Ellen F. Rosenblum* of Oregon, *Bruce R. Beemer*, First Deputy Attorney General of Pennsylvania, *Peter F. Kilmartin* of Rhode Island, *Alan Wilson* of South Carolina, *Marty J. Jackley* of South Dakota, *Ken Paxton* of Texas, *Sean D. Reyes* of Utah, *Mark R. Herring* of Virginia, *Patrick Morrisey* of West Virginia, *Brad D. Schimel* of Wisconsin, and *Peter K. Michael* of Wyoming.

Syllabus

# MONTGOMERY *v.* LOUISIANA

## CERTIORARI TO THE SUPREME COURT OF LOUISIANA

No. 14–280. Argued October 13, 2015—Decided January 25, 2016

Petitioner Montgomery was 17 years old in 1963, when he killed a deputy sheriff in Louisiana. The jury returned a verdict of "guilty without capital punishment," which carried an automatic sentence of life without parole. Nearly 50 years after Montgomery was taken into custody, this Court decided that mandatory life without parole for juvenile homicide offenders violates the Eighth Amendment's prohibition on "'cruel and unusual punishments.'" *Miller* v. *Alabama*, 567 U. S. 460, 465. Montgomery sought state collateral relief, arguing that *Miller* rendered his mandatory life-without-parole sentence illegal. The trial court denied his motion, and his application for a supervisory writ was denied by the Louisiana Supreme Court, which had previously held that *Miller* does not have retroactive effect in cases on state collateral review.

*Held*:

1. This Court has jurisdiction to decide whether the Louisiana Supreme Court correctly refused to give retroactive effect to *Miller*. Pp. 197–205.

(a) *Teague* v. *Lane*, 489 U. S. 288, a federal habeas case, set forth a framework for the retroactive application of a new constitutional rule to convictions that were final when the new rule was announced. While the Court held that new constitutional rules of criminal procedure are generally not retroactive, it recognized that courts must give retroactive effect to new watershed procedural rules and to substantive rules of constitutional law. Substantive constitutional rules include "rules forbidding criminal punishment of certain primary conduct" and "rules prohibiting a certain category of punishment for a class of defendants because of their status or offense," *Penry* v. *Lynaugh*, 492 U. S. 302, 330. Court-appointed *amicus* contends that because *Teague* was an interpretation of the federal habeas statute, not a constitutional command, its retroactivity holding has no application in state collateral review proceedings. However, neither *Teague* nor *Danforth* v. *Minnesota*, 552 U. S. 264—which concerned only *Teague*'s general retroactivity bar for new constitutional rules of criminal procedure—had occasion to address whether States are required as a constitutional matter to give retroactive effect to new substantive rules. Pp. 197–200.

(b) When a new substantive rule of constitutional law controls the outcome of a case, the Constitution requires state collateral review

courts to give retroactive effect to that rule. This conclusion is established by precedents addressing the nature of substantive rules, their differences from procedural rules, and their history of retroactive application. As *Teague*, *supra*, at 292, 312, and *Penry*, *supra*, at 330, indicate, substantive rules set forth categorical constitutional guarantees that place certain criminal laws and punishments altogether beyond the State's power to impose. It follows that when a State enforces a proscription or penalty barred by the Constitution, the resulting conviction or sentence is, by definition, unlawful. In contrast, where procedural error has infected a trial, a conviction or sentence may still be accurate and the defendant's continued confinement may still be lawful, see *Schriro* v. *Summerlin*, 542 U. S. 348, 352–353; for this reason, a trial conducted under a procedure found unconstitutional in a later case does not automatically invalidate a defendant's conviction or sentence. The same possibility of a valid result does not exist where a substantive rule has eliminated a State's power to proscribe the defendant's conduct or impose a given punishment. See *United States* v. *United States Coin & Currency*, 401 U. S. 715, 724. By holding that new substantive rules are, indeed, retroactive, *Teague* continued a long tradition of recognizing that substantive rules must have retroactive effect regardless of when the defendant's conviction became final; for a conviction under an unconstitutional law "is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment," *Ex parte Siebold*, 100 U. S. 371, 376–377. The same logic governs a challenge to a punishment that the Constitution deprives States of authority to impose, *Penry*, *supra*, at 330. It follows that a court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced. This Court's precedents may not directly control the question here, but they bear on the necessary analysis, for a State that may not constitutionally insist that a prisoner remain in jail on federal habeas review may not constitutionally insist on the same result in its own postconviction proceedings. Pp. 200–205.

2. *Miller*'s prohibition on mandatory life without parole for juvenile offenders announced a new substantive rule that, under the Constitution, is retroactive in cases on state collateral review. The "foundation stone" for *Miller*'s analysis was the line of precedent holding certain punishments disproportionate when applied to juveniles, 567 U. S., at 470, n. 4. Relying on *Roper* v. *Simmons*, 543 U. S. 551, and *Graham* v. *Florida*, 560 U. S. 48, *Miller* recognized that children differ from adults in their "diminished culpability and greater prospects for reform," 567 U. S., at 471, and that these distinctions "diminish the penological justifications" for imposing life without parole on juvenile offend-

Syllabus

ers, *id.*, at 472. Because *Miller* determined that sentencing a child to life without parole is excessive for all but "'the rare juvenile offender whose crime reflects irreparable corruption,'" *id.*, at 479–480, it rendered life without parole an unconstitutional penalty for "a class of defendants because of their status"—*i. e.*, juvenile offenders whose crimes reflect the transient immaturity of youth, *Penry*, *supra*, at 330. *Miller* therefore announced a substantive rule of constitutional law, which, like other substantive rules, is retroactive because it "'necessarily carr[ies] a significant risk that a defendant'"—here, the vast majority of juvenile offenders—"'faces a punishment that the law cannot impose upon him.'" *Schriro*, *supra*, at 352.

A State may remedy a *Miller* violation by extending parole eligibility to juvenile offenders. This would neither impose an onerous burden on the States nor disturb the finality of state convictions. And it would afford someone like Montgomery, who submits that he has evolved from a troubled, misguided youth to a model member of the prison community, the opportunity to demonstrate the truth of *Miller*'s central intuition—that children who commit even heinous crimes are capable of change. Pp. 206–213.

2013–1163 (La. 6/20/14), 141 So. 3d 264, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS and ALITO, JJ., joined, *post*, p. 213. THOMAS, J., filed a dissenting opinion, *post*, p. 227.

*Richard D. Bernstein*, by invitation of the Court, 575 U. S. 933, argued the cause as *amicus curiae* against jurisdiction. With him on the briefs was *Frank Scaduto*.

*Mark D. Plaisance* argued the cause for petitioner. With him on the briefs were *Sean Collins*, *Marsha Levick*, *Emily C. Keller*, and *Jeffrey J. Pokorak*.

*Deputy Solicitor General Dreeben* argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli*, *Assistant Attorney General Caldwell*, *Nicole A. Saharsky*, and *Robert A. Parker*.

*S. Kyle Duncan* argued the cause for respondent. With him on the brief were *James D. "Buddy" Caldwell*, Attorney General of Louisiana, *Trey Phillips*, First Assistant Attor-

ney General, *Colin A. Clark*, Assistant Attorney General, *Hillar C. Moore III*, and *Dylan C. Alge*.*

JUSTICE KENNEDY delivered the opinion of the Court.

This is another case in a series of decisions involving the sentencing of offenders who were juveniles when their crimes were committed. In *Miller* v. *Alabama*, 567 U. S. 460 (2012), the Court held that a juvenile convicted of a homicide offense could not be sentenced to life in prison without parole absent consideration of the juvenile's special circumstances in light of the principles and purposes of juve-

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*Briefs of *amici curiae* urging reversal were filed for the American Bar Association by *William C. Hubbard* and *Lawrence A. Wojcik*; for the American Civil Liberties Union et al. by *Steven R. Shapiro*, *Brandon J. Buskey*, and *Ezekiel R. Edwards*; for Certain Family Members of Victims Killed by Youths by *Angela C. Vigil* and *Elizabeth L. Yingling*; for the Equal Justice Initiative by *Bryan A. Stevenson*, *Alicia A. D'Addario*, and *John W. Dalton*; for Former Juvenile Court Judges by *Douglas T. Kendall*, *Elizabeth B. Wydra*, and *Brianne J. Gorod*; for Northwestern University School of Law's Children and Family Justice Center et al. by *Steven A. Drizin*, *Laura H. Nirider*, *Megan G. Crane*, *Shobha L. Mahadev*, and *Scott F. Main*; for Douglas A. Berman by *Matthew C. Corcoran* and *Chad A. Readler*; and for Pascal F. Calogero, Jr., et al. by *Stephen M. Nickelsburg* and *Keith Nordyke*.

A brief of *amici curiae* urging affirmance was filed for the State of Michigan et al. by *Bill Schuette*, Attorney General of Michigan, *Aaron D. Lindstrom*, Solicitor General, and *B. Eric Restuccia*, Deputy Solicitor General, and by the Attorneys General for their respective States as follows: *Luther Strange* of Alabama, *Leslie Rutledge* of Arkansas, *George Jepsen* of Connecticut, *Gregory F. Zoeller* of Indiana, *Derek Schmidt* of Kansas, *Douglas J. Peterson* of Nebraska, *Timothy C. Fox* of Montana, *Adam Paul Laxalt* of Nevada, *Joseph A. Foster* of New Hampshire, *Peter F. Kilmartin* of Rhode Island, *Alan Wilson* of South Carolina, *Marty J. Jackley* of South Dakota, *Ken Paxton* of Texas, *Sean D. Reyes* of Utah, and *Peter K. Michael* of Wyoming.

*Charles J. Ogletree* and *Ronald Sullivan* filed a brief for Charles Hamilton Houston Institute for Race and Justice et al. as *amici curiae*.

*Robert L. Littlehale* and *Damon C. Andrews* filed a brief as *amicus curiae* for the Center on the Administration of Criminal Law in support of jurisdiction.

nile sentencing. In the wake of *Miller*, the question has arisen whether its holding is retroactive to juvenile offenders whose convictions and sentences were final when *Miller* was decided. Courts have reached different conclusions on this point. Compare, *e. g.*, *Martin* v. *Symmes*, 782 F. 3d 939, 943 (CA8 2015); *Johnson* v. *Ponton*, 780 F. 3d 219, 224–226 (CA4 2015); *Chambers* v. *State*, 831 N. W. 2d 311, 331 (Minn. 2013); and *State* v. *Tate*, 2012–2763, p. 17 (La. 11/5/13), 130 So. 3d 829, 841, with *Diatchenko* v. *District Attorney for Suffolk Dist.*, 466 Mass. 655, 661–667, 1 N. E. 3d 270, 278–282 (2013); *Aiken* v. *Byars*, 410 S. C. 534, 548, 765 S. E. 2d 572, 578 (2014); *State* v. *Mares*, 2014 WY 126, ¶¶47–63, 335 P. 3d 487, 504–508; and *People* v. *Davis*, 2014 IL 115595, ¶41, 6 N. E. 3d 709, 722. Certiorari was granted in this case to resolve the question.

## I

Petitioner is Henry Montgomery. In 1963, Montgomery killed Charles Hurt, a deputy sheriff in East Baton Rouge, Louisiana. Montgomery was 17 years old at the time of the crime. He was convicted of murder and sentenced to death, but the Louisiana Supreme Court reversed his conviction after finding that public prejudice had prevented a fair trial. *State* v. *Montgomery*, 181 So. 2d 756, 762 (1966).

Montgomery was retried. The jury returned a verdict of "guilty without capital punishment." *State* v. *Montgomery*, 242 So. 2d 818 (La. 1970). Under Louisiana law, this verdict required the trial court to impose a sentence of life without parole. The sentence was automatic upon the jury's verdict, so Montgomery had no opportunity to present mitigation evidence to justify a less severe sentence. That evidence might have included Montgomery's young age at the time of the crime; expert testimony regarding his limited capacity for foresight, self-discipline, and judgment; and his potential for rehabilitation. Montgomery, now 69 years old, has spent almost his entire life in prison.

Almost 50 years after Montgomery was first taken into custody, this Court decided *Miller* v. *Alabama*, 567 U. S. 460. *Miller* held that mandatory life without parole for juvenile homicide offenders violates the Eighth Amendment's prohibition on "'cruel and unusual punishments.'" *Id.*, at 465. "By making youth (and all that accompanies it) irrelevant to imposition of that harshest prison sentence," mandatory life without parole "poses too great a risk of disproportionate punishment." *Id.*, at 479. *Miller* required that sentencing courts consider a child's "diminished culpability and heightened capacity for change" before condemning him or her to die in prison. *Ibid.* Although *Miller* did not foreclose a sentencer's ability to impose life without parole on a juvenile, the Court explained that a lifetime in prison is a disproportionate sentence for all but the rarest of children, those whose crimes reflect "'irreparable corruption.'" *Id.*, at 479–480 (quoting *Roper* v. *Simmons*, 543 U. S. 551, 573 (2005)).

After this Court issued its decision in *Miller*, Montgomery sought collateral review of his mandatory life-without-parole sentence. In Louisiana there are two principal mechanisms for collateral challenge to the lawfulness of imprisonment. Each begins with a filing in the trial court where the prisoner was convicted and sentenced. La. Code Crim. Proc. Ann., Arts. 882, 926 (West 2008). The first procedure permits a prisoner to file an application for postconviction relief on one or more of seven grounds set forth in the statute. Art. 930.3. The Louisiana Supreme Court has held that none of those grounds provides a basis for collateral review of sentencing errors. See *State ex rel. Melinie* v. *State*, 93–1380 (La. 1/12/96), 665 So. 2d 1172 (*per curiam*). Sentencing errors must instead be raised through Louisiana's second collateral review procedure.

This second mechanism allows a prisoner to bring a collateral attack on his or her sentence by filing a motion to correct an illegal sentence. See Art. 882. Montgomery invoked

this procedure in the East Baton Rouge Parish District Court.

The state statute provides that "[a]n illegal sentence may be corrected at any time by the court that imposed the sentence." *Ibid.* An illegal sentence "is primarily restricted to those instances in which the *term* of the prisoner's sentence is not authorized by the statute or statutes which govern the penalty" for the crime of conviction. *State* v. *Mead*, 2014–1051, p. 3 (La. App. 4 Cir. 4/22/15), 165 So. 3d 1044, 1047; see also *State* v. *Alexander*, 2014–0401 (La. 11/7/14), 152 So. 3d 137 (*per curiam*). In the ordinary course Louisiana courts will not consider a challenge to a disproportionate sentence on collateral review; rather, as a general matter, it appears that prisoners must raise Eighth Amendment sentencing challenges on direct review. See *State* v. *Gibbs*, 620 So. 2d 296, 296–297 (La. App. 1993); *Mead*, *supra*, at 1047.

Louisiana's collateral review courts will, however, consider a motion to correct an illegal sentence based on a decision of this Court holding that the Eighth Amendment to the Federal Constitution prohibits a punishment for a type of crime or a class of offenders. When, for example, this Court held in *Graham* v. *Florida*, 560 U. S. 48 (2010), that the Eighth Amendment bars life-without-parole sentences for juvenile nonhomicide offenders, Louisiana courts heard *Graham* claims brought by prisoners whose sentences had long been final. See, *e. g.*, *State* v. *Shaffer*, 2011–1756, pp. 1–4 (La. 11/23/11), 77 So. 3d 939, 940–942 (*per curiam*) (considering motion to correct an illegal sentence on the ground that *Graham* rendered illegal a life-without-parole sentence for a juvenile nonhomicide offender). Montgomery's motion argued that *Miller* rendered his mandatory life-without-parole sentence illegal.

The trial court denied Montgomery's motion on the ground that *Miller* is not retroactive on collateral review. Montgomery then filed an application for a supervisory writ. The Louisiana Supreme Court denied the application. 2013–

1163 (6/20/14), 141 So. 3d 264. The court relied on its earlier decision in *State* v. *Tate*, 130 So. 3d 829, which held that *Miller* does not have retroactive effect in cases on state collateral review. Chief Justice Johnson and Justice Hughes dissented in *Tate*, and Chief Justice Johnson again noted her dissent in Montgomery's case.

This Court granted Montgomery's petition for certiorari. The petition presented the question "whether *Miller* adopts a new substantive rule that applies retroactively on collateral review to people condemned as juveniles to die in prison." Pet. for Cert. i. In addition, the Court directed the parties to address the following question: "Do we have jurisdiction to decide whether the Supreme Court of Louisiana correctly refused to give retroactive effect in this case to our decision in *Miller*?" 575 U. S. 911 (2015).

## II

The parties agree that the Court has jurisdiction to decide this case. To ensure this conclusion is correct, the Court appointed Richard D. Bernstein as *amicus curiae* to brief and argue the position that the Court lacks jurisdiction. He has ably discharged his assigned responsibilities.

*Amicus* argues that a State is under no obligation to give a new rule of constitutional law retroactive effect in its own collateral review proceedings. As those proceedings are created by state law and under the State's plenary control, *amicus* contends, it is for state courts to define applicable principles of retroactivity. Under this view, the Louisiana Supreme Court's decision does not implicate a federal right; it only determines the scope of relief available in a particular type of state proceeding—a question of state law beyond this Court's power to review.

If, however, the Constitution establishes a rule and requires that the rule have retroactive application, then a state court's refusal to give the rule retroactive effect is reviewable by this Court. Cf. *Griffith* v. *Kentucky*, 479 U. S. 314,

328 (1987) (holding that on direct review, a new constitutional rule must be applied retroactively "to all cases, state or federal"). States may not disregard a controlling, constitutional command in their own courts. See *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 340–341, 344 (1816); see also *Yates* v. *Aiken*, 484 U. S. 211, 218 (1988) (when a State has not "placed any limit on the issues that it will entertain in collateral proceedings . . . it has a duty to grant the relief that federal law requires"). *Amicus*' argument therefore hinges on the premise that this Court's retroactivity precedents are not a constitutional mandate.

Justice O'Connor's plurality opinion in *Teague* v. *Lane*, 489 U. S. 288 (1989), set forth a framework for retroactivity in cases on federal collateral review. Under *Teague*, a new constitutional rule of criminal procedure does not apply, as a general matter, to convictions that were final when the new rule was announced. *Teague* recognized, however, two categories of rules that are not subject to its general retroactivity bar. First, courts must give retroactive effect to new substantive rules of constitutional law. Substantive rules include "rules forbidding criminal punishment of certain primary conduct," as well as "rules prohibiting a certain category of punishment for a class of defendants because of their status or offense." *Penry* v. *Lynaugh*, 492 U. S. 302, 330 (1989); see also *Teague*, *supra*, at 307. Although *Teague* describes new substantive rules as an exception to the bar on retroactive application of procedural rules, this Court has recognized that substantive rules "are more accurately characterized as . . . not subject to the bar." *Schriro* v. *Summerlin*, 542 U. S. 348, 352, n. 4 (2004). Second, courts must give retroactive effect to new "'"watershed rules of criminal procedure" implicating the fundamental fairness and accuracy of the criminal proceeding.'" *Id.*, at 352; see also *Teague*, 489 U. S., at 312–313.

It is undisputed, then, that *Teague* requires the retroactive application of new substantive and watershed procedural

rules in federal habeas proceedings. *Amicus*, however, contends that *Teague* was an interpretation of the federal habeas statute, not a constitutional command; and so, the argument proceeds, *Teague*'s retroactivity holding simply has no application in a State's own collateral review proceedings.

To support this claim, *amicus* points to language in *Teague* that characterized the Court's task as "'defin[ing] the scope of the writ.'" *Id.*, at 308 (quoting *Kuhlmann* v. *Wilson*, 477 U. S. 436, 447 (1986) (plurality opinion)); see also 489 U. S., at 317 (White, J., concurring in part and concurring in judgment) ("If we are wrong in construing the reach of the habeas corpus statutes, Congress can of course correct us . . . "); *id.*, at 332 (Brennan, J., dissenting) ("No new facts or arguments have come to light suggesting that our [past] reading of the federal habeas statute . . . was plainly mistaken").

In addition, *amicus* directs us to *Danforth* v. *Minnesota*, 552 U. S. 264 (2008), in which a majority of the Court held that *Teague* does not preclude state courts from giving retroactive effect to a broader set of new constitutional rules than *Teague* itself required. 552 U. S., at 266. The *Danforth* majority concluded that *Teague*'s general rule of nonretroactivity for new constitutional rules of criminal procedure "was an exercise of this Court's power to interpret the federal habeas statute." 552 U. S., at 278. Since *Teague*'s retroactivity bar "limit[s] only the scope of *federal* habeas relief," the *Danforth* majority reasoned, States are free to make new procedural rules retroactive on state collateral review. 552 U. S., at 281–282.

*Amicus*, however, reads too much into these statements. Neither *Teague* nor *Danforth* had reason to address whether States are required as a constitutional matter to give retroactive effect to new substantive or watershed procedural rules. *Teague* originated in a federal, not state, habeas proceeding; so it had no particular reason to discuss whether any part of its holding was required by the Constitution in addition to the federal habeas statute. And *Danforth* held

only that *Teague*'s general rule of nonretroactivity was an interpretation of the federal habeas statute and does not prevent States from providing greater relief in their own collateral review courts. The *Danforth* majority limited its analysis to *Teague*'s general retroactivity bar, leaving open the question whether *Teague*'s two exceptions are binding on the States as a matter of constitutional law. 552 U. S., at 278; see also *id.*, at 277 ("[T]he case before us now does not involve either of the '*Teague* exceptions' ").

In this case, the Court must address part of the question left open in *Danforth*. The Court now holds that when a new substantive rule of constitutional law controls the outcome of a case, the Constitution requires state collateral review courts to give retroactive effect to that rule. *Teague*'s conclusion establishing the retroactivity of new substantive rules is best understood as resting upon constitutional premises. That constitutional command is, like all federal law, binding on state courts. This holding is limited to *Teague*'s first exception for substantive rules; the constitutional status of *Teague*'s exception for watershed rules of procedure need not be addressed here.

This Court's precedents addressing the nature of substantive rules, their differences from procedural rules, and their history of retroactive application establish that the Constitution requires substantive rules to have retroactive effect regardless of when a conviction became final.

The category of substantive rules discussed in *Teague* originated in Justice Harlan's approach to retroactivity. *Teague* adopted that reasoning. See 489 U. S., at 292, 312 (discussing *Mackey* v. *United States*, 401 U. S. 667, 692 (1971) (opinion concurring in judgments in part and dissenting in part); and *Desist* v. *United States*, 394 U. S. 244, 261, n. 2 (1969) (dissenting opinion)). Justice Harlan defined substantive constitutional rules as "those that place, as a matter of constitutional interpretation, certain kinds of primary, private individual conduct beyond the power of the criminal

law-making authority to proscribe." *Mackey*, *supra*, at 692. In *Penry* v. *Lynaugh*, decided four months after *Teague*, the Court recognized that "the first exception set forth in *Teague* should be understood to cover not only rules forbidding criminal punishment of certain primary conduct but also rules prohibiting a certain category of punishment for a class of defendants because of their status or offense." 492 U. S., at 330. *Penry* explained that Justice Harlan's first exception spoke "in terms of substantive categorical guarantees accorded by the Constitution, regardless of the procedures followed." *Id.*, at 329. Whether a new rule bars States from proscribing certain conduct or from inflicting a certain punishment, "[i]n both cases, the Constitution itself deprives the State of the power to impose a certain penalty." *Id.*, at 330.

Substantive rules, then, set forth categorical constitutional guarantees that place certain criminal laws and punishments altogether beyond the State's power to impose. It follows that when a State enforces a proscription or penalty barred by the Constitution, the resulting conviction or sentence is, by definition, unlawful. Procedural rules, in contrast, are designed to enhance the accuracy of a conviction or sentence by regulating "the *manner of determining* the defendant's culpability." *Schriro*, 542 U. S., at 353; *Teague*, *supra*, at 313. Those rules "merely raise the possibility that someone convicted with use of the invalidated procedure might have been acquitted otherwise." *Schriro*, *supra*, at 352. Even where procedural error has infected a trial, the resulting conviction or sentence may still be accurate; and, by extension, the defendant's continued confinement may still be lawful. For this reason, a trial conducted under a procedure found to be unconstitutional in a later case does not, as a general matter, have the automatic consequence of invalidating a defendant's conviction or sentence.

The same possibility of a valid result does not exist where a substantive rule has eliminated a State's power to proscribe the defendant's conduct or impose a given punishment.

"[E]ven the use of impeccable factfinding procedures could not legitimate a verdict" where "the conduct being penalized is constitutionally immune from punishment." *United States* v. *United States Coin & Currency*, 401 U. S. 715, 724 (1971). Nor could the use of flawless sentencing procedures legitimate a punishment where the Constitution immunizes the defendant from the sentence imposed. "No circumstances call more for the invocation of a rule of complete retroactivity." *Ibid.*

By holding that new substantive rules are, indeed, retroactive, *Teague* continued a long tradition of giving retroactive effect to constitutional rights that go beyond procedural guarantees. See *Mackey*, *supra*, at 692–693 (opinion of Harlan, J.) ("[T]he writ has historically been available for attacking convictions on [substantive] grounds"). Before *Brown* v. *Allen*, 344 U. S. 443 (1953), "federal courts would never consider the merits of a constitutional claim if the habeas petitioner had a fair opportunity to raise his arguments in the original proceeding." *Desist*, 394 U. S., at 261 (Harlan, J., dissenting). Even in the pre-1953 era of restricted federal habeas, however, an exception was made "when the habeas petitioner attacked the constitutionality of the state statute under which he had been convicted. Since, in this situation, the State had no power to proscribe the conduct for which the petitioner was imprisoned, it could not constitutionally insist that he remain in jail." *Id.*, at 261, n. 2 (citation omitted).

In *Ex parte Siebold*, 100 U. S. 371 (1880), the Court addressed why substantive rules must have retroactive effect regardless of when the defendant's conviction became final. At the time of that decision, "[m]ere error in the judgment or proceedings, under and by virtue of which a party is imprisoned, constitute[d] no ground for the issue of the writ." *Id.*, at 375. Before *Siebold*, the law might have been thought to establish that so long as the conviction and sentence were imposed by a court of competent jurisdiction, no

habeas relief could issue. In *Siebold*, however, the petitioners attacked the judgments on the ground that they had been convicted under unconstitutional statutes. The Court explained that if "this position is well taken, it affects the foundation of the whole proceedings." *Id.*, at 376. A conviction under an unconstitutional law

> "is not merely erroneous, but is illegal and void, and cannot be a legal cause of imprisonment. It is true, if no writ of error lies, the judgment may be final, in the sense that there may be no means of reversing it. But . . . if the laws are unconstitutional and void, the Circuit Court acquired no jurisdiction of the causes." *Id.*, at 376–377.

As discussed, the Court has concluded that the same logic governs a challenge to a punishment that the Constitution deprives States of authority to impose. *Penry*, 492 U. S., at 330; see also Friendly, Is Innocence Irrelevant? Collateral Attack on Criminal Judgments, 38 U. Chi. L. Rev. 142, 151 (1970) ("Broadly speaking, the original sphere for collateral attack on a conviction was where the tribunal lacked jurisdiction either in the usual sense or because the statute under which the defendant had been prosecuted was unconstitutional or because the sentence was one the court could not lawfully impose" (footnote omitted)). A conviction or sentence imposed in violation of a substantive rule is not just erroneous but contrary to law and, as a result, void. See *Siebold*, 100 U. S., at 376. It follows, as a general principle, that a court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced.

*Siebold* and the other cases discussed in this opinion, of course, do not directly control the question the Court now answers for the first time. These precedents did not involve a state court's postconviction review of a conviction or sen-

tence and so did not address whether the Constitution requires new substantive rules to have retroactive effect in cases on state collateral review. These decisions, however, have important bearing on the analysis necessary in this case.

In support of its holding that a conviction obtained under an unconstitutional law warrants habeas relief, the *Siebold* Court explained that "[a]n unconstitutional law is void, and is as no law." *Ibid.* A penalty imposed pursuant to an unconstitutional law is no less void because the prisoner's sentence became final before the law was held unconstitutional. There is no grandfather clause that permits States to enforce punishments the Constitution forbids. To conclude otherwise would undercut the Constitution's substantive guarantees. Writing for the Court in *United States Coin & Currency*, Justice Harlan made this point when he declared that "[n]o circumstances call more for the invocation of a rule of complete retroactivity" than when "the conduct being penalized is constitutionally immune from punishment." 401 U. S., at 724. *United States Coin & Currency* involved a case on direct review; yet, for the reasons explained in this opinion, the same principle should govern the application of substantive rules on collateral review. As Justice Harlan explained, where a State lacked the power to proscribe the habeas petitioner's conduct, "it could not constitutionally insist that he remain in jail." *Desist*, *supra*, at 261, n. 2 (dissenting opinion).

If a State may not constitutionally insist that a prisoner remain in jail on federal habeas review, it may not constitutionally insist on the same result in its own postconviction proceedings. Under the Supremacy Clause of the Constitution, state collateral review courts have no greater power than federal habeas courts to mandate that a prisoner continue to suffer punishment barred by the Constitution. If a state collateral proceeding is open to a claim controlled by federal law, the state court "has a duty to grant the relief

that federal law requires." *Yates*, 484 U. S., at 218. Where state collateral review proceedings permit prisoners to challenge the lawfulness of their confinement, States cannot refuse to give retroactive effect to a substantive constitutional right that determines the outcome of that challenge.

As a final point, it must be noted that the retroactive application of substantive rules does not implicate a State's weighty interests in ensuring the finality of convictions and sentences. *Teague* warned against the intrusiveness of "*continually* forc[ing] the States to marshal resources in order to keep in prison defendants whose trials and appeals conformed to then-existing constitutional standards." 489 U. S., at 310. This concern has no application in the realm of substantive rules, for no resources marshaled by a State could preserve a conviction or sentence that the Constitution deprives the State of power to impose. See *Mackey*, 401 U. S., at 693 (opinion of Harlan, J.) ("There is little societal interest in permitting the criminal process to rest at a point where it ought properly never to repose").

In adjudicating claims under its collateral review procedures a State may not deny a controlling right asserted under the Constitution, assuming the claim is properly presented in the case. Louisiana follows these basic Supremacy Clause principles in its postconviction proceedings for challenging the legality of a sentence. The State's collateral review procedures are open to claims that a decision of this Court has rendered certain sentences illegal, as a substantive matter, under the Eighth Amendment. See, *e. g.*, *State* v. *Dyer*, 2011–1758, pp. 1–2 (La. 11/23/11), 77 So. 3d 928, 928–929 (*per curiam*) (considering claim on collateral review that this Court's decision in *Graham* v. *Florida*, 560 U. S. 48, rendered petitioner's life-without-parole sentence illegal). Montgomery alleges that *Miller* announced a substantive constitutional rule and that the Louisiana Supreme Court erred by failing to recognize its retroactive effect. This Court has jurisdiction to review that determination.

## III

This leads to the question whether *Miller*'s prohibition on mandatory life without parole for juvenile offenders indeed did announce a new substantive rule that, under the Constitution, must be retroactive.

As stated above, a procedural rule "regulate[s] only the *manner of determining* the defendant's culpability." *Schriro*, 542 U. S., at 353. A substantive rule, in contrast, forbids "criminal punishment of certain primary conduct" or prohibits "a certain category of punishment for a class of defendants because of their status or offense." *Penry*, 492 U. S., at 330; see also *Schriro*, *supra*, at 353 (A substantive rule "alters the range of conduct or the class of persons that the law punishes"). Under this standard, and for the reasons explained below, *Miller* announced a substantive rule that is retroactive in cases on collateral review.

The "foundation stone" for *Miller*'s analysis was this Court's line of precedent holding certain punishments disproportionate when applied to juveniles. 567 U. S., at 470, n. 4. Those cases include *Graham* v. *Florida*, *supra*, which held that the Eighth Amendment bars life without parole for juvenile nonhomicide offenders, and *Roper* v. *Simmons*, 543 U. S. 551, which held that the Eighth Amendment prohibits capital punishment for those under the age of 18 at the time of their crimes. Protection against disproportionate punishment is the central substantive guarantee of the Eighth Amendment and goes far beyond the manner of determining a defendant's sentence. See *Graham*, *supra*, at 59 ("The concept of proportionality is central to the Eighth Amendment"); see also *Weems* v. *United States*, 217 U. S. 349, 367 (1910); *Harmelin* v. *Michigan*, 501 U. S. 957, 997–998 (1991) (KENNEDY, J., concurring in part and concurring in judgment).

*Miller* took as its starting premise the principle established in *Roper* and *Graham* that "children are constitutionally different from adults for purposes of sentencing." 567

U. S., at 471 (citing *Roper*, *supra*, at 569–570; and *Graham*, *supra*, at 68). These differences result from children's "diminished culpability and greater prospects for reform," and are apparent in three primary ways:

> "First, children have a 'lack of maturity and an underdeveloped sense of responsibility,' leading to recklessness, impulsivity, and heedless risk-taking. Second, children 'are more vulnerable to negative influences and outside pressures,' including from their family and peers; they have limited 'control over their own environment' and lack the ability to extricate themselves from horrific, crime-producing settings. And third, a child's character is not as 'well formed' as an adult's; his traits are 'less fixed' and his actions less likely to be 'evidence of irretrievable depravity.'" 567 U. S., at 471 (quoting *Roper*, *supra*, at 569–570; alterations, citations, and some internal quotation marks omitted).

As a corollary to a child's lesser culpability, *Miller* recognized that "the distinctive attributes of youth diminish the penological justifications" for imposing life without parole on juvenile offenders. 567 U. S., at 472. Because retribution "relates to an offender's blameworthiness, the case for retribution is not as strong with a minor as with an adult." *Ibid.* (quoting *Graham*, *supra*, at 71; internal quotation marks omitted). The deterrence rationale likewise does not suffice, since "the same characteristics that render juveniles less culpable than adults—their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment." 567 U. S., at 472 (internal quotation marks omitted). The need for incapacitation is lessened, too, because ordinary adolescent development diminishes the likelihood that a juvenile offender "'forever will be a danger to society.'" *Ibid.* (quoting *Graham*, *supra*, at 72). Rehabilitation is not a satisfactory rationale, either. Rehabilitation cannot justify the sentence, as life without parole "for-

swears altogether the rehabilitative ideal." 567 U. S., at 473 (quoting *Graham*, *supra*, at 74).

These considerations underlay the Court's holding in *Miller* that mandatory life-without-parole sentences for children "pos[e] too great a risk of disproportionate punishment." 567 U. S., at 479. *Miller* requires that before sentencing a juvenile to life without parole, the sentencing judge take into account "how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.*, at 480. The Court recognized that a sentencer might encounter the rare juvenile offender who exhibits such irretrievable depravity that rehabilitation is impossible and life without parole is justified. But in light of "children's diminished culpability and heightened capacity for change," *Miller* made clear that "appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon." *Id.*, at 479.

*Miller*, then, did more than require a sentencer to consider a juvenile offender's youth before imposing life without parole; it established that the penological justifications for life without parole collapse in light of "the distinctive attributes of youth." *Id.*, at 472. Even if a court considers a child's age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a child whose crime reflects "'unfortunate yet transient immaturity.'" *Id.*, at 479 (quoting *Roper*, *supra*, at 573). Because *Miller* determined that sentencing a child to life without parole is excessive for all but "'the rare juvenile offender whose crime reflects irreparable corruption,'" 567 U. S., at 479–480 (quoting *Roper*, *supra*, at 573), it rendered life without parole an unconstitutional penalty for "a class of defendants because of their status"—that is, juvenile offenders whose crimes reflect the transient immaturity of youth, *Penry*, 492 U. S., at 330. As a result, *Miller* announced a substantive rule of constitutional law. Like other substantive rules, *Miller* is retroactive because it "'necessarily car-

r[ies] a significant risk that a defendant' "—here, the vast majority of juvenile offenders—"faces a punishment that the law cannot impose upon him." *Schriro*, 542 U. S., at 352 (quoting *Bousley* v. *United States*, 523 U. S. 614, 620 (1998)).

Louisiana nonetheless argues that *Miller* is procedural because it did not place any punishment beyond the State's power to impose; it instead required sentencing courts to take children's age into account before condemning them to die in prison. In support of this argument, Louisiana points to *Miller*'s statement that the decision "does not categorically bar a penalty for a class of offenders or type of crime—as, for example, we did in *Roper* or *Graham*. Instead, it mandates only that a sentencer follow a certain process—considering an offender's youth and attendant characteristics—before imposing a particular penalty." *Miller*, *supra*, at 483. *Miller*, it is true, did not bar a punishment for all juvenile offenders, as the Court did in *Roper* or *Graham*. *Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility. For that reason, *Miller* is no less substantive than are *Roper* and *Graham*. Before *Miller*, every juvenile convicted of a homicide offense could be sentenced to life without parole. After *Miller*, it will be the rare juvenile offender who can receive that same sentence. The only difference between *Roper* and *Graham*, on the one hand, and *Miller*, on the other hand, is that *Miller* drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption. The fact that life without parole could be a proportionate sentence for the latter kind of juvenile offender does not mean that all other children imprisoned under a disproportionate sentence have not suffered the deprivation of a substantive right.

To be sure, *Miller*'s holding has a procedural component. *Miller* requires a sentencer to consider a juvenile offender's youth and attendant characteristics before determining that

life without parole is a proportionate sentence. See 567 U. S., at 483. Louisiana contends that because *Miller* requires this process, it must have set forth a procedural rule. This argument, however, conflates a procedural requirement necessary to implement a substantive guarantee with a rule that "regulate[s] only the *manner of determining* the defendant's culpability." *Schriro*, *supra*, at 353. There are instances in which a substantive change in the law must be attended by a procedure that enables a prisoner to show that he falls within the category of persons whom the law may no longer punish. See *Mackey*, 401 U. S., at 692, n. 7 (opinion of Harlan, J.) ("Some rules may have both procedural and substantive ramifications, as I have used those terms here"). For example, when an element of a criminal offense is deemed unconstitutional, a prisoner convicted under that offense receives a new trial where the government must prove the prisoner's conduct still fits within the modified definition of the crime. In a similar vein, when the Constitution prohibits a particular form of punishment for a class of persons, an affected prisoner receives a procedure through which he can show that he belongs to the protected class. See, *e. g.*, *Atkins* v. *Virginia*, 536 U. S. 304, 317 (2002) (requiring a procedure to determine whether a particular individual with an intellectual disability "fall[s] within the range of [intellectually disabled] offenders about whom there is a national consensus" that execution is impermissible). Those procedural requirements do not, of course, transform substantive rules into procedural ones.

The procedure *Miller* prescribes is no different. A hearing where "youth and its attendant characteristics" are considered as sentencing factors is necessary to separate those juveniles who may be sentenced to life without parole from those who may not. 567 U. S., at 465. The hearing does not replace but rather gives effect to *Miller*'s substantive holding that life without parole is an excessive sentence for children whose crimes reflect transient immaturity.

Louisiana suggests that *Miller* cannot have made a constitutional distinction between children whose crimes reflect transient immaturity and those whose crimes reflect irreparable corruption because *Miller* did not require trial courts to make a finding of fact regarding a child's incorrigibility. That this finding is not required, however, speaks only to the degree of procedure *Miller* mandated in order to implement its substantive guarantee. When a new substantive rule of constitutional law is established, this Court is careful to limit the scope of any attendant procedural requirement to avoid intruding more than necessary upon the States' sovereign administration of their criminal justice systems. See *Ford* v. *Wainwright*, 477 U. S. 399, 416–417 (1986) ("[W]e leave to the State[s] the task of developing appropriate ways to enforce the constitutional restriction upon [their] execution of sentences"). Fidelity to this important principle of federalism, however, should not be construed to demean the substantive character of the federal right at issue. That *Miller* did not impose a formal factfinding requirement does not leave States free to sentence a child whose crime reflects transient immaturity to life without parole. To the contrary, *Miller* established that this punishment is disproportionate under the Eighth Amendment.

For this reason, the death penalty cases Louisiana cites in support of its position are inapposite. See, *e. g.*, *Beard* v. *Banks*, 542 U. S. 406, 408 (2004) (holding nonretroactive the rule that forbids instructing a jury to disregard mitigating factors not found by a unanimous vote); *O'Dell* v. *Netherland*, 521 U. S. 151, 153 (1997) (holding nonretroactive the rule providing that, if the prosecutor cites future dangerousness, the defendant may inform the jury of his ineligibility for parole); *Sawyer* v. *Smith*, 497 U. S. 227, 229 (1990) (holding nonretroactive the rule that forbids suggesting to a capital jury that it is not responsible for a death sentence). Those decisions altered the processes in which States must engage before sentencing a person to death. The processes may have had

some effect on the likelihood that capital punishment would be imposed, but none of those decisions rendered a certain penalty unconstitutionally excessive for a category of offenders.

The Court now holds that *Miller* announced a substantive rule of constitutional law. The conclusion that *Miller* states a substantive rule comports with the principles that informed *Teague*. *Teague* sought to balance the important goals of finality and comity with the liberty interests of those imprisoned pursuant to rules later deemed unconstitutional. *Miller*'s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution.

Giving *Miller* retroactive effect, moreover, does not require States to relitigate sentences, let alone convictions, in every case where a juvenile offender received mandatory life without parole. A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them. See, *e. g.*, Wyo. Stat. Ann. § 6–10–301(c) (2013) (juvenile homicide offenders eligible for parole after 25 years). Allowing those offenders to be considered for parole ensures that juveniles whose crimes reflected only transient immaturity—and who have since matured—will not be forced to serve a disproportionate sentence in violation of the Eighth Amendment.

Extending parole eligibility to juvenile offenders does not impose an onerous burden on the States, nor does it disturb the finality of state convictions. Those prisoners who have shown an inability to reform will continue to serve life sentences. The opportunity for release will be afforded to those who demonstrate the truth of *Miller*'s central intuition—that children who commit even heinous crimes are capable of change.

Petitioner has discussed in his submissions to this Court his evolution from a troubled, misguided youth to a model

member of the prison community. Petitioner states that he helped establish an inmate boxing team, of which he later became a trainer and coach. He alleges that he has contributed his time and labor to the prison's silkscreen department and that he strives to offer advice and serve as a role model to other inmates. These claims have not been tested or even addressed by the State, so the Court does not confirm their accuracy. Petitioner's submissions are relevant, however, as an example of one kind of evidence that prisoners might use to demonstrate rehabilitation.

* * *

Henry Montgomery has spent each day of the past 46 years knowing he was condemned to die in prison. Perhaps it can be established that, due to exceptional circumstances, this fate was a just and proportionate punishment for the crime he committed as a 17-year-old boy. In light of what this Court has said in *Roper*, *Graham*, and *Miller* about how children are constitutionally different from adults in their level of culpability, however, prisoners like Montgomery must be given the opportunity to show their crime did not reflect irreparable corruption; and, if it did not, their hope for some years of life outside prison walls must be restored.

The judgment of the Supreme Court of Louisiana is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

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

The Court has no jurisdiction to decide this case, and the decision it arrives at is wrong. I respectfully dissent.

## I. Jurisdiction

Louisiana postconviction courts willingly entertain Eighth Amendment claims but, with limited exceptions, apply the

law as it existed when the state prisoner was convicted and sentenced. Shortly after this Court announced *Teague* v. *Lane*, 489 U. S. 288 (1989), the Louisiana Supreme Court adopted *Teague*'s framework to govern the provision of postconviction remedies available to *state* prisoners in its *state* courts as a matter of *state* law. *Taylor* v. *Whitley*, 606 So. 2d 1292 (1992). In doing so, the court stated that it was "not bound" to adopt that federal framework. *Id.*, at 1296. One would think, then, that it is none of our business that a 69-year-old Louisiana prisoner's state-law motion to be resentenced according to *Miller* v. *Alabama*, 567 U. S. 460 (2012), a case announced almost half a century after his sentence was final, was met with a firm rejection on state-law grounds by the Louisiana Supreme Court. But a majority of this Court, eager to reach the merits of this case, resolves the question of our jurisdiction by deciding that the Constitution *requires* state postconviction courts to adopt *Teague*'s exception for so-called "substantive" new rules and to provide state-law remedies for the violations of those rules to prisoners whose sentences long ago became final. This conscription into federal service of state postconviction courts is nothing short of astonishing.

## A

*Teague* announced that federal courts could not grant habeas corpus to overturn state convictions on the basis of a "new rule" of constitutional law—meaning one announced after the convictions became final—*unless* that new rule was a "substantive rule" or a "watershed rul[e] of criminal procedure." 489 U. S., at 311. The *Teague* prescription followed from Justice Harlan's view of the "retroactivity problem" detailed in his separate opinion in *Desist* v. *United States*, 394 U. S. 244, 256 (1969) (dissenting opinion), and later in *Mackey* v. *United States*, 401 U. S. 667, 675 (1971) (opinion concurring in judgment in part and dissenting in part). Placing the

rule's first exception in context requires more analysis than the majority has applied.

The Court in the mid-20th century was confounded by what Justice Harlan called the "swift pace of constitutional change," *Pickelsimer* v. *Wainwright*, 375 U. S. 2, 4 (1963) (dissenting opinion), as it vacated and remanded many cases in the wake of *Gideon* v. *Wainwright*, 372 U. S. 335 (1963). Justice Harlan called upon the Court to engage in "informed and deliberate consideration" of "whether the States are constitutionally required to apply [*Gideon*'s] new rule retrospectively, which may well require the reopening of cases long since finally adjudicated in accordance with then applicable decisions of this Court." *Pickelsimer*, *supra*, at 3. The Court answered that call in *Linkletter* v. *Walker*, 381 U. S. 618 (1965). *Linkletter* began with the premise "that we are neither required to apply, nor prohibited from applying, a decision retrospectively" and went on to adopt an equitable rule-by-rule approach to retroactivity, considering "the prior history of the rule in question, its purpose and effect, and whether retrospective operation will further or retard its operation." *Id.*, at 629.

The *Linkletter* framework proved unworkable when the Court began applying the rule-by-rule approach not only to cases on collateral review but also to cases on direct review, rejecting any distinction "between convictions now final" and "convictions at various stages of trial and direct review." *Stovall* v. *Denno*, 388 U. S. 293, 300 (1967). It was this rejection that drew Justice Harlan's reproach in *Desist* and later in *Mackey*. He urged that "all 'new' rules of constitutional law must, at a minimum, be applied to all those cases which are still subject to direct review by this Court at the time the 'new' decision is handed down." *Desist*, *supra*, at 258 (dissenting opinion). "Simply fishing one case from the stream of appellate review, using it as a vehicle for pronouncing new constitutional standards, and then permitting a

stream of similar cases subsequently to flow by unaffected by that new rule constitute an indefensible departure from th[e] model of judicial review." *Mackey*, *supra*, at 679.

The decision in *Griffith* v. *Kentucky*, 479 U. S. 314 (1987), heeded this constitutional concern. The Court jettisoned the *Linkletter* test for cases pending on direct review and adopted for them Justice Harlan's rule of redressability: "[F]ailure to apply a newly declared constitutional rule to criminal cases pending on direct review violates basic norms of *constitutional* adjudication." 479 U. S., at 322 (emphasis added). We established in *Griffith* that this Court must play by our own "old rules"—rules we have settled before the defendant's conviction and sentence become final, even those that are a clear break from existing precedent—for cases pending before us on direct appeal. *Id.*, at 323. Since the *Griffith* rule is constitutionally compelled, we instructed the lower state and federal courts to comply with it as well. *Ibid.*

When *Teague* followed on *Griffith*'s heels two years later, the opinion contained no discussion of "basic norms of constitutional adjudication," *Griffith*, *supra*, at 322, nor any discussion of the obligations of state courts. Doing away with *Linkletter* for good, the Court adopted Justice Harlan's solution to "the retroactivity problem" for cases pending on collateral review—which he described not as a constitutional problem but as "a problem as to the *scope of the habeas writ*." *Mackey*, *supra*, at 684 (emphasis added). *Teague* held that federal habeas courts could no longer upset state-court convictions for violations of so-called "new rules," not yet announced when the conviction became final. 489 U. S., at 310. But it allowed for the previously mentioned exceptions to this rule of nonredressability: substantive rules placing "'certain kinds of primary, private individual conduct beyond the power of the criminal law-making authority to proscribe'" and "watershed rules of criminal procedure." *Id.*, at 311. Then in *Penry* v. *Lynaugh*, 492 U. S. 302 (1989),

the Court expanded this first exception for substantive rules to embrace new rules "prohibiting a certain category of punishment for a class of defendants because of their status or offense." *Id.*, at 330.

Neither *Teague* nor its exceptions are constitutionally compelled. Unlike today's majority, the *Teague*-era Court understood that cases on collateral review are fundamentally different from those pending on direct review because of "considerations of finality in the judicial process." *Shea* v. *Louisiana*, 470 U. S. 51, 59–60 (1985). That line of finality demarcating the constitutionally required rule in *Griffith* from the habeas rule in *Teague* supplies the answer to the not-so-difficult question whether a state postconviction court must remedy the violation of a new substantive rule: No. A state court need only apply the law as it existed at the time a defendant's conviction and sentence became final. See *Griffith*, *supra*, at 322. And once final, "a new rule cannot reopen a door already closed." *James B. Beam Distilling Co.* v. *Georgia*, 501 U. S. 529, 541 (1991) (opinion of Souter, J.). Any relief a prisoner might receive in a state court after finality is a matter of grace, not constitutional prescription.

B

The majority can marshal no case support for its contrary position. It creates a constitutional rule where none had been before: "*Teague*'s conclusion establishing the retroactivity of new substantive rules is best understood as resting upon constitutional premises" binding in both federal and state courts. *Ante*, at 200. "Best understood." Because of what? Surely not because of its history and derivation.

Because of the Supremacy Clause, says the majority. *Ante*, at 204. But the Supremacy Clause cannot possibly answer the question before us here. It only elicits another question: What federal law is supreme? Old or new? The majority's champion, Justice Harlan, said the old rules apply for federal habeas review of a state-court conviction: "[T]he

habeas court need only apply the constitutional standards that prevailed at the time the original proceedings took place," *Desist*, 394 U. S., at 263 (dissenting opinion), for a state court cannot "toe the constitutional mark" that does not yet exist, *Mackey*, 401 U. S., at 687 (opinion of Harlan, J.). Following his analysis, we have clarified time and again—recently in *Greene* v. *Fisher*, 565 U. S. 34, 38–39 (2011)—that *federal* habeas courts are to review state-court decisions against the law and factual record that existed at the time the decisions were made. "Section 2254(d)(1) [of the federal habeas statute] refers, in the past tense, to a state-court adjudication that 'resulted in' a decision that was contrary to, or 'involved' an unreasonable application of, established law. This backward-looking language requires an examination of the state-court decision at the time it was made." *Cullen* v. *Pinholster*, 563 U. S. 170, 181–182 (2011). How can it possibly be, then, that the Constitution requires a *state* court's review of its own convictions to be governed by "new rules" rather than (what suffices when federal courts review state courts) "old rules"?

The majority relies on the statement in *United States* v. *United States Coin & Currency*, 401 U. S. 715 (1971), that "'[n]o circumstances call more for the invocation of a rule of complete retroactivity'" than when "'the conduct being penalized is constitutionally immune from punishment.'" *Ante*, at 202 (quoting 401 U. S., at 724). The majority neglects to mention that this statement was addressing the "circumstances" of a conviction that "had *not become final*," *id.*, at 724, n. 13 (emphasis added), when the "rule of complete retroactivity" was invoked. *Coin & Currency*, an opinion written by (guess whom?) Justice Harlan, merely foreshadowed the rule announced in *Griffith*, that all cases pending on direct review receive the benefit of newly announced rules—better termed "old rules" for such rules were announced *before* finality.

The majority also misappropriates *Yates* v. *Aiken*, 484 U. S. 211 (1988), which reviewed a state habeas petitioner's

Fourteenth Amendment claim that the jury instructions at his trial lessened the State's burden to prove every element of his offense beyond a reasonable doubt. That case at least did involve a conviction that was final. But the majority is oblivious to the critical fact that Yates's claim depended upon an *old rule*, settled at the time of his trial. *Id.*, at 217. This Court reversed the state habeas court for its refusal to consider that the jury instructions violated that *old rule*. *Ibid.* The majority places great weight upon the dictum in *Yates* that the South Carolina habeas court " 'ha[d] a duty to grant the relief that federal law requires.' " *Ante*, at 204–205 (quoting *Yates*, *supra*, at 218). It is simply wrong to divorce that dictum from the facts it addressed. In that context, *Yates* merely reinforces the line drawn by *Griffith*: when state courts provide a forum for postconviction relief, they need to play by the "old rules" announced *before* the date on which a defendant's conviction and sentence became final.

The other sleight of hand performed by the majority is its emphasis on *Ex parte Siebold*, 100 U. S. 371 (1880). That case considered a petition for a federal writ of habeas corpus following a federal conviction, and the initial issue it confronted was its jurisdiction. A federal court has no inherent habeas corpus power, *Ex parte Bollman*, 4 Cranch 75, 94 (1807), but only that which is conferred (and limited) by statute, see, *e. g.*, *Felker* v. *Turpin*, 518 U. S. 651, 664 (1996). As *Siebold* stated, it was forbidden to use the federal habeas writ "as a mere writ of error." 100 U. S., at 375. "The only ground on which this court, or any court, without some special statute authorizing it, [could] give relief on *habeas corpus* to a prisoner under conviction and sentence of another court is the want of jurisdiction in such court over the person or the cause, or some other matter rendering its proceedings void." *Ibid.* Turning to the facts before it, the Court decided it was within its power to hear Siebold's claim, which did not merely protest that the conviction and sentence were "erroneous" but contended that the statute he was convicted of violating was unconstitutional and the conviction there-

fore void: "[I]f the laws are unconstitutional and void, the Circuit Court acquired no jurisdiction of the causes." *Id.*, at 376–377. *Siebold* is thus a decision that expands the limits of this Court's power to issue a federal habeas writ for a federal prisoner.

The majority, however, divines from *Siebold* "a general principle" that "a court has no authority to leave in place a conviction or sentence that violates a substantive rule, regardless of whether the conviction or sentence became final before the rule was announced." *Ante*, at 203. That is utterly impossible. No "general principle" can rationally be derived from *Siebold* about constitutionally required remedies in state courts; indeed, the opinion does not even speak to constitutionally required remedies in *federal* courts. It is a decision about this Court's statutory power to grant the Original Writ, not about its constitutional obligation to do so. Nowhere in *Siebold* did this Court intimate that relief was constitutionally required—or as the majority puts it, that a court would have had "no authority" to leave in place Siebold's conviction, *ante*, at 203.

The majority's sorry acknowledgment that "*Siebold* and the other cases discussed in this opinion, of course, do not directly control the question the Court now answers for the first time," *ibid.*, is not nearly enough of a disclaimer. It is not just that they "do not directly control," but that the dicta cherry picked from those cases are irrelevant; they addressed circumstances fundamentally different from those to which the majority now applies them. Indeed, we know for sure that the author of some of those dicta, Justice Harlan, held views that flatly contradict the majority.

The majority's maxim that "state collateral review courts have no greater power than federal habeas courts to mandate that a prisoner continue to suffer punishment barred by the Constitution," *ante*, at 204, begs the question rather than contributes to its solution. Until today, no federal court was *constitutionally obliged* to grant relief for the

past violation of a newly announced substantive rule. Until today, it was Congress's prerogative to do away with *Teague*'s exceptions altogether. Indeed, we had left unresolved the question whether Congress had already done that when it amended a section of the habeas corpus statute to add backward-looking language governing the review of state-court decisions. See Antiterrorism and Effective Death Penalty Act of 1996, § 104, 110 Stat. 1219, codified at 28 U. S. C. § 2254(d)(1); *Greene*, 565 U. S., at 39, n. A maxim shown to be more relevant to this case, by the analysis that the majority omitted, is this: The Supremacy Clause does not impose upon state courts a constitutional obligation it fails to impose upon federal courts.

C

All that remains to support the majority's conclusion is that all-purpose Latin canon: *ipse dixit*. The majority opines that because a substantive rule eliminates a State's power to proscribe certain conduct or impose a certain punishment, it has "the automatic consequence of invalidating a defendant's conviction or sentence." *Ante*, at 201. What provision of the Constitution could conceivably produce such a result? The Due Process Clause? It surely cannot be a denial of due process for a court to pronounce a final judgment which, though fully in accord with federal constitutional law at the time, fails to anticipate a change to be made by this Court half a century into the future. The Equal Protection Clause? Both statutory and (increasingly) constitutional laws change. If it were a denial of equal protection to hold an earlier defendant to a law more stringent than what exists today, it would also be a denial of equal protection to hold a later defendant to a law more stringent than what existed 50 years ago. No principle of equal protection requires the criminal law of all ages to be the same.

The majority grandly asserts that "[t]here is no grandfather clause that permits States to *enforce punishments the*

*Constitution forbids*." *Ante*, at 204 (emphasis added). Of course the italicized phrase begs the question. There most certainly is a grandfather clause—one we have called *finality*—which says that the Constitution does not require States to revise punishments that were lawful when they were imposed. Once a conviction has become final, whether new rules or old ones will be applied to revisit the conviction is a matter entirely within the State's control; the Constitution has nothing to say about that choice. The majority says that there is no "possibility of a valid result" when a new substantive rule is not applied retroactively. *Ante*, at 201. But the whole controversy here arises because many think there *is* a valid result when a defendant has been convicted under the law that existed when his conviction became final. And the States are unquestionably entitled to take that view of things.

The majority's imposition of *Teague*'s first exception upon the States is all the worse because it does not adhere to that exception as initially conceived by Justice Harlan—an exception for rules that "place, as a matter of constitutional interpretation, certain kinds of primary, private individual *conduct* beyond the power of the criminal law-making authority to proscribe." *Mackey*, 401 U. S., at 692 (emphasis added). Rather, it endorses the exception as expanded by *Penry*, to include "rules prohibiting a certain category of punishment for a class of defendants because of their status or offense." 492 U. S., at 330. That expansion empowered and obligated federal (and after today state) habeas courts to invoke this Court's Eighth Amendment "evolving standards of decency" jurisprudence to upset punishments that were constitutional when imposed but are "cruel and unusual," U. S. Const., Amdt. 8, in our newly enlightened society. See *Trop* v. *Dulles*, 356 U. S. 86, 101 (1958). The "evolving standards" test concedes that in 1969 the State had the power to punish Henry Montgomery as it did. Indeed, Montgomery could at that time have been sentenced to death

by our yet unevolved society. Even 20 years later, this Court reaffirmed that the Constitution posed no bar to death sentences for juveniles. *Stanford* v. *Kentucky*, 492 U. S. 361 (1989). Not until our People's "standards of decency" evolved a mere 10 years ago—nearly 40 years after Montgomery's sentence was imposed—did this Court declare the death penalty unconstitutional for juveniles. *Roper* v. *Simmons*, 543 U. S. 551 (2005). Even then, the Court reassured States that "the punishment of life imprisonment without the possibility of parole is itself a severe sanction," implicitly still available for juveniles. *Id.*, at 572. And again five years ago this Court left in place this severe sanction for juvenile homicide offenders. *Graham* v. *Florida*, 560 U. S. 48, 69 (2010). So for the five decades Montgomery has spent in prison, not one of this Court's precedents called into question the legality of his sentence—until the People's "standards of decency," as perceived by five Justices, "evolved" yet again in *Miller*.

*Teague*'s central purpose was to do away with the old regime's tendency to "*continually* forc[e] the States to marshal resources in order to keep in prison defendants whose trials and appeals conformed to then-existing constitutional standards." 489 U. S., at 310. Today's holding thwarts that purpose with a vengeance. Our ever-evolving Constitution changes the rules of "cruel and unusual punishments" every few years. In the passage from *Mackey* that the majority's opinion quotes, *ante,* at 205, Justice Harlan noted the diminishing force of finality (and hence the equitable propriety—not the constitutional requirement—of disregarding it) when the law punishes nonpunishable *conduct*, see 401 U. S., at 693. But one cannot imagine a clearer frustration of the sensible policy of *Teague* when the ever-moving target of impermissible *punishments* is at issue. Today's holding not only forecloses Congress from eliminating this expansion of *Teague* in federal courts, but also foists this distortion upon the States.

## II. The Retroactivity of *Miller*

Having created jurisdiction by ripping *Teague*'s first exception from its moorings, converting an equitable rule governing federal habeas relief to a constitutional command governing state courts as well, the majority proceeds to the merits. And here it confronts a second obstacle to its desired outcome. *Miller*, the opinion it wishes to impose upon state postconviction courts, simply does not decree what the first part of the majority's opinion says *Teague*'s first exception requires to be given retroactive effect: a rule "set[ting] forth *categorical* constitutional guarantees that place certain criminal laws and punishments *altogether* beyond the State's power to impose." *Ante*, at 201 (emphasis added). No problem. Having distorted *Teague*, the majority simply proceeds to rewrite *Miller*.

The majority asserts that *Miller* "rendered life without parole an unconstitutional penalty for 'a class of defendants because of their status'—that is, juvenile offenders whose crimes reflect the transient immaturity of youth." *Ante*, at 208. It insists that *Miller* barred life-without-parole sentences "for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility. For that reason, *Miller* is no less substantive than are *Roper* and *Graham*." *Ante*, at 209. The problem is that *Miller* stated, quite clearly, precisely the opposite: "Our decision does not categorically bar a penalty for a class of offenders or type of crime—as, for example, we did in *Roper* or *Graham*. Instead, it mandates only that a sentencer *follow a certain process*—considering an offender's youth and attendant characteristics—before imposing a particular penalty." 567 U. S., at 483 (emphasis added).

To contradict that clear statement, the majority opinion quotes passages from *Miller* that assert such things as "mandatory life-without-parole sentences for children 'pos[e] too great a risk of disproportionate punishment'" and "'appropriate occasions for sentencing juveniles to this harshest pos-

sible penalty will be uncommon.'" *Ante*, at 208 (quoting *Miller*, *supra*, at 479). But to say that a punishment might be inappropriate and disproportionate for certain juvenile offenders is not to say that it is unconstitutionally void. All of the statements relied on by the majority do nothing more than express the *reason* why the new, youth-protective *procedure* prescribed by *Miller* is desirable: to deter life sentences for certain juvenile offenders. On the issue of whether *Miller* rendered life-without-parole penalties unconstitutional, it is impossible to get past *Miller*'s unambiguous statement that "[o]ur decision does not categorically bar a penalty for a class of offenders" and "mandates only that a sentencer follow a certain process . . . before imposing a particular penalty." 567 U. S., at 483. It is plain as day that the majority is not applying *Miller*, but rewriting it.[1]

And the rewriting has consequences beyond merely making *Miller*'s procedural guarantee retroactive. If, indeed, a State is categorically prohibited from imposing life without parole on juvenile offenders whose crimes do not "reflect permanent incorrigibility," then even when the procedures that *Miller* demands are provided the constitutional requirement is not necessarily satisfied. It remains available for the defendant sentenced to life without parole to argue that his crimes did not in fact "reflect permanent incorrigibility." Or as the majority's opinion puts it: "That *Miller* did not impose a formal factfinding requirement does not leave States free to sentence a child[2] whose crime reflects transient immaturity to life without parole. To the contrary,

[1] It is amusing that the majority's initial description of *Miller* is the same as our own: "[T]he Court held that a juvenile convicted of a homicide offense could not be sentenced to life in prison without parole absent consideration of the juvenile's special circumstances in light of the principles and purposes of juvenile sentencing." *Ante*, at 193–194. Only 15 pages later, after softening the reader with 3 pages of obfuscating analysis, does the majority dare to attribute to *Miller* that which *Miller* explicitly denies.

[2] The majority presumably regards any person one day short of voting age as a "child."

*Miller* established that this punishment is disproportionate under the Eighth Amendment." *Ante*, at 211.

How wonderful. Federal and (like it or not) state judges are henceforth to resolve the knotty "legal" question: whether a 17-year-old who murdered an innocent sheriff's deputy half a century ago was at the time of his trial "incorrigible." Under *Miller*, bear in mind, the inquiry is whether the inmate was seen to be incorrigible when he was sentenced—not whether he has proven corrigible and so can safely be paroled today. What silliness. (And how impossible in practice, see Brief for National District Attorneys Assn. et al. as *Amici Curiae* 9–17.) When in *Lockett* v. *Ohio*, 438 U. S. 586, 608 (1978), the Court imposed the thitherto unheard-of requirement that the sentencer in capital cases must consider and weigh all "relevant mitigating factors," it at least did not impose the substantive (and hence judicially reviewable) requirement that the aggravators must outweigh the mitigators; it would suffice that the sentencer *thought* so. And, fairly read, *Miller* did the same. Not so with the "incorrigibility" requirement that the Court imposes today to make *Miller* retroactive.

But have no fear. The majority does not seriously expect state and federal collateral-review tribunals to engage in this silliness, probing the evidence of "incorrigibility" that existed decades ago when defendants were sentenced. What the majority expects (and intends) to happen is set forth in the following not-so-subtle invitation: "A State may remedy a *Miller* violation by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them." *Ante*, at 212. Of course. This whole exercise, this whole distortion of *Miller*, is just a devious way of eliminating life without parole for juvenile offenders. The Court might have done that expressly (as we know, the Court can decree *anything*), but that would have been something of an embarrassment. After all, one of the justifications the Court gave for decreeing an end to the death penalty for

murders (no matter how many) committed by a juvenile was that life without parole was a severe enough punishment. See *Roper*, 543 U. S., at 572. How could the majority—in an opinion written by the very author of *Roper*—now say *that* punishment is *also* unconstitutional? The Court expressly refused to say so in *Miller*. 567 U. S., at 479. So the Court refuses again today, but merely makes imposition of that severe sanction a practical impossibility. And then, in Godfather fashion, the majority makes state legislatures an offer they can't refuse: Avoid all the utterly impossible nonsense we have prescribed by simply "permitting juvenile homicide offenders to be considered for parole." *Ante*, at 212. Mission accomplished.

JUSTICE THOMAS, dissenting.

I join JUSTICE SCALIA's dissent. I write separately to explain why the Court's resolution of the jurisdictional question, *ante*, at 197–205, lacks any foundation in the Constitution's text or our historical traditions. We have jurisdiction under 28 U. S. C. § 1257 only if the Louisiana Supreme Court's decision implicates a federal right. That condition is satisfied, the Court holds, because the Constitution purportedly requires state and federal postconviction courts to give "retroactive effect" to new substantive constitutional rules by applying them to overturn long-final convictions and sentences. *Ante*, at 200. Because our Constitution and traditions embrace no such right, I respectfully dissent.

## I

"[O]ur jurisprudence concerning the 'retroactivity' of 'new rules' of constitutional law is primarily concerned, not with the question whether a constitutional violation occurred, but with the availability or nonavailability of remedies." *Danforth* v. *Minnesota*, 552 U. S. 264, 290–291 (2008). Accordingly, the issue in this case is not whether prisoners who received mandatory life-without-parole sentences for crimes

they committed decades ago as juveniles had an Eighth Amendment right not to receive such a sentence. Rather, the question is how, when, and in what forum that newfound right can be enforced. See *ibid.*

The Court answers that question one way: It says that state postconviction and federal habeas courts are constitutionally required to supply a remedy because a sentence or conviction predicated upon an unconstitutional law is a legal nullity. See *ante*, at 200–205. But nothing in the Constitution's text or in our constitutional tradition provides such a right to a remedy on collateral review.

## A

No provision of the Constitution supports the Court's holding. The Court invokes only the Supremacy Clause, asserting that the Clause deprives state and federal postconviction courts alike of power to leave an unconstitutional sentence in place. *Ante*, at 204–205. But that leaves the question of what provision of the Constitution supplies that underlying prohibition.

The Supremacy Clause does not do so. That Clause merely supplies a rule of decision: *If* a federal constitutional right exists, that right supersedes any contrary provisions of state law. See Art. VI, cl. 2 ("This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding"). Accordingly, as we reaffirmed just last Term, the Supremacy Clause is no independent font of substantive rights. *Armstrong* v. *Exceptional Child Center, Inc.*, 575 U. S. 320, 325 (2015).

Nor am I aware of any other provision in the Constitution that would support the Court's new constitutional right to retroactivity. Of the natural places to look—Article III, the Due Process Clauses of the Fifth and Fourteenth Amend-

ments, and the Equal Protection Clause of the Fourteenth Amendment—none establishes a right to void an unconstitutional sentence that has long been final.

To begin, Article III does not contain the requirement that the Court announces today. Article III vests "[t]he judicial Power" in this Court and whatever inferior courts Congress creates, Art. III, § 1, and "extend[s]" that power to various "Cases . . . and Controversies," Art. III, § 2. Article III thus defines the scope of *federal* judicial power. It cannot compel *state* postconviction courts to apply new substantive rules retroactively.

Even if the Court's holding were limited to federal courts, Article III would not justify it. The nature of "judicial power" may constrain the retroactivity rules that Article III courts can apply.* But even our broad modern precedents treat Article III as requiring courts to apply new rules only on *direct* review. Thus in *Griffith* v. *Kentucky*, 479 U. S. 314 (1987), the Court suggested—based on Justice Harlan's views—that "after we have decided a new rule in the case selected, the integrity of judicial review requires that we apply that rule to all similar cases pending on direct review." *Id.*, at 322–323. But, as Justice Harlan had explained, that view of Article III has no force on collateral review: "While the entire theoretical underpinnings of judicial review and constitutional supremacy dictate that federal courts having jurisdiction on direct review adjudicate every issue of law . . . fairly implicated by the trial process below and properly presented on appeal, federal courts have never had a similar obligation on habeas corpus." *Mackey* v. *United States*, 401 U. S. 667, 682 (1971) (opinion concurring in judgment in part and dissenting in part).

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*For instance, Article III courts cannot arrive at a holding, refuse to apply it to the case at hand, and limit its application to future cases involving yet-to-occur events. The power to rule prospectively in this way is a quintessentially legislative power. See *Harper* v. *Virginia Dept. of Taxation*, 509 U. S. 86, 106–110 (1993) (SCALIA, J., concurring).

The Court's holding also cannot be grounded in the Due Process Clause's prohibition on "depriv[ations] . . . of life, liberty, or property, without due process of law." Amdts. V and XIV, § 1. Quite possibly, "'[d]ue process of law' was originally used as a shorthand expression for governmental proceedings according to the 'law of the land' *as it existed at the time of those proceedings*." *In re Winship*, 397 U. S. 358, 378 (1970) (Black, J., dissenting) (emphasis added); accord, *Johnson* v. *United States*, 576 U. S. 591, 623 (2015) (THOMAS, J., concurring in judgment). Under that understanding, due process excluded any right to have new substantive rules apply retroactively.

Even if due process required courts to anticipate this Court's new substantive rules, it would not compel courts to revisit settled convictions or sentences on collateral review. We have never understood due process to require further proceedings once a trial ends. The Clause "does not establish any right to an appeal . . . and certainly does not establish any right to collaterally attack a final judgment of conviction." *United States* v. *MacCollom*, 426 U. S. 317, 323 (1976) (plurality opinion); see *Pennsylvania* v. *Finley*, 481 U. S. 551, 557 (1987) ("States have no obligation to provide [postconviction] relief"). Because the Constitution does not require postconviction remedies, it certainly does not require postconviction courts to revisit every potential type of error. Cf. *Martinez* v. *Court of Appeal of Cal., Fourth Appellate Dist.*, 528 U. S. 152, 165–166 (2000) (SCALIA, J., concurring in judgment) ("Since a State could . . . subject its trial-court determinations to no review whatever, it could *a fortiori* subject them to review which consists of a nonadversarial reexamination of convictions by a panel of government experts").

Nor can the Equal Protection Clause justify requiring courts on collateral review to apply new substantive rules retroactively. That Clause prohibits a State from "deny-

[ing] to any person within its jurisdiction the equal protection of the laws." Amdt. XIV, § 1. But under our precedents "a classification neither involving fundamental rights nor proceeding along suspect lines . . . cannot run afoul of the Equal Protection Clause if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose." *Armour* v. *Indianapolis*, 566 U. S. 673, 680 (2012) (internal quotation marks omitted; ellipsis in original).

The disparity the Court eliminates today—between prisoners whose cases were on direct review when this Court announced a new substantive constitutional rule, and those whose convictions had already become final—is one we have long considered rational. "[T]he notion that different standards should apply on direct and collateral review runs throughout our recent habeas jurisprudence." *Wright* v. *West*, 505 U. S. 277, 292 (1992); see *Brecht* v. *Abrahamson*, 507 U. S. 619, 633–635 (1993). Thus, our precedents recognize a right to counsel on direct review, but not in collateral proceedings. Compare *Douglas* v. *California*, 372 U. S. 353, 355–358 (1963) (courts must provide counsel on an initial direct appeal), with *Finley*, *supra*, at 555 (no such right on habeas). The Fourth Amendment also applies differently on direct and collateral review. Compare *Mapp* v. *Ohio*, 367 U. S. 643, 654–660 (1961) (courts on direct review must exclude evidence obtained in violation of the Fourth Amendment), with *Stone* v. *Powell*, 428 U. S. 465, 489–496 (1976) (no relitigation of such claims on collateral review).

These distinctions are reasonable. They reflect the "significant costs" of collateral review, including disruption of "the State's significant interest in repose for concluded litigation." *Wright*, *supra*, at 293 (internal quotation marks omitted). Our equal protection precedents, therefore, do not compel a uniform rule of retroactivity in direct and collateral proceedings for new substantive constitutional rules.

B

The Court's new constitutional right also finds no basis in the history of state and federal postconviction proceedings. Throughout our history, postconviction relief for alleged constitutional defects in a conviction or sentence was available as a matter of legislative grace, not constitutional command.

The Constitution mentions habeas relief only in the Suspension Clause, which specifies that "[t]he Privilege of the Writ of *Habeas Corpus* shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." Art. I, § 9, cl. 2 (emphasis added). But that Clause does not specify the scope of the writ. And the First Congress, in prescribing federal habeas jurisdiction in the 1789 Judiciary Act, understood its scope to reflect "the blackletter principle of the common law that the writ was simply not available at all to one convicted of crime by a court of competent jurisdiction." Bator, Finality in Criminal Law and Federal Habeas Corpus for State Prisoners, 76 Harv. L. Rev. 441, 466 (1963). Early cases echoed that understanding. *E. g., Ex parte Watkins*, 3 Pet. 193, 202 (1830) ("An imprisonment under a judgment cannot be unlawful, unless that judgment be an absolute nullity; and it is not a nullity if the court has general jurisdiction of the subject, although it should be erroneous").

For nearly a century thereafter, this Court understood the Judiciary Act and successor provisions as limiting habeas relief to instances where the court that rendered the judgment lacked jurisdiction over the general category of offense or the person of the prisoner. See *Wright*, *supra*, at 285 (recounting history). Federal habeas courts thus afforded no remedy for a claim that a sentence or conviction was predicated on an unconstitutional law. Nor did States. Indeed, until 1836, Vermont made no provision for any state habeas proceedings. See Oaks, Habeas Corpus in the States 1776–1865, 32 U. Chi. L. Rev. 243, 250 (1965). Even when States allowed collateral attacks in state court, review was unavail-

able if the judgment of conviction was rendered by a court with general jurisdiction over the subject matter and the defendant. *Id.*, at 261–262.

The Court portrays *Ex parte Siebold*, 100 U. S. 371 (1880), as a departure from this history and as the genesis of a constitutional principle that "a conviction obtained under an unconstitutional law warrants habeas relief." *Ante*, at 204. But *Siebold*—a case construing the scope of federal habeas review under the 1789 Judiciary Act—does not support the Court's position. *Ante*, at 219–220 (SCALIA, J., dissenting). *Siebold* did not imply that the Constitution requires courts to stop enforcing convictions under an unconstitutional law. Rather, *Siebold* assumed that prisoners would lack a remedy if the federal habeas statute did not allow challenges to such convictions. 100 U. S., at 377 ("It is true, if no writ of error lies, the judgment may be final, in the sense that there may be no means of reversing it").

Moreover, when Congress authorized appeals as a matter of right in federal criminal cases, the Court renounced *Siebold* and stopped entertaining federal habeas challenges to the constitutionality of the statute under which a defendant was sentenced or convicted. See Bator, *supra*, at 473–474, and n. 77. If the Constitution prevented courts from enforcing a void conviction or sentence even after the conviction is final, this Court would have been incapable of withdrawing relief.

The Court's purported constitutional right to retroactivity on collateral review has no grounding even in our modern precedents. In the 1950's, this Court began recognizing many new constitutional rights in criminal proceedings. Even then, however, the Court did not perceive any constitutional right for prisoners to vacate their convictions or sentences on collateral review based on the Court's new interpretations of the Constitution. To the contrary, the Court derived *Miranda* warnings and the exclusionary rule from the Constitution, yet drew the line at creating a constitu-

tional right to retroactivity. *E. g.*, *Linkletter* v. *Walker*, 381 U. S. 618, 629 (1965) ("[T]he Constitution neither prohibits nor requires retrospective effect. As Justice Cardozo said, 'We think the Federal Constitution has no voice upon the subject' ").

Only in 1987, in *Griffith* v. *Kentucky*, 479 U. S. 314, did this Court change course and hold that the Constitution requires courts to give constitutional rights some retroactive effect. Even then, *Griffith* was a directive only to courts on *direct* review. It held that "a new rule for the conduct of criminal prosecutions is to be applied retroactively to all cases, state or federal, pending on direct review or not yet final." *Id.*, at 328. It said nothing about what happens once a case becomes final. That was resolved in *Teague* v. *Lane*, 489 U. S. 288 (1989)—which announced the narrow exceptions to the rule against retroactivity on collateral review—but which did so by interpreting the scope of the federal habeas writ, not the Constitution.

## II

### A

Not only does the Court's novel constitutional right lack any constitutional foundation; the reasoning the Court uses to construct this right lacks any logical stopping point. If, as the Court supposes, the Constitution bars courts from insisting that prisoners remain in prison when their convictions or sentences are later deemed unconstitutional, why can courts let stand a judgment that wrongly decided any constitutional question?

The Court confronted this question when *Siebold* and other cases began expanding the federal habeas statute to encompass claims that a sentence or conviction was constitutionally void. But the Court could not find a satisfactory answer: "A judgment may be erroneous and not void, and it may be erroneous *because* it is void. The distinctions . . . are very nice, and they may fall under the one class or the

other as they are regarded for different purposes." *Ex parte Lange*, 18 Wall. 163, 175–176 (1874).

The lack of any limiting principle became apparent as the Court construed the federal habeas statute to supply jurisdiction to address prerequisites to a valid sentence or conviction (like an indictment). See Bator, *supra*, at 467–468, and n. 56, 471. As Justice Bradley, *Siebold*'s author, later observed for the Court: "It is difficult to see why a conviction and punishment under an unconstitutional law is more violative of a person's constitutional rights, than an unconstitutional conviction and punishment under a valid law." *In re Nielsen*, 131 U. S. 176, 183 (1889).

I doubt that today's rule will fare any better. By refashioning *Siebold* as the foundation of a purported constitutional right, the Court transforms an unworkable doctrine into an immutable command. Because Justice Bradley's dicta in *Siebold* was a gloss on the 1789 Judiciary Act, Congress could at least supply a fix to it. But the Court's reinvention of *Siebold* as a constitutional imperative eliminates any room for legislative adjustment.

## B

There is one silver lining to today's ruling: States still have a way to mitigate its impact on their court systems. As the Court explains, States must enforce a constitutional right to remedies on collateral review only if such proceedings are "open to a claim controlled by federal law." *Ante*, at 204. State courts, on collateral review, thus must provide remedies for claims under *Miller* v. *Alabama*, 567 U. S. 460 (2012), only if those courts are open to "claims that a decision of this Court has rendered certain sentences illegal . . . under the Eighth Amendment." *Ante*, at 205.

Unlike the rule the Court announces today, this limitation at least reflects a constitutional principle. Only when state courts have chosen to entertain a federal claim can the Supremacy Clause conceivably command a state court to apply

federal law. As we explained last Term, private parties have no "constitutional . . . right to enforce federal laws against the States." *Armstrong*, 575 U. S., at 325. Instead, the Constitution leaves the initial choice to entertain federal claims up to state courts, which are "tribunals over which the government of the Union has no adequate control, and which may be closed to any claim asserted under a law of the United States." *Osborn* v. *Bank of United States*, 9 Wheat. 738, 821 (1824).

States therefore have a modest path to lessen the burdens that today's decision will inflict on their courts. States can stop entertaining claims alleging that this Court's Eighth Amendment decisions invalidated a sentence, and leave federal habeas courts to shoulder the burden of adjudicating such claims in the first instance. Whatever the desirability of that choice, it is one the Constitution allows States to make.

* * *

Today's decision repudiates established principles of finality. It finds no support in the Constitution's text, and cannot be reconciled with our Nation's tradition of considering the availability of postconviction remedies a matter about which the Constitution has nothing to say. I respectfully dissent.

Syllabus

# MUSACCHIO *v.* UNITED STATES

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 14–1095. Argued November 30, 2015—Decided January 25, 2016

Petitioner Musacchio resigned as president of Exel Transportation Services (ETS) in 2004, but with help from the former head of ETS' information-technology department, he accessed ETS' computer system without ETS' authorization through early 2006. In November 2010, Musacchio was indicted under 18 U. S. C. § 1030(a)(2)(C), which makes it a crime if a person "intentionally accesses a computer without authorization *or* exceeds authorized access" and thereby "obtains . . . information from any protected computer." (Emphasis added.) He was charged in count 1 with conspiring to commit both types of improper access and in count 23 with making unauthorized access "[o]n or about" November 24, 2005. In a 2012 superseding indictment, count 1 dropped the charge of conspiracy to exceed authorized access, and count 2 changed count 23's date to "[o]n or about" November 23–25, 2005. Musacchio never argued in the trial court that his prosecution violated the 5-year statute of limitations applicable to count 2. See § 3282(a). At trial, the Government did not object when the District Court instructed the jury that § 1030(a)(2)(C) "makes it a crime . . . to intentionally access a computer without authorization *and* exceed authorized access" (emphasis added), even though the conjunction "and" added an additional element. The jury found Musacchio guilty on counts 1 and 2. On appeal, he challenged the sufficiency of the evidence supporting his conspiracy conviction and argued, for the first time, that his prosecution on count 2 was barred by § 3282(a)'s statute of limitations. In affirming his conviction, the Fifth Circuit assessed Musacchio's sufficiency challenge against the charged elements of the conspiracy count rather than against the heightened jury instruction, and it concluded that he had waived his statute-of-limitations defense by failing to raise it at trial.

*Held*:

1. A sufficiency challenge should be assessed against the elements of the charged crime, not against the elements set forth in an erroneous jury instruction. Sufficiency review essentially addresses whether the Government's case was strong enough to reach the jury. A reviewing court conducts a limited inquiry tailored to ensuring that a defendant receives the minimum required by due process: a "meaningful opportunity to defend" against the charge against him and a jury finding of guilt

"beyond a reasonable doubt." *Jackson* v. *Virginia*, 443 U. S. 307, 314–315. It does this by considering only the "legal" question "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.*, at 319. A reviewing court's determination thus does not rest on how the jury was instructed. The Government's failure to introduce evidence of an additional element does not implicate these principles, and its failure to object to a heightened jury instruction does not affect sufficiency review. Because Musacchio does not dispute that he was properly charged with conspiracy to obtain unauthorized access or that the evidence was sufficient to convict him of the charged crime, the Fifth Circuit correctly rejected his sufficiency challenge. Pp. 243–245.

2. A defendant cannot successfully raise § 3282(a)'s statute-of-limitations bar for the first time on appeal. Pp. 245–249.

(a) A time bar is jurisdictional only if Congress has "clearly state[d]" that it is. *Sebelius* v. *Auburn Regional Medical Center*, 568 U. S. 145, 153. Here, the "text, context, and relevant historical treatment" of § 3282(a), *Reed Elsevier, Inc.* v. *Muchnick*, 559 U. S. 154, 166, establish that it imposes a nonjurisdictional defense that becomes part of a case only if a defendant raises it in the district court. The provision does not expressly refer to subject-matter jurisdiction or speak in jurisdictional terms. It thus stands in marked contrast to § 3231, which speaks squarely to federal courts' general criminal subject-matter "jurisdiction" and does not "conditio[n] its jurisdictional grant on" compliance with § 3282(a)'s statute of limitations. *Id.*, at 165. The history of § 3282(a)'s limitations bar further confirms that the provision does not impose a jurisdictional limit. See *United States* v. *Cook*, 17 Wall. 168, 181; *Smith* v. *United States*, 568 U. S. 106, 112. Pp. 246–248.

(b) Because § 3282(a) does not impose a jurisdictional limit, the failure to raise the defense at or before trial is reviewable on appeal—if at all—only for plain error. A district court's failure to enforce an unraised limitations defense under § 3282(a) cannot be a plain error, however, because if a defendant fails to press the defense, it does not become part of the case and, thus, there is no error for an appellate court to correct. Pp. 248–249.

590 Fed. Appx. 359, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court.

*Erik S. Jaffe* argued the cause for petitioner. With him on the briefs was *Jody Rudman*.

*Roman Martinez* argued the cause for the United States. With him on the brief were *Solicitor General Verrilli*, *Assistant Attorney General Caldwell*, *Deputy Solicitor General Dreeben*, and *Praveen Krishna*.

JUSTICE THOMAS delivered the opinion of the Court.

In this case, the Government failed to object to a jury instruction that erroneously added an element that it had to prove, and petitioner failed to press a statute-of-limitations defense until his appeal. We address two questions arising from the parties' failures to raise timely challenges. We first consider how a court should assess a challenge to the sufficiency of the evidence in a criminal case when a jury instruction adds an element to the charged crime and the Government fails to object. We conclude that the sufficiency of the evidence should be assessed against the elements of the charged crime. We next consider whether the statute-of-limitations defense contained in 18 U. S. C. § 3282(a) (the general federal criminal statute of limitations) may be successfully raised for the first time on appeal. We conclude that it may not be.

## I

Petitioner Michael Musacchio served as president of a logistics company, Exel Transportation Services (ETS), until his resignation in 2004. In 2005, he formed a rival company, Total Transportation Services (TTS). Musacchio was soon joined there by Roy Brown, who previously headed ETS' information-technology department. At TTS, Brown, using a password, continued to access ETS' computer system without ETS' authorization. Brown also gave Musacchio access to ETS' system. This improper access of ETS' system kept on until early 2006.

In November 2010, a grand jury indicted Musacchio under 18 U. S. C. § 1030(a)(2)(C). Under that provision, a person commits a crime when he "intentionally accesses a computer

without authorization *or* exceeds authorized access," and in doing so "obtains . . . information from any protected computer." (Emphasis added.) The statute thus provides two ways of committing the crime of improperly accessing a protected computer: (1) obtaining access without authorization; and (2) obtaining access with authorization but then using that access improperly. See *ibid.*; § 1030(e)(6) (defining "exceeds authorized access"). Count 1 of the indictment charged Musacchio with conspiring to commit both types of improper access. Count 23 charged him with making unauthorized access to ETS' e-mail server "[o]n or about" November 24, 2005. App. 70–71.[1]

In 2012, the Government filed a superseding indictment amending those charges. Count 1 dropped the charge of conspiracy to exceed authorized access, limiting that charge to conspiracy to make unauthorized access. Count 2 amended the allegations originally contained in count 23 by alleging that Musacchio accessed specific ETS e-mail accounts "[o]n or about" November 23–25, 2005. *Id.*, at 83–84. The Government later filed a second superseding indictment that made no changes relevant here.

Musacchio proceeded to a jury trial. At no time before or during trial did he argue that his prosecution violated the 5-year statute of limitations applicable to count 2. See 18 U. S. C. § 3282(a) (providing general 5-year statute of limitations).

For the Government's part, it submitted proposed jury instructions on the conspiracy count before and during the trial. Each set of proposed instructions identified that count as involving "Unauthorized Access to Protected Computer[s]," and none required the jury additionally to find that Musacchio conspired to exceed authorized access to pro-

[1] Counts 2 through 22 charged other defendants with exceeding authorized access to specific e-mail accounts. App. 68–70. Those defendants pleaded guilty, and later indictments dropped those counts.

tected computers. Musacchio did not propose instructions on the conspiracy count.

Diverging from the indictment and the proposed instructions, the District Court instructed the jury on count 1 that § 1030(a)(2)(C) "makes it a crime for a person to intentionally access a protected computer without authorization *and* exceed authorized access." App. 168 (emphasis added). The parties agree that this instruction was erroneous: By using the conjunction "and" when referring to both ways of violating § 1030(a)(2)(C), the instruction required the Government to prove an additional element. Yet the Government did not object to this error in the instructions.

The jury found Musacchio guilty on both counts 1 and 2. The District Court sentenced him to 60 months' imprisonment. Musacchio appealed, making the two challenges that he again advances in this Court. First, he challenged the sufficiency of the evidence supporting his conspiracy conviction on count 1. He maintained, moreover, that the sufficiency of the evidence should be assessed against the erroneous jury instruction that included the additional element. Second, he argued, for the first time, that his prosecution on count 2—for unauthorized access—was barred by the 5-year statute of limitations because the superseding indictment was filed seven years after the crime and did not relate back to the timely original indictment.

The Fifth Circuit rejected both challenges and affirmed Musacchio's conviction. 590 Fed. Appx. 359 (2014) (*per curiam*). First, the Court of Appeals concluded that it should assess Musacchio's sufficiency challenge against the charged elements of the conspiracy count, not against the erroneous jury instruction. See *id.*, at 362–363. Under Fifth Circuit precedent, the court explained, erroneously heightened jury instructions generally become the binding "law of the case" on appeal. *Id.*, at 362 (internal quotation marks omitted). Circuit precedent supplies an exception, however, when (1) the jury instruction is "'patently erroneous,'" and (2) "'the

issue is not misstated in the indictment.'" *Ibid.* (quoting *United States* v. *Guevara*, 408 F. 3d 252, 258 (CA5 2005)). The Fifth Circuit concluded that those conditions for applying the exception were satisfied. See 590 Fed. Appx., at 362–363. The court explained that the instruction's requirement of an additional element was "an obvious clerical error," and that the indictment correctly charged Musacchio only with "Conspiracy To Make Unauthorized Access to [a] Protected Computer." *Id.*, at 362. Therefore, the Fifth Circuit did not assess Musacchio's sufficiency challenge under the heightened jury instruction. *Id.*, at 362–363. Because Musacchio did not dispute that the evidence was sufficient to support a conviction under the elements set out in the indictment, the Fifth Circuit rejected his challenge. *Id.*, at 363.

Second, the Fifth Circuit rejected Musacchio's statute-of-limitations defense, concluding that he had "waived" the defense by failing to raise it at trial. *Id.*, at 363, 364.

We granted certiorari to resolve two questions that have divided the lower courts. 576 U. S. 1053 (2015). The first question is whether the sufficiency of the evidence in a criminal case should be measured against the elements described in the jury instructions where those instructions, without objection, require the Government to prove more elements than do the statute and indictment. Compare, *e. g.*, *United States* v. *Romero*, 136 F. 3d 1268, 1272–1273 (CA10 1998) (explaining that sufficiency is measured against heightened jury instructions), with *Guevara*, *supra*, at 258 (CA5) (adopting an exception to that rule). The second question is whether a statute-of-limitations defense not raised at or before trial is reviewable on appeal. Compare, *e. g.*, *United States* v. *Franco-Santiago*, 681 F. 3d 1, 12, and n. 18 (CA1 2012) (limitations defense not raised and preserved before or at trial is reviewable on appeal for plain error), with *United States* v. *Walsh*, 700 F. 2d 846, 855–856 (CA2 1983) (limitations defense not properly raised below is not reviewable on appeal).

## II

We first address how a court should assess a sufficiency challenge when a jury instruction adds an element to the charged crime and the Government fails to object. We hold that, when a jury instruction sets forth all the elements of the charged crime but incorrectly adds one more element, a sufficiency challenge should be assessed against the elements of the charged crime, not against the erroneously heightened command in the jury instruction.

That conclusion flows from the nature of a court's task in evaluating a sufficiency-of-the-evidence challenge. Sufficiency review essentially addresses whether "the government's case was so lacking that it should not have even been submitted to the jury." *Burks* v. *United States*, 437 U. S. 1, 16 (1978) (emphasis deleted). On sufficiency review, a reviewing court makes a limited inquiry tailored to ensure that a defendant receives the minimum that due process requires: a "meaningful opportunity to defend" against the charge against him and a jury finding of guilt "beyond a reasonable doubt." *Jackson* v. *Virginia*, 443 U. S. 307, 314–315 (1979). The reviewing court considers only the "legal" question "whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.*, at 319 (emphasis in original). That limited review does not intrude on the jury's role "to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Ibid.*

A reviewing court's limited determination on sufficiency review thus does not rest on how the jury was instructed. When a jury finds guilt after being instructed on all elements of the charged crime plus one more element, the jury has made all the findings that due process requires. If a jury instruction requires the jury to find guilt on the elements of the charged crime, a defendant will have had a "meaningful

opportunity to defend" against the charge. *Id.*, at 314. And if the jury instruction requires the jury to find those elements "beyond a reasonable doubt," the defendant has been accorded the procedure that this Court has required to protect the presumption of innocence. *Id.*, at 314–315. The Government's failure to introduce evidence of an additional element does not implicate the principles that sufficiency review protects. All that a defendant is entitled to on a sufficiency challenge is for the court to make a "legal" determination whether the evidence was strong enough to reach a jury at all. *Id.*, at 319. The Government's failure to object to the heightened jury instruction thus does not affect the court's review for sufficiency of the evidence.[2]

Musacchio does not contest that the indictment here properly charged him with the statutory elements for conspiracy to obtain unauthorized access. The jury instructions required the jury to find all of the elements of that charged offense beyond a reasonable doubt. Nor does he dispute that the evidence was sufficient to convict him of the crime charged in the indictment—of conspiring to make unauthorized access. Accordingly, the Fifth Circuit correctly rejected his sufficiency challenge.

The Fifth Circuit erred, however, in basing that conclusion on the law-of-the-case doctrine. See 590 Fed. Appx., at 362–363. That doctrine does not apply here. The law-of-the-case doctrine generally provides that " 'when a court decides

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[2] In resolving the first question presented, we leave open several matters. First, we express no view on the question whether sufficiency of the evidence at trial must be judged by reference to the elements charged in the indictment, even if the indictment charges one or more elements not required by statute. Second, we do not suggest that the Government adds an element to a crime for purposes of sufficiency review when the indictment charges different means of committing a crime in the conjunctive. Third, we also do not suggest that an erroneous jury instruction cannot result in reversible error just because the evidence was sufficient to support a conviction.

upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.'" *Pepper* v. *United States*, 562 U. S. 476, 506 (2011) (quoting *Arizona* v. *California*, 460 U. S. 605, 618 (1983)). The doctrine "expresses the practice of courts generally to refuse to reopen what has been decided," but it does not "limit [courts'] power." *Messenger* v. *Anderson*, 225 U. S. 436, 444 (1912). Thus, the doctrine may describe an appellate court's decision not to depart from a ruling that it made in a prior appeal in the same case. See C. Wright et al., 18B Federal Practice and Procedure § 4478, p. 646, and n. 16 (2d ed. 2002) (collecting cases). But the doctrine is "something of a misnomer" when used to describe how an appellate court assesses a lower court's rulings. *United States* v. *Wells*, 519 U. S. 482, 487, n. 4 (1997). An appellate court's function *is* to revisit matters decided in the trial court. When an appellate court reviews a matter on which a party failed to object below, its review may well be constrained by other doctrines such as waiver, forfeiture, and estoppel, as well as by the type of challenge that it is evaluating. But it is not bound by district court rulings under the law-of-the-case doctrine. That doctrine does not bear on how to assess a sufficiency challenge when a jury convicts a defendant after being instructed—without an objection by the Government—on all charged elements of a crime plus an additional element.

## III

We now consider whether a defendant may successfully raise the statute-of-limitations bar in 18 U. S. C. § 3282(a) for the first time on appeal. Musacchio argues that he may do so, either because § 3282(a) imposes a nonwaivable limit on federal courts' subject-matter jurisdiction or because a previously unraised limitations claim may constitute plain error that can be noticed on appeal. We disagree with both points, and hold that a defendant cannot successfully raise this statute-of-limitations bar for the first time on appeal.

A

Statutes of limitations and other filing deadlines "ordinarily are not jurisdictional." *Sebelius* v. *Auburn Regional Medical Center*, 568 U. S. 145, 154 (2013). We treat a time bar as jurisdictional only if Congress has "clearly stated" that it is. *Id.*, at 153 (brackets and internal quotation marks omitted); see, *e. g.*, *Henderson* v. *Shinseki*, 562 U. S. 428, 436, 439 (2011) (requiring a "clear indication" that a statute is jurisdictional (internal quotation marks omitted)). To determine whether Congress has made the necessary clear statement, we examine the "text, context, and relevant historical treatment" of the provision at issue. *Reed Elsevier, Inc.* v. *Muchnick*, 559 U. S. 154, 166 (2010).

Congress has not made such a clear statement here. Rather, the statutory text, context, and history establish that § 3282(a) imposes a nonjurisdictional defense that becomes part of a case only if a defendant raises it in the district court.

The statutory text suggests that § 3282(a) does not impose a jurisdictional limit. Section 3282(a) provides:

> "Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed."

Although § 3282(a) uses mandatory language, it does not expressly refer to subject-matter jurisdiction or speak in jurisdictional terms. The text of § 3282(a) does not, therefore, provide a "clear indication that Congress wanted that provision to be treated as having jurisdictional attributes." *Henderson*, *supra*, at 439.

Context confirms that § 3282(a) does not impose a jurisdictional limit. Federal courts' general criminal subject-matter jurisdiction comes from 18 U. S. C. § 3231, which

states: "The district courts . . . shall have original jurisdiction . . . of all offenses against the laws of the United States." Section 3231 speaks squarely to federal courts' "jurisdiction," in marked contrast to § 3282(a), which does not mention "jurisdiction" or a variant of that term. And, nothing in § 3231 "conditions its jurisdictional grant on" compliance with § 3282(a)'s statute of limitations. *Reed Elsevier*, *supra*, at 165. This context supports the conclusion that § 3282(a) is not jurisdictional.

The history of the limitations bar in § 3282(a) demonstrates that it is a defense that becomes part of a case only if the defendant presses it in the district court. This Court held in *United States* v. *Cook*, 17 Wall. 168 (1872), that a statute of limitations—identical in all relevant respects to § 3282(a)—was "a matter of defence and must be pleaded or given in evidence by the accused." *Id.*, at 181; see § 32, 1 Stat. 119 (statute of limitations); see also *Cook*, *supra*, at 173, and n. * (citing and describing statute of limitations). When a defendant introduces the limitations defense into the case, the Government then has "the right to reply or give evidence" on the limitations claim. 17 Wall., at 179.

*Cook* was decided more than 140 years ago, and we have adhered to its holding. Just three Terms ago, we reaffirmed that "[c]ommission of [a federal] crime within the statute-of-limitations period is not an element of the . . . offense," and "it is up to the defendant to raise the limitations defense." *Smith* v. *United States*, 568 U. S. 106, 112 (2013) (citing *Cook*; emphasis deleted); see also *Biddinger* v. *Commissioner of Police of City of New York*, 245 U. S. 128, 135 (1917) ("The statute of limitations is a defense and must be asserted on the trial by the defendant in criminal cases . . . " (citing *Cook*)). There is, in sum, a long history of treating the operative language in § 3282(a) as providing a nonjurisdictional defense that a defendant must press at trial to insert into the case.

In keeping with § 3282(a)'s text, context, and history, we conclude that § 3282(a) provides a nonjurisdictional defense, not a jurisdictional limit.

B

Because § 3282(a) does not impose a jurisdictional limit, the failure to raise it at or before trial means that it is reviewable on appeal—if at all—only for plain error. See Fed. Rule Crim. Proc. 52(b) (providing for consideration of "[a] plain error that affects substantial rights" even though the error "was not brought to the court's attention"). We conclude, however, that a district court's failure to enforce an unraised limitations defense under § 3282(a) cannot be a plain error.[3]

As explained above, a statute-of-limitations defense becomes part of a case only if the defendant puts the defense in issue. When a defendant presses a limitations defense, the Government *then* bears the burden of establishing compliance with the statute of limitations by presenting evidence that the crime was committed within the limitations period or by establishing an exception to the limitations period. See *Cook*, *supra*, at 179. When a defendant fails to press a limitations defense, the defense does not become part of the case and the Government does not otherwise have the burden of proving that it filed a timely indictment. When a defendant does not press the defense, then, there is no error for an appellate court to correct—and certainly no plain error.

A defendant thus cannot successfully raise the statute-of-limitations defense in § 3282(a) for the first time on appeal.

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[3] Because we conclude that the failure to enforce § 3282(a)'s limitations defense cannot be plain error, we do not resolve whether the failure to raise that defense in the District Court amounts to waiver (which some courts have held to preclude all appellate review of the defense) or forfeiture (which some courts have held to allow at least plain-error review). See *United States* v. *Franco-Santiago*, 681 F. 3d 1, 12, n. 18 (CA1 2012) (collecting cases).

The Fifth Circuit correctly refused to consider Musacchio's limitations defense here.

* * *

For the foregoing reasons, we affirm the judgment of the Fifth Circuit.

*It is so ordered.*

Syllabus

# MENOMINEE INDIAN TRIBE OF WISCONSIN *v.* UNITED STATES ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14–510. Argued December 1, 2015—Decided January 25, 2016

Pursuant to the Indian Self-Determination and Education Assistance Act (ISDA), petitioner Menominee Indian Tribe of Wisconsin contracted with the Indian Health Service (IHS) to operate what would otherwise have been a federal program and to receive an amount of money equal to what the Government would have spent on operating the program itself, including reimbursement for reasonable contract support costs. 25 U. S. C. §§ 450f, 450j–1(a). After other tribal entities successfully litigated complaints against the Federal Government for failing to honor its obligation to pay contract support costs, the Menominee Tribe presented its own contract support claims to IHS in accordance with the Contract Disputes Act of 1978 (CDA), which requires contractors to present each claim to a contracting officer for decision, 41 U. S. C. § 7103(a)(1). The contracting officer denied some of the Tribe's claims because they were not presented within the CDA's 6-year limitations period. See § 7103(a)(4)(A).

The Tribe challenged the denials in Federal District Court, arguing that the limitations period should be tolled for the nearly two years in which a putative class action, brought by Tribes with parallel complaints, was pending. As relevant here, the District Court eventually denied the Tribe's equitable-tolling claim, and the Court of Appeals affirmed, holding that no extraordinary circumstances beyond the Tribe's control caused the delay.

*Held*: Equitable tolling does not apply to the presentment of petitioner's claims. Pp. 255–259.

(a) To be entitled to equitable tolling of a statute of limitations, a litigant must establish "(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing." *Holland* v. *Florida*, 560 U. S. 631, 649. The Tribe argues that diligence and extraordinary circumstances should be considered together as factors in a unitary test, and it faults the Court of Appeals for declining to consider the Tribe's diligence in connection with its finding that no extraordinary circumstances existed. But this Court has expressly characterized these two components as "elements," not merely factors of indeterminate or commensurable

weight, *Pace* v. *DiGuglielmo*, 544 U. S. 408, 418, and has treated them as such in practice, see *Lawrence* v. *Florida*, 549 U. S. 327, 336–337. The Tribe also objects to the Court of Appeals' interpretation of the "extraordinary circumstances" prong as requiring the showing of an "external obstacle" to timely filing. This Court reaffirms that this prong is met only where the circumstances that caused a litigant's delay are both extraordinary *and* beyond its control. Pp. 255–257.

(b) None of the Tribe's excuses satisfy the "extraordinary circumstances" prong of the test. The Tribe had unilateral authority to present its claims in a timely manner. Its claimed obstacles, namely, a mistaken reliance on a putative class action and a belief that presentment was futile, were not outside the Tribe's control. And the significant risk and expense associated with presenting and litigating its claims are far from extraordinary. Finally, the special relationship between the United States and Indian tribes, as articulated in the ISDA, does not override clear statutory language. Pp. 257–259.

764 F. 3d 51, affirmed.

ALITO, J., delivered the opinion for a unanimous Court.

*Geoffrey D. Strommer* argued the cause for petitioner. With him on the briefs were *Jerry C. Straus*, *Stephen D. Osborne*, *Caroline P. Mayhew*, *Adam P. Bailey*, and *Paul D. Clement*.

*Ilana H. Eisenstein* argued the cause for respondents. With her on the brief were *Solicitor General Verrilli*, *Principal Deputy Assistant Attorney General Mizer*, *Deputy Solicitor General Kneedler*, *William B. Schultz*, *Alan S. Dorn*, *Douglas Ferguson*, *Julia B. Pierce*, and *Melissa Jamison*.*

JUSTICE ALITO delivered the opinion of the Court.

Petitioner Menominee Indian Tribe of Wisconsin (Tribe) seeks equitable tolling to preserve contract claims not timely presented to a federal contracting officer. Because the Tribe cannot establish extraordinary circumstances that stood in the way of timely filing, we hold that equitable tolling does not apply.

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**Melody L. McCoy* and *John E. Echohawk* filed a brief for the National Congress of American Indians as *amicus curiae* urging reversal.

## I

Congress enacted the Indian Self-Determination and Education Assistance Act (ISDA), Pub. L. 93–638, 88 Stat. 2203, 25 U. S. C. § 450 *et seq.*, in 1975 to help Indian tribes assume responsibility for aid programs that benefit their members. Under the ISDA, tribes may enter into "self-determination contracts" with federal agencies to take control of a variety of federally funded programs. § 450f. A contracting tribe is eligible to receive the amount of money that the Government would have otherwise spent on the program, see § 450j–1(a)(1), as well as reimbursement for reasonable "contract support costs," which include administrative and overhead costs associated with carrying out the contracted programs, §§ 450j–1(a)(2), (3), (5).

In 1988, Congress amended the ISDA to apply the Contract Disputes Act of 1978 (CDA), 41 U. S. C. § 7101 *et seq.*, to disputes arising under the ISDA. See 25 U. S. C. § 450m–1(d); Indian Self-Determination and Education Assistance Act Amendments of 1988, § 206(2), 102 Stat. 2295. As part of its mandatory administrative process for resolving contract disputes, the CDA requires contractors to present "[e]ach claim" they may have to a contracting officer for decision. 41 U. S. C. § 7103(a)(1). Congress later amended the CDA to include a 6-year statute of limitations for presentment of each claim. Federal Acquisition Streamlining Act of 1994, 41 U. S. C. § 7103(a)(4)(A).

Under the CDA, the contracting officer's decision is generally final, unless challenged through one of the statutorily authorized routes. § 7103(g). A contractor dissatisfied with the officer's decision may either take an administrative appeal to a board of contract appeals or file an action for breach of contract in the United States Court of Federal Claims. §§ 7104(a), (b)(1), 7105(b). Both routes then lead to the United States Court of Appeals for the Federal Circuit for any further review. 28 U. S. C. § 1295(a)(3); 41 U. S. C. § 7107(a)(1); see 25 U. S. C. § 450m–1(d). Under the ISDA,

tribal contractors have a third option. They may file a claim for money damages in federal district court, §§ 450m–1(a), (d), and if they lose, they may pursue an appeal in one of the regional courts of appeals, 28 U. S. C. § 1291.

Tribal contractors have repeatedly complained that the Federal Government has not fully honored its obligations to pay contract support costs. Three lawsuits making such claims are relevant here.

The first was a class action filed by the Ramah Navajo Chapter alleging that the Bureau of Indian Affairs (BIA) systematically underpaid certain contract support costs. *Ramah Navajo Chapter* v. *Lujan*, No. 1:90–cv–0957 (D NM) (filed Oct. 4, 1990). In 1993, Ramah successfully moved for certification of a nationwide class of all tribes that had contracted with the BIA under the ISDA. See Order and Memorandum Opinion in *Ramah Navajo Chapter* v. *Lujan*, No. 1:90–cv–0957 (D NM, Oct. 1, 1993), App. 35–40. The Government argued that each tribe needed to present its claims to a contracting officer before it could participate in the class. *Id.*, at 37–38. But the trial court held that tribal contractors could participate in the class without presentment, because the suit alleged systemwide flaws in the BIA's contracting scheme, not merely breaches of individual contracts. *Id.*, at 39. The Government did not appeal the certification order, and the *Ramah* class action proceeded to further litigation and settlement.

The second relevant ISDA suit raised similar claims about contract support costs but arose from contracts with the Indian Health Service (IHS). *Cherokee Nation of Okla.* v. *United States*, No. 6:99–cv–0092 (ED Okla.) (filed Mar. 5, 1999). In *Cherokee Nation*, two Tribes filed a putative class action against IHS. On February 9, 2001, the District Court denied class certification without addressing whether tribes would need to present claims to join the class. *Cherokee Nation of Okla.* v. *United States*, 199 F. R. D. 357, 363–366 (ED Okla.). The two plaintiff Tribes did not appeal the de-

nial of class certification but proceeded to the merits on their own, eventually prevailing before this Court in a parallel suit. See *Cherokee Nation of Okla.* v. *Leavitt*, 543 U. S. 631 (2005).

The third relevant case is the one now before us. In this case, the Tribe presented its contract support claims (for contract years 1995 through 2004) to IHS on September 7, 2005, shortly after our *Cherokee Nation* ruling. As relevant here, the contracting officer denied the Tribe's claims based on its 1996, 1997, and 1998 contracts because, *inter alia*, those claims were barred by the CDA's 6-year statute of limitations.[1] The Tribe challenged the denials in the United States District Court for the District of Columbia, arguing, based on theories of class-action and equitable tolling, that the limitations period should be tolled for the 707 days that the putative *Cherokee Nation* class had been pending. See *American Pipe & Constr. Co.* v. *Utah*, 414 U. S. 538 (1974) (class-action tolling); *Holland* v. *Florida*, 560 U. S. 631 (2010) (equitable tolling).

Initially, the District Court held that the limitations period was jurisdictional and thus forbade tolling of any sort. 539 F. Supp. 2d 152, 154, and n. 2 (DC 2008). On appeal, the United States Court of Appeals for the District of Columbia Circuit concluded that the limitations period was not jurisdictional and thus did not necessarily bar tolling. 614 F. 3d 519, 526 (2010). But the court held that the Tribe was ineligible for class-action tolling during the pendency of the putative *Cherokee Nation* class, because the Tribe's failure to present its claims to IHS made it "ineligible to participate in the class action at the time class certification [was] de-

[1] Because the contract claims accrued no later than the end of each calendar-year contract, the District Court determined, the statute of limitations for the 1996, 1997, and 1998 contracts had run by January 1st of the years 2003, 2004, and 2005, respectively. 539 F. Supp. 2d 152, 154, n. 1 (DC 2008). The Tribe does not dispute the timing of accrual before this Court.

nied." 614 F. 3d, at 527 (applying *American Pipe*). The court then remanded the case to the District Court to determine the Tribe's eligibility for equitable tolling.

On remand, the District Court concluded that the Tribe's asserted reasons for failing to present its claims within the specified time "do not, individually or collectively, amount to an extraordinary circumstance" that could warrant equitable tolling. 841 F. Supp. 2d 99, 107 (DC 2012) (internal quotation marks omitted). This time, the Court of Appeals affirmed. 764 F. 3d 51 (CADC 2014). It explained that, "[t]o count as sufficiently 'extraordinary' to support equitable tolling, the circumstances that caused a litigant's delay must have been beyond its control" and "cannot be a product of that litigant's own misunderstanding of the law or tactical mistakes in litigation." *Id.*, at 58. Because none of the Tribe's proffered circumstances was beyond its control, the court held, there were no extraordinary circumstances that could merit equitable tolling.

The Court of Appeals' decision created a split with the Federal Circuit, which granted another tribal entity equitable tolling under similar circumstances. See *Arctic Slope Native Assn., Ltd.* v. *Sebelius*, 699 F. 3d 1289 (2012). We granted certiorari to resolve the conflict. 576 U. S. 1083 (2015).

## II

The Court of Appeals denied the Tribe's request for equitable tolling by applying the test that we articulated in *Holland* v. *Florida*, 560 U. S. 631. Under *Holland*, a litigant is entitled to equitable tolling of a statute of limitations only if the litigant establishes two elements: "(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing." *Id.*, at 649 (internal quotation marks omitted).

The Tribe calls this formulation of the equitable-tolling test overly rigid, given the doctrine's equitable nature. First, it argues that diligence and extraordinary circum-

stances should be considered together as two factors in a unitary test, and it faults the Court of Appeals for declining to consider the Tribe's diligence in connection with its finding that no extraordinary circumstances existed. But we have expressly characterized equitable tolling's two components as "elements," not merely factors of indeterminate or commensurable weight. *Pace* v. *DiGuglielmo*, 544 U. S. 408, 418 (2005) ("Generally, a litigant seeking equitable tolling bears the burden of establishing two elements"). And we have treated the two requirements as distinct elements in practice, too, rejecting requests for equitable tolling where a litigant failed to satisfy one without addressing whether he satisfied the other. See, *e. g.*, *Lawrence* v. *Florida*, 549 U. S. 327, 336–337 (2007) (rejecting equitable tolling without addressing diligence because habeas petitioner fell "far short of showing 'extraordinary circumstances' "); *Pace*, *supra*, at 418 (holding, without resolving litigant's argument that he had "satisfied the extraordinary circumstance test," that, "[e]ven if we were to accept [his argument], he would not be entitled to relief because he has not established the requisite diligence").

Second, the Tribe objects to the Court of Appeals' interpretation of the "extraordinary circumstances" prong as requiring a litigant seeking tolling to show an "external obstacl[e]" to timely filing, *i. e.*, that "the circumstances that caused a litigant's delay must have been beyond its control." 764 F. 3d, at 58–59. The Tribe complains that this "external obstacle" formulation amounts to the same kind of " 'overly rigid *per se* approach' " we rejected in *Holland*. Brief for Petitioner 32 (quoting 560 U. S., at 653). But in truth, the phrase "external obstacle" merely reflects our requirement that a litigant seeking tolling show "that some extraordinary circumstance *stood in his way*." *Id.*, at 649 (emphasis added; internal quotation marks omitted). This phrasing in *Holland* (and in *Pace* before that) would make little sense if

equitable tolling were available when a litigant was responsible for its *own* delay. Indeed, the diligence prong already covers those affairs within the litigant's control; the extraordinary-circumstances prong, by contrast, is meant to cover matters outside its control. We therefore reaffirm that the second prong of the equitable-tolling test is met only where the circumstances that caused a litigant's delay are both extraordinary *and* beyond its control.[2]

## III

The Tribe offers no circumstances that meet this standard.

Its mistaken reliance on the putative *Cherokee Nation* class action was not an obstacle beyond its control.[3] As the Tribe conceded below, see 614 F. 3d, at 526–527, it could not have been a member of the putative *Cherokee Nation* class because it did not present its claims to an IHS contracting officer before class certification was denied. Before then, the Tribe had unilateral authority to present its claims and to join the putative class. Presentment was blocked not by an obstacle outside its control, but by the Tribe's mistaken belief that presentment was unneeded.

The Tribe's mistake, in essence, was its inference that the reasoning of the *Ramah* class certification decision (allowing tribes to participate—without presentment—in the class challenging underpayment of BIA contract support costs) applied to the putative *Cherokee Nation* class. This mistake was fundamentally no different from "a garden variety

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[2] *Holland* v. *Florida*, 560 U. S. 631 (2010), is a habeas case, and we have never held that its equitable-tolling test necessarily applies outside the habeas context. Nevertheless, because we agree that the Tribe cannot meet *Holland*'s test, we have no occasion to decide whether an even stricter test might apply to a nonhabeas case. Nor does the Tribe argue that a more generous test than *Holland*'s should apply here.

[3] Because we conclude that the Tribe's mistake of law was not outside its control, we need not decide whether a mistake of law, however reasonable, could ever be extraordinary.

claim of excusable neglect," *Irwin* v. *Department of Veterans Affairs*, 498 U. S. 89, 96 (1990), "such as a simple 'miscalculation' that leads a lawyer to miss a filing deadline," *Holland*, *supra*, at 651 (quoting *Lawrence*, *supra*, at 336). And it is quite different from relying on *actually binding* precedent that is subsequently reversed.[4]

The Tribe's other excuses are even less compelling. Its belief that presentment was futile was not an obstacle beyond its control but a species of the same mistake that kept it out of the putative *Cherokee Nation* class. And the fact that there may have been significant risk and expense associated with presenting and litigating its claims is far from extraordinary. As the District Court noted below, "it is common for a litigant to be confronted with significant costs to litigation, limited financial resources, an uncertain outcome based upon an uncertain legal landscape, and impending deadlines. These circumstances are not 'extraordinary.'" 841 F. Supp. 2d, at 107.

Finally, the Tribe also urges us to consider the special relationship between the United States and Indian tribes, as articulated in the ISDA. See 25 U. S. C. § 450a(b) ("Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole"). We do not question the "general trust relationship between the United States and the Indian tribes," but any specific obligations the Government may have under that relationship are "governed by statute rather than the common law." *United States* v. *Jicarilla Apache Nation*, 564 U. S. 162, 165 (2011). The ISDA and CDA establish a clear procedure for the resolution of disputes over ISDA contracts, with an unambiguous 6-year deadline for

[4] The Court of Appeals speculated, without deciding, that such a development might merit tolling, but like that court we have no occasion to decide the question.

presentment of claims. The "general trust relationship" does not override the clear language of those statutes.[5]

## IV

For these reasons, the judgment of the United States Court of Appeals for the District of Columbia Circuit is affirmed.

*It is so ordered.*

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[5] Because we hold that there were no extraordinary circumstances, we need not decide whether the Tribe was diligently pursuing its rights. We also need not accept the Tribe's invitation to assess prejudice to the Government, because the absence of prejudice to the opposing party "is not an independent basis for invoking the doctrine [of equitable tolling] and sanctioning deviations from established procedures." *Baldwin County Welcome Center* v. *Brown*, 466 U. S. 147, 152 (1984) (*per curiam*). Rather, the absence of prejudice is "a factor to be considered in determining whether the doctrine of equitable tolling should apply *once a factor that might justify such tolling is identified*." *Ibid.* (emphasis added).

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# FEDERAL ENERGY REGULATORY COMMISSION *v.* ELECTRIC POWER SUPPLY ASSOCIATION ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14–840. Argued October 14, 2015—Decided January 25, 2016*

The Federal Power Act (FPA) authorizes the Federal Energy Regulatory Commission (FERC) to regulate "the sale of electric energy at wholesale in interstate commerce," including both wholesale electricity rates and any rule or practice "affecting" such rates. 16 U. S. C. §§ 824(b), 824d(a), 824e(a). But it places beyond FERC's power, leaving to the States alone, the regulation of "any other sale"—that is, any intrastate wholesale sale or, more pertinent here, any retail sale—of electricity. § 824(b).

In an increasingly competitive interstate electricity market, FERC has undertaken to ensure "just and reasonable" wholesale rates, § 824d(a), by encouraging the creation of nonprofit entities to manage regions of the nationwide electricity grid. These wholesale market operators administer their portions of the grid to ensure that the network conducts electricity reliably, and each holds competitive auctions to set wholesale prices. These auctions balance supply and demand continuously by matching bids to provide electricity from generators with orders from utilities and other "load-serving entities" that buy power at wholesale for resale to users. All bids to supply electricity are stacked from lowest to highest, and accepted in that order until all requests for power have been met. Every electricity supplier is paid the price of the highest-accepted bid, known as the locational marginal price (LMP).

In periods of high electricity demand, prices can reach extremely high levels as the least efficient generators have their supply bids accepted in the wholesale market auctions. Not only do rates rise dramatically during these peak periods, but the increased flow of electricity threatens to overload the grid and cause substantial service problems. Faced with these challenges, wholesale market operators devised wholesale demand response programs, which pay consumers for commitments to reduce their use of power during these peak periods. Just like bids to supply electricity, offers from aggregators of multiple users of electricity or large individual consumers to reduce consumption can be bid into the wholesale market auctions. When it costs less to pay consumers to

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*Together with No. 14–841, *EnerNOC, Inc., et al.* v. *Electric Power Supply Association et al.*, also on certiorari to the same court.

refrain from using power than it does to pay producers to supply more of it, demand response can lower these wholesale prices and increase grid reliability. Wholesale operators began integrating these programs into their markets some 15 years ago and FERC authorized their use. Congress subsequently encouraged further development of demand response.

Spurred on by Congress, FERC issued Order No. 719, which, among other things, requires wholesale market operators to receive demand response bids from aggregators of electricity consumers, except when the state regulatory authority overseeing those users' retail purchases bars demand response participation. 18 CFR § 35.28(g)(1). Concerned that the order had not gone far enough, FERC then issued the rule under review here, Order No. 745. § 35.28(g)(1)(v) (Rule). It requires market operators to pay the same price to demand response providers for conserving energy as to generators for producing it, so long as a "net benefits test," which ensures that accepted bids actually save consumers money, is met. The Rule rejected an alternative compensation scheme that would have subtracted from LMP the savings consumers receive from not buying electricity in the retail market, a formula known as LMP–G. The Rule also rejected claims that FERC lacked statutory authority to regulate the compensation operators pay for demand response bids.

The Court of Appeals for the District of Columbia Circuit vacated the Rule, holding that FERC lacked authority to issue the order because it directly regulates the retail electricity market, and holding in the alternative that the Rule's compensation scheme is arbitrary and capricious under the Administrative Procedure Act.

*Held*:

1. The FPA provides FERC with the authority to regulate wholesale market operators' compensation of demand response bids. The Court's analysis proceeds in three parts. First, the practices at issue directly affect wholesale rates. Second, FERC has not regulated retail sales. Taken together, these conclusions establish that the Rule complies with the FPA's plain terms. Third, the contrary view would conflict with the FPA's core purposes. Pp. 276–291.

(a) The practices at issue directly affect wholesale rates. The FPA has delegated to FERC the authority—and, indeed, the duty—to ensure that rules or practices "affecting" wholesale rates are just and reasonable. §§ 824d(a), 824e(a). To prevent the statute from assuming near-infinite breadth, see, *e. g., New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U. S. 645, 655, this Court adopts the D. C. Circuit's common-sense construction limiting FERC's "affecting" jurisdiction to rules or practices that "*directly* affect the

[wholesale] rate," *California Independent System Operator Corp.* v. *FERC*, 372 F. 3d 395, 403 (emphasis added). That standard is easily met here. Wholesale demand response is all about reducing wholesale rates; so too the rules and practices that determine how those programs operate. That is particularly true here, as the formula for compensating demand response necessarily lowers wholesale electricity prices by displacing higher-priced generation bids. Pp. 277–279.

(b) The Rule also does not regulate retail electricity sales in violation of § 824(b). A FERC regulation does not run afoul of § 824(b)'s proscription just because it affects the quantity or terms of retail sales. Transactions occurring on the wholesale market have natural consequences at the retail level, and so too, of necessity, will FERC's regulation of those wholesale matters. That is of no legal consequence. See, *e. g.*, *Mississippi Power & Light Co.* v. *Mississippi ex rel. Moore*, 487 U. S. 354, 365, 370–373. When FERC regulates what takes place on the wholesale market, as part of carrying out its charge to improve how that market runs, then no matter the effect on retail rates, § 824(b) imposes no bar. Here, every aspect of FERC's regulatory plan happens exclusively on the wholesale market and governs exclusively that market's rules. FERC's justifications for regulating demand response are likewise only about improving the wholesale market. Cf. *Oneok, Inc.* v. *Learjet, Inc.*, 575 U. S. 373, 385. Pp. 279–288.

(c) In addition, respondent Electric Power Supply Association's (EPSA) position would subvert the FPA. EPSA's arguments suggest that the entire practice of wholesale demand response falls outside what FERC can regulate, and EPSA concedes that States also lack that authority. But under the FPA, wholesale demand response programs could not go forward if no entity had jurisdiction to regulate them. That outcome would flout the FPA's core purposes of protecting "against excessive prices" and ensuring effective transmission of electric power. *Pennsylvania Water & Power Co.* v. *FPC*, 343 U. S. 414, 418; see *Gulf States Util. Co.* v. *FPC*, 411 U. S. 747, 758. The FPA should not be read, against its clear terms, to halt a practice that so evidently enables FERC to fulfill its statutory duties of holding down prices and enhancing reliability in the wholesale energy market. Pp. 288–291.

2. FERC's decision to compensate demand response providers at LMP—the same price paid to generators—instead of at LMP–G, is not arbitrary and capricious. Under the narrow scope of review in *Motor Vehicle Mfrs. Assn. of United States, Inc.* v. *State Farm Mut. Automobile Ins. Co.*, 463 U. S. 29, 43, this Court's important but limited role is to ensure that FERC engaged in reasoned decisionmaking—that it weighed competing views, selected a compensation formula with adequate support in the record, and intelligibly explained the reasons for making that decision. Here, FERC provided a detailed explanation of

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its choice of LMP and responded at length to contrary views. FERC's serious and careful discussion of the issue satisfies the arbitrary and capricious standard. Pp. 291–296.

753 F. 3d 216, reversed and remanded.

KAGAN, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, GINSBURG, BREYER, and SOTOMAYOR, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined, *post*, p. 296. ALITO, J., took no part in the consideration or decision of the cases.

*Solicitor General Verrilli* argued the cause for petitioner in No. 14–840. With him on the briefs were *Deputy Solicitor General Kneedler*, *John F. Bash*, *Robert H. Solomon*, and *Holly E. Cafer*. *Carter G. Phillips* argued the cause for private petitioners in No. 14–841. With him on the briefs were *C. Frederick Beckner III*, *Matthew J. Cushing*, *Marvin T. Griff*, and *Robert A. Weishaar, Jr.* *Ransom E. Davis*, *Bohdan R. Pankiw*, and *Kriss E. Brown* filed a brief for respondents Joint States in support of petitioners in both cases pursuant to this Court's Rule 12.6. *Elizabeth Dorman*, *Aroceles Aguilar*, and *Harvey Y. Morris* filed a brief for respondent California Public Utilities Commission and *Barry S. Spector* and *Paul M. Flynn* filed a brief for respondent PJM Interconnection, L.L.C., both in support of petitioner in No. 14–840 pursuant to this Court's Rule 12.6.

*Paul D. Clement* argued the cause for respondents Electric Power Supply Association et al. in both cases. With him on the brief were *Erin E. Murphy*, *Edmund G. LaCour, Jr.*, *Ashley C. Parrish*, *David G. Tewksbury*, *Stephanie S. Lim*, *James P. Sullivan*, *Harvey L. Reiter*, *Edward H. Comer*, *Henri D. Bartholomot*, *Sandra E. Rizzo*, *Randolph Lee Elliott*, *Jesse A. Dillon*, and *Michael A. McGrail*. *Cynthia S. Bogorad*, *William S. Huang*, *Katharine M. Mapes*, and *Jessica R. Bell* filed a brief for respondents Midwest Load-Serving Entities in both cases pursuant to this Court's Rule 12.6.†

†Briefs of *amici curiae* urging reversal were filed in both cases for the State of Illinois et al. by *Lisa Madigan*, Attorney General of Illinois, *Regina A. Iorrii*, Deputy Attorney General of Delaware, *David T. Evrard*,

JUSTICE KAGAN delivered the opinion of the Court.

The Federal Power Act (FPA or Act), 41 Stat. 1063, as amended, 16 U. S. C. § 791a *et seq.*, authorizes the Federal Energy Regulatory Commission (FERC or Commission) to regulate "the sale of electric energy at wholesale in inter-

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*Sandra Mattavous-Frye*, *Robert G. Mork*, *Paula M. Carmody*, *Stefanie A. Brand*, and *Jacqueline Lake Roberts*; for the Conservation Law Foundation et al. by *David T. Goldberg*, *Sean H. Donahue*, *John N. Moore*, *Vickie L. Patton*, *Peter Zalzal*, *Jerry Elmer*, and *Howard A. Learner*; for Electricity Consumers and Demand Response Providers by *Seth P. Waxman*, *Mark C. Kalpin*, and *David M. Lehn*; for Energy Law Scholars by *Richard J. Pierce, Jr.*; for the Microgrid Resources Coalition by *Erik S. Jaffe*; for Charles J. Cicchetti by *Hope M. Babcock*; and for Charles D. Kolstad by *Wendy B. Jacobs*.

*Richard B. Stewart* filed a brief for the Guarini Center on Environmental, Energy and Land Use Law at New York University School of Law urging reversal in No. 14–840.

Briefs of *amici curiae* urging affirmance were filed in both cases for the State of Indiana et al. by *Gregory F. Zoeller*, Attorney General of Indiana, *Thomas M. Fisher*, Solicitor General, and *Laura Langeneckert*, Deputy Attorney General, by *Scott Pruitt*, Attorney General of Oklahoma, *Patrick Wyrick*, Solicitor General, and *Mithun Mansinghani*, Deputy Solicitor General, and by the Attorneys General of their respective States as follows: *Luther Strange* of Alabama, *Mark Brnovich* of Arizona, *Leslie Rutledge* of Arkansas, *Lawrence G. Wasden* of Idaho, *Derek Schimdt* of Kansas, *Alan Wilson* of South Carolina, *Ken Paxton* of Texas, *Sean D. Reyes* of Utah, *Patrick Morrisey* of West Virginia, and *Peter K. Michael* of Wyoming; for CES et al. by *Peter J. Brann* and *Stacy O. Stitham*; for the North Carolina Utilities Commission by *Kimberly W. Duffley*, *Donald L. Howell II*, *Rolayne Ailts Wiest*, *Luther Daniel Bentley IV*, and *Maureen A. Scott*; for Southern Company Services, Inc., by *Andrew W. Tunnell*; and for Robert L. Borlick et al. by *Jeffrey A. Lamken* and *John Lee Shepard, Jr.*

*Gerald Norlander* and *Richard Berkely* filed a brief for the Public Utility Law Project of New York urging affirmance in No. 14–840.

*Erick M. Sandler* and *Ellen C. Ginsberg* filed a brief for the Nuclear Energy Institute et al. urging affirmance in No. 14–841.

Briefs of *amici curiae* were filed in both cases for Grid Engineers et al. by *Douglas Hallward-Driemeier* and *Justin Florence*; for NRG Energy, Inc., by *Aaron M. Panner*; and for the Public Service Commission of the State of New York by *Jonathan D. Feinberg*.

state commerce," including both wholesale electricity rates and any rule or practice "affecting" such rates. §§ 824(b), 824e(a). But the law places beyond FERC's power, and leaves to the States alone, the regulation of "any other sale"—most notably, any retail sale—of electricity. § 824(b). That statutory division generates a steady flow of jurisdictional disputes because—in point of fact if not of law—the wholesale and retail markets in electricity are inextricably linked.

These cases concern a practice called "demand response," in which operators of wholesale markets pay electricity consumers for commitments *not* to use power at certain times. That practice arose because wholesale market operators can sometimes—say, on a muggy August day—offer electricity both more cheaply and more reliably by paying users to dial down their consumption than by paying power plants to ramp up their production. In the regulation challenged here, FERC required those market operators, in specified circumstances, to compensate the two services equivalently—that is, to pay the same price to demand response providers for conserving energy as to generators for making more of it.

Two issues are presented here. First, and fundamentally, does the FPA permit FERC to regulate these demand response transactions at all, or does any such rule impinge on the States' authority? Second, even if FERC has the requisite statutory power, did the Commission fail to justify adequately why demand response providers and electricity producers should receive the same compensation? The court below ruled against FERC on both scores. We disagree.

## I

### A

Federal regulation of electricity owes its beginnings to one of this Court's decisions. In the early 20th century, state

and local agencies oversaw nearly all generation, transmission, and distribution of electricity. But this Court held in *Public Util. Comm'n of R. I.* v. *Attleboro Steam & Elec. Co.*, 273 U. S. 83, 89–90 (1927), that the Commerce Clause bars the States from regulating certain interstate electricity transactions, including wholesale sales (*i. e.*, sales for resale) across state lines. That ruling created what became known as the "*Attleboro* gap"—a regulatory void which, the Court pointedly noted, only Congress could fill. See *id.*, at 90.

Congress responded to that invitation by passing the FPA in 1935. The Act charged FERC's predecessor agency with undertaking "effective federal regulation of the expanding business of transmitting and selling electric power in interstate commerce." *New York* v. *FERC*, 535 U. S. 1, 6 (2002) (quoting *Gulf States Util. Co.* v. *FPC*, 411 U. S. 747, 758 (1973)). Under the statute, the Commission has authority to regulate "the transmission of electric energy in interstate commerce" and "the sale of electric energy at wholesale in interstate commerce." 16 U. S. C. § 824(b)(1).

In particular, the FPA obligates FERC to oversee all prices for those interstate transactions and all rules and practices affecting such prices. The statute provides that "[a]ll rates and charges made, demanded, or received by any public utility for or in connection with" interstate transmissions or wholesale sales—as well as "all rules and regulations affecting or pertaining to such rates or charges"—must be "just and reasonable." § 824d(a). And if "any rate [or] charge," or "any rule, regulation, practice, or contract affecting such rate [or] charge[,]" falls short of that standard, the Commission must rectify the problem: It then shall determine what is "just and reasonable" and impose "the same by order." § 824e(a).

Alongside those grants of power, however, the Act also limits FERC's regulatory reach, and thereby maintains a zone of exclusive state jurisdiction. As pertinent here,

§ 824(b)(1)—the same provision that gives FERC authority over wholesale sales—states that "this subchapter," including its delegation to FERC, "shall not apply to any other sale of electric energy." Accordingly, the Commission may not regulate either within-state wholesale sales or, more pertinent here, retail sales of electricity (*i. e.*, sales directly to users). See *New York*, 535 U. S., at 17, 23. State utility commissions continue to oversee those transactions.

Since the FPA's passage, electricity has increasingly become a competitive interstate business, and FERC's role has evolved accordingly. Decades ago, state or local utilities controlled their own power plants, transmission lines, and delivery systems, operating as vertically integrated monopolies in confined geographic areas. That is no longer so. Independent power plants now abound, and almost all electricity flows not through "the local power networks of the past," but instead through an interconnected "grid" of near-nationwide scope. See *id.*, at 7 ("electricity that enters the grid immediately becomes a part of a vast pool of energy that is constantly moving in interstate commerce," linking producers and users across the country). In this new world, FERC often forgoes the cost-based rate-setting traditionally used to prevent monopolistic pricing. The Commission instead undertakes to ensure "just and reasonable" wholesale rates by enhancing competition—attempting, as we recently explained, "to break down regulatory and economic barriers that hinder a free market in wholesale electricity." *Morgan Stanley Capital Group Inc.* v. *Public Util. Dist. No. 1 of Snohomish Cty.*, 554 U. S. 527, 536 (2008).

As part of that effort, FERC encouraged the creation of nonprofit entities to manage wholesale markets on a regional basis. Seven such wholesale market operators now serve areas with roughly two-thirds of the country's electricity "load" (an industry term for the amount of electricity used). See FERC, Energy Primer: A Handbook of Energy Market

Basics 58–59 (Nov. 2015) (Energy Primer). Each administers a portion of the grid, providing generators with access to transmission lines and ensuring that the network conducts electricity reliably. See *ibid.* And still more important for present purposes, each operator conducts a competitive auction to set wholesale prices for electricity.

These wholesale auctions serve to balance supply and demand on a continuous basis, producing prices for electricity that reflect its value at given locations and times throughout each day. Such a real-time mechanism is needed because, unlike most products, electricity cannot be stored effectively. Suppliers must generate—every day, hour, and minute—the exact amount of power necessary to meet demand from the utilities and other "load-serving entities" (LSEs) that buy power at wholesale for resale to users. To ensure that happens, wholesale market operators obtain (1) orders from LSEs indicating how much electricity they need at various times and (2) bids from generators specifying how much electricity they can produce at those times and how much they will charge for it. Operators accept the generators' bids in order of cost (least expensive first) until they satisfy the LSEs' total demand. The price of the last unit of electricity purchased is then paid to every supplier whose bid was accepted, regardless of its actual offer; and the total cost is split among the LSEs in proportion to how much energy they have ordered. So, for example, suppose that at 9 a.m. on August 15, four plants serving Washington, D. C. can each produce some amount of electricity for, respectively, $10/unit, $20/unit, $30/unit, and $40/unit. And suppose that LSEs' demand at that time and place is met after the operator accepts the three cheapest bids. The first three generators would then all receive $30/unit. That amount is (think back to Econ 101) the marginal cost—*i. e.*, the added cost of meeting another unit of demand—which is the price an efficient market would produce. See 1 A. Kahn, The Economics of Regulation: Principles and Institutions 65–67 (1988). FERC calls

that cost (in jargon that will soon become oddly familiar) the locational marginal price, or LMP.[1]

As in any market, when wholesale buyers' demand for electricity increases, the price they must pay rises correspondingly; and in those times of peak load, the grid's reliability may also falter. Suppose that by 2 p.m. on August 15, it is 98 degrees in D. C. In every home, store, or office, people are turning the air conditioning up. To keep providing power to their customers, utilities and other LSEs must ask their market operator for more electricity. To meet that spike in demand, the operator will have to accept more expensive bids from suppliers. The operator, that is, will have to agree to the $40 bid that it spurned before—and maybe, beyond that, to bids of $50 or $60 or $70. In such periods, operators often must call on extremely inefficient generators whose high costs of production cause them to sit idle most of the time. See Energy Primer 41–42. As that happens, LMP—the price paid by *all* LSEs to *all* suppliers—climbs ever higher. And meanwhile, the increased flow of electricity through the grid threatens to overload transmission lines. See *id.*, at 44. As every consumer knows, it is just when the weather is hottest and the need for air conditioning most acute that blackouts, brownouts, and other service problems tend to occur.

Making matters worse, the wholesale electricity market lacks the self-correcting mechanism of other markets. Usually, when the price of a product rises, buyers naturally adjust by reducing how much they purchase. But consumers of electricity—and therefore the utilities and other LSEs buying power for them at wholesale—do not respond to price signals in that way. To use the economic term, demand for electricity is inelastic. That is in part because electricity is a necessity with few ready substitutes: When the tempera-

[1] To be more precise, LMP generally includes, in addition to the price of the highest-accepted bid, certain costs of moving power through the grid. But those costs are not relevant here, and we therefore disregard them.

ture reaches 98 degrees, many people see no option but to switch on the AC. And still more: Many State regulators insulate consumers from short-term fluctuations in wholesale prices by insisting that LSEs set stable retail rates. See *id.*, at 41, 43–44. That, one might say, short-circuits the normal rules of economic behavior. Even in peak periods, as costs surge in the wholesale market, consumers feel no pinch, and so keep running the AC as before. That means, in turn, that LSEs must keep buying power to send to those users—no matter that wholesale prices spiral out of control and increased usage risks overtaxing the grid.

But what if there were an alternative to that scenario? Consider what would happen if wholesale market operators could induce consumers to refrain from using (and so LSEs from buying) electricity during peak periods. Whenever doing that costs less than adding more power, an operator could bring electricity supply and demand into balance at a lower price. And simultaneously, the operator could ease pressure on the grid, thus protecting against system failures. That is the idea behind the practice at issue here: Wholesale demand response, as it is called, pays consumers for commitments to curtail their use of power, so as to curb wholesale rates and prevent grid breakdowns. See *id.*, at 44–46.[2]

These demand response programs work through the operators' regular auctions. Aggregators of multiple users of electricity, as well as large-scale individual users like factories or big-box stores, submit bids to decrease electricity consumption by a set amount at a set time for a set price. The wholesale market operators treat those offers just like bids from generators to increase supply. The operators, that is, rank order all the bids—both to produce and to refrain from consuming electricity—from least to most expensive, and

[2] Differently designed demand response programs can operate in retail markets. Some States, for example, either encourage or require utilities to offer "critical-peak rebates" to customers for curtailing electricity use at times of high load. See Energy Primer 45.

then accept the lowest bids until supply and demand come into equipoise. And, once again, the LSEs pick up the cost of all those payments. So, to return to our prior example, if a store submitted an offer *not* to use a unit of electricity at 2 p.m. on August 15 for $35, the operator would accept that bid before calling on the generator that offered to produce a unit of power for $40. That would result in a lower LMP—again, wholesale market price—than if the market operator could not avail itself of demand response pledges. See ISO/RTO Council, Harnessing the Power of Demand: How ISOs and RTOs Are Integrating Demand Response Into Wholesale Electricity Markets 40–43 (2007) (estimating that, in one market, a demand response program reducing electricity usage by 3% in peak hours would lead to price declines of 6% to 12%). And it would decrease the risk of blackouts and other service problems.

Wholesale market operators began using demand response some 15 years ago, soon after they assumed the role of overseeing wholesale electricity sales. Recognizing the value of demand response for both system reliability and efficient pricing, they urged FERC to allow them to implement such programs. See, *e. g.*, *PJM Interconnection, L. L. C.*, Order Accepting Tariff Sheets as Modified, 95 FERC ¶61,306 (2001); *California Independent System Operator Corp.*, Order Conditionally Accepting for Filing Tariff Revisions, 91 FERC ¶61,256 (2000). And as demand response went into effect, market participants of many kinds came to view it—in the words of respondent Electric Power Supply Association (EPSA)—as an "important element[ ] of robust, competitive wholesale electricity markets." App. 94, EPSA, Comments on Proposed Rule on Demand Response Compensation in Organized Wholesale Energy Markets (May 12, 2010).

Congress added to the chorus of voices praising wholesale demand response. In the Energy Policy Act of 2005, 119 Stat. 594 (EPAct), it declared as "the policy of the United States" that such demand response "shall be encouraged."

§ 1252(f), 119 Stat. 966, 16 U. S. C. § 2642 note. In particular, Congress directed, the deployment of "technology and devices that enable electricity customers to participate in . . . demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy . . . markets shall be eliminated." *Ibid.*[3]

B

Spurred on by Congress, the Commission determined to take a more active role in promoting wholesale demand response programs. In 2008, FERC issued Order No. 719, which (among other things) requires wholesale market operators to receive demand response bids from aggregators of electricity consumers, except when the state regulatory authority overseeing those users' retail purchases bars such demand response participation. See 73 Fed. Reg. 64119, ¶154 (codified 18 CFR § 35.28(g)(1) (2015)). That original order allowed operators to compensate demand response providers differently from generators if they so chose. No party sought judicial review.

Concerned that Order No. 719 had not gone far enough, FERC issued the rule under review here in 2011, with one commissioner dissenting. See *Demand Response Competition in Organized Wholesale Energy Markets*, Order No. 745, 76 Fed. Reg. 16658 (Rule) (codified 18 CFR § 35.28(g)(1)(v)). The Rule attempts to ensure "just and rea-

[3] The dissent misreads this subsection of the EPAct in suggesting that it encourages States' use of retail demand response, rather than the wholesale programs at issue here. See *post*, at 303–304 (opinion of SCALIA, J.); n. 2, *supra*. The prior subsection, § 1252(e), as the dissent notes, promotes demand response in the States—but then the EPAct switches gears. Subsection (f) expressly addresses the programs of "regional electricity entit[ies]"—that is, wholesale market operators. Indeed, the provision lists all the markets those operators run: not just the electricity market involved here, but also the "capacity and ancillary service markets." Those are established components of the wholesale system with no counterparts at the state level. See Energy Primer 59.

sonable" wholesale rates by requiring market operators to appropriately compensate demand response providers and thus bring about "meaningful demand-side participation" in the wholesale markets. 76 Fed. Reg. 16658, ¶1, 16660, ¶10; 16 U. S. C. § 824d(a). The Rule's most significant provision directs operators, under two specified conditions, to pay LMP for any accepted demand response bid, just as they do for successful supply bids. See 76 Fed. Reg. 16666–16669, ¶¶45–67. In other words, the Rule requires that demand response providers in those circumstances receive as much for conserving electricity as generators do for producing it.

The two specified conditions ensure that a bid to use less electricity provides the same value to the wholesale market as a bid to make more. First, a demand response bidder must have "the capability to provide the service" offered; it must, that is, actually be able to reduce electricity use and thereby obviate the operator's need to secure additional power. *Id.*, at 16666, ¶¶48–49. Second, paying LMP for a demand response bid "must be cost-effective," as measured by a standard called "the net benefits test." *Ibid.*, ¶48. That test makes certain that accepting a lower-priced demand response bid over a higher-priced supply bid will actually save LSEs (*i. e.*, wholesale purchasers) money. In some situations it will not, even though accepting a lower-priced bid (by definition) reduces LMP. That is because (to oversimplify a bit) LSEs share the cost of paying successful bidders, and reduced electricity use makes some LSEs drop out of the market, placing a proportionally greater burden on those that are left. Each remaining LSE may thus wind up paying more even though the total bill is lower; or said otherwise, the costs associated with an LSE's increased share of compensating bids may exceed the savings that the LSE obtains from a lower wholesale price.[4] The net bene-

[4] The explanation is a stylized version of the actual phenomenon. In reality, LSEs rarely drop out of the market entirely because of demand response; instead, they will merely order less electricity. But the effect

fits test screens out such counterproductive demand response bids, exempting them from the Rule's compensation requirement. See *id.*, at 16659, 16666–16667, ¶¶3, 50–53. What remains are only those offers whose acceptance will result in actual savings to wholesale purchasers (along with more reliable service to end users). See *id.*, at 16671, ¶¶78–80.

The Rule rejected an alternative scheme for compensating demand response bids. Several commenters had urged that, in paying a demand response provider, an operator should subtract from the ordinary wholesale price the savings that the provider nets by not buying electricity on the retail market. Otherwise, the commenters claimed, demand response providers would receive a kind of "double-payment" relative to generators. See *id.*, at 16663, ¶24. That proposal, which the dissenting commissioner largely accepted, became known as LMP minus G, or more simply LMP–G, where "G" stands for the retail price of electricity. See *id.*, at 16668, ¶60, 16680 (Moeller, dissenting). But FERC explained that, under the conditions it had specified, the value of an accepted demand response bid to the wholesale market is identical to that of an accepted supply bid because each succeeds in cost-effectively "balanc[ing] supply and demand." *Id.*, at 16667, ¶55. And, the Commission reasoned, that comparable value is what ought to matter given FERC's goal of strengthening competition in the wholesale market: Rates should reflect not the costs that each market participant incurs, but instead the services it provides. See *id.*, at 16668, ¶62. Moreover, the Rule stated, compensating demand response bids at their actual value—*i. e.*, LMP—will help overcome various technological barriers, including a lack of needed infrastructure, that impede aggregators and large-scale users of electricity

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is the same as in the text, because the total cost of accepted bids is spread among LSEs in proportion to the units of electricity they purchase; and as those units decline, each remaining one bears a greater share of the bill.

from fully participating in demand response programs. See *id.*, at 16667–16668, ¶¶57–58.

The Rule also responded to comments challenging FERC's statutory authority to regulate the compensation operators pay for demand response bids. Pointing to the Commission's analysis in Order No. 719, the Rule explained that the FPA gives FERC jurisdiction over such bids because they "directly affect[ ] wholesale rates." *Id.*, at 16676, ¶112 (citing 74 *id.*, at 37783, ¶47, and 18 U. S. C. § 824d). Nonetheless, the Rule noted, FERC would continue Order No. 719's policy of allowing any state regulatory body to prohibit consumers in its retail market from taking part in wholesale demand response programs. See 76 Fed. Reg. 16676, ¶114; 73 *id.*, at 64119, ¶154. Accordingly, the Rule does not require any "action[ ] that would violate State laws or regulations." 76 *id.*, at 16676, ¶114.

C

A divided panel of the Court of Appeals for the District of Columbia Circuit vacated the Rule as "*ultra vires* agency action." 753 F. 3d 216, 225 (2014). The court held that FERC lacked authority to issue the Rule even though "demand response compensation affects the wholesale market." *Id.*, at 221. The Commission's "jurisdiction to regulate practices 'affecting' rates," the court stated, "does not erase the specific limit[ ]" that the FPA imposes on FERC's regulation of retail sales. *Id.*, at 222. And the Rule, the court concluded, exceeds that limit: In "luring . . . *retail* customers" into the wholesale market, and causing them to decrease "levels of *retail* electricity consumption," the Rule engages in "direct regulation of the retail market." *Id.*, at 223–224.

The Court of Appeals held, alternatively, that the Rule is arbitrary and capricious under the Administrative Procedure Act, 5 U. S. C. § 706(2)(A), because FERC failed to "adequately explain[ ]" why paying LMP to demand response providers "results in just compensation." 753 F. 3d, at 225.

According to the court, FERC did not "properly consider" the view that such a payment would give those providers a windfall by leaving them with "the full LMP *plus* . . . the savings associated with" reduced consumption. *Ibid.* (quoting *Demand Response Competition in Organized Wholesale Energy Markets: Order on Rehearing and Clarification*, Order No. 745–A (Rehearing Order), 137 FERC ¶61,215, p. 62,316 (2011) (Moeller, dissenting)). The court dismissed out of hand the idea that "comparable contributions [could] be the reason for equal compensation." 753 F. 3d, at 225.

Judge Edwards dissented. He explained that the rules governing wholesale demand response have a "direct effect . . . on wholesale electricity rates squarely within FERC's jurisdiction." *Id.*, at 227. And in setting those rules, he argued, FERC did not engage in "direct regulation of the retail market"; rather, "[a]uthority over retail rates . . . remains vested solely in the States." *Id.*, at 234 (internal quotation marks omitted). Finally, Judge Edwards rejected the majority's view that the Rule is arbitrary and capricious. He noted the substantial deference due to the Commission in cases involving ratemaking, and concluded that FERC provided a "thorough" and "reasonable" explanation for choosing LMP as the appropriate compensation formula. *Id.*, at 236–238.

We granted certiorari, 575 U. S. 995 (2015), to decide whether the Commission has statutory authority to regulate wholesale market operators' compensation of demand response bids and, if so, whether the Rule challenged here is arbitrary and capricious. We now hold that the Commission has such power and that the Rule is adequately reasoned. We accordingly reverse.

## II

Our analysis of FERC's regulatory authority proceeds in three parts. First, the practices at issue in the Rule—market operators' payments for demand response commitments—directly affect wholesale rates. Second, in address-

ing those practices, the Commission has not regulated retail sales. Taken together, those conclusions establish that the Rule complies with the FPA's plain terms. And third, the contrary view would conflict with the Act's core purposes by preventing all use of a tool that no one (not even EPSA) disputes will curb prices and enhance reliability in the wholesale electricity market.[5]

A

The FPA delegates responsibility to FERC to regulate the interstate wholesale market for electricity—both wholesale rates and the panoply of rules and practices affecting them. As noted earlier, the Act establishes a scheme for federal regulation of "the sale of electric energy at wholesale in interstate commerce." 16 U. S. C. § 824(b)(1); see *supra*, at 266. Under the statute, "[a]ll rates and charges made, demanded, or received by any public utility for or in connection with" interstate wholesale sales "shall be just and reasonable"; so too shall "all rules and regulations affecting or pertaining to such rates or charges." § 824d(a). And if FERC sees a violation of that standard, it must take remedial action. More specifically, whenever the Commission "shall find that any rate [or] charge"—or "any rule, regulation, practice, or contract affecting such rate [or] charge"—is "unjust [or] unreasonable," then the Commission "shall determine the just and reasonable rate, charge[,] rule, regulation, practice or contract" and impose "the same by order." § 824e(a). That means FERC has the authority—and, indeed, the duty—to ensure that rules or practices "affecting" wholesale rates are just and reasonable.

Taken for all it is worth, that statutory grant could extend FERC's power to some surprising places. As the court below noted, markets in all electricity's inputs—steel, fuel,

[5] Because we think FERC's authority clear, we need not address the Government's alternative contention that FERC's interpretation of the statute is entitled to deference under *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837 (1984).

and labor most prominent among them—might affect generators' supply of power. See 753 F. 3d, at 221; *id.*, at 235 (Edwards, J., dissenting). And for that matter, markets in just about everything—the whole economy, as it were—might influence LSEs' demand. So if indirect or tangential impacts on wholesale electricity rates sufficed, FERC could regulate now in one industry, now in another, changing a vast array of rules and practices to implement its vision of reasonableness and justice. We cannot imagine that was what Congress had in mind.

For that reason, an earlier D. C. Circuit decision adopted, and we now approve, a common-sense construction of the FPA's language, limiting FERC's "affecting" jurisdiction to rules or practices that "*directly* affect the [wholesale] rate." *California Independent System Operator Corp.* v. *FERC*, 372 F. 3d 395, 403 (2004) (emphasis added); see 753 F. 3d, at 235 (Edwards, J., dissenting). As we have explained in addressing similar terms like "relating to" or "in connection with," a non-hyperliteral reading is needed to prevent the statute from assuming near-infinite breadth. See *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U. S. 645, 655 (1995) ("If 'relate to' were taken to extend to the furthest stretch of its indeterminacy, then for all practical purposes [the statute] would never run its course"); *Maracich* v. *Spears*, 570 U. S. 48, 59 (2013) ("The phrase 'in connection with' is essentially indeterminat[e] because connections, like relations, stop nowhere" (internal quotation marks omitted)). The Commission itself incorporated the D. C. Circuit's standard in addressing its authority to issue the Rule. See 76 Fed. Reg. 16676, ¶112 (stating that FERC has jurisdiction because wholesale demand response "directly affects wholesale rates"). We think it right to do the same.

Still, the rules governing wholesale demand response programs meet that standard with room to spare. In general (and as earlier described), wholesale market operators em-

ploy demand response bids in competitive auctions that balance wholesale supply and demand and thereby set wholesale prices. See *supra*, at 270–271. The operators accept such bids if and only if they bring down the wholesale rate by displacing higher-priced generation. And when that occurs (most often in peak periods), the easing of pressure on the grid, and the avoidance of service problems, further contributes to lower charges. See Brief for Grid Engineers et al. as *Amici Curiae* 26–27. Wholesale demand response, in short, is all about reducing wholesale rates; so too, then, the rules and practices that determine how those programs operate.

And that is particularly true of the formula that operators use to compensate demand response providers. As in other areas of life, greater pay leads to greater participation. If rewarded at LMP, rather than at some lesser amount, more demand response providers will enter more bids capable of displacing generation, thus necessarily lowering wholesale electricity prices. Further, the Commission found, heightened demand response participation will put "downward pressure" on generators' own bids, encouraging power plants to offer their product at reduced prices lest they come away empty-handed from the bidding process. 76 Fed. Reg. 16660, ¶10. That, too, ratchets down the rates wholesale purchasers pay. Compensation for demand response thus directly affects wholesale prices. Indeed, it is hard to think of a practice that does so more.

## B

The above conclusion does not end our inquiry into the Commission's statutory authority; to uphold the Rule, we also must determine that it does not regulate *retail* electricity sales. That is because, as earlier described, § 824(b) "limit[s] FERC's sale jurisdiction to that at wholesale," reserving regulatory authority over retail sales (as well as intrastate wholesale sales) to the States. *New York*, 535 U. S., at 17 (emphasis deleted); see 16 U. S. C. § 824(b); *supra*, at

266–267.[6] FERC cannot take an action transgressing that limit no matter how direct, or dramatic, its impact on wholesale rates. Suppose, to take a far-fetched example, that the Commission issued a regulation compelling every consumer to buy a certain amount of electricity on the retail market. Such a rule would necessarily determine the load purchased on the wholesale market too, and thus would alter wholesale prices. But even given that ineluctable consequence, the regulation would exceed FERC's authority, as defined in § 824(b), because it specifies terms of sale at retail—which is a job for the States alone.[7]

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[6] EPSA additionally cites § 824(a) as constraining the Commission's authority, see Brief for Respondent EPSA et al. 25, 31, 43 (Brief for Respondents), but that provision adds nothing to the analysis. Section 824(a), the FPA's "declaration of policy," states that federal regulation of electricity is to "extend only to those matters which are not subject to regulation by the States." We have often explained that this declaration serves only to frame the Act's basic structure and purpose. See, *e. g.*, *New York*, 535 U. S., at 22 (Section 824(a) "broadly expresse[s] [the Act's] purpose" (quoting *FPC* v. *Southern Cal. Edison Co.*, 376 U. S. 205, 215 (1964))); *id.*, at 215 (Section 824(a) is "merely a 'policy declaration . . . of great generality' " (quoting *Connecticut Light & Power Co.* v. *FPC*, 324 U. S. 515, 527 (1945))). That means, as applied to the issue here, that § 824(a) merely points toward the division of regulatory authority that § 824(b) carries out. The operative provision is what counts.

[7] The dissent disputes this framing of the issue, but its criticism (made by neither EPSA nor its *amici*) is irrelevant to deciding this case. According to the dissent, the FPA prohibits FERC from regulating not only retail sales of electricity (as we agree) but also any other sales of electricity aside from wholesale sales. See *post*, at 297–299. But the dissent turns out not to argue that the Rule regulates some kind of non-retail, non-wholesale sale of electric energy (whatever that might be). Rather, the dissent claims that the Rule regulates retail sales, see *post*, at 299–301—exactly the point that we address, and reject, in the following pages. And in any event, the dissent's framing of the issue is wrong if and to the extent it posits some undefined category of other electricity sales falling within neither FERC's nor the States' regulatory authority. Sales of electric energy come in two varieties: wholesale and retail. The very case the dissent relies on recognizes that fact by referring to "other sales, that

Yet a FERC regulation does not run afoul of § 824(b)'s proscription just because it affects—even substantially—the quantity or terms of retail sales. It is a fact of economic life that the wholesale and retail markets in electricity, as in every other known product, are not hermetically sealed from each other. To the contrary, transactions that occur on the wholesale market have natural consequences at the retail level. And so too, of necessity, will FERC's regulation of those wholesale matters. Cf. *Oneok, Inc.* v. *Learjet, Inc.*, 575 U. S. 373, 387 (2015) (noting that in the similarly structured world of natural gas regulation, a "Platonic ideal" of strict separation between federal and state realms cannot exist). When FERC sets a wholesale rate, when it changes wholesale market rules, when it allocates electricity as between wholesale purchasers—in short, when it takes virtually any action respecting wholesale transactions—it has some effect, in either the short or the long term, on retail rates. That is of no legal consequence. See, *e. g.*, *Mississippi Power & Light Co.* v. *Mississippi ex rel. Moore*, 487 U. S. 354, 365, 370–373 (1988) (holding that an order regulating wholesale purchases fell within FERC's jurisdiction, and preempted contrary state action, even though it clearly affected retail prices); *Nantahala Power & Light Co.* v. *Thornburg*, 476 U. S. 953, 959–961, 970 (1986) (same); *FPC* v. *Louisiana Power & Light Co.*, 406 U. S. 621, 636–641 (1972) (holding similarly in the natural gas context). When FERC regulates what takes place on the wholesale market, as part of carrying out its charge to improve how that market runs,

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is, to direct sales for consumptive use." *Panhandle Eastern Pipe Line Co.* v. *Public Serv. Comm'n of Ind.*, 332 U. S. 507, 516 (1947). FERC regulates interstate wholesale sales of electricity; the States regulate retail sales of electricity. And FERC may also regulate, as it did here, practices and rules affecting wholesale prices—that is, matters beyond wholesale sales themselves—so long as, in doing so, it does not trespass on the States' authority to regulate retail sales of electric power. See *supra*, at 266–267.

then no matter the effect on retail rates, § 824(b) imposes no bar.

And in setting rules for demand response, that is all FERC has done. The Commission's Rule addresses—and addresses only—transactions occurring on the wholesale market. Recall once again how demand response works—and forgive the coming italics. See *supra*, at 270–271. *Wholesale* market operators administer the entire program, receiving every demand response bid made. Those operators accept such a bid at the mandated price when (and only when) the bid provides value to the *wholesale* market by balancing supply and demand more "cost-effective[ly]"—*i. e.*, at a lower cost to *wholesale* purchasers—than a bid to generate power. 76 Fed. Reg. 16659, 16666, ¶¶2, 48. The compensation paid for a successful bid (LMP) is whatever the operator's auction has determined is the marginal price of *wholesale* electricity at a particular location and time. See *id.*, at 16659, ¶2. And those footing the bill are the same *wholesale* purchasers that have benefited from the lower *wholesale* price demand response participation has produced. See *id.*, at 16674, ¶¶99–100. In sum, whatever the effects at the retail level, every aspect of the regulatory plan happens exclusively on the wholesale market and governs exclusively that market's rules.

What is more, the Commission's justifications for regulating demand response are all about, and only about, improving the wholesale market. Cf. *Oneok*, 575 U. S., at 385 (considering "the *target* at which [a] law *aims*" in determining whether a State is properly regulating retail or, instead, improperly regulating wholesale sales). In Order No. 719, FERC explained that demand response participation could help create a "well-functioning competitive wholesale electric energy market" with "reduce[d] wholesale power prices" and "enhance[d] reliability." 73 Fed. Reg. 64103, ¶16. And in the Rule under review, FERC expanded on that theme. It listed the several ways in which "demand response in or-

ganized wholesale energy markets can help improve the functioning and competitiveness of those markets": by replacing high-priced, inefficient generation; exerting "downward pressure" on "generator bidding strategies"; and "support[ing] system reliability." 76 *id.*, at 16660, ¶10; see Notice of Proposed Rulemaking for Order No. 745, 75 *id.*, at 15363–15364, ¶4 (2010) (noting similar aims); *supra*, at 270–271. FERC, that is, focused wholly on the benefits that demand response participation (in the wholesale market) could bring to the wholesale market. The retail market figures no more in the Rule's goals than in the mechanism through which the Rule operates.

EPSA's primary argument that FERC has usurped state power (echoed in the dissent) maintains that the Rule "effectively," even though not "nominal[ly]," regulates retail prices. See, *e. g.*, Brief for Respondents 1, 10, 23–27, 35–39; Tr. of Oral Arg. 26, 30; *post*, at 299–301. The argument begins on universally accepted ground: Under § 824(b), only the States, not FERC, can set retail rates. See, *e. g.*, *FPC* v. *Conway Corp.*, 426 U. S. 271, 276 (1976). But as EPSA concedes, that tenet alone cannot make its case, because FERC's Rule does not set actual rates: States continue to make or approve all retail rates, and in doing so may insulate them from price fluctuations in the wholesale market. See Brief for Respondents 39. Still, EPSA contends, rudimentary economic analysis shows that the Rule does the "functional equivalen[t]" of setting—more particularly, of raising—retail rates. *Id.*, at 36. That is because the opportunity to make demand response bids in the wholesale market changes consumers' calculations. In deciding whether to buy electricity at retail, economically-minded consumers now consider *both* the cost of making such a purchase *and* the cost of forgoing a possible demand response payment. So, EPSA explains, if a factory can buy electricity for $10/unit, but can earn $5/unit for *not* buying power at peak times, then the effective retail rate at those times is $15/unit: the $10 the factory paid

at retail plus the $5 it passed up. See *id.*, at 10. And by thus increasing effective retail rates, EPSA concludes, FERC trespasses on the States' ground.

The modifier "effective" is doing quite a lot of work in that argument—more work than any conventional understanding of rate-setting allows. The standard dictionary definition of the term "rate" (as used with reference to prices) is "[a]n amount paid or charged for a good or service." Black's Law Dictionary 1452 (10th ed. 2014); see, *e. g.*, 13 Oxford English Dictionary 208–209 (2d ed. 1989) ("rate" means "price," "cost," or "sum paid or asked for a . . . thing"). To set a retail electricity rate is thus to establish the amount of money a consumer will hand over in exchange for power. Nothing in § 824(b) or any other part of the FPA suggests a more expansive notion, in which FERC sets a rate for electricity merely by altering consumers' incentives to purchase that product.[8] And neither does anything in this Court's caselaw. Our decisions uniformly speak about rates, for electricity and all else, in only their most prosaic, garden-variety sense. As the Solicitor General summarized that view, "the rate is what it is." Tr. of Oral Arg. 7. It is the price paid, not the price paid *plus* the cost of a forgone economic opportunity.

Consider a familiar scenario to see what is odd about EPSA's theory. Imagine that a flight is overbooked. The airline offers passengers $300 to move to a later plane that has extra seats. On EPSA's view, that offer adds $300—the

[8] The dissent offers, alternatively, a definition of "price," but that only further proves our point. "Price," says the dissent, is "[t]he amount of money or other consideration asked for or given in exchange for something else." *Post*, at 300 (quoting Black's Law Dictionary 1380). But the "effective" rates posited by EPSA and the dissent do not meet that test. If $10 is the actual rate for a unit of retail electricity, that is the only amount either "asked for" or "given" in exchange for power. A retail customer is asked to pay $10 by its LSE, and if it buys that electricity, it gives the LSE that same $10. By contrast, the $15 "effective" rate is neither asked for nor given by anyone.

cost of not accepting the airline's proffered payment—to the price of every continuing passenger's ticket. So a person who originally spent $400 for his ticket, and decides to reject the airline's proposal, paid an "effective" price of $700. But would any passenger getting off the plane say he had paid $700 to fly? That is highly unlikely. And airline lawyers and regulators (including many, we are sure, with economics Ph. D.'s) appear to share that common-sensical view. It is in fact illegal to "increase the price" of "air transportation . . . after [such] air transportation has been purchased by the consumer." 14 CFR § 399.88(a) (2015). But it is a safe bet that no airline has ever gotten into trouble by offering a payment not to fly.[9]

And EPSA's "effective price increase" claim fares even worse when it comes to payments not to use electricity. In EPSA's universe, a wholesale demand response program raises retail rates by compelling consumers to "pay" the price of forgoing demand response compensation. But such a consumer would be even more surprised than our air traveler to learn of that price hike, because the natural consequence of wholesale demand response programs is to bring *down* retail rates. Once again, wholesale market operators accept demand response bids only if those offers lower the wholesale price. See *supra*, at 270–271. And when whole-

[9] The dissent replaces our simple, real-world example with a convoluted, fictitious one—but once again merely confirms our point. Suppose, the dissent says, that an airline cancels a passenger's $400 ticket; gives him a refund plus an extra $300; and then tells him that if he wants to repurchase the ticket, he must pay $700. Aha!, says the dissent—isn't the price now $700? See *post*, at 300–301. Well, yes it is, because that is now the *actual* amount the passenger will have to hand over to the airline to receive a ticket in exchange (or in the dissent's definition of price, the amount "asked for" and "given," see n. 8, *supra*). In other words, in search of an intuitive way to explain its "effective rate" theory, the dissent must rely on an "actual rate" hypothetical. But all that does is highlight the distance, captured in the law, between real prices (reflecting amounts paid) and effective ones (reflecting opportunity costs).

sale prices go down, retail prices tend to follow, because state regulators can, and mostly do, insist that wholesale buyers eventually pass on their savings to consumers. EPSA's theoretical construct thus runs headlong into the real world of electricity sales—where the Rule does anything but increase retail prices.

EPSA's second argument that FERC intruded into the States' sphere is more historical and purposive in nature. According to EPSA, FERC deliberately "lured [retail customers] into the[ ] wholesale markets"—and, more, FERC did so "only because [it was] dissatisfied with the States' exercise of their undoubted authority" under § 824(b) to regulate retail sales. Brief for Respondents 23; see *id.*, at 2–3, 31, 34. In particular, EPSA asserts, FERC disapproved of "many States' continued preference" for stable pricing—that is, for insulating retail rates from short-term fluctuations in wholesale costs. *Id.*, at 28. In promoting demand response programs—or, in EPSA's somewhat less neutral language, in "forc[ing] retail customers to respond to wholesale price signals"—FERC acted "for the express purpose of overriding" that state policy. *Id.*, at 29, 49.

That claim initially founders on the true facts of how wholesale demand response came about. Contra EPSA, the Commission did not invent the practice. Rather, and as described earlier, the impetus came from wholesale market operators. See *supra,* at 271. In designing their newly organized markets, those operators recognized almost at once that demand response would lower wholesale electricity prices and improve the grid's reliability. So they quickly sought, and obtained, FERC's approval to institute such programs. Demand response, then, emerged not as a Commission power grab, but instead as a market-generated innovation for more optimally balancing wholesale electricity supply and demand.

And when, years later (after Congress, too, endorsed the practice), FERC began to play a more proactive role, it did

so for the identical reason: to enhance the wholesale, not retail, electricity market. Like the market operators, FERC saw that sky-high demand in peak periods threatened network breakdowns, compelled purchases from inefficient generators, and consequently drove up wholesale prices. See, *e. g.*, 73 Fed. Reg. 64103, ¶16; 76 *id.*, at 16660, ¶10; see *supra*, at 269–270. Addressing those problems—which demand response does—falls within the sweet spot of FERC's statutory charge. So FERC took action promoting the practice. No doubt FERC recognized connections, running in both directions, between the States' policies and its own. The Commission understood that by insulating consumers from price fluctuations, States contributed to the wholesale market's difficulties in optimally balancing supply and demand. See 76 Fed. Reg. 16667–16668, ¶¶57, 59; *supra,* at 269–270. And FERC realized that increased use of demand response in that market would (by definition) inhibit retail sales otherwise subject to State control. See 73 Fed. Reg. 64167. But nothing supports EPSA's more feverish idea that the Commission's interest in wholesale demand response emerged from a yen to usurp State authority over, or impose its own regulatory agenda on, retail sales. In promoting demand response, FERC did no more than follow the dictates of its regulatory mission to improve the competitiveness, efficiency, and reliability of the wholesale market.

Indeed, the finishing blow to both of EPSA's arguments comes from FERC's notable solicitude toward the States. As explained earlier, the Rule allows any State regulator to prohibit its consumers from making demand response bids in the wholesale market. See 76 *id.*, at 16676, ¶114; 73 *id.*, at 64119, ¶154; *supra,* at 275. Although claiming the ability to negate such state decisions, the Commission chose not to do so in recognition of the linkage between wholesale and retail markets and the States' role in overseeing retail sales. See 76 Fed. Reg. 16676, ¶¶112–114. The veto power thus granted to the States belies EPSA's view that FERC aimed

to "obliterate[]" their regulatory authority or "override" their pricing policies. Brief for Respondents 29, 33. And that veto gives States the means to block whatever "effective" increases in retail rates demand response programs might be thought to produce. Wholesale demand response as implemented in the Rule is a program of cooperative federalism, in which the States retain the last word. That feature of the Rule removes any conceivable doubt as to its compliance with § 824(b)'s allocation of federal and state authority.

C

One last point, about how EPSA's position would subvert the FPA.

EPSA's jurisdictional claim, as may be clear by now, stretches very far. Its point is not that this single Rule, relating to compensation levels, exceeds FERC's power. Instead, EPSA's arguments—that rewarding energy conservation raises effective retail rates and that "luring" consumers onto wholesale markets aims to disrupt state policies—suggest that the entire practice of wholesale demand response falls outside what FERC can regulate. EPSA proudly embraces that point: FERC, it declares, "has no business regulating 'demand response' at all." *Id.*, at 24. Under EPSA's theory, FERC's earlier Order No. 719, although never challenged, would also be ultra vires because it requires operators to open their markets to demand response bids. And more: FERC could not even approve an operator's voluntary plan to administer a demand response program. See Tr. of Oral Arg. 44. That too would improperly allow a retail customer to participate in a wholesale market.

Yet state commissions could not regulate demand response bids either. EPSA essentially concedes this point. See Brief for Respondents 46 ("That may well be true"). And so it must. The FPA "leaves no room either for direct state regulation of the prices of interstate wholesales" or for regulation that "would indirectly achieve the same result." *Northern Natural Gas Co.* v. *State Corporation Comm'n of*

*Kan.*, 372 U. S. 84, 91 (1963). A State could not oversee offers, made in a wholesale market operator's auction, that help to set wholesale prices. Any effort of that kind would be preempted.

And all of that creates a problem. If neither FERC nor the States can regulate wholesale demand response, then by definition no one can. But under the Act, no electricity transaction can proceed unless it is regulable by someone. As earlier described, Congress passed the FPA precisely to eliminate vacuums of authority over the electricity markets. See *supra*, at 265–266. The Act makes federal and state powers "complementary" and "comprehensive," so that "there [will] be no 'gaps' for private interests to subvert the public welfare." *Louisiana Power & Light Co.*, 406 U. S., at 631. Or said otherwise, the statute prevents the creation of any regulatory "no man's land." *FPC* v. *Transcontinental Gas Pipe Line Corp.*, 365 U. S. 1, 19 (1961); see *id.*, at 28. Some entity must have jurisdiction to regulate each and every practice that takes place in the electricity markets, demand response no less than any other.[10]

For that reason, the upshot of EPSA's view would be to extinguish the wholesale demand response program in its entirety. Under the FPA, each market operator must submit

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[10] The dissent contests this point (complaining that our decades' worth of precedents affirming it partly rely on legislative history), but the example the dissent offers in response misses the mark. See *post*, at 301–303. The dissent hypothesizes a rule enabling generators to sell directly to consumers and fixing all generation, transmission, and retail rates. But of course neither FERC nor the States could issue such a rule: If FERC did so, it would interfere with the States' authority over retail sales and rates as well as (most) generation; if a State did so, it would interfere with FERC's power over transmission. Thus, to implement such a scheme, the States would need to do some things and FERC to do others. And if the one or the other declined to cooperate, then the full scheme could not proceed. But that just goes to show that the FPA divides regulatory power over electricity matters between FERC and the States. The example does nothing to demonstrate that some electricity transactions can proceed outside any regulator's authority.

to FERC all its proposed rules and procedures. See 16 U. S. C. §§ 824d(c)–(d); 18 CFR §§ 35.28(c)(4), 35.3(a)(1). Assume that, as EPSA argues, FERC could not authorize any demand response program as part of that package. Nor could FERC simply allow such plans to go into effect without its consideration and approval. There are no "off the books" programs in the wholesale electricity markets—because, once again, there is no regulatory "no man's land." *Transcontinental*, 365 U. S., at 19. The FPA mandates that FERC review, and ensure the reasonableness of, every wholesale rule and practice. See 16 U. S. C. §§ 824d(a), 824e(a); *supra*, at 266, 277. If FERC could not carry out that duty for demand response, then those programs could not go forward.

And that outcome would flout the FPA's core objects. The statute aims to protect "against excessive prices" and ensure effective transmission of electric power. *Pennsylvania Water & Power Co.* v. *FPC*, 343 U. S. 414, 418 (1952); see *Gulf States Util. Co.* v. *FPC*, 411 U. S. 747, 758 (1973). As shown above, FERC has amply explained how wholesale demand response helps to achieve those ends, by bringing down costs and preventing service interruptions in peak periods. See *supra*, at 282. No one taking part in the rulemaking process—not even EPSA—seriously challenged that account. Even as he objected to FERC's compensation formula, Commissioner Moeller noted the unanimity of opinion as to demand response's value: "[N]owhere did I review any comment or hear any testimony that questioned the benefit of having demand response resources participate in the organized wholesale energy markets. On this point, there is no debate." 76 Fed. Reg. 16679; see also App. 82, EPSA, Comments on Proposed Rule (avowing "full[ ] support" for demand response participation in wholesale markets because of its "economic and operational" benefits).[11] Congress itself

[11] EPSA now contends that wholesale demand response is unnecessary because state regulators can adopt programs to reduce demand at the retail level. See Brief for Respondents 46–47. For example, States can

agreed, "encourag[ing]" greater use of demand response participation at the wholesale level. EPAct § 1252(f), 119 Stat. 966. That undisputed judgment extinguishes any last flicker of life in EPSA's argument. We will not read the FPA, against its clear terms, to halt a practice that so evidently enables the Commission to fulfill its statutory duties of holding down prices and enhancing reliability in the wholesale energy market.

## III

These cases present a second, narrower question: Is FERC's decision to compensate demand response providers at LMP—the same price paid to generators—arbitrary and capricious? Recall here the basic issue. See *supra*, at 272–275. Wholesale market operators pay a single price—LMP—for all successful bids to supply electricity at a given time and place. The Rule orders operators to pay the identical price for a successful bid to conserve electricity so long as that bid can satisfy a "net benefits test"—meaning that it is sure to bring down costs for wholesale purchasers. In mandating that payment, FERC rejected an alternative proposal under which demand response providers would receive LMP minus G (LMP–G), where G is the retail rate for electricity. According to EPSA and others favoring that ap-

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insist that utilities give rebates to customers for not using energy at certain times. See n. 2, *supra*. But according to both the Commission and market participants, state-level programs cannot offer nearly the same benefits as wholesale demand response because individual utilities lack the regional scope and real-time information needed to identify when demand response will lower prices and ensure reliability system-wide. See 73 Fed. Reg. 64103, ¶18; Energy Primer 45–46; Brief for NRG Energy, Inc., as *Amicus Curiae* 20–22. Similarly, FERC addressed and rejected the dissent's suggestion that wholesale market operators could pay LSEs to reduce their electricity purchases: Because LSEs lose revenues whenever demand goes down, any demand response programs targeting those actors would be highly inefficient. See FERC, Assessment of Demand Response and Advanced Metering 72 (2006); Tr. of Oral Arg. 56 (Solicitor General noting that LSEs engaged in demand response would be "cannibaliz[ing] their own profits").

proach, demand response providers get a windfall—a kind of "double-payment"—unless market operators subtract the savings associated with conserving electricity from the ordinary compensation level. 76 Fed. Reg. 16663, ¶24. EPSA now claims that FERC failed to adequately justify its choice of LMP rather than LMP–G.

In reviewing that decision, we may not substitute our own judgment for that of the Commission. The "scope of review under the 'arbitrary and capricious' standard is narrow." *Motor Vehicle Mfrs. Assn. of United States, Inc.* v. *State Farm Mut. Automobile Ins. Co.*, 463 U. S. 29, 43 (1983). A court is not to ask whether a regulatory decision is the best one possible or even whether it is better than the alternatives. Rather, the court must uphold a rule if the agency has "examine[d] the relevant [considerations] and articulate[d] a satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made." *Ibid.* (internal quotation marks omitted). And nowhere is that more true than in a technical area like electricity rate design: "[W]e afford great deference to the Commission in its rate decisions." *Morgan Stanley*, 554 U. S., at 532.

Here, the Commission gave a detailed explanation of its choice of LMP. See 76 Fed. Reg. 16661–16669, ¶¶18–67. Relying on an eminent regulatory economist's views, FERC chiefly reasoned that demand response bids should get the same compensation as generators' bids because both provide the same value to a wholesale market. See *id.*, at 16662–16664, 16667–16668, ¶¶20, 31, 57, 61; see also App. 829–851, Reply Affidavit of Dr. Alfred E. Kahn (Aug. 30, 2010) (Kahn Affidavit). FERC noted that a market operator needs to constantly balance supply and demand, and that either kind of bid can perform that service cost-effectively—*i. e.*, in a way that lowers costs for wholesale purchasers. See 76 Fed. Reg. 16667–16668, ¶¶56, 61. A compensation system, FERC concluded, therefore should place the two kinds of bids "on

a competitive par." *Id.*, at 16668, ¶61 (quoting Kahn Affidavit); see also App. 830, Kahn Affidavit (stating that "economic efficiency requires" compensating the two equally given their equivalent function in a "competitive power market[ ]"). With both supply and demand response available on equal terms, the operator will select whichever bids, of whichever kind, provide the needed electricity at the lowest possible cost. See Rehearing Order, 137 FERC, at 62,301–62,302, ¶68 ("By ensuring that both . . . receive the same compensation for the same service, we expect the Final Rule to enhance the competitiveness" of wholesale markets and "result in just and reasonable rates").

That rationale received added support from FERC's adoption of the net benefits test. The Commission realized during its rulemaking that in some circumstances a demand response bid—despite reducing the wholesale rate—does *not* provide the same value as generation. See 76 Fed. Reg. 16664–16665, ¶38. As described earlier, that happens when the distinctive costs associated with compensating a demand response bid exceed the savings from a lower wholesale rate: The purchaser then winds up paying more than if the operator had accepted the best (even though higher priced) supply bid available. See *supra*, at 273–274. And so FERC developed the net benefits test to filter out such cases. See 76 Fed. Reg. 16666–16667, ¶¶50–53. With that standard in place, LMP is paid only to demand response bids that benefit wholesale purchasers—in other words, to those that function as "cost-effective alternative[s] to the next highest-bid generation." *Id.*, at 16667, ¶54. Thus, under the Commission's approach, a demand response provider will receive the same compensation as a generator only when it is in fact providing the same service to the wholesale market. See *ibid.*, ¶53.

The Commission responded at length to EPSA's contrary view that paying LMP, even in that situation, will overcompensate demand response providers because they are also "effectively receiv[ing] 'G,' the retail rate that they do not

need to pay." *Id.*, at 16668, ¶60. FERC explained that compensation ordinarily reflects only the value of the service an entity provides—not the costs it incurs, or benefits it obtains, in the process. So when a generator presents a bid, "the Commission does not inquire into the costs or benefits of production." *Ibid.*, ¶62. Different power plants have different cost structures. And, indeed, some plants receive tax credits and similar incentive payments for their activities, while others do not. See Rehearing Order, 137 FERC, at 62,301, ¶65, and n. 122. But the Commission had long since decided that such matters are irrelevant: Paying LMP to all generators—although some then walk away with more profit and some with less—"encourages more efficient supply and demand decisions." 76 Fed. Reg. 16668, ¶62 (internal quotation marks omitted). And the Commission could see no economic reason to treat demand response providers any differently. Like generators, they too experience a range of benefits and costs—both the benefits of not paying for electricity and the costs of not using it at a certain time. But, FERC again concluded, that is immaterial: To increase competition and optimally balance supply and demand, market operators should compensate demand response providers, like generators, based on their contribution to the wholesale system. See *ibid.*; 137 FERC, at 62,300, ¶60.

Moreover, FERC found, paying LMP will help demand response providers overcome certain barriers to participation in the wholesale market. See 76 Fed. Reg. 16667–16668, ¶¶57–59. Commenters had detailed significant start-up expenses associated with demand response, including the cost of installing necessary metering technology and energy management systems. See *id.*, at 16661, ¶18, 16667–16668, ¶57; see also, *e. g.*, App. 356, Viridity Energy, Inc., Comments on Proposed Rule on Demand Response Compensation in Organized Wholesale Energy Markets (May 13, 2010) (noting the "capital investments and operational changes needed" for demand response participation). The Commission agreed that

such factors inhibit potential demand responders from competing with generators in the wholesale markets. See 76 Fed. Reg. 16668, ¶59. It concluded that rewarding demand response at LMP (which is, in any event, the price reflecting its value to the market) will encourage that competition and, in turn, bring down wholesale prices. See *ibid.*

Finally, the Commission noted that determining the "G" in the formula LMP–G is easier proposed than accomplished. See *ibid.*, ¶63. Retail rates vary across and even within States, and change over time as well. Accordingly, FERC concluded, requiring market operators to incorporate G into their prices, "even though perhaps feasible," would "create practical difficulties." *Ibid.* Better, then, not to impose that administrative burden.

All of that together is enough. The Commission, not this or any other court, regulates electricity rates. The disputed question here involves both technical understanding and policy judgment. The Commission addressed that issue seriously and carefully, providing reasons in support of its position and responding to the principal alternative advanced. In upholding that action, we do not discount the cogency of EPSA's arguments in favor of LMP–G. Nor do we say that in opting for LMP instead, FERC made the better call. It is not our job to render that judgment, on which reasonable minds can differ. Our important but limited role is to ensure that the Commission engaged in reasoned decisionmaking—that it weighed competing views, selected a compensation formula with adequate support in the record, and intelligibly explained the reasons for making that choice. FERC satisfied that standard.

## IV

FERC's statutory authority extends to the Rule at issue here addressing wholesale demand response. The Rule governs a practice directly affecting wholesale electricity rates. And although (inevitably) influencing the retail market too,

the Rule does not intrude on the States' power to regulate retail sales. FERC set the terms of transactions occurring in the organized wholesale markets, so as to ensure the reasonableness of wholesale prices and the reliability of the interstate grid—just as the FPA contemplates. And in choosing a compensation formula, the Commission met its duty of reasoned judgment. FERC took full account of the alternative policies proposed, and adequately supported and explained its decision. Accordingly, we reverse the judgment of the Court of Appeals for the District of Columbia Circuit and remand the cases for further proceedings consistent with this opinion.

*It is so ordered.*

JUSTICE ALITO took no part in the consideration or decision of these cases.

JUSTICE SCALIA, with whom JUSTICE THOMAS joins, dissenting.

I believe the Federal Power Act (FPA or Act), 16 U. S. C. § 791a *et seq.*, prohibits the Federal Energy Regulatory Commission (FERC) from regulating the demand response of retail purchasers of power. I respectfully dissent from the Court's holding to the contrary.

## I

### A

I agree with the majority that FERC has the authority to regulate practices "affecting" wholesale rates. §§ 824d(a), 824e(a); *Mississippi Power & Light Co.* v. *Mississippi ex rel. Moore*, 487 U. S. 354, 371 (1988). I also agree that this so-called "affecting" jurisdiction cannot be limitless. And I suppose I could even live with the Court's "direct effect" test as a reasonable limit. *Ante*, at 278. But as the majority recognizes, *ante*, at 279–280, that extratextual limit on the "affecting" jurisdiction merely supplements, not supplants,

limits that are already contained in the statutory text and structure. I believe the Court misconstrues the primary statutory limit. (Like the majority, I think that deference under *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837 (1984), is unwarranted because the statute is clear.)

The Act grants FERC authority to regulate the "generation . . . [and] transmission of electric energy in interstate commerce and the sale of such energy at wholesale." § 824(a). Yet the majority frames the issue thusly: "[T]o uphold the [r]ule, we also must determine that it does not regulate *retail* electricity sales." *Ante*, at 279. That formulation inverts the proper inquiry. The pertinent question under the Act is whether the rule regulates sales "*at wholesale*." If so, it falls within FERC's regulatory authority. If not, the rule is unauthorized whether or not it happens to regulate "*retail* electricity sales"; for, with exceptions not material here, the FPA prohibits FERC from regulating "*any other* sale of electric energy" that is *not* at wholesale. § 824(b)(1) (emphasis added). (The majority wisely ignores FERC's specious argument that the demand-response rule does not regulate any sale, wholesale or retail. See Brief for Petitioner in No. 14–840, p. 39. Paying someone *not* to conclude a transaction that otherwise would without a doubt have been concluded is most assuredly a regulation of that transaction. Cf. *Gonzales* v. *Raich*, 545 U. S. 1, 39–40 (2005) (SCALIA, J., concurring in judgment).)

Properly framing the inquiry matters not because I think there exists "some undefined category of . . . electricity sales" that is "non-retail [and] non-wholesale," *ante*, at 280, n. 7,*

*Although the majority dismisses this possibility, in fact it appears to think that demand response is in that category: It rejects the conclusion that the demand-response rule regulates retail sales, *ante*, at 279–286, yet also implicitly rejects the conclusion that it regulates wholesale sales—otherwise why rely on FERC's "affecting" jurisdiction to rescue the rule's legitimacy?

but because a proper framing of the inquiry is important to establish the default presumption regarding the scope of FERC's authority. While the majority would find every sale of electric energy to be *within* FERC's authority to regulate *unless* the transaction is demonstrably a retail sale, the statute actually *excludes* from FERC's jurisdiction all sales of electric energy *except* those that are demonstrably sales at wholesale.

So what, exactly, is a "sale of electric energy at wholesale"? We need not guess, for the Act provides a definition: "a sale of electric energy to any person *for resale*." § 824(d) (emphasis added). No matter how many times the majority incants and italicizes the word "wholesale," *ante*, at 282–283, nothing can change the fact that the vast majority of (and likely all) demand-response participants—"[a]ggregators of multiple users of electricity, as well as large-scale individual users like factories or big-box stores," *ante*, at 270—*do not resell electric energy*; they consume it themselves. FERC's own definition of demand response is aimed at energy *consumers*, not resellers. 18 CFR § 35.28(b)(4) (2015).

It is therefore quite beside the point that the challenged "[r]ule addresses—and addresses only—transactions occurring on the wholesale market," *ante*, at 282. For FERC's regulatory authority over electric-energy sales depends not on which "market" the "transactions occu[r] on" (whatever that means), but rather on the *identity of the putative purchaser*. If the purchaser is one who resells electric energy to other customers, the transaction is one "at wholesale" and thus within FERC's authority. If not, then not. Or so, at least, says the statute. As we long ago said of the parallel provision in the Natural Gas Act, 15 U. S. C. § 717, "[t]he line of the statute [i]s thus clear and complete. It cut[s] sharply and cleanly between sales for resale and direct sales for consumptive uses. No exceptions [a]re made in either category for particular uses, quantities, or otherwise." *Panhandle Eastern Pipe Line Co.* v. *Public Serv. Comm'n of Ind.*, 332

U. S. 507, 517 (1947). The majority makes no textual response to this plain reading of the statute.

The demand-response bidders here indisputably do not resell energy to other customers. It follows that the rule does not regulate electric-energy sales "at wholesale," and 16 U. S. C. § 824(b)(1) therefore forbids FERC to regulate these demand-response transactions. See *New York* v. *FERC*, 535 U. S. 1, 17 (2002). That is so whether or not those transactions "directly affect" wholesale rates; as we recently said in another context, we will not adopt a construction that "needlessly produces a contradiction in the statutory text." *Shapiro* v. *McManus*, *ante*, at 43. A faithful application of that principle would compel the conclusion that FERC may not "do under [§§ 824d(a) and 824e(a)] what [it] is forbidden to do under [§ 824(b)(1)]." *Ante*, at 44.

B

The analysis could stop there. But the majority is wrong even on its own terms, for the rule at issue here does in fact regulate "*retail* electricity sales," which are indisputably "matters . . . subject to regulation by the States" and therefore off-limits to FERC. § 824(a); see *FPC* v. *Conway Corp.*, 426 U. S. 271, 276 (1976); *Panhandle Eastern Pipe Line Co.*, *supra*, at 517–518. The demand-response participants are retail customers—they purchase electric energy solely for their own consumption. And FERC's demand-response scheme is intentionally "designed to induce lower consumption of electric energy"—in other words, to induce a reduction in "*retail* electricity sales"—by offering "incentive payments" to those customers. 18 CFR § 35.28(b)(4). The incentive payments effectively increase the retail price of electric energy for participating customers because they must now account for the opportunity cost of using, as opposed to abstaining from using, more energy. In other words, it literally *costs them more* to buy energy on the retail market. In the court below, FERC conceded that offer-

ing *credits* to retail customers to reduce their electricity consumption "would be an impermissible intrusion into the retail market" because it would in effect regulate retail rates. 753 F. 3d 216, 223 (CADC 2014). Demand-response incentive payments are identical in substance.

The majority resists this elementary economic conclusion (notwithstanding its own exhortation to "think back to Econ 101," *ante,* at 268). Why? Because its self-proclaimed "common-sensical" view dictates otherwise. *Ante,* at 285. Maybe the easiest way to see the majority's error is to take its own example: an airline passenger who rejects a $300 voucher for taking a later flight. Consider the following formulation of that example, indistinguishable in substance from the majority's formulation. (Indistinguishable because the hypothetical passenger has exactly the same options and outcomes available to him.) Suppose the airline said to the passenger: "We have proactively canceled your ticket and refunded $400 to your account; and because we have inconvenienced you, we have also deposited an extra $300. The money is yours to use as you like. But if you insist on repurchasing a ticket on the same flight, you must not only pay us $400, but return the $300 too." *Now* what is the effective price of the ticket? Sometimes an allegedly commonsensical intuition is just that—an intuition, often mistaken.

Moving closer to home, recall that demand-response participants must choose either to purchase a unit of energy at the prevailing retail price (say $10) or to withhold from purchasing that unit and receive instead an incentive payment (of say $5). The two options thus present a choice between having a unit of energy, on the one hand, and having $15 more in the bank, on the other. To repeat: take the energy, be $15 poorer; forgo the energy, be $15 richer. Is that not the very definition of price? See Black's Law Dictionary 1380 (10th ed. 2014) ("[t]he amount of money or other consideration asked for or given in exchange for something else"). In fact, is that not *the majority's* definition of price? *Ante,*

at 284 ("the amount of money a consumer will hand over in exchange for power").

In any event, the majority appears to recognize that the effective price is indeed $15—just as the effective price of the airline ticket in the hypothetical is $700. *Ante*, at 285, n. 9. That recognition gives away the game. For FERC is prohibited not just from directly setting or modifying retail *prices*; it is prohibited from regulating retail *sales*, no matter the means. *Panhandle Eastern Pipe Line Co.*, *supra*, at 517. Whether FERC sets the "real" retail price (to use the majority's idiosyncratic terminology, *ante*, at 285, n. 9) or the "effective" retail price is immaterial; either way, the rule—*by design*—induces demand-response participants to forgo retail electric-energy purchases they otherwise would have made. As noted, even FERC conceded that offering credits to retail customers would impermissibly regulate retail sales. The majority blithely overlooks this concession in favor of its own myopic view of retail pricing—all the while evading the inconvenient fact that fiddling with the effective retail price of electric energy, be it through incentive payments or hypothetical credits, *regulates retail sales* of electric energy no less than does direct ratesetting.

C

The majority cites dicta in several of our opinions expressing the assumption that state jurisdiction and federal jurisdiction under FERC cover the field, so that there is no regulatory "gap"; one entity or the other "must have jurisdiction to regulate each and every practice that takes place in the electricity markets." *Ante*, at 289. The cases that express such a principle, with respect to the Federal Power Act and its companion the Natural Gas Act, base it (no surprise) on legislative history. See, *e. g.*, *FPC* v. *Louisiana Power & Light Co.*, 406 U. S. 621, 631 (1972); *FPC* v. *Transcontinental Gas Pipe Line Corp.*, 365 U. S. 1, 19 (1961); *Panhandle Eastern Pipe Line Co.*, 332 U. S., at 517–518, and

n. 13. One would *expect* the congressional proponents of legislation to assert that it is "comprehensive" and leaves no stone unturned. But even if one is a fan of legislative history, surely one cannot rely upon such generalities in determining what a statute actually *does*. Whether it is "comprehensive" and leaves not even the most minor regulatory "gap" surely depends on what it says and not on what its proponents hoped to achieve. I cannot imagine a more irrational interpretive principle than the following, upon which the majority evidently relies:

> "[W]hen a dispute arises over whether a given transaction is within the scope of federal or state regulatory authority, we are not inclined to approach the problem negatively, thus raising the possibility that a 'no man's land' will be created. That is to say, in a borderline case where congressional authority is not explicit we must ask whether state authority can practicably regulate a given area and, if we find that it cannot, then we are impelled to decide that federal authority governs." *Transcontinental Gas Pipe Line Corp.*, *supra*, at 19–20 (citation omitted).

That extravagant and otherwise-unheard-of method of establishing regulatory jurisdiction was not necessary to the judgments that invoked it, and should disappear in the Court's memory hole.

Suppose FERC decides that eliminating the middleman would benefit the public, and therefore promulgates a rule allowing electric-energy generators to sell directly to retail consumers across state lines and fixing generation, transmission, and retail rates for such sales. I think it obvious this hypothetical scheme would be forbidden to FERC. Yet just as surely the States could not enact it either, for only FERC has authority to regulate "the transmission of electric energy in interstate commerce." 16 U. S. C. § 824(b)(1); see also *New York*, 535 U. S., at 19–20. Is this a regulatory

"gap"? Has the generator-to-consumer sales scheme fallen into a regulatory "no man's land"? *Must* FERC therefore be allowed to implement this scheme on its own? Applying the majority's *logic* would yield nothing but "yesses." Yet the majority acknowledges that neither FERC nor the States have regulatory jurisdiction over this scheme. *Ante*, at 289, n. 10. Such sales transactions, involving a mix of retail and wholesale players—*as the demand-response scheme does*—can be regulated (if at all) only by joint action. I would not call that a "problem," *ante*, at 289; I would call it an inevitable consequence of the federal-state division created by the FPA.

The majority is evidently distraught that affirming the decision below "would . . . extinguish the wholesale demand response program in its entirety." *Ibid.* Alarmist hyperbole. Excluding FERC jurisdiction would at most eliminate *this particular flavor* of FERC-regulated demand response. Nothing prevents FERC from tweaking its demand-response scheme by requiring incentive payments to be offered to *wholesale* customers, rather than retail ones. Brief for Respondent Electric Power Supply Assn. (EPSA) et al. 47–48; Brief for Respondents Midwest Load-Serving Entities 10–11. And retail-level demand-response programs, run by the States, do and would continue to exist. See Brief for Respondent EPSA et al. 46–47; Brief for Respondents Midwest Load-Serving Entities 6–11. In fact Congress seemed to presuppose that *States*, not FERC, would run such programs: The relevant provisions of the Energy Policy Act of 2005, 119 Stat. 594 *et seq.*, are intended "to encourage *States* to coordinate, on a regional basis, *State* energy policies to provide reliable and affordable demand response services." § 1252(e)(1), *id.*, at 965, codified at 16 U. S. C. § 2642 note (emphasis added). That statute also imposes several duties on the Secretary of Energy to assist States in implementing demand-response programs. §§ 1252(e)(2), (e)(3), 119 Stat. 965–966. In context, § 1252(f)

of the 2005 Act is therefore best read as directing the Secretary to eliminate "unnecessary barriers" to *States*' adopting and implementing demand-response systems—and not, as the majority contends, as "praising *wholesale* demand response" systems to be deployed and regulated by FERC, *ante*, at 271 (emphasis added).

Moreover, the rule itself allows States to forbid their retail customers to participate in the existing demand-response scheme. 18 CFR §35.28(g)(1)(i)(A); see Brief for Petitioner in No. 14–840, at 43. The majority accepts FERC's argument that this is merely a matter of grace, and claims that it puts the "finishing blow" to respondents' argument that 16 U. S. C. §824(b)(1) prohibits the scheme. *Ante*, at 287. Quite the contrary. Remember that the majority believes FERC's authority derives from 16 U. S. C. §§824d(a) and 824e(a), the grants of "affecting" jurisdiction. Yet those provisions impose a *duty* on FERC to ensure that "all rules and regulations affecting or pertaining to [wholesale] rates or charges *shall be just and reasonable*." §824d(a) (emphasis added); see §824e(a) (similar); *Conway Corp.*, 426 U. S., at 277–279. If inducing retail customers to participate in wholesale demand-response transactions is necessary to render wholesale rates "just and reasonable," how can FERC, consistent with its statutory mandate, permit States to thwart such participation? See Brief for United States as *Amicus Curiae* 20–21, in *Hughes* v. *Talen Energy Marketing, LLC*, No. 14–614 etc., now pending before the Court (making an argument similar to ours); cf. *New England Power Co.* v. *New Hampshire*, 455 U. S. 331, 339–341 (1982). Although not legally relevant, the fact that FERC—ordinarily so jealous of its regulatory authority, see Brief for United States as *Amicus Curiae* in No. 14–614 etc.—is willing to let States opt out of its demand-response scheme serves to highlight just how far the rule intrudes into the retail electricity market.

## II

Having found the rule to be within FERC's authority, the Court goes on to hold that FERC's choice of compensating demand-response bidders with the "locational marginal price" is not arbitrary and capricious. There are strong arguments that it is. Brief for Robert L. Borlick et al. as *Amici Curiae* 5–34. Since, however, I believe FERC's rule is ultra vires I have neither need nor desire to analyze whether, if it were not ultra vires, it would be reasonable.

* * *

For the foregoing reasons, I respectfully dissent.

Per Curiam

# JAMES *v.* CITY OF BOISE, IDAHO, ET AL.

## ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF IDAHO

No. 15–493. Decided January 25, 2016

In *Hughes* v. *Rowe*, 449 U. S. 5, this Court determined that 42 U. S. C. § 1988 permits a prevailing defendant in a civil rights lawsuit filed under § 1983 to recover fees only if "the plaintiff's action was frivolous, unreasonable, or without foundation," 449 U. S., at 14. The Idaho Supreme Court concluded that it was not bound by *Hughes* and awarded attorney's fees under § 1988 to a prevailing defendant without first making the determination required by *Hughes*.

*Held*: The Idaho Supreme Court is bound by this Court's interpretation of federal law and erred in concluding otherwise. "'It is this Court's responsibility to say what a [federal] statute means, and once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law.'" *Nitro-Lift Technologies, L. L. C.* v. *Howard*, 568 U. S. 17, 21.

Certiorari granted; 158 Idaho 713, 351 P. 3d 1171, reversed and remanded.

PER CURIAM.

Under federal law, a court has discretion to "allow the prevailing party, other than the United States, a reasonable attorney's fee" in a civil rights lawsuit filed under 42 U. S. C. § 1983. 42 U. S. C. § 1988(b). In *Hughes* v. *Rowe*, 449 U. S. 5 (1980) (*per curiam*), this Court interpreted § 1988 to permit a prevailing defendant in such a suit to recover fees only if "the plaintiff's action was frivolous, unreasonable, or without foundation." *Id.*, at 14 (quoting *Christiansburg Garment Co.* v. *EEOC*, 434 U. S. 412, 421 (1978) (internal quotation marks omitted)).

In the decision below, the Idaho Supreme Court concluded that it was not bound by this Court's interpretation of § 1988 in *Hughes*. According to that court, "[a]lthough the Supreme Court may have the authority to limit the discretion of lower federal courts, it does not have the authority to limit the discretion of state courts where such limitation is not

contained in the statute." 158 Idaho 713, 734, 351 P. 3d 1171, 1192 (2015). The court then proceeded to award attorney's fees under § 1988 to a prevailing defendant without first determining that "the plaintiff's action was frivolous, unreasonable, or without foundation." The court's fee award rested solely on its interpretation of federal law; the court explicitly refused to award fees under state law. *Id.*, at 734–735, 351 P. 3d, at 1192–1193. We grant certiorari, and now reverse.

Section 1988 is a federal statute. "It is this Court's responsibility to say what a [federal] statute means, and once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law." *Nitro-Lift Technologies, L. L. C.* v. *Howard*, 568 U. S. 17, 21 (2012) (*per curiam*) (quoting *Rivers* v. *Roadway Express, Inc.*, 511 U. S. 298, 312 (1994); internal quotation marks omitted). And for good reason. As Justice Story explained 200 years ago, if state courts were permitted to disregard this Court's rulings on federal law, "the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable." *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 348 (1816).

The Idaho Supreme Court, like any other state or federal court, is bound by this Court's interpretation of federal law. The state court erred in concluding otherwise. The petition for certiorari is granted, the judgment of the Idaho Supreme Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

Per Curiam

# AMGEN INC. ET AL. *v.* HARRIS ET AL.

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

No. 15–278. Decided January 25, 2016

Respondent stockholders are former Amgen employees who participated in plans that qualified under the Employee Retirement Income Security Act of 1974 (ERISA) as eligible individual account plans and that, like employee stock ownership plans (ESOPs), offered employer stock as an option. They filed a class action alleging that petitioner fiduciaries had breached their fiduciary duties, including the duty of prudence. The District Court granted petitioners' motion to dismiss, but the Ninth Circuit reversed. This Court vacated that judgment and remanded the case in light of *Fifth Third Bancorp* v. *Dudenhoeffer*, 573 U. S. 409, where the Court held that ERISA fiduciaries who administer ESOPs are not entitled to a presumption of prudence but are "subject to the same duty of prudence that applies to ERISA fiduciaries in general, except that they need not diversify the fund's assets," *id.*, at 412, and instructed lower courts faced with such claims to determine whether the complaint itself "has plausibly alleged" facts sufficient to satisfy the liability standard, *id.*, at 429. On remand, the Ninth Circuit again reversed.

*Held*: The Ninth Circuit failed to properly evaluate the stockholders' complaint by failing to assess whether the complaint in its current form "plausibly allege[s]" a claim for breach of the duty of prudence. This Court's examination of that complaint has not found sufficient facts and allegations to state such a claim. On remand, the District Court should determine in the first instance whether the stockholders may amend their complaint in order to adequately plead a claim for breach of the duty of prudence guided by the standards provided in *Fifth Third.*

Certiorari granted; 788 F. 3d 916, reversed and remanded.

PER CURIAM.

The Court considers for the second time the Ninth Circuit's determination that respondent stockholders' complaint states a claim against petitioner fiduciaries for breach of the duty of prudence. The first time, the Court vacated and remanded in light of *Fifth Third Bancorp* v. *Dudenhoeffer*, 573 U. S. 409 (2014), a case which set forth the standards for stat-

ing a claim for breach of the duty of prudence against fiduciaries who manage employee stock ownership plans (ESOPs). On remand, the Ninth Circuit reiterated its conclusion that the complaint states such a claim. The Court now reverses and remands.

The stockholders are former employees of Amgen Inc. and its subsidiary Amgen Manufacturing, Limited, who participated in plans that qualified under 29 U. S. C. § 1107(d)(3)(A) as eligible individual account plans. Like ESOPs, these plans offer ownership in employer stock as an option to employees. The parties agree that the decision in *Fifth Third* is fully applicable to the plans at issue here. See 788 F. 3d 916, 935 (2014).

All of the plans had holdings in the Amgen Common Stock Fund (composed, unsurprisingly, of Amgen common stock) during the relevant period. The value of Amgen stock fell, and in 2007, the stockholders filed a class action against petitioner fiduciaries alleging that they had breached their fiduciary duties, including the duty of prudence, under the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, as amended, 29 U. S. C. § 1001 *et seq.* The District Court granted the fiduciaries' motion to dismiss, and the Ninth Circuit reversed, *Harris* v. *Amgen, Inc.*, 738 F. 3d 1026 (2013). The fiduciaries sought certiorari.

While that petition was pending, this Court issued a decision that concerned the duty of prudence owed by ERISA fiduciaries who administer ESOPs. That decision, *Fifth Third*, held that such ERISA fiduciaries are not entitled to a presumption of prudence but are "subject to the same duty of prudence that applies to ERISA fiduciaries in general, except that they need not diversify the fund's assets." 573 U. S., at 412.

Notwithstanding the lack of a presumption of prudence, *Fifth Third* noted that "Congress sought to encourage the creation of" ESOPs, *id.*, at 424, a purpose that the decision recognized may come into tension with ERISA's general

duty of prudence. Moreover, ESOP fiduciaries confront unique challenges given "the potential for conflict" that arises when fiduciaries are alleged to have imprudently "fail[ed] to act on inside information they had about the value of the employer's stock." *Id.*, at 423. *Fifth Third* therefore laid out standards to help "divide the plausible sheep from the meritless goats," *id.*, at 425:

> "To state a claim for breach of the duty of prudence on the basis of inside information, a plaintiff must plausibly allege an alternative action that the defendant could have taken that would have been consistent with the securities laws and that a prudent fiduciary in the same circumstances would not have viewed as more likely to harm the fund than to help it." *Id.*, at 428.

It further clarified that courts should determine whether the complaint itself states a claim satisfying that liability standard:

> "[L]ower courts faced with such claims should also consider *whether the complaint has plausibly alleged* that a prudent fiduciary in the defendant's position could not have concluded that stopping purchases—which the market might take as a sign that insider fiduciaries viewed the employer's stock as a bad investment—or publicly disclosing negative information would do more harm than good to the fund by causing a drop in the stock price and a concomitant drop in the value of the stock already held by the fund." *Id.*, at 429–430 (emphasis added).

In the matter that is once again before the Court here, following the issuance of *Fifth Third*, the Court granted the fiduciaries' first petition for a writ of certiorari, vacated the judgment, and remanded for further proceedings consistent with that decision. *Amgen Inc.* v. *Harris*, 573 U. S. 942 (2014). On remand, the Ninth Circuit reversed again the dismissal of the complaint and denied the fiduciaries' petition

for rehearing en banc. See 788 F. 3d 916. The fiduciaries once more sought certiorari.

The Court now holds that the Ninth Circuit failed to properly evaluate the complaint. That court explained that its previous opinion (that is, the one it issued before *Fifth Third* was decided) "had already assumed" the standards for ERISA fiduciary liability laid out by this Court in *Fifth Third*. 788 F. 3d, at 940. And it reasoned that the complaint at issue here satisfies those standards because when "the federal securities laws require disclosure of material information," it is "quite plausible" that removing the Amgen Common Stock Fund "from the list of investment options" would not "caus[e] undue harm to plan participants." *Id.*, at 937–938. The Ninth Circuit, however, failed to assess whether the complaint in its current form "has plausibly alleged" that a prudent fiduciary in the same position "could not have concluded" that the alternative action "would do more harm than good." *Fifth Third*, *supra*, at 429–430.

The Ninth Circuit's proposition that removing the Amgen Common Stock Fund from the list of investment options was an alternative action that could plausibly have satisfied *Fifth Third*'s standards may be true. If so, the facts and allegations supporting that proposition should appear in the stockholders' complaint. Having examined the complaint, the Court has not found sufficient facts and allegations to state a claim for breach of the duty of prudence.

Although the Ninth Circuit did not correctly apply *Fifth Third*, the stockholders are the masters of their complaint. The Court leaves to the District Court in the first instance whether the stockholders may amend it in order to adequately plead a claim for breach of the duty of prudence guided by the standards provided in *Fifth Third*.

The petition for certiorari is granted. The judgment of the Ninth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

Syllabus

# GOBEILLE, CHAIR OF THE VERMONT GREEN MOUNTAIN CARE BOARD *v.* LIBERTY MUTUAL INSURANCE CO.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 14–181. Argued December 2, 2015—Decided March 1, 2016

Vermont law requires certain entities, including health insurers, to report payments relating to health care claims and other information relating to health care services to a state agency for compilation in an all-inclusive health care database. Respondent Liberty Mutual Insurance Company's health plan (Plan), which provides benefits in all 50 States, is an "employee welfare benefit plan" under the Employee Retirement Income Security Act of 1974 (ERISA). The Plan's third-party administrator, Blue Cross Blue Shield of Massachusetts, Inc. (Blue Cross), which is subject to Vermont's disclosure statute, was ordered to transmit its files on eligibility, medical claims, and pharmacy claims for the Plan's Vermont members. Respondent, concerned that the disclosure of such confidential information might violate its fiduciary duties, instructed Blue Cross not to comply and filed suit, seeking a declaration that ERISA pre-empts application of Vermont's statute and regulation to the Plan and an injunction prohibiting Vermont from trying to acquire data about the Plan or its members. The District Court granted summary judgment to Vermont, but the Second Circuit reversed, concluding that Vermont's reporting scheme is pre-empted by ERISA.

*Held*: ERISA pre-empts Vermont's statute as applied to ERISA plans. Pp. 319–327.

(a) ERISA expressly pre-empts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U. S. C. § 1144(a). As relevant here, the clause pre-empts a state law that has an impermissible "connection with" ERISA plans, *i. e.*, a law that governs, or interferes with the uniformity of, plan administration. *Egelhoff* v. *Egelhoff*, 532 U. S. 141, 148. Pp. 319–320.

(b) The considerations relevant to the determination whether an impermissible connection exists—ERISA's objectives "as a guide to the scope of the state law that Congress understood would survive," *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U. S. 645, 656, and "the nature of" the state law's "effect . . . on ERISA plans," *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N. A., Inc.*, 519 U. S. 316, 325—lead to the conclu-

sion that Vermont's regime, as applied to ERISA plans, is pre-empted. Pp. 320–326.

(1) ERISA seeks to make the benefits promised by an employer more secure by mandating certain oversight systems and other standard procedures, *Travelers*, 514 U. S., at 651, and those systems and procedures are intended to be uniform, *id.*, at 656. ERISA's extensive reporting, disclosure, and recordkeeping requirements are central to, and an essential part of, this uniform plan administration system. Vermont's law and regulation, however, also govern plan reporting, disclosure, and recordkeeping. Pre-emption is necessary in order to prevent multiple jurisdictions from imposing differing, or even parallel, regulations, creating wasteful administrative costs and threatening to subject plans to wide-ranging liability. ERISA's uniform rule design also makes clear that it is the Secretary of Labor, not the separate States, that is authorized to decide whether to exempt plans from ERISA reporting requirements or to require ERISA plans to report data such as that sought by Vermont. Pp. 320–324.

(2) Vermont's counterarguments are unpersuasive. Vermont argues that respondent has not shown that the state scheme has caused it to suffer economic costs, but respondent need not wait to bring its pre-emption claim until confronted with numerous inconsistent obligations and encumbered with any ensuing costs. In addition, the fact that ERISA and the state reporting scheme have different objectives does not transform Vermont's direct regulation of a fundamental ERISA function into an innocuous and peripheral set of additional rules. Vermont's regime also cannot be saved by invoking the State's traditional power to regulate in the area of public health. Pp. 324–326.

(c) ERISA's pre-existing reporting, disclosure, and recordkeeping provisions maintain their pre-emptive force regardless of whether the new Patient Protection and Affordable Care Act's reporting obligations also pre-empt state law. P. 326.

746 F. 3d 497, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and THOMAS, BREYER, ALITO, and KAGAN, JJ., joined. THOMAS, J., *post*, p. 327, and BREYER, J., *post*, p. 330, filed concurring opinions. GINSBURG, J., filed a dissenting opinion, in which SOTOMAYOR, J., joined, *post*, p. 332.

*Bridget C. Asay*, Solicitor General of Vermont, argued the cause for petitioner. With her on the briefs were *William H. Sorrell*, Attorney General, *Benjamin D. Battles*, Assist-

ant Attorney General, *David C. Frederick*, *Scott H. Angstreich*, *Peter K. Stris*, and *Brendan S. Maher*.

*John F. Bash* argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Kneedler*, *M. Patricia Smith*, and *Elizabeth Hopkins*.

*Seth P. Waxman* argued the cause for respondent. With him on the brief were *Paul R. Q. Wolfson*, *Matthew J. Thome*, *Jonathan A. Bressler*, *Andrew C. Liazos*, *M. Miller Baker*, and *Nancy L. Keating*.*

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*Briefs of *amici curiae* urging reversal were filed for the State of New Hampshire by *Joseph A. Foster*, Attorney General of New Hampshire, *Laura E. B. Lombardi*, Senior Assistant Attorney General, and *Jennifer J. Patterson*; for the State of New York et al. by *Eric T. Schneiderman*, Attorney General of New York, *Barbara D. Underwood*, Solicitor General, *Anisha S. Dasgupta*, Deputy Solicitor General, and *Matthew W. Grieco*, Assistant Solicitor General, and by the Attorneys General for their respective jurisdictions as follows: *Cynthia Coffman* of Colorado, *George Jepsen* of Connecticut, *Karl A. Racine* of the District of Columbia, *Douglas S. Chin* of Hawaii, *Lisa Madigan* of Illinois, *Derek Schmidt* of Kansas, *Janet T. Mills* of Maine, *Brian E. Frosh* of Maryland, *Maura Healey* of Massachusetts, *Lori Swanson* of Minnesota, *Douglas J. Peterson* of Nebraska, *Ellen F. Rosenblum* of Oregon, *Peter F. Kilmartin* of Rhode Island, *Herbert H. Slatery III* of Tennessee, *Ken Paxton* of Texas, *Sean D. Reyes* of Utah, and *Robert W. Ferguson* of Washington; for AARP et al. by *Mary Ellen Signorille* and *Iris Y. Gonzalez*; for the American Hospital Association et al. by *Beth Heifetz* and *Frank Trinity*; for the American Medical Association et al. by *Mark E. Rust* and *Brian E. Casey*; for the Connecticut Health Insurance Exchange d/b/a Access Health CT by *Patrick M. Fahey*; for the Harvard Law School Center for Health Law and Policy Innovation et al. by *Carmel Shachar*; for the National Association of Health Data Organizations et al. by *Stephen P. Nash*; and for the National Governors Association et al. by *Lisa Soronen*, *Gail Sciacchetano*, and *Jennifer McAdam*.

Briefs of *amici curiae* urging affirmance were filed for the American Benefits Council et al. by *Nancy G. Ross*, *Brian D. Netter*, *Kathryn Wilber*, *Thomas Wilder*, *Annette Guarisco Fildes*, *Kathryn Comerford Todd*, and *Warren Postman*; for the Blue Cross and Blue Shield Association by *Anthony F. Shelley*, *Theresa S. Gee*, and *Dawn E. Murphy-Johnson*; for the National Coordinating Committee for Multiemployer Plans by *Sally*

JUSTICE KENNEDY delivered the opinion of the Court.

This case presents a challenge to the applicability of a state law requiring disclosure of payments relating to health care claims and other information relating to health care services. Vermont enacted the statute so it could maintain an all-inclusive health care database. Vt. Stat. Ann., Tit. 18, § 9410(a)(1) (2015 Cum. Supp.) (V. S. A.). The state law, by its terms, applies to health plans established by employers and regulated by the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, as amended, 29 U. S. C. § 1001 *et seq.* The question before the Court is whether ERISA pre-empts the Vermont statute as it applies to ERISA plans.

## I

### A

Vermont requires certain public and private entities that provide and pay for health care services to report information to a state agency. The reported information is compiled into a database reflecting "all health care utilization, costs, and resources in [Vermont], and health care utilization and costs for services provided to Vermont residents in another state." 18 V. S. A. § 9410(b). A database of this kind is sometimes called an all-payer claims database, for it requires submission of data from all health insurers and other entities that pay for health care services. Almost 20 States have or are implementing similar databases. See Brief for State of New York et al. as *Amici Curiae* 1, and n. 1.

Vermont's law requires health insurers, health care providers, health care facilities, and governmental agencies to report any "information relating to health care costs, prices,

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*M. Tedrow* and *Jennifer R. Simon*; and for the New England Legal Foundation by *John Pagliaro* and *Martin J. Newhouse.*

Briefs of *amici curiae* were filed for the Association of American Physicians and Surgeons, Inc., et al. by *Andrew L. Schlafly*; and for Edward A. Zelinsky, by *Mr. Zelinsky, pro se.*

quality, utilization, or resources required" by the state agency, including data relating to health insurance claims and enrollment. § 9410(c)(3). Health insurers must submit claims data on members, subscribers, and policyholders. § 9410(h). The Vermont law defines health insurer to include a "self-insured . . . health care benefit plan," § 9402(8), as well as "any third party administrator" and any "similar entity with claims data, eligibility data, provider files, and other information relating to health care provided to a Vermont resident," § 9410(j)(1)(B). The database must be made "available as a resource for insurers, employers, providers, purchasers of health care, and state agencies to continuously review health care utilization, expenditures, and performance in Vermont." § 9410(h)(3)(B).

Vermont law leaves to a state agency the responsibility to "establish the types of information to be filed under this section, and the time and place and the manner in which such information shall be filed." § 9410(d). The law has been implemented by a regulation creating the Vermont Healthcare Claims Uniform Reporting and Evaluation System. The regulation requires the submission of "medical claims data, pharmacy claims data, member eligibility data, provider data, and other information," Reg. H–2008–01, Code of Vt. Rules 21–040–021, § 4(D) (2016) (CVR), in accordance with specific formatting, coding, and other requirements, § 5. Under the regulation, health insurers must report data about the health care services provided to Vermonters regardless of whether they are treated in Vermont or out of State and about non-Vermonters who are treated in Vermont. § 4(D); see also § 1. The agency at present does not collect data on denied claims, § 5(A)(8), but the statute would allow it to do so.

Covered entities (reporters) must register with the State and must submit data monthly, quarterly, or annually, depending on the number of individuals that an entity serves. The more people served, the more frequently the reports

must be filed. §§ 4, 6(I). Entities with fewer than 200 members need not report at all, *ibid.*, and are termed "voluntary" reporters as distinct from "mandated" reporters, § 3. Reporters can be fined for not complying with the statute or the regulation. § 10; 18 V. S. A. § 9410(g).

B

Respondent Liberty Mutual Insurance Company maintains a health plan (Plan) that provides benefits in all 50 States to over 80,000 individuals, comprising respondent's employees, their families, and former employees. The Plan is self-insured and self-funded, which means that Plan benefits are paid by respondent. The Plan, which qualifies as an "employee welfare benefit plan" under ERISA, 29 U. S. C. § 1002(1), is subject to "ERISA's comprehensive regulation," *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U. S. 645, 650 (1995). Respondent, as the Plan sponsor, is both a fiduciary and plan administrator.

The Plan uses Blue Cross Blue Shield of Massachusetts, Inc. (Blue Cross), as a third-party administrator. Blue Cross manages the "processing, review, and payment" of claims for respondent. *Liberty Mut. Ins. Co.* v. *Donegan*, 746 F. 3d 497, 502 (CA2 2014) (case below). In its contract with Blue Cross, respondent agreed to "hold [Blue Cross] harmless for any charges, including legal fees, judgments, administrative expenses and benefit payment requirements, . . . arising from or in connection with [the Plan] or due to [respondent's] failure to comply with any laws or regulations." App. 82. The Plan is a voluntary reporter under the Vermont regulation because it covers some 137 Vermonters, which is fewer than the 200-person cutoff for mandated reporting. Blue Cross, however, serves several thousand Vermonters, and so it is a mandated reporter. Blue Cross, therefore, must report the information it possesses about the Plan's members in Vermont.

In August 2011, Vermont issued a subpoena ordering Blue Cross to transmit to a state-appointed contractor all the files it possessed on member eligibility, medical claims, and pharmacy claims for Vermont members. *Id.*, at 33. (For clarity, the Court uses "Vermont" to refer not only to the State but also to state officials acting in their official capacity.) The penalty for noncompliance, Vermont threatened, would be a fine of up to $2,000 a day and a suspension of Blue Cross' authorization to operate in Vermont for as long as six months. *Id.*, at 31. Respondent, concerned in part that the disclosure of confidential information regarding its members might violate its fiduciary duties under the Plan, instructed Blue Cross not to comply. Respondent then filed this action in the United States District Court for the District of Vermont. It sought a declaration that ERISA pre-empts application of Vermont's statute and regulation to the Plan and an injunction prohibiting Vermont from trying to acquire data about the Plan or its members.

Vermont filed a motion to dismiss, which the District Court treated as one for summary judgment, see Fed. Rule Civ. Proc. 12(d), and respondent filed a cross-motion for summary judgment. The District Court granted summary judgment to Vermont. It first held that respondent, despite being a mere voluntary reporter, had standing to sue because it was faced with either allegedly violating its "fiduciary and administrative responsibilities to the Plan" or assuming liability for Blue Cross' withholding of the data from Vermont. *Liberty Mut. Ins. Co.* v. *Kimbell*, No. 2:11–cv–204 (D Vt., Nov. 9, 2012), p. 12. The District Court then concluded that the State's reporting scheme was not pre-empted. Although that scheme "may have some indirect effect on health benefit plans," the court reasoned that the "effect is so peripheral that the regulation cannot be considered an attempt to interfere with the administration or structure of a welfare benefit plan." *Id.*, at 31–32.

The Court of Appeals for the Second Circuit reversed. The panel was unanimous in concluding that respondent had standing, but it divided on the merits of the pre-emption challenge. The panel majority explained that "one of ERISA's core functions—reporting—[cannot] be laden with burdens, subject to incompatible, multiple and variable demands, and freighted with risk of fines, breach of duty, and legal expense." 746 F. 3d, at 510. The Vermont regime, the court held, does just that. *Id.*, at 508–510.

This Court granted certiorari to address the important issue of ERISA pre-emption. 576 U. S. 1053 (2015).

## II

The text of ERISA's express pre-emption clause is the necessary starting point. It is terse but comprehensive. ERISA pre-empts

> "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U. S. C. § 1144(a).

The Court has addressed the potential reach of this clause before. In *Travelers*, the Court observed that "[i]f 'relate to' were taken to extend to the furthest stretch of its indeterminacy, then for all practical purposes pre-emption would never run its course." 514 U. S., at 655. That is a result "no sensible person could have intended." *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N. A., Inc.*, 519 U. S. 316, 336 (1997) (Scalia, J., concurring). So the need for workable standards has led the Court to reject "uncritical literalism" in applying the clause. *Travelers*, 514 U. S., at 656.

Implementing these principles, the Court's case law to date has described two categories of state laws that ERISA pre-empts. First, ERISA pre-empts a state law if it has a "'reference to'" ERISA plans. *Ibid.* To be more precise, "[w]here a State's law acts immediately and exclusively upon

ERISA plans . . . or where the existence of ERISA plans is essential to the law's operation . . . , that 'reference' will result in pre-emption." *Dillingham*, *supra*, at 325. Second, ERISA pre-empts a state law that has an impermissible "connection with" ERISA plans, meaning a state law that "governs . . . a central matter of plan administration" or "interferes with nationally uniform plan administration." *Egelhoff* v. *Egelhoff*, 532 U. S. 141, 148 (2001). A state law also might have an impermissible connection with ERISA plans if "acute, albeit indirect, economic effects" of the state law "force an ERISA plan to adopt a certain scheme of substantive coverage or effectively restrict its choice of insurers." *Travelers*, *supra*, at 668. When considered together, these formulations ensure that ERISA's express pre-emption clause receives the broad scope Congress intended while avoiding the clause's susceptibility to limitless application.

III

Respondent contends that Vermont's law falls in the second category of state laws that are pre-empted by ERISA: laws that govern, or interfere with the uniformity of, plan administration and so have an impermissible "'connection with'" ERISA plans. *Egelhoff*, *supra*, at 148; *Travelers*, 514 U. S., at 656. When presented with these contentions in earlier cases, the Court has considered "the objectives of the ERISA statute as a guide to the scope of the state law that Congress understood would survive," *ibid.*, and "the nature of the effect of the state law on ERISA plans," *Dillingham*, *supra*, at 325. Here, those considerations lead the Court to conclude that Vermont's regime, as applied to ERISA plans, is pre-empted.

A

ERISA does not guarantee substantive benefits. The statute, instead, seeks to make the benefits promised by an

employer more secure by mandating certain oversight systems and other standard procedures. *Travelers*, 514 U. S., at 651. Those systems and procedures are intended to be uniform. *Id.*, at 656 (ERISA's pre-emption clause "indicates Congress's intent to establish the regulation of employee welfare benefit plans 'as exclusively a federal concern'" (quoting *Alessi* v. *Raybestos-Manhattan, Inc.*, 451 U. S. 504, 523 (1981))). "Requiring ERISA administrators to master the relevant laws of 50 States and to contend with litigation would undermine the congressional goal of 'minimiz[ing] the administrative and financial burden[s]' on plan administrators—burdens ultimately borne by the beneficiaries." *Egelhoff*, *supra*, at 149–150 (quoting *Ingersoll-Rand Co.* v. *McClendon*, 498 U. S. 133, 142 (1990)); see also *Fort Halifax Packing Co.* v. *Coyne*, 482 U. S. 1, 9 (1987).

ERISA's reporting, disclosure, and recordkeeping requirements for welfare benefit plans are extensive. ERISA plans must present participants with a plan description explaining, among other things, the plan's eligibility requirements and claims-processing procedures. §§ 1021(a)(1), 1022, 1024(b)(1). Plans must notify participants when a claim is denied and state the basis for the denial. § 1133(1). Most important for the pre-emption question presented here, welfare benefit plans governed by ERISA must file an annual report with the Secretary of Labor. The report must include a financial statement listing assets and liabilities for the previous year and, further, receipts and disbursements of funds. §§ 1021(b), 1023(b)(1), 1023(b)(3)(A)–(B), 1024(a). The information on assets and liabilities as well as receipts and disbursements must be provided to plan participants on an annual basis as well. §§ 1021(a)(2), 1023(b)(3)(A)–(B), 1024(b)(3). Because welfare benefit plans are in the business of providing benefits to plan participants, a plan's reporting of data on disbursements by definition incorporates paid claims. See Dept. of Labor, Schedule H (Form 5500)

Financial Information (2015) (requiring reporting of "[b]enefit claims payable" and "[b]enefit payment and payments to provide benefits"), online at http://www.dol.gov/ebsa/pdf/2015-5500-Schedule-H.pdf (as last visited Feb. 26, 2016).

The Secretary of Labor has authority to establish additional reporting and disclosure requirements for ERISA plans. ERISA permits the Secretary to use the data disclosed by plans "for statistical and research purposes, and [to] compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate." § 1026(a). The Secretary also may, "in connection" with any research, "collect, compile, analyze, and publish data, information, and statistics relating to" plans. § 1143(a)(1); see also § 1143(a)(3) (approving "other studies relating to employee benefit plans, the matters regulated by this subchapter, and the enforcement procedures provided for under this subchapter").

ERISA further permits the Secretary of Labor to "requir[e] any information or data from any [plan] where he finds such data or information is necessary to carry out the purposes of" the statute, § 1024(a)(2)(B), and, when investigating a possible statutory violation, "to require the submission of reports, books, and records, and the filing of data" related to other requisite filings, § 1134(a)(1). The Secretary has the general power to promulgate regulations "necessary or appropriate" to administer the statute, § 1135, and to provide exemptions from any reporting obligations, § 1024(a)(3).

It should come as no surprise, then, that plans must keep detailed records so compliance with ERISA's reporting and disclosure requirements may be "verified, explained, or clarified, and checked for accuracy and completeness." § 1027. The records to be retained must "include vouchers, worksheets, receipts, and applicable resolutions." *Ibid.*; see also § 1135 (allowing the Secretary to "provide for the keeping of books and records, and for the inspection of such books and records").

These various requirements are not mere formalities. Violation of any one of them may result in both civil and criminal liability. See §§ 1131–1132.

As all this makes plain, reporting, disclosure, and recordkeeping are central to, and an essential part of, the uniform system of plan administration contemplated by ERISA. The Court, in fact, has noted often that these requirements are integral aspects of ERISA. See, *e. g.*, *Dillingham*, 519 U. S., at 327; *Travelers*, *supra*, at 651; *Ingersoll-Rand*, *supra*, at 137; *Massachusetts* v. *Morash*, 490 U. S. 107, 113, 115 (1989); *Fort Halifax*, *supra*, at 9; *Metropolitan Life Ins. Co.* v. *Massachusetts*, 471 U. S. 724, 732 (1985).

Vermont's reporting regime, which compels plans to report detailed information about claims and plan members, both intrudes upon "a central matter of plan administration" and "interferes with nationally uniform plan administration." *Egelhoff*, 532 U. S., at 148. The State's law and regulation govern plan reporting, disclosure, and—by necessary implication—recordkeeping. These matters are fundamental components of ERISA's regulation of plan administration. Differing, or even parallel, regulations from multiple jurisdictions could create wasteful administrative costs and threaten to subject plans to wide-ranging liability. See, *e. g.*, 18 V. S. A. § 9410(g) (supplying penalties for violation of Vermont's reporting rules); CVR § 10 (same). Pre-emption is necessary to prevent the States from imposing novel, inconsistent, and burdensome reporting requirements on plans.

The Secretary of Labor, not the States, is authorized to administer the reporting requirements of plans governed by ERISA. He may exempt plans from ERISA reporting requirements altogether. See § 1024(a)(3); 29 CFR § 2520.104–44 (2005) (exempting self-insured health plans from the annual financial reporting requirement). And, he may be authorized to require ERISA plans to report data similar to that which Vermont seeks, though that question is not presented here. Either way, the uniform rule design of

ERISA makes it clear that these decisions are for federal authorities, not for the separate States.

B

Vermont disputes the pre-emption of its reporting regime on several fronts. The State argues that respondent has not demonstrated that the reporting regime in fact has caused it to suffer economic costs. Brief for Petitioner 52–54. But respondent's challenge is not based on the theory that the State's law must be pre-empted solely because of economic burdens caused by the state law. See *Travelers*, 514 U. S., at 668. Respondent argues, rather, that Vermont's scheme regulates a central aspect of plan administration and, if the scheme is not pre-empted, plans will face the possibility of a body of disuniform state reporting laws and, even if uniform, the necessity to accommodate multiple governmental agencies. A plan need not wait to bring a pre-emption claim until confronted with numerous inconsistent obligations and encumbered with any ensuing costs.

Vermont contends, furthermore, that ERISA does not pre-empt the state statute and regulation because the state reporting scheme has different objectives. This Court has recognized that "[t]he principal object of [ERISA] is to protect plan participants and beneficiaries," *Boggs* v. *Boggs*, 520 U. S. 833, 845 (1997). And "[i]n enacting ERISA, Congress' primary concern was with the mismanagement of funds accumulated to finance employee benefits and the failure to pay employees benefits from accumulated funds." *Morash*, *supra*, at 115. The State maintains that its program has nothing to do with the financial solvency of plans or the prudent behavior of fiduciaries. See Brief for Petitioner 29. This does not suffice to avoid federal pre-emption.

"[P]re-emption claims turn on Congress's intent." *Travelers*, 514 U. S., at 655. The purpose of a state law, then, is relevant only as it may relate to the "scope of the state law that Congress understood would survive," *id.*, at 656, or "the

nature of the effect of the state law on ERISA plans," *Dillingham*, *supra*, at 325. In *Travelers*, for example, the Court noted that "[b]oth the purpose and the effects of" the state law at issue "distinguish[ed] it from" laws that "function as a regulation of an ERISA plan itself." 514 U. S., at 658–659. The perceived difference here in the objectives of the Vermont law and ERISA does not shield Vermont's reporting regime from pre-emption. Vermont orders health insurers, including ERISA plans, to report detailed information about the administration of benefits in a systematic manner. This is a direct regulation of a fundamental ERISA function. Any difference in purpose does not transform this direct regulation of "a central matter of plan administration," *Egelhoff*, *supra*, at 148, into an innocuous and peripheral set of additional rules.

The Vermont regime cannot be saved by invoking the State's traditional power to regulate in the area of public health. The Court in the past has "addressed claims of pre-emption with the starting presumption that Congress does not intend to supplant state law," in particular state laws regulating a subject of traditional state power. *Travelers*, *supra*, at 654–655. ERISA, however, "certainly contemplated the pre-emption of substantial areas of traditional state regulation." *Dillingham*, *supra*, at 330. ERISA pre-empts a state law that regulates a key facet of plan administration even if the state law exercises a traditional state power. See *Egelhoff*, *supra*, at 151–152. The fact that reporting is a principal and essential feature of ERISA demonstrates that Congress intended to pre-empt state reporting laws like Vermont's, including those that operate with the purpose of furthering public health. The analysis may be different when applied to a state law, such as a tax on hospitals, see *De Buono* v. *NYSA–ILA Medical and Clinical Services Fund*, 520 U. S. 806 (1997), the enforcement of which necessitates incidental reporting by ERISA plans; but that is not the law before the Court. Any presumption

against pre-emption, whatever its force in other instances, cannot validate a state law that enters a fundamental area of ERISA regulation and thereby counters the federal purpose in the way this state law does.

## IV

Respondent suggests that the Patient Protection and Affordable Care Act (ACA), which created new reporting obligations for employer-sponsored health plans and incorporated those requirements into the body of ERISA, further demonstrates that ERISA pre-empts Vermont's reporting regime. See 29 U. S. C. § 1185d; 42 U. S. C. §§ 300gg–15a, 17; § 18031(e)(3). The ACA, however, specified that it shall not "be construed to preempt any State law that does not prevent the application of the provisions" of the ACA. 42 U. S. C. § 18041(d). This anti-pre-emption provision might prevent any new ACA-created reporting obligations from pre-empting state reporting regimes like Vermont's, notwithstanding the incorporation of these requirements in the heart of ERISA. But see 29 U. S. C. § 1191(a)(2) (providing that the new ACA provisions shall not be construed to affect or modify the ERISA pre-emption clause as applied to group health plans); 42 U. S. C. § 300gg–23(a)(2) (same).

The Court has no need to resolve this issue. ERISA's pre-existing reporting, disclosure, and recordkeeping provisions—upon which the Court's conclusion rests—maintain their pre-emptive force whether or not the new ACA reporting obligations also pre-empt state law.

* * *

ERISA's express pre-emption clause requires invalidation of the Vermont reporting statute as applied to ERISA plans. The state statute imposes duties that are inconsistent with the central design of ERISA, which is to provide a single uniform national scheme for the administration of ERISA plans without interference from laws of the several States

even when those laws, to a large extent, impose parallel requirements. The judgment of the Court of Appeals for the Second Circuit is

*Affirmed.*

JUSTICE THOMAS, concurring.

I join the Court's opinion because it faithfully applies our precedents interpreting 29 U. S. C. § 1144, the express pre-emption provision of the Employee Retirement Income Security Act of 1974 (ERISA). I write separately because I have come to doubt whether § 1144 is a valid exercise of congressional power and whether our approach to ERISA pre-emption is consistent with our broader pre-emption jurisprudence.

I

Section 1144 contains what may be the most expansive express pre-emption provision in any federal statute. Section 1144(a) states: "Except as provided" in § 1144(b) ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." Under the ordinary meaning of the phrase "relate to," § 1144(a) pre-empts all state laws that "'stand in some relation'" to, "'have bearing or concern'" on, "'pertain'" to, "'refer'" to, or "'bring into association with or connection with'" an ERISA plan. *Shaw* v. *Delta Air Lines, Inc.*, 463 U. S. 85, 97, n. 16 (1983) (quoting Black's Law Dictionary 1158 (5th ed. 1979)). And § 1144(b) seemingly acknowledges how broadly § 1144(a) extends by excepting "generally applicable criminal law[s]" and state laws "regulat[ing] insurance, banking, or securities"—but not generally applicable civil laws—from pre-emption. §§ 1144(b)(2)(A), (b)(4). Section 1144, in sum, "is clearly expansive"—so much so that "one might be excused for wondering, at first blush, whether the words of limitation ('insofar as they . . . relate') do much limiting." *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U. S. 645, 655 (1995).

Read according to its plain terms, § 1144 raises constitutional concerns. "[T]he Supremacy Clause gives 'supreme' status only to those [federal laws] that are 'made in Pursuance'" of the Constitution. *Wyeth* v. *Levine*, 555 U. S. 555, 585 (2009) (THOMAS, J., concurring in judgment) (quoting Art. VI, cl. 2). But I question whether any provision of Article I authorizes Congress to prohibit States from applying a host of generally applicable civil laws to ERISA plans. "The Constitution requires a distinction between what is truly national and what is truly local." *United States* v. *Morrison*, 529 U. S. 598, 617–618 (2000). If the Federal Government were "to take over the regulation of entire areas of traditional state concern," including "areas having nothing to do with the regulation of commercial activities," then "the boundaries between the spheres of federal and state authority would blur and political responsibility would become illusory." *United States* v. *Lopez*, 514 U. S. 549, 577 (1995) (KENNEDY, J., concurring). Just because Congress can regulate some aspects of ERISA plans pursuant to the Commerce Clause does not mean that Congress can exempt ERISA plans from state regulations that have nothing to do with interstate commerce. See *Gonzales* v. *Raich*, 545 U. S. 1, 59–60 (2005) (THOMAS, J., dissenting).

## II

This Court used to interpret § 1144 according to its text. But we became uncomfortable with how much state law § 1144 would pre-empt if read literally. "If 'relate to' were taken to extend to the furthest stretch of its indeterminacy," we explained, "then for all practical purposes pre-emption would never run its course." *Travelers*, *supra*, at 655.

Rather than addressing the constitutionality of § 1144, we abandoned efforts to give its text its ordinary meaning. In *Travelers*, we adopted atextual but what we thought to be "workable" standards to construe § 1144. *Ante*, at 319. Thus, to determine whether a state law impermissibly "re-

lates to" an ERISA plan due to some "connection with" that plan, we now "look both to the objectives of the ERISA statute . . . as well as to the nature of the effect of the state law on ERISA plans." *Egelhoff* v. *Egelhoff*, 532 U. S. 141, 147 (2001) (citing *Travelers*; internal quotation marks omitted).

We decided *Travelers* in 1995. I joined that opinion and have joined others applying the approach we adopted in *Travelers*. But our interpretation of ERISA's express pre-emption provision has become increasingly difficult to reconcile with our pre-emption jurisprudence. *Travelers* departed from the statutory text, deeming it "unhelpful." 514 U. S., at 656. But, in other cases involving express pre-emption provisions, the text has been the beginning and often the end of our analysis. *E. g.*, *Chamber of Commerce of United States of America* v. *Whiting*, 563 U. S. 582, 594 (2011) ("'focus[ing] on the plain wording'" to define the scope of the Immigration Reform and Control Act's express pre-emption clause); see also *National Meat Assn.* v. *Harris*, 565 U. S. 452, 458, 460–464 (2012) (parsing the text to determine the scope of the Federal Meat Inspection Act's express pre-emption clause). We have likewise refused to look to policy limits that are not "remotely discernible in the statutory text." *Whiting*, *supra*, at 599. We have not given a sound basis for departing from these principles and treating § 1144 differently from other express pre-emption provisions.

*Travelers'* approach to ERISA pre-emption also does not avoid constitutional concerns. We have continued to interpret § 1144 as pre-empting "substantial areas of traditional state regulation" and "pre-empt[ing] a state law . . . even if the state law exercises a traditional state power." *Ante*, at 325 (internal quotation marks omitted). Until we confront whether Congress had the constitutional authority to pre-empt such a wide array of state laws in the first place, the Court—and lower courts—will continue to struggle to apply § 1144. It behooves us to address whether Article I gives

Congress such power and whether § 1144 may permissibly be read to avoid unconstitutional results.

JUSTICE BREYER, concurring.

I write separately to emphasize that a failure to find pre-emption here would subject self-insured health plans under the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, as amended, 29 U. S. C. § 1001 *et seq.*, to 50 or more potentially conflicting information reporting requirements. Doing so is likely to create serious administrative problems. The Court points out that the respondent's plan provides benefits to over 80,000 individuals living in 50 different States. See *ante*, at 317. In addition, *amici curiae* tell us that self-insured, ERISA-based health plans provide benefits to 93 million Americans. Brief for American Benefits Council et al. 8. If each State is free to go its own way, each independently determining what information each plan must provide about benefits, the result could well be unnecessary, duplicative, and conflicting reporting requirements, any of which can mean increased confusion and increased cost. Private standard setting can of course help alleviate these problems, but given the large number of different possible regulations, I do not believe that is sufficient. Cf. A. Costello & M. Taylor, APCD Council & NAHDO, Standardization of Data Collection in All-Payer Claims Databases 3–4 (Jan. 2011), online at https://www.apcdcouncil.org/publication/standardization-data-collection-all-payer-claims-databases (as last visited Feb. 26, 2016).

I would also emphasize that pre-emption does not necessarily prevent Vermont or other States from obtaining the self-insured, ERISA-based health-plan information that they need. States wishing to obtain information can ask the Federal Government for appropriate approval. As the majority points out, the "Secretary of Labor has authority to establish additional reporting and disclosure requirements for ERISA plans." *Ante*, at 322; see 29 U. S. C. § 1135. Moreover, the

Secretary "is authorized to undertake research and surveys and in connection therewith to collect, compile, analyze and publish data, information, and statistics relating to employee benefit plans, including retirement, deferred compensation, and welfare plans." § 1143(a)(1). At least one other important statute provides the Secretary of Health and Human Services with similar authority. See 42 U. S. C. § 300gg–17(a) (part of the Patient Protection and Affordable Care Act that is applicable to group health insurance plans including ERISA plans); Brief for United States as *Amicus Curiae* 4 (the Department of Labor, the Department of Health and Human Services, and the Department of Treasury are "currently considering a rulemaking to require health plans to report more detailed information about various aspects of plan administration, such as enrollment, claims processing, and benefit offerings").

I see no reason why the Secretary of Labor could not develop reporting requirements that satisfy the States' needs, including some state-specific requirements, as appropriate. Nor do I see why the Department could not delegate to a particular State the authority to obtain data related to that State, while also providing the data to the Federal Secretary for use by other States or at the federal level.

Although the need for federal approval or authorization limits to some degree the States' power to obtain information, requiring that approval has considerable advantages. The federal agencies are more likely to be informed about, and to understand, ERISA-related consequences and healthcare needs from a national perspective. Their involvement may consequently secure for the States necessary information without unnecessarily creating costly conflicts—particularly when compared with such alternatives as giving each State free rein to go its own way or asking nonexpert federal courts to try to iron out, regulation by regulation, such conflicts. Cf. *Medtronic, Inc.* v. *Lohr*, 518 U. S. 470, 506 (1996) (BREYER, J., concurring in part and concurring in judgment)

(reading a complex, ambiguous regulatory statute to permit "informed agency involvement" is more likely to achieve Congress' general objectives).

For these reasons, and others that the majority sets forth, I agree that Vermont's statute is pre-empted because it "interferes with nationally uniform plan administration." *Egelhoff* v. *Egelhoff*, 532 U. S. 141, 148 (2001).

JUSTICE GINSBURG, with whom JUSTICE SOTOMAYOR joins, dissenting.

To better control health care outcomes and costs, Vermont requires all public and private entities that pay for health care services provided to Vermont residents to supply data to the State's all-payer claims database. Many States have similar databases in place or in development. The question presented in this case is whether Vermont's health care data-collection law is preempted by the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 832, 29 U. S. C. § 1001 *et seq.*, the federal law regulating employee benefit plans. I would hold that Vermont's effort to track health care services provided to its residents and the cost of those services does not impermissibly intrude on ERISA's dominion over employee benefit plans.

## I

In 2005, the Vermont Legislature established the Vermont Health Care Uniform Reporting and Evaluation System, a database populated by information on health care claims paid by insurers and other coverage providers. See Vt. Stat. Ann., Tit. 18, § 9410 (2015 Cum. Supp.); Reg. H–2008–01, Code Vt. Rules 21–040–021, § 4(D) (2016) (directing insurers and other coverage providers to "submit medical claims data, pharmacy claims data, member eligibility data, provider data, and other information related to health care provided to Vermont residents and health care provided by Vermont

health care providers and facilities"). Health insurers and other coverage providers must report the required data if they cover at least 200 Vermont residents. § 3(Ab).

Seventeen other States have enacted similar database systems, called "all-payer claims databases."[1] These States, like Vermont, collect health-claims data to serve compelling interests, including identification of reforms effective to drive down health care costs, evaluation of relative utility of different treatment options, and detection of instances of discrimination in the provision of care. See Brief for National Governors Association et al. as *Amici Curiae* 11–14; Brief for Harvard Law School Center for Health Law and Policy Innovation et al. as *Amici Curiae* 11–18; Brief for State of New York et al. as *Amici Curiae* 12–20. See also Vt. Stat. Ann., Tit. 18, § 9410(a)(1) (Vermont's data-collection law is designed to help "identif[y] health care needs and infor[m] health care policy," "evaluat[e] the effectiveness of intervention programs on improving patient outcomes," "compar[e] costs between various treatment settings and approaches," "determin[e] the capacity and distribution of existing resources," and "provid[e] information to . . . purchasers of health care").[2]

Respondent Liberty Mutual Insurance Company (Liberty), in common with legions of employers, provides health care to its employees through a self-insured plan, adminis-

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[1] States, in addition to Vermont, so far maintaining all-payer claims databases are: Arkansas, Colorado, Connecticut, Kansas, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New York, Oregon, Rhode Island, Tennessee, Utah, Virginia, Washington, and West Virginia. Brief for National Governors Association et al. as *Amici Curiae* 8, and n. 9.

[2] Illustrative of the utility of all-payer claims databases, Minnesota evaluated data on emergency-room visits and concluded that the condition causing two of every three visits could have been treated more efficiently, and as effectively, in a nonhospital setting. Brief for State of New York et al. as *Amici Curiae* 12–13.

tered by Blue Cross/Blue Shield (Blue Cross).[3] Because Blue Cross administers thousands of health care policies in Vermont, the State requires it to report data for all of the plans it administers, and Blue Cross has complied with this mandate. In 2010, for example, Blue Cross reported data on over 7,000 Vermont health care-plan beneficiaries. Roughly half of the beneficiaries received coverage through self-insured employer policies. App. 205. In 2011, at Liberty's request, Blue Cross did not submit data on Vermont residents who received coverage through Liberty's plan. *Id.*, at 21–23. Vermont ordered Blue Cross to provide the claims data. *Id.*, at 23, 31–33. Liberty instructed Blue Cross not to comply and, shortly thereafter, filed the instant suit, seeking to block Vermont from obtaining the data.

In defense of its resistance to Vermont's data-collection law, Liberty relies on its plan's status as an ERISA-covered "employee welfare benefit plan," defined as "any plan, fund, or program . . . established or maintained by an employer . . . for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, . . . medical, surgical, or hospital care or benefits, or benefits in the event of sickness." 29 U. S. C. § 1002(1). Because ERISA directs plan fiduciaries to conserve plan assets for the purpose of "providing benefits to participants," § 1104(a)(1)(A)(i), Liberty maintains that ERISA preempts diverse state health-claims reporting laws. If there is to be mandatory health-claims reporting by ERISA plans, Liberty urges, the source of the mandate should be a uniform national reporting regime. See Brief for Respondent 26–29; Tr. of Oral Arg. 32–33.

Opposing ERISA-grounded preemption of its data-collection law, Vermont points out that the efficacy of the

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[3] Liberty's plan would not, on its own, trigger Vermont's reporting requirements. As of 2011, only 137 plan participants resided in the State, out of the total 84,711 individuals covered by Liberty's plan. App. to Pet. for Cert. 50.

State's law depends on comprehensive reporting, *i. e.*, collecting data on numerous beneficiaries from each of several major segments of the health care market. See Brief for Petitioner 12; Brief for Harvard Law School Center for Health Law and Policy Innovation et al. as *Amici Curiae* 18–19.[4] About half of Americans with health insurance receive coverage from their employers, Dept. of Commerce, Bureau of Census, J. Smith & C. Medalia, Health Insurance Coverage in the United States: 2013, p. 2 (2014), and 61% of such persons are covered by an employer's self-insured plan. Brief for Harvard Law School Center for Health Law and Policy Innovation et al. as *Amici Curiae* 20. In Vermont, about 20% of the database's total content originates from employer self-insured plans. Brief for Petitioner 12, and n. 10. Stopping States from collecting claims data from self-insured employer health care plans would thus hugely undermine the reporting regimes on which Vermont and other States depend to maintain and improve the quality, and hold down the cost, of health care services.

The United States District Court for the District of Vermont rejected Liberty's plea for preemption. Vermont's data-collection law, that court determined, served the State's undoubted interest in regulating health care markets, and did not substantially interfere with the operation of Liberty's ERISA plans. See App. to Pet. for Cert. 64–66, 78–79. The Court of Appeals for the Second Circuit reversed, two to one. *Liberty Mut. Ins. Co.* v. *Donegan*, 746 F. 3d 497 (2014). The majority acknowledged that the Supreme Court's ERISA-preemption decisions of the 1990's "marked something of a pivot" in starting with a presumption "'that

[4] The Federal Government supplies Medicare claims data to Vermont and other States that maintain similar databases. See 42 U. S. C. § 1395kk(e) (requiring the Department of Health and Human Services (HHS) to make Medicare data available to state health-claims databases). And HHS has authorized the States to include Medicaid claims data in their databases. See Brief for United States as *Amicus Curiae* 7.

Congress does not intend to supplant state law,' especially if the 'state action [occurs] in fields of traditional state regulation,' like health care." *Id.*, at 506 (quoting *New York State Conference of Blue Cross & Blue Shield Plans* v. *Travelers Ins. Co.*, 514 U. S. 645, 654–655 (1995)). Nonetheless, the majority concluded that ERISA preempted the application of Vermont's data-collection law to Liberty's plan. 746 F. 3d, at 506, 508. The reporting of information about plan benefits, the majority reasoned, qualifies as a "core ERISA functio[n]" and, therefore, must be "subject to a uniform federal standard." *Id.*, at 505, 508. Judge Straub dissented, offering a concise critique of the majority's opinion:

> "The majority finds that the burden imposed by the Vermont reporting requirement warrants preemption of the [data-collection] statute. This conclusion falters for two primary reasons. First, the reporting requirement imposed by the Vermont statute differs in kind from the 'reporting' that is required by ERISA and therefore was not the kind of state law Congress intended to preempt. Second, Liberty Mutual has failed to show any actual burden, much less a burden that triggers ERISA preemption. Rather, the Vermont statute . . . does not interfere with an ERISA plan's administration of benefits." *Id.*, at 511.

## II

Essentially for the reasons Judge Straub identified, I would hold that ERISA does not preempt Vermont's data-collection statute. That law and ERISA serve different purposes. ERISA's domain is the design and administration of employee benefit plans: notably, prescriptions on the vesting of benefits, claims processing, and the designation of beneficiaries. See *Travelers*, 514 U. S., at 656 ("Congress intended to ensure that plans and plan sponsors would be subject to a uniform body of benefits law . . . ." (internal quotation marks omitted)). Its reporting requirements,

geared to those functions, ensure that the plans in fact provide covered benefits. Vermont's data-collection statute, in contrast, aims to improve the quality and utilization, and reduce the cost, of health care in Vermont by providing consumers, government officials, and researchers with comprehensive data about the health care delivery system. Nor does Vermont's law impose burdens on ERISA plans of the kind this Court has found sufficient to warrant preemption.

ERISA's preemption clause provides that the Act "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U. S. C. § 1144(a). Lacking clear direction from the clause's "opaque" text, *De Buono* v. *NYSA–ILA Medical and Clinical Services Fund*, 520 U. S. 806, 809 (1997), the Court has sought to honor Congress' evident call for an expansive preemption principle without invalidating state regulations falling outside ERISA's domain. See *Travelers*, 514 U. S., at 655–656 ("The governing text of [the] ERISA [preemption clause] is clearly expansive. . . . [But] [i]f 'relate to' were taken to extend to the furthest stretch of its indeterminacy, then for all practical purposes pre-emption would never run its course, for really, universally, relations stop nowhere." (some internal quotation marks omitted)).[5]

Seeking to bring some measure of determinacy to ERISA preemption, the Court has stated: "[A] law 'relates to' an employee benefit plan . . . if it has a connection with or reference to such a plan." *Id.*, at 656 (some internal quotation

[5] I have joined opinions proposing that the Court acknowledge that the "'relate to' clause of the pre-emption provision is meant, not to set forth a *test* for pre-emption, but rather to identify the field in which ordinary *field pre-emption* applies—namely, the field of laws regulating" employee benefit plans. *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N. A., Inc.*, 519 U. S. 316, 336 (1997) (Scalia, J., concurring); *Egelhoff* v. *Egelhoff*, 532 U. S. 141, 153 (2001) (Scalia, J., concurring). Whether measured against ordinary preemption principles or this Court's ERISA-specific precedent, Vermont's data-collection law should survive inspection.

marks omitted). In this case, the Court of Appeals found, and the parties do not here contest, that Vermont's data-collection law lacks "reference to" ERISA plans because the law applies to all health care payers and does not home in on ERISA plans. See 746 F. 3d, at 508, n. 9. The question, therefore, is whether the law has an impermissible "connection with" ERISA plans. Because the term "'connection with' is scarcely more restrictive than 'relate to,'" the Court has "cautioned against . . . uncritical literalism," *Egelhoff* v. *Egelhoff*, 532 U. S. 141, 147 (2001) (internal quotation marks omitted), and has set out this further formulation: "[T]o determine whether a state law has the forbidden connection, we look both to the objectives of the ERISA statute as a guide to the scope of the state law that Congress understood would survive, as well as to the nature of the effect of the state law on ERISA plans," *ibid.* (internal quotation marks omitted).

In framing preemption doctrine, the Court does not "assum[e] lightly that Congress has derogated state regulation, but instead . . . addresse[s] claims of pre-emption with the starting presumption that Congress does not intend to supplant state law," *Travelers*, 514 U. S., at 654, especially where the State's regulation deals with "matters of health and safety," *De Buono*, 520 U. S., at 814 (internal quotation marks omitted). In *Travelers* and subsequent decisions upholding state laws against preemption challenges, this Court made clear that this presumption plays an important role in ERISA cases. *Travelers*, 514 U. S., at 654, 661; *California Div. of Labor Standards Enforcement* v. *Dillingham Constr., N. A., Inc.*, 519 U. S. 316, 325, 330–331 (1997); *De Buono*, 520 U. S., at 814. Vermont's data-collection law is a vital part of the State's control of its own health care market. See *supra*, at 332–333, 334–335; 746 F. 3d, at 513 (Straub, J., dissenting). The presumption against preemption should thus apply full strength, and Liberty has not rebutted it, *i. e.*, it has not shown that ERISA demands the preemption of Vermont's data-collection law. To the contrary, the Court's ERISA-preemption precedent points *against* preemption in this case.

A

To determine whether Vermont's data-collection law, as applied to Liberty's plan, has an impermissible "connection with" ERISA plans, I look first to the "objectives of the ERISA statute as a guide." *Egelhoff*, 532 U. S., at 147; *Oneok, Inc.* v. *Learjet, Inc.*, 575 U. S. 373, 385 (2015) (emphasizing "the importance of considering the *target* at which the state law *aims*" in applying ordinary field-preemption principles). Because ERISA's reporting requirements and the Vermont law elicit different information and serve distinct purposes, there is no sensible reason to find the Vermont data-collection law preempted.

ERISA-covered benefit plans must, absent exemption, file annual reports containing financial and actuarial data to enable the Secretary of Labor to evaluate plans' management and solvency. See 29 U. S. C. §§ 1023, 1024(a)(2)(B); *Dillingham*, 519 U. S., at 326–327 (Congress "established extensive reporting . . . requirements" to protect against "the mismanagement of funds accumulated to finance employee benefits and the failure to pay employees' benefits from accumulated funds." (internal quotation marks omitted)).[6]

Beyond debate, Vermont's data-collection law does not seek to regulate the management and solvency of ERISA-

[6] The Court suggests that the Department of Labor collects, pursuant to ERISA's reporting rules, similar information to the data that Vermont's regime elicits. See *ante*, at 321–322. But these reporting obligations are not remotely similar. As one of Liberty's *amici curiae* explains, the Department of Labor reporting form cited by the Court requires reporting of the "total amount of claims paid annually by the plan," not the "granular claim-by-claim" information (including data about the "location of services rendered") that Vermont collects. Brief for National Coordinating Committee for Multiemployer Plans as *Amicus Curiae* 15, n. 4. See also Reply Brief 13, and n. 6. The data entries cited by the Court require a plan to enter, in merely a handful of boxes on a four-page form, the aggregate sums of all claims paid annually. See Dept. of Labor, Schedule H (Form 5500) Financial Information (2015), online at http://www.dol.gov/ebsa/pdf/2015-5500-Schedule-H.pdf (all Internet materials as last visited Feb. 24, 2016).

covered welfare plans. See *supra*, at 333 (reciting objectives of the Vermont data-collection law). Vermont requests no information on plan finances. See Reg. H–2008–01, Code of Vt. Rules 21–040–021, § 4(D); *supra*, at 332–333 (detailing the types of data collected by Vermont). The State collects data on paid health care claims, not denied claims. See § 5(A)(8). Vermont seeks a better understanding of how its residents obtain health care and how effective that care is. Unlike ERISA superintendence, Vermont's interest does not lie in reviewing whether a self-insured provider is keeping its bargain to covered employees. Nor does Vermont's statute even arguably regulate relationships among the prime ERISA entities: beneficiaries, participants, administrators, employees, trustees and other fiduciaries, and the plan itself.

Despite these significant differences between ERISA's reporting requirements and Vermont's data-collection regime, Liberty contends that Congress intended to spare ERISA plans from benefit-related reporting requirements unless those requirements are nationally uniform. In support of this contention, Liberty points to dicta from this Court's opinions and selections from ERISA's legislative history. See, *e. g.*, *Travelers*, 514 U. S., at 661 ("'[S]ubject matters covered by ERISA [include] reporting, disclosure, fiduciary responsibility, and the like.'" (quoting *Shaw* v. *Delta Air Lines, Inc.*, 463 U. S. 85, 98 (1983))); *Ingersoll-Rand Co.* v. *McClendon*, 498 U. S. 133, 137 (1990) (ERISA "sets various uniform standards, including rules concerning reporting, disclosure, and fiduciary responsibility, for both pension and welfare plans."); 120 Cong. Rec. 29942 (1974) (remarks of Sen. Javits) ("State laws compelling disclosure from . . . plans . . . will be superseded."). Far from unambiguously endorsing Liberty's sweeping view of ERISA's preemptive scope, these statements can be read at least as reasonably for the unremarkable principle that ERISA preempts state reporting rules designed to serve the same purposes as ERISA's reporting requirements. This more limited understanding

is consistent with the Court's admonition to pay close attention to the "objectives of the ERISA statute as a guide." *Egelhoff*, 532 U. S., at 147.

B

Satisfied that ERISA's objectives do not require preemption of Vermont's data-collection law, I turn to the "nature of the effect of the state law on ERISA plans." *Ibid.* The imposition of some burdens on the administration of ERISA plans, the Court has held, does not suffice to require preemption. See *De Buono*, 520 U. S., at 815. While a law imposing costs so acute as to effectively dictate how a plan is designed or administered could trigger preemption, see *id.*, at 816, n. 16, no such extreme effects are present here. Moreover, no "central matter of plan administration," *Egelhoff*, 532 U. S., at 148, is touched by Vermont's data-collection law. That law prescribes no vesting requirements, benefit levels, beneficiary designations, or rules on how claims should be processed or paid. Indeed, Vermont's law does not require Liberty to do anything. The burden of compliance falls on Blue Cross, which apparently provides the data without protest on behalf of other self-funded plans. See *supra*, at 334.

Reporting and disclosure are no doubt required of ERISA plans, but those requirements are ancillary to the areas ERISA governs. Reporting and recordkeeping incident to state laws of general applicability have been upheld as they bear on ERISA plans. In *De Buono*, 520 U. S., at 809–810, 816, for example, the Court held that a gross-receipts tax on patient services provided by a hospital operated by an ERISA plan was not preempted, even though administration of the tax required filing quarterly reports. And in *Dillingham*, 519 U. S., at 319, the Court held that California's prevailing-wage law was not preempted as applied to apprenticeship programs established by ERISA plans. Prevailing-wage laws typically require employees to keep records of the wages paid to employees and make them available for review by state authorities. See, *e. g.*, Cal. Lab.

Code Ann. § 1776 (West 1989) (prevailing-wage law in *Dillingham*). The Second Circuit erred, then, in holding that ERISA preempts any state-law reporting obligation that is more than "slight." See 746 F. 3d, at 508–509.

The Vermont data-collection statute keeps company with the laws considered in *De Buono* and *Dillingham*: It is generally applicable and does not involve "a central matter of plan administration." *Egelhoff*, 532 U. S., at 148. And, as Judge Straub emphasized in his dissent, Liberty "failed to provide any details or showing of the alleged burden," instead "arguing only that 'all regulations have their costs.'" 746 F. 3d, at 515 (quoting Liberty's appellate brief).

As the United States explains, the supposition indulged by the Second Circuit that Vermont's law imposed a substantial burden "is not obvious, or even particularly plausible, without any factual support." Brief for United States as *Amicus Curiae* 28. The data-collection law "essentially requires Blue Cross [Liberty's third-party administrator] to take information generated in the ordinary course of its claims-payment operations and report that information in a prescribed format to the [State]." *Ibid.* The Court of Appeals majority accentuated the sheer number of data entries that must be reported to Vermont. See 746 F. 3d, at 509–510, and n. 13. Accord *ante*, at 330 (opinion of BREYER, J.) Entirely overlooked in that enumeration is the technological capacity for efficient computer-based data storage, formatting, and submission. See Brief for National Association of Health Data Organizations et al. as *Amici Curiae* 7–9, 13 (describing three-step electronic path data take from health provider, to insurer or health care plan, and ultimately to the State's database).[7] Where regulatory compliance depends

[7] *Amici* supporting Liberty point to several allegedly burdensome features of compliance with Vermont's law, but they appear to be no more than everyday facets of modern regulatory compliance: installing and maintaining a software system to collect and remit data to the State, seeking variances from state regulators when health providers do not submit required information to the plan or its administrator, and reformatting

upon the use of evolving technologies, it should be incumbent on the objector to show concretely what the alleged regulatory burden in fact entails.[8]

Because data-collection laws like Vermont's are not uniform from State to State, compliance is inevitably burdensome, Liberty successfully argued in the Court of Appeals. The Court replays this reasoning in today's opinion. See *ante,* at 321, 323. But state-law diversity is a hallmark of our political system and has been lauded in this Court's opinions. See, *e. g.*, *Arizona State Legislature* v. *Arizona Independent Redistricting Comm'n*, 576 U. S. 787, 817 (2015) ("This Court has long recognized the role of States as laboratories for devising solutions to difficult legal problems." (citing *New State Ice Co.* v. *Liebmann*, 285 U. S. 262, 311 (1932) (Brandeis, J., dissenting); internal quotation marks omitted)). Something more than an inherent characteristic of our federal system, therefore, must underpin the ERISA-grounded preemption Liberty urges.[9]

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data to comply with state-database formatting and encryption standards. See Brief for Blue Cross and Blue Shield Association as *Amicus Curiae* 30–32, and nn. 7–8; Brief for National Coordinating Committee for Multiemployer Plans as *Amicus Curiae* 11–13, 16–18.

[8] Liberty contends that it need not quantify the precise cost of compliance with Vermont's law to prove that the law is burdensome. But Liberty should at least introduce concrete evidence of the alleged burdens. A finder of fact would reasonably ask, for example: Do Blue Cross's existing technologies for data storage already have capacity to store and report the data sought by Vermont? And is compliance with Vermont's reporting rules any more burdensome than compliance with other state reporting laws with which the plan already complies?

[9] Concurring in the Court's opinion, JUSTICE BREYER worries that "[i]f each State is free to go its own way, . . . the result could well be unnecessary, duplicative, and conflicting reporting requirements." *Ante,* at 330. In support, JUSTICE BREYER cites a 2011 report. A. Costello & M. Taylor, APCD Council & NAHDO, Standardization of Data Collection in All-Payer Claims Databases 1 (Jan. 2011), online at https://www.apcdcouncil.org/publication/standardization-data-collection-all-payer-claims-databases. In fact, the organizations that published this report inform us, in a brief supporting Vermont, that "submitting claims data to [all-payer claims databases] . . . is a routine, straightforward process" and that States and

Liberty points to *Egelhoff* as exemplary. In *Egelhoff*, 532 U. S., at 143–144, a deceased ERISA-plan participant's ex-spouse challenged a state law that revoked her beneficiary status automatically upon her divorce, even though the ERISA plan's terms did not. The Court held that ERISA preempted the law because it "binds ERISA plan administrators to a particular choice of rules for determining beneficiary status." *Id.*, at 147. In that context, the Court said: "Requiring ERISA administrators to master the relevant laws of 50 States . . . would undermine the congressional goal of minimizing the administrative and financial burdens on plan administrators—burdens ultimately borne by the beneficiaries." *Id.*, at 149–150 (internal quotation marks and brackets omitted).

The Court took care, however, to confine *Egelhoff* to issues implicating "a central matter of plan administration," in other words, "a core ERISA concern." *Id.*, at 147–148. What does that category comprise? As earlier described, see *supra*, at 336, 341, prescriptions on benefit levels, beneficiary designations, vesting requirements, and rules on processing and payment of claims would rank under the central or core ERISA subject-matter rubric.[10] So, too, would re-

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private organizations have worked in recent years to standardize data-reporting requirements. Brief for National Association of Health Data Organizations et al. as *Amici Curiae* 13.

[10] The "core ERISA concern" (or "central matter of plan administration") inquiry is not meaningfully different from the examination whether a state law is inconsistent with the "objectives of the ERISA statute." *Egelhoff*, 532 U. S., at 147; see *supra*, at 339–341. The Court appears to disagree, stating that "[a]ny difference in purpose" between ERISA and Vermont's reporting requirements "does not transform [Vermont's] direct regulation of a 'central matter of plan administration' into an innocuous and peripheral set of additional rules." *Ante*, at 325 (quoting *Egelhoff*, 532 U. S., at 148). In other words, the Court assumes that a state law that is not inconsistent with ERISA's purposes can nonetheless burden a "central matter of plan administration" or implicate a "core ERISA concern." Missing from the Court's opinion is any definition of these terms. What meaning can "central matter of plan administration" and "core ERISA concern" have if they are divorced from ERISA's purposes?

porting and disclosure obligations, but of what kind? Those that further regulation of the design and administration of employee benefit plans, *i. e.*, reporting and disclosures tied to the areas ERISA governs. ERISA's reporting and disclosure requirements are thus concerned with mismanagement of funds, failure to pay employee benefits, plan assets or allocations, all information bearing on the financial integrity of the plan. See *supra*, at 339. Vermont's data-collection law, eliciting information on medical claims, services provided to beneficiaries, charges and payment for those services, and demographic makeup of those receiving benefits, does not fit the bill any more than reporting relating to a plan's taxes or wage payments does.

Numerous States have informed the Court of their urgent need for information yielded by their health care data-collection laws. See Brief for National Governors Association et al. as *Amici Curiae*; Brief for State of New York et al. as *Amici Curiae*; Brief for Connecticut Health Insurance Exchange as *Amicus Curiae*; Brief for State of New Hampshire as *Amicus Curiae.* Wait until the Federal Government acts is the Court's response. The Department of Labor's capacious grant of statutory authority, the Court observes, might allow it to collect the same data Vermont and other States seek about ERISA-plan health-benefit payments. See *ante*, at 323–324; *ante,* at 330–331 (opinion of BREYER, J.). Once the information is collected, the Court conjectures, the Department could pass the data on to the States. Cf. *ante*, at 331 (opinion of BREYER, J.) (suggesting that States could seek the Department's permission to enforce reporting requirements like Vermont's). It is unsettling, however, to leave the States dependent on a federal agency's grace, *i. e.*, the Department of Labor's willingness to take on a chore divorced from ERISA's objectives.[11]

[11] The Court's analysis may hamper States' abilities to require reporting, not just of plan benefits, but of plan assets as well. For example, the Department of Labor collects information about real property held in trust by a pension plan so that it can assess the plan's financial well-being. See

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Declaring "reporting," unmodified, a central or core ERISA function, as the Second Circuit did, 746 F. 3d, at 508, passes the line this Court drew in *Travelers*, *De Buono*, and *Dillingham* when it reined in § 1144(a) so that it would no longer operate as a "super-preemption" provision. Bogan, Protecting Patient Rights Despite ERISA, 74 Tulane L. Rev. 951, 959 (2000); see *supra*, at 338. I dissent from the Court's retrieval of preemption doctrine that belongs in the discard bin.

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Tr. of Oral Arg. 19. States may need to collect the same information for a very different purpose, such as assessing a property tax.

Syllabus

# LOCKHART *v.* UNITED STATES

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 14–8358. Argued November 3, 2015—Decided March 1, 2016

Petitioner Avondale Lockhart pleaded guilty to possessing child pornography in violation of 18 U. S. C. § 2252(a)(4). Because Lockhart had a prior state-court conviction for first-degree sexual abuse involving his adult girlfriend, his presentence report concluded that he was subject to the 10-year mandatory minimum sentence enhancement provided in § 2252(b)(2), which is triggered by, *inter alia*, prior state convictions for crimes "relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward." Lockhart argued that the limiting phrase "involving a minor or ward" applied to all three state crimes, so his prior conviction did not trigger the enhancement. Disagreeing, the District Court applied the mandatory minimum. The Second Circuit affirmed.

*Held*: Lockhart's prior conviction is encompassed by § 2252(b)(2). Pp. 350–361.

(a) A natural reading of the text supports that conclusion. The "rule of the last antecedent," a canon of statutory interpretation stating that "a limiting clause or phrase . . . should ordinarily be read as modifying only the noun or phrase that it immediately follows," *Barnhart* v. *Thomas*, 540 U. S. 20, 26, clarifies that the phrase "involving a minor or ward" modifies only the immediately preceding noun phrase "abusive sexual conduct" and that the phrases "aggravated sexual abuse" and "sexual abuse" are not so restricted. The rule "can . . . be overcome by other indicia of meaning," *ibid.*, but § 2252(b)(2)'s context reinforces its application in this case. Pp. 351–352.

(b) Section 2252(b)(2)'s enhancement can also be triggered by, *inter alia*, a prior federal sexual-abuse offense enumerated in Chapter 109A of the Federal Criminal Code. Interpreting § 2252(b)(2) using the "rule of the last antecedent," the headings in Chapter 109A mirror precisely the order, precisely the divisions, and nearly precisely the words used to describe the state sexual-abuse predicates. Applying the modifier "involving a minor or ward" to all three items in § 2252(b)(2)'s list, by contrast, would require this Court to interpret the state predicates in a way that departs from the federal template. If Congress had intended that result, it is doubtful that Congress would have followed so closely the structure and language of Chapter 109A. Pp. 352–354.

Syllabus

(c) Lockhart's counterarguments are rejected. Pp. 354–361.

(1) *Porto Rico Railway, Light & Power Co.* v. *Mor*, 253 U. S. 345, *United States* v. *Bass*, 404 U. S. 336, and *Jama* v. *Immigration and Customs Enforcement*, 543 U. S. 335, do not require this Court to apply Lockhart's countervailing series-qualifier principle. In those cases, the Court simply observed that the last antecedent rule may be overcome by contextual indicia of meaning. Lockhart's attempts to identify such indicia are unavailing. He claims that the state predicates are so similar that a limiting phrase could apply equally to all three. But by transforming a list of separate predicates into a set of near-synonyms, Lockhart's reading results in too much redundancy and risks running headlong into the rule against superfluity. Pp. 354–357.

(2) Lockhart contends that the existence of other disparities between § 2252(b)(2)'s state and federal sexual-abuse predicates indicate that parity was not Congress' concern. However, this Court's construction relies on contextual cues particular to the sexual-abuse predicates, not on a general assumption that Congress sought full parity between all state and federal predicates. Pp. 357–358.

(3) The provision's legislative history "hardly speaks with [a] clarity of purpose," *Universal Camera Corp.* v. *NLRB*, 340 U. S. 474, 483, and does nothing to explain *why* Congress would have wanted to structure § 2252(b)(2) to treat state and federal predicates differently. Pp. 358–361.

(4) Finally, Lockhart suggests the rule of lenity is triggered here, where applying his series-qualifier principle would lead to an alternative construction of § 2252(b)(2). The rule of lenity is used to resolve ambiguity only when the ordinary canons have revealed no satisfactory construction. Here, however, the rule of the last antecedent is well supported by context, and Lockhart's alternative is not. P. 361.

749 F. 3d 148, affirmed.

SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, GINSBURG, and ALITO, JJ., joined. KAGAN, J., filed a dissenting opinion, in which BREYER, J., joined, *post*, p. 362.

*Edward S. Zas* argued the cause for petitioner. With him on the briefs were *Barry D. Leiwant*, *Darrell B. Fields*, and *David A. Lewis*.

*Ann O'Connell* argued the cause for the United States. With her on the brief were *Solicitor General Verrilli*, *Assistant Attorney General Caldwell*, *Deputy Solicitor General Dreeben*, and *Elizabeth D. Collery*.

JUSTICE SOTOMAYOR delivered the opinion of the Court.

Defendants convicted of possessing child pornography in violation of 18 U. S. C. § 2252(a)(4) are subject to a 10-year mandatory minimum sentence and an increased maximum sentence if they have "a prior conviction . . . under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward." § 2252(b)(2).

The question before us is whether the phrase "involving a minor or ward" modifies all items in the list of predicate crimes ("aggravated sexual abuse," "sexual abuse," and "abusive sexual conduct") or only the one item that immediately precedes it ("abusive sexual conduct"). Below, the Court of Appeals for the Second Circuit joined several other Courts of Appeals in holding that it modifies only "abusive sexual conduct." The Eighth Circuit has reached the contrary result. We granted certiorari to resolve that split. 575 U. S. 1025 (2015). We affirm the Second Circuit's holding that the phrase "involving a minor or ward" in § 2252(b)(2) modifies only "abusive sexual conduct."

## I

In April 2000, Avondale Lockhart was convicted of sexual abuse in the first degree under N. Y. Penal Law Ann. § 130.65(1) (West Cum. Supp. 2015). The crime involved his then-53-year-old girlfriend. Presentence Investigation Report (PSR), in No. 11–CR–231–01, p. 13, ¶¶47–48. Eleven years later, Lockhart was indicted in the Eastern District of New York for attempting to receive child pornography in violation of 18 U. S. C. § 2252(a)(2) and for possessing child pornography in violation of § 2252(a)(4)(B). Lockhart pleaded guilty to the possession offense and the Government dismissed the receipt offense.

Lockhart's presentence report calculated a guidelines range of 78 to 97 months for the possession offense. But the report also concluded that Lockhart was subject to

§ 2252(b)(2)'s mandatory minimum because his prior New York abuse conviction related "to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward." PSR ¶¶87–88.

Lockhart objected, arguing that the statutory phrase "involving a minor or ward" applies to all three listed crimes: "aggravated sexual abuse," "sexual abuse," *and* "abusive sexual conduct." He therefore contended that his prior conviction for sexual abuse involving an *adult* fell outside the enhancement's ambit. The District Court rejected Lockhart's argument and applied the mandatory minimum. The Second Circuit affirmed his sentence. 749 F. 3d 148 (2014).

## II

Section 2252(b)(2) reads in full:

> "Whoever violates, or attempts or conspires to violate [18 U. S. C. § 2252(a)(4)] shall be fined under this title or imprisoned not more than 10 years, or both, but . . . if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years."

This case concerns that provision's list of state sexual-abuse offenses. The issue before us is whether the limiting phrase that appears at the end of that list—"involving a minor or ward"—applies to all three predicate crimes preceding it in the list or only the final predicate crime. We hold that "involving a minor or ward" modifies only "abusive sexual conduct," the antecedent immediately preceding it.

Although § 2252(b)(2)'s list of state predicates is awkwardly phrased (to put it charitably), the provision's text and context together reveal a straightforward reading. A time-worn textual canon is confirmed by the structure and internal logic of the statutory scheme.

## A

Consider the text. When this Court has interpreted statutes that include a list of terms or phrases followed by a limiting clause, we have typically applied an interpretive strategy called the "rule of the last antecedent." See *Barnhart* v. *Thomas*, 540 U. S. 20, 26 (2003). The rule provides that "a limiting clause or phrase . . . should ordinarily be read as modifying only the noun or phrase that it immediately follows." *Ibid.*; see also Black's Law Dictionary 1532–1533 (10th ed. 2014) ("[Q]ualifying words or phrases modify the words or phrases immediately preceding them and not words or phrases more remote, unless the extension is necessary from the context or the spirit of the entire writing"); A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 144 (2012).

This Court has applied the rule from our earliest decisions to our more recent. See, *e. g.*, *Sims Lessee* v. *Irvine*, 3 Dall. 425, 444, n. (1799); *FTC* v. *Mandel Brothers, Inc.*, 359 U. S. 385, 389, n. 4 (1959); *Barnhart*, 540 U. S., at 26. The rule reflects the basic intuition that when a modifier appears at the end of a list, it is easier to apply that modifier only to the item directly before it. That is particularly true where it takes more than a little mental energy to process the individual entries in the list, making it a heavy lift to carry the modifier across them all. For example, imagine you are the general manager of the Yankees and you are rounding out your 2016 roster. You tell your scouts to find a defensive catcher, a quick-footed shortstop, or a pitcher from last year's World Champion Kansas City Royals. It would be natural for your scouts to confine their search for a pitcher

to last year's championship team, but to look more broadly for catchers and shortstops.

Applied here, the last antecedent principle suggests that the phrase "involving a minor or ward" modifies only the phrase that it immediately follows: "abusive sexual conduct." As a corollary, it also suggests that the phrases "aggravated sexual abuse" and "sexual abuse" are not so constrained.

Of course, as with any canon of statutory interpretation, the rule of the last antecedent "is not an absolute and can assuredly be overcome by other indicia of meaning." *Barnhart*, 540 U. S., at 26; see also *Davis* v. *Michigan Dept. of Treasury*, 489 U. S. 803, 809 (1989) ("It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme"). For instance, take "'the laws, the treaties, and the constitution of the United States.'" *Post*, at 367, n. 2 (KAGAN, J., dissenting). A reader intuitively applies "of the United States" to "the laws," "the treaties," and "the constitution" because (among other things) laws, treaties, and the Constitution are often cited together, because readers are used to seeing "of the United States" modify each of them, and because the listed items are simple and parallel without unexpected internal modifiers or structure. Section 2252(b)(2), by contrast, does not contain items that readers are used to seeing listed together or a concluding modifier that readers are accustomed to applying to each of them. And the varied syntax of each item in the list makes it hard for the reader to carry the final modifying clause across all three.

More importantly, here the interpretation urged by the rule of the last antecedent is not overcome by other indicia of meaning. To the contrary, § 2252(b)(2)'s context fortifies the meaning that principle commands.

## B

Our inquiry into § 2252(b)(2)'s context begins with the internal logic of that provision. Section 2252(b)(2) establishes

sentencing minimums and maximums for three categories of offenders. The first third of the section imposes a 10-year maximum sentence on offenders with no prior convictions. The second third imposes a 10-year minimum and 20-year maximum on offenders who have previously violated a federal offense listed within various chapters of the Federal Criminal Code. And the last third imposes the same minimum and maximum on offenders who have previously committed state "sexual abuse, aggravated sexual abuse, or abusive sexual conduct involving a minor or ward" as well as a number of state crimes related to the possession and distribution of child pornography.

Among the chapters of the Federal Criminal Code that can trigger § 2252(b)(2)'s recidivist enhancement are crimes "under . . . chapter 109A." Chapter 109A criminalizes a range of sexual-abuse offenses involving adults *or* minors and wards.[1] And it places those federal sexual-abuse crimes under headings that use language nearly identical to the language § 2252(b)(2) uses to enumerate the three categories of state sexual-abuse predicates. The first section in Chapter 109A is titled "Aggravated sexual abuse." 18 U. S. C. § 2241. The second is titled "Sexual abuse." § 2242. And the third is titled "Sexual abuse of a minor or ward." § 2243. Applying the rule of the last antecedent, those sections mirror precisely the order, precisely the divisions, and nearly precisely the words used to describe the three state sexual-abuse predicate crimes in § 2252(b)(2): "aggravated sexual abuse," "sexual abuse," and "abusive sexual conduct involving a minor or ward."

This similarity appears to be more than a coincidence. We cannot state with certainty that Congress used Chapter

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[1] For example, § 2241(a) of Chapter 109A prohibits forced sexual acts against "another person"—not just a person under a certain age. Section 2241(c) specially criminalizes sexual acts "with another person who has not attained the age of 12 years," and § 2243(b) does the same for sexual acts with wards who are "in official detention" or "under the custodial, supervisory, or disciplinary authority of the person so engaging."

109A as a template for the list of state predicates set out in § 2252(b)(2), but we cannot ignore the parallel, particularly because the headings in Chapter 109A were in place when Congress amended the statute to add § 2252(b)(2)'s state sexual-abuse predicates.[2]

If Congress had intended to limit each of the state predicates to conduct "involving a minor or ward," we doubt it would have followed, or thought it needed to follow, so closely the structure and language of Chapter 109A.[3] The conclusion that Congress followed the federal template is supported by the fact that Congress did nothing to indicate that offenders with prior federal sexual-abuse convictions are more culpable, harmful, or worthy of enhanced punishment than offenders with nearly identical state priors. We therefore see no reason to interpret § 2252(b)(2) so that "[s]exual abuse" that occurs in the Second Circuit courthouse triggers the sentence enhancement, but "sexual abuse" that occurs next door in the Manhattan municipal building does not.

## III

### A

Lockhart argues, to the contrary, that the phrase "involving a minor or ward" should be interpreted to modify all

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[2] See 18 U. S. C. § 2241 (1994 ed.) ("Aggravated sexual abuse"); § 2242 ("Sexual abuse"); § 2243 ("Sexual abuse of a minor or ward").

[3] The dissent points out that § 2252(b)(2) (2012 ed.) did not also borrow from the heading of the fourth section in Chapter 109A (or, we note, from the fifth, sixth, seventh, or eighth sections) in defining its categories of state sexual-abuse predicates. *Post*, at 374–375 (KAGAN, J. dissenting). But the significance of the similarity between the three state predicates in § 2252(b)(2) and the wording, structure, and order of the first three sections of Chapter 109A is not diminished by the fact that Congress stopped there (especially when the remaining sections largely set out derivations from, definitions of, and penalties for the first three). See, *e. g.*, § 2244 (listing offenses derived from §§ 2241, 2242, and 2243); § 2245 (creating an enhancement for offenses under Chapter 109A resulting in death); § 2246 (listing definitions).

three state sexual-abuse predicates. He first contends, as does our dissenting colleague, that the so-called series-qualifier principle supports his reading. This principle, Lockhart says, requires a modifier to apply to all items in a series when such an application would represent a natural construction. Brief for Petitioner 12; *post*, at 365.

This Court has long acknowledged that structural or contextual evidence may "rebut the last antecedent inference." *Jama* v. *Immigration and Customs Enforcement*, 543 U. S. 335, 344, n. 4 (2005). For instance, in *Porto Rico Railway, Light & Power Co.* v. *Mor*, 253 U. S. 345 (1920), on which Lockhart relies, this Court declined to apply the rule of the last antecedent where "[n]o reason appears why" a modifying clause is not "applicable as much to the first and other words as to the last" and where "special reasons exist for so construing the clause in question." *Id.*, at 348. In *United States* v. *Bass*, 404 U. S. 336 (1971), this Court declined to apply the rule of the last antecedent where "there is no reason consistent with any discernable purpose of the statute to apply" the limiting phrase to the last antecedent alone. *Id.*, at 341. Likewise, in *Jama*, the Court suggested that the rule would not be appropriate where the "modifying clause appear[s] . . . at the end of a single, integrated list." 543 U. S., at 344, n. 4. And, most recently, in *Paroline* v. *United States*, 572 U. S. 434 (2014), the Court noted that the rule need not be applied "in a mechanical way where it would require accepting 'unlikely premises.' " *Id.*, at 447.

But in none of those cases did the Court describe, much less apply, a countervailing grammatical mandate that could bear the weight that either Lockhart or the dissent places on the series-qualifier principle. Instead, the Court simply observed that sometimes context weighs against the application of the rule of the last antecedent. *Barnhart*, 540 U. S., at 26. Whether a modifier is "applicable as much to the first . . . as to the last" words in a list, whether a set of items form a "single, integrated list," and whether the application

of the rule would require acceptance of an "unlikely premise" are fundamentally contextual questions.

Lockhart attempts to identify contextual indicia that he says rebut the rule of the last antecedent, but those indicia hurt rather than help his prospects. He points out that the final two state predicates, "sexual abuse" and "abusive sexual conduct," are "nearly synonymous as a matter of everyday speech." Brief for Petitioner 17. And, of course, anyone who commits "aggravated sexual abuse" has also necessarily committed "sexual abuse." So, he posits, the items in the list are sufficiently similar that a limiting phrase could apply equally to all three of them.

But Lockhart's effort to demonstrate some similarity among the items in the list of state predicates reveals far too much similarity. The three state predicate crimes are not just related on Lockhart's reading; they are hopelessly redundant. Any conduct that would qualify as "aggravated sexual abuse . . . involving a minor or ward" or "sexual abuse . . . involving a minor or ward" would also qualify as "abusive sexual conduct involving a minor or ward." We take no position today on the meaning of the terms "aggravated sexual abuse," "sexual abuse," and "abusive sexual conduct," including their similarities and differences. But it is clear that applying the limiting phrase to all three items would risk running headlong into the rule against superfluity by transforming a list of separate predicates into a set of synonyms describing the same predicate. See *Bailey* v. *United States*, 516 U. S. 137, 146 (1995) ("We assume that Congress used two terms because it intended each term to have a particular, nonsuperfluous meaning").

Applying the limiting phrase "involving a minor or ward" more sparingly, by contrast, preserves some distinction between the categories of state predicates by limiting only the third category to conduct "involving a minor or ward." We recognize that this interpretation does not eliminate all superfluity between "aggravated sexual abuse" and "sexual

abuse." See *United States* v. *Atlantic Research Corp.*, 551 U. S. 128, 137 (2007) ("[O]ur hesitancy to construe statutes to render language superfluous does not require us to avoid surplusage at all costs. It is appropriate to tolerate a degree of surplusage"). But there is a ready explanation for the redundancy that remains: It follows the categories in Chapter 109A's federal template. See *supra*, at 354. We see no similar explanation for Lockhart's complete collapse of the list.

The dissent offers a suggestion rooted in its impressions about how people ordinarily speak and write. *Post*, at 362–365. The problem is that, as even the dissent acknowledges, § 2252(b)(2)'s list of state predicates is hardly intuitive. No one would mistake its odd repetition and inelegant phrasing for a reflection of the accumulated wisdom of everyday speech patterns. It would be as if a friend asked you to get her tart lemons, sour lemons, or sour fruit from Mexico. If you brought back lemons from California, but your friend insisted that she was using customary speech and obviously asked for Mexican fruit only, you would be forgiven for disagreeing on both counts.

Faced with § 2252(b)(2)'s inartful drafting, then, do we interpret the provision by viewing it as a clear, commonsense list best construed as if conversational English? Or do we look around to see if there might be some provenance to its peculiarity? With Chapter 109A so readily at hand, we are unpersuaded by our dissenting colleague's invocation of basic examples from day-to-day life. Whatever the validity of the dissent's broader point, this simply is not a case in which colloquial practice is of much use. Section 2252(b)(2)'s list is hardly the way an average person, or even an average lawyer, would set about to describe the relevant conduct if they had started from scratch.

B

Lockhart next takes aim at our construction of § 2252(b)(2) to avoid disparity between the state and federal sexual-

abuse predicates. He contends that other disparities between state and federal predicates in § 2252(b)(2) indicate that parity was not Congress' concern. For example, § 2252(b)(2) imposes the recidivist enhancement on offenders with prior federal convictions under Chapter 71 of Title 18, which governs obscenity. See §§ 1461–1470. Yet § 2252(b)(2) does not impose a similar enhancement for offenses under state obscenity laws. Similarly, § 2252(b)(2)'s neighbor provision, § 2252(b)(1), creates a mandatory minimum for sex trafficking involving children, but not sex trafficking involving adults.

However, our construction of § 2252(b)(2)'s sexual-abuse predicates does not rely on a general assumption that Congress sought full parity between all of the federal and state predicates in § 2252(b)(2). It relies instead on contextual cues particular to the sexual-abuse predicates. To enumerate the state sexual-abuse predicates, Congress used language similar to that in Chapter 109A of the Federal Criminal Code, which describes crimes involving both adults and children. See *supra*, at 354. We therefore assume that the same language used to describe the state sexual-abuse predicates also describes conduct involving both adults and children.

C

Lockhart, joined by the dissent, see *post*, at 369–371, next says that the provision's legislative history supports the view that Congress deliberately structured § 2252(b)(2) to treat state and federal predicates differently. They rely on two sources. The first is a reference in a Report from the Senate Judiciary Committee on the Child Pornography Prevention Act of 1996, 110 Stat. 3009–26. That Act was the first to add the language at issue here—"aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward"—to the U. S. Code. (It was initially added to § 2252(b)(1), then added two years later to § 2252(b)(2).)

The Report noted that the enhancement applies to persons with prior convictions "under any State child abuse law or law relating to the production, receipt or distribution of child pornography." See S. Rep. No. 104–358, p. 9 (1996). But that reference incompletely describes the state pornography production and distribution predicates, which cover not only "production, receipt, or distributing of child pornography," as the Report indicates, but also "production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography," §2252(b)(2). For the reasons discussed, we have no trouble concluding that the Report also incompletely describes the state sexual-abuse predicates.

Lockhart and the dissent also rely on a letter sent from the Department of Justice (DOJ) to the House of Representative's Committee on the Judiciary commenting on the proposed "Child Protection and Sexual Predator Punishment Act of 1998." H. R. Rep. No. 105–557, pp. 26–34 (1998). In the letter, DOJ provides commentary on the then-present state of §§2252(b)(1) and 2252(b)(2), noting that although there is a "5-year mandatory minimum sentence for individuals charged with receipt or distribution of child pornography and who have prior state convictions for child molestation" pursuant to §2252(b)(1), there is "no enhanced provision for those individuals charged with possession of child pornography who have prior convictions for child abuse" pursuant to §2252(b)(2). *Id.*, at 31. That letter, they say, demonstrates that DOJ understood the language at issue here to impose a sentencing enhancement only for prior state convictions involving children.

We doubt that DOJ was trying to describe the full reach of the language in §2252(b)(1), as the dissent suggests. To the contrary, there are several clues that the letter was relying on just one of the provision's many salient features. For instance, the letter's references to "child molestation" and "child abuse" do not encompass a large number of state crimes that are unambiguously covered by "abusive sexual

conduct involving a minor or ward"—namely, crimes involving "wards." Wards can be minors, but they can also be adults. See, *e. g.*, § 2243(b) (defining "wards" as persons who are "in official detention" and "under . . . custodial, supervisory, or disciplinary authority"). Moreover, we doubt that DOJ intended to express a belief that the potentially broad scope of serious crimes encompassed by "aggravated sexual abuse, sexual abuse, and abusive sexual conduct" reaches no further than state crimes that would traditionally be characterized as "child molestation" or "child abuse."

Thus, Congress' amendment to the provision did give "DOJ just what it wanted," *post*, at 370. But the amendment also did more than that. We therefore think it unnecessary to restrict our interpretation of the provision to the parts of it that DOJ chose to highlight in its letter. Just as importantly, the terse descriptions of the provision in the Senate Report and DOJ letter do nothing to explain *why* Congress would have wanted to apply the mandatory minimum to individuals convicted in federal court of sexual abuse or aggravated sexual abuse involving an adult, but not to individuals convicted in state court of the same. The legislative history, in short, "hardly speaks with [a] clarity of purpose" through which we can discern Congress' statutory objective. *Universal Camera Corp.* v. *NLRB*, 340 U. S. 474, 483 (1951).

The best explanation Lockhart can muster is a basic administrability concern: Congress "knew what conduct it was capturing under federal law and could be confident that all covered federal offenses were proper predicates. But Congress did not have the same familiarity with the varied and mutable sexual-abuse laws of all fifty states." Brief for Petitioner 27. Perhaps Congress worried that state laws punishing relatively minor offenses like public lewdness or indecent exposure involving an adult would be swept into § 2252(b)(2). *Id.*, at 28. But the risk Lockhart identifies is minimal. Whether the terms in § 2252(b)(2) are given their "generic" meaning, see *Descamps* v. *United States*, 570 U. S.

254 (2013); *Taylor* v. *United States*, 495 U. S. 575 (1990), or are defined in light of their federal counterparts—which we do not decide—they are unlikely to sweep in the bizarre or unexpected state offenses that worry Lockhart.

D

Finally, Lockhart asks us to apply the rule of lenity. We have used the lenity principle to resolve ambiguity in favor of the defendant only "at the end of the process of construing what Congress has expressed" when the ordinary canons of statutory construction have revealed no satisfactory construction. *Callanan* v. *United States*, 364 U. S. 587, 596 (1961). That is not the case here. To be sure, Lockhart contends that if we applied a different principle of statutory construction—namely, his "series-qualifier principle"—we would arrive at an alternative construction of § 2252(b)(2). But the arguable availability of multiple, divergent principles of statutory construction cannot automatically trigger the rule of lenity. Cf. Llewellyn, Remarks on the Theory of Appellate Decision and the Rules or Canons About How Statutes Are To Be Construed, 3 Vand. L. Rev. 395, 401 (1950) ("[T]here are two opposing canons on almost every point"). Here, the rule of the last antecedent is well supported by context and Lockhart's alternative is not. We will not apply the rule of lenity to override a sensible grammatical principle buttressed by the statute's text and structure.

* * *

We conclude that the text and structure of § 2252(b)(2) confirm that the provision applies to prior state convictions for "sexual abuse" and "aggravated sexual abuse," whether or not the convictions involved a minor or ward. We therefore hold that Lockhart's prior conviction for sexual abuse of an adult is encompassed by § 2252(b)(2). The judgment of the Court of Appeals, accordingly, is affirmed.

*So ordered.*

JUSTICE KAGAN, with whom JUSTICE BREYER joins, dissenting.

Imagine a friend told you that she hoped to meet "an actor, director, or producer involved with the new Star Wars movie." You would know immediately that she wanted to meet an actor from the Star Wars cast—not an actor in, for example, the latest Zoolander. Suppose a real estate agent promised to find a client "a house, condo, or apartment in New York." Wouldn't the potential buyer be annoyed if the agent sent him information about condos in Maryland or California? And consider a law imposing a penalty for the "violation of any statute, rule, or regulation relating to insider trading." Surely a person would have cause to protest if punished under that provision for violating a traffic statute. The reason in all three cases is the same: Everyone understands that the modifying phrase—"involved with the new Star Wars movie," "in New York," "relating to insider trading"—applies to each term in the preceding list, not just the last.

That ordinary understanding of how English works, in speech and writing alike, should decide this case. Avondale Lockhart is subject to a 10-year mandatory minimum sentence for possessing child pornography if, but only if, he has a prior state-law conviction for "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward." 18 U. S. C. § 2252(b)(2). The Court today, relying on what is called the "rule of the last antecedent," reads the phrase "involving a minor or ward" as modifying only the final term in that three-item list. But properly read, the modifier applies to each of the terms—just as in the examples above. That normal construction finds support in uncommonly clear-cut legislative history, which states in so many words that the three predicate crimes all involve abuse of children. And if any doubt remained, the rule of lenity would command the same result: Lockhart's prior conviction for sexual abuse *of an adult* does not trigger

§ 2252(b)(2)'s mandatory minimum penalty. I respectfully dissent.

I

Begin where the majority does—with the rule of the last antecedent. See *ante*, at 351. This Court most fully discussed that principle in *Barnhart* v. *Thomas*, 540 U. S. 20 (2003), which considered a statute providing that an individual qualifies as disabled if "he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work *which exists in the national economy*." *Id.*, at 21–22 (quoting 42 U. S. C. § 423(d)(2)(A)) (emphasis added). The Court held, invoking the last-antecedent rule, that the italicized phrase modifies only the term "substantial gainful work," and not the term "previous work" occurring earlier in the sentence. Two points are of especial note. First, *Barnhart* contained a significant caveat: The last-antecedent rule "can assuredly be overcome by other indicia of meaning." 540 U. S., at 26; see, *e. g.*, *Nobelman* v. *American Savings Bank*, 508 U. S. 324, 330–331 (1993) (refusing to apply the rule when a contrary interpretation was "the more reasonable one"). Second, the grammatical structure of the provision in *Barnhart* is nothing like that of the statute in this case: The modifying phrase does not, as here, immediately follow a list of multiple, parallel terms. That is true as well in the other instances in which this Court has followed the rule. See, *e. g.*, *Jama* v. *Immigration and Customs Enforcement*, 543 U. S. 335 (2005); *Batchelor* v. *United States*, 156 U. S. 426 (1895); *Sims Lessee* v. *Irvine*, 3 Dall. 425 (1799).

Indeed, this Court has made clear that the last-antecedent rule does not generally apply to the grammatical construction present here: when "[t]he modifying clause appear[s] . . . at the end of a single, integrated list." *Jama*, 543 U. S., at 344, n. 4. Then, the exact opposite is usually true: As in the examples beginning this opinion, the modifying phrase refers

alike to each of the list's terms. A leading treatise puts the point as follows: "When there is a straightforward, parallel construction that involves all nouns or verbs in a series," a modifier at the end of the list "normally applies to the entire series." A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 147 (2012); compare *id.*, at 152 ("When the syntax involves something other than [such] a parallel series of nouns or verbs," the modifier "normally applies only to the nearest reasonable referent"). That interpretive practice of applying the modifier to the whole list boasts a fancy name—the "series-qualifier canon," see Black's Law Dictionary 1574 (10th ed. 2014)—but, as my opening examples show, it reflects the completely ordinary way that people speak and listen, write and read.[1]

Even the exception to the series-qualifier principle is intuitive, emphasizing both its common-sensical basis and its customary usage. When the nouns in a list are so disparate that the modifying clause does not make sense when applied to them all, then the last-antecedent rule takes over. Suppose your friend told you not that she wants to meet "an actor, director, or producer involved with Star Wars," but instead that she hopes someday to meet "a President, Supreme Court Justice, or actor involved with Star Wars." Presumably, you would know that she wants to meet a President or Justice even if that person has no connection to the

[1] The majority's baseball example, see *ante*, at 351–352, reads the other way only because its three terms are *not* parallel. The words "catcher" and "shortstop," but not "pitcher," are qualified separate and apart from the modifying clause at the end of the sentence: "Pitcher" thus calls for a modifier of its own, and the phrase "from the Kansas City Royals" answers that call. Imagine the sentence is slightly reworded to refer to a "defensive catcher, quick-footed shortstop, or hard-throwing pitcher from the Kansas City Royals." Or, alternatively, suppose the sentence referred simply to a "catcher, shortstop, or pitcher from the Kansas City Royals." Either way, all three players must come from the Royals—because the three terms (unlike in the majority's sentence) are a parallel series with a modifying clause at the end.

famed film franchise. But so long as the modifying clause "is applicable as much to the first and other words as to the last," this Court has stated, "the natural construction of the language demands that the clause be read as applicable to all." *Paroline* v. *United States*, 572 U. S. 434, 447 (2014) (quoting *Porto Rico Railway, Light & Power Co.* v. *Mor*, 253 U. S. 345, 348 (1920)). In other words, the modifier then qualifies not just the last antecedent but the whole series.

As the majority itself must acknowledge, see *ante*, at 354–355, this Court has repeatedly applied the series-qualifier rule in just that manner. In *Paroline*, for example, this Court considered a statute requiring possessors of child pornography to pay restitution to the individuals whose abuse is recorded in those materials. The law defines such a victim's losses to include "medical services relating to physical, psychiatric, or psychological care; physical and occupational therapy or rehabilitation; necessary transportation, temporary housing, and child care expenses; lost income; attorneys' fees, as well as other costs incurred; and any other losses suffered by the victim as a proximate result of the offense." 18 U. S. C. §§ 2259(b)(3)(A)–(F) (lettering omitted). The victim bringing the lawsuit invoked the last-antecedent rule to argue that the modifier at the end of the provision—"as a proximate result of the offense"—pertained only to the last item in the preceding list, and not to any of the others. See 572 U. S., at 447. But the Court rejected that view: It recited the "canon[ ] of statutory construction," derived from the "natural" use of language, that "[w]hen several words are followed by a clause" that can sensibly modify them all, it should be understood to do so. *Ibid.* Thus, the Court read the proximate-cause requirement to cover each and every term in the list.

*United States* v. *Bass*, 404 U. S. 336 (1971), to take just one other example, followed the same rule. There, the Court confronted a statute making it a crime for a convicted felon to "receive[ ], possess[ ], or transport[ ] in commerce or affect-

ing commerce . . . any firearm." 18 U. S. C. App. § 1202(a) (1970 ed.) (current version at 18 U. S. C. § 922(g)). The Government contended that the modifying clause—"in commerce or affecting commerce"—applied only to "transport" and not to "receive" or "possess." But the Court rebuffed that argument. "[T]he natural construction of the language," the Court recognized, "suggests that the clause 'in commerce or affecting commerce' qualifies all three antecedents in the list." 404 U. S., at 339 (some internal quotation marks omitted). Relying on longstanding precedents endorsing such a construction, the Court explained: "Since 'in commerce or affecting commerce' undeniably applies to at least one antecedent, and since it makes sense with all three, the more plausible construction here is that it in fact applies to all three." *Id.*, at 339–340 (citing *United States* v. *Standard Brewery, Inc.*, 251 U. S. 210, 218 (1920); *Porto Rico Railway*, 253 U. S., at 348); see also, *e. g.*, *Jones* v. *United States*, 529 U. S. 848, 853 (2000) (similarly treating the interstate commerce element in the phrase "any building, vehicle, or other real or personal property used in interstate or foreign commerce" as applying to buildings and vehicles).

That analysis holds equally for § 2252(b)(2), the sentencing provision at issue here. The relevant language—"aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward"—contains a "single, integrated list" of parallel terms (*i. e.*, sex crimes) followed by a modifying clause. *Jama*, 543 U. S., at 344, n. 4. Given the close relation among the terms in the series, the modifier makes sense "as much to the first and other words as to the last." *Paroline*, 572 U. S., at 447. In other words, the reference to a minor or ward applies as well to sexual abuse and aggravated sexual abuse as to abusive sexual conduct. (The case would be different if, for example, the statute established a mandatory minimum for any person previously convicted of "arson, receipt of stolen property, or abusive sexual conduct involving a minor or ward.") So interpreting the modifier

"as applicable to all" the preceding terms is what "the natural construction of the language" requires. *Ibid.*; *Bass*, 404 U. S., at 339.

The majority responds to all this by claiming that the "inelegant phrasing" of § 2252(b)(2) renders it somehow exempt from a grammatical rule reflecting "how people ordinarily" use the English language. *Ante*, at 357. But to begin with, the majority is wrong to suggest that the series-qualifier canon is only about "colloquial" or "conversational" English. *Ibid.* In fact, it applies to both speech and writing, in both their informal and their formal varieties. Here is a way to test my point: Pick up a journal, or a book, or for that matter a Supreme Court opinion—most of which keep "everyday" colloquialisms at a far distance. *Ibid.* You'll come across many sentences having the structure of the statutory provision at issue here: a few nouns followed by a modifying clause. And you'll discover, again and yet again, that the clause modifies every noun in the series, not just the last—in other words, that even (especially?) in formal writing, the series-qualifier principle works.[2] And the majority is wrong

[2] Too busy to carry out this homework assignment? Consider some examples (there are many more) from just the last few months of this Court's work. In *OBB Personenverkehr AG* v. *Sachs*, *ante*, at 33, this Court described a lawsuit as alleging "wrongful arrest, imprisonment, and torture *by Saudi police*." In *James* v. *Boise*, *ante*, at 307 (*per curiam*) (quoting *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 348 (1816)), this Court affirmed that state courts must follow its interpretations of "the laws, the treaties, and the constitution *of the United States*." In *Musacchio* v. *United States*, *ante*, at 246 (quoting *Reed Elsevier, Inc.* v. *Muchnick*, 559 U. S. 154, 166 (2010)), this Court noted that in interpreting statutes it looks to the "text, context, and relevant historical treatment *of the provision at issue*." In *FERC* v. *Electric Power Supply Assn.*, *ante*, at 277, this Court applied a statute addressing "any rule, regulation, practice, or contract *affecting [a wholesale] rate [or] charge*." And in *Montanile* v. *Board of Trustees of Nat. Elevator Industry Health Benefit Plan*, *ante*, at 139, this Court interpreted an employee benefits plan requiring reimbursement "for attorneys' fees, costs, expenses or damages *claimed by the covered person*." In each case, of course, the italicized modifying clause refers to

too in suggesting that the "odd repetition" in § 2252(b)(2)'s list of state predicates causes the series-qualifier principle to lose its force. *Ibid.* The majority's own made-up sentence proves that much. If a friend asked you "to get her tart lemons, sour lemons, or sour fruit from Mexico," you might well think her list of terms perplexing: You might puzzle over the difference between tart and sour lemons, and wonder why she had specifically mentioned lemons when she apparently would be happy with sour fruit of any kind. But of one thing, you would have no doubt: Your friend wants some produce *from Mexico*; it would not do to get her, say, sour lemons from Vietnam. However weird the way she listed fruits—or the way § 2252(b)(2) lists offenses—the modifying clause still refers to them all.

The majority as well seeks refuge in the idea that applying the series-qualifier canon to § 2252(b)(2) would violate the rule against superfluity. See *ante*, at 356–357. Says the majority: "Any conduct that would qualify as 'aggravated sexual abuse . . . involving a minor or ward' or 'sexual abuse . . . involving a minor or ward' would also qualify as 'abusive sexual conduct involving a minor or ward.' " *Ante*, at 356. But that rejoinder doesn't work. "[T]he canon against superfluity," this Court has often stated, "assists only where a competing interpretation gives effect to every clause and word of a statute." *Microsoft Corp.* v. *i4i L. P.*, 564 U. S. 91, 106 (2011) (internal quotation marks omitted); see, *e. g.*, *Bruesewitz* v. *Wyeth LLC*, 562 U. S. 223, 236 (2011). And the majority's approach (as it admits, see *ante*, at 356) produces superfluity too—and in equal measure. Now (to rearrange the majority's sentence) any conduct that would qualify as "abusive sexual conduct involving a minor or ward" or "aggravated sexual abuse" would also qualify as "sexual abuse." In other words, on the majority's reading as well, two listed

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every item in the preceding list. That is because the series-qualifier rule reflects how all of us use language, in writing and in speech, in formal and informal contexts, all the time.

crimes become subsets of a third, so that the three could have been written as one. And indeed, the majority's superfluity has an especially odd quality, because it relates to the modifying clause itself: The majority, that is, makes the term "involving a minor or ward" wholly unnecessary. Remember the old adage about the pot and the kettle? That is why the rule against superfluity cannot excuse the majority from reading § 2252(b)(2)'s modifier, as ordinary usage demands, to pertain to all the terms in the preceding series.[3]

## II

Legislative history confirms what the natural construction of language shows: Each of the three predicate offenses at issue here must involve a minor. The list of those crimes appears in two places in § 2252(b)—both in § 2252(b)(1), which contains a sentencing enhancement for those convicted of distributing or receiving child pornography, and in § 2252(b)(2), which includes a similar enhancement for those (like Lockhart) convicted of possessing such material. Descriptions of that list of offenses, made at the time Congress added it to those provisions, belie the majority's position.

The relevant language—again, providing for a mandatory minimum sentence if a person has a prior state-law conviction for "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward"—first made its appearance in 1996, when Congress inserted it into § 2252(b)(1). See Child Pornography Prevention Act of 1996, § 121(5), 110 Stat. 3009–30, 18 U. S. C. § 2251 note. At that time, the Senate Report on the legislation explained what the new language meant: The mandatory minimum would apply to an "offender with a prior conviction under . . . any *State child abuse law*." S. Rep. No. 104–358, p. 9

[3] The majority asserts that it has found, concealed within § 2252(b)(2)'s structure, an "explanation" for its own superfluity, *ante*, at 357, but that claim, as I'll soon show, collapses on further examination. See *infra*, at 373–376.

(1996) (emphasis added). It is hard to imagine saying any more directly that the just-added state sexual-abuse predicates all involve minors, and minors only.[4]

Two years later, in urging Congress to include the same predicate offenses in § 2252(b)(2), the Department of Justice (DOJ) itself read the list that way. In a formal bill comment, DOJ noted that proposed legislation on child pornography failed to fix a statutory oddity: Only § 2252(b)(1), and not § 2252(b)(2), then contained the state predicates at issue here. DOJ described that discrepancy as follows: Whereas § 2252(b)(1) provided a penalty enhancement for "individuals charged with receipt or distribution of child pornography *and who have prior state convictions for child molestation*," the adjacent § 2252(b)(2) contained no such enhancement for those "charged with possession of child pornography *who have prior convictions for child abuse*." H. R. Rep. No. 105–557, p. 31 (1998) (emphasis added). That should change, DOJ wrote: A possessor of child pornography should also be subject to a 2-year mandatory minimum if he had "a *prior conviction for sexual abuse of a minor*." *Ibid.* (emphasis added). DOJ thus made clear that the predicate offenses it recommended adding to § 2252(b)(2)—like those already in § 2252(b)(1)—related not to all sexual abuse but only to sexual abuse of children. And Congress gave DOJ just what it wanted: Soon after receiving the letter, Congress added the language at issue to § 2252(b)(2), resulting in the requested 2-year minimum sentence. See Protection of Children From Sexual Predators Act of 1998, § 202(a)(2), 112 Stat. 2977, 18 U. S. C. § 1 note. So every indication, in 1998 no less than in 1996, was that all the predicate crimes relate to children alone.

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[4] And it makes no difference that the Senate Report accompanied § 2252(b)(1)'s, rather than § 2252(b)(2)'s, amendment. No one can possibly think (and the majority therefore does not try to argue) that the disputed language means something different in § 2252(b)(2) than in its neighbor and model, § 2252(b)(1).

The majority's response to this history fails to blunt its force. According to the majority, the reference to "any state child abuse law" in the Senate Report is simply an "incomplete[ ] descri[ption]" of "the state sexual-abuse predicates." *Ante*, at 359. And similarly, the majority ventures, the DOJ letter was merely noting "one of the provision's many salient features." *Ibid.* But suppose that you (like the Senate Report's or DOJ letter's authors) had to paraphrase or condense the statutory language at issue here, and that you (like the majority) thought it captured *all* sexual-abuse crimes. Would you then use the phrase "any state child abuse law" as a descriptor (as the Senate Report did)? And would you refer to the whole list of state predicates as involving "sexual abuse of a minor" (as the DOJ letter did)? Of course not. But you might well use such shorthand if, alternatively, you understood the statutory language (as I do) to cover only sexual offenses against children. And so the authors of the Report and letter did here. Such documents of necessity abridge statutory language; but they do not do so by conveying an utterly false impression of what that language is most centrally about—as by describing a provision that (supposedly) covers all sexual abuse as one that reaches only child molestation.[5]

[5] The majority tries to bolster its "incomplete description" claim by highlighting another summary statement in the Senate Report, but that reference merely illustrates my point. In amending § 2252(b)(1) (and later § 2252(b)(2)), Congress added not only the child sexual-abuse predicates at issue here, but also a set of predicate state offenses relating to child pornography. Specifically, Congress provided a mandatory minimum sentence for individuals previously convicted of the "production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography." Child Pornography Prevention Act, § 121(5), 110 Stat. 3009–30. The Senate Report described those predicate crimes in an abbreviated fashion as "relating to the production, receipt or distribution of child pornography." S. Rep. No. 104–358, p. 9 (1996). That synopsis doubtless leaves some things out, as any synopsis does; but no reader of the Report would be terribly surprised to see the fuller statutory list. The same cannot be said of the phrase "any state child abuse law" if that

Further, the majority objects that the Senate Report's (and DOJ letter's) drafters did "nothing to explain *why*" Congress would have limited § 2252(b)'s state sexual-abuse predicates to those involving children when the provision's federal sexual-abuse predicates (as all agree) are not so confined. *Ante*, at 360 (emphasis in original). But Congress is under no obligation to this Court to justify its choices. (Nor is DOJ obliged to explain them to Congress itself.) Rather, the duty is on this Court to carry out those decisions, regardless of whether it understands all that lay behind them. The Senate Report (and DOJ letter too) says what it says about § 2252(b)'s meaning, confirming in no uncertain terms the most natural reading of the statutory language. Explanation or no, that is more than sufficient.

And the majority (as it concedes) cannot claim that Congress simply must have wanted § 2252(b)(2)'s federal and state predicates to be the same. See *ante*, at 358 ("[O]ur construction of § 2252(b)(2)'s sexual-abuse predicates does not rely on a general assumption that Congress sought full parity between all of the federal and state predicates"). That is because both § 2252(b)(1) and § 2252(b)(2) contain many federal predicates lacking state matches. Under

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in fact refers to laws prohibiting *all* rape, sexual assault, and similar behavior.

The majority makes the identical mistake in asserting that the DOJ letter merely "highlight[s]" one of § 2252(b)(1)'s many features. *Ante*, at 360. To support that claim, the majority notes that the letter omits any discussion of sexual crimes against adult wards, even though the statute covers those offenses on any theory. But that elision is perfectly natural. The number of sex crimes against adult wards pales in comparison to those against children: In discussing the latter, DOJ was focused on the mine-run offense. (For the same reason, this opinion's descriptions of § 2252(b) often skip any reference to wards. See *supra*, at 369–371; *infra*, at 373. Count that as a writer's choice to avoid extraneous detail.) The majority cannot offer any similar, simple explanation of why DOJ would have repeatedly referred only to sex crimes against children if the statutory language it was explicating—and proposing to add to another provision—also covered sex crimes against all adults.

§ 2252(b)(1), for example, a person is subject to a mandatory minimum if he previously violated 18 U. S. C. § 1591, which prohibits "[s]ex trafficking of children or [sex trafficking] by force, fraud, or coercion." But if the prior conviction is under state law, only sex trafficking of children will trigger that minimum; trafficking of adults, even if by force, fraud, or coercion, will not. That mismatch—trafficking of both adults and children on the federal side, trafficking of children alone on the state side—precisely parallels my view of the sexual-abuse predicates at issue here. More generally, ten federal obscenity crimes trigger both § 2252(b)(1)'s and § 2252(b)(2)'s enhanced punishments; but equivalent state crimes do not do so. And five federal prostitution offenses prompt mandatory minimums under those provisions; but no such state offenses do. Noting those disparities, the Government concedes: "[W]hen Congress adds state-law offenses to the lists of predicate offenses triggering child-pornography recidivist enhancements, it sometimes adds state offenses corresponding to only a subset of the federal offenses" previously included. Brief for United States 43. Just so. And this Court ought to enforce that choice.

## III

As against the most natural construction of § 2252(b)(2)'s language, plus unusually limpid legislative history, the majority relies on a structural argument. See *ante,* at 352–353. The federal sexual-abuse predicates in § 2252(b)(2), the majority begins, are described as crimes "under . . . Chapter 109A," and that chapter "criminalizes a range of sexual-abuse offenses involving adults *or* minors." *Ante,* at 353 (emphasis in original). Once again, the majority cannot say that this fact alone resolves the question presented, given the many times (just discussed) that Congress opted to make federal crimes, but not equivalent state crimes, predicates for § 2252(b)(2)'s mandatory minimums. But the majority claims to see more than that here: The headings of the sec-

tions in Chapter 109A, it contends, "mirror precisely the order . . . and nearly precisely the words used to describe" the state predicate crimes at issue. *Ante*, at 353. The majority "cannot state with certainty," but hazards a guess that Congress thus used Chapter 109A "as a template for the list of state predicates"—or, otherwise said, that Congress "followed" the "structure and language of Chapter 109A" in defining those state-law offenses. *Ante*, at 353–354.

But § 2252(b)(2)'s state predicates are not nearly as similar to the federal crimes in Chapter 109A as the majority claims. That chapter includes the following offenses: "Aggravated sexual abuse," § 2241, "Sexual abuse," § 2242, "Sexual abuse of a minor or ward," § 2243, and "Abusive sexual contact," § 2244. The chapter thus contains *four* crimes—one more than found in § 2252(b)(2)'s list of state offenses. If the drafters of § 2252(b)(2) meant merely to copy Chapter 109A, why would they have left out one of its crimes? The majority has no explanation.[6] And there is more. Suppose Congress, for whatever hard-to-fathom reason, wanted to replicate only Chapter 109A's first three offenses. It would then have used the same language, referring to "the laws of any State relating to aggravated sexual abuse, sexual abuse, or sexual abuse of a minor or ward." (And had Congress used that language, the phrase "of a minor or ward" would clearly have applied only to the third term, to differentiate it from the otherwise identical second.) But contra the majority, see *ante*, at 353, 356–357, that is not what § 2252(b)(2)'s draft-

[6] In a footnote, the majority intimates that Chapter 109A contains only three crimes—but that reading is unambiguously wrong. Unlike the fifth through eighth sections of that chapter (which the majority invokes to no purpose), the fourth—again, entitled "[a]busive sexual contact"—sets out an independent substantive offense, criminalizing acts not made illegal in the first three sections. §§ 2244(a)–(c); see also 42 U. S. C. § 16911 (separately listing this offense in identifying who must register as a sex offender). The majority, as noted above, gives no reason why Congress would have ignored that fourth crime had it been using Chapter 109A as a template.

ers did. Rather than repeating the phrase "sexual abuse," they used the phrase "abusive sexual conduct" in the list's last term—which echoes, if anything, the separate crime of "abusive sexual contact" (included in Chapter 109A's *fourth* offense, as well as in other places in the federal code, see, *e. g.*, 10 U. S. C. § 920(d)). The choice of those different words indicates, yet again, that Congress did not mean, as the majority imagines, to duplicate Chapter 109A's set of offenses.

Indeed, even the Government has refused to accept the notion that the federal and state sexual-abuse predicates mirror each other. The Government, to be sure, has argued that it would be "anomalous" if federal, but not state, convictions for sexually abusing adults trigger § 2252(b)(2)'s enhanced penalty. Brief for United States 23. (I have discussed that more modest point above: Anomalous or not, such differences between federal and state predicates are a recurring feature of the statute. See *supra*, at 372–373.) But the Government, in both briefing and argument, rejected the idea that Congress wanted the list of state predicates in § 2252(b)(2) to mimic the crimes in Chapter 109A; in other words, it denied that Congress meant for the state and federal offenses to bear the same meaning. See Brief for United States 22, n. 8; Tr. of Oral Arg. 26. Even in the face of sustained questioning from Members of this Court, the Government held fast to that position. See, *e. g.*, Tr. of Oral Arg. 25–26 (JUSTICE ALITO: "[W]hy do you resist the argument that what Congress was doing was picking up basically the definitions of the Federal offenses [in Chapter 109A] that are worded almost identically?" Assistant to the Solicitor General: "[W]e don't think that Congress was trying" to do that). The listed state and federal offenses, the Government made clear, are not intended to be copies.

The majority seems to think that view somehow consistent with its own hypothesis that Chapter 109A served as a "template" for § 2252(b)(2)'s state predicates, *ante*, at 354; in responding to one of Lockhart's arguments, the majority re-

marks that the state predicates might have a "generic" meaning, distinct from Chapter 109A's, *ante*, at 360. But if that is so, the majority's supposed template is not much of a template after all. The predicate state offenses would "follow" or "parallel" Chapter 109A in a single respect, but not in any other—that is, in including sexual abuse of adults, but not in otherwise defining wrongful sexual conduct (whether concerning adults or children). *Ante*, at 354. The template, one might say, is good for this case and this case only. And the majority has no theory for why that should be so: It offers not the slimmest explanation of how Chapter 109A can resolve today's question but not the many issues courts will face in the future involving the meaning of § 2252(b)(2)'s state predicate offenses. That is because no rationale would make sense. The right and consistent view is that Chapter 109A, like the other federal predicates in § 2252(b)(2), is across-the-board irrelevant in defining that provision's state predicates. Thus, the federal chapter's four differently worded crimes are independent of the three state offenses at issue here—all of which, for the reasons I've given, must "involv[e] a minor or ward."

## IV

Suppose, for a moment, that this case is not as clear as I've suggested. Assume there is no way to know whether to apply the last-antecedent or the series-qualifier rule. Imagine, too, that the legislative history is not quite so compelling and the majority's "template" argument not quite so strained. Who, then, should prevail?

This Court has a rule for how to resolve genuine ambiguity in criminal statutes: in favor of the criminal defendant. As the majority puts the point, the rule of lenity insists that courts side with the defendant "when the ordinary canons of statutory construction have revealed no satisfactory construction." *Ante*, at 361 (citing *Callanan* v. *United States*, 364 U. S. 587, 596 (1961)); see also *Bifulco* v. *United States*,

447 U. S. 381, 387 (1980) (holding that the rule of lenity "applies not only to interpretations of the substantive ambit of criminal prohibitions, but also to the penalties they impose"). At the very least, that principle should tip the scales in Lockhart's favor, because nothing the majority has said shows that the modifying clause in § 2252(b)(2) *unambiguously* applies to only the last term in the preceding series.

But in fact, Lockhart's case is stronger. Consider the following sentence, summarizing various points made above: "The series-qualifier principle, the legislative history, and the rule of lenity discussed in this opinion all point in the same direction." Now answer the following question: Has only the rule of lenity been discussed in this opinion, or have the series-qualifier principle and the legislative history been discussed as well? Even had you not read the preceding 16-plus pages, you would know the right answer—because of the ordinary way all of us use language. That, in the end, is why Lockhart should win.

Syllabus

# AMERICOLD REALTY TRUST *v.* CONAGRA FOODS, INC., ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 14–1382. Argued January 19, 2016—Decided March 7, 2016

Respondents, corporate citizens of Delaware, Nebraska, and Illinois, sued petitioner Americold Realty Trust, a "real estate investment trust" organized under Maryland law, in a Kansas court. Americold removed the suit to Federal District Court based on diversity-of-citizenship jurisdiction. See 28 U. S. C. §§ 1332(a)(1), 1441(b). The District Court accepted jurisdiction and ruled in Americold's favor. On appeal, the Tenth Circuit held that the District Court lacked jurisdiction to hear the suit. Since Americold was not a corporation, the court reasoned, its citizenship for diversity jurisdiction purposes should be based on the citizenship of its members, which included its shareholders. Because no record of those shareholders' citizenship existed, diversity was not proved.

*Held*: For purposes of diversity jurisdiction, Americold's citizenship is based on the citizenship of its members, which include its shareholders. Pp. 380–384.

(a) Historically, the relevant citizens for jurisdictional purposes in a suit involving a "mere legal entity" were that entity's "members," or the "real persons who come into court" in the entity's name. *Bank of United States* v. *Deveaux*, 5 Cranch 61, 86, 91. But for the limited exception of jurisdictional citizenship for corporations, see *Louisville, C. & C. R. Co.* v. *Letson*, 2 How. 497, 558, this Court continues to "adhere to [the] oft-repeated rule that diversity jurisdiction in a suit by or against the entity depends on the citizenship of 'all [its] members,'" *Carden* v. *Arkoma Associates*, 494 U. S. 185, 195. Applying the rule here, Americold possesses the citizenship of all its members, who, under Maryland law, include its shareholders. See, *e. g.*, Md. Corp. & Assns. Code Ann. § 8–101(c). Pp. 380–382.

(b) Americold argues that anything called a "trust" possesses the citizenship of its trustees alone. Traditionally, a trust was considered a "fiduciary relationship" between multiple people and could not be haled into court; hence, legal proceedings involving a trust were brought by or against the trustees in their own name, *Deveaux*, 5 Cranch, at 91. Americold confuses the traditional trust with the variety of unincorporated entities that many States have given the "trust" label. Under

Maryland law, the real estate investment trust at issue is treated as a "separate legal entity" that can sue or be sued. §§ 8–102(2), 8–301(2). Despite what such an entity calls itself, so long as it is unincorporated, this Court will apply the "oft-repeated rule" that it possesses the citizenship of all its members. Pp. 382–384.

776 F. 3d 1175, affirmed.

SOTOMAYOR, J., delivered the opinion for a unanimous Court.

*Michael D. Pospisil* argued the cause for petitioner. With him on the briefs were *John M. Edgar* and *Kristin Linsley Myles.*

*John M. Duggan* argued the cause for respondents. With him on the brief was *Deron A. Anliker.**

JUSTICE SOTOMAYOR delivered the opinion of the Court.

Federal law permits federal courts to resolve certain non-federal controversies between "citizens" of different States. This rule is easy enough to apply to humans, but can become metaphysical when applied to legal entities. This case asks how to determine the citizenship of a "real estate investment trust," an inanimate creature of Maryland law. We answer: While humans and corporations can assert their own citizenship, other entities take the citizenship of their members.

## I

This action began as a typical state-law controversy, one involving a contract dispute and an underground food-storage warehouse fire. A group of corporations whose food perished in that 1991 fire continues to seek compensation from the warehouse's owner, now known as Americold Realty Trust. After the corporations filed their latest suit in Kansas court, Americold removed the suit to the Federal

*Briefs of *amici curiae* urging reversal were filed for the National Association of Real Estate Investment Trusts by *William M. Jay* and *James J. Hanks, Jr.*; and for Winston Wen-Young by *Daniel S. Weinberger*, *Mark W. Stoutenberg*, and *Stephen T. Heiser.*

District Court for the District of Kansas. The District Court accepted jurisdiction and resolved the dispute in favor of Americold.

On appeal, however, the Tenth Circuit asked for supplemental briefing on whether the District Court's exercise of jurisdiction was appropriate. The parties responded that the District Court possessed jurisdiction because the suit involved "citizens of different States." 28 U. S. C. §§ 1332(a)(1), 1441(b).

The Tenth Circuit disagreed. The court considered the corporate plaintiffs citizens of the States where they were chartered and had their principal places of business: Delaware, Nebraska, and Illinois. See *ConAgra Foods, Inc.* v. *Americold Logistics, LLC*, 776 F. 3d 1175, 1182 (2015); § 1332(c)(1) (specifying the citizenship of corporations for jurisdictional purposes). The court applied a different test to determine Americold's citizenship because Americold is a "real estate investment trust," not a corporation. Distilling this Court's precedent, the Tenth Circuit reasoned that the citizenship of any "non-corporate artificial entity" is determined by considering all of the entity's "members," which include, at minimum, its shareholders. *Id.*, at 1180–1181 (citing *Carden* v. *Arkoma Associates*, 494 U. S. 185 (1990)). As there was no record of the citizenship of Americold's shareholders, the court concluded that the parties failed to demonstrate that the plaintiffs were "citizens of different States" than the defendants. See *Strawbridge* v. *Curtiss*, 3 Cranch 267 (1806).

We granted certiorari to resolve confusion among the Courts of Appeals regarding the citizenship of unincorporated entities. 576 U. S. 1094 (2015). We now affirm.

## II

Exercising its powers under Article III, the First Congress granted federal courts jurisdiction over controversies between a "citizen" of one State and "a citizen of another

State." 1 Stat. 78. For a long time, however, Congress failed to explain how to determine the citizenship of a non-breathing entity like a business association. In the early 19th century, this Court took that silence literally, ruling that only a human could be a citizen for jurisdictional purposes. *Bank of United States* v. *Deveaux*, 5 Cranch 61, 86–91 (1809). If a "mere legal entity" like a corporation were sued, the relevant citizens were its "members," or the "real persons who come into court" in the entity's name. *Id.*, at 86, 91.

This Court later carved a limited exception for corporations, holding that a corporation itself could be considered a citizen of its State of incorporation. See *Louisville, C. & C. R. Co.* v. *Letson*, 2 How. 497, 558 (1844). Congress etched this exception into the U. S. Code, adding that a corporation should also be considered a citizen of the State where it has its principal place of business. 28 U. S. C. § 1332(c) (1958 ed.). But Congress never expanded this grant of citizenship to include artificial entities other than corporations, such as joint-stock companies or limited partnerships. For these unincorporated entities, we too have "adhere[d] to our oft-repeated rule that diversity jurisdiction in a suit by or against the entity depends on the citizenship of 'all [its] members.'" *Carden*, 494 U. S., at 195–196 (quoting *Chapman* v. *Barney*, 129 U. S. 677, 682 (1889)).

Despite our oft-repetition of the rule linking unincorporated entities with their "members," we have never expressly defined the term. But we have equated an association's members with its owners or "'the several persons composing such association.'" *Carden*, 494 U. S., at 196 (quoting *Great Southern Fire Proof Hotel Co.* v. *Jones*, 177 U. S. 449, 456 (1900)). Applying this principle with reference to specific States' laws, we have identified the members of a joint-stock company as its shareholders, the members of a partnership as its partners, the members of a union as the workers affiliated with it, and so on. See *Carden*, 494 U. S.,

at 189–190 (citing *Chapman*, 129 U. S., at 682; *Great Southern*, 177 U. S., at 457; and *Steelworkers* v. *R. H. Bouligny, Inc.*, 382 U. S. 145, 146 (1965)).

This case asks us to determine the citizenship of Americold Realty Trust, a "real estate investment trust" organized under Maryland law. App. 93. As Americold is not a corporation, it possesses its members' citizenship. Nothing in the record designates who Americold's members are. But Maryland law provides an answer.

In Maryland, a real estate investment trust is an "unincorporated business trust or association" in which property is held and managed "for the benefit and profit of any person who may become a shareholder." Md. Corp. & Assns. Code Ann. §§8–101(c), 8–102 (2014). As with joint-stock companies or partnerships, shareholders have "ownership interests" and votes in the trust by virtue of their "shares of beneficial interest." §§8–704(b)(5), 8–101(d). These shareholders appear to be in the same position as the shareholders of a joint-stock company or the partners of a limited partnership—both of whom we viewed as members of their relevant entities. See *Carden*, 494 U. S., at 192–196; see also §8–705(a) (linking the term "beneficial interests" with "membership interests" and "partnership interests"). We therefore conclude that for purposes of diversity jurisdiction, Americold's members include its shareholders.

## III

Americold disputes this conclusion. It cites a case called *Navarro Savings Assn.* v. *Lee*, 446 U. S. 458 (1980), to argue that anything called a "trust" possesses the citizenship of its trustees alone, not its shareholder beneficiaries as well. As we have reminded litigants before, however, "*Navarro* had nothing to do with the citizenship of [a] 'trust.'" *Carden*, 494 U. S., at 192–193. Rather, *Navarro* reaffirmed a separate rule that when a trustee files a lawsuit in *her* name, her jurisdictional citizenship is the State to which she belongs—

as is true of any natural person. 446 U. S., at 465. This rule coexists with our discussion above that when an artificial entity is sued in *its* name, it takes the citizenship of each of its members.

That said, Americold's confusion regarding the citizenship of a trust is understandable and widely shared. See *Emerald Investors Trust* v. *Gaunt Parsippany Partners*, 492 F. 3d 192, 201–206 (CA3 2007) (discussing various approaches among the Circuits). The confusion can be explained, perhaps, by tradition. Traditionally, a trust was not considered a distinct legal entity, but a "fiduciary relationship" between multiple people. *Klein* v. *Bryer*, 227 Md. 473, 476–477, 177 A. 2d 412, 413 (1962); Restatement (Second) of Trusts §2 (1957). Such a relationship was not a thing that could be haled into court; legal proceedings involving a trust were brought by or against the trustees in their own name. *Glenn* v. *Allison*, 58 Md. 527, 529 (1882); *Deveaux*, 5 Cranch, at 91. And when a trustee files a lawsuit or is sued in her own name, her citizenship is all that matters for diversity purposes. *Navarro*, 446 U. S., at 462–466. For a traditional trust, therefore, there is no need to determine its membership, as would be true if the trust, as an entity, were sued.

Many States, however, have applied the "trust" label to a variety of unincorporated entities that have little in common with this traditional template. Maryland, for example, treats a real estate investment trust as a "separate legal entity" that itself can sue or be sued. Md. Corp. & Assns. Code Ann. §§8–102(2), 8–301(2). So long as such an entity is unincorporated, we apply our "oft-repeated rule" that it possesses the citizenship of all its members. *Carden*, 494 U. S., at 195. But neither this rule nor *Navarro* limits an entity's membership to its trustees just because the entity happens to call itself a trust.

We therefore decline to apply the same rule to an unincorporated entity sued in its organizational name that applies

to a human trustee sued in her personal name. We also decline an *amicus*' invitation to apply the same rule to an unincorporated entity that applies to a corporation—namely, to consider it a citizen only of its State of establishment and its principal place of business. See Brief for National Association of Real Estate Investment Trusts 11–21. When we last examined the "doctrinal wall" between corporate and unincorporated entities in 1990, we saw no reason to tear it down. *Carden*, 494 U. S., at 190. Then as now we reaffirm that it is up to Congress if it wishes to incorporate other entities into 28 U. S. C. § 1332(c)'s special jurisdictional rule.

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For these reasons, the judgment of the Court of Appeals is

*Affirmed.*

Syllabus

# WEARRY *v.* CAIN, WARDEN

## ON PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT COURT OF LOUISIANA, LIVINGSTON PARISH

No. 14–10008. Decided March 7, 2016

Two years after Eric Walber's brutal murder, Sam Scott implicated Michael Wearry, testifying at Wearry's trial that Wearry and Randy Hutchinson stopped Walber's car; that Hutchinson shoved Walber into the cargo area; that five men, including Wearry, Hutchinson, and Scott, drove the car around; and that Wearry and two others killed Walber by running him over. Another witness, Eric Brown, who was incarcerated at the time on unrelated charges, testified that he had seen Wearry and others with a man who looked like Walber and that he had agreed to testify, not for any prosecutorial favor, but solely because his sister knew the victim's sister. Wearry was convicted of capital murder and sentenced to death.

After Wearry's conviction became final, it emerged that the prosecution had withheld information relevant to Wearry's defense. First, previously undisclosed police records showed that two of Scott's fellow inmates had each made statements casting doubt on his credibility. Second, the State had not disclosed that Brown had twice sought a deal to reduce his existing sentence in exchange for testifying against Wearry. Third, the prosecution had not turned over medical records revealing that Hutchinson may not have been able to engage in the activities Scott ascribed to him. Wearry also maintained that his trial attorney had failed to uncover exonerating evidence. Based on this new evidence, Wearry alleged violations of his due process rights under *Brady* v. *Maryland*, 373 U. S. 83, and of his Sixth Amendment right to effective assistance of counsel. The postconviction court denied relief, concluding that even if Wearry's constitutional rights had been violated, he had failed to show prejudice. In turn, the Louisiana Supreme Court also denied relief.

*Held*: Because the prosecution failed to disclose material evidence, Wearry's due process rights were violated and he is entitled to a new trial. Under *Brady*, Wearry must show only that the new evidence is sufficient to undermine confidence in the verdict. See *Smith* v. *Cain*, 565 U. S. 73, 75. Beyond doubt, the newly revealed evidence suffices to undermine confidence in Wearry's conviction. The only evidence directly tying him to the crime was Scott's dubious testimony, corroborated by Brown's similarly suspect testimony. Scott's already impugned credi-

bility would have been further diminished had the jury learned that Hutchinson had physical limitations, that Scott had coached another inmate to lie about the murder, or that Scott may have implicated Wearry to settle a personal score. Moreover, any juror who found Scott more credible in light of Brown's testimony might have thought differently had she learned that Brown may have been motivated to come by the possibility of a reduced sentence on an existing conviction. The state postconviction court improperly evaluated the materiality of each piece of evidence in isolation rather than cumulatively, see *Kyles* v. *Whitley*, 514 U. S. 419, 441, emphasized reasons a juror might disregard new evidence while ignoring reasons she might not, cf. *Porter* v. *McCollum*, 558 U. S. 30, 43, and failed to mention the statements of the two inmates impeaching Scott. Because Wearry is entitled to a new trial, the Court does not consider the merits of his ineffective-assistance claim.

Certiorari granted; 2013–2422 (La. 2/27/15), 61 So. 3d 620, reversed and remanded.

PER CURIAM.

Michael Wearry is on Louisiana's death row. Urging that the prosecution failed to disclose evidence supporting his innocence and that his counsel provided ineffective assistance at trial, Wearry unsuccessfully sought postconviction relief in state court. Contrary to the state postconviction court, we conclude that the prosecution's failure to disclose material evidence violated Wearry's due process rights. We reverse the state postconviction court's judgment on that account, and therefore do not reach Wearry's ineffective-assistance-of-counsel claim.

## I

### A

Sometime between 8:20 and 9:30 on the evening of April 4, 1998, Eric Walber was brutally murdered. Nearly two years after the murder, Sam Scott, at the time incarcerated, contacted authorities and implicated Michael Wearry. Scott initially reported that he had been friends with the victim; that he was at work the night of the murder; that the victim had come looking for him but had instead run into Wearry and four others; and that Wearry and the others had later

confessed to shooting and driving over the victim before leaving his body on Blahut Road. In fact, the victim had not been shot, and his body had been found on Crisp Road.

Scott changed his account of the crime over the course of four later statements, each of which differed from the others in material ways. By the time Scott testified as the State's star witness at Wearry's trial, his story bore little resemblance to his original account. According to the version Scott told the jury, he had been playing dice with Wearry and others when the victim drove past. Wearry, who had been losing, decided to rob the victim. After Wearry and an acquaintance, Randy Hutchinson, stopped the victim's car, Hutchinson shoved the victim into the cargo area. Five men, including Scott, Hutchinson, and Wearry, proceeded to drive around, at one point encountering Eric Brown—the State's other main witness—and pausing intermittently to assault the victim. Finally, Scott related, Wearry and two others killed the victim by running him over. On cross-examination, Scott admitted that he had changed his account several times.

Consistent with Scott's testimony, Brown testified that on the night of the murder he had seen Wearry and others with a man who looked like the victim. Incarcerated on unrelated charges at the time of Wearry's trial, Brown acknowledged that he had made a prior inconsistent statement to the police, but had recanted and agreed to testify against Wearry, not for any prosecutorial favor, but solely because his sister knew the victim's sister. The State commented during its opening argument that Brown "is doing 15 years on a drug charge right now, [but] hasn't asked for a thing." 7 Record 1723 (Tr., Mar. 2, 2002). During closing argument, the State reiterated that Brown "has no deal on the table" and was testifying because the victim's "family deserves to know." Pet. for Cert. 19.

Although the State presented no physical evidence at trial, it did offer additional circumstantial evidence linking Wearry

to the victim. One witness testified that he saw Wearry in the victim's car on the night of the murder and, later, holding the victim's class ring. Another witness said he saw Wearry throwing away the victim's cologne. In some respects, however, these witnesses contradicted Scott's account. For example, the witness who reported seeing Wearry in the victim's car did not place Scott in the car.

Wearry's defense at trial rested on an alibi. He claimed that, at the time of the murder, he had been at a wedding reception in Baton Rouge, 40 miles away. Wearry's girlfriend, her sister, and her aunt corroborated Wearry's account. In closing argument, the State stressed that all three witnesses had personal relationships with Wearry. The State also presented two rebuttal witnesses: the bride at the wedding, who reported that the reception had ended by 8:30 or 9:00 (potentially leaving sufficient time for Wearry to have committed the crime); and three jail employees, who testified that they had overheard Wearry say that he was a bystander when the crime occurred.

The jury convicted Wearry of capital murder and sentenced him to death. His conviction and sentence were affirmed on direct appeal.[1]

B

After Wearry's conviction became final, it emerged that the prosecution had withheld relevant information that could have advanced Wearry's plea. Wearry argued during state postconviction proceedings that three categories of belatedly

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[1] Wearry argued, *inter alia*, that the trial court improperly denied his for-cause challenges, and that the prosecution discriminated on the basis of race in jury selection in violation of *Batson* v. *Kentucky*, 476 U. S. 79 (1986). Finding both jury-selection claims credible, then-Justice Johnson dissented from the affirmance of Wearry's conviction. *State* v. *Weary*, 2003–3067 (La. 4/2/06), 931 So. 2d 297, 328–337. (Wearry's name is misspelled in the direct-appeal case caption.)

revealed information would have undermined the prosecution and materially aided Wearry's defense at trial.

First, previously undisclosed police records showed that two of Scott's fellow inmates had made statements that cast doubt on Scott's credibility. One inmate had reported hearing Scott say that he wanted to "'make sure [Wearry] gets the needle cause he jacked over me.'" *Id.*, at 22 (quoting inmate affidavit).[2] The other inmate had told investigators—at a meeting Scott orchestrated—that he had witnessed the murder, but this inmate recanted the next day. "Scott had told him what to say," he explained, and had sug-

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[2] Illustrative of the liberties the dissent takes with the record is the assertion that "Scott blamed [Wearry] for putting him in the position of having to admit his own role in the events surrounding the murder." *Post*, at 398 (opinion of ALITO, J.). Introducing the inmate's statement, the dissent therefore suggests, might have "backfired by allowing the prosecution to return the jury's focus to a point the State emphasized often during trial, namely, that Scott's accusations were credible precisely because Scott had no motive to tell a story that was contrary to his own interests." *Ibid.* True, according to the inmate, Scott had complained that his identification of Wearry had resulted in a lengthier prison term. The inmate, however, did not suggest that Scott was angry with Wearry *because* he had suffered adverse consequences as a result of Wearry's crime. Instead, the inmate separately stated that Scott "wouldn't tell me who did it"—*i. e.*, who killed Eric Walber—"but he said I'm gonna make sure Mike gets the needle cause he jacked over me." Pet. Exh. 13 in No. 01–FELN–015992, p. 103. See also *ibid.* ("If [Scott] would have told me who did this I would tell because I have a heart and what they did wasn't right"). Scott's refusal to identify Wearry as the culprit—while also endeavoring to "make sure Mike gets the needle," *ibid.*—suggests that Wearry did *not* commit the crime, but Scott had decided to bring him down anyway. Nor, contrary to the dissent, is there any reason to believe that Scott anticipated his participation in this case would cost him additional years in prison. Notably, in the first of his five accounts to police, Scott reported that he had not been present at the time of the murder and had learned about it only after the fact. Indeed, it is at least as plausible as the dissent's hypothesis that Scott believed implicating Wearry might win him early release on his existing conviction.

gested that lying about having witnessed the murder "would help him get out of jail." Pet. Exh. 13 in No. 01–FELN–015992, pp. 104, 107. See also Pet. for Cert. 22 (quoting police notes).

Second, the State had failed to disclose that, contrary to the prosecution's assertions at trial, Brown had twice sought a deal to reduce his existing sentence in exchange for testifying against Wearry. The police had told Brown that they would "'talk to the D. A. if he told the truth.'" *Id.*, at 19 (quoting police notes).

Third, the prosecution had failed to turn over medical records on Randy Hutchinson. According to Scott, on the night of the murder, Hutchinson had run into the street to flag down the victim, pulled the victim out of his car, shoved him into the cargo space, and crawled into the cargo space himself. But Hutchinson's medical records revealed that, nine days before the murder, Hutchinson had undergone knee surgery to repair a ruptured patellar tendon. *Id.*, at 10–11, 15–16, 32.[3] An expert witness, Dr. Paul Dworak, testified at the state collateral-review hearing that Hutchinson's surgically repaired knee could not have withstood running, bending, or lifting substantial weight. The State presented an expert witness who disagreed with Dr. Dworak's appraisal of Hutchinson's physical fitness.

During state postconviction proceedings, Wearry also maintained that his trial attorney had failed to uncover exonerating evidence. Wearry's trial attorney admitted at the state collateral-review hearing that he had conducted no independent investigation into Wearry's innocence and had

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[3] The dissent emphasizes a State's witness' testimony that "Hutchinson had had surgery on his knee 'about nine days before the homicide happened.'" *Post*, at 399 (quoting 10 Record 2261 (Tr., Mar. 5, 2002)). But from this witness' statement, neither Wearry nor the jury had any way of knowing what the medical records would have revealed: Hutchinson had undergone a patellar-tendon repair rather than a routine minor procedure.

relied solely on evidence the State and Wearry had provided.[4] For example, despite Wearry's alibi, his attorney undertook no effort to locate independent witnesses from among the dozens of guests who had attended the wedding reception.

Counsel representing Wearry on collateral review conducted an independent investigation. This investigation revealed many witnesses lacking any personal relationship with Wearry who would have been willing to corroborate his alibi had they been called at trial. Collateral-review counsel's investigation also revealed that Scott's brother and sister-in-law would have been willing to testify at trial, as they did at the collateral-review hearing, that Scott was with them, mostly at a strawberry festival, until around 11:00 on the night of the murder.

Based on this new evidence, Wearry alleged violations of his due process rights under *Brady* v. *Maryland*, 373 U. S. 83 (1963), and of his Sixth Amendment right to effective assistance of counsel. Acknowledging that the State "probably ought to have" disclosed the withheld evidence, App. to Pet. for Cert. B–6, and that Wearry's counsel provided "perhaps not the best defense that could have been rendered," *id.*, at B–5, the postconviction court denied relief. Even if Wearry's constitutional rights were violated, the court concluded, he had not shown prejudice. *Id.*, at B–5, B–7. In turn, the Louisiana Supreme Court also denied relief. 2013–2422 (La. 2/27/15), 161 So. 3d 620. Chief Justice Johnson

[4] Wearry's trial attorney did ask the public defender's investigator to look into the backgrounds of the State's witnesses and to speak with Wearry's family members. But the attorney testified at the collateral-review hearing that he did not know what persons the investigator contacted and, in any event, he had serious doubts about the investigator's qualifications and competence. Moreover, there is no indication that the investigator ever engaged in inquiries regarding Scott's background or his whereabouts on the night of the murder.

would have granted Wearry's petition on the ground that he received ineffective assistance of counsel. *Ibid.*[5]

## II

Because we conclude that the Louisiana courts' denial of Wearry's *Brady* claim runs up against settled constitutional principles, and because a new trial is required as a result, we need not and do not consider the merits of his ineffective-assistance-of-counsel claim. "[T]he suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady*, *supra*, at 87. See also *Giglio* v. *United States*, 405 U. S. 150, 153–154 (1972) (clarifying that the rule stated in *Brady* applies to evidence undermining witness credibility). Evidence qualifies as material when there is "'any reasonable likelihood'" it could have "'affected the judgment of the jury.'" *Giglio*, *supra*, at 154 (quoting *Napue* v. *Illinois*, 360 U. S. 264, 271 (1959)). To prevail on his *Brady* claim, Wearry need not show that he "more likely than not" would have been acquitted had the new evidence been admitted. *Smith* v. *Cain*, 565 U. S. 73, 75 (2012) (internal quotation marks omitted). He must show only that the new evidence is sufficient to "undermine confidence" in the verdict. *Ibid.* (internal quotation marks and alterations omitted).[6]

Beyond doubt, the newly revealed evidence suffices to undermine confidence in Wearry's conviction. The State's trial evidence resembles a house of cards, built on the jury credit-

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[5] Justice Crichton would have granted Wearry's petition and remanded for the trial court to address his claim of intellectual disability under *Atkins* v. *Virginia*, 536 U. S. 304 (2002). 161 So. 3d, at 627–628. Wearry does not raise his *Atkins* claim in his petition for a writ of certiorari.

[6] Given this legal standard, Wearry can prevail even if, as the dissent suggests, the undisclosed information may not have affected the jury's verdict.

ing Scott's account rather than Wearry's alibi. See *United States* v. *Agurs*, 427 U. S. 97, 113 (1976) ("[I]f the verdict is already of questionable validity, additional evidence of relatively minor importance might be sufficient to create a reasonable doubt"). The dissent asserts that, apart from the testimony of Scott and Brown, there was independent evidence pointing to Wearry as the murderer. See *post*, at 400 (opinion of ALITO, J.). But all of the evidence the dissent cites suggests, at most, that someone in Wearry's group of friends may have committed the crime, and that Wearry may have been involved in events related to the murder *after* it occurred. Perhaps, on the basis of this evidence, Louisiana might have charged Wearry as an accessory after the fact. La. Rev. Stat. Ann. § 14:25 (West 2007) (providing a maximum prison term of five years for accessories after the fact). But Louisiana instead charged Wearry with capital murder, and the only evidence directly tying him to that crime was Scott's dubious testimony, corroborated by the similarly suspect testimony of Brown.[7]

As the dissent recognizes, "Scott did not have an exemplary record of veracity." *Post*, at 398. Scott's credibility, already impugned by his many inconsistent stories, would have been further diminished had the jury learned that Hutchinson may have been physically incapable of performing the role Scott ascribed to him, that Scott had coached another inmate to lie about the murder and thereby enhance his chances to get out of jail, or that Scott may have implicated Wearry to settle a personal score.[8] Moreover, any

[7] As for the three jailers who testified to overhearing Wearry call himself an "'innocent bystander,'" *post*, at 400, so characterizing oneself is the opposite of an admission of guilt.

[8] Because the inmate who told police that Scott may have wanted to settle a score did so close to the end of trial, the State argues, the inmate's "statement was probably . . . never seen by anyone involved with the actual trial until . . . it was [all] over, i[f] at all." Brief in Opposition 18. But "*Brady* suppression occurs when the government fails to turn over even evidence that is known only to police investigators and not to the

juror who found Scott more credible in light of Brown's testimony might have thought differently had she learned that Brown may have been motivated to come forward not by his sister's relationship with the victim's sister—as the prosecution had insisted in its closing argument—but by the possibility of a reduced sentence on an existing conviction. See *Napue*, *supra*, at 270 (even though the State had made no binding promises, a witness' attempt to obtain a deal before testifying was material because the jury "might well have concluded that [the witness] had fabricated testimony in order to curry the [prosecution's] favor"). Even if the jury—armed with all of this new evidence—*could* have voted to convict Wearry, we have "no confidence that it *would* have done so." *Smith*, *supra*, at 76.

Reaching the opposite conclusion, the state postconviction court improperly evaluated the materiality of each piece of evidence in isolation rather than cumulatively, see *Kyles* v. *Whitley*, 514 U. S. 419, 441 (1995) (requiring a "cumulative evaluation" of the materiality of wrongfully withheld evidence), emphasized reasons a juror might disregard new evidence while ignoring reasons she might not, cf. *Porter* v. *McCollum*, 558 U. S. 30, 43 (2009) (*per curiam*) ("it was not reasonable to discount entirely the effect that [a defendant's expert's] testimony might have had on the jury" just because the State's expert provided contrary testimony), and failed even to mention the statements of the two inmates impeaching Scott.

## III

In addition to defending the judgment of the Louisiana courts, the dissent criticizes the Court for deciding this "in-

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prosecutor." *Youngblood* v. *West Virginia*, 547 U. S. 867, 869–870 (2006) (*per curiam*) (internal quotation marks omitted). See also *Kyles* v. *Whitley*, 514 U. S. 419, 438 (1995) (rejecting Louisiana's plea for a rule that would not hold the State responsible for failing to disclose exculpatory evidence about which prosecutors did not learn until after trial when that evidence was in the possession of police investigators at the time of trial).

tensely factual question . . . without full briefing and argument." *Post*, at 401. But the Court has not shied away from summarily deciding fact-intensive cases where, as here, lower courts have egregiously misapplied settled law. See, *e. g.*, *Mullenix* v. *Luna*, *ante*, p. 7 (*per curiam*); *Stanton* v. *Sims*, 571 U. S. 3 (2013) (*per curiam*); *Parker* v. *Matthews*, 567 U. S. 37 (2012) (*per curiam*); *Coleman* v. *Johnson*, 566 U. S. 650 (2012) (*per curiam*); *Wetzel* v. *Lambert*, 565 U. S. 520 (2012) (*per curiam*); *Ryburn* v. *Huff*, 565 U. S. 469 (2012) (*per curiam*); *Sears* v. *Upton*, 561 U. S. 945 (2010) (*per curiam*); *Porter* v. *McCollum*, *supra*.

Because "[t]he petition does not . . . fall into a category in which the Court has previously evinced an inclination to police factbound errors," the dissent continues, "[n]othing warned the State," when it was drafting its brief in opposition, that the Court might summarily reverse Wearry's conviction. *Post*, at 401. Contrary to the dissent, however, summarily deciding a capital case, when circumstances so warrant, is hardly unprecedented. See *Sears*, *supra*, at 951–952 (vacating a state postconviction court's denial of relief on a penalty-phase ineffective-assistance-of-counsel claim); *Porter*, *supra*, at 38–40 (attorney provided ineffective assistance of counsel by conducting a constitutionally inadequate investigation into mitigating evidence). Perhaps anticipating the possibility of summary reversal, the State devoted the bulk of its 30-page brief in opposition to a point-by-point rebuttal of Wearry's claims. Given this brief, as well as the State's lower court filings similarly concentrating on evidence supporting its position, the chances that further briefing or argument would change the outcome are vanishingly slim.

The dissent also inveighs against the Court's "depart[ure] from our usual procedures [to] decide petitioner's fact-intensive *Brady* claim at this stage [rather than] allow[ing] petitioner to raise that claim in a federal habeas proceeding." *Post*, at 402. This Court, of course, has jurisdiction over the final judgments of state postconviction courts, see 28 U. S. C.

§ 1257(a), and exercises that jurisdiction in appropriate circumstances. Earlier this Term, for instance, we heard argument in *Foster* v. *Chatman*, No. 14–8349, which involves the Georgia courts' denial of postconviction relief to a capital defendant raising a claim under *Batson* v. *Kentucky*, 476 U. S. 79 (1986). See also *Smith*, 565 U. S., at 76–77 (reversing a state postconviction court's denial of relief on a *Brady* claim); *Sears*, *supra*, at 946. Reviewing the Louisiana courts' denial of postconviction relief is thus hardly the bold departure the dissent paints it to be. The alternative to granting review, after all, is forcing Wearry to endure yet more time on Louisiana's death row in service of a conviction that is constitutionally flawed.

* * *

Because Wearry's due process rights were violated, we grant his petition for a writ of certiorari and motion for leave to proceed *in forma pauperis*, reverse the judgment of the Louisiana postconviction court, and remand for further proceedings not inconsistent with this opinion.

*It is so ordered.*

JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting.

Without briefing or argument, the Court reverses a 14-year-old murder conviction on the ground that the prosecution violated *Brady* v. *Maryland*, 373 U. S. 83 (1963), by failing to turn over certain information that tended to exculpate petitioner. There is no question in my mind that the prosecution should have disclosed this information, but whether the information was sufficient to warrant reversing petitioner's conviction is another matter. The failure to turn over exculpatory information violates due process only "'if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.'" *Kyles* v. *Whitley*, 514 U. S. 419, 433–

434 (1995) (quoting *United States* v. *Bagley*, 473 U. S. 667, 682 (1985) (opinion of Blackmun, J.)).

The Court argues that the information in question here could have affected the jury's verdict and that petitioner's conviction must therefore be reversed. The Court ably makes the case for reversal, but there is a reasonable contrary argument that petitioner's conviction should stand because the undisclosed information would *not* have affected the jury's verdict. I will briefly discuss the main points made in the *per curiam*, not for the purpose of showing that they are necessarily wrong, but to show that the *Brady* issue is not open and shut. For good reason, we generally do not decide cases without allowing the parties to file briefs and present argument. Questions that seem quite simple at first glance sometimes look very different after both sides are given a chance to make their case. Of course, this process means extra work for the Court. But it leads to better results, and it gives the losing side the satisfaction of knowing that at least its arguments have been fully heard. There is no justification for departing from our usual procedures in this case.

## I

The first item of information discussed by the Court is a police report that recounts statements made about Sam Scott, a key witness for the prosecution, by a fellow inmate. According to this report, Scott told the inmate: "I'm gonna make sure Mike [*i. e.*, petitioner] gets the needle cause he jacked over me." Pet. Exh. 13 in No. 01–FELN–015992, p. 103. Scott, who had been serving a sentence on unrelated drug charges, reportedly told the inmate that he had been expecting to be released but that he "still [had not] gone home because of this," *i. e.*, petitioner's prosecution. *Id.*, at 102. As stated in the report, Scott said that he was now facing the possibility of a 10-year sentence, apparently for his admitted role in the events surrounding the murder. The report did not provide any further explanation for

Scott's alleged statement that petitioner had "jacked [him] over."

The Court reads the report to suggest that Scott implicated petitioner in the murder "to settle a personal score." *Ante*, at 393. But if petitioner's counsel had actually attempted to use this evidence at trial, the net effect might well have been harmful, not helpful, to the defense. The undisclosed police report on which the Court relies may be read to mean that Scott blamed petitioner for putting him in the position of having to admit his own role in the events surrounding the murder and thereby expose himself to the 10-year sentence and lose an opportunity to secure early release from prison on the drug charges. If defense counsel had attempted to impeach Scott with this police report, the effort could have backfired by allowing the prosecution to return the jury's focus to a point the State emphasized often during trial, namely, that Scott's accusations were credible precisely because Scott had no motive to tell a story that was contrary to his own interests. See, *e. g.*, 10 Record 2307 (Tr., Mar. 5, 2002) ("If [Scott] keeps his mouth shut, he is out in less than five more months. . . . [But] [i]nstead of getting out in 180 days, he is going to be doing more time").[1]

The Court next turns to an allegation that Scott had coached another prisoner to make up lies against petitioner. This prisoner never testified at trial, and there is a basis for arguing that this information would not have made a difference to the jury, which was well aware that Scott did not have an exemplary record of veracity. Scott himself ad-

[1] The majority claims that Scott's unwillingness to tell this fellow inmate who killed the victim somehow exculpates petitioner. See *ante*, at 389, n. 2. In my view, one cannot reasonably infer from the inmate's statement, "[Scott] wouldn't tell me who did it but he said I'm gonna make sure Mike gets the needle cause he jacked over me," that Scott believed petitioner Michael Wearry to be innocent—especially against the backdrop of Scott's complaints about his increased imprisonment. Pet. Exh. 13 in No. 01–FELN–015992, p. 103.

mitted to fabricating information that he told the police during their investigations. In addition, a witness who *did* testify against petitioner at trial also accused Scott of asking him to lie, although admittedly this witness later denied making this accusation. Given that the jury convicted even with these quite serious strikes against Scott's credibility, there is reason to question whether the jury would have seriously considered a different verdict because of an accusation from someone who never took the stand.

Third, the Court observes that the prosecution failed to turn over evidence that another witness, Eric Brown, had asked for favorable treatment from the district attorney in exchange for testifying against petitioner. It is true—and troubling—that the prosecutor claimed in her opening statement that Brown had not sought favorable treatment. But even so, it is far from clear that disclosing the contradictory information had real potential to affect the trial's outcome. For one thing, there is no evidence that Brown (unlike Scott) actually received any deal, despite defense counsel's efforts in cross-examination to establish that Brown's testimony might have earned him leniency from the State. Moreover, Brown admitted during the exchange that he had manipulated his initial story to the police to avoid implicating himself in criminal activity. We know, then, that the jury harbored no illusions about the purity of Brown's motives, notwithstanding the prosecutor's opening misstatement.

Finally, the Court says that the medical records of Randy Hutchinson would have cast doubt on Scott's trial testimony that Hutchinson repeatedly dragged the victim into and out of a car and bludgeoned him with a stick. The records reveal that Hutchinson had knee surgery to repair his patellar tendon just nine days before the murder. But one of the State's witnesses testified at trial that he had seen records showing that Hutchinson had had surgery on his knee "about nine days before the homicide happened." 10 Record 2261 (Tr., Mar. 5, 2002); see also *id.*, at 2263. The jury thus knew

the most salient fact revealed by these records—that Scott had attributed significant strength and mobility to a man nine days removed from knee surgery.[2] Given that these particular details about Hutchinson's actions were a relatively minor part of Scott's account of the crime and the State's case against petitioner, the significance of the undisclosed medical records is subject to reasonable dispute.

While the Court highlights the exculpatory quality of the withheld information, the Court downplays the considerable evidence of petitioner's guilt. Aside from Scott's and Brown's testimony, three witnesses told the jury that they saw petitioner and others driving around shortly after the murder in the victim's red car, which according to one of these witnesses had blood on its exterior. Petitioner offered to sell an Albany High School class ring to one of these witnesses and a set of new speakers to another. The third witness said he saw petitioner throw away a bottle of Tommy Hilfiger cologne. Meanwhile, the victim's mother testified that her son wore an Albany High class ring that was not recovered with his body, had received speakers as a gift shortly before his murder, and had a bottle of Tommy Hilfiger cologne with him on the night when he was killed. In addition, three jailers testified that petitioner called his father after his eventual arrest and stated that "he didn't know what he was doing in jail because he didn't do anything [and] was just an innocent bystander." 9 Record 2120 (Tr., Mar. 4, 2002); see also *id.*, at 2124, 2126.

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[2] The *per curiam* argues that the medical records might have had a greater effect on the jury because they mentioned the particular type of knee surgery that Hutchinson had undergone, and that is certainly possible. But what is important at this stage is that the basic fact—that Hutchinson had recently undergone knee surgery—was known to the jury, and the incremental impact of the additional details supplied by the medical records is far from clear. Even at the postconviction evidentiary hearing, the defense's and State's medical experts disagreed about whether the particular procedure at issue would have left the then-20-year-old Hutchinson incapable of the acts Scott described.

In short, this is far from a case in which the withheld information would have allowed the defense to undermine "the *only* evidence linking [petitioner] to the crime." *Smith* v. *Cain*, 565 U. S. 73, 76 (2012).

## II

Whether disclosing the information at issue realistically could have changed the trial's outcome is indisputably an intensely factual question. Under *Brady*, we must evaluate the significance of the withheld information in light of *all* the proof at petitioner's trial. See *Kyles*, 514 U. S., at 435 (*Brady* is violated when the withheld "evidence could reasonably be taken to put *the whole case* in such a different light as to undermine confidence in the verdict" (emphasis added)); *United States* v. *Agurs*, 427 U. S. 97, 112 (1976) (*Brady* materiality "must be evaluated in the context of *the entire record*" (emphasis added)). It is unusual and, in my judgment, unreasonable for us to decide such a question without full briefing and argument.

At this stage, all that we have from the State is its brief in opposition to the petition for certiorari. And the State had ample reason to believe when it submitted that brief that the question on the table was whether the Court should hear the case, not whether petitioner's conviction should be reversed. The State undoubtedly knew that we generally deny certiorari on factbound questions that do not implicate any disputed legal issue. See, *e. g.*, this Court's Rule 10; S. Shapiro, K. Geller, T. Bishop, E. Hartnett, & D. Himmelfarb, Supreme Court Practice § 5.12(c)(3), p. 352 (10th ed. 2013). Nothing warned the State that this petition was likely to produce an exception to that general rule. The petition does not, for instance, fall into a category in which the Court has previously evinced an inclination to police factbound errors. Cf. *Cash* v. *Maxwell*, 565 U. S. 1138, 1147 (2012) (Scalia, J., dissenting from denial of certiorari) (listing cases from one such category).

To the contrary, we have previously told litigants that petitions like the one here, challenging a state court's denial of postconviction relief, are particularly *unlikely* to be granted: We "'rarely gran[t] review at this stage'" of litigation, even when a petition raises "'arguably meritorious federal constitutional claims,'" because we prefer that the claims be reviewed first by a district court and court of appeals in a federal habeas proceeding. *Lawrence* v. *Florida*, 549 U. S. 327, 335 (2007) (quoting *Kyles* v. *Whitley*, 498 U. S. 931, 932 (1990) (Stevens, J., concurring in denial of stay of execution)).[3]

Why, then, has the Court decided to depart from our usual procedures and decide petitioner's fact-intensive *Brady* claim at this stage? Why not allow petitioner to raise that claim in a federal habeas proceeding? If the case took that course, it would not reach us until a district court and a court of appeals had studied the record and evaluated the likely impact of the information in question.

One consequence of waiting until the claim was raised in a federal habeas proceeding is that our review would then be governed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Under AEDPA, relief could be granted only if it could be said that the state court's rejection of the claim represented an "unreasonable application" of *Brady*. 28 U. S. C. § 2254(d)(1). By intervening now before AEDPA comes into play, the Court avoids the application of that standard and is able to exercise plenary review. But if the *Brady* claim is as open and shut as the Court maintains,

[3] The Court implies that meritorious claims in capital cases do constitute a category of factbound errors that the Court has shown willingness to correct on certiorari papers alone. *Ante*, at 395. In support, it cites *Sears* v. *Upton*, 561 U. S. 945 (2010) (*per curiam*), and *Porter* v. *McCollum*, 558 U. S. 30 (2009) (*per curiam*). Notably, *Porter* did not arise directly from state postconviction proceedings, but in federal habeas. And in neither case did the Court take the dramatic step it takes here and summarily reverse a long-final state conviction for capital murder; both cases addressed errors related to the defendants' sentences.

AEDPA would not present an obstacle to the granting of habeas relief. On the other hand, if reasonable jurists could disagree about the application of *Brady* to the facts of this case, there is no good reason to dispose of this case summarily. The State should be given the opportunity to make its full case.

In my view, therefore, summary reversal is highly inappropriate. The Court is anxious to vacate petitioner's conviction before the State has the opportunity to make its case. But if we are going to intervene at this stage, we should grant the petition and hear the case on the merits. There is room on our docket to give this case the careful consideration it deserves.

Syllabus

# V. L. *v.* E. L. ET AL.

## ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ALABAMA

No. 15–648. Decided March 7, 2016

While V. L. and E. L., two women, were in a relationship, they sought to make V. L. a legal parent of the children whom E. L. had given birth to and whom they had raised together since the children's birth. E. L. did not relinquish her parental rights but gave express consent to V. L.'s adoption of the children as a second parent. A Georgia Superior Court determined that V. L. had complied with the state law's applicable requirements and entered a final decree of adoption. After moving to Alabama, the couple's relationship ended, and V. L. moved out of their shared house. V. L. later petitioned an Alabama court, alleging that E. L. had denied her access to the children and interfered with her ability to exercise her parental rights. The court awarded V. L. scheduled visitation, but the Alabama Supreme Court held that the Georgia court did not have subject-matter jurisdiction under Georgia law to grant the adoption, and thus Alabama courts were not required to accord full faith and credit to the Georgia judgment.

*Held*: The Alabama Supreme Court erred in refusing to grant the Georgia judgment full faith and credit. The Full Faith and Credit Clause forbids a State to disregard the judgment of a sister State because it disagrees with the reasoning underlying the judgment or deems it to be wrong on the merits. See *Milliken* v. *Meyer*, 311 U. S. 457, 462. A State is not required to afford full faith and credit to a judgment rendered by a court that "did not have jurisdiction over the subject matter or the relevant parties," *Underwriters Nat. Assurance Co.* v. *North Carolina Life & Accident & Health Ins. Guaranty Assn.*, 455 U. S. 691, 705, but Georgia law gives "[t]he superior courts of the several counties . . . exclusive jurisdiction in all matters of adoption," Ga. Code Ann. § 19–8–2(a). That provision on its face gave the Georgia Superior Court subject-matter jurisdiction to hear and decide the adoption petition at issue. The Alabama Supreme Court relied instead on Ga. Code Ann. § 19–8–5(a), which provides that "a child who has any living parent or guardian may be adopted by a third party . . . only if each such living parent and each such guardian has voluntarily and in writing surrendered all of his or her rights to such child." That provision, however, does not speak in jurisdictional terms, and neither the Georgia Supreme

Court nor any Georgia appellate court has construed it as jurisdictional. Nor does it become jurisdictional just because it is "mandatory" and "must be strictly construed." *In re Marks*, 300 Ga. App. 239, 243, 684 S. E. 2d 364, 367. See also *Gonzalez* v. *Thaler*, 565 U. S. 134, 146.

Certiorari granted; 208 So. 3d 1102, reversed and remanded.

PER CURIAM.

A Georgia court entered a final judgment of adoption making petitioner V. L. a legal parent of the children that she and respondent E. L. had raised together from birth. V. L. and E. L. later separated while living in Alabama. V. L. asked the Alabama courts to enforce the Georgia judgment and grant her custody or visitation rights. The Alabama Supreme Court ruled against her, holding that the Full Faith and Credit Clause of the United States Constitution does not require the Alabama courts to respect the Georgia judgment. That judgment of the Alabama Supreme Court is now reversed by this summary disposition.

I

V. L. and E. L. are two women who were in a relationship from approximately 1995 until 2011. Through assisted reproductive technology, E. L. gave birth to a child named S. L. in 2002 and to twins named N. L. and H. L. in 2004. After the children were born, V. L. and E. L. raised them together as joint parents.

V. L. and E. L. eventually decided to give legal status to the relationship between V. L. and the children by having V. L. formally adopt them. To facilitate the adoption, the couple rented a house in Alpharetta, Georgia. V. L. then filed an adoption petition in the Superior Court of Fulton County, Georgia. E. L. also appeared in that proceeding. While not relinquishing her own parental rights, she gave her express consent to V. L.'s adoption of the children as a second parent. The Georgia court determined that V. L. had complied with the applicable requirements of Georgia law,

and entered a final decree of adoption allowing V. L. to adopt the children and recognizing both V. L. and E. L. as their legal parents.

V. L. and E. L. ended their relationship in 2011, while living in Alabama, and V. L. moved out of the house that the couple had shared. V. L. later filed a petition in the Circuit Court of Jefferson County, Alabama, alleging that E. L. had denied her access to the children and interfered with her ability to exercise her parental rights. She asked the Alabama court to register the Georgia adoption judgment and award her some measure of custody or visitation rights. The matter was transferred to the Family Court of Jefferson County. That court entered an order awarding V. L. scheduled visitation with the children.

E. L. appealed the visitation order to the Alabama Court of Civil Appeals. She argued, among other points, that the Alabama courts should not recognize the Georgia judgment because the Georgia court lacked subject-matter jurisdiction to enter it. The Court of Civil Appeals rejected that argument. It held, however, that the Alabama Family Court had erred by failing to conduct an evidentiary hearing before awarding V. L. visitation rights, and so it remanded for the Family Court to conduct that hearing.

The Alabama Supreme Court reversed. It held that the Georgia court had no subject-matter jurisdiction under Georgia law to enter a judgment allowing V. L. to adopt the children while still recognizing E. L.'s parental rights. As a consequence, the Alabama Supreme Court held Alabama courts were not required to accord full faith and credit to the Georgia judgment.

## II

The Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." Art. IV, § 1. That Clause requires each State to recognize and give effect to valid judgments rendered by the courts of its sister

States. It serves "to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation." *Milwaukee County* v. *M. E. White Co.*, 296 U. S. 268, 277 (1935).

With respect to judgments, "the full faith and credit obligation is exacting." *Baker* v. *General Motors Corp.*, 522 U. S. 222, 233 (1998). "A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land." *Ibid.* A State may not disregard the judgment of a sister State because it disagrees with the reasoning underlying the judgment or deems it to be wrong on the merits. On the contrary, "the full faith and credit clause of the Constitution precludes any inquiry into the merits of the cause of action, the logic or consistency of the decision, or the validity of the legal principles on which the judgment is based." *Milliken* v. *Meyer*, 311 U. S. 457, 462 (1940).

A State is not required, however, to afford full faith and credit to a judgment rendered by a court that "did not have jurisdiction over the subject matter or the relevant parties." *Underwriters Nat. Assurance Co.* v. *North Carolina Life & Accident & Health Ins. Guaranty Assn.*, 455 U. S. 691, 705 (1982). "Consequently, before a court is bound by [a] judgment rendered in another State, it may inquire into the jurisdictional basis of the foreign court's decree." *Ibid.* That jurisdictional inquiry, however, is a limited one. "[I]f the judgment on its face appears to be a 'record of a court of general jurisdiction, such jurisdiction over the cause and the parties is to be presumed unless disproved by extrinsic evidence, or by the record itself.'" *Milliken*, *supra*, at 462 (quoting *Adam* v. *Saenger*, 303 U. S. 59, 62 (1938)).

Those principles resolve this case. Under Georgia law, as relevant here, "[t]he superior courts of the several counties

shall have exclusive jurisdiction in all matters of adoption." Ga. Code Ann. § 19–8–2(a) (2015). That provision on its face gave the Georgia Superior Court subject-matter jurisdiction to hear and decide the adoption petition at issue here. The Superior Court resolved that matter by entering a final judgment that made V. L. the legal adoptive parent of the children. Whatever the merits of that judgment, it was within the statutory grant of jurisdiction over "all matters of adoption." *Ibid.* The Georgia court thus had the "adjudicatory authority over the subject matter" required to entitle its judgment to full faith and credit. *Baker*, *supra*, at 233.

The Alabama Supreme Court reached a different result by relying on Ga. Code Ann. § 19–8–5(a). That statute states (as relevant here) that "a child who has any living parent or guardian may be adopted by a third party . . . only if each such living parent and each such guardian has voluntarily and in writing surrendered all of his or her rights to such child." The Alabama Supreme Court concluded that this provision prohibited the Georgia Superior Court from allowing V. L. to adopt the children while also allowing E. L. to keep her existing parental rights. It further concluded that this provision went not to the merits but to the Georgia court's subject-matter jurisdiction. In reaching that crucial second conclusion, the Alabama Supreme Court seems to have relied solely on the fact that the right to adoption under Georgia law is purely statutory, and "'[t]he requirements of Georgia's adoptions statutes are mandatory and must be strictly construed in favor of the natural parents.'" *Ex parte E. L.*, 208 So. 3d 1102, 1113 (2015) (quoting *In re Marks*, 300 Ga. App. 239, 243, 684 S. E. 2d 364, 367 (2009)).

That analysis is not consistent with this Court's controlling precedent. Where a judgment indicates on its face that it was rendered by a court of competent jurisdiction, such jurisdiction "'is to be presumed unless disproved.'" *Milliken*, *supra*, at 462 (quoting *Adam*, *supra*, at 62). There is nothing here to rebut that presumption. The Georgia statute on

which the Alabama Supreme Court relied, Ga. Code Ann. § 19–8–5(a), does not speak in jurisdictional terms; for instance, it does not say that a Georgia court "shall have jurisdiction to enter an adoption decree" only if each existing parent or guardian has surrendered his or her parental rights. Neither the Georgia Supreme Court nor any Georgia appellate court, moreover, has construed § 19–8–5(a) as jurisdictional. That construction would also be difficult to reconcile with Georgia law. Georgia recognizes that in general, subject-matter jurisdiction addresses "whether a court has jurisdiction to decide a particular class of cases," *Goodrum* v. *Goodrum*, 283 Ga. 163, 657 S. E. 2d 192 (2008), not whether a court should grant relief in any given case. Unlike § 19–8–2(a), which expressly gives Georgia superior courts "exclusive jurisdiction in all matters of adoption," § 19–8–5(a) does not speak to whether a court has the power to decide a general class of cases. It only provides a rule of decision to apply in determining if a particular adoption should be allowed.

Section 19–8–5(a) does not become jurisdictional just because it is "'mandatory'" and "'must be strictly construed.'" 208 So. 3d, at 1113 (quoting *Marks*, *supra*, at 243, 684 S. E. 2d, at 367). This Court "has long rejected the notion that all mandatory prescriptions, however emphatic, are properly typed jurisdictional." *Gonzalez* v. *Thaler*, 565 U. S. 134, 146 (2012) (internal quotation marks and ellipsis omitted). Indeed, the Alabama Supreme Court's reasoning would give jurisdictional status to *every* requirement of the Georgia adoption statutes, since Georgia law indicates those requirements are all mandatory and must be strictly construed. *Marks*, *supra*, at 243, 684 S. E. 2d, at 367. That result would comport neither with Georgia law nor with common sense.

As Justice Holmes observed more than a century ago, "it sometimes may be difficult to decide whether certain words in a statute are directed to jurisdiction or to merits." *Fauntleroy* v. *Lum*, 210 U. S. 230, 234–235 (1908). In such cases,

especially where the Full Faith and Credit Clause is concerned, a court must be "slow to read ambiguous words, as meaning to leave the judgment open to dispute, or as intended to do more than fix the rule by which the court should decide." *Id.*, at 235. That time-honored rule controls here. The Georgia judgment appears on its face to have been issued by a court with jurisdiction, and there is no established Georgia law to the contrary. It follows that the Alabama Supreme Court erred in refusing to grant that judgment full faith and credit.

The petition for writ of certiorari is granted. The judgment of the Alabama Supreme Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

Per Curiam

# CAETANO *v.* MASSACHUSETTS

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF MASSACHUSETTS

No. 14–10078. Decided March 21, 2016

The Supreme Judicial Court of Massachusetts offered three explanations to support its ruling upholding a state law that prohibited the possession of stun guns: that stun guns "were not in common use at the time of the Second Amendment's enactment," that they are "unusual" because they are "a thoroughly modern invention," and that they are not "readily adaptable to use in the military."

*Held*: The Massachusetts court's explanation for upholding its law contradicts this Court's precedent. In *District of Columbia* v. *Heller*, 554 U. S. 570, this Court clearly stated that the Second Amendment "extends . . . to . . . arms . . . that were not in existence at the time of the founding," *id.*, at 582, and it rejected the proposition "that only those weapons useful in warfare are protected," *id.*, at 624–625.

Certiorari granted; 470 Mass. 774, 26 N. E. 3d 688, vacated and remanded.

PER CURIAM.

The Court has held that "the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding," *District of Columbia* v. *Heller*, 554 U. S. 570, 582 (2008), and that this "Second Amendment right is fully applicable to the States," *McDonald* v. *Chicago*, 561 U. S. 742, 750 (2010). In this case, the Supreme Judicial Court of Massachusetts upheld a Massachusetts law prohibiting the possession of stun guns after examining "whether a stun gun is the type of weapon contemplated by Congress in 1789 as being protected by the Second Amendment." 470 Mass. 774, 777, 26 N. E. 3d 688, 691 (2015).

The court offered three explanations to support its holding that the Second Amendment does not extend to stun guns. First, the court explained that stun guns are not protected because they "were not in common use at the time of the Second Amendment's enactment." *Id.*, at 781, 26 N. E. 3d,

at 693. This is inconsistent with *Heller*'s clear statement that the Second Amendment "extends . . . to . . . arms . . . that were not in existence at the time of the founding." 554 U. S., at 582.

The court next asked whether stun guns are "dangerous per se at common law and unusual," 470 Mass., at 781, 26 N. E. 3d, at 694, in an attempt to apply one "important limitation on the right to keep and carry arms," *Heller*, 554 U. S., at 627; see *ibid.* (referring to "the historical tradition of prohibiting the carrying of 'dangerous and unusual weapons' "). In so doing, the court concluded that stun guns are "unusual" because they are "a thoroughly modern invention." 470 Mass., at 781, 26 N. E. 3d, at 693–694. By equating "unusual" with "not in common use at the time of the Second Amendment's enactment," the court's second explanation is the same as the first; it is inconsistent with *Heller* for the same reason.

Finally, the court used "a contemporary lens" and found "nothing in the record to suggest that [stun guns] are readily adaptable to use in the military." 470 Mass., at 781, 26 N. E. 3d, at 694. But *Heller* rejected the proposition "that only those weapons useful in warfare are protected." 554 U. S., at 624–625.

For these three reasons, the explanation the Massachusetts court offered for upholding the law contradicts this Court's precedent. Consequently, the petition for a writ of certiorari and the motion for leave to proceed *in forma pauperis* are granted. The judgment of the Supreme Judicial Court of Massachusetts is vacated, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*

JUSTICE ALITO, with whom JUSTICE THOMAS joins, concurring in the judgment.

After a "bad altercation" with an abusive boyfriend put her in the hospital, Jaime Caetano found herself homeless

and "in fear for [her] life." Tr. 31, 38 (July 10, 2013). She obtained multiple restraining orders against her abuser, but they proved futile. So when a friend offered her a stun gun "for self-defense against [her] former boy friend," 470 Mass. 774, 776, 26 N. E. 3d 688, 690 (2015), Caetano accepted the weapon.

It is a good thing she did. One night after leaving work, Caetano found her ex-boyfriend "waiting for [her] outside." Tr. 35. He "started screaming" that she was "not gonna [expletive deleted] work at this place" any more because she "should be home with the kids" they had together. *Ibid.* Caetano's abuser towered over her by nearly a foot and outweighed her by close to 100 pounds. But she didn't need physical strength to protect herself. She stood her ground, displayed the stun gun, and announced: "I'm not gonna take this anymore. . . . I don't wanna have to [use the stun gun on] you, but if you don't leave me alone, I'm gonna have to." *Id.*, at 35–36. The gambit worked. The ex-boyfriend "got scared and he left [her] alone." *Id.*, at 36.

It is settled that the Second Amendment protects an individual right to keep and bear arms that applies against both the Federal Government and the States. *District of Columbia* v. *Heller*, 554 U. S. 570 (2008); *McDonald* v. *Chicago*, 561 U. S. 742 (2010). That right vindicates the "basic right" of "individual self-defense." *Id.*, at 767; see *Heller*, *supra*, at 599, 628. Caetano's encounter with her violent ex-boyfriend illustrates the connection between those fundamental rights: By arming herself, Caetano was able to protect against a physical threat that restraining orders had proved useless to prevent. And, commendably, she did so by using a weapon that posed little, if any, danger of permanently harming either herself or the father of her children.

Under Massachusetts law, however, Caetano's mere possession of the stun gun that may have saved her life made her a criminal. See Mass. Gen. Laws, ch. 140, § 131J (2014). When police later discovered the weapon, she was arrested,

tried, and convicted. The Massachusetts Supreme Judicial Court affirmed the conviction, holding that a stun gun "is not the type of weapon that is eligible for Second Amendment protection" because it was "not in common use at the time of [the Second Amendment's] enactment." 470 Mass., at 781, 26 N. E. 3d, at 693.

This reasoning defies our decision in *Heller*, which rejected as "bordering on the frivolous" the argument "that only those arms in existence in the 18th century are protected by the Second Amendment." 554 U. S., at 582. The decision below also does a grave disservice to vulnerable individuals like Caetano who must defend themselves because the State will not.

## I

The events leading to Caetano's prosecution occurred sometime after the confrontation between her and her ex-boyfriend. In September 2011, police officers responded to a reported shoplifting at an Ashland, Massachusetts, supermarket. The store's manager had detained a suspect, but he identified Caetano and another person in the parking lot as potential accomplices. Police approached the two and obtained Caetano's consent to search her purse. They found no evidence of shoplifting, but saw Caetano's stun gun. Caetano explained to the officers that she had acquired the weapon to defend herself against a violent ex-boyfriend.

The officers believed Caetano, but they arrested her for violating Mass. Gen. Laws, ch. 140, § 131J, "which bans entirely the possession of an electrical weapon," 470 Mass., at 775, 26 N. E. 3d, at 689.[1] When Caetano moved to dismiss

[1] Specifically, the statute prohibits the possession of any "portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure or kill." Mass. Gen. Laws, ch. 140, § 131J (2014). The statute includes exceptions for law enforcement officers and weapon suppliers, who may possess electrical weapons "designed to incapacitate tem-

the charge on Second Amendment grounds, the trial court denied the motion.

A subsequent bench trial established the following undisputed facts. The parties stipulated that Caetano possessed the stun gun and that the weapon fell within the statute's prohibition.[2] The Commonwealth also did not challenge Caetano's testimony that she possessed the weapon to defend herself against the violent ex-boyfriend. Indeed, the prosecutor urged the court "to believe the defendant." Tr. 40. The trial court nonetheless found Caetano guilty, and she appealed to the Massachusetts Supreme Judicial Court.

The Supreme Judicial Court rejected Caetano's Second Amendment claim, holding that "a stun gun is not the type of weapon that is eligible for Second Amendment protection." 470 Mass., at 775, 26 N. E. 3d, at 689. The court reasoned that stun guns are unprotected because they were "not 'in common use at the time' of enactment of the Second Amendment," *id.*, at 781, 26 N. E. 3d, at 693 (quoting *Heller*, *supra*, at 627), and because they fall within the "traditional prohibition against carrying dangerous and unusual weapons," 470 Mass., at 779, 26 N. E. 3d, at 692 (citing *Heller*, *supra*, at 627).

## II

Although the Supreme Judicial Court professed to apply *Heller*, each step of its analysis defied *Heller*'s reasoning.

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porarily." *Ibid.* Violations are punishable by a fine of $500 to $1,000, imprisonment of 6 months to 2½ years, or both. *Ibid.*

[2] Stun guns like Caetano's "are designed to stun a person with an electrical current" by running a current between two metal prongs on the device and placing the prongs in direct contact with the person. 470 Mass. 774, 775, n. 2, 26 N. E. 3d 688, 689, n. 2 (2015). A similar device, popularly known by the brand name "Taser," shoots out wires tipped with electrodes that can deliver an electrical current from a distance. Tr. 25–26. Tasers can also be used like a stun gun without deploying the electrodes—a so-called "dry stun." *Id.*, at 26. As the Commonwealth's witness testified at trial, these sorts of electrical weapons are "non-lethal force" "designed to incapacitate"—"not kill"—a target. *Id.*, at 27.

A

The state court repeatedly framed the question before it as whether a particular weapon was "'in common use at the time' of enactment of the Second Amendment." 470 Mass., at 781, 26 N. E. 3d, at 693; see also *id.*, at 779, 780, 781, 26 N. E. 3d, at 692, 693, 694. In *Heller*, we emphatically rejected such a formulation. We found the argument "that only those arms in existence in the 18th century are protected by the Second Amendment" not merely wrong, but "bordering on the frivolous." 554 U. S., at 582. Instead, we held that "the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, *even those that were not in existence at the time of the founding*." *Ibid.* (emphasis added).[3] It is hard to imagine language speaking more directly to the point. Yet the Supreme Judicial Court did not so much as mention it.

Instead, the court seized on language, originating in *United States* v. *Miller*, 307 U. S. 174 (1939), that "'the sorts of weapons protected were those "in common use at the time."'" 470 Mass., at 778, 26 N. E. 3d, at 692 (quoting *Heller*, *supra*, at 627, in turn quoting *Miller*, *supra*, at 179). That quotation does not mean, as the court below thought, that only weapons popular in 1789 are covered by the Second Amendment. It simply reflects the reality that the founding-era militia consisted of citizens "who would bring the sorts of lawful weapons that they possessed at home to militia duty," *Heller*, 554 U. S., at 627, and that the Second Amendment accordingly guarantees the right to carry weapons "typically possessed by law-abiding citizens for lawful purposes," *id.*, at 625. While stun guns were not in existence at the end of the 18th century, the same is true for the

[3] Stun guns are plainly "bearable arms." As *Heller* explained, the term includes any "[w]eapo[n] of offence" or "thing that a man wears for his defence, or takes into his hands," that is "carr[ied] . . . for the purpose of offensive or defensive action." 554 U. S., at 581, 584 (internal quotation marks omitted).

weapons most commonly used today for self-defense, namely, revolvers and semiautomatic pistols. Revolvers were virtually unknown until well into the 19th century,[4] and semiautomatic pistols were not invented until near the end of that century.[5] Electronic stun guns are no more exempt from the Second Amendment's protections, simply because they were unknown to the First Congress, than electronic communications are exempt from the First Amendment, or electronic imaging devices are exempt from the Fourth Amendment. *Id.*, at 582 (citing *Reno* v. *American Civil Liberties Union*, 521 U. S. 844, 849 (1997), and *Kyllo* v. *United States*, 533 U. S. 27, 35–36 (2001)). As *Heller* aptly put it: "We do not interpret constitutional rights that way." 554 U. S., at 582.

B

The Supreme Judicial Court's holding that stun guns may be banned as "dangerous and unusual weapons" fares no better. As the *per curiam* opinion recognizes, this is a conjunctive test: A weapon may not be banned unless it is *both* dangerous *and* unusual. Because the Court rejects the lower court's conclusion that stun guns are "unusual," it does not need to consider the lower court's conclusion that they are also "dangerous." See *ante*, at 412. But make no mistake—the decision below gravely erred on both grounds.

1

As to "dangerous," the court below held that a weapon is "dangerous per se" if it is "'designed and constructed to produce death or great bodily harm' and 'for the purpose of bodily assault or defense.'" 470 Mass., at 779, 26 N. E. 3d,

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[4] See J. Bilby, A Revolution in Arms: A History of the First Repeating Rifles 23 (2006). Samuel Colt did not patent his famous revolver until 1836. *Ibid.*

[5] See Firearms: An Illustrated History 166 (2014); see also W. Greener, The Gun and Its Development 524–529, 531–534 (9th ed. 1910) (discussing revolvers and self-loading semiautomatic pistols as "modern pistols").

at 692 (quoting *Commonwealth* v. *Appleby*, 380 Mass. 296, 303, 402 N. E. 2d 1051, 1056 (1980)). That test may be appropriate for applying statutes criminalizing assault with a dangerous weapon. See *ibid.*, 402 N. E. 2d, at 1056. But it cannot be used to identify arms that fall outside the Second Amendment. First, the relative dangerousness of a weapon is irrelevant when the weapon belongs to a class of arms commonly used for lawful purposes. See *Heller*, *supra*, at 627 (contrasting "'dangerous and unusual weapons'" that may be banned with protected "weapons . . . 'in common use at the time'"). Second, even in cases where dangerousness might be relevant, the Supreme Judicial Court's test sweeps far too broadly. *Heller* defined the "Arms" *covered by* the Second Amendment to include "'any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.'" 554 U. S., at 581. Under the decision below, however, virtually every covered arm would qualify as "dangerous."

Were there any doubt on this point, one need only look at the court's first example of "dangerous per se" weapons: "firearms." 470 Mass., at 779, 26 N. E. 3d, at 692. If *Heller* tells us anything, it is that firearms cannot be categorically prohibited just because they are dangerous. 554 U. S., at 636. *A fortiori*, stun guns that the Commonwealth's own witness described as "non-lethal force," Tr. 27, cannot be banned on that basis.

2

The Supreme Judicial Court's conclusion that stun guns are "unusual" rested largely on its premise that one must ask whether a weapon was commonly used in 1789. See 470 Mass., at 780–781, 26 N. E. 3d, at 693–694. As already discussed, that is simply wrong. See *supra*, at 416–417.

The court also opined that a weapon's unusualness depends on whether "it is a weapon of warfare to be used by the militia." 470 Mass., at 780, 26 N. E. 3d, at 693. It asserted

that we followed such an approach in *Miller* and "approved its use in *Heller*." 470 Mass., at 780, 26 N. E. 3d, at 693. But *Heller* actually said that it would be a "startling reading" of *Miller* to conclude that "only those weapons useful in warfare are protected." 554 U. S., at 624. Instead, *Miller* and *Heller* recognized that militia members traditionally reported for duty carrying "the sorts of lawful weapons that they possessed at home," and that the Second Amendment therefore protects such weapons as a class, regardless of any particular weapon's suitability for military use. 554 U. S., at 627; see *id.*, at 624–625. Indeed, *Heller* acknowledged that advancements in military technology might render many commonly owned weapons ineffective in warfare. *Id.*, at 627–628. But such "modern developments . . . cannot change our interpretation of the right." *Ibid.*

In any event, the Supreme Judicial Court's assumption that stun guns are unsuited for militia or military use is untenable. Section 131J allows law enforcement and correctional officers to carry stun guns and Tasers, presumably for such purposes as nonlethal crowd control. Subduing members of a mob is little different from "suppress[ing] Insurrections," a traditional role of the militia. U. S. Const., Art. I, §8, cl. 15; see also *ibid.* (militia may be called forth "to execute the Laws of the Union"). Additionally, several branches of the U. S. armed services equip troops with electrical stun weapons to "incapacitate a target without permanent injury or known side effects." U. S. Army, Project Manager Close Combat Systems, PD Combat Munitions: Launched Electrode Stun Device (LESD), http://www.pica.army.mil/pmccs/combatmunitions/nonlethalsys/taserx26e.html (all Internet materials as last visited Mar. 18, 2016); see U. S. Marine Corps Administrative Message 560/08 (Oct. 2, 2008) (Marine Corps guidance for use of Tasers), http://www.marines.mil/News/Messages/MessagesDisplay/tabid/13286/Article/113024/marine-corps-training-and-use-of-

human-electro-muscular-incapacitation-hemi-dev.aspx; Joint Non-Lethal Weapons Directorate, Non-Lethal Weapons (NLW) Reference Book 3 (2012) (Department of Defense report stating that "[m]ultiple Services employ" Tasers), http://dtic.mil/dtic/tr/fulltext/u2/a565971.pdf.

C

As the foregoing makes clear, the pertinent Second Amendment inquiry is whether stun guns are commonly possessed by law-abiding citizens for lawful purposes *today*. The Supreme Judicial Court offered only a cursory discussion of that question, noting that the " 'number of Tasers and stun guns is dwarfed by the number of firearms.' " 470 Mass., at 781, 26 N. E. 3d, at 693. This observation may be true, but it is beside the point. Otherwise, a State would be free to ban *all* weapons *except* handguns, because "handguns are the most popular weapon chosen by Americans for self-defense in the home." *Heller*, *supra*, at 629.

The more relevant statistic is that "[h]undreds of thousands of Tasers and stun guns have been sold to private citizens," who it appears may lawfully possess them in 45 States. *People* v. *Yanna*, 297 Mich. App. 137, 144, 824 N. W. 2d 241, 245 (2012) (holding Michigan stun gun ban unconstitutional); see Volokh, Nonlethal Self-Defense, (Almost Entirely) Nonlethal Weapons, and the Rights To Keep and Bear Arms and Defend Life, 62 Stan. L. Rev. 199, 244 (2009) (citing stun gun bans in seven States); Wis. Stat. § 941.295 (Supp. 2015) (amended Wisconsin law permitting stun gun possession); see also Brief in Opposition 11 (acknowledging that "approximately 200,000 civilians owned stun guns" as of 2009). While less popular than handguns, stun guns are widely owned and accepted as a legitimate means of self-defense across the country. Massachusetts' categorical ban of such weapons therefore violates the Second Amendment.

## III

The lower court's ill treatment of *Heller* cannot stand. The reasoning of the Massachusetts court poses a grave threat to the fundamental right of self-defense. The Supreme Judicial Court suggested that Caetano could have simply gotten a firearm to defend herself. 470 Mass., at 783, 26 N. E. 3d, at 695. But the right to bear other weapons is "no answer" to a ban on the possession of protected arms. *Heller*, 554 U. S., at 629. Moreover, a weapon is an effective means of self-defense only if one is prepared to use it, and it is presumptuous to tell Caetano she should have been ready to shoot the father of her two young children if she wanted to protect herself. Courts should not be in the business of demanding that citizens use *more* force for self-defense than they are comfortable wielding.[6]

Countless people may have reservations about using deadly force, whether for moral, religious, or emotional reasons—or simply out of fear of killing the wrong person. See Brief for Arming Women Against Rape & Endangerment as *Amicus Curiae* 4–5. "Self-defense," however, "is a basic right." *McDonald*, 561 U. S., at 767. I am not prepared to say that a State may force an individual to choose between exercising that right and following her conscience, at least where both can be accommodated by a weapon already in widespread use across the Nation.

* * *

A State's most basic responsibility is to keep its people safe. The Commonwealth of Massachusetts was either unable or unwilling to do what was necessary to protect Jaime

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[6] The court below also noted that Massachusetts no longer requires a license to possess mace or pepper spray. 470 Mass., at 783, 26 N. E. 3d, at 695. But the law was changed in 2014, after Caetano was convicted. A spray can also be foiled by a stiff breeze, while a stun gun cannot.

Caetano, so she was forced to protect herself. To make matters worse, the Commonwealth chose to deploy its prosecutorial resources to prosecute and convict her of a criminal offense for arming herself with a nonlethal weapon that may well have saved her life. The Supreme Judicial Court then affirmed her conviction on the flimsiest of grounds. This Court's grudging *per curiam* now sends the case back to that same court. And the consequences for Caetano may prove more tragic still, as her conviction likely bars her from ever bearing arms for self-defense. See Pet. for Cert. 14.

If the fundamental right of self-defense does not protect Caetano, then the safety of all Americans is left to the mercy of state authorities who may be more concerned about disarming the people than about keeping them safe.

# MONTANA *v.* WYOMING ET AL.

ON BILL OF COMPLAINT

No. 137, Orig. Decided May 2, 2011—Order and judgment entered March 21, 2016

Order and judgment entered.

Opinion reported: 563 U. S. 368.

## ORDER AND JUDGMENT

The Court having exercised original jurisdiction over this controversy among sovereign States; the issues having been tried before the Special Master appointed by this Court; the Court having considered the briefs on the parties' exceptions to the Second Interim Report of the Special Master; IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Wyoming's Motion for Partial Summary Judgment on the notice requirement for damages is granted for the years 1982, 1985, 1992, 1994, and 1998.

2. Wyoming also is not liable to Montana for the years 1981, 1987, 1988, 1989, 2000, 2001, 2002, and 2003.

3. Wyoming is liable to Montana for reducing the volume of water available in the Tongue River at the Stateline between Wyoming and Montana by 1,300 acre-feet in 2004.

4. Wyoming is liable to Montana for reducing the volume of water available in the Tongue River at the Stateline between Wyoming and Montana by 56 acre-feet in 2006.

5. The case is remanded to the Special Master for determination of damages and other appropriate relief.

Syllabus

# STURGEON *v.* FROST, ALASKA REGIONAL DIRECTOR OF THE NATIONAL PARK SERVICE, ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 14–1209. Argued January 20, 2016—Decided March 22, 2016

The Alaska National Interest Lands Conservation Act (ANILCA) set aside 104 million acres of land in Alaska for preservation purposes. Under ANILCA, those lands were placed into "conservation system units," which were defined to include "any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument." 16 U. S. C. § 3102(4). In addition to federal land, over 18 million acres of state, Native Corporation, and private land were also included within the boundaries of those conservation system units.

In 2007, John Sturgeon was piloting his hovercraft over a stretch of the Nation River that flows through the Yukon-Charley Rivers National Preserve, a conservation system unit in Alaska that is managed by the National Park Service. Alaska law permits the use of hovercraft. National Park Service regulations do not. See 36 CFR § 2.17(e). Park Service rangers approached Sturgeon, informing him that hovercraft were prohibited within the preserve under Park Service regulations. Sturgeon protested that Park Service regulations did not apply because the river was owned by the State of Alaska. The rangers ordered Sturgeon to remove his hovercraft from the preserve, and he complied. Sturgeon later filed suit against the Park Service in the United States District Court for the District of Alaska, seeking declaratory and injunctive relief permitting him to operate his hovercraft within the boundaries of the Yukon-Charley. Alaska intervened in support of Sturgeon.

The Secretary of the Interior has authority to "prescribe regulations" concerning "boating and other activities on or relating to water located within System units." 54 U. S. C. § 100751(b). The Park Service's hovercraft regulation was adopted pursuant to Section 100751(b). The hovercraft ban is not limited to Alaska, but instead has effect in federally managed preservation areas across the country. Section 103(c) of ANILCA, in contrast, addresses the scope of the Park Service's authority over lands within the boundaries of conservation system units in Alaska. The first sentence of Section 103(c) specifies the property included as a portion of those units. It states: "Only those lands within

the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit." 16 U. S. C. § 3103(c). ANILCA defines the word "land" to include "lands, waters, and interests therein," and the term "public lands" to include lands to which the United States has "title," with certain exceptions. § 3102.

The second sentence of Section 103(c) concerns the Park Service's authority to regulate "non-public" lands in Alaska, which include state, Native Corporation, and private property. It provides: "No lands which, before, on, or after December 2, 1980, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units." § 3103(c). The third sentence of Section 103(c) explains how new lands become part of conservation system units: "If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly." *Ibid.*

Interpreting Section 103(c) of ANILCA, the District Court granted summary judgment to the Park Service, and the Ninth Circuit affirmed in pertinent part. According to the Ninth Circuit, because the hovercraft regulation "applies to all federal-owned lands and waters administered by [the Park Service] nationwide, as well as all navigable waters lying within national parks," the hovercraft ban does not apply "solely" within conservation system units in Alaska. 768 F. 3d 1066, 1077. The Ninth Circuit concluded that the Park Service therefore has authority to enforce its hovercraft regulation on the Nation River. The Ninth Circuit did not address whether the Nation River counts as "public land" for purposes of ANILCA.

*Held*: The Ninth Circuit's interpretation of Section 103(c) is inconsistent with both the text and context of ANILCA. Pp. 438–441.

(a) The Ninth Circuit's interpretation of Section 103(c) violates "a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme," *Roberts* v. *Sea-Land Services, Inc.*, 566 U. S. 93, 101. ANILCA repeatedly recognizes that Alaska is different, and ANILCA itself accordingly carves out numerous Alaska-specific exceptions to the Park Service's general authority over federally managed preservation areas. Those Alaska-specific provisions reflect the simple truth that Alaska is often the exception, not the rule. Yet the reading below would prevent the Park Service from recognizing Alaska's unique conditions. Under that reading, the Park Service could regulate "non-

public" lands in Alaska only through rules applicable outside Alaska as well. The Court concludes that, whatever the reach of the Park Service's authority under ANILCA, Section 103(c) did not adopt such a "topsy-turvy" approach. Pp. 438–440.

(b) Moreover, it is clear that Section 103(c) draws a distinction between "public" and "non-public" lands within the boundaries of conservation system units in Alaska. And yet, according to the court below, if the Park Service wanted to differentiate between that "public" and "non-public" land in an Alaska-specific way, it would have to regulate the "non-public" land pursuant to rules applicable outside Alaska, and the "public" land pursuant to Alaska-specific provisions. Assuming the Park Service has authority over "non-public" land in Alaska (an issue the Court does not decide), the Court concludes that this is an implausible reading of the statute. The Court therefore rejects the interpretation of Section 103(c) adopted by the court below. Pp. 440–441.

(c) The Court does not reach the remainder of the parties' arguments. In particular, it does not decide whether the Nation River qualifies as "public land" for purposes of ANILCA. It also does not decide whether the Park Service has authority under Section 100751(b) to regulate Sturgeon's activities on the Nation River, even if the river is not "public" land, or whether—as Sturgeon argues—any such authority is limited by ANILCA. Finally, the Court does not consider whether the Park Service has authority under ANILCA over both "public" and "non-public" lands within the boundaries of conservation system units in Alaska, to the extent a regulation is written to apply specifically to both types of land. The Court leaves those arguments to the lower courts for consideration as necessary. P. 441.

768 F. 3d 1066, vacated and remanded.

ROBERTS, C. J., delivered the opinion for a unanimous Court.

*Matthew T. Findley* argued the cause for petitioner. With him on the briefs were *Eva R. Gardner*, *Douglas Pope*, *William S. Consovoy*, *J. Michael Connolly*, and *Michael H. Park*.

*Ruth Botstein*, Assistant Attorney General of Alaska, argued the cause for the State of Alaska as *amicus curiae* urging reversal. With her on the brief were *Craig W. Richards*, Attorney General, and *Janell Hafner*, Assistant Attorney General.

*Rachel P. Kovner* argued the cause for respondents. With her on the brief were *Solicitor General Verrilli*, *Assistant Attorney General Cruden*, *Deputy Solicitor General Kneedler*, *Andrew C. Mergen*, *Dean K. Dunsmore*, and *Elizabeth Ann Peterson*.*

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

For almost 40 years, John Sturgeon has hunted moose along the Nation River in Alaska. Because parts of the river are shallow and difficult to navigate, Sturgeon travels by hovercraft, an amphibious vehicle capable of gliding over land and water. To reach his preferred hunting grounds, Sturgeon must pilot his hovercraft over a stretch of the Nation River that flows through the Yukon-Charley Rivers National Preserve, a 1.7 million acre federal preservation area managed by the National Park Service. 16 U. S. C. § 410hh(10).

Alaska law permits the use of hovercraft. National Park Service regulations do not. See 36 CFR § 2.17(e) (2015). After Park Service rangers informed Sturgeon that he was prohibited from using his hovercraft within the boundaries of the preserve, Sturgeon filed suit, seeking declaratory and

*Briefs of *amici curiae* urging reversal were filed for the Alaska Miners Association, Inc., et al. by *Jason T. Morgan* and *Joseph J. Perkins, Jr.*; for Arctic Slope Regional Corp. et al. by *Jahna M. Lindemuth*, *Katherine Demarest*, and *Timothy J. Droske*; for Doyon, Ltd., et al. by *James D. Linxwiler* and *Josh Van Gorkom*; for the Pacific Legal Foundation by *Damien M. Schiff*; for the Safari Club International by *Anna M. Seidman* and *Douglas S. Burdin*; for the Southeastern Legal Foundation by *Kimberly S. Hermann*; and for Sen. Dan Sullivan et al. by *Jonathan W. Katchen* and *Kyle W. Parker*.

*Katherine Strong*, *Valerie Brown*, *Thomas E. Meacham*, and *Donald B. Ayer* filed a brief for the National Parks Conservation Association et al. as *amici curiae* urging affirmance.

*Robert T. Anderson*, *Riyaz A. Kanji*, *Carter G. Phillips*, *Lloyd B. Miller*, and *Heather R. Kendall* filed a brief for Alaska Native Subsistence Users as *amici curiae*.

injunctive relief. He argues that the Nation River is owned by the State, and that the Alaska National Interest Lands Conservation Act (ANILCA) prohibits the Park Service from enforcing its regulations on state-owned land in Alaska. The Park Service disagrees, contending that it has authority to regulate waters flowing through federally managed preservation areas. The District Court and the Court of Appeals ruled in favor of the Park Service. We granted certiorari.

## I

In 1867, Secretary of State William Seward, serving under President Andrew Johnson, negotiated a treaty to purchase Alaska from Russia for $7.2 million. Treaty Concerning the Cession of the Russian Possessions in North America, Mar. 30, 1867, 15 Stat. 539. In a single stroke, the United States gained 365 million acres of land—an area more than twice the size of Texas. Despite the bargain price of two cents an acre, however, the purchase was mocked by contemporaries as "Seward's Folly" and President Johnson's "Polar Bear Garden." See C. Naske & H. Slotnick, Alaska: A History 92–94 (2011) (Naske & Slotnick); S. Rep. No. 1163, 85th Cong., 1st Sess., 2 (1957).

The monikers didn't stick. In 1898, the "Three Lucky Swedes"—Jafet Lindeberg, Eric Lindblom, and Jon Brynteson—struck gold in Nome, Alaska. As word of their discovery spread, thousands traveled to Alaska to try their hand at mining. Once the gold rush subsided, settlers turned to other types of mining, fishing, and trapping, fueling an emerging export economy. See Naske & Slotnick 128–129, 155, 249–251; D. Wharton, The Alaska Gold Rush 186–187 (1972).

Despite newfound recognition of Alaska's economic potential, however, it was not until the 1950's that Congress seriously considered admitting Alaska as a State. By that time, it was clear that Alaska was strategically important both in the Pacific and Arctic, and that the Territory was rich in

natural resources, including oil. Moreover, the people of Alaska favored statehood. See Naske & Slotnick 201, 224–235. But there was a problem: Out of the 365 million acres of land in Alaska, 98 percent were owned by the Federal Government. As a result, absent a land grant from the Federal Government to the State, there would be little land available to drive private economic activity and contribute to the state tax base. See S. Rep. No. 1163, at 2, 12 ("The expenses of the State of Alaska will be comparatively high, partially due to the vast land areas within the State; but the State would be able to realize revenues from only 2 percent of this vast area unless some provision were made to modify the present land-ownership conditions").

A solution was struck. The 1958 Alaska Statehood Act permitted Alaska to select 103 million acres of "vacant, unappropriated, and unreserved" federal land—just over a quarter of all land in Alaska—for state ownership. §§ 6(a)–(b), 72 Stat. 340. That land grant included "mineral deposits," which were "subject to lease by the State as the State legislature may direct." § 6(i), *id.*, at 342. Upon statehood, Alaska also gained "title to and ownership of the lands beneath navigable waters" within the State, in addition to "the natural resources within such lands and waters," including "the right and power to manage, administer, lease, develop, and use the said lands and natural resources." § 3(a), 67 Stat. 30, 43 U. S. C. § 1311(a); § 6(m), 72 Stat. 343. With over 100 million acres of land now available to the new State, Alaska could begin to fulfill its state policy "to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Alaska Const., Art. VIII, § 1 (2014).

The Statehood Act did not, however, determine the rights of the Alaska Natives, who asserted aboriginal title to much of the same land now claimed by the State. Naske & Slotnick 287–289. To resolve the dispute, Congress in 1971 passed the Alaska Native Claims Settlement Act (ANCSA),

which extinguished aboriginal land claims in Alaska. 85 Stat. 688, as amended, 43 U. S. C. § 1601 *et seq.* In exchange, Congress provided for a $960 million settlement and permitted corporations organized by groups of Alaska Natives to select 40 million acres of federal land to manage within the State. §§ 1605, 1610–1615; Naske & Slotnick 296–297. Congress sought to implement the settlement "rapidly, with certainty, in conformity with the real economic and social needs" of Alaska Natives. § 1601(b).

In addition to settling the claims of the Alaska Natives, ANCSA directed the Secretary of the Interior to select up to 80 million acres of unreserved federal land in Alaska for addition to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, subject to congressional approval. § 1616(d)(2). When Congress failed to approve the Secretary's selections, however, President Carter unilaterally designated 56 million acres of federal land in Alaska as national monuments. See Presidential Proclamation Nos. 4611–4627, 3 CFR 69–104 (1978).

President Carter's actions were unpopular among many Alaskans, who were concerned that the new monuments would be subject to restrictive federal regulations. Protesters demonstrated in Fairbanks, and more than 2,500 Alaskans participated in the "Great Denali-McKinley Trespass." The goal of the trespass was to break over 25 Park Service rules in a two-day period—including by camping, hunting, snowmobiling, setting campfires, shooting guns, and unleashing dogs. During the event, a "rider on horseback, acting the part of Paul Revere, galloped through the crowd yelling, 'The Feds are coming! The Feds are coming!'" N. Y. Times, Jan. 15, 1979, p. A8; Anchorage Daily News, Jan. 15, 1979, pp. 1–2.

Congress once again stepped in to settle the controversy, passing the Alaska National Interest Lands Conservation Act. 94 Stat. 2371, 16 U. S. C. § 3101 *et seq.* ANILCA had two stated goals: First, to provide "sufficient protection for

the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska." § 3101(d). And second, to provide "adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people." *Ibid.*

ANILCA set aside 104 million acres of land in Alaska for preservation purposes, in the process creating ten new national parks, preserves, and monuments—including the Yukon-Charley Rivers National Preserve—and tripling the number of acres set aside in the United States for federal wilderness preservation. See § 410hh; Naske & Slotnick 315–316. At the same time, ANILCA specified that the Park Service could not prohibit on those lands certain activities of particular importance to Alaskans. See, *e. g.*, § 3170(a) (Secretary must permit reasonable use of vehicles "for travel to and from villages and homesites"); § 3201 (Secretary must permit "the taking of fish and wildlife for sport purposes and subsistence uses" within National Preserves in Alaska, subject to regulation and certain exceptions). President Carter's earlier land designations were rescinded. See § 3209(a).

Under ANILCA, federal preservation lands in Alaska were placed into "conservation system units," which were defined to include "any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument." § 3102(4). Congress drew the boundaries of those units to "follow hydrographic divides or embrace other topographic or natural features," however, rather than to map the Federal Government's landholdings. § 3103(b). As a consequence, in addition to federal land, over 18 million acres of state, Native Corporation, and private land ended up inside the boundaries of conservation system units. See Brief for Petitioner 6.

This brings us back to Sturgeon and his hovercraft.

## II

### A

One fall day in 2007, Sturgeon was piloting his hovercraft on the Nation River, which rises in the Ogilvie Mountains in Canada and joins the Yukon River within the boundaries of the Yukon-Charley Rivers National Preserve conservation system unit (Yukon-Charley). Sturgeon was headed to a hunting ground upstream from the preserve, just shy of the Canadian border. To reach that hunting ground, dubbed "moose meadows," Sturgeon had to travel on a portion of the river that flows through the preserve.

About two miles into his trip on the Nation River, Sturgeon stopped on a gravel bar to repair the steering cable of his hovercraft. As he was performing the repairs, Sturgeon was approached by three Park Service rangers. The rangers informed him that hovercraft were prohibited under Park Service regulations, and that he was committing a crime by operating his hovercraft within the boundaries of the Yukon-Charley. Despite Sturgeon's protests that Park Service regulations did not apply because the river was owned by the State of Alaska, the rangers ordered Sturgeon to remove his hovercraft from the preserve. Sturgeon complied, heading home without a moose.

Sturgeon now fears that he will be criminally prosecuted if he returns to hunt along the Nation River in his hovercraft. To avoid prosecution, Sturgeon sued the Park Service and several federal officials in the United States District Court for the District of Alaska. He seeks declaratory and injunctive relief permitting him to operate his hovercraft within the boundaries of the Yukon-Charley. Alaska intervened in support of Sturgeon, and the Park Service opposed the suit.

The District Court granted summary judgment to the Park Service. *Sturgeon* v. *Masica*, 2013 WL 5888230 (Oct. 30, 2013). The Court of Appeals for the Ninth Circuit af-

firmed in pertinent part. *Sturgeon* v. *Masica*, 768 F. 3d 1066 (2014).

We granted certiorari. 576 U. S. 1094 (2015).

B

The Secretary of the Interior has authority to "prescribe regulations" concerning "boating and other activities on or relating to water located within System units, including water subject to the jurisdiction of the United States." 54 U. S. C. § 100751(b) (2012 ed., Supp. II). "System units" are in turn defined as "any area of land and water administered by the Secretary, acting through the Director [of the Park Service], for park, monument, historic, parkway, recreational, or other purposes." §§ 100102, 100501.

The Park Service's hovercraft regulation was adopted pursuant to Section 100751(b). The hovercraft ban applies not only within "[t]he boundaries of federally owned lands and waters administered by the National Park Service," but also to "[w]aters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters . . . without regard to the ownership of submerged lands." 36 CFR § 1.2(a). The hovercraft ban is not limited to Alaska, but instead has effect in federally managed preservation areas across the country.

Section 103(c) of ANILCA, in contrast, addresses the scope of the Park Service's authority over lands within the boundaries of conservation system units in Alaska. The first sentence of Section 103(c) specifies the property included as a portion of those units. It states: "Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit." 16 U. S. C. § 3103(c). ANILCA defines the word "land" to include "lands, waters, and interests therein," and the term "public lands" to include "lands the title to which is in the United States after December 2, 1980," with certain excep-

tions. § 3102. In sum, only "lands, waters, and interests therein" to which the United States has "title" are considered "public" land "included as a portion" of the conservation system units in Alaska.

The second sentence of Section 103(c) concerns the Park Service's authority to regulate "non-public" lands in Alaska, which include state, Native Corporation, and private property. It provides: "No lands which, before, on, or after December 2, 1980, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units." § 3103(c).

The third sentence of Section 103(c) explains how new lands become part of conservation system units: "If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly." *Ibid.*

C

The parties dispute whether Section 103(c) of ANILCA created an Alaska-specific exception to the Park Service's general authority over boating and related activities in federally managed preservation areas. Sturgeon, the Park Service, and the Ninth Circuit each adopt a different reading of Section 103(c), reaching different conclusions about the scope of the Park Service's powers.

Sturgeon, joined by the State, understands Section 103(c) to stand for a simple proposition: The Park Service is prohibited from regulating "non-public" land in Alaska as if that land were owned by the Federal Government. He contends that his reading is consistent with the history of federal land management in Alaska, beginning with the Alaska Statehood Act and culminating in ANILCA.

Sturgeon's argument proceeds in two steps. First, he asserts that the Nation River is not "public land" for purposes

of ANILCA and is therefore not part of the Yukon-Charley. As discussed, ANILCA defines "public lands" as lands to which the United States has "title." 16 U. S. C. § 3102. And Section 103(c) provides that "[o]nly those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit." § 3103(c).

Sturgeon argues that the Nation River is not "public land" because it is owned by the State and not by the Federal Government. To support his argument, Sturgeon relies on the Alaska Statehood Act, which granted ownership of the submerged lands beneath the navigable waters in Alaska, and the resources within those waters, to the State. See § 6(m), 72 Stat. 343; 43 U. S. C. § 1311(a). He also cites this Court's decision in *United States* v. *California*, 436 U. S. 32 (1978), which stated that "the Submerged Lands Act transferred title to and ownership of the submerged lands and waters" to the States. *Id.*, at 40 (internal quotation marks omitted). Because the State and not the Federal Government owns the Nation River, Sturgeon urges, it is not "public" land under ANILCA and is therefore not part of the Yukon-Charley.

Second, Sturgeon asserts that because the Nation River is not part of the Yukon-Charley, the Park Service lacks authority to regulate it. His argument rests on the second sentence of Section 103(c), which states that "[n]o lands which, before, on, or after December 2, 1980, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units." 16 U. S. C. § 3103(c).

Sturgeon argues that the phrase "regulations applicable solely to public lands within such units" refers to those regulations that apply "solely" by virtue of the Park Service's "authority to manage national parks." Brief for Petitioner 18, 26–27. The word "solely," Sturgeon contends, simply ensures that "non-public" lands within the boundaries of those

units remain subject to laws generally "applicable to both public and private lands (such as the Clean Air Act and Clean Water Act)." *Id.*, at 19. Because the hovercraft regulation was adopted pursuant to the Park Service's authority over federally managed preservation areas, and is not a law of general applicability like the Clean Air Act or the Clean Water Act, Sturgeon concludes that Section 103(c) bars enforcement of the regulation.

The Park Service, in contrast, reads Section 103(c) more narrowly. In its brief in this Court, the Park Service, while defending the reasoning of the Ninth Circuit, relies primarily on very different arguments. The agency stresses that it has longstanding authority to regulate waters within federally managed preservation areas, and that Section 103(c) does not take any of that authority away. In reaching its conclusion, the Park Service disagrees with Sturgeon at each step.

First, the Park Service contends that the Nation River is part of the Yukon-Charley. To support that contention, the agency cites ANILCA's definition of "public lands," which—as noted—includes "lands, waters, and interests therein" to which the United States has "title." 16 U. S. C. § 3102. The Park Service argues that the United States has "title" to an "interest" in the water within the boundaries of the Yukon-Charley under the reserved water rights doctrine.

The reserved water rights doctrine specifies that "when the Federal Government withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation." *Cappaert* v. *United States*, 426 U. S. 128, 138 (1976). By creating the Yukon-Charley, the Park Service urges, the Federal Government reserved the water within the boundaries of the conservation system unit to achieve the Government's conservation goals. As a result, the Federal Government has "title" to an "interest" in the

Nation River, making it "public" land subject to Park Service regulations.

Second, the Park Service contends that even if the Nation River is not "public" land, the agency still has authority to regulate it. According to the Park Service, the second sentence of Section 103(c) imposes only a limited restriction on the agency's power, prohibiting it from enforcing on "non-public" lands only those regulations that explicitly apply "solely to public lands." The hovercraft regulation applies both within "[t]he boundaries of federally owned lands and waters administered by the National Park Service" *and* to "[w]aters subject to the jurisdiction of the United States located within the boundaries of the National Park System, including navigable waters . . . without regard to the ownership of submerged lands." 36 CFR § 1.2(a). Accordingly, the Park Service asserts, the hovercraft regulation does not apply "solely to public lands," and Section 103(c) therefore does not prevent enforcement of the regulation. See Brief for Respondents 56–58.

The Ninth Circuit, for its part, adopted a reading of Section 103(c) different from the primary argument advanced by the Park Service in this Court. The Court of Appeals did not reach the question whether the Nation River counts as "public" land for purposes of ANILCA. Instead, it held that the phrase "regulations applicable solely to public lands within such units" distinguishes between Park Service regulations that apply solely to "public" lands *in Alaska*, and Park Service regulations that apply to federally managed preservation areas across the country. In the Ninth Circuit's view, the Park Service may enforce nationally applicable regulations on both "public" and "non-public" property within the boundaries of conservation system units in Alaska, because such regulations do not apply "solely to public lands within such units." The Park Service may not, however, apply Alaska-specific regulations to "non-public" lands within the boundaries of those units.

According to the Ninth Circuit, because the hovercraft regulation "applies to all federal-owned lands and waters administered by [the Park Service] nationwide, as well as all navigable waters lying within national parks," the hovercraft ban does not apply "solely" within conservation system units in Alaska. 768 F. 3d, at 1077. The Ninth Circuit concluded that the Park Service therefore has authority to enforce its hovercraft regulation on the Nation River. *Id.*, at 1078. The Ninth Circuit's holding is subject to some interpretation, but Sturgeon, the State, the Alaska Native Corporations, and the Park Service (at least at times) concur in our understanding of the decision below. See Brief for Petitioner 25; Brief for State of Alaska as *Amicus Curiae* 23; Brief for Arctic Slope Regional Corporation et al. as *Amici Curiae* 12–13; Brief for Doyon, Ltd., et al. as *Amici Curiae* 31–32; Brief for Respondents 20; Tr. of Oral Arg. 61; 80 Fed. Reg. 65573 (2015).

## III

We reject the interpretation of Section 103(c) adopted by the Ninth Circuit. The court's reading of the phrase "regulations applicable solely to public lands within such units" may be plausible in the abstract, but it is ultimately inconsistent with both the text and context of the statute as a whole. Statutory language "cannot be construed in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Roberts* v. *Sea-Land Services, Inc.*, 566 U. S. 93, 101 (2012) (internal quotation marks omitted).

Under the reading of the statute adopted below, the Park Service may apply nationally applicable regulations to "nonpublic" lands within the boundaries of conservation system units in Alaska, but it may not apply Alaska-specific regulations to those lands. That is a surprising conclusion. ANILCA repeatedly recognizes that Alaska is different—from its "unrivaled scenic and geological values," to the

"unique" situation of its "rural residents dependent on subsistence uses," to "the need for development and use of Arctic resources with appropriate recognition and consideration given to the unique nature of the Arctic environment." 16 U. S. C. §§3101(b), 3111(2), 3147(b)(5).

ANILCA itself accordingly carves out numerous Alaska-specific exceptions to the Park Service's general authority over federally managed preservation areas. For example, ANILCA requires the Secretary of the Interior to permit "the exercise of valid commercial fishing rights or privileges" within the National Wildlife Refuge System in Alaska, including the use of "campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges," with certain exceptions. 94 Stat. 2393. ANILCA also requires the Secretary to "permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation." 16 U. S. C. §3121(b). And it provides that National Preserves "in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park *except* as otherwise provided in this Act and *except* that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed" pursuant to applicable law. §3201 (emphasis added).

Many similar examples are woven throughout ANILCA. See, *e. g.*, 94 Stat. 2393 (Secretary must administer wildlife refuge "so as to not impede the passage of navigation and access by boat on the Yukon and Kuskokwim Rivers," subject to reasonable regulation); *id.*, at 2388 (Secretary must allow reindeer grazing uses in certain areas, including construction of necessary facilities); 16 U. S. C. §3203(a) (Alaska-specific rules for wilderness management apply "in recognition of the unique conditions in Alaska"); §3170(a) (Secretary must permit reasonable use of snowmachines, motorboats,

and airplanes within conservation system units "for travel to and from villages and homesites").

All those Alaska-specific provisions reflect the simple truth that Alaska is often the exception, not the rule. Yet the reading below would prevent the Park Service from recognizing Alaska's unique conditions. Under that reading, the Park Service could regulate "non-public" lands in Alaska only through rules applicable *outside* Alaska as well. Thus, for example, if the Park Service elected to allow hovercraft during hunting season in Alaska—in a departure from its nationwide rule—the more relaxed regulation would apply only to the "public" land within the boundaries of the unit. Hovercraft would still be banned from the "non-public" land, even during hunting season. Whatever the reach of the Park Service's authority under ANILCA, we cannot conclude that Section 103(c) adopted such a topsy-turvy approach.

Moreover, it is clear that Section 103(c) draws a distinction between "public" and "non-public" lands within the boundaries of conservation system units in Alaska. See § 3103(c) ("Only those lands within the boundaries of any conservation system unit which are public lands . . . shall be deemed to be included as a portion of such unit"); *ibid.* (No lands "conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units"). And yet, according to the court below, if the Park Service wanted to differentiate between that "public" and "non-public" land in an Alaska-specific way, it would have to regulate the "non-public" land pursuant to rules applicable outside Alaska, and the "public" land pursuant to Alaska-specific provisions. Assuming the Park Service has authority over "non-public" land in Alaska (an issue we do not decide), that strikes us as an implausible reading of the statute.

Looking at ANILCA both as a whole and with respect to Section 103(c), the Act contemplates the possibility that all

the land within the boundaries of conservation system units in Alaska may be treated differently from federally managed preservation areas across the country, and that "non-public" lands within the boundaries of those units may be treated differently from "public" lands within the unit. Under the Ninth Circuit's reading of Section 103(c), however, the former is not an option, and the latter would require contorted and counterintuitive measures.

We therefore reject the interpretation of Section 103(c) adopted by the court below. That reading of the statute was the sole basis for the disposition of this case by the Court of Appeals. We accordingly vacate the judgment of that court and remand for further proceedings.

We do not reach the remainder of the parties' arguments. In particular, we do not decide whether the Nation River qualifies as "public land" for purposes of ANILCA. Sturgeon claims that it does not; the Park Service that it does. The parties' arguments in this respect touch on vital issues of state sovereignty, on the one hand, and federal authority, on the other. We find that in this case those issues should be addressed by the lower courts in the first instance.

Given this determination, we also do not decide whether the Park Service has authority under Section 100751(b) to regulate Sturgeon's activities on the Nation River, even if the river is not "public" land, or whether—as Sturgeon argues—any such authority is limited by ANILCA. Finally, we do not consider the Park Service's alternative argument that it has authority under ANILCA over both "public" and "non-public" lands within the boundaries of conservation system units in Alaska, to the extent a regulation is written to apply specifically to both types of land. We leave those arguments to the lower courts for consideration as necessary.

The judgment of the Court of Appeals for the Ninth Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

Syllabus

# TYSON FOODS, INC. *v.* BOUAPHAKEO ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 14–1146. Argued November 10, 2015—Decided March 22, 2016

Respondents, employees of petitioner Tyson Foods, work in the kill, cut, and retrim departments of a pork processing plant in Iowa. Respondents' work requires them to wear protective gear, but the exact composition of the gear depends on the tasks a worker performs on a given day. Petitioner compensated some, but not all, employees for this donning and doffing, and did not record the time each employee spent on those activities. Respondents filed suit, alleging that the donning and doffing were integral and indispensable to their hazardous work and that petitioner's policy not to pay for those activities denied them overtime compensation required by the Fair Labor Standards Act of 1938 (FLSA). Respondents also raised a claim under an Iowa wage law. They sought certification of their state claims as a class action under Federal Rule of Civil Procedure 23 and certification of their FLSA claims as a "collective action." See 29 U. S. C. §216. Petitioner objected to certification of both classes, arguing that, because of the variance in protective gear each employee wore, the employees' claims were not sufficiently similar to be resolved on a classwide basis. The District Court concluded that common questions, such as whether donning and doffing protective gear was compensable under the FLSA, were susceptible to classwide resolution even if not all of the workers wore the same gear. To recover for a violation of the FLSA's overtime provision, the employees had to show that they each worked more than 40 hours a week, inclusive of the time spent donning and doffing. Because petitioner failed to keep records of this time, the employees primarily relied on a study performed by an industrial relations expert, Dr. Kenneth Mericle. Mericle conducted videotaped observations analyzing how long various donning and doffing activities took, and then averaged the time taken to produce an estimate of 18 minutes a day for the cut and retrim departments and 21.25 minutes for the kill department. These estimates were then added to the timesheets of each employee to ascertain which class members worked more than 40 hours a week and the value of classwide recovery. Petitioner argued that the varying amounts of time it took employees to don and doff different protective

gear made reliance on Mericle's sample improper, and that its use would lead to recovery for individuals who, in fact, had not worked the requisite 40 hours. The jury awarded the class about $2.9 million in unpaid wages. The award has not yet been disbursed to individual employees. The Eighth Circuit affirmed the judgment and the award.

*Held*: The District Court did not err in certifying and maintaining the class. Pp. 452–462.

(a) Before certifying a class under Rule 23(b)(3), a district court must find that "questions of law or fact common to class members predominate over any questions affecting only individual members." The parties agree that the most significant question common to the class is whether donning and doffing protective gear is compensable under the FLSA. Petitioner claims, however, that individual inquiries into the time each worker spent donning and doffing predominate over this common question. Respondents argue that individual inquiries are unnecessary because it can be assumed each employee donned and doffed for the same average time observed in Mericle's sample.

Whether and when statistical evidence such as Mericle's sample can be used to establish classwide liability depends on the purpose for which the evidence is being introduced and on "the elements of the underlying cause of action," *Erica P. John Fund, Inc.* v. *Halliburton Co.*, 563 U. S. 804, 809. Because a representative sample may be the only feasible way to establish liability, it cannot be deemed improper merely because the claim is brought on behalf of a class. Respondents can show that Mericle's sample is a permissible means of establishing hours worked in a class action by showing that each class member could have relied on that sample to establish liability had each brought an individual action.

*Anderson* v. *Mt. Clemens Pottery Co.*, 328 U. S. 680, shows why Mericle's sample was permissible in the circumstances of this case. There, where an employer violated its statutory duty to keep proper records, the Court concluded the employees could meet their burden by proving that they in fact "performed work for which [they were] improperly compensated and . . . produc[ing] sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference." *Id.*, at 687. Here, similarly, respondents sought to introduce a representative sample to fill an evidentiary gap created by the employer's failure to keep adequate records. Had the employees proceeded with individual lawsuits, each employee likely would have had to introduce Mericle's study to prove the hours he or she worked. The representative evidence was a permissible means of showing individual hours worked.

This holding is in accord with *Wal-Mart Stores, Inc.* v. *Dukes*, 564 U. S. 338, where the underlying question was, as here, whether the sam-

ple at issue could have been used to establish liability in an individual action. There, the employees were not similarly situated, so none of them could have prevailed in an individual suit by relying on depositions detailing the ways in which other employees were discriminated against by their particular store managers. In contrast, the employees here, who worked in the same facility, did similar work, and were paid under the same policy, could have introduced Mericle's study in a series of individual suits.

This case presents no occasion for adoption of broad and categorical rules governing the use of representative and statistical evidence in class actions. Rather, the ability to use a representative sample to establish classwide liability will depend on the purpose for which the sample is being introduced and on the underlying cause of action. In FLSA actions, inferring the hours an employee has worked from a study such as Mericle's has been permitted by the Court so long as the study is otherwise admissible. *Mt. Clemens*, *supra,* at 687. Pp. 453–460.

(b) Petitioner contends that respondents are required to demonstrate that uninjured class members will not recover damages here. That question is not yet fairly presented by this case, because the damages award has not yet been disbursed and the record does not indicate how it will be disbursed. Petitioner may raise a challenge to the allocation method when the case returns to the District Court for disbursal of the award. Pp. 460–462.

765 F. 3d 791, affirmed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. ROBERTS, C. J., filed a concurring opinion, in which ALITO, J., joined as to Part II, *post*, p. 462. THOMAS, J., filed a dissenting opinion, in which ALITO, J., joined, *post*, p. 467.

*Carter G. Phillips* argued the cause for petitioner. With him on the briefs were *Joseph R. Guerra*, *C. Frederick Beckner III*, *Kathleen Moriarity Mueller*, *Michael J. Mueller*, *Emily Burkhardt Vicente*, and *Evangeline C. Paschal.*

*David C. Frederick* argued the cause for respondents. With him on the brief were *Derek T. Ho*, *Scott Michelman*, *Scott L. Nelson*, *Allison M. Zieve*, *Robert L. Wiggins, Jr.*, and *Eric Schnapper.*

*Elizabeth B. Preloger* argued the cause for the United States as *amicus curiae* urging affirmance. With her on

Counsel

the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Kneedler*, *Brian H. Fletcher*, and *M. Patricia Smith.**

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*Briefs of *amici curiae* urging reversal were filed for the Association of American Railroads by *J. Scott Ballenger* and *Daniel Saphire*; for the Atlantic Legal Foundation et al. by *Martin S. Kaufman* and *Mary-Christine Sungaila*; for the Cato Institute by *Andrew M. Grossman*, *Ilya Shapiro*, *Deborah H. Renner*, and *John B. Lewis*; for the Chamber of Commerce of the United States of America et al. by *Ashley C. Parrish*, *Nikesh Jindal*, *Kate Comerford Todd*, *Warren Postman*, *Deborah R. White*, *Karen R. Harned*, and *Elizabeth Milito*; for the Consumer Data Industry Association by *Robert A. Long, Jr.*, and *David M. Zionts*; for Dow Chemical Co. by *Stephen M. Shapiro*, *Timothy S. Bishop*, *Joshua D. Yount*, *Chad M. Clamage*, *Charles J. Kalil*, and *Duncan A. Stuart*; for DRI–The Voice of the Defense Bar by *William M. Jay*, *John Parker Sweeney*, and *Joshua M. Daniels*; for the Equal Employment Advisory Council by *Rae T. Vann*; for the National Association of Manufacturers et al. by *Phillip S. Goldberg* and *Cary Silverman*; for the Pacific Legal Foundation by *Timothy Sandefur* and *Anastasia P. Boden*; for the Product Liability Advisory Council, Inc., by *John H. Beisner* and *Geoffrey M. Wyatt*; for Trans Union LLC by *Stephen J. Newman* and *Julia B. Strickland*; for Wal-Mart Stores, Inc., by *Theodore J. Boutrous, Jr.*, *Julian W. Poon*, *Alexander K. Mircheff*, *Mark A. Perry*, and *Amir C. Tayrani*; and for the Washington Legal Foundation by *Richard A. Samp*.

Briefs of *amici curiae* urging affirmance were filed for the State of Illinois et al. by *Lisa Madigan*, Attorney General of Illinois, *Carolyn E. Shapiro*, Solicitor General, *Brett E. Legner*, Deputy Solicitor General, and *Cara A. Hendrickson*, *Jane R. Flanagan*, and *Leigh J. Richie*, Assistant Attorneys General, and by the Attorneys General for their respective States as follows: *George Jepsen* of Connecticut, *Brian E. Frosh* of Maryland, *Maura Healey* of Massachusetts, *Eric T. Schneiderman* of New York, *Ellen F. Rosenblum* of Oregon, *Kathleen G. Kane* of Pennsylvania, and *Bob Ferguson* of Washington; for AARP et al. by *Seth R. Lesser*, *Catherine Ruckelshaus*, *Dan Kohrman*, and *Laurie A. McCann*; for the American Association for Justice by *Jeffrey R. White* and *Larry A. Tawwater*; for the American Federation of Labor and Congress of Industrial Organizations by *Lynn K. Rhinehart*, *Harold Craig Becker*, and *Yona Rozen*; for the American Independent Business Alliance by *Thomas V. Urmy, Jr.*; for Civil Procedure Professors by *David N. Rosen*; for Complex Litigation Law Professors by *Robert A. Clifford*; for Economists et al. by *Ellen Meriwether*; for the Impact Fund et al. by *Deepak Gupta*, *Jonathan*

JUSTICE KENNEDY delivered the opinion of the Court.

Following a jury trial, a class of employees recovered $2.9 million in compensatory damages from their employer for a violation of the Fair Labor Standards Act of 1938 (FLSA), 52 Stat. 1060, as amended, 29 U. S. C. § 201 *et seq.* The employees' primary grievance was that they did not receive statutorily mandated overtime pay for time spent donning and doffing protective equipment.

The employer seeks to reverse the judgment. It makes two arguments. Both relate to whether it was proper to permit the employees to pursue their claims as a class. First, the employer argues the class should not have been certified because the primary method of proving injury assumed each employee spent the same time donning and doffing protective gear, even though differences in the composition of that gear may have meant that, in fact, employees took different amounts of time to don and doff. Second, the employer argues certification was improper because the damages awarded to the class may be distributed to some persons who did not work any uncompensated overtime.

The Court of Appeals for the Eighth Circuit concluded there was no error in the District Court's decision to certify and maintain the class. This Court granted certiorari. 576 U. S. 1003 (2015).

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*E. Taylor*, *Jocelyn Larkin*, and *Robert L. Schug*; for Industrial Polymers, Inc., et al. by *Paul D. Clement*, *Jeffrey M. Harris*, *Donald L. Perelman*, *Roberta D. Liebenberg*, *Gerard A. Dever*, *Matthew Duncan*, *Richard A. Koffman*, *Kit A. Pierson*, *Christopher J. Cormier*, *Robert W. Coykendall*, *Roger N. Walter*, and *Joseph Goldberg*; for Public Justice, P. C., by *Jonathan D. Selbin*, *Rachel Geman*, *Michael J. Miarmi*, *Jason L. Lichtman*, *Elizabeth J. Cabraser*, and *Leslie A. Brueckner*; for the United Food and Commercial Workers International Union by *Joseph M. Sellers*, *Christine E. Webber*, *Nicholas W. Clark*, and *Renee L. Bowser*; for Michelle Braun et al. by *Robert S. Peck*, *Michael D. Donovan*, and *Judith L. Spanier*; and for Alexandra D. Lahav et al. by *Sachin S. Pandva*, *pro se*.

*Allan Erbsen* filed a brief for Civil Procedure Scholars as *amici curiae*.

I

Respondents are employees at petitioner Tyson Foods' pork processing plant in Storm Lake, Iowa. They work in the plant's kill, cut, and retrim departments, where hogs are slaughtered, trimmed, and prepared for shipment. Grueling and dangerous, the work requires employees to wear certain protective gear. The exact composition of the gear depends on the tasks a worker performs on a given day.

Until 1998, employees at the plant were paid under a system called "gang-time." This compensated them only for time spent at their workstations, not for the time required to put on and take off their protective gear. In response to a federal-court injunction, and a Department of Labor suit to enforce that injunction, Tyson in 1998 began to pay all its employees for an additional four minutes a day for what it called "K-code time." The 4-minute period was the amount of time Tyson estimated employees needed to don and doff their gear. In 2007, Tyson stopped paying K-code time uniformly to all employees. Instead, it compensated some employees for between four and eight minutes but paid others nothing beyond their gang-time wages. At no point did Tyson record the time each employee spent donning and doffing.

Unsatisfied by these changes, respondents filed suit in the United States District Court for the Northern District of Iowa, alleging violations of the FLSA. The FLSA requires that a covered employee who works more than 40 hours a week receive compensation for excess time worked "at a rate not less than one and one-half times the regular rate at which he is employed." 29 U. S. C. §207(a). In 1947, nine years after the FLSA was first enacted, Congress passed the Portal-to-Portal Act, which clarified that compensable work does not include time spent walking to and from the employee's workstation or other "preliminary or postliminary activities." §254(d). The FLSA, however, still requires employers to pay employees for activities "integral and

indispensable" to their regular work, even if those activities do not occur at the employee's workstation. *Steiner* v. *Mitchell*, 350 U. S. 247, 249, 255 (1956). The FLSA also requires an employer to "make, keep, and preserve . . . records of the persons employed by him and of the wages, hours, and other conditions and practices of employment." § 211(c).

In their complaint, respondents alleged that donning and doffing protective gear were integral and indispensable to their hazardous work and that petitioner's policy not to pay for those activities denied them overtime compensation required by the FLSA. Respondents also raised a claim under the Iowa Wage Payment Collection Law. This statute provides for recovery under state law when an employer fails to pay its employees "all wages due," which includes FLSA-mandated overtime. Iowa Code § 91A.3 (2013); cf. *Anthony* v. *State*, 632 N. W. 2d 897, 901–902 (Iowa 2001).

Respondents sought certification of their Iowa law claims as a class action under Rule 23 of the Federal Rules of Civil Procedure. Rule 23 permits one or more individuals to sue as "representative parties on behalf of all members" of a class if certain preconditions are met. Fed. Rule Civ. Proc. 23(a). Respondents also sought certification of their federal claims as a "collective action" under 29 U. S. C. § 216. Section 216 is a provision of the FLSA that permits employees to sue on behalf of "themselves and other employees similarly situated." § 216(b).

Tyson objected to the certification of both classes on the same ground. It contended that, because of the variance in protective gear each employee wore, the employees' claims were not sufficiently similar to be resolved on a classwide basis. The District Court rejected that position. It concluded there were common questions susceptible to classwide resolution, such as "whether the donning and doffing of [protective gear] is considered work under the FLSA, whether such work is integral and [in]dispensable, and whether any compensable work is *de minim[i]s*." 564 F.

Supp. 2d 870, 899 (ND Iowa 2008). The District Court acknowledged that the workers did not all wear the same protective gear, but found that "when the putative plaintiffs are limited to those that are paid via a gang time system, there are far more factual similarities than dissimilarities." *Id.*, at 899–900. As a result, the District Court certified the following classes:

> "All current and former employees of Tyson's Storm Lake, Iowa, processing facility who have been employed at any time from February 7, 2004 [in the case of the FLSA collective action and February 7, 2005, in the case of the state-law class action], to the present, and who are or were paid under a 'gang time' compensation system in the Kill, Cut, or Retrim departments." *Id.*, at 901.

The only difference in definition between the classes was the date at which the class period began. The size of the class certified under Rule 23, however, was larger than that certified under § 216. This is because, while a class under Rule 23 includes all unnamed members who fall within the class definition, the "sole consequence of conditional certification [under § 216] is the sending of court-approved written notice to employees . . . who in turn become parties to a collective action only by filing written consent with the court." *Genesis HealthCare Corp.* v. *Symczyk*, 569 U. S. 66, 75 (2013). A total of 444 employees joined the collective action, while the Rule 23 class contained 3,344 members.

The case proceeded to trial before a jury. The parties stipulated that the employees were entitled to be paid for donning and doffing of certain equipment worn to protect from knife cuts. The jury was left to determine whether the time spent donning and doffing other protective equipment was compensable; whether Tyson was required to pay for donning and doffing during meal breaks; and the total

amount of time spent on work that was not compensated under Tyson's gang-time system.

Since the employees' claims relate only to overtime, each employee had to show he or she worked more than 40 hours a week, inclusive of time spent donning and doffing, in order to recover. As a result of Tyson's failure to keep records of donning and doffing time, however, the employees were forced to rely on what the parties describe as "representative evidence." This evidence included employee testimony, video recordings of donning and doffing at the plant, and, most important, a study performed by an industrial relations expert, Dr. Kenneth Mericle. Mericle conducted 744 videotaped observations and analyzed how long various donning and doffing activities took. He then averaged the time taken in the observations to produce an estimate of 18 minutes a day for the cut and retrim departments and 21.25 minutes for the kill department.

Although it had not kept records for time spent donning and doffing, Tyson had information regarding each employee's gang-time and K-code time. Using this data, the employees' other expert, Dr. Liesl Fox, was able to estimate the amount of uncompensated work each employee did by adding Mericle's estimated average donning and doffing time to the gang-time each employee worked and then subtracting any K-code time. For example, if an employee in the kill department had worked 39.125 hours of gang-time in a 6-day workweek and had been paid an hour of K-code time, the estimated number of compensable hours the employee worked would be: 39.125 (individual number of gang-time hours worked) + 2.125 (the average donning and doffing hours for a 6-day week, based on Mericle's estimated average of 21.25 minutes a day) – 1 (K-code hours) = 40.25. That would mean the employee was being undercompensated by a quarter of an hour of overtime a week, in violation of the FLSA. On the other hand, if the employee's records showed only 38 hours of gang-time and an hour of K-code time, the calcula-

tion would be: $38 + 2.125 - 1 = 39.125$. Having worked less than 40 hours, that employee would not be entitled to overtime pay and would not have proved an FLSA violation.

Using this methodology, Fox stated that 212 employees did not meet the 40-hour threshold and could not recover. The remaining class members, Fox maintained, had potentially been undercompensated to some degree.

Respondents proposed to bifurcate proceedings. They requested that, first, a trial be conducted on the questions whether time spent in donning and doffing was compensable work under the FLSA and how long those activities took to perform on average; and, second, that Fox's methodology be used to determine which employees suffered an FLSA violation and how much each was entitled to recover. Petitioner insisted upon a single proceeding in which damages would be calculated in the aggregate and by the jury. The District Court submitted both issues of liability and damages to the jury.

Petitioner did not move for a hearing regarding the statistical validity of respondents' studies under *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.*, 509 U. S. 579 (1993), nor did it attempt to discredit the evidence with testimony from a rebuttal expert. Instead, as it had done in its opposition to class certification, petitioner argued to the jury that the varying amounts of time it took employees to don and doff different protective equipment made the lawsuit too speculative for classwide recovery. Petitioner also argued that Mericle's study overstated the average donning and doffing time. The jury was instructed that nontestifying members of the class could only recover if the evidence established they "suffered the same harm as a result of the same unlawful decision or policy." App. 471–472.

Fox's calculations supported an aggregate award of approximately $6.7 million in unpaid wages. The jury returned a special verdict finding that time spent in donning and doffing protective gear at the beginning and end of the

day was compensable work but that time during meal breaks was not. The jury more than halved the damages recommended by Fox. It awarded the class about $2.9 million in unpaid wages. That damages award has not yet been disbursed to the individual employees.

Tyson moved to set aside the jury verdict, arguing, among other things, that, in light of the variation in donning and doffing time, the classes should not have been certified. The District Court denied Tyson's motion, and the Court of Appeals for the Eighth Circuit affirmed the judgment and the award.

The Court of Appeals recognized that a verdict for the employees "require[d] inference" from their representative proof, but it held that "this inference is allowable under *Anderson v. Mt. Clemens Pottery Co.*, 328 U. S. 680, 687 . . . (1946)." 765 F. 3d 791, 797 (2014). The Court of Appeals rejected petitioner's challenge to the sufficiency of the evidence for similar reasons, holding that, under the facts of this case, the jury could have drawn "a 'reasonable inference' of class-wide liability." *Id.*, at 799 (quoting *Anderson* v. *Mt. Clemens Pottery Co.*, 328 U. S. 680, 687 (1946)). Judge Beam dissented, stating that, in his view, the class should not have been certified.

For the reasons that follow, this Court now affirms.

## II

Petitioner challenges the class certification of the state-law claims and the certification of the FLSA collective action. The parties do not dispute that the standard for certifying a collective action under the FLSA is no more stringent than the standard for certifying a class under the Federal Rules of Civil Procedure. This opinion assumes, without deciding, that this is correct. For purposes of this case then, if certification of respondents' class action under the Federal Rules was proper, certification of the collective action was proper as well.

Furthermore, as noted above, Iowa's Wage Payment Collection Law was used in this litigation as a state-law mechanism for recovery of FLSA-mandated overtime pay. The parties do not dispute that, in order to prove a violation of the Iowa statute, the employees had to do no more than demonstrate a violation of the FLSA. In this opinion, then, no distinction is made between the requirements for the class action raising the state-law claims and the collective action raising the federal claims.

A

Federal Rule of Civil Procedure 23(b)(3) requires that, before a class is certified under that subsection, a district court must find that "questions of law or fact common to class members predominate over any questions affecting only individual members." The "predominance inquiry tests whether proposed classes are sufficiently cohesive to warrant adjudication by representation." *Amchem Products, Inc.* v. *Windsor*, 521 U. S. 591, 623 (1997). This calls upon courts to give careful scrutiny to the relation between common and individual questions in a case. An individual question is one where "members of a proposed class will need to present evidence that varies from member to member," while a common question is one where "the same evidence will suffice for each member to make a prima facie showing [or] the issue is susceptible to generalized, class-wide proof." 2 W. Rubenstein, Newberg on Class Actions § 4:50, pp. 196–197 (5th ed. 2012) (internal quotation marks omitted). The predominance inquiry "asks whether the common, aggregation-enabling, issues in the case are more prevalent or important than the non-common, aggregation-defeating, individual issues." *Id.*, § 4:49, at 195–196. When "one or more of the central issues in the action are common to the class and can be said to predominate, the action may be considered proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages or some affirmative defenses peculiar to some individual class mem-

bers." 7AA C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 1778, pp. 123–124 (3d ed. 2005) (footnotes omitted).

Here, the parties do not dispute that there are important questions common to all class members, the most significant of which is whether time spent donning and doffing the required protective gear is compensable work under the FLSA. Cf. *IBP, Inc.* v. *Alvarez*, 546 U. S. 21 (2005) (holding that time spent walking between the locker room and the production area after donning protective gear is compensable work under the FLSA). To be entitled to recovery, however, each employee must prove that the amount of time spent donning and doffing, when added to his or her regular hours, amounted to more than 40 hours in a given week. Petitioner argues that these necessarily person-specific inquiries into individual worktime predominate over the common questions raised by respondents' claims, making class certification improper.

Respondents counter that these individual inquiries are unnecessary because it can be assumed each employee donned and doffed for the same average time observed in Mericle's sample. Whether this inference is permissible becomes the central dispute in this case. Petitioner contends that Mericle's study manufactures predominance by assuming away the very differences that make the case inappropriate for classwide resolution. Reliance on a representative sample, petitioner argues, absolves each employee of the responsibility to prove personal injury, and thus deprives petitioner of any ability to litigate its defenses to individual claims.

Calling this unfair, petitioner and various of its *amici* maintain that the Court should announce a broad rule against the use in class actions of what the parties call representative evidence. A categorical exclusion of that sort, however, would make little sense. A representative or statistical sample, like all evidence, is a means to establish or

defend against liability. Its permissibility turns not on the form a proceeding takes—be it a class or individual action—but on the degree to which the evidence is reliable in proving or disproving the elements of the relevant cause of action. See Fed. Rules Evid. 401, 403, and 702.

It follows that the Court would reach too far were it to establish general rules governing the use of statistical evidence, or so-called representative evidence, in all class-action cases. Evidence of this type is used in various substantive realms of the law. Brief for Complex Litigation Law Professors as *Amici Curiae* 5–9; Brief for Economists et al. as *Amici Curiae* 8–10. Whether and when statistical evidence can be used to establish classwide liability will depend on the purpose for which the evidence is being introduced and on "the elements of the underlying cause of action," *Erica P. John Fund, Inc.* v. *Halliburton Co.*, 563 U. S. 804, 809 (2011).

In many cases, a representative sample is "the only practicable means to collect and present relevant data" establishing a defendant's liability. Manual of Complex Litigation § 11.493, p. 102 (4th ed. 2004). In a case where representative evidence is relevant in proving a plaintiff's individual claim, that evidence cannot be deemed improper merely because the claim is brought on behalf of a class. To so hold would ignore the Rules Enabling Act's pellucid instruction that use of the class device cannot "abridge . . . any substantive right." 28 U. S. C. § 2072(b).

One way for respondents to show, then, that the sample relied upon here is a permissible method of proving classwide liability is by showing that each class member could have relied on that sample to establish liability if he or she had brought an individual action. If the sample could have sustained a reasonable jury finding as to hours worked in each employee's individual action, that sample is a permissible means of establishing the employees' hours worked in a class action.

This Court's decision in *Anderson* v. *Mt. Clemens* explains why Mericle's sample was permissible in the circumstances of this case. In *Mt. Clemens*, 7 employees and their union, seeking to represent over 300 others, brought a collective action against their employer for failing to compensate them for time spent walking to and from their workstations. The variance in walking time among workers was alleged to be upwards of 10 minutes a day, which is roughly consistent with the variances in donning and doffing times here. 328 U. S., at 685.

The Court in *Mt. Clemens* held that when employers violate their statutory duty to keep proper records, and employees thereby have no way to establish the time spent doing uncompensated work, the "remedial nature of [the FLSA] and the great public policy which it embodies . . . militate against making" the burden of proving uncompensated work "an impossible hurdle for the employee." *Id.*, at 687; see also *Hoffmann-La Roche Inc.* v. *Sperling*, 493 U. S. 165, 173 (1989) ("The broad remedial goal of the statute should be enforced to the full extent of its terms"). Instead of punishing "the employee by denying him any recovery on the ground that he is unable to prove the precise extent of uncompensated work," the Court held "an employee has carried out his burden if he proves that he has in fact performed work for which he was improperly compensated and if he produces sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference." 328 U. S., at 687. Under these circumstances, "[t]he burden then shifts to the employer to come forward with evidence of the precise amount of work performed or with evidence to negative the reasonableness of the inference to be drawn from the employee's evidence." *Id.*, at 687–688.

In this suit, as in *Mt. Clemens*, respondents sought to introduce a representative sample to fill an evidentiary gap created by the employer's failure to keep adequate records. If the employees had proceeded with 3,344 individual law-

suits, each employee likely would have had to introduce Mericle's study to prove the hours he or she worked. Rather than absolving the employees from proving individual injury, the representative evidence here was a permissible means of making that very showing.

Reliance on Mericle's study did not deprive petitioner of its ability to litigate individual defenses. Since there were no alternative means for the employees to establish their hours worked, petitioner's primary defense was to show that Mericle's study was unrepresentative or inaccurate. That defense is itself common to the claims made by all class members. Respondents' "failure of proof on th[is] common question" likely would have ended "the litigation and thus [would not have] cause[d] individual questions . . . to overwhelm questions common to the class." *Amgen Inc.* v. *Connecticut Retirement Plans and Trust Funds*, 568 U. S. 455, 468 (2013) (emphasis deleted). When, as here, "the concern about the proposed class is not that it exhibits some fatal dissimilarity but, rather, a fatal similarity—[an alleged] failure of proof as to an element of the plaintiffs' cause of action—courts should engage that question as a matter of summary judgment, not class certification." Nagareda, Class Certification in the Age of Aggregate Proof, 84 N. Y. U. L. Rev. 97, 107 (2009).

Petitioner's reliance on *Wal-Mart Stores, Inc.* v. *Dukes*, 564 U. S. 338 (2011), is misplaced. *Wal-Mart* does not stand for the broad proposition that a representative sample is an impermissible means of establishing classwide liability.

*Wal-Mart* involved a nationwide Title VII class of over 1½ million employees. In reversing class certification, this Court did not reach Rule 23(b)(3)'s predominance prong, holding instead that the class failed to meet even Rule 23(a)'s more basic requirement that class members share a common question of fact or law. The plaintiffs in *Wal-Mart* did not provide significant proof of a common policy of discrimination to which each employee was subject. "The only corporate policy that the plaintiffs' evidence convincingly establishe[d

was] Wal-Mart's 'policy' of allowing discretion by local supervisors over employment matters"; and even then, the plaintiffs could not identify "a common mode of exercising discretion that pervade[d] the entire company." *Id.*, at 355–356 (emphasis deleted).

The plaintiffs in *Wal-Mart* proposed to use representative evidence as a means of overcoming this absence of a common policy. Under their proposed methodology, a "sample set of the class members would be selected, as to whom liability for sex discrimination and the backpay owing as a result would be determined in depositions supervised by a master." *Id.*, at 367. The aggregate damages award was to be derived by taking the "percentage of claims determined to be valid" from this sample and applying it to the rest of the class, and then multiplying the "number of (presumptively) valid claims" by "the average backpay award in the sample set." *Ibid.* The Court held that this "Trial By Formula" was contrary to the Rules Enabling Act because it "'enlarge[d]'" the class members' "'substantive right[s]'" and deprived defendants of their right to litigate statutory defenses to individual claims. *Ibid.*

The Court's holding in the instant case is in accord with *Wal-Mart*. The underlying question in *Wal-Mart*, as here, was whether the sample at issue could have been used to establish liability in an individual action. Since the Court held that the employees were not similarly situated, none of them could have prevailed in an individual suit by relying on depositions detailing the ways in which other employees were discriminated against by their particular store managers. By extension, if the employees had brought 1½ million individual suits, there would be little or no role for representative evidence. Permitting the use of that sample in a class action, therefore, would have violated the Rules Enabling Act by giving plaintiffs and defendants different rights in a class proceeding than they could have asserted in an individual action.

In contrast, the study here could have been sufficient to sustain a jury finding as to hours worked if it were introduced in each employee's individual action. While the experiences of the employees in *Wal-Mart* bore little relationship to one another, in this case each employee worked in the same facility, did similar work, and was paid under the same policy. As *Mt. Clemens* confirms, under these circumstances the experiences of a subset of employees can be probative as to the experiences of all of them.

This is not to say that all inferences drawn from representative evidence in an FLSA case are "just and reasonable." *Mt. Clemens*, 328 U. S., at 687. Representative evidence that is statistically inadequate or based on implausible assumptions could not lead to a fair or accurate estimate of the uncompensated hours an employee has worked. Petitioner, however, did not raise a challenge to respondents' experts' methodology under *Daubert*; and, as a result, there is no basis in the record to conclude it was legal error to admit that evidence.

Once a district court finds evidence to be admissible, its persuasiveness is, in general, a matter for the jury. Reasonable minds may differ as to whether the average time Mericle calculated is probative as to the time actually worked by each employee. Resolving that question, however, is the near-exclusive province of the jury. The District Court could have denied class certification on this ground only if it concluded that no reasonable juror could have believed that the employees spent roughly equal time donning and doffing. Cf. *Anderson* v. *Liberty Lobby, Inc.*, 477 U. S. 242, 250–252 (1986). The District Court made no such finding, and the record here provides no basis for this Court to second-guess that conclusion.

The Court reiterates that, while petitioner, respondents, or their respective *amici* may urge adoption of broad and categorical rules governing the use of representative and statistical evidence in class actions, this case provides no oc-

casion to do so. Whether a representative sample may be used to establish classwide liability will depend on the purpose for which the sample is being introduced and on the underlying cause of action. In FLSA actions, inferring the hours an employee has worked from a study such as Mericle's has been permitted by the Court so long as the study is otherwise admissible. *Mt. Clemens*, *supra*, at 687; see also Fed. Rules Evid. 402 and 702. The fairness and utility of statistical methods in contexts other than those presented here will depend on facts and circumstances particular to those cases.

B

In its petition for certiorari petitioner framed its second question presented as whether a class may be certified if it contains "members who were not injured and have no legal right to any damages." Pet. for Cert. i. In its merits brief, however, petitioner reframes its argument. It now concedes that "[t]he fact that federal courts lack authority to compensate persons who cannot prove injury does not mean that a class action (or collective action) can never be certified in the absence of proof that all class members were injured." Brief for Petitioner 49. In light of petitioner's abandonment of its argument from the petition, the Court need not, and does not, address it.

Petitioner's new argument is that, "where class plaintiffs cannot offer" proof that all class members are injured, "they must demonstrate instead that there is some mechanism to identify the uninjured class members prior to judgment and ensure that uninjured members (1) do not contribute to the size of any damage award and (2) cannot recover such damages." *Ibid.* Petitioner contends that respondents have not demonstrated any mechanism for ensuring that uninjured class members do not recover damages here.

Petitioner's new argument is predicated on the assumption that the damages award cannot be apportioned so that only those class members who suffered an FLSA violation re-

cover. According to petitioner, because Fox's mechanism for determining who had worked over 40 hours depended on Mericle's estimate of donning and doffing time, and because the jury must have rejected Mericle's estimate when it reduced the damages award by more than half, it will not be possible to know which workers are entitled to share in the award.

As petitioner and its *amici* stress, the question whether uninjured class members may recover is one of great importance. See, *e. g.*, Brief for Consumer Data Industry Association as *Amicus Curiae*. It is not, however, a question yet fairly presented by this case, because the damages award has not yet been disbursed, nor does the record indicate how it will be disbursed.

Respondents allege there remain ways of distributing the award to only those individuals who worked more than 40 hours. For example, by working backwards from the damages award, and assuming each employee donned and doffed for an identical amount of time (an assumption that follows from the jury's finding that the employees suffered equivalent harm under the policy), it may be possible to calculate the average donning and doffing time the jury necessarily must have found, and then apply this figure to each employee's known gang-time hours to determine which employees worked more than 40 hours.

Whether that or some other methodology will be successful in identifying uninjured class members is a question that, on this record, is premature. Petitioner may raise a challenge to the proposed method of allocation when the case returns to the District Court for disbursal of the award.

Finally, it bears emphasis that this problem appears to be one of petitioner's own making. Respondents proposed bifurcating between the liability and damages phases of this proceeding for the precise reason that it may be difficult to remove uninjured individuals from the class after an award is rendered. It was petitioner who argued against that op-

tion and now seeks to profit from the difficulty it caused. Whether, in light of the foregoing, any error should be deemed invited is a question for the District Court to address in the first instance.

* * *

The judgment of the Court of Appeals for the Eighth Circuit is affirmed, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*

CHIEF JUSTICE ROBERTS, with whom JUSTICE ALITO joins as to Part II, concurring.

Petitioner Tyson Foods presents two primary arguments. First, it claims that class certification was improper because each individual plaintiff spent different amounts of time donning and doffing protective gear. Therefore, according to Tyson, whether and to what extent it owed damages to each individual employee for uncompensated overtime was not a question capable of resolution on a class-wide basis. Second, Tyson argues that the verdict cannot stand because, while no one disputes that the class as certified contains hundreds of uninjured employees, the plaintiffs have not come up with any way to ensure that those employees do not recover damages from the jury's lump-sum award.

The Court rejects the first argument and leaves the second for initial resolution by the lower courts. I join the Court's opinion in full. I write separately to explain my understanding of the Court's resolution of the case and to express my concern that the District Court may not be able to fashion a method for awarding damages only to those class members who suffered an actual injury.

I

A class may be certified under Federal Rule of Civil Procedure 23(b)(3) only if "questions of law or fact common to class members predominate over any questions affecting only indi-

vidual members." A common question is one in which "the issue is susceptible to generalized, class-wide proof." *Ante*, at 453 (quoting 2 W. Rubenstein, Newberg on Class Actions § 4:50, pp. 196–197 (5th ed. 2012); (internal quotation marks omitted)).

To prove liability and damages, respondents had to establish the amount of compensable (but uncompensated) donning and doffing time for each individual plaintiff. The Court properly concludes that despite the differences in donning and doffing time for individual class members, respondents could adequately prove the amount of time for each individual through generalized, class-wide proof. That proof was Dr. Mericle's representative study. As the Court observes, "each class member could have relied on that [study] to establish liability if he or she had brought an individual action." *Ante*, at 455. And when representative evidence would suffice to prove a plaintiff's individual claim, that evidence cannot be deemed improper merely because the claim is brought as part of a class action. See *ante*, at 454–455.

I agree with JUSTICE THOMAS that our decision in *Anderson* v. *Mt. Clemens Pottery Co.*, 328 U. S. 680 (1946), does not provide a "special, relaxed rule authorizing plaintiffs to use otherwise inadequate representative evidence in FLSA-based cases." *Post*, at 472 (dissenting opinion). But I do not read the Court's opinion to be inconsistent with that conclusion. Rather, I take the Court to conclude that Dr. Mericle's study constituted sufficient proof from which the jury could find "the amount and extent of [each individual respondent's] work as a matter of just and reasonable inference"—the same standard of proof that would apply in any case. *Ante*, at 456 (internal quotation marks omitted). It is with that understanding that I join the opinion of the Court.

## II

As for Tyson's second argument, it is undisputed that hundreds of class members suffered no injury in this case. See

Brief for Respondents 52–53; Tr. of Oral Arg. 30. The question is: which ones? The only way to know is to figure out how much donning and doffing time the jury found Tyson owed the workers in each department. But the jury returned a lump-sum verdict of $2.9 million on a class-wide basis, without specifying any particular amount of donning and doffing time used to calculate that number. If we knew that the jury had accepted the plaintiffs' proposed average donning and doffing times in calculating the verdict, we could easily overcome this problem. But we know the jury did no such thing. And with no way to reverse engineer the verdict to determine how much donning and doffing time the jury found Tyson owed workers in each department, we do not know which plaintiffs the jury found to be injured (or not).

Tyson contends that unless the District Court can fashion a means of identifying those class members not entitled to damages, it must throw out the jury's verdict and decertify the class. I agree with the Court's decision to leave that issue to be addressed in the first instance by the District Court. But I am not convinced that the District Court will be able to devise a means of distributing the aggregate award only to injured class members.

As the Court explains, each plaintiff in this case suffered actual harm only if he: (1) was not compensated for at least some compensable donning and doffing time; *and* (2) worked more than 40 hours in a workweek, including any compensable donning and doffing time. See *ante*, at 461. In other words, it is not enough that a plaintiff was uncompensated for compensable donning and doffing time; unless that plaintiff also worked more than 40 hours in a week (including compensable donning and doffing time), he is owed no overtime pay and therefore suffered no injury.

If the jury credited Dr. Mericle's averages—18 minutes per day of donning and doffing time for employees in the fabrication (cut and retrim) departments, 21.25 for employees in the kill department—the District Court could have as-

sumed that the jury found that each plaintiff from those departments donned and doffed the average amounts of time and used those averages to determine which plaintiffs had worked more than 40 hours (and awarded damages on that understanding).

The problem is that the jury obviously did not credit Dr. Mericle's averages. According to Dr. Fox, another of the plaintiffs' experts, those averages would have resulted in a $6.7 million verdict across the 3,344 member class. *Ante*, at 451–452. The jury, however, awarded the plaintiffs only $2.9 million.

How, then, did the jury arrive at that $2.9 million figure? The jury might have determined that Dr. Mericle's average was correct for the kill department, but overstated for the fabrication departments. Or vice versa. Or the jury might have found that Dr. Mericle's averages overstated the donning and doffing time in all departments, by varying degrees. Any of those conclusions would have been permissible on these facts, and any of those options would have reduced the jury verdict from the $6.7 million proposed by Dr. Fox. But in arriving at the $2.9 million verdict, we have no way of knowing how much donning and doffing time the jury actually found to have occurred in the kill and fabrication departments, respectively.

And there's the rub. We know that the jury must have found at least one of Dr. Mericle's two averages to be too high. And we know, as Dr. Fox testified, that if Dr. Mericle's averages were even slightly too high, hundreds of class members would fall short of the 40-hour workweek threshold that would entitle them to damages. See *post*, at 471. But because we do not know how much donning and doffing time the jury found to have occurred in each department, we have no way of knowing which plaintiffs failed to cross that 40-hour threshold.

To illustrate: Take a fabrication employee and a kill employee, each of whom worked a 39-hour workweek before

counting any compensable donning and doffing time. If the jury credited Dr. Mericle's kill department average but discounted his fabrication average to below one hour per week, the jury would have found that the kill employee was injured, while the fabrication employee was not. But the jury also might have done the exact opposite. We just don't know—and so we have no way to determine which plaintiffs the jury concluded were injured.

The plaintiffs believe they can surmount this obstacle. As the Court explains, they propose to work backward from the damages award by assuming that each employee donned and doffed for an identical amount of time. *Ante*, at 461. That won't work, however, because there is no indication that the jury made the same assumption. Indeed, the most reasonable guess is that the jury did *not* find that employees in different departments donned and doffed for identical amounts of time. After all, the plaintiffs' own expert indicated that employees in different departments donned and doffed for *different* amounts of time.

Given this difficulty, it remains to be seen whether the jury verdict can stand. The Court observes in dicta that the problem of distributing the damages award "appears to be one of petitioner's own making." *Ibid.* Perhaps. But Tyson's insistence on a lump-sum jury award cannot overcome the limitations placed on the federal courts by the Constitution. Article III does not give federal courts the power to order relief to any uninjured plaintiff, class action or not. The Judiciary's role is limited "to provid[ing] relief to claimants, in individual or class actions, who have suffered, or will imminently suffer, actual harm." *Lewis* v. *Casey*, 518 U. S. 343, 349 (1996). Therefore, if there is no way to ensure that the jury's damages award goes only to injured class members, that award cannot stand. This issue should be considered by the District Court in the first instance. As the Court properly concludes, the problem is not presently ripe for our review.

JUSTICE THOMAS, with whom JUSTICE ALITO joins, dissenting.

Our precedents generally prohibit plaintiffs from maintaining a class action when an important element of liability depends on facts that vary among individual class members. This case concerns whether and when class-action plaintiffs can overcome that general rule by using representative evidence as common proof of an otherwise individualized issue. Our precedents resolve that question: Before class-action plaintiffs can use representative evidence in this way, district courts must undertake a rigorous analysis to ensure that such evidence is sufficiently probative of the individual issue to make it susceptible to classwide proof. The District Court did not satisfy that obligation here, and its failure to do so prejudiced defendant Tyson Foods at trial. The Court reaches a contrary conclusion by redefining class-action requirements and devising an unsound special evidentiary rule for cases under the Fair Labor Standards Act of 1938 (FLSA), 29 U. S. C. § 201 *et seq.* I respectfully dissent.

## I

"The class action is an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only." *Comcast Corp.* v. *Behrend*, 569 U. S. 27, 33 (2013) (internal quotation marks omitted). Plaintiffs thus "must affirmatively demonstrate [their] compliance" with Rule 23. *Wal-Mart Stores, Inc.* v. *Dukes*, 564 U. S. 338, 350 (2011). Where, as here, a putative class seeks money damages, plaintiffs also must satisfy the "demanding" standard of predominance, *Comcast*, *supra*, at 34, by proving that "questions of law or fact common to class members predominate over any questions affecting only individual members," Fed. Rule Civ. Proc. 23(b)(3).

District courts must also ensure continued compliance with Rule 23 throughout the case. When a district court erroneously certifies a class, then holds a trial, reversal is

required when the record shows that improper certification prejudiced the defendant. And an incorrect class certification decision almost inevitably prejudices the defendant. When a district court allows class plaintiffs to prove an individualized issue with classwide evidence, the court relieves them of their burden to prove each element of their claim for each class member and impedes the defendant's efforts to mount an effective defense.

Here, the District Court misconstrued the elements of the plaintiffs' claims. And it failed to recognize that one critical element of those claims raised an individual issue that would predominate over any common issues. The court therefore did not ask whether that individual issue was susceptible to common proof. That error, at the class certification stage, then prejudiced Tyson at trial. It was only at trial that the plaintiffs introduced the critical evidence at issue in this case. They introduced, as representative of the class, a study by the plaintiffs' expert, Dr. Kenneth Mericle. The District Court still declined to consider whether this evidence was appropriate common proof—even though the study showed wide variations among class members on an important individual issue. These errors prejudiced Tyson and warrant reversal.

A

The District Court erred at the class certification stage by holding that the plaintiffs satisfied Rule 23's predominance requirement. The plaintiffs alleged that Tyson failed to adequately pay workers overtime for donning and doffing protective gear, in violation of the Iowa Wage Payment Collection Law, Iowa Code § 91A.3 (2013). This Iowa law mirrors the FLSA.[1] An employer violates these laws if it employs someone "for a workweek longer than forty hours" and fails

[1] The plaintiffs also brought a collective action under the FLSA. Because the jury verdict combined the two actions, deficiencies in the class action require reversal of the entire judgment.

to adequately compensate him for the overtime. 29 U. S. C. § 207(a)(1). Here, the plaintiffs could establish Tyson's liability to all class members only if: (1) the donning and doffing at issue is compensable work; (2) all employees worked over 40 hours, including donning and doffing time; and (3) Tyson failed to compensate each employee for all overtime.

The District Court should have begun its predominance inquiry by determining which elements of the plaintiffs' claims present common or individual issues, and assessed whether individual issues would overwhelm common ones. See *Halliburton Co.* v. *Erica P. John Fund, Inc.*, 573 U. S. 258, 275–276 (2014); *Erica P. John Fund, Inc.* v. *Halliburton Co.*, 563 U. S. 804, 809 (2011). The plaintiffs' claims here had one element that was clearly individualized: whether each employee worked over 40 hours without receiving full overtime pay. The amount of time that employees spent on donning and doffing varied by person because individuals take different amounts of time to don and doff the same gear, and their gear varied. This issue was critical to determining Tyson's liability because some employees would not have worked over 40 hours per week without counting time spent on donning and doffing. The critical issue for class certification thus was whether the individualized nature of employees' donning and doffing times defeated predominance.

The District Court, however, certified a 3,344-member class without acknowledging the significance of this individual issue, let alone addressing whether it was susceptible to common proof. The court acknowledged that "[i]ndividual questions may exist" and that Tyson was objecting to being "forced to defend against *un* common evidence" because the plaintiffs had no common evidence establishing what gear all employees wore "or how long [they] spend donning and doffing their [gear]." 564 F. Supp. 2d 870, 900, 909 (ND Iowa 2008). But, in the District Court's view, common issues predominated because the plaintiffs could establish classwide liability just by showing that Tyson was not paying any em-

ployee for the time it took to don or doff basic gear. *Id.*, at 909; see *id.*, at 900, 904, 905 (similar).

The District Court thus did not give proper consideration to the significance of variable donning and doffing times. Establishing an FLSA violation across the entire class was impossible without evidence that *each* employee would have worked over 40 hours per week if donning and doffing time were included. But the District Court did not fully appreciate that this was a critical individual issue that defined Tyson's liability, and it did not analyze, in any way, whether this issue was susceptible to common proof. As a result, the District Court erred when it certified the class.

## B

It was only later at trial that the plaintiffs introduced the critical evidence that they claimed could establish all employees' donning and doffing times on a classwide basis. This evidence came from the plaintiffs' expert, Dr. Mericle, who studied how long certain Tyson employees took to don and doff various gear. This was the "most important" evidence at trial. *Ante*, at 450. Without it, the plaintiffs almost certainly could not have obtained a classwide verdict. But rather than showing that employees' donning and doffing times were susceptible to classwide proof, Mericle's evidence showed that employees' donning and doffing times varied materially. Mericle's evidence thus confirmed the inappropriateness of class treatment.

Mericle used about 53 employees per donning- or doffing-related activity to extrapolate averages for the 3,344-person class. By averaging the times that sample employees spent per activity, Mericle estimated that all cut or retrim department employees spent 18 minutes per day on uncompensated activities (including donning and doffing), while kill department employees averaged 21.25 minutes.

Mericle's data, however, revealed material variances in the amount of time that individual employees spent on the same

activities. Cut and retrim employees took between 0.583 minutes and over 10 minutes to don preshift equipment at their lockers. Postshift doffing took one employee less than two minutes, and another over nine minutes. Kill department employees had similar variances. No two employees performed the same activity in the same amount of time, and Mericle observed "a lot of variation within the activity." App. 387.

The plaintiffs' trial evidence also showed that variances in the amount of time that employees spent on donning and doffing activities significantly affected the number of class members who could assert overtime claims. The plaintiffs' other expert, Dr. Liesl Fox, added Mericle's average times to individual employees' timesheets to determine which class members had overtime claims. She discovered that 212 of the 3,344 class members had no claims at all because they had not worked over 40 hours per week. If Mericle's averages even slightly overestimated average donning and doffing times, another 282 class members would have no overtime claims. If average donning or doffing times dropped from 18–21 minutes to 15 minutes, Fox stated, another 110 employees had no overtime claims. According to Fox, incremental changes to donning and doffing times mattered so much that her estimated damages figure ($6.6 million) would be meaningless if the jury discounted Mericle's data at all. Yet the jury ultimately rejected that damages figure—seemingly disagreeing that Mericle's average times reflected the amount of time that every class member spent donning and doffing.

Because the District Court did not evaluate Mericle's and Fox's evidence in its initial class certification decision, it should have revisited certification when faced with this evidence at trial. It declined to do so even after Tyson objected to using this evidence to establish the amount of time all class members spent donning and doffing. See 2011 WL 3793962 (ND Iowa, Aug. 25, 2011) (rejecting decertification

motion); 2012 WL 4471119 (ND Iowa, Sept. 26, 2012) (summarily denying post-trial decertification). The court thus never made findings or analyzed whether, under Rule 23(b)(3), Mericle's study could be used as common proof of an individual issue that would otherwise preclude class treatment.

The District Court's jury instructions did not cure this deficiency. No instruction could remedy a court's failure to address why an individual issue was susceptible to common proof. In any event, the court instructed the jury that "expert testimony"—like Mericle's—should get "as much weight as you think it deserves." App. 471. The court also let the jury rely on representative evidence to establish each class member's claim even if the jury believed that employees' donning and doffing times varied considerably. See *ibid.*

In sum, the plaintiffs at no time had to justify whether the variability among class members here was too much for representative evidence to fill the gap with common proof. Nor did the District Court address whether Mericle's study—which showed significant variability in how much time employees spent on donning and doffing—was permissible common proof. These errors created an unacceptable risk that Tyson would be held liable to a large class without adequate proof that each individual class member was owed overtime. Before defendants can be forced to defend against a class action, courts must be sure that Rule 23's criteria are met. The District Court's failure to do so warrants reversal.

## II

The majority reaches a contrary result by erring in three significant ways. First, the majority alters the predominance inquiry so that important individual issues are less likely to defeat class certification. Next, the majority creates a special, relaxed rule authorizing plaintiffs to use otherwise inadequate representative evidence in FLSA-based cases by misreading *Anderson* v. *Mt. Clemens Pottery Co.*

328 U. S. 680 (1946). Finally, the majority points to Tyson's litigation strategy and purported differences from prior Rule 23 precedents. None of these justifications withstands scrutiny.

A

The majority begins by redefining the predominance standard. According to the majority, if some "'central issues'" present common questions, "'the action may be considered proper under Rule 23(b)(3) even though other important matters will have to be tried separately, such as damages or some affirmative defenses peculiar to some individual class members.'" *Ante*, at 453–454 (quoting 7AA C. Wright, A. Miller, & M. Kane, Federal Practice & Procedure § 1778, pp. 123–124 (3d ed. 2005); footnotes omitted).

We recently—and correctly—held the opposite. In *Comcast*, we deemed the lack of a common methodology for proving damages fatal to predominance because "[q]uestions of individual damage calculations will inevitably overwhelm questions common to the class." 569 U. S., at 34.[2] If, as the majority states, this case presents "no occasion" to announce "broad and categorical rules governing the use of representative and statistical evidence in class actions," *ante*, at 459–460, it should most certainly not present an occasion to transform basic aspects of the predominance inquiry.

B

The majority further errs in concluding that the representative evidence here showed that class members' claims

[2] The majority relies on the same treatise citations that the *Comcast* dissent invoked to argue that individualized damages calculations should never defeat predominance. 569 U. S., at 27, 41–42 (opinion of BREYER, J.). Since then, these treatises have acknowledged the tension between their views of predominance and *Comcast*. See 7AA C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 1778, p. 37 (3d ed. Supp. 2015); 2 W. Rubenstein, Newberg on Class Actions § 4:54, p. 21 (5th ed. Supp. June 2015).

were susceptible to common proof. See *ante*, at 453–460. As the majority observes, representative evidence can be used to prove an individual issue on a classwide basis if each class member, in an individual action, could rely on that evidence to prove his individual claim. *Ante*, at 455. But that premise should doom the plaintiffs' case. Even testifying class members would seem unable to use Mericle's averages. For instance, Mericle's study estimated that kill department employees took an average 6.4 minutes to don equipment at their lockers before their shift—but employee Donald Brown testified that this activity took him around 2 minutes. Others also testified to donning and doffing times that diverged markedly from Mericle's estimates. So Mericle's study could not sustain a jury verdict in favor of these plaintiffs, had they brought individual suits.

According to the majority, this disparity between average times and individual times poses no problem because *Mt. Clemens*, *supra*, allows plaintiffs to use such representative evidence as common proof. See *ante*, at 456–459. In the majority's view, *Mt. Clemens* established that (1) if the employer did not record the time that employees spent on compensable work, employees can use representative evidence to establish the employer's liability, *ante*, at 456; and (2) employees can use "the experiences of a subset of employees" to establish "the experiences of all of them" if "each employee worked in the same facility, did similar work, and was paid under the same policy," *ante*, at 459.

The majority's reliance on *Mt. Clemens* is questionable given that decision's shaky foundations. Seventy years ago, *Mt. Clemens* construed the FLSA broadly to vindicate the Court's understanding of the FLSA's "remedial" purposes. 328 U. S., at 687. Within a year, Congress rejected that interpretation. Citing the "emergency" this Court had created by spurring "excessive and needless litigation," Congress repudiated this Court's understanding of what the FLSA meant by "work" and the "workweek" and limited

employees' ability to sue collectively. 29 U. S. C. §§ 251(a)–(b); see *Integrity Staffing Solutions, Inc.* v. *Busk*, 574 U. S. 27, 41–42 (2014) (noting repudiation in the Portal-to-Portal Act of 1947); *Hoffmann-La Roche Inc.* v. *Sperling*, 493 U. S. 165, 173 (1989) (noting repudiation of representative actions). Since then, this Court has decided many FLSA cases, but has never relied on *Mt. Clemens* to do so.[3]

Putting these concerns aside, the majority today goes beyond what *Mt. Clemens* held. First, *Mt. Clemens* does not hold that employees can use representative evidence in FLSA cases to prove an otherwise uncertain element of liability. *Mt. Clemens* involved an employer's alleged failure to pay employees for time they spent walking to and from their workspaces and on preshift preparatory activities. See 328 U. S., at 684–685. The Court held that the FLSA required employers to compensate employees for those activities. *Id.*, at 690–692 (overruled by 29 U. S. C. §§ 252, 254). The employer was thus presumptively liable to all employees because they all claimed to work 40 hours per week. See Record in *Mt. Clemens*, O. T. 1945, No. 342 (Record), pp. 10–11 (complaint). All additional uncompensated work was necessarily unpaid overtime. That explains why the Court "assum[ed] that the employee has proved that he has performed work and has not been paid in accordance with the statute." 328 U. S., at 688.

*Mt. Clemens* also rejected the notion that employees who had *already* established the employer's liability had to prove

[3] THE CHIEF JUSTICE believes that the majority does not actually depend upon *Mt. Clemens* as a special evidentiary rule, and instead applies "the same standard of proof that would apply in any case." *Ante*, at 463 (concurring opinion). That interpretation is difficult to credit given that the majority never explains why Dr. Mericle's representative evidence could have sustained a jury finding in favor of any individual employee in an individual case, and instead devotes several paragraphs to the proposition that "[t]his Court's decision in [*Mt. Clemens*] explains why Mericle's sample was permissible in the circumstances of this case." *Ante*, at 456; see *ante*, at 456–457.

damages using precise, employee-specific records. *Id.*, at 687. Rather, if the employer failed to keep records but its liability was certain, employees could use evidence that "show[s] the amount and extent of that work as a matter of just and reasonable inference." *Ibid.* The Court, however, limited this holding to instances where the employer's FLSA violation was "certain," as in *Mt. Clemens* itself. *Id.*, at 688; see *ibid.* (inference permissible "as to the extent of the damages"). *Mt. Clemens* does not justify the use of representative evidence in this case, where Tyson's liability to many class members was uncertain.

Second, the majority misreads *Mt. Clemens* as "confirm-[ing]" that when employees "worked in the same facility, did similar work, and w[ere] paid under the same policy," representative evidence can prove all of their claims. *Ante*, at 459. *Mt. Clemens* said nothing about whether or why the employees there shared sufficient similarities for their claims to be susceptible to common proof. The *Mt. Clemens* plaintiffs were the local union and seven employees. See 328 U. S., at 684. They brought a representative action, a type of collective action that allowed employees to designate a union to pursue their claims for them. See § 16(b), 52 Stat. 1069; Record 7 (complaint). Some 300 employees did so. See *Mt. Clemens Pottery Co.* v. *Anderson*, 149 F. 2d 461 (CA6 1945); Record 33–41. The District Court did not make findings about what made these employees similar, instead reasoning that the FLSA's broad objectives supported a liberal approach to allowing class suits. Record 29–32 (order filed June 13, 1941). This Court also said nothing about whether the employees suffered the same harm in the same manner; that issue was not before it. In *Mt. Clemens*' aftermath, however, Congress eliminated representative actions, like the one in *Mt. Clemens*, that required too few similarities among plaintiffs and allowed plaintiffs "not themselves possessing claims" to sue. *Hoffman-La Roche*, *supra*, at 173. *Mt. Clemens* thus offers no guidance about what degree of

similarity among employees suffices for representative evidence to establish all employees' experiences.

In any event, *Mt. Clemens* did not accept that the representative evidence there would be probative even were the employees sufficiently similar. All *Mt. Clemens* decided was that the lack of precise data about the amount of time each employee worked was not fatal to their case. 328 U. S., at 686–687. The Court then remanded the case, leaving the lower courts to "draw whatever reasonable inferences can be drawn from the employees' evidence," if any. *Id.*, at 693–694.[4] *Mt. Clemens* therefore does not support the majority's conclusion that representative evidence can prove thousands of employees' FLSA claims if they share a facility, job functions, and pay policies. See *ante*, at 459.

By focusing on similarities irrelevant to whether employees spend variable times on the task for which they are allegedly undercompensated, the majority would allow representative evidence to establish classwide liability even where much of the class might not have overtime claims at all. Whether employees work in one plant or many, have similar job functions, or are paid at the same rate has nothing to do with how fast they walk, don, or doff—the key variables here for FLSA liability.

The majority suggests that *Mt. Clemens*' evidentiary rule is limited to cases where the employer breaches its obligation to keep records of employees' compensable work. See *ante*, at 456. But that limitation is illusory. FLSA cases often involve allegations that a particular activity is uncompensated work. Just last Term, we rejected class-action plain-

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[4] If anything, *Mt. Clemens* suggests that the representative evidence here is impermissible. The Court affirmed that the District Court's proposed "formula of compensation," calculated based on estimated average times it derived from employees' representative testimony, was impermissible. 328 U. S., at 689; see 149 F. 2d, at 465 ("It does not suffice for the employee to base his right to recover on a mere estimated average of overtime worked").

tiffs' theory that waiting in an antitheft security screening line constitutes work. See *Integrity Staffing Solutions, Inc.*, 574 U. S., at 29. The majority thus puts employers to an untenable choice. They must either track any time that might be the subject of an innovative lawsuit, or they must defend class actions against representative evidence that unfairly homogenizes an individual issue. Either way, the majority's misinterpretation of *Mt. Clemens* will profoundly affect future FLSA-based class actions—which have already increased dramatically in recent years. Erichson, CAFA's Impact on Class Action Lawyers, 156 U. Pa. L. Rev. 1593, 1617 (2008).

C

The majority makes several other arguments why Mericle's study was adequate common proof of all class members' experiences. None has merit.

First, the majority contends that, because Tyson's trial defense—that Mericle's study was unrepresentative or inaccurate—was "itself common," Tyson was "not deprive[d] . . . of its ability to litigate individual defenses." *Ante*, at 457. But looking to what defenses remained available is an unsound way to gauge whether the class-action device prevented the defendant from mounting individualized defenses. That Tyson was able to mount only a *common* defense confirms its disadvantage. Testifying class members attested to spending less time on donning and doffing than Mericle's averages would suggest. Had Tyson been able to cross-examine more than four of them, it may have incurred far less liability. See *supra*, at 473–474.

Second, the majority argues that Tyson's failure to challenge Mericle's testimony under *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.*, 509 U. S. 579 (1993), left to the jury any remaining questions about the value of this evidence. *Ante*, at 459. But *Comcast* rejected this argument. Failing to challenge evidence under *Daubert* precludes defendants from "argu[ing] that [the] testimony was not admis-

sible," but it does not preclude defendants from "argu[ing] that the evidence failed to show that the case is susceptible to awarding damages on a class-wide basis." *Comcast*, 569 U. S., at 33, n. 4 (internal quotation marks omitted).

Finally, the majority's attempts to distinguish this case from *Wal-Mart* are unavailing. See *ante*, at 457–459. *Wal-Mart* involved a nationwide Title VII class action alleging that Wal-Mart's policy of delegating employment decisions to individual store managers let managers exercise their discretion in a discriminatory manner. See 564 U. S., at 342. We held that discretionary decisionmaking could not be a common policy uniting all class members' claims because managers presumptively exercise their discretion in an individualized manner. See *id.*, at 355–356. Some may rely on performance-based criteria; others may use tests; yet others might intentionally discriminate. *Ibid.* Because of this variability, "demonstrating the invalidity of one manager's use of discretion will do nothing to demonstrate the invalidity of another's." *Ibid.*

Moreover, the *Wal-Mart* plaintiffs' representative evidence—120 employee anecdotes—did not make this individualized issue susceptible to common proof. *Id.*, at 358. Using 120 anecdotes to represent the experiences of 1.5 million class members was too far below the 1:8 ratio of anecdotes to class members that our prior cases accepted. *Ibid.* Thus, this representative evidence was "too weak to raise any inference that all the individual, discretionary personnel decisions are discriminatory." *Ibid.*

The plaintiffs' reliance on Mericle's study fails for the same reasons. Just as individual managers inherently make discretionary decisions differently, so too do individual employees inherently spend different amounts of time donning and doffing. And, just as 120 employee anecdotes could not establish that all 1.5 million class members faced discrimination, neither can Mericle's study establish that all 3,344 class members spent the same amount of time donning and doffing.

Like the 120 Wal-Mart anecdotes, Mericle's study—which used about 57 employees per activity to extrapolate times for 3,344—falls short of the 1:8 ratio this Court deems "significant" to the probative value of representative evidence. See *ibid.*

## III

I agree with the majority's conclusion in Part II–B that we should not address whether a class action can be maintained if a class contains uninjured members. Given that conclusion, however, I am perplexed by the majority's readiness to suggest, in dicta, that Tyson's opposition to bifurcating the proceedings might be invited error. *Ante*, at 461–462. I see no reason to opine on this issue.

* * *

I respectfully dissent.

Syllabus

# NEBRASKA ET AL. *v.* PARKER ET AL.

## CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 14–1406. Argued January 20, 2016—Decided March 22, 2016

In 1854, the Omaha Tribe entered into a treaty with the United States agreeing to establish a 300,000-acre reservation and to "cede" and "forever relinquish all right and title to" its remaining land in present-day Nebraska for a fixed sum of money. In 1865, the Omaha Tribe again entered into a treaty with the United States agreeing to "cede, sell, and convey" land for a fixed sum. When, in 1872, the Tribe sought to sell more of its land to the United States, Congress took a different tack. In lieu of a fixed-sum purchase, Congress authorized the Secretary of the Interior to survey, appraise, and sell tracts of reservation land to western settlers and to deposit any proceeds from the land sales in the U. S. Treasury for the Tribe's benefit. Congress took the same approach in 1882 when it passed the Act in question. That Act authorized the Secretary of the Interior to survey, appraise, and sell roughly 50,000 acres of reservation land lying west of a railroad right-of-way. W. E. Peebles purchased a tract under the terms of the 1882 Act and established the village of Pender.

In 2006, the Tribe amended its Beverage Control Ordinance and sought to subject Pender retailers to the amended ordinance. See 18 U. S. C. § 1161 (permitting tribes to regulate liquor sales on reservation land and in "Indian country"). Pender and its retailers brought a suit against the Tribe in Federal District Court to challenge the ordinance, and the State intervened on their behalf. They alleged that they were not within the reservation boundaries or in Indian country and therefore could not be subject to the ordinance. They sought declaratory relief and a permanent injunction prohibiting the Tribe from asserting its jurisdiction over the disputed land. Concluding that the 1882 Act did not diminish the Omaha Reservation, the District Court denied relief, and the Eighth Circuit affirmed.

*Held*: The 1882 Act did not diminish the Omaha Indian Reservation. Pp. 487–494.

(a) Only Congress may diminish the boundaries of an Indian reservation, and its intent to do so must be clear. *Solem* v. *Bartlett*, 465 U. S. 463, 470. This Court's framework for determining whether an Indian reservation has been diminished is well settled and starts with the statutory text. *Hagen* v. *Utah*, 510 U. S. 399, 411. Here, the 1882 Act

bears none of the common textual indications that express such clear intent, *e. g.*, "[e]xplicit reference to cession or other language evidencing the present and total surrender of all tribal interests" or "an unconditional commitment from Congress to compensate the Indian tribe for its opened land," *Solem*, *supra*, at 470. The Act's language opening the land "for settlement under such rules and regulations as [the Secretary] may prescribe," 22 Stat. 341, falls into a category of surplus land Acts that "merely opened reservation land to settlement," *DeCoteau* v. *District County Court for Tenth Judicial Dist.*, 420 U. S. 425, 448. A comparison of the text of the 1854 and 1865 treaties, which unequivocally terminated the Tribe's jurisdiction over its land, with the 1882 Act confirms this conclusion. Pp. 487–490.

(b) In diminishment cases, this Court has also examined "all the circumstances surrounding the opening of a reservation," *Hagen*, *supra*, at 412, including the contemporaneous understanding of the Act's effect on the reservation. Here, such historical evidence cannot overcome the text of the 1882 Act, which lacks any indication that Congress intended to diminish the reservation. Dueling remarks by legislators about the 1882 Act are far from the unequivocal evidence required in diminishment cases. Pp. 490–492.

(c) Finally, and to a lesser extent, the Court may look to subsequent demographic history and subsequent treatment of the land by government officials. See *Solem*, *supra*, at 471–472. This Court has never relied solely on this third consideration to find diminishment, and the mixed record of subsequent treatment of the disputed land in this case cannot overcome the statutory text. Petitioners point to the Tribe's absence from the disputed territory for more than 120 years, but this subsequent demographic history is the "least compelling" evidence in the diminishment analysis. *South Dakota* v. *Yankton Sioux Tribe*, 522 U. S. 329, 356. Likewise, evidence of the subsequent treatment of the disputed land by government officials has similarly limited value. And, while compelling, the justifiable expectations of the non-Indians living on the land cannot alone diminish reservation boundaries. Pp. 492–494.

(d) Because the parties have raised only the single question of diminishment, the Court expresses no view about whether equitable considerations of laches and acquiescence may curtail the Tribe's power to tax the retailers of Pender. Cf. *City of Sherrill* v. *Oneida Indian Nation of N. Y.*, 544 U. S. 197, 217–221. P. 494.

774 F. 3d 1166, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court.

*James D. Smith*, Solicitor General of Nebraska, argued the cause for petitioners. With him on the briefs were *Douglas J. Peterson*, Attorney General, *Ryan S. Post* and *David A. Lopez*, Assistant Attorneys General, *Marnie A. Jensen*, and *Mark D. Hill*.

*Paul D. Clement* argued the cause for the Omaha Tribal Council respondents. With him on the brief were *Maurice R. Johnson*, Attorney General of the Omaha Tribe of Nebraska, and *Jeffrey M. Harris*.

*Allon Kedem* argued the cause for the United States. With him on the brief were *Solicitor General Verrilli*, *Assistant Attorney General Cruden*, *Deputy Solicitor General Kneedler*, *William B. Lazarus*, *Mary Gabrielle Sprague*, *Katherine J. Barton*, and *Daron Carreiro*.*

JUSTICE THOMAS delivered the opinion of the Court.

The village of Pender, Nebraska, sits a few miles west of an abandoned right-of-way once used by the Sioux City and Nebraska Railroad Company. We must decide whether Pender and surrounding Thurston County, Nebraska, are within the boundaries of the Omaha Indian Reservation or whether the passage of an 1882 Act empowering the United States Secretary of the Interior to sell the Tribe's land west of the right-of-way "diminished" the reservation's boundaries, thereby "free[ing]" the disputed land of "its reservation status." *Solem* v. *Bartlett*, 465 U. S. 463, 467 (1984). We hold that Congress did not diminish the reservation in

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*Briefs of *amici curiae* urging reversal were filed for the Citizens Equal Rights Foundation by *James J. Devine, Jr.*; and for the Village of Hobart, Wisconsin, et al. by *Frank W. Kowalkowski* and *Dillon J. Ambrose*.

*Colette Routel* filed a brief for Historical Scholars et al. as *amici curiae* urging affirmance.

*Marc D. Slonim*, *Richard M. Berley*, and *Donald R. Wharton* filed a brief for the National Congress of American Indians et al. as *amici curiae*.

1882 and that the disputed land is within the reservation's boundaries.

## I

### A

Centuries ago, the Omaha Tribe settled in present-day eastern Nebraska. By the mid-19th century, the Tribe was destitute and, in exchange for much-needed revenue, agreed to sell a large swath of its land to the United States. In 1854, the Tribe entered into a treaty with the United States to create a 300,000-acre reservation. Treaty with the Omahas (1854 Treaty), Mar. 16, 1854, 10 Stat. 1043. The Tribe agreed to "cede" and "forever relinquish all right and title to" its land west of the Mississippi River, excepting the reservation, in exchange for $840,000, to be paid over 40 years. *Id.*, at 1043–1044.

In 1865, after the displaced Wisconsin Winnebago Tribe moved west, the Omaha Tribe agreed to "cede, sell, and convey" an additional 98,000 acres on the north side of the reservation to the United States for the purpose of creating a reservation for the Winnebagoes. Treaty with the Omaha Indians (1865 Treaty), Mar. 6, 1865, 14 Stat. 667–668. The Tribe sold the land for a fixed sum of $50,000. *Id.*, at 667.

In 1872, the Tribe again expressed its wish to sell portions of the reservation, but Congress took a different tack than it had in the 1854 and 1865 Treaties. Instead of purchasing a portion of the reservation for a fixed sum, Congress authorized the Secretary of the Interior to survey, appraise, and sell up to 50,000 acres on the western side of the reservation "to be separated from the remaining portion of said reservation" by a north-south line agreed to by the Tribe and Congress. Act of June 10, 1872 (1872 Act), ch. 436, § 1, 17 Stat. 391. Under the 1872 Act, a nonmember could purchase "tracts not exceeding one hundred and sixty acres each" or "the entire body offered." *Ibid.* Proceeds from any sales would be "placed to the credit of said Indians on the books of

the treasury of the United States." *Ibid.* But the proceeds were meager. The 1872 Act resulted in only two sales totaling 300.72 acres.

Then came the 1882 Act, central to the dispute between petitioners and respondents. In that Act, Congress again empowered the Secretary of the Interior "to cause to be surveyed, if necessary, and sold" more than 50,000 acres lying west of a right-of-way granted by the Tribe and approved by the Secretary of the Interior in 1880 for use by the Sioux City and Nebraska Railroad Company. Act of Aug. 7, 1882 (1882 Act), 22 Stat. 341. The land for sale under the terms of the 1882 Act overlapped substantially with the land Congress tried, but failed, to sell in 1872. Once the land was appraised "in tracts of forty acres each," the Secretary was "to issue [a] proclamation" that the "lands are open for settlement under such rules and regulations as he may prescribe." §§1, 2, *id.*, at 341. Within one year of that proclamation, a nonmember could purchase up to 160 acres of land (for no less than $2.50 per acre) in cash paid to the United States, so long as the settler "occup[ied]" it, made "valuable improvements thereon," and was "a citizen of the United States, or . . . declared his intention to become such." §2, *id.*, at 341. The proceeds from any land sales, "after paying all expenses incident to and necessary for carrying out the provisions of th[e] act," were to "be placed to the credit of said Indians in the Treasury of the United States." §3, *id.*, at 341. Interest earned on the proceeds was to be "annually expended for the benefit of said Indians, under the direction of the Secretary of the Interior." *Ibid.*

The 1882 Act also included a provision, common in the late 19th century, that enabled members of the Tribe to select individual allotments, §§5–8, *id.*, at 342–343, as a means of encouraging them to depart from the communal lifestyle of the reservation. See *Solem*, *supra*, at 467. The 1882 Act provided that the United States would convey the land to a member or his heirs in fee simple after holding it in trust on

behalf of the member and his heirs for 25 years. § 6, 22 Stat. 342. Members could select allotments on any part of the reservation, either east or west of the right-of-way. § 8, *id.*, at 343.

After the members selected their allotments—only 10 to 15 of which were located west of the right-of-way—the Secretary proclaimed that the remaining 50,157 acres west of the right-of-way were open for settlement by nonmembers in April 1884. One of those settlers was W. E. Peebles, who "purchased a tract of 160 acres, on which he platted the townsite for Pender." *Smith* v. *Parker*, 996 F. Supp. 2d 815, 828 (Neb. 2014).

B

The village of Pender today numbers 1,300 residents. Most are not associated with the Omaha Tribe. Less than 2% of Omaha tribal members have lived west of the right-of-way since the early 20th century.

Despite its longstanding absence, the Tribe sought to assert jurisdiction over Pender in 2006 by subjecting Pender retailers to its newly amended Beverage Control Ordinance. The ordinance requires those retailers to obtain a liquor license (costing $500, $1,000, or $1,500 depending upon the class of license) and imposes a 10% sales tax on liquor sales. Nonmembers who violate the ordinance are subject to a $10,000 fine.

The village of Pender and Pender retailers, including bars, a bowling alley, and social clubs, brought a federal suit against members of the Omaha Tribal Council in their official capacities to challenge the Tribe's power to impose the requirements of the Beverage Control Ordinance on nonmembers. Federal law permits the Tribe to regulate liquor sales on its reservation and in "Indian country" so long as the Tribe's regulations are (as they were here) "certified by the Secretary of the Interior, and published in the Federal Register." 18 U. S. C. § 1161. The challengers alleged that they were neither within the boundaries of the Omaha In-

dian Reservation nor in Indian country and, consequently, were not bound by the ordinance.

The State of Nebraska intervened on behalf of the plaintiffs, and the United States intervened on behalf of the Omaha Tribal Council members. The State's intervention was prompted, in part, by the Omaha Tribe's demand that Nebraska share with the Tribe revenue that the State received from fuel taxes imposed west of the right-of-way. In addition to the relief sought by Pender and the Pender retailers, Nebraska sought a permanent injunction prohibiting the Tribe from asserting tribal jurisdiction over the 50,157 acres west of the abandoned right-of-way.

After examining the text of the 1882 Act, as well as the contemporaneous and subsequent understanding of the 1882 Act's effect on the reservation boundaries, the District Court concluded that Congress did not diminish the Omaha Reservation in 1882. 996 F. Supp. 2d, at 844. Accordingly, the District Court denied the plaintiffs' request for injunctive and declaratory relief barring the Tribe's enforcement of the Beverage Control Ordinance. The Eighth Circuit affirmed. *Smith* v. *Parker*, 774 F. 3d 1166, 1168–1169 (2014). We granted certiorari to resolve whether the 1882 Act diminished the Omaha Reservation. 576 U. S. 1095 (2015).

## II

We must determine whether Congress "diminished" the Omaha Indian Reservation in 1882. If it did so, the State now has jurisdiction over the disputed land. *Solem*, 465 U. S., at 467. If Congress, on the other hand, did not diminish the reservation and instead only enabled nonmembers to purchase land within the reservation, then federal, state, and tribal authorities share jurisdiction over these "opened" but undiminished reservation lands. *Ibid.*

The framework we employ to determine whether an Indian reservation has been diminished is well settled. *Id.*, at 470–472. "[O]nly Congress can divest a reservation of its

land and diminish its boundaries," and its intent to do so must be clear. *Id.*, at 470. To assess whether an Act of Congress diminished a reservation, we start with the statutory text, for "[t]he most probative evidence of diminishment is, of course, the statutory language used to open the Indian lands." *Hagen* v. *Utah*, 510 U. S. 399, 411 (1994). Under our precedents, we also "examine all the circumstances surrounding the opening of a reservation." *Id.*, at 412. Because of "the turn-of-the-century assumption that Indian reservations were a thing of the past," many surplus land Acts did not clearly convey "whether opened lands retained reservation status or were divested of all Indian interests." *Solem*, *supra*, at 468. For that reason, our precedents also look to any "unequivocal evidence" of the contemporaneous and subsequent understanding of the status of the reservation by members and nonmembers, as well as the United States and the State of Nebraska. *South Dakota* v. *Yankton Sioux Tribe*, 522 U. S. 329, 351 (1998).

## A

As with any other question of statutory interpretation, we begin with the text of the 1882 Act, the most "probative evidence" of diminishment. *Solem*, *supra*, at 470; see, *e. g.*, *United States* v. *Ron Pair Enterprises, Inc.*, 489 U. S. 235, 241 (1989) ("The task of resolving the dispute over the meaning of [a statutory text] begins where all such inquiries must begin: with the language of the statute itself"). Common textual indications of Congress' intent to diminish reservation boundaries include "[e]xplicit reference to cession or other language evidencing the present and total surrender of all tribal interests" or "an unconditional commitment from Congress to compensate the Indian tribe for its opened land." *Solem*, *supra*, at 470. Such language "providing for the total surrender of tribal claims in exchange for a fixed payment" evinces Congress' intent to diminish a reservation, *Yankton Sioux*, *supra*, at 345, and creates "an almost insur-

mountable presumption that Congress meant for the tribe's reservation to be diminished," *Solem*, *supra*, at 470–471. Similarly, a statutory provision restoring portions of a reservation to "the public domain" signifies diminishment. *Hagen*, 510 U. S., at 414. In the 19th century, to restore land to the public domain was to extinguish the land's prior use—its use, for example, as an Indian reservation—and to return it to the United States either to be sold or set aside for other public purposes. *Id.*, at 412–413.

The 1882 Act bore none of these hallmarks of diminishment. The 1882 Act empowered the Secretary to survey and appraise the disputed land, which then could be purchased in 160-acre tracts by nonmembers. 22 Stat. 341. The 1882 Act states that the disputed lands would be "open for settlement under such rules and regulations as [the Secretary of the Interior] may prescribe." *Ibid.* And the parcels would be sold piecemeal in 160-acre tracts. *Ibid.* So rather than the Tribe's receiving a fixed sum for all of the disputed lands, the Tribe's profits were entirely dependent upon how many nonmembers purchased the appraised tracts of land.

From this text, it is clear that the 1882 Act falls into another category of surplus land Acts: those that "merely opened reservation land to settlement and provided that the uncertain future proceeds of settler purchases should be applied to the Indians' benefit." *DeCoteau* v. *District County Court for Tenth Judicial Dist.*, 420 U. S. 425, 448 (1975). Such schemes allow "non-Indian settlers to own land on the reservation." *Seymour* v. *Superintendent of Wash. State Penitentiary*, 368 U. S. 351, 356 (1962). But in doing so, they do not diminish the reservation's boundaries.

Our conclusion that Congress did not intend to diminish the reservation in 1882 is confirmed by the text of earlier treaties between the United States and the Tribe. See *Mattz* v. *Arnett*, 412 U. S. 481, 504 (1973) (comparing statutory text to earlier bills). In drafting the 1882 Act, Con-

gress legislated against the backdrop of the 1854 and 1865 Treaties—both of which terminated the Tribe's jurisdiction over their land "in unequivocal terms." *Ibid.* Those treaties "ced[ed]" the lands and "relinquish[ed]" any claims to them in exchange for a fixed sum. 10 Stat. 1043–1044; see also 14 Stat. 667 ("The Omaha tribe of Indians do hereby *cede, sell, and convey* to the United States a tract of land from the north side of their present reservation . . . " (emphasis added)). The 1882 Act speaks in much different terms, both in describing the way the individual parcels were to be sold to nonmembers and the way in which the Tribe would profit from those sales. That 1882 Act also closely tracks the 1872 Act, which petitioners do not contend diminished the reservation. The change in language in the 1882 Act undermines petitioners' claim that Congress intended to do the same with the reservation's boundaries in 1882 as it did in 1854 and 1865. Petitioners have failed at the first and most important step. They cannot establish that the text of the 1882 Act evinced an intent to diminish the reservation.

B

We now turn to the history surrounding the passage of the 1882 Act. The mixed historical evidence relied upon by the parties cannot overcome the lack of clear textual signal that Congress intended to diminish the reservation. That historical evidence in no way "*unequivocally* reveal[s] a widely held, contemporaneous understanding that the affected reservation would shrink as a result of the proposed legislation." *Solem*, 465 U. S., at 471 (emphasis added); see also *Exxon Mobil Corp.* v. *Allapattah Services, Inc.*, 545 U. S. 546, 568 (2005) (describing the "often murky, ambiguous, and contradictory" nature of extratextual evidence of congressional intent).

Petitioners rely largely on isolated statements that some legislators made about the 1882 Act. Senator Henry Dawes of Massachusetts, for example, noted that he had been "as-

sured that [the 1882 Act] would *leave an ample reservation*" for the Tribe. 13 Cong. Rec. 3032 (1882) (emphasis added). And Senator John Ingalls of Kansas observed "that this bill practically breaks up that portion at least of the reservation which is to be sold, and provides that it shall be disposed of to private purchasers." *Id.*, at 3028. Whatever value these contemporaneous floor statements might have, other such statements support the opposite conclusion—that Congress never intended to diminish the reservation. Senator Charles Jones of Florida, for example, spoke of "white men purchas[ing] titles to land *within* this reservation and settl[ing] down with the Indians on it." *Id.*, at 3078 (emphasis added). Such dueling remarks by individual legislators are far from the "clear and plain" evidence of diminishment required under this Court's precedent. *Yankton Sioux*, 522 U. S., at 343 (internal quotation marks omitted); see also *Solem*, 465 U. S., at 478 (noting that it was unclear whether statements referring to a "'reduced reservation'" alluded to the "reduction in Indian-owned lands that would occur once some of the opened lands were sold to settlers or to the reduction that a complete cession of tribal interests in the opened area would precipitate").

More illuminating than cherry-picked statements by individual legislators would be historical evidence of "the manner in which the transaction was negotiated" with the Omaha Tribe. *Id.*, at 471.[1] In *Yankton Sioux*, for example, recorded negotiations between the Commissioner of Indian Affairs and leaders of the Yankton Sioux Tribe unambiguously

[1] Until this Court's 1903 decision in *Lone Wolf* v. *Hitchcock*, 187 U. S. 553, 566–568, the question whether Congress could unilaterally abrogate treaties with tribes and divest them of their reservation lands was unsettled. Thus, what the tribe agreed to has been significant in the Court's diminishment analysis. See, *e. g.*, *South Dakota* v. *Yankton Sioux Tribe*, 522 U. S. 329, 351–353 (1998). Historical evidence of how pre-*Lone Wolf* sales of lands were negotiated has been deemed compelling, whereas historical evidence of negotiations post-*Lone Wolf* might be less so. See, *e. g.*, *Hagen* v. *Utah*, 510 U. S. 399, 416–417 (1994).

"signaled [the Tribe's] understanding that the cession of the surplus lands dissolved tribal governance of the 1858 reservation." 522 U. S., at 353. No such unambiguous evidence exists in the record of these negotiations. In particular, petitioners' reliance on the remarks of Representative Edward Valentine of Nebraska, who stated, "You cannot find one of those Indians that does not want the western portion sold," and that the Tribe wished to sell the land to those who would "'reside upon it and cultivate it'" so that the Tribe members could "benefit of these improvements," 13 Cong. Rec. 6541, falls short. Nothing about this statement or other similar statements unequivocally supports a finding that the existing boundaries of the reservation would be diminished.

C

Finally, we consider both the subsequent demographic history of opened lands, which serves as "one additional clue as to what Congress expected would happen once land on a particular reservation was opened to non-Indian settlers," *Solem*, 465 U. S., at 472, as well as the United States' "treatment of the affected areas, particularly in the years immediately following the opening," which has "some evidentiary value," *id.*, at 471. Our cases suggest that such evidence might "reinforc[e]" a finding of diminishment or nondiminishment based on the text. *Mattz*, 412 U. S., at 505; see also, *e. g.*, *Rosebud Sioux Tribe* v. *Kneip*, 430 U. S. 584, 604–605 (1977) (invoking subsequent history to reject a petitioner's "strained" textual reading of a congressional Act). But this Court has never relied solely on this third consideration to find diminishment.

As petitioners have discussed at length, the Tribe was almost entirely absent from the disputed territory for more than 120 years. Brief for Petitioners 24–30. The Omaha Tribe does not enforce any of its regulations—including those governing businesses, fire protection, animal control, fireworks, and wildlife and parks—in Pender or in other lo-

cales west of the right-of-way. 996 F. Supp. 2d, at 832. Nor does it maintain an office, provide social services, or host tribal celebrations or ceremonies west of the right-of-way. *Ibid.*

This subsequent demographic history cannot overcome our conclusion that Congress did not intend to diminish the reservation in 1882. And it is not our role to "rewrite" the 1882 Act in light of this subsequent demographic history. *DeCoteau*, 420 U. S., at 447. After all, evidence of the changing demographics of disputed land is "the least compelling" evidence in our diminishment analysis, for "[e]very surplus land Act necessarily resulted in a surge of non-Indian settlement and degraded the 'Indian character' of the reservation, yet we have repeatedly stated that not every surplus land Act diminished the affected reservation." *Yankton Sioux*, 522 U. S., at 356.

Evidence of the subsequent treatment of the disputed land by Government officials likewise has "limited interpretive value." *Id.*, at 355. Petitioners highlight that, for more than a century and with few exceptions, reports from the Office of Indian Affairs and in opinion letters from Government officials treated the disputed land as Nebraska's. Brief for Petitioners 24–38; see also 996 F. Supp. 2d, at 828, 830. It was not until this litigation commenced that the Department of the Interior definitively changed its position, concluding that the reservation boundaries were in fact not diminished in 1882. See *id.*, at 830–831. For their part, respondents discuss late-19th-century statutes referring to the disputed land as part of the reservation, as well as inconsistencies in maps and statements by Government officials. Brief for Respondent Omaha Tribal Council et al. 45–52; Brief for United States 38–52; see also 996 F. Supp. 2d, at 827, 832–833. This "mixed record" of subsequent treatment of the disputed land cannot overcome the statutory text, which is devoid of any language indicative of Congress' intent to diminish. *Yankton Sioux*, *supra*, at 356.

Petitioners' concerns about upsetting the "justifiable expectations" of the almost exclusively non-Indian settlers who live on the land are compelling, *Rosebud Sioux*, *supra*, at 605, but these expectations alone, resulting from the Tribe's failure to assert jurisdiction, cannot diminish reservation boundaries. Only Congress has the power to diminish a reservation. *DeCoteau*, 420 U. S., at 449. And though petitioners wish that Congress would have "spoken differently" in 1882, "we cannot remake history." *Ibid.*

* * *

In light of the statutory text, we hold that the 1882 Act did not diminish the Omaha Indian Reservation. Because petitioners have raised only the single question of diminishment,[2] we express no view about whether equitable considerations of laches and acquiescence may curtail the Tribe's power to tax the retailers of Pender in light of the Tribe's century-long absence from the disputed lands. Cf. *City of Sherrill* v. *Oneida Indian Nation of N. Y.*, 544 U. S. 197, 217–221 (2005).

The judgment of the Court of Appeals for the Eighth Circuit is affirmed.

*It is so ordered.*

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[2] See, *e. g.*, Plaintiffs' Brief in Support of Motion for Summary Judgment in No. 4:07–cv–03101 (D Neb.), pp. 31, 38 (defendants cannot "impose an alcohol tax and licensing scheme outside the boundaries of the Omaha Reservation"); Plaintiff Intervenor's Brief in Support of Plaintiffs' Motion for Summary Judgment in No. 4:07–cv–03101 (D Neb.), pp. 1–2; see also *Smith* v. *Parker*, 996 F. Supp. 2d 815, 834 (Neb. 2014) ("In this case, I must decide whether Congress's Act of August 7, 1882 . . . diminished the boundaries of the Omaha Indian Reservation, or whether the Act simply permitted non-Indians to settle within existing Omaha Reservation boundaries"); *Smith* v. *Parker*, 774 F. 3d 1166, 1167 (CA8 2014) ("Appellants challenge the district court's determination that the Omaha Indian Reservation was not diminished by an 1882 act of Congress").

Per Curiam

# HAWKINS ET AL. *v.* COMMUNITY BANK OF RAYMORE

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 14–520. Argued October 5, 2015—Decided March 22, 2016
761 F. 3d 937, affirmed by an equally divided Court.

*John M. Duggan* argued the cause for petitioners. With him on the briefs were *Deron A. Anliker* and *Jay T. Shadwick*.

*Brian H. Fletcher* argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Gershengorn*, *Meredith Fuchs*, and *Nandan M. Joshi*.

*Stephen R. McAllister* argued the cause for respondent. With him on the brief were *Greer S. Lang*, *Thomas Stahl*, and *Justin Nichols*.*

PER CURIAM.

The judgment is affirmed by an equally divided Court.

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**Andrew W. Muller* filed a brief for the American Bankers Association et al. as *amici curiae* urging affirmance.

## Reporter's Note

The next page is purposely numbered 801. The numbers between 495 and 801 were intentionally omitted, in order to make it possible to publish the orders with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

# ORDERS FOR OCTOBER 5, 2015, THROUGH MARCH 28, 2016

## October 5, 2015

*Certiorari Granted—Vacated and Remanded*

No. 14–1115. Bank of America, N. A. *v.* Hackbart. C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Bank of America, N. A.* v. *Caulkett*, 575 U. S. 790 (2015). Reported below: 589 Fed. Appx. 477.

No. 14–1322. Herson et al. *v.* City of Richmond, California. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Reed* v. *Town of Gilbert*, 576 U. S. 155 (2015). Reported below: 585 Fed. Appx. 522.

No. 14–9707. Beale *v.* Madigan et al. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Kingsley* v. *Hendrickson*, 576 U. S. 389 (2015). Reported below: 589 Fed. Appx. 107.

No. 14–9971. Welch *v.* United States. C. A. 6th Cir. Reported below: 774 F. 3d 891;

No. 14–9996. Bernabe Gonzales *v.* United States. C. A. 5th Cir. Reported below: 598 Fed. Appx. 311;

No. 14–10143. Williams *v.* United States. C. A. 11th Cir. Reported below: 603 Fed. Appx. 919;

No. 14–10157. Coad *v.* United States. C. A. 4th Cir. Reported below: 590 Fed. Appx. 238;

No. 14–10323. Hart *v.* United States. C. A. 11th Cir. Reported below: 597 Fed. Appx. 620;

No. 15–5113. Coon *v.* United States. C. A. 11th Cir. Reported below: 607 Fed. Appx. 849;

No. 15–5217. Brayboy *v.* United States. C. A. 11th Cir.; and

No. 15–5604. EVANS *v.* UNITED STATES. C. A. 4th Cir. Reported below: 609 Fed. Appx. 760. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015).

No. 14–10061. TWITTY *v.* UNITED STATES. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Elonis* v. *United States*, 575 U. S. 723 (2015). Reported below: 591 Fed. Appx. 676.

No. 14–10065. LANE *v.* ALABAMA. Ct. Crim. App. Ala. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Hall* v. *Florida*, 572 U. S. 701 (2014). Reported below: 169 So. 3d 1076.

*Certiorari Granted—Reversed.* (See No. 14–848, *ante*, p. 1.)

*Certiorari Dismissed*

No. 14–9532. HIRAMANEK *v.* CALIFORNIA. Sup. Ct. Cal. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–9533. HIRAMANEK *v.* CALIFORNIA. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–9543. WEST *v.* OKLAHOMA. Ct. Crim. App. Okla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 14–9550. KNOX *v.* OKLAHOMA DEPARTMENT OF CORRECTIONS. Sup. Ct. Okla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–9617. LAVERGNE *v.* SHERIFF'S OFFICE ACADIA PARISH ET AL. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 591 Fed. Appx. 277.

No. 14–9753. LAVERGNE *v.* SHERIFF'S OFFICE OF LAFAYETTE PARISH. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 591 Fed. Appx. 265.

No. 14–9767. FOGLE *v.* INFANTE. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 595 Fed. Appx. 807.

No. 14–9850. EVANS *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–9867. ROBENSON *v.* FLORIDA. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 163 So. 3d 512.

No. 14–9886. ALLEN *v.* FLORIDA DEPARTMENT OF CORRECTIONS. Dist. Ct. App. Fla., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 158 So. 3d 564.

No. 14–10064. JOST *v.* CALIFORNIA. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–10084. ASBURY *v.* SOUTH CAROLINA ET AL. Sup. Ct. S. C. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–10087. CREVELING *v.* ALMA ET AL. Ct. App. Wash. Motion of petitioner for leave to proceed *in forma pauperis* de-

nied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 14–10125. JACKSON *v.* MCCOLLUM, WARDEN. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 587 Fed. Appx. 502.

No. 14–10185. ABREU ACEVES *v.* CALIFORNIA. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–10209. D'AMARIO *v.* MANHATTAN HOUSING SPECIALISTS, INC., ET AL. C. A. 1st Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 14–10309. SALDANA *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 14–10324. GREGORY *v.* DENHAM, WARDEN. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition. Reported below: 581 Fed. Appx. 728.

No. 14–10335. MISSUD *v.* LAPIERRE ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 14–10451. FOGLE *v.* GONZALES. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 597 Fed. Appx. 485.

No. 14–10484. HIRAMANEK *v.* HIRAMANEK ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 588 Fed. Appx. 681.

No. 15–5009. TWEED *v.* SCOTT, GOVERNOR OF FLORIDA, ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–5026. WILLIAMS *v.* PLANNED PARENTHOOD OF WISCONSIN, INC. Ct. App. Wis. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–5060. MANLEY *v.* INDIANA. Ct. App. Ind. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 31 N. E. 3d 1046.

No. 15–5179. WILLIAMS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and

certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5226. WILLIAMS *v.* CORIZON, LLC, ET AL. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–5266. JACKSON *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition. Reported below: 606 Fed. Appx. 999.

No. 15–5284. MIERZWA *v.* WAL-MART, INC., ET AL. Sup. Ct. N. J. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 220 N. J. 575, 108 A. 3d 635.

No. 15–5372. HERSHIPS *v.* CALIFORNIA. Sup. Ct. Cal. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5735. Futch *v.* United States. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Justice Kagan took no part in the consideration or decision of this motion and this petition. Reported below: 600 Fed. Appx. 722.

*Miscellaneous Orders*

No. 15A97. Twitty *v.* United States. Application for bail, addressed to The Chief Justice and referred to the Court, denied.

No. 15M1. Eastman Kodak Co. *v.* Collins Inkjet Corp.;
No. 15M2. Vann *v.* United States; and
No. 15M22. Clark *v.* Allen & Overy, LLP. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 15M3. Cannon et al. *v.* District of Columbia. Motion for leave to file petition for relief granted.

No. 15M4. Gordon *v.* Somerset Medical Center et al.;
No. 15M9. Chafe *v.* Florida Department of Children and Families;
No. 15M10. Jones *v.* Merit Systems Protection Board; and
No. 15M16. In re MacNeill. Motions for leave to proceed as veterans denied.

No. 15M5. Searcy *v.* Merit Systems Protection Board. Motion for leave to proceed as a veteran granted.

No. 15M6. Sadler *v.* United States;
No. 15M7. Barnes *v.* Ross et al.;
No. 15M8. Wright *v.* United States;
No. 15M11. Smith *v.* Paramo, Warden;

No. 15M12. WATKINS *v.* DUKE MEDICAL CENTER ET AL.;

No. 15M13. LEGESSE *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS;

No. 15M14. LANGAMA *v.* BUCHWALD ET AL.;

No. 15M15. CULBERSON *v.* MICHIGAN DEPARTMENT OF CORRECTIONS;

No. 15M21. BRACKEN *v.* MISSOURI ET AL.;

No. 15M23. LACY *v.* NATIONAL RAILROAD PASSENGER CORPORATION ET AL.;

No. 15M25. SALNAVE *v.* GRIFFIN, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY, ET AL.;

No. 15M26. DRAGANOV *v.* UNITED STATES;

No. 15M27. JOHNSON *v.* PHILADELPHIA SCHOOL DISTRICT;

No. 15M28. WELSH *v.* UNITED STATES; and

No. 15M29. AN THAI TU *v.* LEWIS ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15M17. ILANJIAN *v.* KENSET CORP.;

No. 15M18. SMITH *v.* CALIFORNIA ET AL.; and

No. 15M24. TRUSS *v.* FOSTER, WARDEN. Motions to direct the Clerk to file petitions for writs of certiorari out of time under this Court's Rule 14.5 denied.

No. 15M19. STREAMBEND PROPERTIES III, LLC, ET AL. *v.* SEXTON LOFTS, LLC, ET AL.; and

No. 15M20. STREAMBEND PROPERTIES II, LLC, ET AL. *v.* IVY TOWER MINNEAPOLIS, LLC, ET AL. Motions to direct the Clerk to file petitions for writs of certiorari by Jerald Hammann, *pro se*, as assignee to rights of petitioners denied.

No. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of the River Master for fees and expenses granted, and the River Master is awarded a total of $10,327.05 for the period July 1, 2014, through June 30, 2015, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 574 U. S. 808.]

No. 137, Orig. MONTANA *v.* WYOMING ET AL. Motion of Montana to defer consideration of this case and exceptions to the Special Master's Second Interim Report filed December 29, 2014, for a period of three months granted. Parties are ordered to submit a joint status report to the Court no later than December 31, 2015. [For earlier order herein, see, *e. g.*, 574 U. S. 1150.]

No. 141, Orig. TEXAS *v.* NEW MEXICO ET AL. Motion of El Paso County Water Improvement District No. 1 for leave to intervene referred to the Special Master. First Interim Motion of the Special Master for allowance of fees and disbursements granted, and the Special Master is awarded a total of $195,461.53 for the period November 3, 2014, through April 30, 2015, to be paid as follows: 37.5% by Texas, 37.5% by New Mexico, 20% by the United States, and 5% by Colorado. [For earlier order herein, see, *e. g.*, 575 U. S. 981.]

No. 13–1339. SPOKEO, INC. *v.* ROBINS. C. A. 9th Cir. [Certiorari granted, 575 U. S. 982.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–1055. LIGHTFOOT ET AL. *v.* CENDANT MORTGAGE CORP., DBA PHH MORTGAGE, ET AL. C. A. 9th Cir.;

No. 14–1140. TIBBS ET AL. *v.* BUNNELL, JUDGE, CIRCUIT COURT OF KENTUCKY, FAYETTE COUNTY, ET AL. Sup. Ct. Ky.;

No. 14–1206. ODHIAMBO *v.* REPUBLIC OF KENYA ET AL. C. A. D. C. Cir.; and

No. 14–1538. LIFE TECHNOLOGIES CORP. ET AL. *v.* PROMEGA CORP. C. A. Fed. Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 14–1132. MERRILL LYNCH, PIERCE, FENNER & SMITH INC. ET AL. *v.* MANNING ET AL. C. A. 3d Cir. [Certiorari granted, 576 U. S. 1083.] Motion of petitioners to dispense with printing joint appendix granted.

No. 14–8349. FOSTER *v.* CHATMAN, WARDEN. Sup. Ct. Ga. [Certiorari granted, 575 U. S. 1025.] Motion of petitioner for appointment of counsel granted, and Stephen B. Bright, Esq., of Atlanta, Ga., is appointed to serve as counsel for petitioner in this case.

No. 14–8351. IN RE NESBITT. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [574 U. S. 1189] denied.

No. 14–8644. DERRINGER *v.* DERRINGER. Ct. App. N. M. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [575 U. S. 993] denied.

No. 14–8757. CLAY *v.* ZAE YOUNG ZEON ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [575 U. S. 1006] denied.

No. 14–9030. LAVERGNE *v.* HARSON ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [575 U. S. 1023] denied.

No. 14–9043. LAVERGNE *v.* PUBLIC DEFENDER 15TH JUDICIAL DISTRICT COURT ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [575 U. S. 1023] denied.

No. 14–9044. LAVERGNE *v.* LOUISIANA STATE POLICE. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [575 U. S. 1023] denied.

No. 14–9200. LAVERGNE *v.* BAJAT ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [576 U. S. 1002] denied.

No. 14–9267. EVANS *v.* OHIO. Ct. App. Ohio, 4th App. Dist., Scioto County. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [576 U. S. 1020] denied.

No. 14–9323. WARE *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [576 U. S. 1002] denied.

No. 14–9396. JUDY *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 10th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [576 U. S. 1034] denied.

No. 14–9530. SNIPES *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [576 U. S. 1002] denied.

No. 14–9708. BEGOLLI *v.* HOME DEPOT U. S. A., INC. C. A. 7th Cir.;

No. 14–9973. BERGO *v.* COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, ET AL. Sup. Ct. Cal.;

No. 14–10029. KING *v.* DEPARTMENT OF VETERANS AFFAIRS. C. A. Fed. Cir.;

No. 14–10041. LEAL *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir.;

No. 14–10083. GLASGOW *v.* OREGON DEPARTMENT OF REVENUE. Sup. Ct. Ore.;

No. 14–10150. NELSON *v.* BRAZELTON, WARDEN. C. A. 9th Cir.;

No. 14–10178. CRUTHIRDS *v.* MILLER ET AL. C. A. 4th Cir.;

No. 14–10183. RIZZO *v.* PENNSYLVANIA. Super. Ct. Pa.;

No. 14–10234. ESCHENBACH *v.* MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., ET AL. Super. Ct. N. J., App. Div.;

No. 14–10247. BODDIE *v.* DEPARTMENT OF THE TREASURY. C. A. Fed. Cir.;

No. 15–5115. CLARK *v.* FEDERAL LABOR RELATIONS AUTHORITY. C. A. D. C. Cir.;

No. 15–5142. PASSIATORE *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir.;

No. 15–5149. MAKI *v.* ANDERSON ET AL. Ct. App. Tex., 2d Dist.;*

No. 15–5156. STRUNK ET UX. *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 3d Cir.;

No. 15–5197. PICKETT *v.* GALLAGHER ET AL. Ct. App. Miss.;

No. 15–5222. NORRIS *v.* FOXX, SECRETARY OF TRANSPORTATION, ET AL. C. A. 9th Cir.;

No. 15–5443. DEPPENBROOK *v.* PENSION BENEFIT GUARANTY CORPORATION. C. A. D. C. Cir.;

No. 15–5610. LIU *v.* DEPARTMENT OF INDUSTRIAL RELATIONS. Ct. App. Cal., 1st App. Dist., Div. 5;

No. 15–5633. LADNER *v.* UNITED STATES. C. A. 5th Cir.;

No. 15–5645. KING *v.* DEPARTMENT OF THE ARMY. C. A. Fed. Cir.; and

No. 15–5670. ASLANYAN *v.* OBENLAND, SUPERINTENDENT, MONROE CORRECTIONAL COMPLEX. C. A. 9th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 26, 2015, 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.

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*[REPORTER'S NOTE: This order was vacated on November 16, 2015. *Post*, p. 983.]

No. 14–9816. McInerney *v.* Rensselaer Polytechnic Institute et al. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until October 26, 2015, 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. Justice Sotomayor took no part in the consideration or decision of this motion.

No. 14–10155. In re Wells;
No. 14–10192. In re Kennedy;
No. 14–10210. In re Riggs;
No. 14–10232. In re Sisk et al.;
No. 14–10246. In re Brown;
No. 14–10253. In re Spaulding;
No. 14–10320. In re Rodriguez;
No. 14–10353. In re Loeffler;
No. 14–10387. In re Wright;
No. 14–10389. In re Booth;
No. 14–10420. In re Rowe;
No. 14–10464. In re Edwards;
No. 14–10483. In re Jackson;
No. 15–49. In re Rehberger;
No. 15–250. In re Pitonyak;
No. 15–5010. In re Walker;
No. 15–5016. In re Burrows;
No. 15–5084. In re Akili;
No. 15–5125. In re Williamson;
No. 15–5252. In re Rivera;
No. 15–5257. In re Washington;
No. 15–5282. In re Jackson;
No. 15–5337. In re Tavarez;
No. 15–5380. In re Richardson;
No. 15–5435. In re McInnis;
No. 15–5446. In re Smith;
No. 15–5503. In re Faulkner;
No. 15–5531. In re Thompson;
No. 15–5560. In re Debrow;
No. 15–5739. In re Truitt;
No. 15–5786. In re Bui Phu Xuan;
No. 15–5816. In re Dennis; and

No. 15–5894. IN RE VASHEY. Petitions for writs of habeas corpus denied.

No. 14–10057. IN RE STAPLES. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 14–10421. IN RE DIXON. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8.

No. 15–5012. IN RE SCOTT. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5150. IN RE LYLES. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5506. IN RE BERAS. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 15–5820. IN RE COLE. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*).

No. 14–1427. IN RE SABENIANO;
No. 14–1480. IN RE SCHREIBER;
No. 14–1532. IN RE TARTT;
No. 14–9676. IN RE ERVIN;
No. 14–9751. IN RE RENTSCHLER;
No. 14–9791. IN RE SCHNEIDER;
No. 14–10058. IN RE KOTZEV;
No. 14–10470. IN RE BEN-ARI;
No. 15–148. IN RE OMS, LLC, ET AL.;
No. 15–5051. IN RE VIRAY;
No. 15–5054. IN RE SAVOY; and
No. 15–5488. IN RE PLATTS. Petitions for writs of mandamus denied.

No. 14–10299. IN RE DIXON; and
No. 14–10382. IN RE GREGORY. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of mandamus dismissed. See this Court's Rule 39.8.

No. 14–9565. IN RE KRAEMER;
No. 14–10077. IN RE CHRISTENSON; and
No. 14–10160. IN RE PERKINS. Petitions for writs of mandamus and/or prohibition denied.

No. 14–10180. IN RE KOCH. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus and/or prohibition dismissed. See this Court's Rule 39.8.

No. 14–1439. IN RE CHARLES;
No. 14–9887. IN RE AJAMIAN;
No. 14–9888. IN RE AJAMIAN; and
No. 14–9889. IN RE AJAMIAN. Petitions for writs of prohibition denied.

No. 14–9544. In re Lyles. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of prohibition dismissed. See this Court's Rule 39.8. Justice Kagan took no part in the consideration or decision of this motion and this petition.

No. 14–10422. In re Dixon; and

No. 15–5382. In re Ayers. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of prohibition dismissed. See this Court's Rule 39.8.

*Certiorari Denied*

No. 13–1559. Corr et al. *v.* Metropolitan Washington Airports Authority. C. A. 4th Cir. Certiorari denied. Reported below: 740 F. 3d 295.

No. 14–1071. Baumgartner *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 581 Fed. Appx. 522.

No. 14–1106. Bolden *v.* Doe et al. Sup. Ct. Utah. Certiorari denied. Reported below: 2014 UT 51, 358 P. 3d 1009.

No. 14–1133. Zubaidah *v.* Lorain County Bar Assn. Sup. Ct. Ohio. Certiorari denied. Reported below: 140 Ohio St. 3d 495, 2014-Ohio-4060, 20 N. E. 3d 687.

No. 14–1136. Nestle Purina PetCare Co. et al. *v.* Curts et al. C. A. 7th Cir. Certiorari denied. Reported below: 779 F. 3d 481.

No. 14–1177. Oklahoma *v.* Hobia et al. C. A. 10th Cir. Certiorari denied. Reported below: 775 F. 3d 1204.

No. 14–1184. Firenze *v.* National Labor Relations Board et al. C. A. 1st Cir. Certiorari denied.

No. 14–1191. Quicken Loans Inc. *v.* Brown et al. Sup. Ct. App. W. Va. Certiorari denied. Reported below: 236 W. Va. 12, 777 S. E. 2d 581.

No. 14–1208. Diaz Herrera *v.* Stansell et al.;

No. 14–1336. Villarosa Investments Florida, Inc., et al. *v.* Stansell et al.; and

No. 14–1342. Siman et al. *v.* Stansell et al. C. A. 11th Cir. Certiorari denied. Reported below: 771 F. 3d 713.

No. 14–1233. UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 880 PENSION FUND, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED *v.* CHESAPEAKE ENERGY CORP. ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 774 F. 3d 1229.

No. 14–1252. CITY OF SAN JOSE, CALIFORNIA, ET AL. *v.* OFFICE OF THE COMMISSIONER OF BASEBALL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 776 F. 3d 686.

No. 14–1255. HIGBIE *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 778 F. 3d 990.

No. 14–1260. ALLAITHI ET AL. *v.* RUMSFELD, FORMER SECRETARY OF DEFENSE, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 753 F. 3d 1327.

No. 14–1272. ANDERSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 772 F. 3d 969.

No. 14–1276. LOSCOMBE *v.* CITY OF SCRANTON, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 600 Fed. Appx. 847.

No. 14–1278. PEABODY COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 577 Fed. Appx. 469.

No. 14–1288. CAIN, WARDEN, ET AL. *v.* WOODFOX. C. A. 5th Cir. Certiorari denied. Reported below: 772 F. 3d 358.

No. 14–1291. ROSEBROUGH *v.* BUCKEYE VALLEY HIGH SCHOOL. C. A. 6th Cir. Certiorari denied. Reported below: 582 Fed. Appx. 647.

No. 14–1295. JEREZ *v.* REPUBLIC OF CUBA ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 775 F. 3d 419.

No. 14–1299. FELDER'S COLLISION PARTS, INC. *v.* ALL STAR ADVERTISING AGENCY, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 777 F. 3d 756.

No. 14–1301. MARTIN *v.* HEARST CORP. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 777 F. 3d 546.

No. 14–1302. YEAGER *v.* FIRSTENERGY GENERATION CORP. C. A. 6th Cir. Certiorari denied. Reported below: 777 F. 3d 362.

No. 14–1308. BIERLEY *v.* SAMBROAK. C. A. 3d Cir. Certiorari denied.

No. 14–1312. JONES *v.* CHATMAN, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 753 F. 3d 1171.

No. 14–1313. STEPHENS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 764 F. 3d 327.

No. 14–1314. TELESAURUS VPC, LLC, NKA VERDE SYSTEMS, LLC *v.* POWER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 905.

No. 14–1315. SANTOS-BUCH *v.* FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. C. A. 2d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 32.

No. 14–1316. COULTER *v.* ALLEGHENY COUNTY BAR ASSN. ET AL. (Reported below: 105 A. 3d 39); COULTER *v.* LOPE ET AL. (105 A. 3d 39); COULTER *v.* RAMSDEN ET AL. (105 A. 3d 39); COULTER *v.* DOERR ET AL. (105 A. 3d 40); COULTER *v.* GALE ET AL. (105 A. 3d 39); COULTER *v.* MAHOOD ET AL. (105 A. 3d 39); and COULTER *v.* RAMSDEN ET AL. (94 A. 3d 1080). Super. Ct. Pa. Certiorari denied.

No. 14–1317. PHI INC. *v.* ROLLS ROYCE CORP. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 775 F. 3d 671.

No. 14–1318. DIX *v.* CLANCY, DIRECTOR, UNITED STATES SECRET SERVICE, ET AL. C. A. 7th Cir. Certiorari denied.

No. 14–1319. DEVLIN ET UX. *v.* WELLS FARGO BANK, N. A. C. A. 4th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 171.

No. 14–1320. DM RECORDS, INC. *v.* ISBELL, DBA ALVERT MUSIC. C. A. 5th Cir. Certiorari denied. Reported below: 774 F. 3d 859.

No. 14–1321. HENDERSON ET AL. *v.* SHANKS ET AL. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 449 S. W. 3d 834.

No. 14–1323. HOFFMAN *v.* BAYLOR HEALTH CARE SYSTEM, DBA BAYLOR MEDICAL CENTER AT WAXAHACHIE. C. A. 5th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 231.

No. 14–1324. WARD *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. D. C. Cir. Certiorari denied. Reported below: 762 F. 3d 24.

No. 14–1326. UNITED STATES EX REL. GRENADYOR *v.* UKRAINIAN VILLAGE PHARMACY, INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 772 F. 3d 1102.

No. 14–1327. AMAYA *v.* INDYMAC FEDERAL BANK, FSB. Sup. Ct. Fla. Certiorari denied. Reported below: 157 So. 3d 1040.

No. 14–1328. OTROMPKE *v.* HILL, PRESIDENT OF THE ILLINOIS BOARD OF ADMISSIONS TO THE BAR, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 495.

No. 14–1335. TILLER *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 24 N. E. 3d 1018.

No. 14–1341. GARRETT ET AL. *v.* COVENTRY II DEVELOPERS DIVERSIFIED REALTY/TRADEMARK MONTGOMERY FARM, L. P. C. A. 5th Cir. Certiorari denied. Reported below: 777 F. 3d 792.

No. 14–1343. REVELES *v.* JOHNSON, SECRETARY OF HOMELAND SECURITY. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 321.

No. 14–1344. JOHNSON ET AL. *v.* DRAEGER SAFETY DIAGNOSTICS, INC. C. A. 3d Cir. Certiorari denied. Reported below: 594 Fed. Appx. 760.

No. 14–1346. BROWN *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied.

No. 14–1350. SCHWAB MONEY MARKET FUND ET AL. *v.* BANK OF AMERICA CORP. ET AL. C. A. 2d Cir. Certiorari denied.

No. 14–1351. KNOEDLER MANUFACTURERS, INC., ET AL. *v.* DELAWARE & HUDSON RAILWAY CO., INC., DBA CANADIAN PACIFIC RAILWAY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 781 F. 3d 656.

No. 14–1352. EARMAN *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 589 Fed. Appx. 991.

No. 14–1353. NetAirus Technologies, LLC *v.* Apple Inc. C. A. Fed. Cir. Certiorari denied. Reported below: 587 Fed. Appx. 658.

No. 14–1359. Owens et al. *v.* U. S. Bank N. A. Ct. App. Ga. Certiorari denied.

No. 14–1361. Ragsdell *v.* Regional Housing Alliance of La Plata County et al. C. A. 10th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 653.

No. 14–1363. Y. W. *v.* New Milford Public School et al. Super. Ct. N. J., App. Div. Certiorari denied.

No. 14–1364. Mosher et ux. *v.* Long Beach Mortgage Co. et al. C. A. 10th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 766.

No. 14–1365. Podlin et al. *v.* Ghermezian et al. C. A. 2d Cir. Certiorari denied. Reported below: 601 Fed. Appx. 31.

No. 14–1366. Pearl Seas Cruises, LLC *v.* Lloyd's Register North America, Inc. C. A. 5th Cir. Certiorari denied. Reported below: 780 F. 3d 283.

No. 14–1367. Kawa Orthodontics, LLP *v.* Lew, Secretary of the Treasury, et al. C. A. 11th Cir. Certiorari denied. Reported below: 773 F. 3d 243.

No. 14–1374. Goldthwaite *v.* Norfolk Southern Railway Co. Sup. Ct. Ala. Certiorari denied. Reported below: 176 So. 3d 1209.

No. 14–1376. Perez-Aguilar *v.* Lynch, Attorney General. C. A. 9th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 841.

No. 14–1377. Velazquez-Soberanes *v.* Lynch, Attorney General. C. A. 9th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 839.

No. 14–1378. Rechtzigel *v.* Fischer Market Place, LLP, et al. Ct. App. Minn. Certiorari denied.

No. 14–1379. Mock *v.* Federal Home Loan Mortgage Corporation, dba Freddie Mac. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 127.

No. 14–1381. GARITY *v.* AMERICAN POSTAL WORKERS UNION, AFL–CIO, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 383.

No. 14–1383. WILLIAMS ET AL. *v.* NORTH CAROLINA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 251.

No. 14–1385. CRUZ *v.* CITIBANK, N. A. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 160 So. 3d 446.

No. 14–1389. NELSON *v.* MATRIXX INITIATIVES, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 591.

No. 14–1393. PRINCE *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied. Reported below: 497 Mich. 946, 857 N. W. 2d 15.

No. 14–1394. DAVILA *v.* HAYNES, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 777 F. 3d 1198.

No. 14–1395. DAVIES *v.* WATERSTONE CAPITAL MANAGEMENT, L. P. Ct. App. Minn. Certiorari denied. Reported below: 856 N. W. 2d 711.

No. 14–1396. CROCKETT *v.* SOUTHEASTERN PENNSYLVANIA TRANSPORTATION AUTHORITY, DBA SEPTA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 65.

No. 14–1397. BUILDING INDUSTRY ASSOCIATION OF WASHINGTON *v.* UTTER ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 182 Wash. 2d 398, 341 P. 3d 953.

No. 14–1399. SCHULZE *v.* COUNTY OF ERIE, BUREAU OF REVENUE AND TAX CLAIM. Commw. Ct. Pa. Certiorari denied. Reported below: 103 A. 3d 455.

No. 14–1401. YAN SUI *v.* PRICE ET AL. App. Div., Super. Ct. Cal., County of Orange. Certiorari denied.

No. 14–1402. SCHMIDT ET UX. *v.* J-LU CO. LTD., L. L. C. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 257.

No. 14–1403. SUCHOCKI *v.* GILCREST ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 598 Fed. Appx. 91.

No. 14–1404. De Ritis *v.* Unemployment Compensation Board of Review. Commw. Ct. Pa. Certiorari denied.

No. 14–1405. Sequeira *v.* Sequeira. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 121 App. Div. 3d 406, 993 N. Y. S. 2d 309.

No. 14–1407. Camp *v.* Berghuis, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 380.

No. 14–1410. Kelley, Director, Arkansas Department of Correction *v.* Camacho. C. A. 8th Cir. Certiorari denied. Reported below: 774 F. 3d 931.

No. 14–1412. Johnson et al. *v.* City of Memphis, Tennessee. C. A. 6th Cir. Certiorari denied. Reported below: 770 F. 3d 464.

No. 14–1414. Lopez *v.* Newport Elementary School et al. C. A. 9th Cir. Certiorari denied.

No. 14–1415. Martinez *v.* Texas Workforce Commission. C. A. 5th Cir. Certiorari denied. Reported below: 775 F. 3d 685.

No. 14–1416. Langton et al. *v.* Briese Lichttechnik Vertriebs GmbH et al. C. A. Fed. Cir. Certiorari denied. Reported below: 589 Fed. Appx. 536.

No. 14–1417. Stillwagon *v.* New Hampshire et al. Sup. Ct. N. H. Certiorari denied.

No. 14–1420. Mullen et al. *v.* Ceres Marine Terminals, Inc., et al. Sup. Ct. Va. Certiorari denied.

No. 14–1424. Nijjar Realty, Inc., dba PAMA Management Co., et al. *v.* Judge. Ct. App. Cal., 2d App. Dist., Div. 7. Certiorari denied. Reported below: 232 Cal. App. 4th 619, 181 Cal. Rptr. 3d 622.

No. 14–1425. Shoback *v.* Pennsylvania. Super. Ct. Pa. Certiorari denied. Reported below: 106 A. 3d 165.

No. 14–1426. Satterwhite *v.* City of Houston, Texas. C. A. 5th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 585.

No. 14–1428. COUTURE *v.* PLAYDOM, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 778 F. 3d 1379.

No. 14–1429. LEIGHTEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–1430. WHITTEMORE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 776 F. 3d 1074.

No. 14–1431. RAHMAN *v.* HICKORY HILLS PROPERTY OWNERS ASSN. Super. Ct. Pa. Certiorari denied. Reported below: 104 A. 3d 58.

No. 14–1432. BURDITT *v.* LEEDY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 583 Fed. Appx. 398.

No. 14–1433. LOMBARD *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied.

No. 14–1434. BAZINSKI *v.* JPMORGAN CHASE BANK, N. A. C. A. 6th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 379.

No. 14–1435. BLACK FARMERS & AGRICULTURALISTS ASSN., INC. *v.* VILSACK, SECRETARY OF AGRICULTURE, ET AL. C. A. D. C. Cir. Certiorari denied.

No. 14–1437. COX *v.* SELECT PORTFOLIO SERVICING, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 862.

No. 14–1441. MING TIEN *v.* TIEN ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 155 So. 3d 359.

No. 14–1442. CORPCAR SERVICES HOUSTON, LTD., DBA CAREY OF HOUSTON, ET AL. *v.* HENRY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 607.

No. 14–1443. ATKINSON *v.* ERNIE HAIRE FORD, INC. C. A. 11th Cir. Certiorari denied. Reported below: 764 F. 3d 1321.

No. 14–1444. STANSEL *v.* CITY OF ATLANTA, GEORGIA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 866.

No. 14–1445. PHILLIPS, INDIVIDUALLY AND ON BEHALF OF B. P. ET AL., MINORS, ET AL. *v.* CITY OF NEW YORK, NEW YORK,

ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 775 F. 3d 538.

No. 14–1446. RAGGE *v.* WEBSTER BANK, N. A. App. Ct. Mass. Certiorari denied. Reported below: 85 Mass. App. 1113, 6 N. E. 3d 569.

No. 14–1447. FEAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–1448. KOVACIC *v.* CUYAHOGA COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–1449. COOK *v.* AETNA LIFE INSURANCE CO. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 519.

No. 14–1450. VISION-PARK PROPERTIES, LLC, ET AL. *v.* SEASIDE ENGINEERING & SURVEYING, LLC. C. A. 11th Cir. Certiorari denied. Reported below: 780 F. 3d 1070.

No. 14–1451. KHALIL ET AL. *v.* NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 594 Fed. Appx. 88.

No. 14–1452. DOUGHERTY *v.* PHILADELPHIA NEWSPAPERS LLC ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 627 Fed. Appx. 97.

No. 14–1454. PRESTON STATE BANK, FKA DALLAS CITY BANK *v.* TEXAS ET AL. Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 443 S. W. 3d 428.

No. 14–1455. FRED MARTIN MOTOR CO. *v.* SPITZER AUTOWORLD AKRON, LLC, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 776 F. 3d 411.

No. 14–1456. WILLIAMS *v.* LYNCH, ATTORNEY GENERAL, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 768.

No. 14–1459. MECHE *v.* DOUCET ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 777 F. 3d 237.

No. 14–1460. CRUMP *v.* MONTGOMERY COUNTY EDUCATION ASSN. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 274.

No. 14–1461. HIMES *v.* MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 378 Mont. 419, 345 P. 3d 297.

No. 14–1462. LOUDERMILK ET AL. *v.* ARPAIO ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 596.

No. 14–1463. REEDER ET AL. *v.* MADIGAN, SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 780 F. 3d 799.

No. 14–1465. FIALDINI ET UX. *v.* COTE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 113.

No. 14–1466. SCOTT *v.* FRANKEL. C. A. 11th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 529.

No. 14–1471. TRETOLA *v.* TRETOLA. Ct. App. Ohio, 3d App. Dist., Logan County. Certiorari denied. Reported below: 2014-Ohio-5484.

No. 14–1474. HUGUELY *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 14–1475. U. S. TOUR & REMITTANCE, INC., ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 336.

No. 14–1476. JT USA, LP, ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. Reported below: 771 F. 3d 654.

No. 14–1477. PROSTYAKOV *v.* MASCO CORP. C. A. 7th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 570.

No. 14–1479. HOLLANDER *v.* PEMBROKE. Ct. App. D. C. Certiorari denied. Reported below: 111 A. 3d 647.

No. 14–1481. RINDFLEISCH *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2014 WI App 121, 359 Wis. 2d 147, 857 N. W. 2d 456.

No. 14–1482. REEVES *v.* ONEBEACON AMERICA INSURANCE CO. ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–1483. MENDEZ *v.* MAY. C. A. 1st Cir. Certiorari denied. Reported below: 778 F. 3d 337.

No. 14–1484. RODRIGUEZ *v.* BANK OF AMERICA, N. A., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 356.

No. 14–1485. KHAN *v.* REGIONS BANK. Ct. App. Tenn. Certiorari denied. Reported below: 461 S. W. 3d 505.

No. 14–1486. POSNER ET AL. *v.* TASSELY ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1335.

No. 14–1487. KORNEGAY ET VIR *v.* OLD REPUBLIC NATIONAL TITLE INSURANCE CO. ET AL. Ct. App. Neb. Certiorari denied. Reported below: 22 Neb. App. xxii.

No. 14–1488. OLIBAS ET AL. *v.* DODSON, SHERIFF, BREWSTER COUNTY, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 412.

No. 14–1489. ORCUTT *v.* SUPERIOR COURT OF CALIFORNIA, RIVERSIDE COUNTY. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 14–1490. IZHAR *v.* KAISER FOUNDATION HEALTH PLAN ET AL. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 14–1491. NAZZAL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 451.

No. 14–1493. GARDNER *v.* BANK OF NEW YORK MELLON. Sup. Ct. Fla. Certiorari denied. Reported below: 160 So. 3d 894.

No. 14–1494. CHARNOCK *v.* VIRGINIA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 764.

No. 14–1495. ADAME *v.* LYNCH, ATTORNEY GENERAL. C. A. 7th Cir. Certiorari denied. Reported below: 762 F. 3d 667.

No. 14–1496. YOUSEFIAN *v.* CITY OF GLENDALE, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 779 F. 3d 1010.

No. 14–1500. CAMPIE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 14–1501. WRAE *v.* EIKLEBERRY, JUDGE, SUPERIOR COURT OF ARIZONA, PIMA COUNTY, ET AL. Sup. Ct. Ariz. Certiorari denied.

No. 14–1502. NELSON *v.* MCEWEN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 688.

No. 14–1503. KOCH ET AL. *v.* PECHOTA ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 588 Fed. Appx. 72.

No. 14–1509. LACERTOSA *v.* BLACKMAN PLUMBING SUPPLY CO., INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 582 Fed. Appx. 43.

No. 14–1510. WU TIEN LI-SHOU *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 777 F. 3d 175.

No. 14–1514. HOLDNER *v.* ROSENBLUM, ATTORNEY GENERAL OF OREGON, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 327.

No. 14–1515. KONRAD *v.* EPLEY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 586 Fed. Appx. 72.

No. 14–1517. BERIONT *v.* GTE LABORATORIES, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 601 Fed. Appx. 937.

No. 14–1518. ABRAM *v.* FULTON COUNTY, GEORGIA. C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 672.

No. 14–1519. BUFORD *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 74 M. J. 98.

No. 14–1521. TORRES *v.* SANTA YNEZ BAND OF CHUMASH INDIANS. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 650.

No. 14–1522. U. L., INDIVIDUALLY AND AS FATHER AND NATURAL GUARDIAN OF E. L. *v.* NEW YORK STATE ASSEMBLY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 592 Fed. Appx. 40.

No. 14–1523. FAZIO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 770 F. 3d 160.

No. 14–1525. BELNIAK *v.* FLORIDA HIGHWAY PATROL ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 357.

No. 14–1526. GIRARD *v.* M/Y QUALITY TIME. C. A. 11th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 846.

No. 14–1527. BEEMAN ET AL. *v.* BGI CREDITORS' LIQUIDATING TRUST ET AL. (two judgments). C. A. 2d Cir. Certiorari denied. Reported below: 772 F. 3d 102 (first judgment); 595 Fed. Appx. 86 (second judgment).

No. 14–1528. JACKSON *v.* HUMPHREY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 776 F. 3d 1232.

No. 14–1529. LILLY *v.* LEWISTON-PORTER CENTRAL SCHOOL DISTRICT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 593 Fed. Appx. 87.

No. 14–1530. TURNBERRY/MGM GRAND TOWERS, LLC, ET AL. *v.* SUSSEX ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 3d 1065.

No. 14–1533. XU-SHEN ZHOU *v.* STATE UNIVERSITY OF NEW YORK INSTITUTE OF TECHNOLOGY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 592 Fed. Appx. 41.

No. 14–1534. HERNANDEZ *v.* JPMORGAN CHASE BANK, N. A. Sup. Ct. Fla. Certiorari denied. Reported below: 157 So. 3d 1044.

No. 14–1537. HOUSTON ET AL. *v.* 42D JUDICIAL DISTRICT COURT OF LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2014–2144 (La. 11/26/14), 152 So. 3d 895.

No. 14–1539. KOSTER *v.* SULLIVAN. Sup. Ct. Fla. Certiorari denied. Reported below: 160 So. 3d 385.

No. 14–1540. LAFRIEDA ET AL. *v.* BLACK EAGLE CONSULTING, INC. Sup. Ct. Nev. Certiorari denied. Reported below: 130 Nev. 1207.

No. 14–1541. ZUTZ ET AL. *v.* NELSON ET AL. Ct. App. Minn. Certiorari denied.

No. 14–1542. CORZO TRUCKING CORP. ET AL. *v.* WEST. Ct. App. Ga. Certiorari denied. Reported below: 329 Ga. App. XXIII.

No. 14–1544. BAZARGANI *v.* RADEL ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 598 Fed. Appx. 829.

No. 14–7776. DEAN *v.* PORSCHE AUTOMOBIL HOLDINGS SE ET AL. Sup. Ct. Ga. Certiorari denied.

No. 14–8486. DIAZ-COLON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 763 F. 3d 89.

No. 14–8575. HUNT *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 14–8686. DONAHUE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 120163, 16 N. E. 3d 316.

No. 14–8782. DANSBY *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 766 F. 3d 809.

No. 14–8791. EL AMIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 14–8805. GRAHAM *v.* BLUEBONNET TRAILS COMMUNITY SERVICES. C. A. 5th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 205.

No. 14–8856. BISTRIKA ET AL. *v.* OREGON (Reported below: 261 Ore. App. 710, 322 P. 3d 583); and BISTRIKA *v.* OREGON (262 Ore. App. 385, 324 P. 3d 584). Ct. App. Ore. Certiorari denied.

No. 14–8893. GILES *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 24 N. Y. 3d 1066, 25 N. E. 3d 943.

No. 14–8911. PILGER *v.* DEPARTMENT OF EDUCATION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 452.

No. 14–8921. HERNANDEZ-GUTIERREZ *v.* UNITED STATES (Reported below: 606 Fed. Appx. 151); ALVAREZ-ALVAREZ *v.* UNITED STATES (606 Fed. Appx. 164); and ALONZO-SOLIS *v.* UNITED STATES (606 Fed. Appx. 160). C. A. 5th Cir. Certiorari denied.

No. 14–8967. FUGATE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 564.

No. 14–8993. MCNEAL *v.* KOTT ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 566.

No. 14–8995. PATTERSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 878.

No. 14–9012. DICKERSON *v.* UNITED WAY OF NEW YORK CITY ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 113 App. Div. 3d 452, 979 N. Y. S. 2d 25.

No. 14–9036. DORWARD *v.* MACY'S, INC. C. A. 11th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 951.

No. 14–9048. SIERRA-VILLEGAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 774 F. 3d 1093.

No. 14–9078. BARRY *v.* DIALLO. Super. Ct. Pa. Certiorari denied. Reported below: 100 A. 3d 322.

No. 14–9114. MCANULTY *v.* OREGON. Sup. Ct. Ore. Certiorari denied. Reported below: 356 Ore. 432, 338 P. 3d 653.

No. 14–9139. IDO *v.* LYNCH, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 897.

No. 14–9150. HOLDER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 979.

No. 14–9175. GUTIERREZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 371.

No. 14–9239. COLES *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–9275. FRAZIER *v.* WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied.

No. 14–9289. FORREST *v.* STEELE, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 764 F. 3d 848.

No. 14–9292. DOMINGUEZ-GARCIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 313.

No. 14–9301. BLOUNT *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. Reported below: 594 Fed. Appx. 987.

No. 14–9305. MILLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 384.

No. 14–9317. ROCKWELL *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 14–9320. MISSUD *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9336. LUCIO VASQUEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 775.

No. 14–9380. HOSIER *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 454 S. W. 3d 883.

No. 14–9405. MORRIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 279.

No. 14–9408. WRIGHT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 777 F. 3d 635.

No. 14–9425. RODRIGUEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 897.

No. 14–9476. SANCHEZ-VENEGAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 709.

No. 14–9479. WHITE *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9489. CHALMERS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 14–9495. TADLOCK *v.* FOXX, SECRETARY OF TRANSPORTATION. C. A. 10th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 595.

No. 14–9499. POSR *v.* NACHAMIE ET AL. C. A. 2d Cir. Certiorari denied.

No. 14–9500. MOSLEY *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied. Reported below: 2013–1967 (La. App. 1 Cir. 5/2/14).

No. 14–9506. KRATOCHVIL *v.* NIXON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9515. LEONARD *v.* HASKELL ET AL. C. A. 10th Cir. Certiorari denied.

No. 14–9524. WILLIAMS *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 158 So. 3d 309.

No. 14–9528. HARRALL *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2014–0665 (La. 1/23/15), 159 So. 3d 453.

No. 14–9536. WILLIAMSON *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 14–9540. SCHAEFER *v.* TEXAS. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 14–9559. DREW *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 266.

No. 14–9561. RICHARDSON *v.* MINOR, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 14–9568. PAULSON *v.* MAPES, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 773 F. 3d 901.

No. 14–9569. JOHNSON *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 630 Pa. 493, 107 A. 3d 52.

No. 14–9575. WILLIAMS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 113359–U.

No. 14–9583. INGRAM *v.* STEPHENSON. C. A. 5th Cir. Certiorari denied.

No. 14–9584. HIGGINS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 14–9589. HIGGINBOTHAM *v.* KING, SUPERINTENDENT, SOUTH MISSISSIPPI CORRECTIONAL INSTITUTION. C. A. 5th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 313.

No. 14–9593. ZIRUS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9594. SPERRY *v.* MAES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 688.

No. 14–9601. SECREST *v.* DAVEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9603. STOOT *v.* SANTORO, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9611. MILLER *v.* CAMERON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CRESSON. C. A. 3d Cir. Certiorari denied.

No. 14–9618. JACKSON *v.* MCDOWELL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9620. SYKES *v.* CITY OF NEW YORK HUMAN RESOURCES ADMINISTRATION, OFFICE OF CHILD SUPPORT ENFORCEMENT, ET AL. C. A. 2d Cir. Certiorari denied.

No. 14–9625. MACKAY *v.* MERCEDES BENZ. C. A. 2d Cir. Certiorari denied.

No. 14–9627. TURNER *v.* CASSADY, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 14–9629. WILLIAMS *v.* DAVEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9632. TALLEY *v.* GORE ET AL. C. A. 7th Cir. Certiorari denied.

No. 14–9635. TUCKER *v.* BAUMAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9642. OLMOS *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9643. PHILLIPS *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 14–9646. ANGUIANO *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 113458, 4 N. E. 3d 483.

No. 14–9648. ANDERSON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9649. BOMAR *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 629 Pa. 136, 104 A. 3d 1179.

No. 14–9650. VAUGHN *v.* SHERMAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9655. MCKINNEY *v.* FOULK, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9656. PALMER *v.* AIKENS ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–9660. ANDERSON *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9661. HAYES *v.* VIACOM ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9662. DALY *v.* GIPSON, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9665. TOWNSEND *v.* PERRY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9669. RICKS *v.* OWENS, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 14–9671. JOHNSON *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9672. BURTON *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 14–9673. JORGE ANDRADE *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9674. WILLIAMS *v.* MARTIN ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 325.

No. 14–9680. MCKINLEY *v.* MCDONALD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9682. VASSALLO *v.* MACDONALD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9685. STAMOS *v.* DAVEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9686. ROBINSON *v.* VALDAMUDI ET AL. C. A. 2d Cir. Certiorari denied.

No. 14–9687. LEWIS *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 448 S. W. 3d 138.

No. 14–9691. RODARTE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9692. LONG *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9693. BROWN *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9695. DWYER *v.* NORMAN, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 14–9703. ROBINSON *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 762 F. 3d 316.

No. 14–9717. BAILEY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9718. BLACKWOOD *v.* LINDAMOOD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9719. BOGANY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9720. GARCIA *v.* HEBERT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 594 Fed. Appx. 26.

No. 14–9724. MENZIES *v.* UTAH. Sup. Ct. Utah. Certiorari denied. Reported below: 2014 UT 40, 344 P. 3d 581.

No. 14–9726. CARR *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 156 So. 3d 1052.

No. 14–9727. EPPERSON *v.* DELAWARE. Sup. Ct. Del. Certiorari denied. Reported below: 121 A. 3d 1234.

No. 14–9731. JONES *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 259.

No. 14–9732. MADDEN *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 14–9736. BAUTISTA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 765 F. 3d 133.

No. 14–9740. FULTS *v.* CHATMAN, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 764 F. 3d 1311.

No. 14–9741. FIRMAN *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 14–9742. ELAM *v.* PASTRANA, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 927.

No. 14–9743. DEVAUGHN *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 296 Ga. 475, 769 S. E. 2d 70.

No. 14–9752. JACOBSON *v.* COLEGROVE ET AL. Sup. Ct. Mich. Certiorari denied.

No. 14–9754. VELEZ *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 14–9756. DUNN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9757. CRAWFORD *v.* NOOTH, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 14–9759. MCCOY *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 14–9762. EVANS *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 14–9764. HORTON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–9766. GRIFFIS *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 441 S. W. 3d 599.

No. 14–9768. HANDY *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 14–9770. HARRISON *v.* OBENLAND, SUPERINTENDENT, CLALLAM BAY CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 14–9773. AKBAR *v.* PRISON EMERGENCY RESPONSE TEAM OFFICERS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 215.

No. 14–9776. DRAKE *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 14–9778. ISAAC *v.* MCLAUGHLIN, WARDEN. Super. Ct. Macon County, Ga. Certiorari denied.

No. 14–9779. FIELDS *v.* GERTH ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–9780. HARRIS *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9781. GONZALEZ *v.* COX, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9782. RODRIGUEZ *v.* JANDA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9783. CUMMINGS *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 14–9786. CAUTHEN, AKA MARROW *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. Reported below: 220 N. J. 100, 103 A. 3d 267.

No. 14–9787. GALVAN CERNA *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 441 S. W. 3d 860.

No. 14–9789. MCDONALD *v.* ZIONS FIRST NATIONAL BANK. Ct. App. Colo. Certiorari denied.

No. 14–9793. HORTON *v.* DEGENNARO ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–9794. FERRY *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 14–9797. GOINS *v.* PEARSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 150.

No. 14–9798. HARRELL *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 20 N. E. 3d 225.

No. 14–9799. HARDRICK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 766 F. 3d 1051.

No. 14–9804. CRANFORD *v.* EMPLOYEES OF COALINGA STATE HOSPITAL. C. A. 9th Cir. Certiorari denied.

No. 14–9806. COOK *v.* CASHLER ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–9810. REILLY *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 220.

No. 14–9811. CALTON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9814. DENOMA *v.* OHIO. Ct. App. Ohio, 1st App. Dist., Hamilton County. Certiorari denied.

No. 14–9817. MENDEZ *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 600 Fed. Appx. 731.

No. 14–9819. PAULK *v.* CITY OF ORLANDO, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–9820. SOLANO *v.* GLUNT, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL. C. A. 3d Cir. Certiorari denied.

No. 14–9822. BLOND *v.* GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 14–9823. SAMPSON *v.* PATTON, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS. C. A. 10th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 573.

No. 14–9824. EDENS *v.* EAGLETON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 580 Fed. Appx. 222.

No. 14–9825. DOUGLAS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9826. MONTAGUE *v.* CARLTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9827. SMALL *v.* LINDAMOOD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9828. CALDERON *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied.

No. 14–9829. DAY-PETRANO ET VIR *v.* BAYLOR. C. A. 11th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 741.

No. 14–9831. EWING *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 145 So. 3d 833.

No. 14–9833. CONWAY *v.* PFISTER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 14–9834. DELANEY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9836. CLARK *v.* WELLS FARGO BANK, N. A. Super. Ct. N. J., App. Div. Certiorari denied.

No. 14–9837. COOK *v.* SABATKA-RINE, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 14–9841. DOUGHERTY *v.* PRUETT, WARDEN (Reported below: 585 Fed. Appx. 108); and DOUGHERTY *v.* VIRGINIA ET AL. (585 Fed. Appx. 115). C. A. 4th Cir. Certiorari denied.

No. 14–9844. ESCAMILLA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 939.

No. 14–9845. CHILDS *v.* IRVINGTON PROPERTIES, LLC, DBA ARUBA HOTEL & SPA. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1263.

No. 14–9847. MARTIN TRINIDAD *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 14–9853. MEDLEY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–9854. COTE *v.* ADAMS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 414.

No. 14–9855. JORDAN *v.* METROPOLITAN JEWISH HOSPICE ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 24 N. Y. 3d 1199, 27 N. E. 3d 851.

No. 14–9856. MARCUS *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 218 Md. App. 749.

No. 14–9858. LYNCH *v.* LYNCH. App. Ct. Conn. Certiorari denied. Reported below: 153 Conn. App. 208, 100 A. 3d 968.

No. 14–9860. NIXON *v.* ABBOTT, GOVERNOR OF TEXAS, ET AL. C. A. 5th Cir. Certiorari denied.

No. 14–9863. ALLEN *v.* DAVEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9864. BATES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 768 F. 3d 1278.

No. 14–9866. RATCHFORD *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2014 Ark. 452.

No. 14–9869. RALSTON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 14–9870. SYLVESTER *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 14–9872. THERIAULT *v.* STRATTON ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–9873. WRIGHT *v.* ILLINOIS DEPARTMENT OF PAROLE ET AL. C. A. 7th Cir. Certiorari denied.

No. 14–9878. KNIGHT *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9879. KRALOVETZ *v.* SPEARMAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9885. ADAMS *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 554 Fed. Appx. 610.

No. 14–9893. PRADO *v.* RIVERSIDE COUNTY, CALIFORNIA, ET AL. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 14–9894. ESTRADA *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 14–9895. WILLIAMS *v.* HUHA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 731.

No. 14–9897. TERRELL *v.* MAIORANA, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 352.

No. 14–9902. KEAHEY *v.* OHIO. Ct. App. Ohio, 6th App. Dist., Erie County. Certiorari denied. Reported below: 2014-Ohio-4729.

No. 14–9903. COLEMAN *v.* BUSH, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 225.

No. 14–9904. GUARDIA *v.* CLINICAL & SUPPORT OPTIONS, INC. C. A. 1st Cir. Certiorari denied.

No. 14–9909. ROSS *v.* COBB. Super. Ct. Habersham County, Ga. Certiorari denied.

No. 14–9911. MCDONALD *v.* TEXAS. Ct. App. Tex., 7th Dist. Certiorari denied.

No. 14–9916. COTTON *v.* RUSSELL, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 14–9920. ADDAI *v.* BRAUN, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 776 F. 3d 528.

No. 14–9923. RIVERA *v.* KALLA ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 321.

No. 14–9924. FORWARD *v.* CALIFORNIA WORKERS' COMPENSATION APPEALS BOARD ET AL. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 14–9925. ANTONIO PARRA *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9926. PATTON *v.* WERLINGER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 592 Fed. Appx. 71.

No. 14–9930. DUDLEY *v.* TIMMERMAN-COOPER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9931. FISHBURNE *v.* HAMILTON. C. A. 4th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 228.

No. 14–9933. CRANFORD *v.* PRICE ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–9934. CORRALES *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 14–9936. CRANFORD *v.* CEBALLOS. C. A. 9th Cir. Certiorari denied.

No. 14–9937. DORTCH *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 14–9938. CLAYTON *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 14–9939. JORDAN *v.* DAVEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9943. TAPP *v.* ECKARD, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON. C. A. 3d Cir. Certiorari denied.

No. 14–9945. CLEAVELAND *v.* TEXAS. Ct. App. Tex., 9th Dist. Certiorari denied.

No. 14–9946. EDWARDS *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–9949. CAMPBELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 775 F. 3d 664.

No. 14–9954. ESPARZA *v.* URIBE, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 728.

No. 14–9956. Broadway *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 14–9959. Ward *v.* Department of Education. C. A. 4th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 282.

No. 14–9960. Petrano et ux. *v.* Rhodes et al. C. A. 11th Cir. Certiorari denied.

No. 14–9961. Watson *v.* Colvin, Acting Commissioner of Social Security. C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 634.

No. 14–9964. Broadnax *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 14–9965. Benton *v.* Town of South Fork, Colorado, et al. C. A. 10th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 447.

No. 14–9967. Jones *v.* Sandor, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 618.

No. 14–9977. Thomas *v.* Wisconsin. Ct. App. Wis. Certiorari denied. Reported below: 2014 WI App 97, 356 Wis. 2d 830, 855 N. W. 2d 720.

No. 14–9978. Turner *v.* Illinois. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2013 IL App (3d) 110827–U.

No. 14–9980. Urbano *v.* MacDonald, Warden. C. A. 9th Cir. Certiorari denied.

No. 14–9981. Poole *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 14–9983. Miles *v.* Court of Appeals of Texas, Fourth District. Ct. Crim. App. Tex. Certiorari denied.

No. 14–9985. Spry *v.* California. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 14–9988. Harmon *v.* Foulk, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 14–9989. Smith *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 120208–U.

No. 14–9992. MARROQUIN-SALAZAR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 430.

No. 14–9994. MARKS *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 14–9995. BRYANT *v.* MEKO, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–9997. GONZALEZ *v.* CONNECTICUT. Sup. Ct. Conn. Certiorari denied. Reported below: 315 Conn. 564, 109 A. 3d 453.

No. 14–10001. BODA *v.* SOUTH DAKOTA. Sup. Ct. S. D. Certiorari denied.

No. 14–10003. KASTRINSIOS *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied.

No. 14–10004. MOTZ *v.* O'MEARA, SUPERINTENDENT, GOUVERNEUR CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 14–10005. OLSON *v.* BROWN. C. A. 9th Cir. Certiorari denied.

No. 14–10007. GARCIA RUBIO *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 14–10009. THOMPSON *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 141 Ohio St. 3d 254, 2014-Ohio-4751, 23 N. E. 3d 1096.

No. 14–10011. CONGRESS *v.* VERMONT. Sup. Ct. Vt. Certiorari denied. Reported below: 2014 VT 129, 198 Vt. 241, 114 A. 3d 1128.

No. 14–10012. ADRIEN *v.* WITTENBURG UNIVERSITY ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–10013. RODRIGUEZ-AYALA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 773 F. 3d 65.

No. 14–10014. KRONENBERG *v.* EPPINGER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10016. MARQUEZ *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10017. COLEMAN *v.* TOWN OF LEE, NEW HAMPSHIRE, ET AL. C. A. 1st Cir. Certiorari denied.

No. 14–10021. SARVIS *v.* CRUZ, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 106.

No. 14–10025. MELOT ET UX. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 930.

No. 14–10031. WILSON *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied. Reported below: 442 S. W. 3d 779.

No. 14–10033. WARD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 777 F. 3d 250.

No. 14–10036. WASSERMAN *v.* TEXAS. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 14–10037. THOMAS *v.* MORGAN ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–10038. AMRHEIN *v.* LA MADELEINE, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 258.

No. 14–10042. LUXAMA *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 14–10044. LANDECK ET AL. *v.* GILMORE, WARDEN, ET AL. Sup. Ct. Va. Certiorari denied.

No. 14–10045. RANTEESI *v.* ARNOLD, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10047. WHITE *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10048. WARNER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10049. MCKINLEY *v.* CMH HOMES, INC. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 204.

No. 14–10050. WILLIAMS *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 14–10051. PICKETT *v.* SCILLIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–10055. CLARK *v.* LINARES, JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 594 Fed. Appx. 81.

No. 14–10056. RUSSELL *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 218 Md. App. 753.

No. 14–10059. MARQUEZ *v.* BONDI, ATTORNEY GENERAL OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 14–10060. RINALDI *v.* ZICKEFOOSE, WARDEN. C. A. 3d Cir. Certiorari denied. Reported below: 598 Fed. Appx. 809.

No. 14–10062. WIMBERLY *v.* HUDAK, DEPUTY MAYOR OF MIAMI-DADE COUNTY, FLORIDA, ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 160 So. 3d 445.

No. 14–10063. HUY TRONG TRAN *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 365.

No. 14–10067. ZALER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 677.

No. 14–10068. PRINTZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 883.

No. 14–10069. MEDINA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 372.

No. 14–10070. MOORE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 559 Fed. Appx. 308.

No. 14–10071. BEAULIEU *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. Reported below: 859 N. W. 2d 275.

No. 14–10072. HOUSTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 14–10073. ALEJANDRO-MONTANEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 778 F. 3d 352.

No. 14–10074. BURDA *v.* KORENMAN, FKA BURDA (three judgments). Super. Ct. Pa. Certiorari denied.

No. 14–10075. SANDRETH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 244.

No. 14–10076. DURHAM *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 766 F. 3d 672.

No. 14–10079. NORRIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 14–10080. NORMAN *v.* COURT OF CRIMINAL APPEALS OF TEXAS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 582 Fed. Appx. 430.

No. 14–10081. ARANDA *v.* DAL-TILE CORP. C. A. 5th Cir. Certiorari denied.

No. 14–10082. KNOX *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 120349–U.

No. 14–10085. PRIMUS *v.* TAYLOR, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 235.

No. 14–10086. NATAL *v.* WILLIAMS, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 14–10088. JEEP *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 14–10089. ABDULLAH-MALIK *v.* SOUTH CAROLINA. Ct. App. S. C. Certiorari denied.

No. 14–10090. BURNS *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 237 Ariz. 1, 344 P. 3d 303.

No. 14–10091. BYRD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 431.

No. 14–10092. MELENDEZ-SERRANO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 14–10093. O'KEEFE *v.* LOMBARDO, SHERIFF, LAS VEGAS METROPOLITAN POLICE DEPARTMENT, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 626.

No. 14–10094. MIDGETTE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 237.

No. 14–10095. MCEACHERN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 233.

No. 14–10096. PICCONE *v.* MCCLAIN ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 586 Fed. Appx. 709.

No. 14–10097. BRANCH *v.* DUNBAR, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 238.

No. 14–10098. SHERRILL *v.* ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–10099. ROLLINS *v.* MURPHY ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 449.

No. 14–10100. DAVIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 779 F. 3d 1305.

No. 14–10101. CLADEK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 579 Fed. Appx. 962.

No. 14–10102. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 14–10103. BARNES *v.* UNITED STATES; and
No. 15–5148. LEWIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 777 F. 3d 1234.

No. 14–10104. ALBANESE, AKA OAKS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 14–10105. RANTEESI *v.* CONSTANCE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 686.

No. 14–10106. RANGEL *v.* SANDERS ET AL. C. A. 7th Cir. Certiorari denied.

No. 14–10107. HEATH *v.* BATON ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–10108. DYKES-BEY *v.* MICHIGAN DEPARTMENT OF CORRECTIONS. Cir. Ct. Ingham County, Mich. Certiorari denied.

No. 14–10109. HARTMAN *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 20 N. E. 3d 225.

No. 14–10110. HAUSEUR *v.* VIRGA, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 680.

No. 14–10112. FLORES-VASQUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 355.

No. 14–10113. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 154.

No. 14–10114. SEWELL *v.* STRAYER UNIVERSITY. C. A. 4th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 251.

No. 14–10115. FISHER *v.* MILLER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 571 Fed. Appx. 119.

No. 14–10116. HENRICKS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–10117. HILL *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 14–10118. FLUTE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 551.

No. 14–10120. DELGADO RODRIGUEZ *v.* WOFFORD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10121. CAMPBELL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 159 So. 3d 814.

No. 14–10122. DRAYTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 153.

No. 14–10123. MEDRANO DIAZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–10124. ESTRADA *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 14–10126. RODRIGUEZ-FLORES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 442.

No. 14–10127. ALLEN *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 594 Fed. Appx. 686.

No. 14–10128. LOPEZ *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied.

No. 14–10129. ADAMS *v.* ROGERS, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 14–10130. SHACKELFORD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–10131. GREER *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 14–10132. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 878.

No. 14–10133. GARCIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 363.

No. 14–10134. NEVAREZ-BLANCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 447.

No. 14–10135. DUKU *v.* LYNCH, ATTORNEY GENERAL. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 158.

No. 14–10136. STYLES *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 100 A. 3d 170.

No. 14–10139. AVILES-SANTIAGO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 14–10140. WILLIAMS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 14–10141. JORDAN *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 3d Cir. Certiorari denied. Reported below: 577 Fed. Appx. 107.

No. 14–10144. RAJKOVIC *v.* FEDERAL BUREAU OF INVESTIGATION ET AL. C. A. D. C. Cir. Certiorari denied.

No. 14–10146. BOWRING *v.* RAEMISCH, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS. Sup. Ct. Colo. Certiorari denied.

No. 14–10147. BUTLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10148. BENJAMIN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 14–10149. BURNS *v.* ROGERS, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 14–10151. PAIGE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 14–10152. RIVERA-DOMINGUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 452.

No. 14–10153. VELEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 14–10156. WHITE *v.* ROBERTS, SECRETARY, KANSAS DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 731.

No. 14–10158. POWELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 475.

No. 14–10159. MONROE *v.* DISTRICT OF COLUMBIA ET AL. Ct. App. D. C. Certiorari denied.

No. 14–10161. RAMIREZ *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10163. BYRD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–10164. GARFIAS-CHAIRES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 446.

No. 14–10165. KYZAR *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 780 F. 3d 940.

No. 14–10166. SALDANA *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 436.

No. 14–10167. CLEVELAND *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 14–10168. STEWART *v.* MORGAN STATE UNIVERSITY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 48.

No. 14–10169. DIXON *v.* CARLSON ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 163 So. 3d 508.

No. 14–10170. COLEMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 14–10171. LUGO *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 601 Fed. Appx. 46.

No. 14–10172. JOHNSON *v.* FOX, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 629.

No. 14–10173. KELLEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 529.

No. 14–10174. LATTA *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 14–10175. ZAHAVI *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 51, 343 P. 3d 595.

No. 14–10176. CANNON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 3d 260.

No. 14–10177. CLARK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 593 Fed. Appx. 53.

No. 14–10179. TOMPKINS *v.* CHETIRKIN, ADMINISTRATOR, NORTHERN STATE PRISON. C. A. 3d Cir. Certiorari denied.

No. 14–10181. KLOTH-ZANARD *v.* AMRIDGE UNIVERSITY, FKA SOUTHERN CHRISTIAN UNIVERSITY ET AL. C. A. 2d Cir. Certiorari denied.

No. 14–10182. MORRIS *v.* LONG. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 579.

No. 14–10187. COOK *v.* ASHMORE. C. A. 4th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 189.

No. 14–10188. HENTGES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 790 F. 3d 848.

No. 14–10190. WINSTON, AKA WILSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 3d 260.

No. 14–10191. MERIMEE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10193. AMOS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 418.

No. 14–10194. ANDERSON *v.* FIRST JUDICIAL DISTRICT COURT OF NEVADA, COUNTY OF CARSON CITY, ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1248.

No. 14–10195. BLICK *v.* DEUTSCHE BANK NATIONAL TRUST CO. C. A. 4th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 231.

No. 14–10196. BELL *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 106 A. 3d 152.

No. 14–10197. SMITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 180.

No. 14–10198. STODDARD *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 696.

No. 14–10199. EGERTON *v.* GIROUX, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MUNCY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 14–10200. JOYCE *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied.

No. 14–10201. JENKINS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 93.

No. 14–10202. HARRIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 388.

No. 14–10203. CHESTANG *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10204. GOMES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 147.

No. 14–10205. STURDIVANT *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 14–10206. SCHWIGER *v.* PALMER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 488.

No. 14–10207. HOPKINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 583 Fed. Appx. 180.

No. 14–10208. CURRY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10211. SYLVESTER *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied. Reported below: 2012–1846 (La. App. 1 Cir. 9/13/13).

No. 14–10212. SOSA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10213. LYNCH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 943.

No. 14–10214. PERRI *v.* GERRY, WARDEN. C. A. 1st Cir. Certiorari denied.

No. 14–10215. MERIWEATHER *v.* WELLS FARGO BANK, N. A., ET AL. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 14–10216. APONTE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 622 Fed. Appx. 118.

No. 14–10217. BOONE *v.* GRIFFIN, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 14–10218. SEAMAN *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 14–10219. ROJAS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 780 F. 3d 68.

No. 14–10220. ROBERTS *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied. Reported below: 444 S. W. 3d 770.

No. 14–10221. CHAVOYA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 560.

No. 14–10222. SHEPHERD *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–10223. JIMENEZ-ARZATE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 3d 1062.

No. 14–10224. VIEIRA *v.* VAN WINKLE. C. A. 9th Cir. Certiorari denied.

No. 14–10225. MOORE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 14–10226. MEJIA *v.* PFISTER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 14–10228. VU *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 481.

No. 14–10229. WELLS *v.* TENNESSEE BOARD OF PROBATION AND PAROLE. Ct. App. Tenn. Certiorari denied.

No. 14–10230. VERA *v.* ARIZONA. Ct. App. Ariz. Certiorari denied. Reported below: 235 Ariz. 571, 334 P. 3d 754.

No. 14–10231. COLQUITT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 424.

No. 14–10233. DELGADO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 602.

No. 14–10235. PIERT *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 14–10236. MCCOY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 501.

No. 14–10237. MCCLAIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 697.

No. 14–10238. OVIEDO-PEREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 331.

No. 14–10239. RIVERS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 291.

No. 14–10240. PERERA *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 295 Ga. 880, 763 S. E. 2d 687.

No. 14–10241. ROMENSAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 647.

No. 14–10242. Bennett *v.* Peery, Acting Warden. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 526.

No. 14–10243. Brown *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 203.

No. 14–10244. Blow *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 420.

No. 14–10245. Barahona-Sales *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 14–10248. Platte *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 14–10249. Moore *v.* Frazier. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 863.

No. 14–10250. Miramontes-Muniz *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 14–10251. Miller *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 333.

No. 14–10252. Sinkfield *v.* State Farm Insurance. C. A. 6th Cir. Certiorari denied. Reported below: 580 Fed. Appx. 323.

No. 14–10254. Spencer *v.* Young Kwon et al. C. A. 11th Cir. Certiorari denied.

No. 14–10255. Wright *v.* Jones, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied.

No. 14–10256. Weinhaus *v.* Missouri. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 459 S. W. 3d 916.

No. 14–10257. White *v.* Ohio. Sup. Ct. Ohio. Certiorari denied. Reported below: 142 Ohio St. 3d 277, 2015-Ohio-492, 29 N. E. 3d 939.

No. 14–10258. Cheek *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 179.

No. 14–10259. Curry *v.* City of Mansfield, Ohio, et al. C. A. 6th Cir. Certiorari denied.

No. 14–10260. DOWELL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 702.

No. 14–10261. ALLEN *v.* PASTRANA, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 855.

No. 14–10262. BUTLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10263. ROGERS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 777 F. 3d 934.

No. 14–10264. DOUGLAS *v.* DUNLAP, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 106.

No. 14–10265. CARDENAS-BORBON *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10266. DREW *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 559.

No. 14–10267. CORNELL ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 3d 616.

No. 14–10268. MEADOWS *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 631 Pa. 282, 110 A. 3d 992.

No. 14–10269. COOK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 497.

No. 14–10270. SAUNDERS ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 285.

No. 14–10271. ROGERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 188.

No. 14–10272. CREWS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10273. CARRILLO *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 14–10274. CARRASCAL *v.* AVAKIAN ET AL. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 14–10275. PATE *v.* BRELO ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–10276. OSTRANDER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 242.

No. 14–10277. SUONG *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 14–10278. RICHARDSON *v.* SOUTH CAROLINA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 71.

No. 14–10279. UN *v.* DEUTSCHE BANK NATIONAL TRUST CO. Ct. App. Kan. Certiorari denied. Reported below: 50 Kan. App. 2d xiv, 324 P. 3d 1153.

No. 14–10280. WATSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 593 Fed. Appx. 86.

No. 14–10281. TURNER *v.* STEWARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10282. WALTHALL *v.* MCQUIGGEN, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 14–10283. MCENTYRE *v.* SEMPLE, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION. App. Ct. Conn. Certiorari denied. Reported below: 155 Conn. App. 283, 109 A. 3d 928.

No. 14–10284. STOREY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 192.

No. 14–10285. SPEED *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 996.

No. 14–10286. BAUGH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 488.

No. 14–10287. ROLLINS *v.* LOUISIANA DEPARTMENT OF CORRECTIONS OFFICIALS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 329.

No. 14–10288. MOBLEY *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 101 A. 3d 406.

No. 14–10289. MADURA ET UX. *v.* BANK OF AMERICA, N. A. C. A. 11th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 834.

No. 14–10290. SPENCE *v.* NELSON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 250.

No. 14–10291. REDD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 324.

No. 14–10292. BROOKS *v.* PIERCE, WARDEN. C. A. 3d Cir. Certiorari denied.

No. 14–10293. SMALLWOOD *v.* TEXAS. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 14–10294. CASTRO-DAVIS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 14–10295. CASTANEDA-GUARDIOLA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 501.

No. 14–10296. RAHMAN, AKA PRESLEY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 14–10297. AYANBADEJO *v.* JOHNSON, SECRETARY OF HOMELAND SECURITY, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 189.

No. 14–10298. DENEWILER *v.* SWARTHOUT, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10300. DAVIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10301. DONELSON *v.* PFISTER, WARDEN, ET AL. C. A. 7th Cir. Certiorari denied.

No. 14–10302. JIMENEZ-QUELIX, AKA CANALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 270.

No. 14–10303. MARTINEZ-ORDONEZ, AKA MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 292.

No. 14–10304. MARTIN *v.* TEXAS. Ct. App. Tex., 9th Dist. Certiorari denied.

No. 14–10305. WARDELL *v.* RAEMISCH, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 564 Fed. Appx. 922.

No. 14–10306. VILLEGAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 372.

No. 14–10307. LOPEZ *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 121941–U.

No. 14–10308. THOMAS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 157.

No. 14–10310. FUENTES *v.* DIAZ, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 426.

No. 14–10312. GOURSAU *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 4. Certiorari denied.

No. 14–10313. GARRON-MORALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 187.

No. 14–10314. HECHLER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 603.

No. 14–10315. GOMEZ-PENA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 555.

No. 14–10316. HARRIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 288.

No. 14–10317. HUERTA-GUTIERREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 273.

No. 14–10318. FERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 266.

No. 14–10319. GONZALEZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 422.

No. 14–10321. ELLIOT *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2014-Ohio-3723.

No. 14–10322. DeGrate *v.* Broadcast Music Inc. C. A. 2d Cir. Certiorari denied.

No. 14–10325. Felder *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 14–10326. Strong *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 804.

No. 14–10327. Lehman *v.* Pennsylvania. Super. Ct. Pa. Certiorari denied. Reported below: 113 A. 3d 340.

No. 14–10328. Jones *v.* Nuttall AFC Co. et al. Ct. App. Mich. Certiorari denied.

No. 14–10329. Kalick *v.* United States et al. C. A. 3d Cir. Certiorari denied. Reported below: 604 Fed. Appx. 108.

No. 14–10330. Lofton *v.* United States. Ct. App. D. C. Certiorari denied. Reported below: 972 A. 2d 327.

No. 14–10331. Mayon *v.* Louisiana. Ct. App. La., 5th Cir. Certiorari denied.

No. 14–10332. Wilson *v.* Marin et al. C. A. 9th Cir. Certiorari denied.

No. 14–10333. Green *v.* Illinois. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2014 IL App (3d) 120522, 19 N. E. 3d 13.

No. 14–10334. Hanna *v.* Florida et al. C. A. 11th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 362.

No. 14–10336. Fields *v.* Housing Authority of the City of San Buena Ventura et al. C. A. 9th Cir. Certiorari denied.

No. 14–10337. Anderson *v.* Kimberly-Clark Corp. C. A. Fed. Cir. Certiorari denied. Reported below: 570 Fed. Appx. 927.

No. 14–10338. Scheffler *v.* Minnesota. Ct. App. Minn. Certiorari denied.

No. 14–10339. Hutcherson *v.* Michigan. Cir. Ct. Tuscola County, Mich. Certiorari denied.

No. 14–10340. FRIAS *v.* TEXAS. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 14–10341. GOLSON *v.* ALLISON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10342. RICHARDSON *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 14–10343. FERRER *v.* GARASIMOWICZ ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 569 Fed. Appx. 149.

No. 14–10344. HARRIS *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 169 So. 3d 1175.

No. 14–10345. GRAYS *v.* ESTES, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–10346. PABLO GUTIERREZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 581 Fed. Appx. 164.

No. 14–10347. HUMPHREY *v.* HILL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10348. GROOVER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10349. GLOSS *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10350. HARRINGTON *v.* JONES, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10351. HERNANDEZ GONZALEZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 14–10352. GALLIMORE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 132.

No. 14–10354. LAWSHEA *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 14–10356. ALAMILLA RAMIREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 753.

No. 14–10357. REID *v.* CITY OF FLINT, MICHIGAN. Cir. Ct. Genesee County, Mich. Certiorari denied.

No. 14–10358. HALL *v.* MICHIGAN. Cir. Ct. Kalamazoo County, Mich. Certiorari denied.

No. 14–10359. GARVEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 14–10360. FERNANDEZ *v.* VALENZUELA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10361. CHI GIANG HO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 317.

No. 14–10363. HUGGINS *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 14–10364. HALL *v.* TALLIE ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 1042.

No. 14–10365. HAYWOOD *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied.

No. 14–10366. FODOR *v.* EASTERN SHIPBUILDING GROUP (two judgments). C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 693 (first judgment); 599 Fed. Appx. 375 (second judgment).

No. 14–10367. GIBSON *v.* VALLEY AVENUE DRIVE-IN RESTAURANT, LLC. C. A. 11th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 568.

No. 14–10368. RODRIGUEZ-CASTRO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 14–10369. DOTSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 14–10370. LAVENANT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 217.

No. 14–10371. JENA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 324.

No. 14–10372. MASON *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 20, 453 S. W. 3d 679.

No. 14–10373. MARTIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 199.

No. 14–10374. SCOTT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 573.

No. 14–10375. ZAVALA-MARTI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 601 Fed. Appx. 6.

No. 14–10378. WRIGHT *v.* JAMES CITY COUNTY, VIRGINIA. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 186.

No. 14–10379. TAYLOR *v.* DANIELS, CORRECTIONAL ADMINISTRATOR, MAURY CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 269.

No. 14–10380. HAMILTON *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10381. HALL *v.* MCCONNELL ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–10383. FULLER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 139 So. 3d 297.

No. 14–10384. HUBBARD *v.* MILLER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10385. FREEMAN *v.* CHIPREZ ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 578 Fed. Appx. 618.

No. 14–10386. HUBBARD *v.* GIPSON ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–10388. BANKS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–10390. ADKINS *v.* MCDONALD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 159.

No. 14–10391. JIMENEZ PINA, AKA JIMENEZ MANCILLA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 150.

No. 14–10392. TURNER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 264.

No. 14–10393. TAYLOR *v.* DANIELS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 192.

No. 14–10394. FOSTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 217.

No. 14–10395. ADAMS *v.* MACKIE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 14–10396. BUTTERS *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 14–10397. ADAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10398. YUNG LO *v.* GOLDEN GAMING, INC., ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–10399. JONASSEN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 759 F. 3d 653.

No. 14–10400. WASHINGTON *v.* JEANES, WARDEN. Super. Ct. Calhoun County, Ga. Certiorari denied.

No. 14–10401. TAYLOR *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 590 Fed. Appx. 983.

No. 14–10402. DE LA CRUZ *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied.

No. 14–10403. EDWARDS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 782 F. 3d 554.

No. 14–10404. STEVENS *v.* CITY OF SHREVEPORT, LOUISIANA, ET AL. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 49,437 (La. App. 2 Cir. 11/19/14), 152 So. 3d 1071.

No. 14–10406. TRUNG QUANG PHAN *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 841.

No. 14–10408. CARRANZA-RAUDALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 325.

No. 14–10409. Esqueda *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 608.

No. 14–10410. Diaz *v.* Lewis, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 633.

No. 14–10411. Laureano *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 14–10412. Jordan *v.* Satterfield et al. Ct. App. D. C. Certiorari denied.

No. 14–10413. Brown *v.* Perez, Warden. C. A. 9th Cir. Certiorari denied.

No. 14–10414. Castro Velasquez *v.* Bank of America, N. A. Sup. Ct. Fla. Certiorari denied. Reported below: 168 So. 3d 231.

No. 14–10415. Walpole *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 599 Fed. Appx. 56.

No. 14–10416. Tanzi *v.* Jones, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied. Reported below: 772 F. 3d 644.

No. 14–10417. Haynes *v.* McDonald, Secretary of Veterans Affairs. C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 3d 614.

No. 14–10418. Smith *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 14–10419. Rowell *v.* Palmer, Warden, et al. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 620.

No. 14–10424. Isaac *v.* McLaughlin, Warden. Super. Ct. Macon County, Ga. Certiorari denied.

No. 14–10425. Roundtree *v.* Wright, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 188.

No. 14–10426. Mawatu *v.* Valentin et al. C. A. 5th Cir. Certiorari denied.

No. 14–10428. Barill *v.* New York. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 120 App. Div. 3d 951, 991 N. Y. S. 2d 214.

No. 14–10429. RICKS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 246.

No. 14–10430. STARR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 517.

No. 14–10431. ROCHA-GUTIERREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 306.

No. 14–10432. FLEITAS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 14–10433. GORDON *v.* MULLINS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 582 Fed. Appx. 248.

No. 14–10434. RICHARDSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 781 F. 3d 237.

No. 14–10435. HALLOCK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 14–10436. HURD *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 238.

No. 14–10438. GREEN *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 209.

No. 14–10439. HERNANDEZ *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 151 So. 3d 1256.

No. 14–10440. ROWLAND *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 14–10442. JOHNSON *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 14–10444. TALLEY *v.* SIMANDLE, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY. C. A. 3d Cir. Certiorari denied. Reported below: 599 Fed. Appx. 33.

No. 14–10445. VILLA *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS. C. A. 5th Cir. Certiorari denied.

No. 14–10446. WHITE *v.* RIOS, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 849.

No. 14–10448. DELGADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 14–10449. BECKMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 3d 466.

No. 14–10450. BUTLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10452. HANCOCK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 265.

No. 14–10453. FOLK *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 577 Fed. Appx. 106.

No. 14–10454. GODDARD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10455. HARRISON *v.* MUNIZ, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 14–10456. HASTINGS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 14–10457. GARCIA-DURAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10458. FREGIA *v.* MCDONALD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10459. STATON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 605 Fed. Appx. 110.

No. 14–10460. PAUL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 14–10461. SCRUBB *v.* LAVALLEY. C. A. 2d Cir. Certiorari denied.

No. 14–10462. CAMERON *v.* DOLCE, SUPERINTENDENT, ORLEANS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 14–10463. COTINOLA *v.* GIPSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10465. CASTRO-DAVIS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 14–10466. GUEL-NEVARES, AKA GUEL-NEVAREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 315.

No. 14–10467. GUZMAN-BAUTISTA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 313.

No. 14–10468. COCHRUN *v.* DOOLEY, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 14–10469. MANUEL CARMONA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 14–10471. SUPPRESSED *v.* SUPPRESSED. C. A. 7th Cir. Certiorari denied.

No. 14–10472. SALAS *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 160 So. 3d 443.

No. 14–10474. KASSIM *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 598 Fed. Appx. 831.

No. 14–10475. CARACAPPA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 14–10476. JOHNSON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 14–10477. SANDERS *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 329 Ga. App. XXVII.

No. 14–10478. PEREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 919.

No. 14–10479. PENNINGTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 216.

No. 14–10480. WHITE *v.* UHLER, SUPERINTENDENT, UPSTATE CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 14–10481. RIVERA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 372.

No. 14–10482. SHIELDS *v.* FRONTIER TECHNOLOGY LLC, DBA MICROAGE, LLC, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 671.

No. 14–10485. REED *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 3d 260.

No. 14–10487. APODACA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 303.

No. 14–10488. BROOKENS *v.* OFFICE OF DISCIPLINARY COUNSEL OF THE SUPREME COURT OF PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 15–2. JFT CORP. *v.* NEWTEL PAYPHONE OPERATIONS, INC., ET AL. Super. Ct. Pa. Certiorari denied. Reported below: 106 A. 3d 167.

No. 15–3. KIMBER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 777 F. 3d 553.

No. 15–4. WYTTENBACH *v.* R. M. P. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 15–6. MEDYTOX SOLUTIONS, INC., ET AL. *v.* INVESTORSHUB .COM, INC. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 152 So. 3d 727.

No. 15–12. PAMELA B. JOHNSON TRUST, BY JOHNSON, TRUSTEE *v.* ANDERSON ET AL. Ct. App. Mich. Certiorari denied.

No. 15–13. TYSHKEVICH *v.* COUNTRYWIDE HOME LOANS, INC., ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 15–14. ZELAYA ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 781 F. 3d 1315.

No. 15–15. THOMAS ET AL. *v.* VIRGIN ISLANDS BOARD OF LAND USE APPEALS ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–19. MERCER OUTDOOR ADVERTISING, LLC *v.* CITY OF HERMITAGE, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 605 Fed. Appx. 130.

No. 15–20. MANGRU *v.* LYNCH, ATTORNEY GENERAL. C. A. 4th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 209.

No. 15–21. CHERKOVSKY *v.* DELGADO. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–26. FULLER *v.* EDWIN B. STIMPSON CO., INC. C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 652.

No. 15–29. YAN SUI *v.* 2176 PACIFIC HOMEOWNERS ASSN. ET AL. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 15–30. SOOD *v.* GRAHAM. Ct. App. Iowa. Certiorari denied.

No. 15–32. POWELL *v.* CITY OF KANSAS CITY, MISSOURI. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 451 S. W. 3d 724.

No. 15–33. DEERE *v.* LAXALT, ATTORNEY GENERAL OF NEVADA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–34. DUPERON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 3d 820.

No. 15–37. GREEN *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 7th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 553.

No. 15–38. TACCETTA *v.* D'ILIO, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 601 Fed. Appx. 165.

No. 15–39. BALSAM ET AL. *v.* GUADAGNO, NEW JERSEY SECRETARY OF STATE. C. A. 3d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 177.

No. 15–40. ANGHEL *v.* RUSKIN MOSCOU FALTISCHEK, P. C., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 598 Fed. Appx. 805.

No. 15–42. RAMON OCHOA *v.* RUBIN, AKA RUBIN OCHOA. Sup. Ct. Pa. Certiorari denied. Reported below: 631 Pa. 730, 112 A. 3d 654.

No. 15–43. MCBROOM *v.* HUMAN RESOURCES DIRECTOR, FRANKLIN COUNTY BOARD OF ELECTIONS. C. A. 6th Cir. Certiorari denied.

No. 15–44. OLESEN *v.* CARTER ET AL. C. A. 10th Cir. Certiorari denied.

No. 15–47. BAGDIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 129.

No. 15–51. GALLANT *v.* GALLANT. Ct. Civ. App. Ala. Certiorari denied. Reported below: 184 So. 3d 387.

No. 15–52. DANTONE, INC. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–53. CARPENTER *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 781 F. 3d 599.

No. 15–55. MESSINGER *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 4th Cir. Certiorari denied.

No. 15–56. J. H. F. *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 190 So. 3d 579.

No. 15–60. WILLIAMS *v.* BARRY. App. Ct. Conn. Certiorari denied.

No. 15–61. LANGER *v.* NILLES, ILVEDSON, PLAMBECK & SELBO, LTD., NKA NILLES, PLAMBECK, SELBO & HARRIE, LTD. Sup. Ct. N. D. Certiorari denied. Reported below: 2014 ND 210, 858 N. W. 2d 652.

No. 15–62. NELSON *v.* MINNESOTA COMMISSIONER OF REVENUE. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 15–66. UNITED REFINING CO. ET AL. *v.* COTTILLION ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. C. A. 3d Cir. Certiorari denied. Reported below: 781 F. 3d 47.

No. 15–67. MURRAY *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 457 S. W. 3d 446.

No. 15–70. VAN ZANDT, EXECUTOR OF THE ESTATE OF MALIS *v.* MBUNDA. C. A. 9th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 552.

No. 15–72. GONZALEZ-ISAGUIRRE *v.* LYNCH, ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 468.

No. 15–73. Basilio *v.* Nassau County, New York, et al. C. A. 2d Cir. Certiorari denied.

No. 15–74. Sallee *v.* Georgia. Ct. App. Ga. Certiorari denied. Reported below: 329 Ga. App. 612, 765 S. E. 2d 758.

No. 15–75. Burns *v.* Florida Bar. Sup. Ct. Fla. Certiorari denied. Reported below: 183 So. 3d 276.

No. 15–76. Al-Yousif *v.* Trani, Warden, et al. C. A. 10th Cir. Certiorari denied. Reported below: 779 F. 3d 1173.

No. 15–77. Pisciotta *v.* United States; and
No. 15–81. Sorrentino *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 783 F. 3d 727.

No. 15–78. Mirabal *v.* HSBC Bank USA, N. A. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 162 So. 3d 1026.

No. 15–79. Bailey *v.* City of Chicago, Illinois, et al. C. A. 7th Cir. Certiorari denied. Reported below: 779 F. 3d 689.

No. 15–80. Allen et al. *v.* Goguen. C. A. 1st Cir. Certiorari denied. Reported below: 780 F. 3d 437.

No. 15–82. Sofris *v.* Superior Court of California, Los Angeles County, et al. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 15–83. Vane Line Bunkering, Inc. *v.* Hicks. C. A. 2d Cir. Certiorari denied. Reported below: 783 F. 3d 939.

No. 15–86. Oppedisano *v.* Lynch, Attorney General. C. A. 2d Cir. Certiorari denied. Reported below: 769 F. 3d 147.

No. 15–87. C. G. *v.* Deborah Heart and Lung Center et al. Sup. Ct. N. J. Certiorari denied.

No. 15–89. Bamdad *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 15–90. Ceraolo et vir *v.* Citibank, N. A. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–91. Pollard, Individually and as the Executrix of the Estate of Bynum *v.* City of Columbus, Ohio, et al. C. A. 6th Cir. Certiorari denied. Reported below: 780 F. 3d 395.

No. 15–92. BARTH *v.* MCNEELY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 846.

No. 15–93. BARTH *v.* CITY OF PEABODY, MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 87 Mass. App. 1101, 23 N. E. 3d 151.

No. 15–94. MACKEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 573 Fed. Appx. 863.

No. 15–95. PESHKIN ET AL. *v.* PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L. MADOFF INVESTMENT SECURITIES LLC, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 779 F. 3d 74.

No. 15–96. CHATTANOOGA-HAMILTON COUNTY HOSPITAL AUTHORITY, DBA ERLANGER MEDICAL CENTER ET AL. *v.* UNITED STATES EX REL. WHIPPLE. C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 3d 260.

No. 15–97. DOLZ *v.* CITIMORTGAGE, INC. Sup. Ct. Fla. Certiorari denied. Reported below: 160 So. 3d 893.

No. 15–98. RANGEL *v.* BOEHNER ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 785 F. 3d 19.

No. 15–99. SHAIKH *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 160 So. 3d 456.

No. 15–103. NATIONWIDE FREIGHT SYSTEMS, INC., ET AL. *v.* ILLINOIS COMMERCE COMMISSION ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 784 F. 3d 367.

No. 15–104. NUNEZ ET AL. *v.* CITIMORTGAGE, INC., SUCCESSOR BY MERGER TO ABN AMRO MORTGAGE GROUP, INC. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 786.

No. 15–106. WALLER *v.* ARIZONA. Ct. App. Ariz. Certiorari denied. Reported below: 235 Ariz. 479, 333 P. 3d 806.

No. 15–107. SUN LIFE & HEALTH INSURANCE CO. *v.* EVANS. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 497.

No. 15–110. PERRY *v.* ANONYMOUS PHYSICIAN ET AL. Ct. App. Ind. Certiorari denied. Reported below: 25 N. E. 3d 103.

No. 15–112. SKIPP-TITTLE *v.* TITTLE. App. Ct. Conn. Certiorari denied. Reported below: 150 Conn. App. 64, 89 A. 3d 1039.

No. 15–114. WISCONSIN *v.* HO-CHUNK NATION. C. A. 7th Cir. Certiorari denied. Reported below: 784 F. 3d 1076.

No. 15–116. RODGERS ET AL. *v.* KNIGHT ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 932.

No. 15–117. HOME LEGEND, LLC *v.* MANNINGTON MILLS, INC. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 3d 1404.

No. 15–120. HOLKESVIG *v.* HUTTON ET AL. Sup. Ct. N. D. Certiorari denied. Reported below: 2015 ND 48, 861 N. W. 2d 172.

No. 15–121. PULSE ELECTRONICS, INC., ET AL. *v.* HALO ELECTRONICS, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 769 F. 3d 1371.

No. 15–124. BRADLEY *v.* SABREE ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 881.

No. 15–127. R. A. *v.* LOUISIANA DEPARTMENT OF CHILDREN AND FAMILY SERVICES. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 2014–1078 (La. App. 3 Cir. 3/4/15).

No. 15–128. DAHL *v.* DAHL. Sup. Ct. Utah. Certiorari denied.

No. 15–131. ABDULLA *v.* KLOSINSKI OVERSTREET, LLP, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 865.

No. 15–134. SCHWAB INVESTMENTS ET AL. *v.* NORTHSTAR FINANCIAL ADVISORS, INC. C. A. 9th Cir. Certiorari denied. Reported below: 779 F. 3d 1036.

No. 15–136. BERNDT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–137. UNITED STATES *v.* NEWMAN ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 773 F. 3d 438.

No. 15–142. BERERA *v.* MESA MEDICAL GROUP, PLLC (Reported below: 779 F. 3d 352); and EDNACOT *v.* MESA MEDICAL GROUP, PLLC (790 F. 3d 636). C. A. 6th Cir. Certiorari denied.

No. 15–144. FARKAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 211.

No. 15–149. UPSHAW *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 599 Fed. Appx. 387.

No. 15–150. HINGA *v.* MIC GROUP, LLC. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 823.

No. 15–151. FOSS *v.* QUINTANA, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–153. LOSSIA *v.* JPMORGAN CHASE BANK, N. A., SUCCESSOR BY MERGER TO CHASE HOME FINANCIAL, LLC. C. A. 6th Cir. Certiorari denied.

No. 15–154. HILL ET AL. *v.* CAMPBELL HARRISON & DAGLEY, L. L. P., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 3d 240.

No. 15–159. STATON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 605 Fed. Appx. 110.

No. 15–160. SENCI *v.* BANK OF NEW YORK MELLON. Sup. Ct. Fla. Certiorari denied. Reported below: 168 So. 3d 228.

No. 15–164. BACA *v.* NEW MEXICO. Sup. Ct. N. M. Certiorari denied. Reported below: 2015–NMSC–021, 352 P. 3d 1151.

No. 15–172. HOWARD *v.* RAILROAD RETIREMENT BOARD. C. A. 6th Cir. Certiorari denied.

No. 15–174. LEONARD ET AL. *v.* DEPARTMENT OF DEFENSE ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 598 Fed. Appx. 9.

No. 15–178. MCGRIFF *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–179. MICROBILT CORP. *v.* MASELLI WARREN, P. C. C. A. 3d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 169.

No. 15–180. BURKE *v.* UTAH. Ct. App. Utah. Certiorari denied. Reported below: 2015 UT App 1, 342 P. 3d 299.

No. 15–183. RUHAAK *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied.

No. 15–188. SWAIN *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 132, 459 S. W. 3d 283.

No. 15–189. BRANDON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 676.

No. 15–194. JACOB *v.* KOREAN AIR LINES CO. LTD. C. A. 11th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 478.

No. 15–199. HYE *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 131 So. 3d 577.

No. 15–201. EDITIONS LIMITED WEST, INC. *v.* RYAN. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 3d 754.

No. 15–204. CARRICK *v.* HUTCHINSON, GOVERNOR OF ARKANSAS, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 782 F. 3d 400.

No. 15–206. MOBILEMEDIA IDEAS LLC *v.* APPLE INC. C. A. Fed. Cir. Certiorari denied. Reported below: 780 F. 3d 1159.

No. 15–208. BECKMANN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 3d 672.

No. 15–217. WALLACE *v.* HERNANDEZ. Ct. App. Tex., 12th Dist. Certiorari denied.

No. 15–218. KALLAS *v.* FIALA, COMMISSIONER, NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 30.

No. 15–219. GALLION *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–221. CAMPBELL *v.* NATIONSTAR MORTGAGE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 288.

No. 15–225. ARZATE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–237. CULVER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–239. DENT, AKA WALKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 584.

No. 15–248. KELLEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 3d 915.

No. 15–5001. YELVERTON *v.* DISTRICT OF COLUMBIA OFFICE OF BAR COUNSEL. Ct. App. D. C. Certiorari denied. Reported below: 105 A. 3d 413.

No. 15–5002. RICHARDSON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–5003. KAYLOR *v.* COLEMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FAYETTE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5005. JONES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5006. SIMON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 89.

No. 15–5007. SMITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 307.

No. 15–5008. WINTERS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 782 F. 3d 289.

No. 15–5011. EVANS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 782 F. 3d 1115.

No. 15–5013. APONTE-TORRES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–5014. AUGUSTUS *v.* AHRC NASSAU. C. A. 2d Cir. Certiorari denied. Reported below: 596 Fed. Appx. 41.

No. 15–5015. ALCOZER *v.* PFISTER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–5017. SANCHEZ AVILA *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5018. PIERCE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 785 F. 3d 832.

No. 15–5020. DUY PHAM *v.* MCEWEN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 737.

No. 15–5021. PORTER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 1008.

No. 15–5022. KIEHLE *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 642.

No. 15–5023. MAXWELL *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied.

No. 15–5024. WILSON *v.* LACKNER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 634.

No. 15–5025. VILLALTA *v.* LYNCH, ATTORNEY GENERAL, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 628.

No. 15–5027. LYON *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 125 App. Div. 3d 1460, 1 N. Y. S. 3d 874.

No. 15–5028. MARTIN *v.* BYARS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 136.

No. 15–5029. JEAN *v.* RACETTE, SUPERINTENDENT, GREAT MEADOW CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 744.

No. 15–5030. REICHLING *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 781 F. 3d 883.

No. 15–5031. BRANNON *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 252.

No. 15–5033. SOUTHAITE *v.* NASSAU COUNTY, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–5034. DINWIDDIE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5035. CERVANTES-CARRILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 275.

No. 15–5036. RILEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 118.

No. 15–5037. PACHECO-ALVARADO ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 3d 213.

No. 15–5038. MELLQUIST *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 200 So. 3d 1277.

No. 15–5039. GONZALEZ-ROBLES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 558.

No. 15–5041. WINKLES *v.* NO NAMED RESPONDENT. C. A. 10th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 550.

No. 15–5042. GARIANO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–5044. ORTEGA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 3d 250.

No. 15–5045. MOORE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 778 F. 3d 719.

No. 15–5046. RAZO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 782 F. 3d 31.

No. 15–5048. VARGAS *v.* MONTGOMERY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5049. WRIGHT *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5050. BRUTUS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5053. SMITH *v.* PHILLIPS WINTERS APARTMENTS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 365.

No. 15–5055. IRICK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 132.

No. 15–5056. SMITH *v.* WOOD COUNTY DISTRICT ATTORNEY'S OFFICE ET AL. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 15–5059. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 777 F. 3d 1270.

No. 15–5061. MANN *v.* GIROUX, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5062. PABLO JIMENEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 601.

No. 15–5063. BROWN *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 174.

No. 15–5064. ALMANZA SANCHEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 971.

No. 15–5065. ANTOLIN *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 15–5066. AVILES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 165.

No. 15–5067. ESTRADA-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 164.

No. 15–5068. GURROLA-PEREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 162.

No. 15–5069. BEYLE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 782 F. 3d 159.

No. 15–5070. TUCKER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 463.

No. 15–5071. ULLMAN *v.* SUPERIOR COURT OF PENNSYLVANIA ET AL. (two judgments). C. A. 3d Cir. Certiorari denied. Reported below: 603 Fed. Appx. 77 (second judgment).

No. 15–5072. VENEGAS *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5073. STEWART *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 173.

No. 15–5074. RIVAS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5075. SIMPSON *v.* VALENZUELA, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 569.

No. 15–5076. DAWSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5077. KEARNEY *v.* FISCHER, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 609 Fed. Appx. 673.

No. 15–5078. KELLEY *v.* LAZAROFF, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5079. RIVERA *v.* FOLINO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5080. RAMIREZ-MACIAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 818.

No. 15–5081. RICHTER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 3d 498.

No. 15–5082. BURSEY *v.* MCGOWAN ET AL. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–5085. PEREZ-CHAVEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 534.

No. 15–5086. NESSELRODE *v.* DEPARTMENT OF EDUCATION. C. A. 9th Cir. Certiorari denied.

No. 15–5087. MEMBRENO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 206.

No. 15–5088. PADILLA-MARTINEZ *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 770 F. 3d 825.

No. 15–5089. MODJEWSKI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 783 F. 3d 645.

No. 15–5090. MCCALL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–5091. ORTEGA-MORA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 716.

No. 15–5092. MEANS *v.* JONES, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5094. MARTIN *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 195 So. 3d 1086.

No. 15–5095. PEREIDA *v.* RYAN ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5097. BALLESTEROS-VALVERDE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 157.

No. 15–5098. MATA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 401.

No. 15–5099. NAILS *v.* U. S. BANK N. A. Sup. Ct. N. D. Certiorari denied. Reported below: 2015 ND 51, 861 N. W. 2d 172.

No. 15–5100. LACKEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 202.

No. 15–5101. REED *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 436.

No. 15–5102. ROBINSON *v.* COOLEY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5103. VELEZ-FIGUEROA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–5104. TORRES-COLON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 790 F. 3d 26.

No. 15–5105. YBARRA *v.* HOLLAND, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 713.

No. 15–5106. SUMPTER *v.* ATKINS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5107. JONES *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 783 F. 3d 987.

No. 15–5108. SPEARS *v.* TATUM, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 900.

No. 15–5109. MAZUR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 109.

No. 15–5111. LUNZ *v.* O'MEARA, SUPERINTENDENT, GOUVERNEUR CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–5112. DONAHUE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 233.

No. 15–5114. COSTILLA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 194.

No. 15–5116. BRUNSON *v.* PRICE, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5117. DAVIS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 761 F. 3d 713.

No. 15–5118. FALLS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 543 Fed. Appx. 54.

No. 15–5119. MEDEARIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5120. MEDRANO-RODRIGUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 759.

No. 15–5121. TOBIN *v.* CUDDY, JUSTICE, SUPERIOR COURT OF MAINE. C. A. 1st Cir. Certiorari denied.

No. 15–5122. TUNSTALL-BEY *v.* WELLS, CORRECTIONAL ADMINISTRATOR, PENDER CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 749.

No. 15–5123. TOLLIVER *v.* OHIO. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied. Reported below: 2014-Ohio-4824.

No. 15–5124. VOGT *v.* IOWA ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–5126. WRIGHT *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–5127. CORDOVA *v.* MILLER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5128. FRAZIER *v.* JOHNSON, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 781.

No. 15–5129. HUFSTETLER *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 782 F. 3d 19.

No. 15–5130. HARRISON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 654.

No. 15–5131. LOONEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 744.

No. 15–5133. DANIELS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 775 F. 3d 1001.

No. 15–5134. CLAROS *v.* PEREZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5135. GOODWIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 483.

No. 15–5136. BASS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 3d 1043.

No. 15–5138. ASANTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 782 F. 3d 639.

No. 15–5139. BATTLE *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 76.

No. 15–5143. O'NEIL *v.* KLOSKA ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5144. MCDONOUGH *v.* SMITH, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–5145. RIDER *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 103 A. 3d 545.

No. 15–5146. SCIPIO *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 3d Cir. Certiorari denied. Reported below: 611 Fed. Appx. 99.

No. 15–5151. EVANS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 110 A. 3d 641.

No. 15–5152. ST. CLAIR *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied. Reported below: 451 S. W. 3d 597.

No. 15–5153. MCGEE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 121449–U.

No. 15–5154. HUITRON-ROCHA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 771 F. 3d 1183.

No. 15–5155. HOLLAND *v.* FEINBERG ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–5157. KELLY *v.* BISHOP, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 200.

No. 15–5158. FLOWERS *v.* BACA, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5161. RHINES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 594 Fed. Appx. 64.

No. 15–5162. JAMES *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 368 N. C. 258, 771 S. E. 2d 309.

No. 15–5163. PAETSCH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 782 F. 3d 1162.

No. 15–5165. BROWN *v.* BURTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5166. ANAYA *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 15–5167. WATSON *v.* STEWART, CIRCUIT JUDGE, CIRCUIT COURT FOR JEFFERSON COUNTY, MISSOURI, ET AL. Sup. Ct. Mo. Certiorari denied.

No. 15–5168. TOLEDO-MARTINEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 729.

No. 15–5169. RAAR *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5170. RAAR *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5173. MCCAA *v.* MACKIE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5174. RIVERA-MIRANDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 211.

No. 15–5175. BOWDEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5177. HUNT *v.* ROSS STORE, INC. Sup. Ct. Fla. Certiorari denied. Reported below: 157 So. 3d 1044.

No. 15–5178. TURNER *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–5180. STUCKEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 461.

No. 15–5181. CHICAS-GUEVARA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 212.

No. 15–5182. TAYLOR *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 15–5185. MARTIN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 627 Pa. 623, 101 A. 3d 706.

No. 15–5186. KAMAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5187. LANIER *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 160 So. 3d 427.

No. 15–5188. SECHREST *v.* BAKER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 548.

No. 15–5190. JOHNSON, AKA KELLY *v.* OWENS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 707.

No. 15–5191. MATTHEWS *v.* STEWART, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5192. DAVIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 710.

No. 15–5193. CHAVIRA CORONA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 204.

No. 15–5194. MONTOYA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 15–5195. NEWMAN *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 290 Neb. 572, 861 N. W. 2d 123.

No. 15–5196. ORTEGA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 15–5198. KING *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–5199. SIERRA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 15–5200. JONES *v.* MACOMBER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5201. SAUNDERS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–5202. LENTZ *v.* WELLS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5203. LEFFEBRE *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied.

No. 15–5204. LOPES *v.* LIZARRAGA, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 411.

No. 15–5205. SMITH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 166.

No. 15–5206. AL-MALIKI *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 3d 784.

No. 15–5207. TARVIN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5208. WALKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 582.

No. 15–5209. WILLIAMS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 112448–U.

No. 15–5210. MCCARY *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 207 So. 3d 811.

No. 15–5211. BATTS *v.* COOLEY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5212. BROWN ET AL. *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES. C. A. 11th Cir. Certiorari denied.

No. 15–5213. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 969.

No. 15–5214. AGUILAR *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 960.

No. 15–5215. BASEY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5216. BRAYBOY *v.* NAPEL, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5218. DOMINGUEZ-GARCIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 653.

No. 15–5219. RODRIGUEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 609 Fed. Appx. 8.

No. 15–5220. HAYES, AKA MITCHELL *v.* BOLEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 420.

No. 15–5221. REYES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 813.

No. 15–5223. MCGEE *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 368 N. C. 270, 772 S. E. 2d 727 and 728.

No. 15–5224. ORTIZ-LOPEZ *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 153 So. 3d 313.

No. 15–5225. PRICE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 582 Fed. Appx. 846.

No. 15–5227. WARREN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5228. WRIGHT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5229. THOMPSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 122921–U.

No. 15–5230. TURNER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 374.

No. 15–5231. BRAMMER *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 15–5232. ALLEN *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 173 So. 3d 971.

No. 15–5233. ACEVEDO *v.* CAPRA, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 600 Fed. Appx. 801.

No. 15–5234. BURTON *v.* SOUTH CAROLINA. Ct. Common Pleas of Aiken County, S. C. Certiorari denied.

No. 15–5236. RODRIGUEZ-GRADO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–5237. SHINAULT *v.* HAWKS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 3d 1053.

No. 15–5240. YAWN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5241. TAYLOR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5242. TAYLOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 212.

No. 15–5243. MENDEZ-SOSA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 3d 1061.

No. 15–5244. M. C. *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES ET AL. (Reported below: 171 So. 3d 118); and M. C. *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES (166 So. 3d 791). Sup. Ct. Fla. Certiorari denied.

No. 15–5245. COLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 161.

No. 15–5246. WOODARD *v.* FORTRESS INSURANCE CO. ET AL. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 15–5247. ALLARD *v.* BALDWIN ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 779 F. 3d 768.

No. 15–5248. BOLT *v.* NOOTH, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 680.

No. 15–5249. BOONE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5250. THOMPSON *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 15–5251. WILLIAMS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5253. CUMBY *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–5254. EDMONDS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 606 Fed. Appx. 656.

No. 15–5255. COLON, AKA SEALED DEFENDANT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 785 F. 3d 832.

No. 15–5256. DIEHL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 775 F. 3d 714.

No. 15–5258. WIDDISON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 3d 1216.

No. 15–5259. MARQUARDT *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 156 So. 3d 464.

No. 15–5260. KINNEY *v.* LAVIN, JUDGE, SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5261. ROGERS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 850.

No. 15–5262. SQUARE *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied.

No. 15–5263. MORALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 269.

No. 15–5264. MUNYENYEZI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 781 F. 3d 532.

No. 15–5268. SILVIS *v.* GLUNT, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW. C. A. 3d Cir. Certiorari denied.

No. 15–5269. RUBEN *v.* KEITH, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5270. SANDERS *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5271. RODRIGUEZ SOSA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5272. CHARLOTTE G. *v.* ARIZONA DEPARTMENT OF CHILD SAFETY ET AL. Ct. App. Ariz. Certiorari denied.

No. 15–5273. LUCIO *v.* SANTOS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 480.

No. 15–5274. ROBINSON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5275. MURRAY *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 184 So. 3d 465.

No. 15–5276. NEELY *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5277. JAVIER LUNA *v.* PALMER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5280. ROSS *v.* STRUBLE, JUDGE, SUPERIOR COURT OF GEORGIA, HABERSHAM COUNTY. Super. Ct. Habersham County, Ga. Certiorari denied.

No. 15–5281. LACAYO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 296.

No. 15–5283. RIVERA-OTERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 306.

No. 15–5285. PACHECO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 809.

No. 15–5286. MCCULLOUGH *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2015 IL App (2d) 121364, 38 N. E. 3d 1.

No. 15–5287. NAVEDO-RAMIREZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 781 F. 3d 563.

No. 15–5288. ADAMS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5289. ARAKJI *v.* HESS ET AL. C. A. 10th Cir. Certiorari denied.

No. 15–5290. BUSH *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–5291. BURGESS *v.* HOLLOWAY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5292. LEE *v.* GLEBE, SUPERINTENDENT, STAFFORD CREEK CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 15–5293. LADEAIROUS *v.* SCHNEIDERMAN, ATTORNEY GENERAL OF NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 592 Fed. Appx. 47.

No. 15–5295. STEVENSON *v.* SAUNDERS. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 190.

No. 15–5296. MCGINNIS *v.* BRAZELTON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5297. MCGEE *v.* MICHIGAN. Cir. Ct. Wayne County, Mich. Certiorari denied.

No. 15–5298. NEAL *v.* IVES, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5300. WATKINS *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 630 Pa. 652, 108 A. 3d 692.

No. 15–5301. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 576.

No. 15–5302. FENG XIAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 399.

No. 15–5303. BOOKER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL. Sup. Ct. Va. Certiorari denied.

No. 15–5304. BELCHER *v.* THOMAS ET AL. Sup. Ct. Ala. Certiorari denied. Reported below: 215 So. 3d 1027.

No. 15–5305. MARTIN *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 15–5306. JOHNSON *v.* REDDY. C. A. 9th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 405.

No. 15–5308. SHARMA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 797.

No. 15–5309. SHARMA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 797.

No. 15–5311. CUPP *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 183.

No. 15–5312. BARNES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 821.

No. 15–5313. BAZEMORE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 207.

No. 15–5314. GREEN *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 106 A. 3d 155.

No. 15–5316. FLORES-GRANADOS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 783 F. 3d 487.

No. 15–5318. DOUGLAS, AKA HOUSTON *v.* BUGHRARA ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 590 Fed. Appx. 99.

No. 15–5319. CHEW *v.* BISHOP, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 203.

No. 15–5320. ALEJANDRO DIAZ *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5321. COLEMAN *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–5322. GAVILANES-OCARANZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 772 F. 3d 624 and 585 Fed. Appx. 321.

No. 15–5323. PERRY *v.* RAWSKI, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 166.

No. 15–5324. LEE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 254.

No. 15–5325. LEFLORE *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 2015 IL 116799, 32 N. E. 3d 1043.

No. 15–5326. WILLAN *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 144 Ohio St. 3d 94, 2015-Ohio-1475, 41 N. E. 3d 366.

No. 15–5327. WALLS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 543.

No. 15–5328. KING *v.* KESSLER. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 513.

No. 15–5329. PLATO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 364.

No. 15–5331. GIBSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 491.

No. 15–5332. GRAY-SOMMERVILLE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 165.

No. 15–5333. HUNTER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–5334. GREEN *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–5335. FITZGERALD *v.* HOUSE, JUDGE, 11TH JUDICIAL CIRCUIT, ST. CHARLES COUNTY, MISSOURI, ET AL. Sup. Ct. Mo. Certiorari denied.

No. 15–5338. MERCADO VILLALOBOS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5339. TILLMAN *v.* MICHIGAN. Cir. Ct. Wayne County, Mich. Certiorari denied.

No. 15–5340. SURLES *v.* LEACH ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5341. SOLORZANO *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–5342. LEYVA-MUNOZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 393.

No. 15–5343. MCBRIDE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5344. MCKINNON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5345. PALMER *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5346. SHTEYMAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 60.

No. 15–5347. CHYTKA *v.* WRIGHT TREE SERVICE, INC. C. A. 10th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 841.

No. 15–5348. BOWERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 620.

No. 15–5349. ANDRE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 954.

No. 15–5351. ROBERTS *v.* MCCULLOCH, DIRECTOR, SAND RIDGE SECURE TREATMENT FACILITY. C. A. 7th Cir. Certiorari denied.

No. 15–5352. GARDUNO-CASTILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 938.

No. 15–5353. GARCIA-LARA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 937.

No. 15–5354. HICKMAN *v.* OREGON. Sup. Ct. Ore. Certiorari denied. Reported below: 355 Ore. 715, 330 P. 3d 551, and 356 Ore. 687, 343 P. 3d 634.

No. 15–5355. HANSON *v.* HAINES, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–5356. HUTCHINSON *v.* TEXAS. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 15–5357. GRIFFIN *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 15–5358. GOLSTON *v.* SCONYERS, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5359. HOOD *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 15–5360. FARMER *v.* POTTEIGER ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5361. HOPKINS *v.* SPRINGFIELD HOUSING AUTHORITY. C. A. 7th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 528.

No. 15–5362. CRAYTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 160 So. 3d 893.

No. 15–5363. SANDERS *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 773 F. 3d 186.

No. 15–5364. OHLSEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5365. PARSONS *v.* ADKINS, ADMINISTRATOR, SOUTHWESTERN REGIONAL JAIL. Sup. Ct. App. W. Va. Certiorari denied.

No. 15–5366. RAM *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 317.

No. 15–5367. NOEL *v.* MACOMBER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 606.

No. 15–5369. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5370. HARRIS *v.* WALLS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 518.

No. 15–5371. GAGNON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5373. HAZEN *v.* HAZEN. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 158 So. 3d 597.

No. 15–5374. RANDOLPH *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1336.

No. 15–5375. WALDRIP *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 949.

No. 15–5376. SANDERS *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied.

No. 15–5377. HUY PHAM *v.* FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 345.

No. 15–5378. BUTLER *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5379. ASHLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 256.

No. 15–5381. BUTLER *v.* TEXAS. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 15–5383. BRIMM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 795.

No. 15–5384. ALVARADO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 15–5385. ROMERO-MOLINA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 286.

No. 15–5386. SMOCK *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5387. CHI *v.* DOE. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 258.

No. 15–5389. CRUZ *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 86 Mass. App. 1123, 20 N. E. 3d 981.

No. 15–5390. JOHNSON *v.* YOUNG, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 779 F. 3d 495.

No. 15–5391. NELSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 37.

No. 15–5393. THEALL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 807.

No. 15–5394. VERDUGO-BELTRAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 556.

No. 15–5395. STRAIN *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF LOUISIANA. C. A. 5th Cir. Certiorari denied.

No. 15–5396. SCHEIRING *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5397. SHELL *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 16 N. E. 3d 488.

No. 15–5398. NELSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 559.

No. 15–5400. LESTER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5401. OKAFOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 108.

No. 15–5402. KRIEG *v.* STEELE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 231.

No. 15–5403. LEBLANC *v.* MACOMB REGIONAL FACILITY. C. A. 6th Cir. Certiorari denied.

No. 15–5404. TORRES *v.* READ ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 742.

No. 15–5405. MCCLAIN *v.* MONTGOMERY, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 549.

No. 15–5406. TYLER *v.* SCHOFIELD, COMMISSIONER, TENNESSEE DEPARTMENT OF CORRECTION, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 445.

No. 15–5407. RODRIGUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 534.

No. 15–5408. SAJOR-REEDER *v.* CAVAZOS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 679.

No. 15–5409. SPARKS *v.* TRUMBULL ET AL. Ct. Sp. App. Md. Certiorari denied. Reported below: 220 Md. App. 726 and 727.

No. 15–5410. NORMAN *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 162 So. 3d 991.

No. 15–5411. WRIGHT *v.* KING. Sup. Ct. Miss. Certiorari denied. Reported below: 166 So. 3d 38.

No. 15–5412. WATKINS *v.* WALLACE, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–5413. WALKER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 247.

No. 15–5414. O'BRYAN *v.* TERRIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5415. JOHNSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–5416. WRIGHT *v.* WINGARD, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 601 Fed. Appx. 115.

No. 15–5417. WILLIAMS *v.* TEXAS. Ct. App. Tex., 7th Dist. Certiorari denied.

No. 15–5418. CABRERA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 279.

No. 15–5419. MAZARIEGOS-SOTO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 641.

No. 15–5420. JOHNSON *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 15–5422. BAKER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 231.

No. 15–5423. MOORE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 458.

No. 15–5424. YELARDY *v.* PIERCE, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5425. LLERA-PLAZA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–5426. SCOTTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5427. WARREN *v.* ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 2013 IL App (5th) 110243–U.

No. 15–5428. TAFFARO *v.* NG. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–5429. CABRERA MEJIA *v.* WAL-MART. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 520.

No. 15–5430. MOORE *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 162 So. 3d 1036.

No. 15–5431. GUERRERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 328.

No. 15–5432. MACKAY *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5433. CULP *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 390.

No. 15–5434. LEBLANC *v.* KALAMAZOO COUNTY SHERIFF'S DEPARTMENT. C. A. 6th Cir. Certiorari denied.

No. 15–5436. PHILIPPE *v.* UNITED STATES; and

No. 15–5439. COLE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 594 Fed. Appx. 35.

No. 15–5437. RHETT U. *v.* ARIZONA DEPARTMENT OF CHILD SAFETY ET AL. Ct. App. Ariz. Certiorari denied.

No. 15–5438. RAMOS *v.* LAMARQUE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5440. LEBLANC *v.* MICHIGAN DEPARTMENT OF CORRECTIONS. C. A. 6th Cir. Certiorari denied.

No. 15–5441. MENCY *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 158 So. 3d 569.

No. 15–5442. NEIL *v.* LYNCH, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied.

No. 15–5444. SALAS *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5445. DAWSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–5447. GROSS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 784 F. 3d 784.

No. 15–5448. JAVIER GOMEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 726.

No. 15–5449. CARMICHAEL *v.* ESTES, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5450. CLEAVER *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 173 So. 3d 972.

No. 15–5451. ROBERTS *v.* BARROW, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–5452. SANCHEZ *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–5453. EIKELBOOM *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 224.

No. 15–5454. RAMIREZ *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5455. THOMAS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 168 So. 3d 231.

No. 15–5456. JAMES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 714.

No. 15–5457. LOPEZ *v.* TAPIA, WARDEN. Dist. Ct. N. M., Valencia County. Certiorari denied.

No. 15–5458. EASTERLING, AKA SMITH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 919.

No. 15–5459. DILBERT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5460. FELIX-VILLALOBOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 574.

No. 15–5461. GONZALEZ-GONZALEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 297.

No. 15–5462. FIGUEROA-MAGANA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 500.

No. 15–5463. STARKEY *v.* SPACKLER, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 15–5464. BROWN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 1301.

No. 15–5465. ARCIBA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5466. WATTS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 637.

No. 15–5467. VOSS *v.* BACA, WARDEN. Ct. App. Nev. Certiorari denied. Reported below: 131 Nev. 1360.

No. 15–5468. BUNTHOEN ROEUNG ET AL. *v.* URIBE, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 575.

No. 15–5469. SAGUIL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 945.

No. 15–5470. RODRIGUEZ-LOPEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 549.

No. 15–5471. MERCADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 327.

No. 15–5473. LANDAVERDE-ESCALANTE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 335.

No. 15–5475. KRAUS *v.* WHITE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5476. RAMIREZ-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 293.

No. 15–5477. ROMERO-GUEVARA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 292.

No. 15–5478. JONES *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 190.

No. 15–5480. SANCHEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 42.

No. 15–5481. KOWALESKI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 645.

No. 15–5482. FEREBEE *v.* TEMPLE HILLS POST OFFICE. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 276.

No. 15–5483. CHACON-ARVISO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 948.

No. 15–5485. WILLIAMS *v.* CITY UNIVERSITY OF NEW YORK, BROOKLYN COLLEGE. C. A. 2d Cir. Certiorari denied. Reported below: 590 Fed. Appx. 84.

No. 15–5486. MATA-CAMACHO *v.* FIZER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5491. HERNANDEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 261.

No. 15–5492. ROBINSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 180.

No. 15–5493. STINSON *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 195 So. 3d 391.

No. 15–5498. CARTER *v.* KEFER ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–5499. DYAB *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5500. FLETCHER *v.* LOUISIANA. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 49,303 (La. App. 2 Cir. 10/1/14), 149 So. 3d 934.

No. 15–5504. GARDNER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–5507. ROEMMELE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 470.

No. 15–5508. ALLAH *v.* VIRGINIA. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 201.

No. 15–5510. NOVO *v.* MASSACHUSETTS. Super. Ct. Mass., Bristol County. Certiorari denied.

No. 15–5511. CARRILLO-MORONES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5516. LEE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 375.

No. 15–5517. O'CAMPO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 783.

No. 15–5518. THURSTON *v.* MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 112.

No. 15–5519. ROBINSON *v.* ANDREWS ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 325.

No. 15–5523. MCWHORTER *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–5529. NASH *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 200.

No. 15–5530. TRIBBLE *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 512.

No. 15–5533. MAES *v.* LACKNER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 792 F. 3d 1132.

No. 15–5534. LABELLE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5535. URIBE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 563.

No. 15–5536. SANTILLAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 548.

No. 15–5537. ANDERSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 742.

No. 15–5538. RUIZ-HUERTAS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 792 F. 3d 223.

No. 15–5540. BEALER *v.* WILLIAMS ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–5543. BLAKES *v.* FOUTCH ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 1004.

No. 15–5544. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5545. SMITH *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 107 A. 3d 227.

No. 15–5547. COTHAM *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–5548. CHANLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–5549. EASTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 236.

No. 15–5551. APONTE-SOBRADO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 763 F. 3d 89.

No. 15–5554. LEBLANC *v.* KALAMAZOO COUNTY, MICHIGAN. C. A. 6th Cir. Certiorari denied.

No. 15–5557. EDWARDS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 928.

No. 15–5559. COLLINS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 774 F. 3d 256.

No. 15–5561. ADKINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–5563. OLIVAREZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 391.

No. 15–5564. ADIGUN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 609 Fed. Appx. 718.

No. 15–5565. BARGO *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 538.

No. 15–5566. PRICE, AKA ROBERTSON *v.* PHILLIPS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5569. HILL *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 158 So. 3d 603.

No. 15–5574. COOK *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 782 F. 3d 983.

No. 15–5575. HOBBS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 612 Fed. Appx. 94.

No. 15–5576. DUQUETTE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 778 F. 3d 314.

No. 15–5577. GUERRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 295.

No. 15–5578. HITCHCOCK *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–5580. MAISONET *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 785 F. 3d 757.

No. 15–5581. WILBURN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 241.

No. 15–5582. WIMBERLY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5583. BROWN *v.* OFFICE OF PERSONNEL MANAGEMENT. C. A. Fed. Cir. Certiorari denied. Reported below: 608 Fed. Appx. 934.

No. 15–5584. ALSTON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–5585. MARBLE *v.* FOX, ATTORNEY GENERAL OF MONTANA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 591.

No. 15–5586. JACKSON *v.* SOUTH CAROLINA. Ct. App. S. C. Certiorari denied.

No. 15–5592. ANDERSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 369.

No. 15–5593. BOX *v.* CAPOZZA, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT PITTSBURGH, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5598. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5606. MCGEE *v.* NORMAN, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–5607. MOTEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 617 Fed. Appx. 186.

No. 15–5608. RIGGINS *v.* MILLER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5611. ZEPEDA-GONZALEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 394.

No. 15–5612. CHAMBLISS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–5617. DOOLEY *v.* PENNSYLVANIA ET AL. Sup. Ct. Pa. Certiorari denied. Reported below: 631 Pa. 679, 115 A. 3d 875.

No. 15–5618. ENGLE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 234.

No. 15–5619. DYSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 113 A. 3d 355.

No. 15–5620. REYES ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 582 Fed. Appx. 22.

No. 15–5625. CANCEL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5626. TAYLOR *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 777 F. 3d 434.

No. 15–5629. MORENO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 775.

No. 15–5631. HUARTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 778 F. 3d 942.

No. 15–5637. CHOPANE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 325.

No. 15–5638. CASTLES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5642. JOHNSTON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 3d 934.

No. 15–5643. JONES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5644. RIOS-PINTADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 741.

No. 15–5646. BOSIER *v.* DEPARTMENT OF THE TREASURY. C. A. 5th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 803.

No. 15–5647. ADAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5651. PEREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 620.

No. 15–5652. MCCALL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 236.

No. 15–5653. MEREGILDO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 785 F. 3d 832.

No. 15–5656. ROSA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 785 F. 3d 856.

No. 15–5659. KERR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 141.

No. 15–5660. OKEAYAINNEH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–5664. NASH *v.* PASH, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–5669. BOYKIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 785 F. 3d 1352.

No. 15–5671. MEJIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 407.

No. 15–5677. WILLIAMS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 916.

No. 15–5678. DOBEK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 3d 698.

No. 15–5679. DIAZ-ARROYO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 797 F. 3d 125.

No. 15–5683. ARMSTRONG *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5685. BIBBS *v.* EDENFIELD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5687. HEYN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 801.

No. 15–5688. HILL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 759.

No. 15–5690. HAYES *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 111 A. 3d 647.

No. 15–5691. SAINT CYR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 569.

No. 15–5692. DE LA CRUZ-FELICIANO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 786 F. 3d 78.

No. 15–5693. Al Jaber *v.* United States. C. A. 2d Cir. Certiorari denied.

No. 15–5694. Hollis *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 780 F. 3d 1064.

No. 15–5701. Belt *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 745.

No. 15–5702. Brown *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 15–5704. Bruno *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 912.

No. 15–5705. Pacell *v.* Mahally, Superintendent, State Correctional Institution at Dallas, et al. C. A. 3d Cir. Certiorari denied.

No. 15–5710. Moronta *v.* Griffin, Superintendent, Sullivan Correctional Facility. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 78.

No. 15–5713. Collier *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 339.

No. 15–5714. Rivera *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 402.

No. 15–5716. Best *v.* Holland, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–5717. Barnard *v.* Perez, Warden. C. A. 9th Cir. Certiorari denied.

No. 15–5723. Baptiste *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 950.

No. 15–5724. Baughman *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 899.

No. 15–5728. Stewart-Hanson *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 600.

No. 15–5729. Wynn *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 786 F. 3d 339.

No. 15–5734. FERMIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–5736. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5737. FAGAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5741. JAIMEZ REYES *v.* ELLIS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 682.

No. 15–5745. THOMAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 214.

No. 15–5746. TRACHANAS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 751.

No. 15–5751. CLEVELAND *v.* STEWART, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 931.

No. 15–5752. ERVIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5755. MANNING *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 3d 684.

No. 15–5759. MOLINA *v.* LOCKETT, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–5761. THOMPSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 726.

No. 15–5764. PARKER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5765. METTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 890.

No. 15–5766. HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5768. DIXON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 787 F. 3d 55.

No. 15–5769. ESQUIVEL-RIOS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 3d 1299.

No. 15–5771. CABELLO, AKA PALUMBO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 761.

No. 15–5773. TURNER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 374.

No. 15–5777. SIMMONS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 280.

No. 15–5779. GARCIA-CHIHUAHUA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 686.

No. 15–5781. BRUCE *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 412 S. C. 504, 772 S. E. 2d 753.

No. 15–5782. HERNANDEZ-OSORIO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 278.

No. 15–5783. HARRIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 858.

No. 15–5785. CHAPPELL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 779 F. 3d 872.

No. 15–5788. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5789. KOLODESH *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 787 F. 3d 224.

No. 15–5791. GIBSON *v.* UNITED STATES; and
No. 15–5792. ADZHEMYAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 487.

No. 15–5794. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 632.

No. 15–5800. PETTIT *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 785 F. 3d 1374.

No. 15–5802. VANEGAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 664.

No. 15–5806. DARDEN *v.* PASTRANA, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–5809. CULLEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 172.

No. 15–5812. OSUNA-ALVAREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 3d 1183.

No. 15–5814. GOUSE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 798 F. 3d 39.

No. 15–5815. GRAY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 778.

No. 14–972. ABB INC. ET AL. *v.* ARIZONA BOARD OF REGENTS ET AL.; and

No. 14–1019. ARIZONA *v.* ASHTON COMPANY INCORPORATED CONTRACTORS & ENGINEERS ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of these petitions. Reported below: 761 F. 3d 1005.

No. 14–1358. I/P ENGINE, INC. *v.* AOL INC. ET AL. C. A. Fed. Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 576 Fed. Appx. 982.

No. 14–1362. INTERVAL LICENSING LLC *v.* AOL INC. ET AL. C. A. Fed. Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 766 F. 3d 1364.

No. 14–1380. BRYANT ET AL. *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioners to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 768 F. 3d 1378.

No. 14–1384. OHIO *v.* WHITE. Sup. Ct. Ohio. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 142 Ohio St. 3d 277, 2015-Ohio-492, 29 N. E. 3d 939.

No. 14–1398. ARNOLD, ACTING WARDEN *v.* SESSOMS. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 776 F. 3d 615.

No. 14–1400. JANES ET AL. *v.* TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 774 F. 3d 1052.

No. 14–1419. SAC AND FOX NATION OF OKLAHOMA ET AL. *v.* BOROUGH OF JIM THORPE, PENNSYLVANIA, ET AL. C. A. 3d Cir. Motions of Senator Ben Nighthorse Campbell et al. and National Congress of American Indians for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 770 F. 3d 255.

No. 14–1423. CHUAN WANG *v.* INTERNATIONAL BUSINESS MACHINES CORP. ET AL. App. Ct. Mass. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 86 Mass. App. 1113, 17 N. E. 3d 1118.

No. 14–1438. JOLLEY *v.* DEPARTMENT OF JUSTICE. C. A. Fed. Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 602 Fed. Appx. 805.

No. 14–1473. CONTENT EXTRACTION & TRANSMISSION LLC *v.* WELLS FARGO BANK, N. A., ET AL. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 776 F. 3d 1343.

No. 14–1498. LUCAS *v.* HUMPHREY, WARDEN. C. A. 11th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 771 F. 3d 785.

No. 14–7733. HONKEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 14–9645. SHERMAN *v.* EDWARDS-FEARS ET AL. C. A. 8th Cir. Certiorari before judgment denied.

No. 14–9914. CASSIDY *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

No. 14–10111. GANOE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 588 Fed. Appx. 650.

No. 14–10138. DOTSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 14–10162. SALDANA *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 597 Fed. Appx. 423.

No. 14–10184. BURMAN *v.* PERDUE, WARDEN, ET AL. C. A. 4th Cir. Certiorari before judgment denied.

No. 14–10362. FORD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 14–10437. FLOOD *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 600 Fed. Appx. 867.

No. 15–18. BISTLINE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 605 Fed. Appx. 529.

No. 15–41. W. L. GORE & ASSOCIATES, INC. *v.* BARD PERIPHERAL VASCULAR, INC., ET AL. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 776 F. 3d 837.

No. 15–63. MCDONALD *v.* BOEING CO. C. A. 10th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 602 Fed. Appx. 452.

No. 15–5032. SEBOLT *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5052. TELEMAQUE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5058. MYERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 597 Fed. Appx. 153.

No. 15–5083. BOOKER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5093. MAYER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5110. TORRES ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 15–5189. JOHNSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 786 F. 3d 241.

No. 15–5239. JOHNSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 779 F. 3d 125.

No. 15–5279. SEBOLT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 598 Fed. Appx. 159.

No. 15–5350. ACUNA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5388. CARACAPPA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 15–5392. WILK *v.* WINN, COMPLEX WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5514. DAVIS, AKA CALVIN, AKA ROBINSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 604 Fed. Appx. 871.

No. 15–5515. EZELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 778 F. 3d 762.

No. 15–5532. WADFORD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 594 Fed. Appx. 168.

No. 15–5579. FLORES-PEREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 599 Fed. Appx. 735.

No. 15–5624. RIVERS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 777 F. 3d 1306.

No. 15–5700. AGUILERA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 591 Fed. Appx. 555.

*Rehearing Denied*

No. 14–1241. LAWRENCE *v.* GWINNETT COUNTY, GEORGIA, ET AL., 576 U. S. 1036;

No. 14–1258. LEYVA *v.* WELLS FARGO BANK, N. A., 576 U. S. 1036;

No. 14–7190. GARCIA *v.* UNITED STATES, 574 U. S. 1095;

No. 14–9069. CODIGA *v.* UTTECHT, SUPERINTENDENT, COYOTE RIDGE CORRECTIONS CENTER, 575 U. S. 1031;

No. 14–9422. KARGBO *v.* NEW HAMPSHIRE, 576 U. S. 1039;

No. 14–9459. LESTER *v.* HENTHORNE, 576 U. S. 1059;

No. 14–9523. CROSS *v.* FAYRAM, WARDEN, 576 U. S. 1059;

No. 14–9647. BARRINER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., 576 U. S. 1060;

No. 14–9652. DOHOU *v.* UNITED STATES, 576 U. S. 1012;

No. 14–9664. COLLINS *v.* STEELE, WARDEN, 576 U. S. 1041;

No. 14–9744. DAWSON *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY, 576 U. S. 1060;

No. 14–9839. JOHNS *v.* UNITED STATES, 576 U. S. 1042;

No. 14–9876. WILCOX *v.* UNITED STATES, 576 U. S. 1061; and

No. 14–9882. COPELAND *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., 576 U. S. 1061. Petitions for rehearing denied.

No. 14–8628. WARE *v.* UNITED STATES, 575 U. S. 946. Petition for rehearing denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

OCTOBER 6, 2015

*Dismissal Under Rule 46*

No. 15–5725. BISCHOFF *v.* GALLO ET AL. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 46.

OCTOBER 13, 2015

*Affirmed for Absence of Quorum*

No. 15–5601. MISSUD *v.* COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, ET AL. Sup. Ct. Cal. Because the Court lacks a quorum, 28 U. S. C. § 1, and since the only qualified Justices are of the opinion that the case cannot be heard and determined at the next Term of the Court, the judgment is affirmed under 28 U. S. C. § 2109, which provides that under these circumstances "the court shall enter its order affirming the judgment of the court from which the case was brought for review with the same effect as upon affirmance by an equally divided court." THE CHIEF JUSTICE, JUSTICE SCALIA, JUSTICE KENNEDY, JUSTICE THOMAS, and JUSTICE ALITO took no part in the consideration or decision of this petition.

*Certiorari Granted—Vacated and Remanded*

No. 14–1422. FIRST MARBLEHEAD CORP. ET AL. *v.* MASSACHUSETTS COMMISSIONER OF REVENUE. Sup. Jud. Ct. Mass. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Comptroller of Treasury of Md.* v. *Wynne*, 575 U. S. 542 (2015). Reported below: 470 Mass. 497, 23 N. E. 3d 892.

No. 15–5330. ROSE *v.* UNITED STATES. C. A. 11th Cir. Reported below: 590 Fed. Appx. 937;

No. 15–5654. MCCARTHREN *v.* UNITED STATES. C. A. 11th Cir. Reported below: 575 Fed. Appx. 873; and

No. 15–5667. JONES *v.* UNITED STATES. C. A. 11th Cir. Reported below: 597 Fed. Appx. 1064. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015).

*Certiorari Dismissed*

No. 15–31. PRIETO *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 4th Cir. Motion of Mark Eric Lawlor for leave to intervene denied. Certiorari dismissed as moot. Reported below: 780 F. 3d 245.

No. 15–5489. LANDRITH *v.* JORDAN ET AL. Ct. App. Kan. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–5495. ENRIQUEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5527. KEARNEY *v.* NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES ET AL. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–5589. TURNPAUGH *v.* MICHIGAN. Ct. App. Mich. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–5748. CAMPBELL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 171 So. 3d 114.

No. 15–5811. O'CONNOR *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Motion of peti-

tioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5819. DeWilliams *v.* United States. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Justice Kagan took no part in the consideration or decision of this motion and this petition. Reported below: 612 Fed. Appx. 489.

No. 15–5921. Harvey *v.* Louisiana. Sup. Ct. La. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 2014–1981 (La. 6/5/15), 171 So. 3d 945.

*Miscellaneous Orders*

No. 14A1153. Nechovski *v.* United States. Application for certificate of appealability, addressed to Justice Sotomayor and referred to the Court, denied.

No. 15A216. Manska *v.* Minnesota. Ct. App. Minn. Application for stay, addressed to Justice Sotomayor and referred to the Court, denied.

No. 15A293. Watson *v.* Florida Judicial Qualifications Commission. Sup. Ct. Fla. Application for stay, addressed to Justice Sotomayor and referred to the Court, denied.

No. 15M30. COLON *v.* FOSTER, WARDEN;
No. 15M31. THOMPSON ET AL. *v.* RUDDY ET AL.;
No. 15M33. BROCK *v.* SMALL, WARDEN; and
No. 15M34. UPSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15M32. NEALY *v.* UNITED STATES POSTAL SERVICE. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 142, Orig. FLORIDA *v.* GEORGIA. Motion of the Special Master for allowance of fees and disbursements granted, and the Special Master is awarded a total of $70,245.52 for the period April 1 through August 31, 2015, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 575 U. S. 1007.]

No. 15–5539. BROWN *v.* KLEEREKOPER. Ct. App. Tex., 1st Dist.; and
No. 15–5686. FRANCO-BARDALES *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 3, 2015, 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.

No. 15–6143. IN RE EASON. Petition for writ of habeas corpus denied.

No. 15–6113. IN RE MIDDLETON. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 15–5708. IN RE PLATTS;
No. 15–5868. IN RE JORDAN; and
No. 15–5903. IN RE TAYLOR, AKA SALAAM. Petitions for writs of mandamus denied.

No. 15–5509. IN RE NADDI. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5588. In re Pratt et al. Petition for writ of mandamus and/or prohibition denied.

*Certiorari Denied*

No. 14–1153. LaChance *v.* Massachusetts. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 469 Mass. 854, 17 N. E. 3d 1101.

No. 14–1286. United Healthcare of Arizona et al. *v.* Spinedex Physical Therapy USA, Inc., et al. C. A. 9th Cir. Certiorari denied. Reported below: 770 F. 3d 1282.

No. 14–1331. Kirschenbaum, Chapter 7 Trustee of the Estate of the Robert Plan Corp. *v.* Department of Labor. C. A. 2d Cir. Certiorari denied. Reported below: 777 F. 3d 594.

No. 14–1436. Hambleton, as Successor Personal Representative of the Estate of Hambleton, et al. *v.* Washington Department of Revenue. Sup. Ct. Wash. Certiorari denied. Reported below: 181 Wash. 2d 802, 335 P. 3d 398.

No. 14–1464. Oakland Port Services Corp. *v.* Godfrey et al. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied. Reported below: 230 Cal. App. 4th 1267, 179 Cal. Rptr. 3d 498.

No. 14–1497. Kane County, Utah *v.* United States; and
No. 15–27. Utah *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 772 F. 3d 1205.

No. 14–9416. Diaz *v.* Quintana, Warden. C. A. 6th Cir. Certiorari denied.

No. 14–9470. Lee *v.* Kelley, Director, Arkansas Department of Correction. C. A. 8th Cir. Certiorari denied.

No. 14–9875. West *v.* United States. Ct. App. D. C. Certiorari denied. Reported below: 100 A. 3d 1076.

No. 14–10066. Smith *v.* Colorado. Ct. App. Colo. Certiorari denied.

No. 14–10405. LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 14–10443. WILLIAMS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–16. JOHNSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 743.

No. 15–17. DAVIS *v.* U. S. BANK N. A. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 778 F. 3d 809.

No. 15–22. GERHARTZ *v.* RICHERT ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 779 F. 3d 682.

No. 15–23. PRAIRIE COUNTY, MONTANA, ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 782 F. 3d 685.

No. 15–130. ANGLIN *v.* CERES GULF, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 342.

No. 15–135. RUBIN ET AL. *v.* PADILLA, CALIFORNIA SECRETARY OF STATE, ET AL. Ct. App. Cal., 1st App. Dist., Div. 1. Certiorari denied. Reported below: 233 Cal. App. 4th 1128, 183 Cal. Rptr. 3d 373.

No. 15–139. VOLK *v.* WILLIAMS. Ct. App. Ohio, 5th App. Dist., Coshocton County. Certiorari denied. Reported below: 2014-Ohio-4365.

No. 15–143. GJOKAJ ET AL. *v.* HSBC MORTGAGE SERVICES, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 275.

No. 15–165. HINDO ET AL. *v.* BANK OF NEW YORK MELLON. C. A. 6th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 484.

No. 15–167. CHRISTAKIS *v.* JEANNE D'ARC CREDIT UNION. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 471 Mass. 365, 29 N. E. 3d 823.

No. 15–171. DEFAZIO ET AL. *v.* HOLLISTER, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 439.

No. 15–177. NOATEX CORP. ET AL. *v.* AUTO PARTS MANUFACTURING MISSISSIPPI INC. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 3d 186.

No. 15–184. OVERTON *v.* TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES. Ct. App. Tenn. Certiorari denied. Reported below: 464 S. W. 3d 311.

No. 15–190. HARDIN, PERSONAL REPRESENTATIVE FOR HARDIN *v.* WAL-MART STORES, INC. C. A. 9th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 545.

No. 15–192. HENDERSON *v.* TOWN OF HOPE MILLS, NORTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 195.

No. 15–207. VAN TASSEL *v.* PICCIONE, JUDGE, COURT OF COMMON PLEAS OF PENNSYLVANIA, LAWRENCE COUNTY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 608 Fed. Appx. 66.

No. 15–211. HOLLIER ET UX., INDIVIDUALLY AND AS NEXT FRIENDS OF M. H., A MINOR, ET AL. *v.* WATSON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 255.

No. 15–212. HARRIS *v.* FIESTA TEXAS, INC., DBA SIX FLAGS-FIESTA TEXAS, ET AL. Ct. App. Tex., 4th Dist. Certiorari denied.

No. 15–213. CHANG LIM *v.* TERUMO CORP. ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–223. CORNELIUS *v.* DYKEMA GOSSETT PLLC RETIREMENT PLAN ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–231. SMITH *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 611 Fed. Appx. 1000.

No. 15–246. MAXITRATE TRATAMENTO TERMICO E CONTROLES ET AL. *v.* ALLIANZ SEGUROS S. A., FKA AGF BRASIL SEGUROS S. A. C. A. 6th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 406.

No. 15–251. MCRAE *v.* DOERING ET AL. Ct. App. Ga. Certiorari denied. Reported below: 330 Ga. App. XXIII.

No. 15–261. ROSSCO HOLDINGS, INC., ET AL. *v.* MCCONNELL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 302.

No. 15–271. REED *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 302 Kan. 227, 352 P. 3d 530.

No. 15–275. CHAMBERLAIN *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–279. SONE ET AL. *v.* HARVEST NATURAL RESOURCES, INC. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 452.

No. 15–285. ANDERSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 783 F. 3d 727.

No. 15–309. KERLEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 784 F. 3d 327.

No. 15–5137. ALLEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 778 F. 3d 719.

No. 15–5140. DRISKILL *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 459 S. W. 3d 412.

No. 15–5474. KOPATZ *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 61 Cal. 4th 62, 347 P. 3d 952.

No. 15–5479. FISHER *v.* CITY OF IRONTON, OHIO. Ct. App. Ohio, 4th App. Dist., Lawrence County. Certiorari denied. Reported below: 2014-Ohio-5462.

No. 15–5484. WAGONER *v.* LEMMON, COMMISSIONER, INDIANA DEPARTMENT OF CORRECTION, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 778 F. 3d 586.

No. 15–5487. LANDERS *v.* NORRIS. C. A. 11th Cir. Certiorari denied.

No. 15–5490. MAZIN *v.* NORWOOD POLICE DEPARTMENT ET AL. App. Ct. Mass. Certiorari denied. Reported below: 86 Mass. App. 1121, 19 N. E. 3d 868.

No. 15–5494. BERNIER *v.* COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION ONE, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–5496. COWART *v.* SHERMAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5497. HARNAGE *v.* TORRES ET AL. App. Ct. Conn. Certiorari denied. Reported below: 155 Conn. App. 792, 111 A. 3d 523.

No. 15–5501. HOUSWERTH *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5502. HIGGINBOTHAM *v.* MISSISSIPPI. C. A. 5th Cir. Certiorari denied.

No. 15–5505. HARNAGE *v.* RELL ET AL. App. Ct. Conn. Certiorari denied. Reported below: 154 Conn. App. 905, 105 A. 3d 367.

No. 15–5512. CLAYTON *v.* BANK OF AMERICA ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5513. CREAMER *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–5520. TAYLOR *v.* PATE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 186.

No. 15–5521. LEWIS *v.* AMERICAN AIRLINES, INC. C. A. 8th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 653.

No. 15–5522. MELTON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5524. JOHNSON *v.* PERRY, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 128.

No. 15–5525. MARTINEZ *v.* WINN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5526. JOHNSON *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 15–5528. JOHNSON *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–5541. BRAMAGE *v.* DISCOVER BANK. Ct. App. Ind. Certiorari denied. Reported below: 16 N. E. 3d 1039.

No. 15–5542. ALFRED *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5546. REYNA, AKA TWO BULLS *v.* YOUNG, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 401.

No. 15–5550. ABNEY *v.* COURT OF COMMON PLEAS OF PENNSYLVANIA, FIRST JUDICIAL DISTRICT, ET AL. Sup. Ct. Pa. Certiorari denied. Reported below: 631 Pa. 602, 114 A. 3d 1035.

No. 15–5552. PAWLEY *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 166 So. 3d 792.

No. 15–5553. SKINNER *v.* JOHNSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5555. MAGWOOD *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 162 So. 3d 991.

No. 15–5556. CASTANEDA *v.* BURTON-CAHILL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 373.

No. 15–5558. DONOFRIO *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 123 App. Div. 3d 941, 1 N. Y. S. 3d 127.

No. 15–5562. POWERS *v.* WEXFORD HEALTH SERVICES ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–5567. PETRANO ET UX. *v.* NATIONWIDE MUTUAL FIRE INSURANCE CO. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 927.

No. 15–5568. WRIGHT *v.* UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5570. COLEMAN *v.* BARTOW, DIRECTOR, WISCONSIN RESOURCE CENTER. C. A. 7th Cir. Certiorari denied.

No. 15–5571. CAISON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 163 So. 3d 507.

No. 15–5572. CROWELL, AKA CARTER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 15–5573. CROWELL, AKA CARTER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 213.

No. 15–5590. MOODY *v.* CITY OF DELRAY BEACH, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 966.

No. 15–5591. MCCARTHY *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 163 So. 3d 1197.

No. 15–5594. BELL *v.* VIRGINIA NATURAL GAS, INC. Sup. Ct. Va. Certiorari denied.

No. 15–5596. BAKALIK *v.* QUINN ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–5597. PICKENS *v.* PERRITT, SUPERINTENDENT, LUMBERTON CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 575 Fed. Appx. 173.

No. 15–5599. RAMIREZ *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–5600. WATFORD *v.* QUINN. C. A. 7th Cir. Certiorari denied.

No. 15–5602. ARRIAGA *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–5603. DAVIS *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 249.

No. 15–5609. ROBERTS *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 166 So. 3d 774.

No. 15–5614. MCNAMARA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 15–5615. DEHENRE *v.* MISSISSIPPI ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–5616. DAVIS *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 122.

No. 15–5621. BARRERA *v.* INDUSTRIAL CLAIM APPEALS OFFICE OF COLORADO ET AL. Ct. App. Colo. Certiorari denied.

No. 15–5622. BOYD *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 15–5623. BOND *v.* DEPARTMENT OF EDUCATION. C. A. 4th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 293.

No. 15–5640. DANIHEL *v.* OFFICE OF THE PRESIDENT OF THE UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 616 Fed. Appx. 467.

No. 15–5641. ELERI *v.* HARTLEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5655. VERNON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 883.

No. 15–5663. PARTIDA-RODRIGUEZ *v.* PERRY. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 103.

No. 15–5665. PELA *v.* KATAVICH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5672. OFELDT *v.* COX, DIRECTOR, NEVADA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 619.

No. 15–5675. VOGT *v.* IOWA STATE PENITENTIARY ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–5676. WAGNER *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5680. CLARK *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA. C. A. 5th Cir. Certiorari denied.

No. 15–5681. SABIN *v.* TRUJILLO ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5707. PHILLIPS *v.* TEXAS DEPARTMENT OF PUBLIC SAFETY. Sup. Ct. Tex. Certiorari denied.

No. 15–5726. DUNCAN *v.* MISSISSIPPI. Ct. App. Miss. Certiorari denied. Reported below: 170 So. 3d 579.

No. 15–5727. ELFADLY *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 3d Cir. Certiorari denied. Reported below: 588 Fed. Appx. 93.

No. 15–5747. CLUGSTON *v.* BATISTA, DIRECTOR, MONTANA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5763. LEE *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 566.

No. 15–5772. KENDRICK *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 454 S. W. 3d 450.

No. 15–5784. STANTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 579 Fed. Appx. 982.

No. 15–5790. VALENTINE *v.* JPMORGAN CHASE BANK, N. A. C. A. 5th Cir. Certiorari denied.

No. 15–5803. NELSON *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5817. DAVIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–5818. CORREA-OSORIO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 784 F. 3d 11.

No. 15–5821. LOWE *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 15–5822. USMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5829. BARRINGTON *v.* BABCOCK, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 698.

No. 15–5830. SMITH *v.* FISCHER, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION. C. A. 2d Cir. Certiorari denied. Reported below: 780 F. 3d 556.

No. 15–5831. NUNEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 353.

No. 15–5833. FREEMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 886.

No. 15–5836. YOUNG *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5838. MARTINEZ-MONTALVO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 345.

No. 15–5841. QUALLS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 25.

No. 15–5843. ENYART *v.* ERDOS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5844. DIAZ-SOTO, AKA DURAN-MEJIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 154.

No. 15–5848. WEBB *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5849. WATSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 213.

No. 15–5852. SPENCER *v.* TIFFT, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5855. MARTIN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–5857. WILLIAMS *v.* GRIFFITH, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–5859. LEVERETTE *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 174 So. 3d 1004.

No. 15–5861. BAL *v.* ITEX CORP. ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–5862. BARTHOLOMEW *v.* MUHAMMAD ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 313.

No. 15–5863. VINES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 158.

No. 15–5871. BRAY *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 631.

No. 15–5872. BOWERS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 407.

No. 15–5873. CREAMER *v.* FLORIDA COMMISSION ON OFFENDER REVIEW. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 166 So. 3d 769.

No. 15–5876. SOTO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 68.

No. 15–5877. TOTTEN *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 166 So. 3d 32.

No. 15–5881. WHITE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 545.

No. 15–5883. CHOI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 597.

No. 15–5885. CHRISTIAN *v.* PLUMLEY, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 3d 427.

No. 15–5887. MOE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 3d 1120.

No. 15–5888. BAINE *v.* ESTES, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–5889. BALSAM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5891. JONES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5892. MAXWELL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 740.

No. 15–5893. MARQUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5896. WHITTAKER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5897. WHITTAKER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5899. ELENES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 562.

No. 15–5902. BURG *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 724.

No. 15–5909. LANHAM *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5911. LINDOR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 777.

No. 15–5913. HAHN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 15–5922. LEAKE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 313.

No. 15–5931. AMADOR-HUGGINS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 124.

No. 15–5936. WHITFIELD *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5937. MILHOUSE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 605 Fed. Appx. 83.

No. 15–5938. REZENDES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 744.

No. 15–5939. IMPERATO *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 11th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 957.

No. 15–5943. SPENCER, AKA BUXTON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–5949. ARGUETA-BONILLA *v.* UNITED STATES (Reported below: 613 Fed. Appx. 369); GONZALES-MATUTE *v.* UNITED STATES (613 Fed. Appx. 415); MEDINA, AKA RIOS MEDINA *v.* UNITED STATES (607 Fed. Appx. 389); SNOWBALL-PADRON *v.* UNITED STATES (613 Fed. Appx. 374); TOVAR-ESPINOZA *v.* UNITED STATES (607 Fed. Appx. 413); VALENCIA-GARCIA, AKA GARCIA

VALENCIA, aka GARZA VALENCIA, aka VALENCIA GARCIA *v.* UNITED STATES (607 Fed. Appx. 402); VELASQUEZ-LOPEZ *v.* UNITED STATES (607 Fed. Appx. 414); and VELA-CAVAZOS, aka VELA, aka CAVAZOS VELA *v.* UNITED STATES (613 Fed. Appx. 411). C. A. 5th Cir. Certiorari denied.

No. 15–5950. SAGE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 410.

No. 15–5951. DIAZ-AGRAMONTE, aka LUIS TORRES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–5952. DOE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 625.

No. 15–5953. COLONDRES *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 471 Mass. 192, 27 N. E. 3d 1272.

No. 15–5955. SACUS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 784 F. 3d 1214.

No. 15–5956. JIM *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 3d 802.

No. 15–5960. MITCHELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 976.

No. 15–5962. REYES-LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 451.

No. 15–5966. VOLKMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 797 F. 3d 377.

No. 15–5968. MUJAHID *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 402.

No. 15–5972. COX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–5975. JHA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 212.

No. 15–5978. TAYLOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 671.

No. 15–5981. WOODWARD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 101.

No. 15–5982. WARREN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 3d 805.

No. 15–5992. SHANKLE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 105.

No. 15–5993. ROBBINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 209.

No. 15–5994. RETTA-REYES *v.* UNITED STATES (Reported below: 607 Fed. Appx. 416); VELASQUEZ *v.* UNITED STATES (607 Fed. Appx. 384); AGUIRRE *v.* UNITED STATES (607 Fed. Appx. 397); ANDRADE-ROCHA *v.* UNITED STATES (609 Fed. Appx. 830); DELGADILLO *v.* UNITED STATES (607 Fed. Appx. 410); ANDRADE-RODRIGUEZ *v.* UNITED STATES (604 Fed. Appx. 376); COLLINS *v.* UNITED STATES (604 Fed. Appx. 384); HERNANDEZ *v.* UNITED STATES (613 Fed. Appx. 406); and LOERA-VELASCO *v.* UNITED STATES (613 Fed. Appx. 391). C. A. 5th Cir. Certiorari denied.

No. 15–5997. MASSEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–5999. CORTEZ-GUZMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 241.

No. 15–6000. CHIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 538.

No. 15–6010. VILLARREAL-FLORES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–6011. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6024. MERRIWEATHER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6034. COURVILLE *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–173. HARR *v.* BRODHEAD ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE BREYER took no part in the consid-

eration or decision of this petition. Reported below: 588 Fed. Appx. 285.

No. 15–5895. WHITE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 608 Fed. Appx. 160.

No. 15–5907. PAYNE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–5973. KING *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 610 Fed. Appx. 825.

No. 15–6007. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–8938. FIELDS *v.* UNITED STATES, 575 U. S. 976. Petition for rehearing denied.

## OCTOBER 19, 2015

*Certiorari Granted—Vacated and Remanded*

No. 15–5722. BANKS *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015). Reported below: 606 Fed. Appx. 804.

*Certiorari Dismissed*

No. 15–5712. MANKO *v.* GABAY ET AL. Ct. App. N. Y. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 24 N. Y. 3d 1206, 28 N. E. 3d 22.

*Miscellaneous Orders*

No. 15M35. WILLIAMS *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY;

No. 15M36. NYNETJER EL BEY *v.* MICHIGAN; ET AL.;

No. 15M37. ROSS *v.* UNITED STATES ET AL.;

No. 15M38. JONES *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES;

No. 15M39. RODRIGUEZ *v.* SCHOOL BOARD OF POLK COUNTY, FLORIDA, ET AL.; and

No. 15M40. BLADES *v.* BLADES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 14–940. EVENWEL ET AL. *v.* ABBOTT, GOVERNOR OF TEXAS, ET AL. D. C. W. D. Tex. [Probable jurisdiction noted, 575 U. S. 1024.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–1146. TYSON FOODS, INC. *v.* BOUAPHAKEO ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. C. A. 8th Cir. [Certiorari granted, 576 U. S. 1003.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–5635. STEVENS *v.* NIKE, INC. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 9, 2015, 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.

No. 15–6238. IN RE BLUEMEL;

No. 15–6286. IN RE COCKERHAM; and

No. 15–6328. IN RE SMITH. Petitions for writs of habeas corpus denied.

No. 15–5890. IN RE BROWN; and

No. 15–6061. IN RE TATAR. Petitions for writs of mandamus denied.

No. 15–5684. IN RE ANDERSON. Petition for writ of mandamus and/or prohibition denied.

No. 15–5826. IN RE SALIH EL BEY. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of prohibition dismissed. See this Court's Rule 39.8.

*Certiorari Granted*

No. 14–614. HUGHES, CHAIRMAN, MARYLAND PUBLIC SERVICE COMMISSION, ET AL. *v.* TALEN ENERGY MARKETING, LLC, FKA PPL ENERGYPLUS, LLC, ET AL.; and

No. 14–623. CPV MARYLAND, LLC *v.* TALEN ENERGY MARKETING, LLC, FKA PPL ENERGYPLUS, LLC, ET AL. C. A. 4th Cir. Certiorari granted, cases consolidated, and a total of one hour is allotted for oral argument. Reported below: 753 F. 3d 467.

No. 14–1513. HALO ELECTRONICS, INC. *v.* PULSE ELECTRONICS, INC., ET AL.; and

No. 14–1520. STRYKER CORP. ET AL. *v.* ZIMMER, INC., ET AL. C. A. Fed. Cir. Motions of Independent Inventor Groups and Nokia Technologies OY et al. for leave to file briefs as *amici curiae* granted. Certiorari granted in No. 14–1513 limited to Question 1 presented by the petition. Certiorari granted in No. 14–1520. Cases consolidated, and a total of one hour is allotted for oral argument. Reported below: No. 14–1513, 769 F. 3d 1371; No. 14–1520, 782 F. 3d 649.

*Certiorari Denied*

No. 14–1337. MANUEL DIAZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 591.

No. 14–10227. WARD *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 61, 455 S. W. 3d 818.

No. 15–36. GLASMANN *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 183 Wash. 2d 117, 349 P. 3d 829.

No. 15–48. CARSWELL, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ABDULLAH *v.* ARENA ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 389.

No. 15–176. DISCHE *v.* PREYER ET AL. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 121 App. Div. 3d 1216, 994 N. Y. S. 2d 449.

No. 15–185. BODUM, INC. *v.* MEYER INTELLECTUAL PROPERTIES LTD. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 604 Fed. Appx. 931.

No. 15–197. ALLEN *v.* KELLER ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 200.

No. 15–198. OLLER *v.* ROUSSEL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 770.

No. 15–200. TAGGART *v.* GMAC MORTGAGE, LLC, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 600 Fed. Appx. 859.

No. 15–202. UCHE *v.* MONTGOMERY HOSPICE, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 97.

No. 15–205. PHIPPS *v.* PHIPPS. Ct. App. Tenn. Certiorari denied.

No. 15–220. GRAZZINI-RUCKI, INDIVIDUALLY AND ON BEHALF OF HER CHILDREN, N. J. R. ET AL. *v.* KNUTSON ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 902.

No. 15–224. GARZA-MATA *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 295.

No. 15–228. MILLER *v.* WAL-MART STORES, INC. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 99.

No. 15–240. MIZUKAMI *v.* DON QUIJOTE (USA) CO. LTD. ET AL. Int. Ct. App. Haw. Certiorari denied. Reported below: 134 Haw. 539, 345 P. 3d 205.

No. 15–258. HEALTH GRADES, INC. *v.* BOYER ET AL. Sup. Ct. Colo. Certiorari denied. Reported below: 359 P. 3d 25.

No. 15–268. LOVE *v.* MEMPHIS-SHELBY COUNTY AIRPORT AUTHORITY. C. A. 6th Cir. Certiorari denied.

No. 15–286. ROGERS ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. Reported below: 783 F. 3d 320.

No. 15–296. ONYANGO *v.* NICK & HOWARD, LLC, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 552.

No. 15–301. CAMPBELL *v.* NORTH CAROLINA. Gen. Ct. Justice, Super. Ct. Div., Wake County, N. C. Certiorari denied.

No. 15–312. KARAGOZIAN *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 2d Cir. Certiorari denied. Reported below: 595 Fed. Appx. 87.

No. 15–313. COOPER *v.* BENNETT. C. A. 9th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 875.

No. 15–315. OVERKA ET AL. *v.* AMERICAN AIRLINES, INC. C. A. 1st Cir. Certiorari denied. Reported below: 790 F. 3d 36.

No. 15–317. BOST *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 821.

No. 15–325. CAHILL *v.* PRE-PAID LEGAL SERVICES, INC. C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 3d 1287.

No. 15–337. CONWAY ET AL. *v.* CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ET AL. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied. Reported below: 235 Cal. App. 4th 671, 185 Cal. Rptr. 3d 490.

No. 15–347. MCCALL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–5132. HUGGINS *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 161 So. 3d 335.

No. 15–5265. NELSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–5299. WILLIAMS *v.* LOUISIANA. 19th Jud. Dist. Ct. La., East Baton Rouge Parish. Certiorari denied.

No. 15–5627. CRESPIN *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 15–5630. PERKINS *v.* SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 15–5632. HILL *v.* INDIANA. Ct. App. Ind. Certiorari denied.

No. 15–5634. VOS *v.* GOUGH ET AL. Ct. App. Ohio, 7th App. Dist., Columbiana County. Certiorari denied.

No. 15–5636. SUSTAITA *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2015 IL App (4th) 130445–U.

No. 15–5639. EADS *v.* SEXTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5649. KING *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5650. Q. O. *v.* OHIO. Ct. App. Ohio, 1st App. Dist., Hamilton County. Certiorari denied. Reported below: 2014-Ohio-3893.

No. 15–5657. NELSON *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5658. LAKE *v.* ROBERT ET AL. App. Ct. Ill., 5th Dist. Certiorari denied.

No. 15–5661. MITCHELL *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5662. MORRIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5666. WILLIAMS *v.* OJELADE ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–5668. JOHNSON *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–5673. LEBLANC *v.* KALAMAZOO COUNTY, MICHIGAN. C. A. 6th Cir. Certiorari denied.

No. 15–5674. TYLER *v.* WASHINGTON. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 120.

No. 15–5689. HOFFART *v.* WIGGINS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 261.

No. 15–5698. MAKI *v.* NEW YORK ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 597 Fed. Appx. 36.

No. 15–5699. BLANKENSHIP *v.* BIRCH. C. A. 7th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 629 and 785 F. 3d 1174.

No. 15–5703. BOLDS *v.* CAVAZOS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 307.

No. 15–5706. SAVOIE *v.* BRADSHAW, SHERIFF, PALM BEACH COUNTY, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5709. PALMER *v.* OHIO. Ct. App. Ohio, 2d App. Dist., Montgomery County. Certiorari denied. Reported below: 2014-Ohio-5266.

No. 15–5711. BOOKER-EL *v.* NEAL, SUPERINTENDENT, INDIANA STATE PRISON. C. A. 7th Cir. Certiorari denied.

No. 15–5715. SMITH *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5718. BENITEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–5719. BOLTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–5720. BROST *v.* IOWA. C. A. 8th Cir. Certiorari denied.

No. 15–5721. HUDSON *v.* HUDSON. Ct. Civ. App. Ala. Certiorari denied. Reported below: 178 So. 3d 861.

No. 15–5730. WHITE *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied.

No. 15–5731. GREEN *v.* LESTER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5732. FULLMAN *v.* KISTLER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 608 Fed. Appx. 124.

No. 15–5733. FULLMAN *v.* KISTLER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 617 Fed. Appx. 124.

No. 15–5743. ROSS *v.* TRIERWEILER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5744. YOUNG *v.* TRUMAN MEDICAL CENTER, ADMINISTRATIVE DEPARTMENT, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–5750. EWING *v.* LUCAS COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES. C. A. 6th Cir. Certiorari denied.

No. 15–5753. RUCANO *v.* NEW YORK. Sup. Ct. N. Y., Richmond County. Certiorari denied.

No. 15–5757. PRICE *v.* KIRKEGARD, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 646.

No. 15–5793. AWOLEYE *v.* LYNCH, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 868.

No. 15–5797. MCCLINTON *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 245, 464 S. W. 3d 913.

No. 15–5807. RAY *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2014–1491 (La. 6/1/15), 171 So. 3d 928.

No. 15–5834. KILLS ON TOP *v.* KIRKEGARD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5850. NUNN *v.* MATTHEWS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 298.

No. 15–5854. MATTHEWS *v.* KLINE, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 741.

No. 15–5870. BOSWELL *v.* ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–5900. WHITE *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 310.

No. 15–5917. ELLIOTT *v.* JOHNSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5925. DESHIELDS *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5930. BROWN *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 102.

No. 15–5942. KINNEY *v.* CLARK. C. A. 9th Cir. Certiorari denied.

No. 15–5988. NELSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 130.

No. 15–5990. BLACKLEY, AKA BLAKELY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6013. SCOTT *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 126 App. Div. 3d 1425, 3 N. Y. S. 3d 661.

No. 15–6015. ALISURETOVE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 788 F. 3d 1247.

No. 15–6018. SIMPSON *v.* UNITED STATES ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6019. SIMPSON *v.* COAKLEY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6021. IVANEZ *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2015 WI App 28, 361 Wis. 2d 283, 862 N. W. 2d 618.

No. 15–6023. GARRETT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 71.

No. 15–6025. GOODRICH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 754 F. 3d 569.

No. 15–6029. A. M. G. *v.* OREGON DEPARTMENT OF HUMAN SERVICES. Ct. App. Ore. Certiorari denied. Reported below: 270 Ore. App. 1, 346 P. 3d 1254.

No. 15–6032. SOSA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 464.

No. 15–6035. CHANTHARATH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6036. CARABALI-DIAZ, AKA APONTE-ORTIZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 306.

No. 15–6039. WELCH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6040. RUCHLEWICZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 204.

No. 15–6042. MYERS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6044. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 257.

No. 15–6045. DICKS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 628.

No. 15–6047. CESAR CARDENAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 246.

No. 15–6052. MANN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 3d 1244.

No. 15–6054. STARNER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 156.

No. 15–6057. CASIAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 885.

No. 15–6058. TURNER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 149.

No. 15–6067. SMITH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6069. RASGADO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–6072. ESTRADA-ZOLORZANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 369.

No. 15–6073. CALIX *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 419.

No. 15–6074. CHAVEZ-PEREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 403.

No. 15–6079. ESCOBAR-LOPEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 150.

No. 15–6083. USHERY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 3d 210.

No. 15–6085. MATTHEWS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 784 F. 3d 1232.

No. 15–6088. HEARD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 762 F. 3d 538.

No. 15–6089. SAENZ-ARANDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 417.

No. 15–6093. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 472.

No. 15–6095. ESPINAL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 800.

No. 15–6103. TROGDON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 789 F. 3d 907.

No. 15–6108. ALEMAN TRIANA, AKA ALEMAN, AKA ALEMAN-TRIANA *v.* UNITED STATES (Reported below: 604 Fed. Appx. 376); RAMOS-MARTINEZ *v.* UNITED STATES (617 Fed. Appx. 287); and CHAN-VICENTE *v.* UNITED STATES (612 Fed. Appx. 240). C. A. 5th Cir. Certiorari denied.

No. 15–6111. GATEWOOD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 580.

No. 15–6112. PEPPERS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6114. MCLEAN *v.* MANSUKHANI, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 78.

No. 15–6118. HILL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 786 F. 3d 1254.

No. 15–6129. BALICE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–6132. HOPKINS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 637.

No. 15–6133. FAUCETTE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 607 Fed. Appx. 5.

No. 15–6135. BAKER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 431.

No. 15–6138. CHAPPELLE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 71.

No. 15–6140. CREIGHTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6144. COWAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6157. ARAFAT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 789 F. 3d 839.

No. 15–6159. ABBRING *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 3d 565.

No. 15–6160. ANDREWS *v.* UNITED STATES; and ANDREWS *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Reported below: 610 Fed. Appx. 101). C. A. 3d Cir. Certiorari denied.

No. 15–6164. COGDELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 241.

No. 15–6169. LARA MADRID *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 359.

No. 15–6172. COOPER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 764.

No. 15–6183. GARVIN *v.* WRIGHT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 583 Fed. Appx. 287.

No. 15–193. KANE, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF CORNISH *v.* LEWIS ET AL. C. A. 4th Cir. Motions of Seth Stoughton and Cato Institute for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 604 Fed. Appx. 229.

No. 15–203. WHITEHEAD *v.* WHITE & CASE LLP ET AL. C. A. 5th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–9173. MOLINE *v.* CBS NEWS INC., 576 U. S. 1007. Petition for rehearing denied.

OCTOBER 22, 2015

*Dismissal Under Rule 46*

No. 15–345. CRAWFORD ET VIR *v.* HOUSEHOLD FINANCE CORP. III. Ct. App. Ind. Certiorari dismissed under this Court's Rule 46.1.

OCTOBER 29, 2015

*Certiorari Denied*

No. 15–6551 (15A424). CORRELL *v.* FLORIDA. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 184 So. 3d 478.

JUSTICE BREYER, dissenting.

Jerry William Correll was sentenced to death on February 7, 1986, and has now been incarcerated on death row by the State of Florida for over 29 years. Correll requests a stay of execution to allow the Court to consider his claims that Florida's sentencing procedures violate the Sixth and Eighth Amendments and that his lengthy period of incarceration under threat of execution constitutes cruel and unusual punishment.

I remain convinced that the Court should consider whether nearly 30 years of incarceration under sentence of death is cruel and unusual punishment. See *Lackey* v. *Texas*, 514 U. S. 1045 (1995) (Stevens, J., memorandum respecting denial of certiorari); *Knight* v. *Florida*, 528 U. S. 990, 993 (1999) (BREYER, J., dissenting from denial of certiorari); see also *Glossip* v. *Gross*, 576 U. S. 863, 908 (2015) (BREYER, J., dissenting).

In addition, whether Florida's sentencing procedures violate the Sixth and Eighth Amendments is now pending before the Court. *Hurst* v. *Florida*, No. 14–7505. [Reporter's Note: See *ante*, p. 92.] In my view, we should hold this petition for resolution of those issues in *Hurst*.

I respectfully dissent from the order of the Court to deny the application for stay of execution and the petition for a writ of certiorari.

JUSTICE SOTOMAYOR, dissenting.

I agree with JUSTICE BREYER that we should hold this petition for resolution of the issues in *Hurst* v. *Florida*, No. 14–7505, now pending before the Court. [Reporter's Note: See *ante*, p. 92.]

I therefore respectfully dissent from the order of the Court to deny the petition for a writ of certiorari and the application for stay of execution.

OCTOBER 30, 2015

*Miscellaneous Orders*

No. 14–419. LUIS *v.* UNITED STATES. C. A. 11th Cir. [Certiorari granted, 576 U. S. 1003.] Motion out of time of Americans for Forfeiture Reform for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 14–613. GREEN *v.* BRENNAN, POSTMASTER GENERAL. C. A. 10th Cir. [Certiorari granted, 575 U. S. 983.] Motion of respondent for allocation of oral argument time granted.

No. 14–723. MONTANILE *v.* BOARD OF TRUSTEES OF THE NATIONAL ELEVATOR INDUSTRY HEALTH BENEFIT PLAN. C. A. 11th Cir. [Certiorari granted, 575 U. S. 934.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

*Certiorari Granted*

No. 14–10154. VOISINE ET AL. *v.* UNITED STATES. C. A. 1st Cir. Motion of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 778 F. 3d 176.

NOVEMBER 2, 2015

*Certiorari Granted—Vacated and Remanded*

No. 15–5970. BERRY *v.* UNITED STATES. C. A. 4th Cir. Reported below: 598 Fed. Appx. 205; and

No. 15–5984. CALDWELL *v.* UNITED STATES. C. A. 6th Cir. Reported below: 614 Fed. Appx. 325. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015).

*Certiorari Dismissed*

No. 15–5776. SHERRILL *v.* ESTATE OF PICO. Int. Ct. App. Haw. Motion of petitioner for leave to proceed *in forma pau-*

*peris* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 134 Haw. 305, 339 P. 3d 1106.

No. 15–5904. FLUKER *v.* UNITED STATES ET AL.; and FLUKER *v.* REYNOLDS AMERICAN INC. ET AL. C. A. 2d Cir.; and

No. 15–5905. FLUKER *v.* DIVISION OF YOUTH AND FAMILY SERVICES. C. A. 2d Cir. Motions of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–5923. LEVI *v.* PEREZ, SECRETARY OF LABOR, ET AL. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 614 Fed. Appx. 926.

No. 15–6027. HOWELL *v.* UNITED STATES. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 612 Fed. Appx. 184.

No. 15–6165. DESUE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

*Miscellaneous Orders*

No. 15A137. MELLOULI *v.* LYNCH, ATTORNEY GENERAL. C. A. 8th Cir. Joint motion to vacate the Court's order of August 21, 2015, [576 U. S. 1089,] granting the application for stay is granted. Stay of proceedings heretofore issued by the Court on August 21, 2015, is hereby vacated.

No. D–2837. IN RE DISCIPLINE OF WYMAN. John H. Wyman, of Plymouth, Mass., is suspended from the practice of law in this

Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2838. IN RE DISCIPLINE OF BECK. Daniel A. Beck, of Saluda, N. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2839. IN RE DISCIPLINE OF ALLENBAUGH. Mark H. Allenbaugh, of Conneaut, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2840. IN RE DISCIPLINE OF BROIDA. Charles Jeffrey Broida, of Ellicott City, Md., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2841. IN RE DISCIPLINE OF STARR. Laurence M. Starr, of West Roxbury, Mass., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2842. IN RE DISCIPLINE OF TRACIA. Douglas Frederick Tracia, of Wakefield, Mass., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2843. IN RE DISCIPLINE OF HANLON. Richard S. Hanlon, of Bayonne, N. J., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2844. IN RE DISCIPLINE OF ARMSTRONG. Jenny R. Armstrong, of Madison, Wis., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–2845. IN RE DISCIPLINE OF DORAN. Patricia Jamie Doran, of Tiburon, Cal., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–2846. IN RE DISCIPLINE OF PURCELL. Kevin Purcell, of Rocky River, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2847. IN RE DISCIPLINE OF KORMANIK. Paul Stephen Kormanik, of Columbus, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2848. IN RE DISCIPLINE OF GOTTESMAN. Lee Daniel Gottesman, of Toms River, N. J., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2849. IN RE DISCIPLINE OF WILLIAMS. Robert Langston Williams, of Pittsburgh, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2850. IN RE DISCIPLINE OF ANDERSON. Peter Floyd Anderson, Jr., of Garnerville, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2851. IN RE DISCIPLINE OF KATZ. Gerald Isadore Katz, of Bethesda, Md., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2852. IN RE DISCIPLINE OF DONOHUE. James Francis Donohue, of Butler, Pa., is suspended from the practice of law in

this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2853. IN RE DISCIPLINE OF BIDDLE. James Marshall Biddle, of Myrtle Beach, S. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2854. IN RE DISCIPLINE OF CUMBERBATCH. Lawrence S. Cumberbatch, of Brooklyn, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2855. IN RE DISCIPLINE OF HALLORAN. Daniel James Halloran III, of Bayside, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2856. IN RE DISCIPLINE OF WEBER. Dean Gary Weber, of Hauppauge, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 15M41. RAFFERTY *v.* UNITED STATES;

No. 15M43. PRESTIDGE *v.* UNITED STATES; and

No. 15M45. ARNESS *v.* UNITED STATES. Motions for leave to proceed as veterans denied.

No. 15M42. BOEHRINGER INGELHEIM PHARMACEUTICALS, INC. *v.* FEDERAL TRADE COMMISSION. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 15M44. TALLEY *v.* GORE ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 15–5767. COLLIE *v.* SOUTH CAROLINA COMMISSION ON LAWYER CONDUCT. Sup. Ct. S. C.;

No. 15–5798. SCHWAGER *v.* SCHWAGER. Super. Ct. N. J., App. Div.;

No. 15–5867. LEON *v.* COLUMBIA UNIVERSITY MEDICAL CENTER. C. A. 2d Cir.; and

No. 15–6099. FLEMING *v.* SHORE HEALTH SYSTEM, INC. Ct. Sp. App. Md. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 23, 2015, 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.

No. 15–6404. IN RE AMARO; and

No. 15–6501. IN RE LAL. Petitions for writs of habeas corpus denied.

No. 15–5839. IN RE GWANJUN KIM. Petition for writ of mandamus denied.

No. 15–6241. IN RE MACKEY. Petition for writ of mandamus denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–6101. IN RE MICHAELS. Petition for writ of prohibition denied.

*Certiorari Denied*

No. 14–1306. ERWIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 765 F. 3d 219.

No. 14–1499. DIRECTV, LLC, ET AL. *v.* MASSACHUSETTS DEPARTMENT OF REVENUE. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 470 Mass. 647, 25 N. E. 3d 258.

No. 14–1524. DIRECTV, INC., ET AL. *v.* ROBERTS, TENNESSEE COMMISSIONER OF REVENUE. Ct. App. Tenn. Certiorari denied. Reported below: 477 S. W. 3d 293.

No. 14–1535. GEORGIOU *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 777 F. 3d 125.

No. 14–1536. IDT CORP. ET AL. *v.* BLACKSTONE ADVISORY PARTNERS LP ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 591 Fed. Appx. 58.

No. 14–9255. SINCLAIR *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 770 F. 3d 1148.

No. 14–9438. PATTERSON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 2014 IL 115102, 25 N. E. 3d 526.

No. 14–9448. CLAIBORNE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 12–1581–U.

No. 14–9453. SANTOS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 111149–U.

No. 14–9504. WATSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 121741–U.

No. 14–9505. JENKINS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 103006–U.

No. 14–9508. RODRIGUEZ *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 121736–U.

No. 14–9525. HARMON *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2013 IL App (2d) 120439, 26 N. E. 3d 344.

No. 14–9548. PACHECO *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2013 IL App (4th) 110409, 991 N. E. 2d 896.

No. 14–9552. WARREN *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 11–3776–U.

No. 14–9554. BRANCH *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 111559–U.

No. 14–9560. DIAZ *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 112586–U.

No. 14–9701. MOONEY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 123588–U.

No. 14–9723. PERRY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 588 Fed. Appx. 727.

No. 14–10441. ANTHONY *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2015 WI 20, 361 Wis. 2d 116, 860 N. W. 2d 10.

No. 14–10473. TOMKINS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 3d 338.

No. 15–10. LODEN *v.* FISHER, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied.

No. 15–88. BOCA RATON FIREFIGHTERS AND POLICE PENSION FUND *v.* BAHASH ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 574 Fed. Appx. 21.

No. 15–123. CALIFORNIA DUMP TRUCK OWNERS ASSN. *v.* NICHOLS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 500.

No. 15–226. SHIRVELL *v.* ARMSTRONG. C. A. 6th Cir. Certiorari denied. Reported below: 596 Fed. Appx. 433.

No. 15–229. PRICE *v.* INDEPENDENCE FEDERAL SAVINGS BANK ET AL. Ct. App. D. C. Certiorari denied. Reported below: 110 A. 3d 567.

No. 15–230. WERKHEISER, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS SUPERVISOR FOR POCONO TOWNSHIP, PENNSYLVANIA *v.* POCONO TOWNSHIP, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 780 F. 3d 172.

No. 15–234. RAIMONDO *v.* VILLAGE OF ARMADA, MICHIGAN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–235. KARAS *v.* PARAMO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–242. LUV N' CARE, LTD. *v.* MUNCHKIN, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 599 Fed. Appx. 958.

No. 15–247. RECHTZIGEL *v.* FISCHER SAND & AGGREGATE, LLP. Ct. App. Minn. Certiorari denied.

No. 15–252. SCOTT *v.* COMMODITY FUTURES TRADING COMMISSION ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–254. EDWARDS *v.* LOCKHEED MARTIN CORP. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 648.

No. 15–256. WALKER *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 587 Fed. Appx. 651.

No. 15–260. ANH NGUYET TRAN ET AL. *v.* BANK OF NEW YORK, NKA BANK OF NEW YORK MELLON, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 82.

No. 15–262. ECHEVERRY *v.* DEUTSCHE BANK NATIONAL TRUST CO. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 163 So. 3d 1216.

No. 15–263. BALOCO ET AL. *v.* DRUMMOND CO., INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 767 F. 3d 1229.

No. 15–264. A. V. E. L. A., INC., ET AL. *v.* FIFTY-SIX HOPE ROAD MUSIC, LTD., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 778 F. 3d 1059.

No. 15–273. BUTLER *v.* BALKAMP INC. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 607 Fed. Appx. 982.

No. 15–284. BARRON *v.* UNIVERSITY OF MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 480.

No. 15–295. PIERSON *v.* ROGOW ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 499.

No. 15–297. PRUITT *v.* RESCAP LIQUIDATING TRUST. C. A. 2d Cir. Certiorari denied.

No. 15–299. RUSSO *v.* NEW YORK CITY DEPARTMENT OF EDUCATION. Ct. App. N. Y. Certiorari denied. Reported below: 25 N. Y. 3d 946, 29 N. E. 3d 896.

No. 15–306. CANTU ET UX. *v.* SCHMIDT, TRUSTEE. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 3d 253.

No. 15–310. SALEM *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 789 F. 3d 547.

No. 15–320. BALFOUR *v.* HOWES, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 862.

No. 15–326. AUTOMATED MERCHANDISING SYSTEMS, INC. *v.* LEE, DIRECTOR, UNITED STATES PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 782 F. 3d 1376.

No. 15–333. SENNE *v.* VILLAGE OF PALATINE, ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 784 F. 3d 444.

No. 15–336. Bechtel et al. *v.* Sandel Avionics, Inc. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–341. Eisenstein *v.* Committee on Character and Fitness, Appellate Division, Supreme Court of New York, Third Judicial Department. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 123 App. Div. 3d 1371, 997 N. Y. S. 2d 332.

No. 15–344. Thibeault *v.* Merit Systems Protection Board. C. A. Fed. Cir. Certiorari denied. Reported below: 611 Fed. Appx. 975.

No. 15–350. Zook et al. *v.* Environmental Protection Agency et al. C. A. D. C. Cir. Certiorari denied. Reported below: 611 Fed. Appx. 725.

No. 15–355. Charlton et vir *v.* Commissioner of Internal Revenue. C. A. 3d Cir. Certiorari denied. Reported below: 611 Fed. Appx. 91.

No. 15–360. Crayton *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 3d 623.

No. 15–364. Milano *v.* Carter, Secretary of Defense, et al. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 767.

No. 15–373. Grant *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 448.

No. 15–382. Morawski *v.* Lightstorm Entertainment, Inc., et al. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 779.

No. 15–383. Laera *v.* Blanco GmbH + Co. KG. C. A. 11th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 718.

No. 15–391. Fondren *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 895.

No. 15–392. Hall *v.* Gilbert et al. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2014-Ohio-4687.

No. 15–399. Pickett *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 774.

No. 15–401. RUGGIERO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 791 F. 3d 1281.

No. 15–402. ROSIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 3d 873.

No. 15–409. ROSGA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 166.

No. 15–414. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 541.

No. 15–5368. JONES *v.* LOUISIANA. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 2013–1614 (La. App. 4 Cir. 8/20/14).

No. 15–5472. LEYVA-SAMARIPA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–5595. BROWN *v.* MARRIOTT HOTEL. C. A. 10th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 726.

No. 15–5682. EDWARDS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 719.

No. 15–5742. SHUSTER *v.* OHIO (two judgments). Ct. App. Ohio, 5th App. Dist., Morgan County. Certiorari denied. Reported below: 2014-Ohio-3486 (both judgments).

No. 15–5754. SHAPIRO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 15–5758. OLIVE *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 162 So. 3d 1037.

No. 15–5760. SMITH *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 23.

No. 15–5762. JAIMES *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2014 IL App (2d) 121368, 21 N. E. 3d 501.

No. 15–5774. JACKSON *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 141 Ohio St. 3d 171, 2014-Ohio-3707, 23 N. E. 3d 1023.

No. 15–5775. WOOD *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 140.

No. 15–5778. FUDGE *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 230, 463 S. W. 3d 292.

No. 15–5780. BELING *v.* ENNIS, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 613 Fed. Appx. 924.

No. 15–5787. JOHNSON *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5795. BEASLEY *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 162 So. 3d 986.

No. 15–5796. SHEPPARD *v.* LIVINGSTON ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–5799. PARKS *v.* KNIGHT. C. A. 7th Cir. Certiorari denied.

No. 15–5801. WARE *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 15–5805. DUNN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5813. MOORE *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 105 A. 3d 796.

No. 15–5823. MAIER *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5824. JONES *v.* PEERY, ACTING WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 674.

No. 15–5825. STREETER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 147 So. 3d 527.

No. 15–5827. BROWN, AS NEXT FRIEND OF CARTER *v.* CORRECTIONS CORPORATION OF AMERICA. C. A. 9th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 430.

No. 15–5828. Zamarripa Alvarado *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 15–5832. Moore *v.* Raemisch, Executive Director, Colorado Department of Corrections, et al. Sup. Ct. Colo. Certiorari denied.

No. 15–5835. White *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 15–5837. O'Kelley *v.* Chatman, Warden. Super. Ct. Butts County, Ga. Certiorari denied.

No. 15–5840. Littleton *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 121950, 14 N. E. 3d 555.

No. 15–5842. Carter *v.* Michigan Department of Corrections et al. C. A. 6th Cir. Certiorari denied.

No. 15–5845. Ellison *v.* Kazmierski, Supervising Judge, Circuit Court of Illinois, Cook County, et al. Sup. Ct. Ill. Certiorari denied.

No. 15–5846. Wilkins *v.* Ludwick, Warden. C. A. 8th Cir. Certiorari denied.

No. 15–5847. Staples *v.* Texas. Ct. App. Tex., 12th Dist. Certiorari denied.

No. 15–5853. King *v.* Booker, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–5856. Pleasant-Bey *v.* Tennessee. Sup. Ct. Tenn. Certiorari denied.

No. 15–5858. Sparre *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 164 So. 3d 1183.

No. 15–5860. Johnson *v.* Beak et al. C. A. 6th Cir. Certiorari denied.

No. 15–5864. Vazquez *v.* Orange County Service Unit. C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 760.

No. 15–5865. MARCO RAMIREZ *v.* YATES, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5866. STUDY *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: 24 N. E. 3d 947.

No. 15–5869. LEAFEY *v.* GARMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5875. ALMEIDA *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 15–5878. WRIGHT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5879. TAYLOR *v.* VALENZUELA, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 688.

No. 15–5880. TAYLOR *v.* FISHER, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5882. RAGAN *v.* WILSON ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5884. CURRY *v.* BERGER ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5898. HUCKABONE *v.* CITY OF JAMESTOWN, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–5901. BALDWIN *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 121725, 17 N. E. 3d 746.

No. 15–5906. PATTERSON *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS. C. A. 5th Cir. Certiorari denied.

No. 15–5908. MOORE *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–5910. LOPEZ *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 15–5912. KAPRELIAN *v.* BARRETT. C. A. 7th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 583.

No. 15–5914. MORAN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied.

No. 15–5915. PALEOLOGUS *v.* LOPEZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5916. CARTER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 15–5920. HARPER-BEY *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–5926. DOUGLAS *v.* GOODWIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5941. MCGOWAN *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 3d 510.

No. 15–5969. MORIN *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 171 So. 3d 737.

No. 15–5983. BURKS *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 163 So. 3d 571.

No. 15–5995. LESSIEUR *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 472 Mass. 317, 34 N. E. 3d 321.

No. 15–6005. LEBARON *v.* VIDAL, SUPERINTENDENT, SOUZA-BARANOWSKI CORRECTIONAL CENTER. C. A. 1st Cir. Certiorari denied.

No. 15–6009. WALLIS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 157 So. 3d 1051.

No. 15–6028. GEER *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 200 So. 3d 1274.

No. 15–6033. INGRAM *v.* JUST ENERGY. C. A. 2d Cir. Certiorari denied.

No. 15–6041. GEER *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied.

No. 15–6062. TURNER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 217.

No. 15–6066. SHIELDS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 789 F. 3d 733.

No. 15–6077. JEAN *v.* UNITED STATES;
No. 15–6256. DUCTANT *v.* UNITED STATES; and
No. 15–6337. SEREME *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 597.

No. 15–6086. WOODS *v.* OHIO. Ct. App. Ohio, 1st App. Dist., Hamilton County. Certiorari denied. Reported below: 2014-Ohio-3892.

No. 15–6109. SANCHEZ-HERNANDEZ, AKA SANCHEZ *v.* UNITED STATES (Reported below: 607 Fed. Appx. 409); RODRIGUEZ-PENA *v.* UNITED STATES (604 Fed. Appx. 381); NAVARRETE-CORDOVA *v.* UNITED STATES (607 Fed. Appx. 389); SUBIETA, AKA ULIN, AKA MILTON, AKA ULIN-ZUBIETA *v.* UNITED STATES (613 Fed. Appx. 353); VASQUEZ-MARTINEZ *v.* UNITED STATES (613 Fed. Appx. 356); PEREZ-BARRA *v.* UNITED STATES (613 Fed. Appx. 355); JIMENEZ-BINAGRA *v.* UNITED STATES (613 Fed. Appx. 394); and VILLARREAL-DE LA FUENTE *v.* UNITED STATES (613 Fed. Appx. 368). C. A. 5th Cir. Certiorari denied.

No. 15–6123. SOTO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 68.

No. 15–6125. BRUNSON *v.* TAYLOR, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 86.

No. 15–6162. MARTIN *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–6170. STROUSE *v.* BUREAU OF PRISONS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 329.

No. 15–6185. HOLT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6187. HALL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 766.

No. 15–6188. GRANADOS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 115.

No. 15–6189. GARCIA-HERNANDEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–6192. LEWIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 332.

No. 15–6193. LOPEZ-VASQUEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–6197. GRANADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 247.

No. 15–6199. VILLEGAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 277.

No. 15–6201. STARKS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6210. ROGERS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6213. VERGARA-ESCOBAR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 586.

No. 15–6214. ARREOLA-ESCALANTE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 248.

No. 15–6217. ANDERSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6220. BELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 505.

No. 15–6222. MUHAMMAD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 226.

No. 15–6229. DIXON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 790 F. 3d 758.

No. 15–6230. WRIGHT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 189.

No. 15–6233. KRAEMER *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS. C. A. 7th Cir. Certiorari denied.

No. 15–6235. DAVIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 112.

No. 15–6240. MARSHALL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 961.

No. 15–6243. MOORE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 572.

No. 15–6247. CIACCI *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 117 A. 3d 1043.

No. 15–6249. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6254. NORALES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 463.

No. 15–6260. CORRIGAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 177.

No. 15–6261. MUNOZ RUEDA *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 306.

No. 15–6265. PATTERSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 594.

No. 15–6269. GUERINO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 117.

No. 15–6272. BELLO-URQUIZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 525.

No. 15–6273. BONDS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 526.

No. 15–6291. DIAZ-RODRIGUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 636.

No. 15–6292. BEKTAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6295. BETANCOURT MENDOZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 506.

No. 15–6298. MELTON *v.* REINKE, DIRECTOR, IDAHO DEPARTMENT OF CORRECTION. C. A. 9th Cir. Certiorari denied.

No. 15–6302. ROGERS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 602.

No. 15–6311. SEIFER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 800 F. 3d 328.

No. 15–6316. MIRANDA-MARTINEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 790 F. 3d 270.

No. 15–6320. MOSTI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 451.

No. 15–6334. VALLE ZUNIGA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 558.

No. 15–6348. FULTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 780 F. 3d 683.

No. 15–6350. NAVE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 888.

No. 15–6353. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 221.

No. 15–6355. DIXON, AKA HADLEY *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–6357. RIVERA-NEVAREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 209.

No. 15–6359. TAYLOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 934.

No. 15–6362. JONES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6363. HERRERA-SANCHEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 278.

No. 15–6365. GOMEZ-GUTIERREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 651.

No. 15–6366. GALLUZZO *v.* CITY OF DAYTON, OHIO. Ct. App. Ohio, 2d App. Dist., Montgomery County. Certiorari denied. Reported below: 2014-Ohio-4854.

No. 15–6368. HAOREN MA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 397.

No. 15–6371. WONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 584.

No. 15–6372. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 664.

No. 15–6374. JOYNER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 119.

No. 15–6375. RAYMONDA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 780 F. 3d 105.

No. 15–6376. REESE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 603 Fed. Appx. 63.

No. 15–6378. COPELAND *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 111 A. 3d 627.

No. 15–6379. SCHUMACHER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 337.

No. 15–6382. BLUE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 922.

No. 15–6396. VANN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 776 F. 3d 746.

No. 15–6402. THORNE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 646.

No. 15–6403. RAMIREZ-SAUCEDO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 698.

No. 15–6406. ALEGRIA-MERA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 251.

No. 15–6409. JONES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 3d 831.

No. 15–6413. MITCHELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 290.

No. 15–6414. QUININO-SALOME *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 241.

No. 15–6417. HOANG AI LE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 598.

No. 15–6420. TAYLOR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 315.

No. 15–6431. CHAMPAGNIE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 625.

No. 15–6439. BUTLER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6444. RIVERO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 784.

No. 14–9590. J. D. T., JUVENILE MALE *v.* UNITED STATES. C. A. 9th Cir. Motion of petitioner for leave to file a reply brief under seal with redacted copies for the public record granted. Certiorari denied. Reported below: 762 F. 3d 984.

No. 15–50. HENRY *v.* LOUISIANA. Ct. App. La., 4th Cir. Motion of Innocence Project New Orleans et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 2013–0059 (La. App. 4 Cir. 8/6/14), 147 So. 3d 1143.

No. 15–249. WHITEHEAD *v.* WHITE & CASE LLP ET AL. C. A. 5th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 15–257. WONG *v.* ANDERSON ET AL. C. A. 9th Cir. Certiorari before judgment denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

No. 15–292. WALSH *v.* JONES ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–304. BEHRMANN ET UX. *v.* NATIONAL HERITAGE FOUNDATION, INC. C. A. 4th Cir. Motion of Jeffrey H. Hartje for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 599 Fed. Appx. 107.

No. 15–351. WALSH *v.* FEDERAL BUREAU OF INVESTIGATION ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–6338. SCHWARTZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–10077. IN RE CHRISTENSON, *ante*, p. 814. Petition for rehearing denied.

## November 3, 2015

*Miscellaneous Orders*

No. 15A473. Johnson *v.* Lombardi et al. Application for stay of execution of sentence of death, presented to Justice Alito, and by him referred to the Court, is treated as an application for stay pending appeal in the Eighth Circuit. Application granted pending disposition of petitioner's appeal. Petitioner's complaint alleges that Missouri's method of execution violates the Eighth Amendment as applied to a person with his particular medical condition. A supporting affidavit by a medical expert states that "[a]s a result of Mr. Johnson's brain tumor, brain defect, and brain scar, a substantial risk of serious harm will occur during his execution as a result of a violent seizure that may be induced by [the] Pentobarbital injection." Because petitioner's complaint was dismissed for failure to state a claim, the State was not required to submit any evidence refuting this allegation. In the currently pending appeal, the Court of Appeals will be required to decide whether petitioner's complaint was properly dismissed for failure to state a claim or whether the case should have been permitted to progress to the summary judgment stage.

No. 15A478. Johnson *v.* Griffith, Warden. Application for stay of execution of sentence of death, presented to Justice Alito, and by him referred to the Court, denied.

## November 4, 2015

*Miscellaneous Order*

No. 14–916. Kingdomware Technologies, Inc. *v.* United States. C. A. Fed. Cir. [Certiorari granted, 576 U. S. 1034.] Case removed from argument calendar for Monday, November 9, 2015. The parties are directed to file supplemental briefs addressing the following question: "Whether the Department of Veterans Affairs procurements at issue in this case have been fully performed, and if so, whether the case is moot." Briefs, limited to 6,000 words each, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before Friday, November 20, 2015. Reply briefs, not to exceed 3,000 words each, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before Tuesday, December 1, 2015.

NOVEMBER 6, 2015

*Dismissal Under Rule 46*

No. 15–232. OMEGA S. A. *v.* COSTCO WHOLESALE CORP. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 776 F. 3d 692.

*Certiorari Granted*

No. 15–145. HUSKY INTERNATIONAL ELECTRONICS, INC. *v.* RITZ. C. A. 5th Cir. Certiorari granted. Reported below: 787 F. 3d 312.

No. 14–1418. ZUBIK ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 3d Cir.;

No. 14–1453. PRIESTS FOR LIFE ET AL. *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. D. C. Cir.;

No. 14–1505. ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. D. C. Cir.;

No. 15–35. EAST TEXAS BAPTIST UNIVERSITY ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 5th Cir.;

No. 15–105. LITTLE SISTERS OF THE POOR HOME FOR THE AGED, DENVER, COLORADO, ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 10th Cir.;

No. 15–119. SOUTHERN NAZARENE UNIVERSITY ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 10th Cir.; and

No. 15–191. GENEVA COLLEGE *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 3d Cir. Certiorari granted in No. 14–1418 limited to Question 1 presented by the petition. Motion of Association of American Physicians and Surgeons et al. for leave to file brief as *amici curiae* in No. 14–1453 granted. Certiorari in Nos. 14–1453, 14–1505, 15–35, 15–119, and 15–191 granted. Certiorari in No. 15–105 granted limited to Questions 1 and 2 presented by the petition. The cases are consolidated. Reported below: Nos. 14–1418 and 15–191, 778 F. 3d 422; Nos. 14–1453 and 14–1505, 772 F. 3d 229; No. 15–35, 793 F. 3d 449; Nos. 15–105 and 15–119, 794 F. 3d 1151.

No. 15–109. SIMMONS ET AL. *v.* HIMMELREICH. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 766 F. 3d 576.

No. 15–5238. NICHOLS *v.* UNITED STATES. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to Question 1 presented by the petition. Reported below: 775 F. 3d 1225.

## NOVEMBER 9, 2015

*Certiorari Granted—Vacated and Remanded*

No. 14–1492. PICKENS ET AL. *v.* ALDABA, PERSONAL REPRESENTATIVE AND NEXT OF KIN OF MANUEL LEIJA, DECEASED. C. A. 10th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Mullenix* v. *Luna*, *ante*, p. 7 (*per curiam*). Reported below: 777 F. 3d 1148.

*Certiorari Granted—Reversed.* (See No. 14–1143, *ante*, p. 7.)

*Certiorari Dismissed*

No. 15–5965. TRICOME *v.* LARIVIERE ET AL. Super. Ct. Pa. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 106 A. 3d 178.

No. 15–6002. MOORE *v.* T-MOBILE USA, INC. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6177. HILL *v.* CONTRERAS, JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. C. A. D. C. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 598 Fed. Appx. 6.

*Miscellaneous Orders*

No. D–2829. IN RE DISBARMENT OF EVOLA. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2830. IN RE DISBARMENT OF FLYNN. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2831. In re Disbarment of Seguin. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2832. In re Disbarment of Feldman. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2833. In re Disbarment of Damon. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2834. In re Disbarment of Lawton. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2835. In re Disbarment of Cooper. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. D–2836. In re Disbarment of Fleming. Disbarment entered. [For earlier order herein, see 576 U. S. 1051.]

No. 15M46. Jackson *v.* United States;
No. 15M48. Qin Zhang *v.* Google Inc. et al.;
No. 15M49. Reyes-Garcia *v.* Lynch, Attorney General; and
No. 15M51. Hoelscher et al. *v.* Millers First Insurance Co. et al. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15M47. Gossage *v.* Terrill et al. Motion for leave to proceed as a veteran denied.

No. 15M50. Edwards *v.* Obadina. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 13–1496. Dollar General Corp. et al. *v.* Mississippi Band of Choctaw Indians et al. C. A. 5th Cir. [Certiorari granted, 576 U. S. 1021.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–181. Gobeille, Chair of the Vermont Green Mountain Care Board *v.* Liberty Mutual Insurance Co. C. A. 2d Cir. [Certiorari granted, 576 U. S. 1053.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–5266. JACKSON *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 15–6070. ROUP *v.* COMMERCIAL RESEARCH, LLC. Sup. Ct. Colo.; and

No. 15–6491. MABBETT *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 10th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 30, 2015, 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.

No. 15–6529. IN RE MCDONALD; and

No. 15–6562. IN RE CURTIS. Petitions for writs of habeas corpus denied.

No. 15–6559. IN RE JAMES-BEY. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*).

*Certiorari Denied*

No. 14–1413. MINISTERIO ROCA SOLIDA, INC. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 778 F. 3d 1351.

No. 14–10311. HALL *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 461 S. W. 3d 469.

No. 15–8. APPLIED UNDERWRITERS, INC., ET AL. *v.* ARROW RECYCLING SOLUTIONS, INC., ET AL. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 15–102. POLITTE ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 406.

No. 15–146. DAVIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 3d 498.

No. 15–152. CENTER FOR COMPETITIVE POLITICS *v.* HARRIS, ATTORNEY GENERAL OF CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 1307.

No. 15–156. JOSEPH ET AL. *v.* CITY OF BURLINGTON, VERMONT, ET AL. Sup. Ct. Vt. Certiorari denied. Reported below: 2015 VT 41, 198 Vt. 510, 117 A. 3d 457.

No. 15–163. ROCHOW ET AL., PERSONAL REPRESENTATIVES OF THE ESTATE OF ROCHOW *v.* LIFE INSURANCE COMPANY OF NORTH AMERICA. C. A. 6th Cir. Certiorari denied. Reported below: 780 F. 3d 364.

No. 15–265. ALABAMA GAS CORP. *v.* GAS FITTERS LOCAL UNION NO. 548 OF THE UNITED ASSOCIATION, AFL–CIO–CLC. C. A. 11th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 382.

No. 15–269. WHITAKER *v.* NASH-ROCKY MOUNT BOARD OF EDUCATION ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 585 Fed. Appx. 60.

No. 15–327. WESTGATE RESORTS, LTD., L. P. *v.* OVERTON ET UX. Ct. App. Tenn. Certiorari denied.

No. 15–334. BAKER ET UX. *v.* IOWA CITY, IOWA, ET AL. Sup. Ct. Iowa. Certiorari denied. Reported below: 867 N. W. 2d 44.

No. 15–346. GONZALEZ-ACEVEDO ET AL. *v.* UNITED STATES ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–359. GREENE *v.* DEPARTMENT OF EDUCATION. C. A. 7th Cir. Certiorari denied. Reported below: 770 F. 3d 667.

No. 15–366. ESTES *v.* JPMORGAN CHASE BANK, N. A. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 277.

No. 15–377. PARDON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 908.

No. 15–388. SILVERTHORNE *v.* CITIMORTGAGE, INC. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 169 So. 3d 1186.

No. 15–411. MAKIEL *v.* BUTLER, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 3d 882.

No. 15–413. SEARCY *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied.

No. 15–425. COFFMAN ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 278.

No. 15–435. CITY OF CLEVELAND BOARD OF REVIEW ET AL. *v.* HILLENMEYER (Reported below: 144 Ohio St. 3d 165, 2015-Ohio-1623, 41 N. E. 3d 1164); and CITY OF CLEVELAND BOARD OF REVIEW ET AL. *v.* SATURDAY ET UX. (142 Ohio St. 3d 528, 2015-Ohio-1625, 33 N. E. 3d 46). Sup. Ct. Ohio. Certiorari denied.

No. 15–445. CLARK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 787 F. 3d 451.

No. 15–481. BEARING FUND LP ET AL. *v.* PRICEWATERHOUSE-COOPERS LLP. C. A. 2d Cir. Certiorari denied. Reported below: 611 Fed. Appx. 34.

No. 15–5918. RUSSELL *v.* CONTRA COSTA COUNTY MARTINEZ DETENTION FACILITY. C. A. 9th Cir. Certiorari denied.

No. 15–5919. HALL *v.* PRINCE, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5924. JOHNSON *v.* DAVID, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–5927. CAREY *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 293 Ga. 624, 748 S. E. 2d 891.

No. 15–5928. EVANS *v.* HEYNS, DIRECTOR, MICHIGAN DEPARTMENT OF CORRECTIONS, ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–5929. COOPER *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 100320–U.

No. 15–5933. DOUGLAS *v.* JANDA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–5934. CAMPBELL *v.* LEE, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–5935. EDWARDS *v.* CAMERON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HOUTZDALE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–5944. ROBINSON *v.* GRIFFITH. C. A. 4th Cir. Certiorari denied.

No. 15–5945. ZELAYA-ZELAYA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–5946. PARKS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–5948. REEVES *v.* BRYSON, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5954. DAVIS *v.* THOMPSON, JUSTICE, SUPREME COURT OF NEW YORK, BRONX COUNTY, ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 25 N. Y. 3d 907, 32 N. E. 3d 964.

No. 15–5957. LEONHART *v.* OHIO. Ct. App. Ohio, 4th App. Dist., Washington County. Certiorari denied. Reported below: 2014-Ohio-5601.

No. 15–5959. PEREDES *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 462 S. W. 3d 510.

No. 15–5961. NOBLES *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 487.

No. 15–5963. WUSIYA, AKA JOHNSON *v.* CITY OF MIAMI BEACH, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 389.

No. 15–5967. KOUMJIAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5971. STOLL *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 183 Wash. 2d 1013, 353 P. 3d 639.

No. 15–5974. JACKSON *v.* PARK PLACE CONDOMINIUMS ASSN., INC. C. A. 10th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 699.

No. 15–5977. WARD *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 62, 455 S. W. 3d 830.

No. 15–5986. QURESHI *v.* NEW YORK (two judgments). App. Term, Sup. Ct. N. Y., 9th and 10th Jud. Dists. Certiorari denied. Reported below: 45 Misc. 3d 126, 998 N. Y. S. 2d 307 (first judgment); 45 Misc. 3d 57, 996 N. Y. S. 2d 462 (second judgment).

No. 15–5987. BARNES *v.* TUMLINSON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 798.

No. 15–5996. LISENBY *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 15–6001. MORALES *v.* TRAVELERS INDEMNITY COMPANY OF CONNECTICUT. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 15–6008. JONES *v.* ARTUS, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–6046. CARREON *v.* MCDOWELL, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 877.

No. 15–6048. EL-ALAMIN *v.* MOATS ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–6056. KORNEGAY *v.* NEW YORK ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6065. CUNNINGHAM *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6076. KRUSHWITZ *v.* UNIVERSITY OF CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 714.

No. 15–6091. STURDIVANT *v.* LIZARRAGA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6097. JONES *v.* MCDANIEL, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 710.

No. 15–6100. CRUMP *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 125 App. Div. 3d 999, 1 N. Y. S. 3d 866.

No. 15–6104. PRAY *v.* FARWELL, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 561.

No. 15–6139. COOK *v.* MUNIZ, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6154. DUNIGAN *v.* TENNESSEE DEPARTMENT OF CORRECTION. C. A. 6th Cir. Certiorari denied.

No. 15–6156. TEAL *v.* CAMPBELL ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 820.

No. 15–6179. HAMILTON *v.* SMARJESSE ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6195. CORNETT *v.* MADDEN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 626.

No. 15–6209. YOUNG *v.* BOWERSOX, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–6225. SCHEFFLER *v.* DOHMAN, COMMISSIONER, MINNESOTA DEPARTMENT OF PUBLIC SAFETY, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 785 F. 3d 1260.

No. 15–6252. CHONG SU YI *v.* CABLE NEWS NETWORK. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 116.

No. 15–6276. SMITH *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–6312. ROBERSON *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied. Reported below: 455 S. W. 3d 257.

No. 15–6331. WALLACE *v.* WALKER ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6342. RODGERS *v.* MUNKS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 555.

No. 15–6367. SULLIVAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 136.

No. 15–6380. RUKES *v.* FRINK, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 479.

No. 15–6451. FIELDS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 101.

No. 15–6452. GOMEZ-JUAREZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 155.

No. 15–6454. FLETES-RAMOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 484.

No. 15–6455. MILES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 610.

No. 15–6456. CASTRO-GOMEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 792 F. 3d 1216.

No. 15–6461. BENDER *v.* UNITED STATES PAROLE COMMISSION. C. A. 5th Cir. Certiorari denied. Reported below: 802 F. 3d 690.

No. 15–6471. SAINZ-CAMACHO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 449.

No. 15–6475. TURNER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 374.

No. 15–6476. MARCHAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 448.

No. 15–6478. LEWANDOWSKI *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 168.

No. 15–6480. AYALA LOPEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 611 Fed. Appx. 3.

No. 15–6497. MCLELLAN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 792 F. 3d 200.

No. 15–6499. PADGETT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 3d 370.

No. 15–6500. RIDENS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 792 F. 3d 1270.

No. 15–6558. LUMPKIN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 15–157. KAWASAKI KISEN KAISHA, LTD., ET AL. *v.* PLANO MOLDING CO. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 782 F. 3d 353.

No. 15–281. DAIICHI SANKYO, INC., ET AL. *v.* APOTEX INC.; and

No. 15–307. MYLAN PHARMACEUTICALS INC. *v.* APOTEX INC. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of these petitions. Reported below: 781 F. 3d 1356.

No. 15–419. CANNON ET AL. *v.* DISTRICT OF COLUMBIA. C. A. D. C. Cir. Petition for relief denied. Reported below: 783 F. 3d 327.

*Rehearing Denied*

No. 14–10114. SEWELL *v.* STRAYER UNIVERSITY, *ante*, p. 848. Petition for rehearing denied.

NOVEMBER 10, 2015

*Dismissals Under Rule 46*

No. 15–412. EASTMAN KODAK CO. *v.* COLLINS INKJET CORP. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 781 F. 3d 264.

No. 15–6094. COLVIN *v.* THOMAS, WARDEN. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46.

*Miscellaneous Order*

No. 143, Orig. MISSISSIPPI *v.* TENNESSEE ET AL. It is ordered that the Honorable Eugene E. Siler, Jr., of London, Ky., is appointed Special Master in this case with authority to fix the time and conditions for the filing of additional pleadings, to direct subsequent proceedings, to summon witnesses, to issue subpoenas, and to take such evidence as may be introduced and such as he may deem it necessary to call for. The Special Master is directed to submit reports as he may deem appropriate. The cost of printing his reports, and all other proper expenses, including travel expenses shall be submitted to the Court. [For earlier order herein, see, *e. g.*, 576 U. S. 1052.]

NOVEMBER 12, 2015

*Dismissals Under Rule 46*

No. 15–140. TAYLOR *v.* NAKKHUMPUN. C. A. 10th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 782 F. 3d 1142.

No. 15–323. TRINITY WALL STREET *v.* WAL-MART STORES, INC. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 792 F. 3d 323.

## NOVEMBER 13, 2015

*Miscellaneous Order*

No. 15A475 (14–1516). DUNCAN, WARDEN *v.* OWENS. Application to recall and stay the mandate of the United States Court of Appeals for the Seventh Circuit in case No. 14–1419, presented to JUSTICE KAGAN, and by her referred to the Court, granted pending the sending down of the judgment of this Court. Request seeking that respondent be returned to applicant's custody pending final disposition of this case denied, thus leaving that determination for the state court.

*Probable Jurisdiction Postponed*

No. 14–1504. WITTMAN ET AL. *v.* PERSONHUBALLAH ET AL. Appeal from D. C. E. D. Va. Further consideration of question of jurisdiction postponed to hearing of case on the merits. In addition to the questions presented by the jurisdictional statement, the parties are directed to brief and argue the following question: "Whether appellants lack standing because none reside in or represent the only congressional district whose constitutionality is at issue in this case."

*Certiorari Granted*

No. 15–274. WHOLE WOMAN'S HEALTH ET AL. *v.* COLE, COMMISSIONER, TEXAS DEPARTMENT OF STATE HEALTH SERVICES, ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 790 F. 3d 563.

## NOVEMBER 16, 2015

*Certiorari Granted—Vacated and Remanded*

No. 15–6134. MALDONADO *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015). Reported below: 608 Fed. Appx. 244.

*Certiorari Dismissed*

No. 15–6087. WILHELM *v.* FISHER, WARDEN. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6122. DIXON *v.* UNITED STATES; and DIXON *v.* UNITED STATES ET AL. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6127. BREWER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 605 Fed. Appx. 417.

No. 15–6205. CARLSON *v.* DAYTON, GOVERNOR OF MINNESOTA, ET AL. Sup. Ct. Minn. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

*Miscellaneous Orders*

No. 15A370 (15–6130). ISRANI *v.* CRYSTAL LAKE 960 ASSN., INC. Dist. Ct. App. Fla., 4th Dist. Application for stay, addressed to JUSTICE ALITO and referred to the Court, denied.

No. 15M52. STURDZA *v.* UNITED ARAB EMIRATES ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 14–9973. BERGO *v.* COURT OF APPEAL OF CALIFORNIA, THIRD APPELLATE DISTRICT, ET AL. Sup. Ct. Cal. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 810] denied.

No. 15–5149. MAKI *v.* ANDERSON ET AL. Ct. App. Tex., 2d Dist. Motion of petitioner for reconsideration of order denying

leave to proceed *in forma pauperis* granted, and the order entered October 5, 2015, [*ante*, p. 811] is vacated.

No. 15–5284. MIERZWA *v.* WAL-MART, INC., ET AL. Sup. Ct. N. J. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied.

No. 15–5648. DIXON *v.* 24TH DISTRICT COURT OF LOUISIANA ET AL. C. A. 5th Cir.;

No. 15–6060. WOOD *v.* FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES. Dist. Ct. App. Fla., 4th Dist.;

No. 15–6068. SALAHUDDIN *v.* ZONING HEARING BOARD OF WEST CHESTER ET AL. Commw. Ct. Pa.;

No. 15–6082. HERNANDEZ *v.* DIGNITY HEALTH. Ct. App. Cal., 3d App. Dist.;

No. 15–6181. FAISON *v.* UNITED STATES. C. A. 3d Cir.;

No. 15–6211. WHITE *v.* DETROIT EAST COMMUNITY MENTAL HEALTH ET AL. Ct. App. Mich.; and

No. 15–6593. MORRIS *v.* UNITED STATES. C. A. 11th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 7, 2015, 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.

No. 15–6665. IN RE TATE. Petition for writ of habeas corpus denied.

No. 15–6078. IN RE JOHNSON. Petition for writ of prohibition denied.

*Certiorari Denied*

No. 14–10029. KING *v.* DEPARTMENT OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 601 Fed. Appx. 956.

No. 14–10083. GLASGOW *v.* OREGON DEPARTMENT OF REVENUE. Sup. Ct. Ore. Certiorari denied. Reported below: 356 Ore. 511, 340 P. 3d 653.

No. 14–10145. BONILLA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 667.

No. 14–10150. NELSON *v.* BRAZELTON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 14–10178. CRUTHIRDS *v.* MILLER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 146.

No. 14–10189. FLOWERS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–11. GARAY *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 25 N. Y. 3d 62, 30 N. E. 3d 145.

No. 15–59. CHEADLE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 109 A. 3d 594.

No. 15–175. AMERIJET INTERNATIONAL, INC. *v.* INTERNATIONAL BROTHERHOOD OF TEAMSTERS. C. A. 11th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 841.

No. 15–187. CASTRO PEREZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 3d 276.

No. 15–227. YAMAHA MOTOR CORP., U. S. A., ET AL. *v.* MCMAHON. Sup. Ct. Ala. Certiorari denied. Reported below: 183 So. 3d 145.

No. 15–282. MATHIS *v.* CITY OF MORROW, GEORGIA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 805.

No. 15–288. CHUNGHWA PICTURE TUBES, LTD., ET AL. *v.* EIDOS DISPLAY, LLC, ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 779 F. 3d 1360.

No. 15–291. ARTHREX, INC. *v.* KFX MEDICAL CORP. C. A. Fed. Cir. Certiorari denied. Reported below: 589 Fed. Appx. 538.

No. 15–294. RAUB *v.* CAMPBELL. C. A. 4th Cir. Certiorari denied. Reported below: 785 F. 3d 876.

No. 15–298. OMG, L. P., ET AL. *v.* HERITAGE AUCTIONS, INC. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 207.

No. 15–300. ELLRICH ET AL. *v.* HAYS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 471 Mass. 592, 31 N. E. 3d 1064.

No. 15–303. ZAVALA *v.* TEXAS ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–311. HOUSTON ET AL. *v.* QUEEN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 725.

No. 15–318. BAPTISTE *v.* C & F PROPERTIES, LLC. Sup. Ct. Fla. Certiorari denied. Reported below: 171 So. 3d 113.

No. 15–319. UNITEDHEALTH GROUP INC. ET AL. *v.* DENBO ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 3d 125.

No. 15–322. WU ET UX. *v.* CAPITAL ONE, N. A., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 617 Fed. Appx. 214.

No. 15–332. LEWICKI ET AL. *v.* WASHINGTON COUNTY, PENNSYLVANIA, ET AL. Commw. Ct. Pa. Certiorari denied. Reported below: 105 A. 3d 855.

No. 15–340. RAOUL *v.* CITY OF NEW YORK POLICE DEPARTMENT ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–342. THOMAS ET AL. *v.* U. S. BANK N. A. ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 789 F. 3d 900.

No. 15–343. WONG ET AL. *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 789 F. 3d 889.

No. 15–368. BEUKES ET UX. *v.* GMAC MORTGAGE, LLC, AS SUCCESSOR IN INTEREST TO HOMECOMINGS FINANCIAL, LLC, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 3d 649.

No. 15–393. LONG *v.* LIBERTYWOOD NURSING CENTER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 224.

No. 15–417. PLEWS ET AL. *v.* LUHRSEN ET AL. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 174 So. 3d 1001.

No. 15–427. LEE *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–434. DAVENPORT *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 120 A. 3d 1056.

No. 15–508. SEALED APPELLANT ET AL. *v.* BP EXPLORATION & PRODUCTION, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 584 Fed. Appx. 230.

No. 15–519. AIRCRAFT CHECK SERVICES CO. ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED *v.* VERIZON WIRELESS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 3d 867.

No. 15–5164. ALMANZA *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 233 Cal. App. 4th 990, 183 Cal. Rptr. 3d 335.

No. 15–5171. O'BRYANT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 782 F. 3d 1006.

No. 15–5197. PICKETT *v.* GALLAGHER ET AL. Ct. App. Miss. Certiorari denied. Reported below: 159 So. 3d 587.

No. 15–5443. DEPPENBROOK *v.* PENSION BENEFIT GUARANTY CORPORATION. C. A. D. C. Cir. Certiorari denied. Reported below: 778 F. 3d 166.

No. 15–5610. LIU *v.* DEPARTMENT OF INDUSTRIAL RELATIONS. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 15–5989. SMITH *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–5998. KIM *v.* MONTGOMERY, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 619.

No. 15–6003. PINKARD *v.* NEW YORK CITY DEPARTMENT OF EDUCATION ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6004. OSBORNE *v.* KING, SUPERINTENDENT, SOUTH MISSISSIPPI CORRECTIONAL INSTITUTION. C. A. 5th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 308.

No. 15–6012. WIMBERLY *v.* JULIUS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 309.

No. 15–6014. BELL *v.* NEW JERSEY ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6017. SOTO *v.* D'LLIO, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6020. FIELDS *v.* STONE. Sup. Ct. Cal. Certiorari denied.

No. 15–6026. IVY *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 15–6031. TYSON *v.* CARTLEDGE, WARDEN, ET AL. Sup. Ct. S. C. Certiorari denied.

No. 15–6038. TAYLOR *v.* BARNARD ET AL.; and TAYLOR *v.* ROBINSON, CLERK, SUPERIOR COURT OF GEORGIA, FULTON COUNTY. Sup. Ct. Ga. Certiorari denied.

No. 15–6043. HILL *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–6049. SMITH *v.* BROWN. C. A. 7th Cir. Certiorari denied. Reported below: 764 F. 3d 790.

No. 15–6051. RILEY *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–6055. DOUGLAS, AKA HOUSTON *v.* WRIGHT ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6059. VEGA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6071. BURFEINDT *v.* POSTUPACK ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6080. WATKINS *v.* STERN ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–6084. JACKSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 121 A. 3d 1123.

No. 15–6096. MORRIS *v.* COURT OF APPEALS OF TEXAS, 11TH DISTRICT. Sup. Ct. Tex. Certiorari denied.

No. 15–6102. PICKENS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6105. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 582.

No. 15–6106. MOORE *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 15–6115. MCCOY *v.* O'NEILL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 450.

No. 15–6116. FOX *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. Reported below: 868 N. W. 2d 206.

No. 15–6120. EVANS *v.* ELMER'S PRODUCTS, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 515.

No. 15–6124. AZIZ *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–6126. BREAUX *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 106.

No. 15–6128. BOLDS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6130. ISRANI *v.* CRYSTAL LAKE 960 ASSN., INC. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 15–6131. SCHEFFLER *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 15–6136. COLE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 542.

No. 15–6153. DAVIS *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 255.

No. 15–6158. ALSTON *v.* KEAN UNIVERSITY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 604 Fed. Appx. 216.

No. 15–6174. GARCIA *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6203. UROSEVIC *v.* DEPARTMENT OF HOMELAND SECURITY ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6227. TAYLOR *v.* CROWLEY, SUPERINTENDENT, ORLEANS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–6246. CHRISTIAN *v.* 43D DISTRICT COURT OF MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6255. MCCORMICK *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6257. LUCAS *v.* CARTLEDGE, WARDEN. Sup. Ct. S. C. Certiorari denied.

No. 15–6259. JOHNSON *v.* DEPARTMENT OF LABOR ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 589 Fed. Appx. 545.

No. 15–6271. FLENOID *v.* KOSTER, ATTORNEY GENERAL OF MISSOURI, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6274. ADAMS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 173 So. 3d 960.

No. 15–6280. RILEY *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 308.

No. 15–6332. WATSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 15–6343. ADKINS *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6377. GRAY *v.* NEW HAMPSHIRE. Super. Ct. N. H., Rockingham County. Certiorari denied.

No. 15–6387. FABIAN *v.* THOMAS, WARDEN. C. A. 3d Cir. Certiorari denied. Reported below: 588 Fed. Appx. 203.

No. 15–6392. MASON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 774 F. 3d 824.

No. 15–6400. LAMPKIN *v.* AJILON PROFESSIONAL STAFFING. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 285.

No. 15–6415. JULISON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 635 Fed. Appx. 342.

No. 15–6416. TALIK *v.* THOMAS, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 621 Fed. Appx. 94.

No. 15–6422. SHKAMBI *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 260.

No. 15–6425. ZARECK *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 588 Fed. Appx. 100.

No. 15–6428. PRECIADO-OVALLES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 437.

No. 15–6433. GREEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–6434. BROWN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 58.

No. 15–6446. DEESE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 200.

No. 15–6458. WILLIAMS *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 196.

No. 15–6463. VARGAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 462.

No. 15–6481. LEE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 3d 680.

No. 15–6487. GONZALES *v.* UTAH. C. A. 10th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 749.

No. 15–6489. HOWTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–6502. ADAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6503. KILBURG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 386.

No. 15–6507. ASKEW *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 910.

No. 15–6512. PETTAWAY *v.* FEATHER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6513. PIROSKO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 787 F. 3d 358.

No. 15–6519. WILSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 788 F. 3d 1298.

No. 15–6522. JAMES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 785.

No. 15–6523. KEATINGS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 3d 1197.

No. 15–6524. MASTERS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 618.

No. 15–6525. SOTO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 634.

No. 15–6526. CAMACHO, AKA MENDOZA-NUNEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 437.

No. 15–6527. DUQUE-DIAZ, AKA MEDINA, AKA GOMEZ-DUVAL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 133.

No. 15–6528. PENA-AGUILAR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6531. RODRIGUEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 619.

No. 15–6537. CAZY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 569.

No. 15–6543. RICHTER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 503.

No. 15–6545. SIMMONS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 599 Fed. Appx. 404.

No. 15–6550. KAISER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–6553. LUONG ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 598.

No. 15–6554. ROSS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 453.

No. 15–6555. TINKER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 635.

No. 15–6564. ROWE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6569. CHIBUKO, AKA BUCKLEY, AKA PRIDE, AKA BUCKELEY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 617 Fed. Appx. 82.

No. 15–6570. RICE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 748.

No. 15–6571. MARTINEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 692.

No. 15–6573. OUTLAW *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 420.

No. 15–6577. PEEL *v.* SEPANEK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6580. TIBBS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 744.

No. 15–6585. VELIZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 623 Fed. Appx. 538.

No. 15–6589. TAYLOR *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 15–6592. MCGEE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 351.

No. 15–6598. TREVINO MORALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 3d 165.

No. 15–6599. DOMINGUEZ-VALENCIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 459.

No. 15–6601. HERNANDEZ-MALDONADO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 793 F. 3d 223.

No. 15–6604. SALAM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 110.

No. 15–6609. HERRERA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 621.

No. 15–6610. FRANKLIN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 785 F. 3d 1365.

No. 15–6614. BULLARD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 898.

No. 15–6616. LUIS CASTILLO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 754.

No. 15–6627. ROBINSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6629. HAYES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 673.

No. 14–1273. NEW HAMPSHIRE RIGHT TO LIFE *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES. C. A. 1st Cir. Certiorari denied. Reported below: 778 F. 3d 43.

JUSTICE THOMAS, with whom JUSTICE SCALIA joins, dissenting.

The Freedom of Information Act (FOIA), 5 U. S. C. § 552, requires federal agencies to "make [agency] records promptly available to any person" who requests them, unless the information that they contain falls under a specifically enumerated exemption. §§ 552(a)(3)(A), (b). One of those exemptions, Exemption 4, authorizes agencies to withhold documents that contain "trade secrets and commercial or financial information obtained from a person and privileged or confidential." § 552(b)(4).

We have long maintained that "FOIA reflects a general philosophy of full agency disclosure unless information is exempted under clearly delineated statutory language." *Department of Defense* v. *FLRA*, 510 U. S. 487, 494 (1994) (internal quotation marks omit-

ted). And we have rejected interpretations of other FOIA exemptions that diverge from the text. *E. g.*, *Milner* v. *Department of Navy*, 562 U. S. 562, 573 (2011) (rejecting interpretation due to its "patent flaw: It is disconnected from Exemption 2's text").

Though we often have considered other FOIA exemptions, we have never interpreted Exemption 4's exception for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." § 552(b)(4). In the meantime, Courts of Appeals have declined to interpret the word "confidential" in Exemption 4 according to its ordinary meaning. Here, for instance, the Court of Appeals for the First Circuit upheld the Department of Health and Human Services' refusal to disclose Planned Parenthood's Manual of Medical Standards and Guidelines, a document that the Government had required Planned Parenthood to submit in connection with a noncompetitive grant application. See 778 F. 3d 43, 49–52 (2015). The First Circuit based this conclusion not on the ordinary meaning of the term "confidential," but on conjectures as to whether disclosure could harm Planned Parenthood's competitive position. The court deemed the manual confidential because "[a] potential future competitor could take advantage of the institutional knowledge contained in the Manual" to compete with Planned Parenthood at some later date. *Id.*, at 51.

The decision below reflects a wider development. Courts of Appeals have embraced varying versions of a convoluted test that rests on judicial speculation about whether disclosure will cause competitive harm to the entity from which the information was obtained. In 1974, the Court of Appeals for the D. C. Circuit decided *National Parks and Conservation Assn.* v. *Morton*, 498 F. 2d 765, which construed the word "confidential" in Exemption 4 by looking to legislative history and the "legislative purpose which underlies the exemption." *Id.*, at 767; see *id.*, at 766–770. That court determined that commercial information is "confidential" if, *inter alia*, disclosure would "cause substantial harm to the competitive position of the person from whom the information was obtained." *Id.*, at 770. The D. C. Circuit later elaborated that there was no need to "show actual competitive harm," and that "[a]ctual competition and the likelihood of substantial competitive injury" sufficed. *Public Citizen Health Research Group* v. *FDA*, 704 F. 2d 1280, 1291 (1983) (internal quotation marks omitted). Seven other Circuits adopted the *National Parks* test.

See *Critical Mass Energy Project* v. *NRC*, 975 F. 2d 871, 876 (CADC 1992) (en banc) (collecting cases).

In 1992, the D. C. Circuit granted rehearing en banc to reconsider *National Parks*, after two judges of that court described its test as "fabricated, out of whole cloth." *Critical Mass*, 975 F. 2d, at 875 (internal quotation marks omitted). The full court declined to overrule it entirely. *Id.*, at 876–877, 880. Instead, the court "confine[d]" the *National Parks* test "to information that persons are required to provide the Government," and adopted a different test for voluntarily provided information. 975 F. 2d, at 872, 880.

Since then, every Court of Appeals to consider Exemption 4 has interpreted it by parsing *National Parks*' nebulous language about "actual competition" and a "substantial likelihood of competitive harm." The courts' reliance on *National Parks* to determine whether information is "confidential" commercial information has produced confusion. Courts cannot seem to agree on what kind of "actual competition" must be shown. Some require factual justifications and market definitions to show that there is "actual competition in the relevant market" in which the entity opposing the disclosure of its information operates. *Watkins* v. *Bureau of Customs and Border Protection*, 643 F. 3d 1189, 1196 (CA9 2011). Others, including the First Circuit below, take an expansive view of what the relevant market is, and do not require any connection between that market and the context in which an entity supplied the requested information. 778 F. 3d, at 51.

Courts of Appeals also disagree over what a "substantial likelihood of competitive harm" means. In some courts, there must be evidence that the entity whose information is being disclosed would likely suffer some defined competitive harm (like lost market share) if competitors used the information. *E. g.*, *McDonnell Douglas Corp.* v. *Department of Air Force*, 375 F. 3d 1182, 1187 (CADC 2004); *GC Micro Corp.* v. *Defense Logistics Agency*, 33 F. 3d 1109, 1115 (CA9 1994). But the First Circuit here accepted that competitors' possible use of the information alone constitutes harm—even if this would not likely result in any negative consequences for the entity whose information was disclosed. See 778 F. 3d, at 51. Similarly, some courts hold that competitive harm exists if a competitor could use the disclosed information to publicly embarrass the originator of the information. *E. g.*, *Nadler* v. *FDIC*, 92 F. 3d 93, 96–97 (CA2 1996). Others hold that this

can never be competitive harm. *E. g.*, *United Technologies Corp.* v. *Department of Defense*, 601 F. 3d 557, 563–564 (CADC 2010). We should not leave the meaning of Exemption 4 up to an atextual test that has different limits in different Circuits.*

By failing to address the Courts of Appeals' abrogation of Exemption 4's text, we have also created a disconcerting anomaly. We have interpreted FOIA Exemption 5—applicable to agency memoranda that "would not be available by law to a party . . . in litigation with the agency," § 552(b)(5)—to encompass a "privilege for confidential commercial information" created by the Government. *Federal Open Market Comm.* v. *Merrill*, 443 U. S. 340, 360 (1979). Yet, in that context, we defined confidential commercial information to mean information "generated in the process of awarding a contract," which "would in fact be privileged in civil discovery." *Id.*, at 361. It is odd for one definition of confidential commercial information to apply to Government-generated records and for a different test to apply if nongovernmental actors created them. It is especially strange given our recognition that the only difference between confidential commercial information covered by Exemption 4 and Exemption 5 is that the latter "is necessarily confined to information generated by the Federal Government itself." *Id.*, at 360.

* * *

The First Circuit's decision warrants review. It perpetuates an unsupported interpretation of an important federal statute and further muddies an already amorphous test. For these reasons, I respectfully dissent from the denial of certiorari.

No. 15–510. Meso Scale Diagnostics, LLC, et al. *v.* Roche Diagnostics GmbH et al. Sup. Ct. Del. Motion of Leonard A. White et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 116 A. 3d 1244.

No. 15–6016. Brainerd *v.* Schlumberger Technology Corp. C. A. 10th Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 589 Fed. Appx. 406.

*The Government apparently agrees. Rather than defending the Courts of Appeals' tests, the Government's brief opposing certiorari states that every court that has adopted the *National Parks* definition of "confidential" information has turned its back on the statutory text.

No. 15–6494. ROUNDTREE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–9860. NIXON *v.* ABBOTT, GOVERNOR OF TEXAS, ET AL., *ante*, p. 839;

No. 14–10045. RANTEESI *v.* ARNOLD, ACTING WARDEN, *ante*, p. 844;

No. 14–10105. RANTEESI *v.* CONSTANCE ET AL., *ante*, p. 847;

No. 15–124. BRADLEY *v.* SABREE ET AL., *ante*, p. 874;

No. 15–172. HOWARD *v.* RAILROAD RETIREMENT BOARD, *ante*, p. 875;

No. 15–5077. KEARNEY *v.* FISCHER, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES, ET AL., *ante*, p. 881;

No. 15–5086. NESSELRODE *v.* DEPARTMENT OF EDUCATION, *ante*, p. 881;

No. 15–5111. LUNZ *v.* O'MEARA, SUPERINTENDENT, GOUVERNEUR CORRECTIONAL FACILITY, *ante*, p. 883;

No. 15–5201. SAUNDERS *v.* VIRGINIA, *ante*, p. 887;

No. 15–5212. BROWN ET AL. *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES, *ante*, p. 888;

No. 15–5295. STEVENSON *v.* SAUNDERS, *ante*, p. 892;

No. 15–5675. VOGT *v.* IOWA STATE PENITENTIARY ET AL., *ante*, p. 929;

No. 15–5773. TURNER *v.* UNITED STATES, *ante*, p. 912;

No. 15–5848. WEBB *v.* UNITED STATES, *ante*, p. 931; and

No. 15–5939. IMPERATO *v.* SECURITIES AND EXCHANGE COMMISSION, *ante*, p. 933. Petitions for rehearing denied.

NOVEMBER 17, 2015

*Miscellaneous Order*

No. 14–1418. ZUBIK ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 3d Cir.;

No. 14–1453. PRIESTS FOR LIFE ET AL. *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. D. C. Cir.;

No. 14–1505. ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. D. C. Cir.;

No. 15–35. East Texas Baptist University et al. *v.* Burwell, Secretary of Health and Human Services, et al. C. A. 5th Cir.;

No. 15–105. Little Sisters of the Poor Home for the Aged, Denver, Colorado, et al. *v.* Burwell, Secretary of Health and Human Services, et al. C. A. 10th Cir.;

No. 15–119. Southern Nazarene University et al. *v.* Burwell, Secretary of Health and Human Services, et al. C. A. 10th Cir.; and

No. 15–191. Geneva College *v.* Burwell, Secretary of Health and Human Services, et al. C. A. 3d Cir. [Certiorari granted, *ante*, p. 971.] Briefing proposal set forth in the parties' letter of November 16, 2015, adopted. Petitioners in Nos. 14–1418, 14–1453, and 14–1505 will file one consolidated opening brief and one reply brief. Petitioners in Nos. 15–35, 15–105, 15–119, and 15–191 will file one consolidated opening brief and one reply brief. Petitioners' opening briefs, not to exceed 20,000 words each, are to be filed on or before January 4, 2016. Respondents will file one consolidated brief, not to exceed 22,500 words, on or before February 10, 2016. Petitioners' reply briefs, not to exceed 8,000 words each, are to be filed on or before March 11, 2016.

## November 18, 2015

*Certiorari Denied*

No. 15–6956 (15A520). Holiday *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to Justice Scalia, and by him referred to the Court, denied. Certiorari denied. Reported below: 806 F. 3d 334.

Statement of Justice Sotomayor, respecting the application for stay of execution and denial of certiorari.

A federal statute entitles defendants sentenced to death to court-appointed counsel during "all available post-conviction process." 18 U. S. C. § 3599(e). This statute requires counsel to "represent the defendant in . . . proceedings for executive or other clemency as may be available to the defendant." *Ibid.*; see *Harbison* v. *Bell*, 556 U. S. 180, 185–186 (2009). Pursuant to § 3599, Raphael Holiday asked his court-appointed counsel—Seth Kretzer

and James Volberding—to petition the State of Texas for clemency. App. to Pet. for Cert. 5a. His attorneys declined, however, because of their belief that there was "no chance at all that a clemency petition would be granted." *Id.*, at 11a (internal quotation marks omitted).

Holiday asked a Federal District Court to appoint a new attorney who would file his petition for clemency. The court denied his request. The court recognized that § 3599 compelled it to appoint new counsel if "the interests of justice" require. *Ibid.* (quoting *Martel* v. *Clair*, 565 U. S. 648, 658 (2012); internal quotation marks omitted). But given the "representations" of Holiday's attorneys, the court found new counsel unwarranted. App. to Pet. for Cert. 11a.

This denial was an abuse of discretion. When Congress authorized federally funded counsel to represent clients in clemency proceedings, it plainly "did not want condemned men and women to be abandoned by their counsel at the last moment and left to navigate the sometimes labyrinthine clemency process from their jail cells." *Harbison*, 556 U. S., at 194 (quoting *Hain* v. *Mullin*, 436 F. 3d 1168, 1175 (CA10 2006) (en banc); internal quotation marks omitted). Yet this is exactly what happened here. Although the "'interests of justice' standard contemplates a peculiarly context-specific inquiry," *Martel*, 565 U. S., at 663, it surely precludes a court from rejecting a substitution motion solely because it agrees with the appointed attorneys' premonitions about clemency.

Executive clemency is fundamentally unpredictable. Clemency officials typically have "complete discretion" to commute a defendant's sentence based on "a wide range of factors not comprehended by earlier judicial proceedings and sentencing determinations." *Ohio Adult Parole Authority* v. *Woodard*, 523 U. S. 272, 278, 281 (1998) (principal opinion); see Tex. Const., Art. IV, § 11; Tex. Code Crim. Proc. Ann., Art. 48.01 (Vernon Supp. 2014). By granting death-eligible defendants an attorney, "Congress ensured that no prisoner would be put to death without meaningful access to th[is] '"fail safe"' of our justice system." *Harbison*, 556 U. S., at 194 (quoting *Herrera* v. *Collins*, 506 U. S. 390, 415 (1993)). So long as clemency proceedings were "available" to Holiday, § 3599(e), the interests of justice required the appointment of attorneys who would represent him in that process. Cf. *Christeson* v. *Roper*, 574 U. S. 373, 377 (2015) (*per curiam*) (reversing the

denial of a substitution motion under § 3599 despite the "host of procedural obstacles" confronting the petitioner's claims). The District Court's denial did not adequately account for Holiday's statutory right.

Despite the District Court's error, I reluctantly join the Court's decision to deny Holiday's petition for certiorari. After the court rejected Holiday's request for new counsel, his original attorneys eventually submitted a clemency application on his behalf. This application proved unsuccessful—and likely would have benefited from additional preparation by more zealous advocates. Yet this Court, unlike a state court, is likely to have no power to order Texas to reconsider its clemency decision with new attorneys representing Holiday.

## November 19, 2015

*Dismissal Under Rule 46*

No. 14–471. Contorinis *v.* Securities and Exchange Commission. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 743 F. 3d 296.

*Certiorari Denied*

No. 15–7015 (15A535). Johnson *v.* Chatman, Warden. Sup. Ct. Ga. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

No. 15–7022 (15A539). Johnson *v.* Chatman, Warden. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied. Reported below: 805 F. 3d 1317.

## November 24, 2015

*Miscellaneous Orders*

No. 14–232. Harris et al. *v.* Arizona Independent Redistricting Commission et al. D. C. Ariz. [Probable jurisdiction noted, 576 U. S. 1082 and 1083.] Motion of appellee Arizona Secretary of State Michele Reagan, in support of appellants, for divided argument granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–981. FISHER *v.* UNIVERSITY OF TEXAS AT AUSTIN ET AL. C. A. 5th Cir. [Certiorari granted, 576 U. S. 1054.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE KAGAN took no part in the consideration or decision of this motion.

NOVEMBER 30, 2015

*Dismissal Under Rule 46*

No. 15–587. ALLERGAN PLC, FKA ACTAVIS PLC, ET AL. *v.* NEW YORK, BY AND THROUGH SCHNEIDERMAN, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 787 F. 3d 638.

*Affirmed for Absence of Quorum*

No. 15–454. SMITH *v.* SCALIA, ASSOCIATE JUSTICE, SUPREME COURT OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Because the Court lacks a quorum, 28 U. S. C. § 1, and since the only qualified Justices are of the opinion that the case cannot be heard and determined at the next Term of the Court, the judgment is affirmed under 28 U. S. C. § 2109, which provides that under these circumstances "the court shall enter its order affirming the judgment of the court from which the case was brought for review with the same effect as upon affirmance by an equally divided court." THE CHIEF JUSTICE, JUSTICE SCALIA, JUSTICE THOMAS, and JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Certiorari Granted—Vacated and Remanded*

No. 15–6219. BAEZ-MARTINEZ *v.* UNITED STATES. C. A. 1st Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015). Reported below: 786 F. 3d 121.

*Certiorari Dismissed*

No. 15–6142. CLAY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 597 Fed. Appx. 261.

No. 15–6168. LeBlanc *v.* City of Kalamazoo, Michigan. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6228. Youngblood *v.* Superior Court of California, Butte County, et al. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 610 Fed. Appx. 664.

No. 15–6321. Mosley *v.* Harmon et al. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6538. Chafe *v.* Florida Department of Children and Families. Dist. Ct. App. Fla., 4th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 162 So. 3d 1025.

*Miscellaneous Orders*

No. 15M53. Wood *v.* United States;

No. 15M56. White *v.* Racette, Superintendent, Great Meadow Correctional Facility;

No. 15M57. Chao Ho Lin et ux. *v.* Chi Chu Wu;

No. 15M58. Cohane *v.* National Collegiate Athletic Assn. et al.;

No. 15M59. Esposito *v.* Esposito; and

No. 15M60. ROWE *v.* GONZALEZ ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15M54. MCWANE, INC. *v.* FEDERAL TRADE COMMISSION; and

No. 15M55. NORTON *v.* MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 14–770. BANK MARKAZI, AKA CENTRAL BANK OF IRAN *v.* PETERSON ET AL. C. A. 2d Cir. [Certiorari granted, 576 U. S. 1094.] Motion of petitioner to dispense with printing joint appendix granted.

No. 14–915. FRIEDRICHS ET AL. *v.* CALIFORNIA TEACHERS ASSN. ET AL. C. A. 9th Cir. [Certiorari granted, 576 U. S. 1082.] Motion of respondent Attorney General of California for divided argument granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae*, for enlargement of time for oral argument, and for divided argument granted, and the time is divided as follows: 40 minutes for petitioners, 15 minutes for union respondents, 15 minutes for respondent Attorney General of California, and 10 minutes for the Solicitor General.

No. 14–9753. LAVERGNE *v.* SHERIFF'S OFFICE OF LAFAYETTE PARISH. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 803] denied.

No. 14–9816. MCINERNEY *v.* RENSSELAER POLYTECHNIC INSTITUTE ET AL. C. A. 2d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 812] denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this motion.

No. 14–10084. ASBURY *v.* SOUTH CAROLINA ET AL. Sup. Ct. S. C. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 803] denied.

No. 15–118. HERNANDEZ ET AL. *v.* MESA. C. A. 5th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 15–138. RJR NABISCO, INC., ET AL. *v.* EUROPEAN COMMUNITY ET AL. C. A. 2d Cir. [Certiorari granted, 576 U. S. 1095.]

Motion of petitioners to dispense with printing joint appendix granted. JUSTICE SOTOMAYOR took no part in the consideration or decision of this motion.

No. 15–5009. TWEED *v.* SCOTT, GOVERNOR OF FLORIDA, ET AL. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 805] denied.

No. 15–5226. WILLIAMS *v.* CORIZON, LLC, ET AL. C. A. 8th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied.

No. 15–5670. ASLANYAN *v.* OBENLAND, SUPERINTENDENT, MONROE CORRECTIONAL COMPLEX. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 811] denied.

No. 15–5826. IN RE SALIH EL BEY. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 937] denied.

No. 15–6244. MOORE *v.* MONTIEL ET AL. C. A. 9th Cir.;

No. 15–6335. VAN HOUTEN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir.;

No. 15–6341. RANDOLPH-KENNEDY *v.* VERIZON SERVICES CORP. Sup. Ct. App. W. Va.;

No. 15–6384. HARRISON *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 4th Cir.;

No. 15–6492. ZAMMIT *v.* CITY OF NEW BALTIMORE, MICHIGAN. Cir. Ct. Macomb County, Mich.; and

No. 15–6493. LAN *v.* COMCAST CORP., LLC. Ct. App. Cal., 1st App. Dist., Div. 5. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 21, 2015, 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.

No. 15–6163. IN RE LAMBRIX;

No. 15–6167. IN RE RUFUS;

No. 15–6738. IN RE COX;

No. 15–6759. IN RE RAMSEY; and

No. 15–6870. IN RE MINTZ. Petitions for writs of habeas corpus denied.

No. 15–6223. IN RE SHELTON. Petition for writ of mandamus denied.

No. 15–6698. IN RE SOLIS; and
No. 15–6704. IN RE SOLIS. Motions of petitioner for leave to proceed *in forma pauperis* denied, and petitions for writs of mandamus and/or prohibition dismissed. See this Court's Rule 39.8. As 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*).

*Certiorari Denied*

No. 14–1388. MCDONOUGH ET AL. *v.* DUPONT. Sup. Ct. N. H. Certiorari denied. Reported below: 167 N. H. 429, 113 A. 3d 239.

No. 14–1543. HINES *v.* ALLDREDGE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 3d 197.

No. 14–9708. BEGOLLI *v.* HOME DEPOT U. S. A., INC. C. A. 7th Cir. Certiorari denied.

No. 14–10355. MARTINEZ-LUGO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 782 F. 3d 198.

No. 14–10377. WILSON *v.* UNITED STATES; and
No. 14–10407. PERSAUD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 791.

No. 15–9. CINTRON *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied.

No. 15–45. BIRHANZL *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 264 Ore. App. 466, 332 P. 3d 371.

No. 15–46. DAVIS ET AL. *v.* ABBOTT, GOVERNOR OF TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 781 F. 3d 207.

No. 15–69. BIOLITEC AG ET AL. *v.* ANGIODYNAMICS, INC. (two judgments). C. A. 1st Cir. Certiorari denied. Reported below: 780 F. 3d 420 (first judgment) and 429 (second judgment).

No. 15–101. HARDIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 595 Fed. Appx. 460.

No. 15–132. UVEGES *v.* UVEGES. Super. Ct. Pa. Certiorari denied. Reported below: 103 A. 3d 825.

No. 15–155. STATE OF VERACRUZ, REPUBLIC OF MEXICO, ET AL. *v.* BP P. L. C. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 784 F. 3d 1019.

No. 15–162. PASKE *v.* FITZGERALD, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS CHIEF OF POLICE OF MISSOURI CITY, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 785 F. 3d 977.

No. 15–215. YAMADA ET AL. *v.* SHODA, CHAIR AND MEMBER OF THE HAWAII CAMPAIGN SPENDING COMMISSION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 3d 1182.

No. 15–241. FULGHUM ET AL. *v.* EMBARQ CORP. ET AL.; and No. 15–244. EMBARQ CORP. ET AL. *v.* FULGHUM ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 785 F. 3d 395.

No. 15–329. GROVE *v.* SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL ET AL. Ct. App. S. C. Certiorari denied.

No. 15–335. ADAMS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–352. ZARAGOZA FUENTES *v.* 245TH JUDICIAL DISTRICT COURT OF HARRIS COUNTY, TEXAS, ET AL. Sup. Ct. Tex. Certiorari denied.

No. 15–354. CARMICHAEL *v.* JPMORGAN CHASE BANK, N. A. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–356. CLARK *v.* CITY OF OLATHE, KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 50 Kan. App. 2d xiii, 338 P. 3d 24.

No. 15–357. TENNANT *v.* CITY OF GEORGETOWN, SOUTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 752.

No. 15–358. WESTLAKE LEGAL GROUP, DBA THOMAS K. PLOFCHAN, JR., PLLC, ET AL. *v.* YELP, INC. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 481.

No. 15–369. PAMPATTIWAR *v.* CHITRE. Ct. App. Ga. Certiorari denied. Reported below: 329 Ga. App. XXVII.

No. 15–395. CALHOUN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 968.

No. 15–400. DAUKSH *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 640.

No. 15–444. ENDENCIA *v.* RUSH BEHAVIORAL HEALTH ET AL. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 132129–U.

No. 15–452. LEONARD ET UX. *v.* OCWEN LOAN SERVICING, LLC, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 677.

No. 15–459. NAGEL *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied.

No. 15–476. JOHNSON *v.* CRUZ, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 161.

No. 15–477. BECKMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 909.

No. 15–482. PARR ET UX., INDIVIDUALLY AND AS PARENTS AND NATURAL GUARDIANS OF PARR *v.* FORD MOTOR CO. ET AL. Super. Ct. Pa. Certiorari denied. Reported below: 109 A. 3d 682.

No. 15–487. RAYSOR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–496. ROSARIO *v.* SAYLOR, CHIEF JUSTICE OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 799 F. 3d 216.

No. 15–503. CHABOT ET UX. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 793 F. 3d 338.

No. 15–523. SOLOMON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 956.

No. 15–540. BALA *v.* VIRGINIA DEPARTMENT OF CONSERVATION AND RECREATION. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 636.

No. 15–561. NAUTILUS, INC. *v.* BIOSIG INSTRUMENTS, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 783 F. 3d 1374.

No. 15–568. CITY OF CONCORD, NEW HAMPSHIRE *v.* NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC. C. A. 2d Cir. Certiorari denied. Reported below: 795 F. 3d 343.

No. 15–5047. RODRIGUEZ-BERNAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 3d 1002.

No. 15–5172. MOBLEY *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 296 Ga. 876, 770 S. E. 2d 1.

No. 15–5222. NORRIS *v.* FOXX, SECRETARY OF TRANSPORTATION, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–5235. RISCAJCHE-SIQUINA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 412.

No. 15–5317. HOLLINGSWORTH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 783 F. 3d 556.

No. 15–5336. LEWIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 223.

No. 15–5686. FRANCO-BARDALES *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 684.

No. 15–5696. LAMBRIX *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–5738. HUFF *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 782 F. 3d 1221.

No. 15–5756. TUOMI *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 956.

No. 15–5770. DURANTE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 612 Fed. Appx. 129.

No. 15–5804. TOMIKEL *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–6117. FORD *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 168 So. 3d 224.

No. 15–6121. CARIUS *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 163 So. 3d 1204.

No. 15–6137. LORENZO ESPARZA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6141. DILLON *v.* DOOLEY, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6145. CHUOL *v.* NEBRASKA. Ct. App. Neb. Certiorari denied. Reported below: 22 Neb. App. xxii.

No. 15–6146. CROSKEY *v.* CRAWFORD, AKA C&B ASSOCIATION MONTGOMERY. Ct. Civ. App. Ala. Certiorari denied. Reported below: 177 So. 3d 468.

No. 15–6147. DOTSON *v.* KISER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 235.

No. 15–6148. CLARK *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6149. CASTRO-GUTIERREZ *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 674.

No. 15–6150. ANDY E. *v.* DOE ET AL. Sup. Ct. App. W. Va. Certiorari denied.

No. 15–6151. D'AMICO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6152. DOLEMAN *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6155. DANIELS *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6161. BANKS *v.* BUTLER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–6166. COOKE *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 24 N. Y. 3d 1196, 27 N. E. 3d 469.

No. 15–6171. MARTIN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6173. GARIVAY *v.* LONG, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6175. GHEE *v.* ALABAMA DEPARTMENT OF HUMAN RESOURCES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 486.

No. 15–6176. HOEVER *v.* PORTER, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6178. HOWARD *v.* STRANGE, GOVERNOR OF ALABAMA, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6180. HARRELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 877.

No. 15–6182. GAMBLE *v.* KENWORTHY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 301.

No. 15–6184. GREEN *v.* ADDISON, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 704.

No. 15–6186. HOLGUIN *v.* TEXAS. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 15–6190. RAMSEY *v.* MUNIZ, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6194. SEIBERT *v.* GEORGIA. Ct. App. Ga. Certiorari denied.

No. 15–6196. HART *v.* SALOIS ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 694.

No. 15–6200. TALLEY *v.* BAKER ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–6204. SIVAK *v.* IDAHO. Ct. App. Idaho. Certiorari denied.

No. 15–6207. THURMAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6208. TERRY *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–6212. THOMAS *v.* GOODWIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 786 F. 3d 395.

No. 15–6215. BRYANT *v.* SOUTH CAROLINA. Ct. Common Pleas of Sumter County, S. C. Certiorari denied.

No. 15–6216. BOONE *v.* HOWERTON, WARDEN. Super. Ct. Habersham County, Ga. Certiorari denied.

No. 15–6218. BARKSDALE *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO. C. A. 6th Cir. Certiorari denied.

No. 15–6226. VERLEE *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 15–6231. VALENCIA *v.* CITY OF SANTA FE, NEW MEXICO, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 353.

No. 15–6232. VALENCIA *v.* DE LUCA ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 512.

No. 15–6234. LEE *v.* HYMOWITZ ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6237. JOHNSON *v.* DAUPHANUS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6239. JACK *v.* VIRGINIA BUREAU OF INSURANCE. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 295.

No. 15–6242. MITCHELL *v.* NAVARRO ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6245. SALAS *v.* INDEPENDENT ELECTRICAL CONTRACTORS INC. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 607.

No. 15–6248. BARSTAD *v.* WASHINGTON DEPARTMENT OF CORRECTIONS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 427.

No. 15–6250. REID *v.* WASHINGTON. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 502.

No. 15–6253. WHEATLEY *v.* SMITH ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 589.

No. 15–6262. ZAVALETA PEREZ *v.* PERRY, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 184.

No. 15–6263. NURSE *v.* SHERATON ATLANTA HOTEL ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 987.

No. 15–6264. NEYLAND *v.* OHIO. Ct. App. Ohio, 6th App. Dist., Wood County. Certiorari denied. Reported below: 2013-Ohio-3065.

No. 15–6266. LUNDAHL *v.* AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA. C. A. 10th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 734.

No. 15–6267. PEYRONEL *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 465 S. W. 3d 650.

No. 15–6268. PAGAN *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 471 Mass. 537, 31 N. E. 3d 575.

No. 15–6270. GARRETT *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–6277. WILSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 173 So. 3d 968.

No. 15–6279. CHONG SU YI *v.* CAPITAL ONE, N. A. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 124.

No. 15–6281. REEVES *v.* CHATMAN, WARDEN. Super. Ct. Tattnall County, Ga. Certiorari denied.

No. 15–6285. KING *v.* MACKIE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6293. BROCK *v.* COOK, WARDEN. Sup. Ct. Ohio. Certiorari denied. Reported below: 142 Ohio St. 3d 1473, 2015-Ohio-2051, 31 N. E. 3d 652.

No. 15–6294. AZANIA *v.* NEAL, SUPERINTENDENT, INDIANA STATE PRISON. C. A. 7th Cir. Certiorari denied.

No. 15–6313. REEVES *v.* HEAD, WARDEN, ET AL. Super. Ct. Baldwin County, Ga. Certiorari denied.

No. 15–6314. SCALES *v.* HARRY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CAMP HILL, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6315. NICHOLSON *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2013–0072 (La. 5/5/15), 169 So. 3d 344.

No. 15–6318. OLSON *v.* LITTLE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 387.

No. 15–6322. BOOKER *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6323. BOYER *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 87 Mass. App. 1111, 26 N. E. 3d 1141.

No. 15–6324. AIKINS *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 169 So. 3d 1191.

No. 15–6329. WASHINGTON *v.* WILLIAM MORRIS ENDEAVOR ENTERTAINMENT, LLC, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6333. VARGAS *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6339. RUGGLES *v.* YAGONG ET AL. Sup. Ct. Haw. Certiorari denied. Reported below: 135 Haw. 411, 353 P. 3d 953.

No. 15–6345. ROGERS *v.* PERRY, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 147.

No. 15–6347. POWERS *v.* TIBBALS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6349. ESQUIVEL *v.* RAMIREZ. C. A. 9th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 661.

No. 15–6351. WOLFE *v.* BANKS, SUPERINTENDENT, SOUTH MISSISSIPPI CORRECTIONAL INSTITUTION. C. A. 5th Cir. Certiorari denied.

No. 15–6381. BOSWELL *v.* BOSCHINI ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 581 Fed. Appx. 372.

No. 15–6383. HADDOW *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 598 Fed. Appx. 117.

No. 15–6385. GUADALUPE GARCIA *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–6388. HOLMES *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 183 Wash. App. 1037.

No. 15–6393. PRIDGEN *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6397. CLARK *v.* ALLEN & OVERY, LLP. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 125 App. Div. 3d 497, 4 N. Y. S. 3d 20.

No. 15–6399. JACKSON *v.* WAL-MART STORES, INC. C. A. 7th Cir. Certiorari denied.

No. 15–6419. WALKER *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 3d 1125.

No. 15–6424. SCHEFFLER *v.* MESSERLI & KRAMER, P. A. C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 3d 847.

No. 15–6440. LUNA *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–6441. THOMAS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–6447. HARVEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 455.

No. 15–6457. YOAK *v.* SPRINT NEXTEL CORP. ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6466. LOPEZ MORENO *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 15–6467. PAULSON *v.* SOUTH DAKOTA. Sup. Ct. S. D. Certiorari denied. Reported below: 2015 S.D. 12, 861 N. W. 2d 504.

No. 15–6470. BLAND *v.* FRENCH ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6483. HARDING *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–6505. BROOKS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6509. BELL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–6511. CLUM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 922.

No. 15–6515. STROUSE *v.* WILSON, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6532. RICHARDSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 104 A. 3d 115.

No. 15–6556. LOBAITO *v.* FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC. C. A. 2d Cir. Certiorari denied. Reported below: 599 Fed. Appx. 400.

No. 15–6572. MCCANN *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR LAKESIDE COMMUNITY BANK. C. A. 6th Cir. Certiorari denied.

No. 15–6590. TIBURCIO *v.* UNITED STATES CAPITOL. C. A. D. C. Cir. Certiorari denied. Reported below: 602 Fed. Appx. 540.

No. 15–6595. WOODLEY *v.* TATUM, WARDEN. C. A. 1st Cir. Certiorari denied.

No. 15–6596. THOMAS ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 3d 705.

No. 15–6600. FIGUEROA-LUGO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 793 F. 3d 179.

No. 15–6606. ANTONIO MONTANEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6613. YATES *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied.

No. 15–6617. LOVIN *v.* OSBORNE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6621. BEVILL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 180.

No. 15–6622. TAYLOR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6623. SMITH *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–6624. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 340.

No. 15–6625. MOSS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6631. BECKFORD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6634. ALSTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 730.

No. 15–6635. BELL *v.* PERSSON, SUPERINTENDENT, OREGON STATE CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 619.

No. 15–6636. JONES *v.* CLEMENTS, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–6637. KIEFFER *v.* SAUERS, WARDEN. C. A. 3d Cir. Certiorari denied. Reported below: 616 Fed. Appx. 464.

No. 15–6644. RAMEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 165.

No. 15–6647. HARVEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 794 F. 3d 617.

No. 15–6649. GONZALEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 631.

No. 15–6650. ZAR ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 790 F. 3d 1036.

No. 15–6651. DAVIS *v.* MARYLAND STATE DEPARTMENT OF EDUCATION OFFICE OF CHILD CARE. Ct. Sp. App. Md. Certiorari denied. Reported below: 222 Md. App. 709.

No. 15–6655. WHISNANT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6656. VENTURA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–6658. KIRKLAND *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 612 Fed. Appx. 133.

No. 15–6671. SHORT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–6678. MEDRANO-HERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 586.

No. 15–6680. PEREZ-SANCHEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 412.

No. 15–6690. FAY *v.* MAYE, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 667.

No. 15–6702. LAPOINTE *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2015 IL App (2d) 130451, 40 N. E. 3d 72.

No. 15–6705. McClurkin *v.* Maryland. Ct. Sp. App. Md. Certiorari denied. Reported below: 222 Md. App. 461, 113 A. 3d 1111.

No. 15–115. Tyco Healthcare Group LP et al. *v.* Ethicon Endo-Surgery, Inc. C. A. Fed. Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 774 F. 3d 968.

No. 15–161. Rapelje, Warden *v.* Blackston. C. A. 6th Cir. Certiorari denied. Reported below: 780 F. 3d 340.

Justice Scalia, with whom Justice Thomas and Justice Alito join, dissenting.

A criminal defendant "shall enjoy the right . . . to be confronted with the witnesses against him." U. S. Const., Amdt. 6. We have held that this right entitles the accused to cross-examine witnesses who testify at trial, and to exclude certain out-of-court statements that the defendant did not have a prior opportunity to cross-examine. *Crawford* v. *Washington*, 541 U. S. 36, 50–51 (2004); *Davis* v. *Alaska*, 415 U. S. 308, 315–317 (1974). We have never held—nor would the verb "to confront" support the holding—that confrontation includes the right to *admit* out-of-court statements into evidence. Nevertheless, the Sixth Circuit held not only that the Confrontation Clause guarantees the right to admit such evidence but that our cases have "clearly established" as much. We should grant certiorari and summarily reverse.

Respondent Junior Fred Blackston was convicted in Michigan state court of first-degree murder on the strength of the testimony of five people, some of whom participated in the crime. For reasons not relevant here, the court ordered a new trial. Before Blackston's retrial, however, two of the five witnesses signed written statements recanting their trial testimony. The prosecution called them at the second trial, but they refused to answer any questions. The trial court therefore pronounced them "unavailable" and, pursuant to a venerable hearsay exception, see Mich. Rule Evid. 804(b)(1) (2012); cf. 5 J. Wigmore, Evidence § 1370, p. 55 (J. Chadbourn rev. 1974), allowed their earlier testimony to be read to the jury. But the court refused to admit into evidence their written recantations.

Blackston was once again convicted of first-degree murder and sentenced to life imprisonment. Affirming the conviction, the Supreme Court of Michigan held that the trial court's exclusion of

the recantations was not error and, even if it was, was harmless beyond a reasonable doubt. 481 Mich. 451, 751 N. W. 2d 408 (2008).

This petition for federal habeas relief followed. The District Court conditionally granted the writ, finding that the exclusion of the recantations violated Blackston's Sixth and Fourteenth Amendment rights. 907 F. Supp. 2d 878 (ED Mich. 2012). A divided Sixth Circuit panel affirmed. 780 F. 3d 340 (2015). In the Court of Appeals' view, "[t]here is a clearly established right to impeach the credibility of an adverse witness using the witness's own inconsistent statements." *Id.*, at 348. The recantations, reasoned the court, were inconsistent statements that had obvious impeachment value.

The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) prohibits federal courts from granting habeas relief unless the state court's decision "involved an unreasonable application of . . . *clearly established* Federal law, as determined by the Supreme Court of the United States." 28 U. S. C. § 2254(d)(1) (emphasis added). As the dissenting judge below pointed out, no case of ours establishes, clearly or otherwise, that the Confrontation Clause bestows a right to *admit* this kind of evidence. 780 F. 3d, at 363–364 (opinion of Kethledge, J.). In fact we long ago suggested just the opposite. *Mattox* v. *United States*, 156 U. S. 237, 245–250 (1895). Each of the cases the Sixth Circuit relied on involved the defendant's attempting during cross-examination to impeach *testifying witnesses*, not unavailable declarants. See *Olden* v. *Kentucky*, 488 U. S. 227, 230 (1988) (*per curiam*); *Delaware* v. *Van Arsdall*, 475 U. S. 673, 676 (1986); *Alford* v. *United States*, 282 U. S. 687, 693 (1931). And just recently we said in *Nevada* v. *Jackson*, 569 U. S. 505, 512 (2013) (*per curiam*), that "this Court has never held that the Confrontation Clause entitles a criminal defendant to introduce *extrinsic evidence* for impeachment purposes." The Sixth Circuit thought the recantations here intrinsic, not extrinsic, and so beyond *Jackson*'s ambit. That is quite irrelevant. The pertinent question under AEDPA is whether our cases have clearly established a right, not whether they have failed to clearly foreclose it.

There may well be a plausible argument why the recantations ought to have been admitted under state law. See Mich. Rule Evid. 806. But nothing in our precedents clearly establishes their admissibility as a matter of federal constitutional law. AEDPA

"provides a remedy for instances in which a state court unreasonably *applies* this Court's precedent; it does not require state courts to *extend* that precedent or license federal courts to treat the failure to do so as error." *White* v. *Woodall*, 572 U. S. 415, 426 (2014). By framing the confrontation right at a high level of generality (making it the right "to impeach the credibility of an adverse witness"), the Sixth Circuit in effect "transform[ed] . . . [an] imaginative extension of existing case law into 'clearly established'" law. *Jackson*, *supra*, at 512. That will not do.

The Sixth Circuit seems to have acquired a taste for disregarding AEDPA. *E. g.*, *Woods* v. *Donald*, 575 U. S. 312 (2015) (*per curiam*); *White* v. *Woodall*, *supra*; *Burt* v. *Titlow*, 571 U. S. 12 (2013); *Metrish* v. *Lancaster*, 569 U. S. 351 (2013); *Howes* v. *Fields*, 565 U. S. 499 (2012). We should grant certiorari to discourage this appetite.

No. 15–5628. HOLLAND *v.* FLORIDA. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 775 F. 3d 1294.

No. 15–6296. MIZNER *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 591 Fed. Appx. 577.

No. 15–6612. MARTINEZ *v.* JARVIS, WARDEN. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 609 Fed. Appx. 630.

*Rehearing Denied*

No. 14–1312. JONES *v.* CHATMAN, WARDEN, *ante*, p. 817;

No. 14–1316. COULTER *v.* ALLEGHENY COUNTY BAR ASSN. ET AL.; COULTER *v.* LOPE ET AL.; COULTER *v.* RAMSDEN ET AL.; COULTER *v.* DOERR ET AL.; COULTER *v.* GALE ET AL.; COULTER *v.* MAHOOD ET AL.; and COULTER *v.* RAMSDEN ET AL., *ante*, p. 817;

No. 14–1318. DIX *v.* CLANCY, DIRECTOR, UNITED STATES SECRET SERVICE, ET AL., *ante*, p. 817;

No. 14–1353. NETAIRUS TECHNOLOGIES, LLC *v.* APPLE INC., *ante*, p. 819;

No. 14–1414. LOPEZ *v.* NEWPORT ELEMENTARY SCHOOL ET AL., *ante*, p. 821;

No. 14–1427. In re Sabeniano, *ante*, p. 814;

No. 14–1479. Hollander *v.* Pembroke, *ante*, p. 824;

No. 14–1498. Lucas *v.* Humphrey, Warden, *ante*, p. 914;

No. 14–1509. LaCertosa *v.* Blackman Plumbing Supply Co., Inc., et al., *ante*, p. 826;

No. 14–1518. Abram *v.* Fulton County, Georgia, *ante*, p. 826;

No. 14–1521. Torres *v.* Santa Ynez Band of Chumash Indians, *ante*, p. 826;

No. 14–1537. Houston et al. *v.* 42d Judicial District Court of Louisiana, *ante*, p. 827;

No. 14–7776. Dean *v.* Porsche Automobil Holdings SE et al., *ante*, p. 828;

No. 14–8856. Bistrika et al. *v.* Oregon; and Bistrika *v.* Oregon, *ante*, p. 828;

No. 14–9078. Barry *v.* Diallo, *ante*, p. 829;

No. 14–9175. Gutierrez *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 829;

No. 14–9239. Coles *v.* National Labor Relations Board et al., *ante*, p. 829;

No. 14–9369. Garcia *v.* Texas, 576 U. S. 1038;

No. 14–9397. Hutchinson *v.* Razdan, 576 U. S. 1025;

No. 14–9489. Chalmers *v.* Tennessee, *ante*, p. 830;

No. 14–9676. In re Ervin, *ante*, p. 814;

No. 14–9685. Stamos *v.* Davey, Warden, *ante*, p. 834;

No. 14–9719. Bogany *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 834;

No. 14–9819. Paulk *v.* City of Orlando, Florida, et al., *ante*, p. 837;

No. 14–9997. Gonzalez *v.* Connecticut, *ante*, p. 843;

No. 14–10009. Thompson *v.* Ohio, *ante*, p. 843;

No. 14–10025. Melot et ux. *v.* United States, *ante*, p. 844;

No. 14–10038. Amrhein *v.* La Madeleine, Inc., et al., *ante*, p. 844;

No. 14–10088. Jeep *v.* United States, *ante*, p. 846;

No. 14–10101. Cladek *v.* United States, *ante*, p. 847;

No. 14–10144. Rajkovic *v.* Federal Bureau of Investigation et al., *ante*, p. 849;

No. 14–10195. Blick *v.* Deutsche Bank National Trust Co., *ante*, p. 852;

No. 14–10218. Seaman *v.* Michigan, *ante*, p. 853;

No. 14–10224. Vieira *v.* Van Winkle, *ante*, p. 854;

No. 14–10259. Curry *v.* City of Mansfield, Ohio, et al., *ante*, p. 855;

No. 14–10285. Speed *v.* United States, *ante*, p. 857;

No. 14–10289. Madura et ux. *v.* Bank of America, N. A., *ante*, p. 858;

No. 14–10357. Reid *v.* City of Flint, Michigan, *ante*, p. 861;

No. 14–10366. Fodor *v.* Eastern Shipbuilding Group (two judgments), *ante*, p. 862;

No. 14–10367. Gibson *v.* Valley Avenue Drive-In Restaurant, LLC, *ante*, p. 862;

No. 14–10370. Lavenant *v.* United States, *ante*, p. 862;

No. 14–10412. Jordan *v.* Satterfield et al., *ante*, p. 865;

No. 14–10440. Rowland *v.* Jones, Secretary, Florida Department of Corrections, *ante*, p. 866;

No. 14–10462. Cameron *v.* Dolce, Superintendent, Orleans Correctional Facility, *ante*, p. 867;

No. 15–21. Cherkovsky *v.* Delgado, *ante*, p. 870;

No. 15–33. Deere *v.* Laxalt, Attorney General of Nevada, et al., *ante*, p. 870;

No. 15–43. McBroom *v.* Human Resources Director, Franklin County Board of Elections, *ante*, p. 870;

No. 15–47. Bagdis *v.* United States, *ante*, p. 871;

No. 15–61. Langer *v.* Nilles, Ilvedson, Plambeck & Selbo, Ltd., nka Nilles, Plambeck, Selbo & Harrie, Ltd., *ante*, p. 871;

No. 15–89. Bamdad *v.* United States, *ante*, p. 872;

No. 15–99. Shaikh *v.* Florida, *ante*, p. 873;

No. 15–5014. Augustus *v.* AHRC Nassau, *ante*, p. 877;

No. 15–5025. Villalta *v.* Lynch, Attorney General, et al., *ante*, p. 878;

No. 15–5031. Brannon *v.* Stevenson, Warden, *ante*, p. 878;

No. 15–5051. In re Viray, *ante*, p. 814;

No. 15–5056. Smith *v.* Wood County District Attorney's Office et al., *ante*, p. 880;

No. 15–5078. Kelley *v.* Lazaroff, Warden, *ante*, p. 881;

No. 15–5116. Brunson *v.* Price, Warden, et al., *ante*, p. 883;

No. 15–5124. Vogt *v.* Iowa et al., *ante*, p. 884;

No. 15–5191. Matthews *v.* Stewart, Warden, *ante*, p. 886;

No. 15–5215. Basey *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 888;

No. 15–5249. Boone *v.* Jones, Secretary, Florida Department of Corrections, *ante*, p. 890;

No. 15–5250. Thompson *v.* United States District Court for the Northern District of California, *ante*, p. 890;

No. 15–5256. Diehl *v.* United States, *ante*, p. 890;

No. 15–5261. Rogers *v.* United States, *ante*, p. 891;

No. 15–5293. Ladeairous *v.* Schneiderman, Attorney General of New York, et al., *ante*, p. 892;

No. 15–5318. Douglas, aka Houston *v.* Bughrara et al., *ante*, p. 893;

No. 15–5359. Hood *v.* United States, *ante*, p. 896;

No. 15–5360. Farmer *v.* Potteiger et al., *ante*, p. 896;

No. 15–5410. Norman *v.* Florida, *ante*, p. 899;

No. 15–5416. Wright *v.* Wingard, Superintendent, State Correctional Institution at Somerset, et al., *ante*, p. 899;

No. 15–5422. Baker *v.* United States, *ante*, p. 900;

No. 15–5426. Scotton *v.* United States, *ante*, p. 900;

No. 15–5429. Cabrera Mejia *v.* Wal-Mart, *ante*, p. 900;

No. 15–5485. Williams *v.* City University of New York, Brooklyn College, *ante*, p. 903;

No. 15–5568. Wright *v.* United States Interagency Council on Homelessness et al., *ante*, p. 927;

No. 15–5659. Kerr *v.* United States, *ante*, p. 909;

No. 15–5732. Fullman *v.* Kistler et al., *ante*, p. 942;

No. 15–5733. Fullman *v.* Kistler et al., *ante*, p. 942;

No. 15–5868. In re Jordan, *ante*, p. 921; and

No. 15–5890. In re Brown, *ante*, p. 937. Petitions for rehearing denied.

## December 2, 2015

*Miscellaneous Order*

No. 15A551. Akina et al. *v.* Hawaii et al. Application for injunction pending appellate review, presented to Justice Kennedy, and by him referred to the Court, granted. Respondents are enjoined from counting the ballots cast in, and certifying the winners of, the election described in the application, pending final disposition of the appeal by the United States Court of Appeals

for the Ninth Circuit. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

DECEMBER 3, 2015

*Dismissal Under Rule 46*

No. 15–28. LISTECKI, AS TRUSTEE OF THE ARCHDIOCESE OF MILWAUKEE CATHOLIC CEMETERY PERPETUAL CARE TRUST *v.* OFFICIAL COMMITTEE OF UNSECURED CREDITORS. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 780 F. 3d 731.

DECEMBER 4, 2015

*Dismissal Under Rule 46*

No. 15–436. IN RE MELLOULI; and

No. 15–437. MELLOULI *v.* LYNCH, ATTORNEY GENERAL. C. A. 8th Cir. Petition for writ of mandamus and/or prohibition and petition for writ of certiorari dismissed under this Court's Rule 46.1

*Miscellaneous Order*

No. 14–1382. AMERICOLD LOGISTICS, LLC, ET AL. *v.* CONAGRA FOODS, INC., ET AL. C. A. 10th Cir. [Certiorari granted, 576 U. S. 1094.] Joint motion of the parties to dismiss Americold Logistics, LLC, as a dispensable party granted.

*Certiorari Granted*

No. 14–1375. CRST VAN EXPEDITED, INC. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 8th Cir. Certiorari granted. Reported below: 774 F. 3d 1169.

No. 14–1457. BETTERMAN *v.* MONTANA. Sup. Ct. Mont. Certiorari granted. Reported below: 378 Mont. 182, 342 P. 3d 971.

No. 15–7. UNIVERSAL HEALTH SERVICES, INC. *v.* UNITED STATES ET AL. EX REL. ESCOBAR ET AL. C. A. 1st Cir. Certiorari granted limited to Questions 2 and 3 presented by the petition. Reported below: 780 F. 3d 504.

No. 15–233. COMMONWEALTH OF PUERTO RICO ET AL. *v.* FRANKLIN CALIFORNIA TAX-FREE TRUST ET AL.; and

No. 15–255. ACOSTA-FEBO ET AL. *v.* FRANKLIN CALIFORNIA TAX-FREE TRUST ET AL. C. A. 1st Cir. Motion of Fundacion Angel Ramos, Inc., et al. for leave to file brief as *amici curiae* in No. 15–233 granted. Certiorari granted, cases consolidated, and a total of one hour is allotted for oral argument. JUSTICE ALITO took no part in the consideration or decision of this motion and these petitions. Reported below: 805 F. 3d 322.

## DECEMBER 7, 2015

*Dismissal Under Rule 46*

No. 15–545. FREEMAN MARINE EQUIPMENT, INC. *v.* CHMM, LLC. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 791 F. 3d 1059.

*Certiorari Granted—Vacated and Remanded*

No. 15–24. FRANCE *v.* UNITED STATES. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the confession of error by the Solicitor General in his brief for the United States filed on November 6, 2015. Reported below: 782 F. 3d 820.

*Certiorari Dismissed*

No. 15–6373. LANCASTER *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

*Miscellaneous Orders*

No. 15A458 (15–595). SORENSEN *v.* UNITED STATES. C. A. 10th Cir. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. 15A479. WILKERSON *v.* UNITED STATES. Application for release on bond pending appeal, addressed to JUSTICE GINSBURG and referred to the Court, denied.

No. D–2857. IN RE DISCIPLINE OF ROSABIANCA. Luigi Rosabianca, of New York, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2858. IN RE DISCIPLINE OF SEPCICH. Michael S. Sepcich, of Metairie, La., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2859. IN RE DISCIPLINE OF JEFFERSON. William Jennings Jefferson, of New Orleans, La., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2860. IN RE DISCIPLINE OF ABADIE. Alan John Abadie, of Chalmette, La., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2861. IN RE DISCIPLINE OF TRYE. Shauntese Curry Trye, of Baltimore, Md., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–2862. IN RE DISCIPLINE OF ZOBRIST. Gerry G. Zobrist, of Las Vegas, Nev., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2863. IN RE DISCIPLINE OF KORESKO. John J. Koresko V, of Bridgeport, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2864. IN RE DISCIPLINE OF ROSEN. Donald P. Rosen, of Carpentersville, Ill., is suspended from the practice of law in

this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2865. IN RE DISCIPLINE OF ROZENSTRAUCH. Daniel Rozenstrauch, of Chicago, Ill., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2866. IN RE DISCIPLINE OF NEELY. David E. Neely, of Chicago, Ill., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2867. IN RE DISCIPLINE OF MCBEATH. Carla Ruth McBeath, of Fort Lee, N. J., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–2868. IN RE DISCIPLINE OF BRAWLEY. Cheryl Rose Brawley, of Honolulu, Haw., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. 15M61. HARDY *v.* BIRKETT, WARDEN; and

No. 15M62. WILKINSON *v.* GEO GROUP, INC., ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15–5527. KEARNEY *v.* NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES ET AL. C. A. 2d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 919] denied.

No. 15–5748. CAMPBELL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 919] denied.

No. 15–5767. COLLIE *v.* SOUTH CAROLINA COMMISSION ON LAWYER CONDUCT. Sup. Ct. S. C. Motion of petitioner for re-

consideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 953] denied.

No. 15–6027. HOWELL *v.* UNITED STATES. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 950] denied.

No. 15–6370. JACKSON *v.* WHITE, ILLINOIS SECRETARY OF STATE, ET AL. C. A. 7th Cir.; and

No. 15–6806. DIXON *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 28, 2015, 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.

No. 15–6931. IN RE GAGE;

No. 15–6955. IN RE JONES; and

No. 15–6972. IN RE GREEN. Petitions for writs of habeas corpus denied.

No. 15–6807. IN RE GONZALEZ LORA. Petition for writ of habeas corpus denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–6398. IN RE ERVIN. Petition for writ of mandamus denied.

*Certiorari Denied*

No. 14–1391. BOWDEN *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 367 N. C. 680, 766 S. E. 2d 320.

No. 14–9299. MARSHALL *v.* FEDERAL BUREAU OF PRISONS. C. A. 11th Cir. Certiorari denied. Reported below: 580 Fed. Appx. 896.

No. 14–10447. FRIES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 3d 1137.

No. 15–65. LIZCANO *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–147. SULLIVAN *v.* GLENN ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 782 F. 3d 378.

No. 15–210. GEOFFREY *v.* GEOFFREY. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 162 So. 3d 1025.

No. 15–245. MANN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–270. SMILEY *v.* HARTFORD LIFE & ACCIDENT INSURANCE CO. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 8.

No. 15–272. HAWKINS *v.* JPMORGAN CHASE BANK, N. A. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 662.

No. 15–381. FIVETECH TECHNOLOGY INC. *v.* SOUTHCO, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 611 Fed. Appx. 681.

No. 15–384. SITKA ENTERPRISES, INC., ET AL. *v.* SEGARRA MIRANDA ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 795 F. 3d 288.

No. 15–385. BOND *v.* HOLDER ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–389. DICKEY *v.* CITY OF BOSTON INSPECTIONAL SERVICES DEPARTMENT ET AL. App. Ct. Mass. Certiorari denied. Reported below: 87 Mass. App. 1119, 30 N. E. 3d 134.

No. 15–390. ING *v.* LEE. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 15–394. CUNDA *v.* BANK OF NEW YORK MELLON. Sup. Ct. Fla. Certiorari denied. Reported below: 177 So. 3d 1264.

No. 15–396. ROUSE *v.* II–VI INC. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 609 Fed. Appx. 62.

No. 15–397. RACZ *v.* KNIPP, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–398. PETRELLA, NEXT FRIEND AND GUARDIAN OF MINOR N. P. ET AL., ET AL. *v.* BROWNBACK, GOVERNOR OF KANSAS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 787 F. 3d 1242.

No. 15–407. VILLEGAS ET AL. *v.* SCHMIDT, TRUSTEE. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 3d 156.

No. 15–408. LIPIN *v.* DANSKE BANK ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–418. WYNN *v.* CALLAN APPRAISAL INC. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 584.

No. 15–422. JONES ET AL. *v.* DANCEL ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 3d 395.

No. 15–426. EVANS, EXECUTOR OF THE ESTATE OF RINGGOLD, ET AL. *v.* MCCULLOUGH, SPECIAL ADMINISTRATOR AND ADMINISTRATOR WITH WILL ANNEXED, ET AL. (Reported below: 600 Fed. Appx. 577); EVANS *v.* CARTER (601 Fed. Appx. 527); CURTIS ET AL. *v.* SANKARY (611 Fed. Appx. 893); RINGOLD ET AL. *v.* SANKARY (601 Fed. Appx. 529); and RINGGOLD-LOCKHART ET AL. *v.* SANKARY ET AL. (600 Fed. Appx. 592). C. A. 9th Cir. Certiorari denied.

No. 15–431. HUNN *v.* DAN WILSON HOMES INC. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 789 F. 3d 573.

No. 15–433. CRIDER *v.* TEXAS. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 15–441. HILL *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 792 F. 3d 670.

No. 15–455. ASKEW ET UX. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 3d 1091.

No. 15–462. WENTHE *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. Reported below: 865 N. W. 2d 293.

No. 15–542. KATZ *v.* CELLCO PARTNERSHIP, DBA VERIZON WIRELESS. C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 3d 341.

No. 15–5043. GUTIERREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 259.

No. 15–5147. LARA-RUIZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 919.

No. 15–5149. MAKI *v.* ANDERSON ET AL. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 15–5635. STEPHENS *v.* NIKE, INC. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 896.

No. 15–5740. RAYFORD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 315.

No. 15–5886. PICKENS *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 141 Ohio St. 3d 462, 2014-Ohio-5445, 25 N. E. 3d 1023.

No. 15–5940. GONZALES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 767.

No. 15–5958. PLASCENCIA-ACOSTA, AKA SANCHEZ *v.* UNITED STATES (Reported below: 607 Fed. Appx. 419); LOPEZ-MERINO *v.* UNITED STATES (608 Fed. Appx. 296); GARCIA-JASSO *v.* UNITED STATES (608 Fed. Appx. 295); ZEPEDA-RANGEL *v.* UNITED STATES (609 Fed. Appx. 216); SARABIA-BALTAZAR, AKA MERCADO *v.* UNITED STATES (609 Fed. Appx. 223); RAMOS-SORTO, AKA RAMOS-MAURICIO *v.* UNITED STATES (609 Fed. Appx. 248); PALACIOS-PASCACIO *v.* UNITED STATES (609 Fed. Appx. 280); ALVARADO-ARANDA *v.* UNITED STATES (610 Fed. Appx. 402); SEPULVEDA-URIBE *v.* UNITED STATES (610 Fed. Appx. 413); MENDOZA-TOLEDO *v.* UNITED STATES (610 Fed. Appx. 418); RAMIREZ-BERTRAN *v.* UNITED STATES (611 Fed. Appx. 838); SARCENO-SARCENO *v.* UNITED STATES (612 Fed. Appx. 251); BAUTISTA-SANCHEZ *v.* UNITED STATES (613 Fed. Appx. 416); ESPINOZA-NUNEZ, AKA ESPINOZA *v.* UNITED STATES (613 Fed. Appx. 375); ORTIZ-AGUIRRE *v.* UNITED STATES (613 Fed. Appx. 386); URESTI-GARZA *v.* UNITED STATES (613 Fed. Appx. 388); REBOLLAR-BAUTISTA, AKA LUIS REBOLLAR, AKA REBOLLAR *v.* UNITED STATES (613 Fed. Appx. 398); ROSALES-VARGAS, AKA ROSALES *v.* UNITED STATES (613 Fed. Appx. 353); and POSAS-TORRES, AKA ALONSO POSAS *v.* UNITED STATES (614 Fed. Appx. 225). C. A. 5th Cir. Certiorari denied.

No. 15–5964. RODRIGUEZ-RODRIGUEZ *v.* UNITED STATES (Reported below: 606 Fed. Appx. 255); TORRES-SALAS *v.* UNITED

States (607 Fed. Appx. 416); Ramirez-Ballejo *v.* United States (606 Fed. Appx. 268); Torres-Rodriguez, aka Manuel Rodriguez *v.* United States (606 Fed. Appx. 276); De La Cruz-Gutierrez, aka Taveras, aka Taveras De La Cruz-Gutierrez *v.* United States (609 Fed. Appx. 263); Cortes *v.* United States (610 Fed. Appx. 427); Jaimes-Jaimes *v.* United States (611 Fed. Appx. 205); Rivera-Diaz *v.* United States (611 Fed. Appx. 246); Gonzalez-Lopez, aka Lopez *v.* United States (612 Fed. Appx. 247); Acosta-Juarez, aka Chavez, aka Acosta *v.* United States (613 Fed. Appx. 380); and Castro Gomez, aka Castro, aka Gomez *v.* United States (613 Fed. Appx. 410). C. A. 5th Cir. Certiorari denied.

No. 15–6282. Roberson *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 15–6344. Parker *v.* Texas. Ct. App. Tex., 6th Dist. Certiorari denied.

No. 15–6346. Escamilla *v.* Escamilla et al. C. A. 2d Cir. Certiorari denied.

No. 15–6352. Traylor *v.* McLaughlin, Warden. Super. Ct. Macon County, Ga. Certiorari denied.

No. 15–6354. Leach *v.* New York. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 125 App. Div. 3d 568, 5 N. Y. S. 3d 28.

No. 15–6358. Robles *v.* California. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 15–6364. Hudson *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 915.

No. 15–6369. Wagner *v.* Burt, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 375.

No. 15–6386. Hubbard *v.* Woods, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–6389. Hegewald *v.* Glebe. C. A. 9th Cir. Certiorari denied.

No. 15–6390. GOODMAN *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 82.

No. 15–6391. GU *v.* PRESENCE SAINT JOSEPH MEDICAL CENTER ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 557 Fed. Appx. 581.

No. 15–6394. MCBRIDE *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 15–6395. DAVIS *v.* THOMAS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 240.

No. 15–6405. BERNIER *v.* COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION ONE, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–6410. VILLA *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–6411. TOWERY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6412. REID *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 166 So. 3d 809.

No. 15–6421. TITTLE *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6423. REDMAN *v.* NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICE ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6427. LASCHKEWITSCH *v.* RELIASTAR LIFE INSURANCE CO. C. A. 4th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 159.

No. 15–6436. ADAMS *v.* LYNCH, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied.

No. 15–6453. GONZALES *v.* TEXAS. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 15–6465. BERNIER *v.* COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION ONE, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–6474. GOUCH-ONASSIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–6477. ROBINSON *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 223.

No. 15–6486. RENE GOMEZ *v.* GIPSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6498. MAYORA MEDRANO *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 351.

No. 15–6530. MCNEW *v.* TIBBALS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6533. FRANCO PALOMAR *v.* BARNES, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6534. PAPPAS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 879.

No. 15–6542. WHITE *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 25 N. E. 3d 107.

No. 15–6546. ROSADO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6547. PONCE SILVA *v.* LYNCH, ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied. Reported below: 599 Fed. Appx. 455.

No. 15–6576. PEDERSEN *v.* RICHARDSON, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–6639. PUENTES *v.* SANTA CLARA COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 339.

No. 15–6652. ROBINSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 781 F. 3d 453.

No. 15–6676. HUTCHESON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 300.

No. 15–6692. ROSE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 125.

No. 15–6707. NWAFOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–6715. HARDIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 571 Fed. Appx. 480.

No. 15–6720. HOSSEINI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–6721. GUAJARDO *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 607 Fed. Appx. 985.

No. 15–6726. GRIFFIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–6727. MEDRANO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 51.

No. 15–6728. PAPPAS *v.* ZICKEFOOSE, WARDEN. C. A. 3d Cir. Certiorari denied. Reported below: 608 Fed. Appx. 122.

No. 15–6729. GARCIA-ROSAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 652.

No. 15–6732. ALLEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6736. CRUELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–6737. TRAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6739. BURGOS-MONTES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 786 F. 3d 92.

No. 15–6741. DIAZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 730.

No. 15–6742. PERKINS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 787 F. 3d 1329.

No. 15–6744. ROSALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 778.

No. 15–6749. LOHSE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 797 F. 3d 515.

No. 15–6752. MOORE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–6770. VICKERS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6771. SANDELIER *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 163 So. 3d 1219.

No. 15–6772. COLLINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 799 F. 3d 554.

No. 15–6773. JOHNSON *v.* LOMBARDI ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 809 F. 3d 388.

No. 15–6775. MAURICIO-TRUJILLO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 716.

No. 15–6776. MEDLOCK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 792 F. 3d 700.

No. 15–6777. KRAEGER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 615 Fed. Appx. 747.

No. 15–6780. CAMICK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 796 F. 3d 1206.

No. 15–6781. SALAZAR-ESPINOZA *v.* HASTINGS, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–6782. JOHNSON *v.* GRIFFITH, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 15–6785. CALAIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6787. RASHID *v.* ORTIZ, WARDEN. C. A. 3d Cir. Certiorari denied. Reported below: 617 Fed. Appx. 221.

No. 15–6791. MOORE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6795. TURNER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6799. CIPRA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 795 F. 3d 735.

No. 15–6800. ARMENTA-AGUILAR, AKA SANCHEZ-ARMENTA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 638.

No. 15–6803. JACKMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–6804. BROWN ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 108.

No. 15–6818. WOOLSEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 524.

No. 15–6819. WADLEY *v.* FARLEY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6820. YOUNG *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6838. WILLIAMS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 790 F. 3d 1059.

No. 15–6842. SHELIKHOVA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 4.

No. 15–6844. BUTLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6848. ROSALES-VELASQUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 399.

No. 15–6850. LINDSEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–6851. LOPEZ-VENCES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 226.

No. 15–6854. MONTERO-ORNELAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 219.

No. 15–6855. NINO-GUERRERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–133. FRIEDMAN ET AL. *v.* CITY OF HIGHLAND PARK, ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 784 F. 3d 406.

JUSTICE THOMAS, with whom JUSTICE SCALIA joins, dissenting.

"[O]ur central holding in" *District of Columbia* v. *Heller*, 554 U. S. 570 (2008), was "that the Second Amendment protects a personal right to keep and bear arms for lawful purposes, most notably for self-defense within the home." *McDonald* v. *Chicago*, 561 U. S. 742, 780 (2010) (plurality opinion). And in *McDonald*, we recognized that the Second Amendment applies fully against the States as well as the Federal Government. *Id.*, at 750; *id.*, at 805 (THOMAS, J., concurring in part and concurring in judgment).

Despite these holdings, several Courts of Appeals—including the Court of Appeals for the Seventh Circuit in the decision below—have upheld categorical bans on firearms that millions of Americans commonly own for lawful purposes. See 784 F. 3d 406, 410–412 (2015). Because noncompliance with our Second Amendment precedents warrants this Court's attention as much as any of our precedents, I would grant certiorari in this case.

I

The city of Highland Park, Illinois (City), bans manufacturing, selling, giving, lending, acquiring, or possessing many of the most commonly owned semiautomatic firearms, which the City branded "Assault Weapons." See Highland Park, Ill., City Code §§ 136.001(C), 136.005 (2015), App. to Pet. for Cert. 65a, 71a. For instance, the ordinance criminalizes modern sporting rifles (*e. g.*, AR-style semiautomatic rifles), which many Americans own for lawful purposes like self-defense, hunting, and target shooting. The City also prohibited "Large Capacity Magazines," a term the City used to refer to nearly all ammunition feeding devices that "accept more than ten rounds." § 136.001(G), *id.*, at 70a.

The City gave anyone who legally possessed "an Assault Weapon or Large Capacity Magazine" 60 days to move these items outside City limits, disable them, or surrender them for destruction. § 136.020, *id.*, at 73a. Anyone who violates the ordinance can be imprisoned for up to six months, fined up to $1,000, or both. § 136.999, *id.*, at 74a.

Petitioners—a Highland Park resident who sought to keep now-prohibited firearms and magazines to defend his home, and an

advocacy organization—brought a suit to enjoin the ordinance on the ground that it violates the Second Amendment. The District Court for the Northern District of Illinois granted summary judgment to the City.

A divided panel of the Seventh Circuit affirmed. The panel majority acknowledged that the prohibited weapons "can be beneficial for self-defense because they are lighter than many rifles and less dangerous per shot than larger-caliber pistols or revolvers," and thus "[h]ouseholders too frightened or infirm to aim carefully may be able to wield them more effectively." 784 F. 3d, at 411.

The majority nonetheless found no constitutional problem with the ordinance. It recognized that *Heller* "holds that a law banning the possession of handguns in the home . . . violates" the Second Amendment. 784 F. 3d, at 407. But beyond *Heller*'s rejection of banning handguns in the home, the majority believed, *Heller* and *McDonald* "leave matters open" on the scope of the Second Amendment. 784 F. 3d, at 412. The majority thus adopted a new test for gauging the constitutionality of bans on firearms: "[W]e [will] ask whether a regulation bans weapons that were common at the time of ratification or those that have some reasonable relationship to the preservation or efficiency of a well regulated militia, . . . and whether law-abiding citizens retain adequate means of self-defense." *Id.*, at 410 (internal quotation marks omitted).

Judge Manion dissented, reasoning that "[b]oth the ordinance and this court's opinion upholding it are directly at odds with the central holdings of *Heller* and *McDonald*." *Id.*, at 412.

## II

The Second Amendment provides: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." We explained in *Heller* and *McDonald* that the Second Amendment "guarantee[s] the individual right to possess and carry weapons in case of confrontation." *Heller*, *supra*, at 592; see also *McDonald*, *supra*, at 767–769. We excluded from protection only "those weapons not typically possessed by law-abiding citizens for lawful purposes." *Heller*, 554 U. S., at 625. And we stressed that "[t]he very enumeration of the right takes out of the hands of government—even the Third Branch of Government—the power to de-

cide on a case-by-case basis whether the right is really worth insisting upon." *Id.*, at 634 (emphasis deleted).

Instead of adhering to our reasoning in *Heller*, the Seventh Circuit limited *Heller* to its facts, and read *Heller* to forbid only total bans on handguns used for self-defense in the home. See 784 F. 3d, at 407, 412. All other questions about the Second Amendment, the Seventh Circuit concluded, should be defined by "the political process and scholarly debate." *Id.*, at 412. But *Heller* repudiates that approach. We explained in *Heller* that "since th[e] case represent[ed] this Court's first in-depth examination of the Second Amendment, one should not expect it to clarify the entire field." 554 U. S., at 635. We cautioned courts against leaving the rest of the field to the legislative process: "Constitutional rights are enshrined with the scope they were understood to have when the people adopted them, whether or not future legislatures or (yes) even future judges think that scope too broad." *Id.*, at 634–635.

Based on its crabbed reading of *Heller*, the Seventh Circuit felt free to adopt a test for assessing firearm bans that eviscerates many of the protections recognized in *Heller* and *McDonald*. The court asked in the first instance whether the banned firearms "were common at the time of ratification" in 1791. 784 F. 3d, at 410. But we said in *Heller* that "the Second Amendment extends, prima facie, to all instruments that constitute bearable arms, even those that were not in existence at the time of the founding." 554 U. S., at 582.

The Seventh Circuit alternatively asked whether the banned firearms relate "to the preservation or efficiency of a well regulated militia." 784 F. 3d, at 410 (internal quotation marks omitted). The court concluded that state and local ordinances never run afoul of that objective, since "states, which are in charge of militias, should be allowed to decide when civilians can possess military-grade firearms." *Ibid.* But that ignores *Heller*'s fundamental premise: The right to keep and bear arms is an independent, individual right. Its scope is defined not by what the militia needs, but by what private citizens commonly possess. 554 U. S., at 592, 627–629. Moreover, the Seventh Circuit endorsed the view of the militia that *Heller* rejected. We explained that "*Congress* retains plenary authority to organize the militia," not States. *Id.*, at 600 (emphasis added). Because the Second Amendment confers rights upon individual citizens—not state

governments—it was doubly wrong for the Seventh Circuit to delegate to States and localities the power to decide which firearms people may possess.

Lastly, the Seventh Circuit considered "whether law-abiding citizens retain adequate means of self-defense," and reasoned that the City's ban was permissible because "[i]f criminals can find substitutes for banned assault weapons, then so can law-abiding homeowners." 784 F. 3d, at 410, 411. Although the court recognized that "*Heller* held that the availability of long guns does not save a ban on handgun ownership," it thought that "*Heller* did not foreclose the possibility that allowing the use of most long guns plus pistols and revolvers . . . gives householders adequate means of defense." *Id.*, at 411.

That analysis misreads *Heller*. The question under *Heller* is not whether citizens have adequate alternatives available for self-defense. Rather, *Heller* asks whether the law bans types of firearms commonly used for a lawful purpose—regardless of whether alternatives exist. 554 U. S., at 627–629. And *Heller* draws a distinction between such firearms and weapons specially adapted to unlawful uses and not in common use, such as sawed-off shotguns. *Id.*, at 624–625. The City's ban is thus highly suspect because it broadly prohibits common semiautomatic firearms used for lawful purposes. Roughly 5 million Americans own AR-style semiautomatic rifles. See 784 F. 3d, at 415, n. 3. The overwhelming majority of citizens who own and use such rifles do so for lawful purposes, including self-defense and target shooting. See *ibid.* Under our precedents, that is all that is needed for citizens to have a right under the Second Amendment to keep such weapons. See *McDonald*, 561 U. S., at 767–768; *Heller*, *supra*, at 628–629.

The Seventh Circuit ultimately upheld a ban on many common semiautomatic firearms based on speculation about the law's potential policy benefits. See 784 F. 3d, at 411–412. The court conceded that handguns—not "assault weapons"—"are responsible for the vast majority of gun violence in the United States." *Id.*, at 409. Still, the court concluded, the ordinance "may increase the public's sense of safety," which alone is "a substantial benefit." *Id.*, at 412. *Heller*, however, forbids subjecting the Second Amendment's "core protection . . . to a freestanding 'interest-balancing' approach." *Heller*, *supra*, at 634. This case illustrates why. If a broad ban on firearms can be upheld based on

conjecture that the public might *feel* safer (while being no safer at all), then the Second Amendment guarantees nothing.

III

The Court's refusal to review a decision that flouts two of our Second Amendment precedents stands in marked contrast to the Court's willingness to summarily reverse courts that disregard our other constitutional decisions. *E. g.*, *Maryland* v. *Kulbicki*, *ante*, at 1 (*per curiam*) (summarily reversing because the court below applied *Strickland* v. *Washington*, 466 U. S. 668 (1984), "in name only"); *Grady* v. *North Carolina*, 575 U. S. 306 (2015) (*per curiam*) (summarily reversing a judgment inconsistent with this Court's recent Fourth Amendment precedents); *Martinez* v. *Illinois*, 572 U. S. 833, 843 (2014) (*per curiam*) (summarily reversing judgment that rested on an "understandable" double jeopardy holding that nonetheless "r[an] directly counter to our precedents").

There is no basis for a different result when our Second Amendment precedents are at stake. I would grant certiorari to prevent the Seventh Circuit from relegating the Second Amendment to a second-class right.

No. 15–416. MICHIGAN *v.* LOCKRIDGE. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 498 Mich. 358, 870 N. W. 2d 502.

No. 15–471. ENERGY AND ENVIRONMENT LEGAL INSTITUTE ET AL. *v.* EPEL ET AL. C. A. 10th Cir. Motions of Pacific Legal Foundation et al., Chamber of Commerce of the United States of America et al., and Association des Eleveurs de Canards et d'Oies du Quebec et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 793 F. 3d 1169.

No. 15–6735. BARNETT *v.* MAYE, WARDEN. C. A. 10th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 602 Fed. Appx. 717.

No. 15–6758. WARREN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–6826. GONZALEZ LORA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–8863. DEBOLT *v.* UNITED STATES, 575 U. S. 974;

No. 14–9429. HAMMONDS *v.* BO'S FOOD STORE, 575 U. S. 1042;

No. 14–9590. J. D. T., JUVENILE MALE *v.* UNITED STATES, *ante*, p. 969;

No. 14–9691. RODARTE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 834;

No. 14–9742. ELAM *v.* PASTRANA, WARDEN, *ante*, p. 835;

No. 14–9841. DOUGHERTY *v.* PRUETT, WARDEN; and DOUGHERTY *v.* VIRGINIA ET AL., *ante*, p. 838;

No. 14–9853. MEDLEY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 839;

No. 14–9943. TAPP *v.* ECKARD, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, *ante*, p. 841;

No. 14–10258. CHEEK *v.* UNITED STATES, *ante*, p. 855;

No. 14–10281. TURNER *v.* STEWARD, WARDEN, *ante*, p. 857;

No. 14–10328. JONES *v.* NUTTALL AFC CO. ET AL., *ante*, p. 860;

No. 14–10420. IN RE ROWE, *ante*, p. 812;

No. 14–10444. TALLEY *v.* SIMANDLE, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, *ante*, p. 866;

No. 15–53. CARPENTER *v.* UNITED STATES, *ante*, p. 871;

No. 15–112. SKIPP-TITTLE *v.* TITTLE, *ante*, p. 874;

No. 15–160. SENCI *v.* BANK OF NEW YORK MELLON, *ante*, p. 875;

No. 15–171. DEFAZIO ET AL. *v.* HOLLISTER, INC., ET AL., *ante*, p. 923;

No. 15–279. SONE ET AL. *v.* HARVEST NATURAL RESOURCES, INC., *ante*, p. 925;

No. 15–5157. KELLY *v.* BISHOP, WARDEN, ET AL., *ante*, p. 885;

No. 15–5362. CRAYTON *v.* FLORIDA, *ante*, p. 896;

No. 15–5478. JONES *v.* CARTLEDGE, WARDEN, *ante*, p. 903;

No. 15–5479. FISHER *v.* CITY OF IRONTON, OHIO, *ante*, p. 925;

No. 15–5541. BRAMAGE *v.* DISCOVER BANK, *ante*, p. 927;

No. 15–5590. MOODY *v.* CITY OF DELRAY BEACH, FLORIDA, ET AL., *ante*, p. 928;

No. 15–5747. CLUGSTON *v.* BATISTA, DIRECTOR, MONTANA DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 930;

No. 15–5911. LINDOR *v.* UNITED STATES, *ante*, p. 933;

No. 15–5975. JHA *v.* UNITED STATES, *ante*, p. 934; and

No. 15–6047. CESAR CARDENAS *v.* UNITED STATES, *ante*, p. 945. Petitions for rehearing denied.

## DECEMBER 8, 2015

*Certiorari Denied*

No. 15–7279 (15A605). TERRELL *v.* CHATMAN, WARDEN. Sup. Ct. Ga. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

No. 15–7282 (15A606). TERRELL *v.* BRYSON, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 807 F. 3d 1276.

## DECEMBER 10, 2015

*Dismissal Under Rule 46*

No. 15–5932. BEACH *v.* MONTANA. Sup. Ct. Mont. Certiorari dismissed under this Court's Rule 46. Reported below: 379 Mont. 74, 348 P. 3d 629.

## DECEMBER 11, 2015

*Certiorari Granted*

No. 15–338. SHERIFF ET AL. *v.* GILLIE ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 785 F. 3d 1091.

No. 15–339. ROSS *v.* BLAKE. C. A. 4th Cir. Certiorari granted. Reported below: 787 F. 3d 693.

No. 14–1468. BIRCHFIELD *v.* NORTH DAKOTA. Sup. Ct. N. D.;

No. 14–1470. BERNARD *v.* MINNESOTA. Sup. Ct. Minn.; and

No. 14–1507. BEYLUND *v.* LEVI, DIRECTOR, NORTH DAKOTA DEPARTMENT OF TRANSPORTATION. Sup. Ct. N. D. Certiorari granted, cases consolidated, and a total of one hour is allotted for

oral argument. Reported below: No. 14–1468, 2015 ND 6, 858 N. W. 2d 302; No. 14–1470, 859 N. W. 2d 762; No. 14–1507, 2015 ND 18, 859 N. W. 2d 403.

No. 15–290. UNITED STATES ARMY CORPS OF ENGINEERS *v.* HAWKES CO., INC., ET AL. C. A. 8th Cir. Motion of National Association of Home Builders for leave to file brief as *amicus curiae* granted. Certiorari granted. Reported below: 782 F. 3d 994.

DECEMBER 14, 2015

*Dismissal Under Rule 46*

No. 15–578. IN RE BUTLER. Petition for writ of habeas corpus dismissed under this Court's Rule 46.1.

*Certiorari Granted—Reversed and Remanded.* (See No. 14–1372, *ante*, p. 73.)

*Certiorari Dismissed*

No. 15–6438. ALLEN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Dist. Ct. App. Fla., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 173 So. 3d 889.

No. 15–6618. SCHMIDT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

*Miscellaneous Orders*

No. 15A522 (15–648). V. L. *v.* E. L.; and

No. 15A532 (15–648). SMITH, GUARDIAN AD LITEM, AS REPRESENTATIVE OF THREE MINOR CHILDREN *v.* E. L. ET AL. Applications for recall and stay of the Supreme Court of Alabama's certificate of judgment, in case No. 1140595, presented to JUSTICE

THOMAS, and by him referred to the Court, granted pending disposition of the petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay shall terminate automatically. In the event the petition for writ of certiorari is granted, the stay shall terminate upon issuance of the mandate of this Court.

No. 15M63. MAHONEY *v.* ESTATE OF MCDONNELL ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 15M64. SPEAR *v.* KIRKLAND ET AL. Motion for leave to proceed as a veteran denied.

No. 15M65. RANZA *v.* NIKE, INC., ET AL. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 14–1209. STURGEON *v.* FROST, ALASKA REGIONAL DIRECTOR OF THE NATIONAL PARK SERVICE, ET AL. C. A. 9th Cir. [Certiorari granted, 576 U. S. 1094.] Motion of Alaska for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of petitioner to dispense with printing joint appendix granted.

No. 15–6002. MOORE *v.* T-MOBILE USA, INC. C. A. 2d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 972] denied.

No. 15–6490. JOHNSON *v.* JUST ENERGY. C. A. 2d Cir.; and
No. 15–6517. PONGO ET AL. *v.* BANK OF AMERICA ET AL. C. A. 4th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until January 4, 2016, 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.

No. 15–651. IN RE MACNEILL;
No. 15–7011. IN RE WELLS; and
No. 15–7074. IN RE YOUNG. Petitions for writs of habeas corpus denied.

No. 15–465. IN RE GOULD. Petition for writ of mandamus denied.

*Certiorari Granted*

No. 15–420. UNITED STATES *v.* BRYANT. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 769 F. 3d 671.

*Certiorari Denied*

No. 14–9843. JOHNSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 767 F. 3d 815.

No. 14–10376. WHEELER *v.* WHITE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 779 F. 3d 366.

No. 15–57. HALL *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 238 N. C. App. 322, 768 S. E. 2d 39.

No. 15–58. CITY OF LOS ANGELES, CALIFORNIA, ET AL. *v.* CONTRERAS. C. A. 9th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 530.

No. 15–71. AGNEW *v.* TEXAS. Ct. App. Tex., 12th Dist. Certiorari denied.

No. 15–100. APPLE AMERICAN GROUP, LLC *v.* SALAZAR. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 15–158. SUN-TIMES MEDIA, LLC *v.* DAHLSTROM ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 777 F. 3d 937.

No. 15–236. CARMAX AUTO SUPERSTORES CALIFORNIA, LLC *v.* ARESO. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 15–266. ROMERO-ESCOBAR *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 484.

No. 15–267. SONMEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 777 F. 3d 684.

No. 15–277. WINGET ET AL. *v.* JPMORGAN CHASE BANK, N. A. C. A. 6th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 246.

No. 15–283. GALVIS MUJICA ET AL. *v.* OCCIDENTAL PETROLEUM CORP. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 771 F. 3d 580.

No. 15–287. HAWKINS *v.* SCHWAN'S HOME SERVICE, INC. C. A. 10th Cir. Certiorari denied. Reported below: 778 F. 3d 877.

No. 15–429. PELIZZO *v.* MALIBU MEDIA, LLC. C. A. 11th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 879.

No. 15–430. AAMODT ET UX. *v.* LANDIS & SETZLER, P. C. Super. Ct. Pa. Certiorari denied. Reported below: 106 A. 3d 172.

No. 15–440. DIAZ *v.* CITIMORTGAGE, INC. Sup. Ct. Fla. Certiorari denied. Reported below: 171 So. 3d 115.

No. 15–442. HENSLEY *v.* HENSLEY, NKA BRINKLEY. Ct. App. Wash. Certiorari denied. Reported below: 184 Wash. App. 1044.

No. 15–443. GROVER ET AL. *v.* CHOICE HOTELS INTERNATIONAL, INC. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 3d 753.

No. 15–453. BONNER ET UX. *v.* CITY OF BRIGHTON, MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 15–464. GROEBER *v.* FRIEDMAN & SCHUMAN, P. C. C. A. 3d Cir. Certiorari denied. Reported below: 602 Fed. Appx. 69.

No. 15–472. KALANGE *v.* SUTER ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–475. TWO SHIELDS ET AL. *v.* WILKINSON ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 790 F. 3d 791.

No. 15–479. BENNETT *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 222 Md. App. 706.

No. 15–506. STANTON *v.* LASSONDE ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–524. HERBISON *v.* CHASE BANK USA, N. A. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 737.

No. 15–564. AHLERS ET AL. *v.* SCOTT, GOVERNOR OF FLORIDA, ET AL. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 169 So. 3d 1164.

No. 15–596. HANSEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 791 F. 3d 863.

No. 15–609. OCCHIUTO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 784 F. 3d 862.

No. 15–621. FERGUSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 3d 365.

No. 15–642. OIP TECHNOLOGIES, INC. *v.* AMAZON.COM, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 788 F. 3d 1359.

No. 15–5695. GEORGE *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–6426. THOMAS *v.* OUTLAW, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–6429. HARRIS *v.* ARPAIO, SHERIFF, MARICOPA COUNTY, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6432. MILLER *v.* KASHANI ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6435. REED-BEY *v.* PRAMSTALLER ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 445.

No. 15–6437. WEHMHOEFER *v.* UNNAMED DEFENDANTS. C. A. 5th Cir. Certiorari denied.

No. 15–6442. POTTS *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–6443. PETERKA *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–6445. SPENCER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6449. GACHE *v.* HILL REALTY ASSOCIATES, LLC, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6459. MARSH *v.* WYNNE ET AL.; and
No. 15–6460. FOSTER *v.* WYNNE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 792 F. 3d 469.

No. 15–6462. TURNER *v.* WHITENER, CORRECTIONAL ADMINISTRATOR, ALEXANDER CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 214.

No. 15–6464. BURNS *v.* COVENANT BANK, FKA COMMUNITY BANK OF LAWNDALE. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 15–6469. PLACIDE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–6472. SAXON *v.* LEMPKE. C. A. 2d Cir. Certiorari denied. Reported below: 618 Fed. Appx. 10.

No. 15–6473. SOTO *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 15–6482. HORTON *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 156.

No. 15–6484. FURST *v.* MALLOY, GOVERNOR OF CONNECTICUT. C. A. 2d Cir. Certiorari denied.

No. 15–6485. ANTONIO GONZALEZ *v.* HOLLAND, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6488. HILBERT *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–6496. MILLER *v.* OFFICE OF CHILDREN, YOUTH AND FAMILIES OF ALLEGHENY COUNTY. C. A. 3d Cir. Certiorari denied. Reported below: 605 Fed. Appx. 99.

No. 15–6510. CROWDER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6514. POLONCZYK *v.* TOYOTA MOTOR CORP. ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6516. MORALES-LOPEZ *v.* UNITED STATES (Reported below: 613 Fed. Appx. 377); RAMIREZ-GANDARILLA *v.* UNITED STATES (609 Fed. Appx. 262); MUNOZ-MUNOZ *v.* UNITED STATES (607 Fed. Appx. 442); GUTIERREZ-OROZCO, AKA GUTIERREZ-OROSCO *v.* UNITED STATES (610 Fed. Appx. 407); URENA-NAVARRO *v.* UNITED STATES (613 Fed. Appx. 372); RAMIREZ-GARZA *v.* UNITED STATES (613 Fed. Appx. 359); TORRES-MORENO *v.* UNITED STATES (613 Fed. Appx. 379); GARCIA-GUIA, AKA GUIA-LLAVERO *v.* UNITED STATES (613 Fed. Appx. 371); MACHUCA-SECUNDINO, AKA MACHUCA *v.* UNITED STATES (613 Fed. Appx. 401); DE LA CRUZ SEPULVEDA-GAYTAN, AKA SEPULVEDA *v.* UNITED STATES (613 Fed. Appx. 396); GOMEZ-GUERRERO *v.* UNITED STATES (613 Fed. Appx. 408); MARTINEZ-RUBIO *v.* UNITED STATES (613 Fed. Appx. 409); and LARA-LORENZO, AKA LARA-BALTAZA *v.* UNITED STATES (609 Fed. Appx. 272). C. A. 5th Cir. Certiorari denied.

No. 15–6544. RAMOS *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 87 Mass. App. 1127, 31 N. E. 3d 1192.

No. 15–6586. WILSON *v.* COOK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6683. JOHNSON *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 224 Md. App. 725.

No. 15–6686. ASTURIAS *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 15–6730. SILVA *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–6760. KATZ *v.* LEW, SECRETARY OF TREASURY. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 543.

No. 15–6769. GELIN *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 128 App. Div. 3d 717, 8 N. Y. S. 3d 424.

No. 15–6805. DAVIS *v.* DISTRICT OF COLUMBIA. C. A. D. C. Cir. Certiorari denied. Reported below: 793 F. 3d 120.

No. 15–6837. WORM *v.* PETERSON. Sup. Ct. Mont. Certiorari denied. Reported below: 379 Mont. 537, 353 P. 3d 507.

No. 15–6859. HERNANDEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–6865. GREGORY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 795 F. 3d 735.

No. 15–6866. HARO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 820.

No. 15–6867. STRUM *v.* KAUFFMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SMITHFIELD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6882. REESE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 961.

No. 15–6893. MUNOZ-RAMON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 857.

No. 15–6902. AVILA-GONZALEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 801.

No. 15–6920. WIDMER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 785 F. 3d 200.

No. 15–6997. JOHNSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–7008. DAWSON *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 169 So. 3d 1188.

No. 15–469. SCHER *v.* CITY OF LAS VEGAS, NEVADA, ET AL. C. A. 9th Cir. Certiorari before judgment denied.

No. 15–538. ALLVOICE DEVELOPMENTS US, LLC *v.* MICROSOFT CORP. C. A. Fed. Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 612 Fed. Appx. 1009.

No. 15–6869. BURKE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–9012. DICKERSON *v.* UNITED WAY OF NEW YORK CITY ET AL., *ante*, p. 829;

No. 14–9275. Frazier *v.* West Virginia, *ante*, p. 829;

No. 14–9632. Talley *v.* Gore et al., *ante*, p. 832;

No. 14–9648. Anderson *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 833;

No. 14–9823. Sampson *v.* Patton, Director, Oklahoma Department of Corrections, *ante*, p. 837;

No. 14–9869. Ralston *v.* Texas, *ante*, p. 839;

No. 14–9885. Adams *v.* Ducart, Warden, *ante*, p. 840;

No. 14–9895. Williams *v.* Huha et al., *ante*, p. 840;

No. 14–9934. Corrales *v.* California, *ante*, p. 841;

No. 14–9961. Watson *v.* Colvin, Acting Commissioner of Social Security, *ante*, p. 842;

No. 14–10048. Warner *v.* United States, *ante*, p. 844;

No. 14–10364. Hall *v.* Tallie et al., *ante*, p. 862;

No. 14–10456. Hastings *v.* United States, *ante*, p. 867;

No. 15–4. Wyttenbach *v.* R. M. P., *ante*, p. 869;

No. 15–5016. In re Burrows, *ante*, p. 812;

No. 15–5073. Stewart *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 881;

No. 15–5216. Brayboy *v.* Napel, Warden, *ante*, p. 888;

No. 15–5269. Ruben *v.* Keith, Warden, *ante*, p. 891;

No. 15–5354. Hickman *v.* Oregon, *ante*, p. 896;

No. 15–5395. Strain *v.* United States District Court for the Middle District of Louisiana, *ante*, p. 898;

No. 15–5400. Lester *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 898;

No. 15–5641. Eleri *v.* Hartley, Warden, *ante*, p. 929;

No. 15–5662. Morris *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 941;

No. 15–5689. Hoffart *v.* Wiggins et al., *ante*, p. 941;

No. 15–5703. Bolds *v.* Cavazos et al., *ante*, p. 942;

No. 15–6061. In re Tatar, *ante*, p. 937; and

No. 15–6160. Andrews *v.* United States; and Andrews *v.* United States District Court for the Eastern District of Pennsylvania, *ante*, p. 947. Petitions for rehearing denied.

No. 15–292. Walsh *v.* Jones et al., *ante*, p. 969; and

No. 15–351. WALSH *v.* FEDERAL BUREAU OF INVESTIGATION ET AL., *ante*, p. 969. Petitions for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of these petitions.

JANUARY 7, 2016

*Certiorari Denied*

No. 15–7662 (15A699). BOLIN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 628 Fed. Appx. 728.

No. 15–7663 (15A700). BOLIN *v.* FLORIDA. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 184 So. 3d 492.

JANUARY 8, 2016

*Dismissal Under Rule 46*

No. 15–6834. SELMER *v.* OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY BOARD. Sup. Ct. Minn. Certiorari dismissed under this Court's Rule 46. Reported below: 866 N. W. 2d 893.

*Miscellaneous Orders*

No. 14–770. BANK MARKAZI, AKA CENTRAL BANK OF IRAN *v.* PETERSON ET AL. C. A. 2d Cir. [Certiorari granted, 576 U. S. 1094.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–1280. HEFFERNAN *v.* CITY OF PATERSON, NEW JERSEY, ET AL. C. A. 3d Cir. [Certiorari granted, 576 U. S. 1094.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–1406. NEBRASKA ET AL. *v.* PARKER ET AL. C. A. 8th Cir. [Certiorari granted, 576 U. S. 1095.] Joint motion of respondents for divided argument filed out of time granted.

No. 15–108. COMMONWEALTH OF PUERTO RICO *v.* SANCHEZ VALLE ET AL. Sup. Ct. P. R. [Certiorari granted, 576 U. S. 1095.]

Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

*Certiorari Granted*

No. 15–6418. WELCH *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted.

JANUARY 11, 2016

*Certiorari Granted—Vacated and Remanded*

No. 15–378. RITZ-CARLTON DEVELOPMENT CO., INC., ET AL. *v.* NARAYAN ET AL. Sup. Ct. Haw. Reported below: 136 Haw. 23, 356 P. 3d 1043;

No. 15–379. RITZ-CARLTON DEVELOPMENT CO., INC., ET AL. *v.* NATH ET AL. Sup. Ct. Haw. Reported below: 136 Haw. 23, 356 P. 3d 1043; and

No. 15–406. RITZ-CARLTON DEVELOPMENT CO., INC., ET AL. *v.* NARAYAN ET AL. Sup. Ct. Haw. Reported below: 135 Haw. 327, 350 P. 3d 995. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *DIRECTV, Inc.* v. *Imburgia*, *ante*, p. 47.

*Certiorari Dismissed*

No. 15–6565. LONG *v.* MINTON, CHIEF JUSTICE, SUPREME COURT OF KENTUCKY, ET AL. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6581. VALENZUELA *v.* JOHNSON ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6582. VALENZUELA *v.* MARICOPA COUNTY CORRECTIONAL HEALTH SERVICES ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6674. WEBB *v.* KERN ET AL. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6762. LEBLANC *v.* BARBER. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6763. LeBlanc *v.* United States. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6764. LeBlanc *v.* Zimmer. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6765. LeBlanc *v.* Royster. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6766. LeBlanc *v.* Branch. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–6860. Farris *v.* Frazier et al. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 599 Fed. Appx. 851.

No. 15–6879. Nixon *v.* 301st Judicial Court, Dallas County, Texas. Sup. Ct. Tex. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–6932. Stoller *v.* Consumer Financial Protection Bureau et al. C. A. D. C. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

*Miscellaneous Orders*

No. 15A567. BENDER *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. Application for temporary injunction pending disposition of the petition for writ of certiorari, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. D–2851. IN RE DISBARMENT OF KATZ. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. 15M66. THOMPSON *v.* ALVAREZ ET AL.;
No. 15M67. ALLEN *v.* UNITED STATES;
No. 15M68. WARREN *v.* SHAWNEGO;
No. 15M69. HAMILTON *v.* UNITED STATES;
No. 15M70. FRYE *v.* STRANGE, ATTORNEY GENERAL OF ALABAMA;
No. 15M71. MCDOWELL BEY *v.* VEGA;
No. 15M72. CAVIN *v.* MICHIGAN;
No. 15M73. BEJARANO *v.* MACOMBER, WARDEN; and
No. 15M74. NARDELLA *v.* PHILADELPHIA GAS WORKS ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 14–10154. VOISINE ET AL. *v.* UNITED STATES. C. A. 1st Cir. [Certiorari granted, *ante*, p. 949.] Motion of petitioners for appointment of counsel granted. Virginia G. Villa, Esq., of St. Croix Falls, Wis., is appointed to serve as counsel for petitioners in this case.

No. 15–513. STATE FARM FIRE & CASUALTY CO. *v.* UNITED STATES EX REL. RIGSBY ET AL. C. A. 5th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 15–5776. SHERRILL *v.* ESTATE OF PICO. Int. Ct. App. Haw. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 949] denied.

No. 15–6082. HERNANDEZ *v.* DIGNITY HEALTH. Ct. App. Cal., 3d App. Dist. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 984] denied.

No. 15–6127. BREWER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS

DIVISION. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 983] denied.

No. 15–6177. HILL *v.* CONTRERAS, JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. C. A. D. C. Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 972] denied.

No. 15–6205. CARLSON *v.* DAYTON, GOVERNOR OF MINNESOTA, ET AL. Sup. Ct. Minn. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 983] denied.

No. 15–6538. CHAFE *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES. Dist. Ct. App. Fla., 4th Dist. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1003] denied.

No. 15–6566. SPENCE *v.* WILLIS. C. A. 4th Cir.;

No. 15–6567. SPENCE *v.* WILLIS. C. A. 11th Cir.;

No. 15–6578. COLLIE *v.* SOUTH CAROLINA COMMISSION ON LAWYER CONDUCT ET AL. Sup. Ct. S. C.;

No. 15–6632. AVILA *v.* COUNTY OF HIDALGO, TEXAS. C. A. 5th Cir.;

No. 15–6660. RIVERA *v.* CREECH. Super. Ct. N. J., App. Div.;

No. 15–6673. KESSEL-REVIS *v.* TEXAS. Sup. Ct. Tex.;

No. 15–6761. MACHULAS *v.* UNITED STATES. C. A. Fed. Cir.;

No. 15–6816. OKEZIE *v.* LEONARD ET AL. C. A. 4th Cir.;

No. 15–6827. EMERY *v.* BOGLE ET AL. Dist. Ct. App. Fla., 5th Dist.;

No. 15–6840. THOMAS ET UX. *v.* CHATTAHOOCHEE JUDICIAL CIRCUIT ET AL. C. A. 11th Cir.;

No. 15–6853. DUERST *v.* PLACER COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir.;

No. 15–6863. FLETCHER ET VIR *v.* PARK COUNTY, MONTANA. Sup. Ct. Mont.;

No. 15–6880. ANDREWS *v.* SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 7;

No. 15–6896. KINNEY *v.* CLARK. C. A. 9th Cir.; and

No. 15–6897. KINNEY *v.* CHOMSKY ET AL. C. A. 9th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied.

Petitioners are allowed until February 1, 2016, 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.

No. 15–759. IN RE WILLIAMS;
No. 15–7194. IN RE BATER;
No. 15–7239. IN RE JOHNSON;
No. 15–7311. IN RE PARKS;
No. 15–7327. IN RE SPANGLER;
No. 15–7369. IN RE PETERS; and
No. 15–7399. IN RE WALTHALL. Petitions for writs of habeas corpus denied.

No. 15–626. IN RE TRIPLETT. Petition for writ of habeas corpus denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–646. IN RE SHARP. Motion of Law Professors for leave to file brief as *amici curiae* granted. Petition for writ of habeas corpus denied.

No. 15–7309. IN RE COX; and
No. 15–7398. IN RE RODRIGUEZ. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of habeas corpus dismissed. See this Court's Rule 39.8.

No. 15–498. IN RE WOLF ET AL.;
No. 15–758. IN RE WILLIAMS;
No. 15–6731. IN RE STRICKLAND;
No. 15–6857. IN RE RUPPERT; and
No. 15–7058. IN RE SCHIRRIPA. Petitions for writs of mandamus denied.

No. 15–625. IN RE TRIPLETT; and
No. 15–6825. IN RE BOONE. Petitions for writs of mandamus denied. JUSTICE KAGAN took no part in the consideration or decision of these petitions.

No. 15–6878. IN RE CAMPBELL. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8.

No. 15–6743. IN RE WEI ZHOU; and
No. 15–6814. IN RE KRAEMER. Petitions for writs of mandamus and/or prohibition denied.

No. 15–6786. In re Thomas. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus and/or prohibition dismissed. See this Court's Rule 39.8.

No. 15–7078. In re Williams; and

No. 15–7267. In re Delrio. Petitions for writs of prohibition denied.

*Certiorari Denied*

No. 14–1168. Smith *v.* Aegon Companies Pension Plan. C. A. 6th Cir. Certiorari denied. Reported below: 769 F. 3d 922.

No. 14–1531. Cowser-Griffin, Executrix of the Estate of Griffin *v.* Griffin. Sup. Ct. Va. Certiorari denied. Reported below: 289 Va. 189, 771 S. E. 2d 660.

No. 14–9962. Burnett *v.* Burnett. Ct. App. Ohio, 6th App. Dist., Sandusky County. Certiorari denied. Reported below: 2013-Ohio-5174.

No. 14–10427. Arzola *v.* Massachusetts. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 470 Mass. 809, 26 N. E. 3d 185.

No. 15–25. Sierra Pacific Power Co. et al. *v.* Nevada Department of Taxation et al. Sup. Ct. Nev. Certiorari denied. Reported below: 130 Nev. 940, 338 P. 3d 1244.

No. 15–68. O'Hare et al. *v.* Harris, Individually and as Guardian for K. H., a Minor. C. A. 2d Cir. Certiorari denied. Reported below: 770 F. 3d 224.

No. 15–111. Zwicker & Associates, P. C., et al. *v.* Wise. C. A. 6th Cir. Certiorari denied. Reported below: 780 F. 3d 710.

No. 15–126. Griep *v.* Wisconsin. Sup. Ct. Wis. Certiorari denied. Reported below: 2015 WI 40, 361 Wis. 2d 657, 863 N. W. 2d 567.

No. 15–141. American Freedom Defense Initiative et al. *v.* Massachusetts Bay Transportation Authority et al. C. A. 1st Cir. Certiorari denied. Reported below: 781 F. 3d 571.

No. 15–181. Ross *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 113.

No. 15–182. FARMER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 525.

No. 15–196. ELECTRONIC PRIVACY INFORMATION CENTER *v.* DEPARTMENT OF HOMELAND SECURITY. C. A. D. C. Cir. Certiorari denied. Reported below: 777 F. 3d 518.

No. 15–216. UDREN LAW OFFICES, P. C. *v.* KAYMARK. C. A. 3d Cir. Certiorari denied. Reported below: 783 F. 3d 168.

No. 15–253. STANFIELD *v.* IDAHO. Sup. Ct. Idaho. Certiorari denied. Reported below: 158 Idaho 327, 347 P. 3d 175.

No. 15–259. ZAMIARA ET AL. *v.* KING. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 3d 207.

No. 15–280. SAM FRANCIS FOUNDATION ET AL. *v.* CHRISTIES, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 1320.

No. 15–289. THOMPSON *v.* LYNCH, ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 3d 638.

No. 15–308. CITY OF NEW YORK, NEW YORK *v.* NEWTON. C. A. 2d Cir. Certiorari denied. Reported below: 779 F. 3d 140.

No. 15–314. RETIREMENT BOARD OF THE POLICEMEN'S ANNUITY AND BENEFIT FUND OF THE CITY OF CHICAGO ET AL. *v.* BANK OF NEW YORK MELLON. C. A. 2d Cir. Certiorari denied. Reported below: 775 F. 3d 154.

No. 15–321. CAPLINGER *v.* MEDTRONIC, INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 784 F. 3d 1335.

No. 15–348. ALEXOPOULOS ET VIR *v.* GORDON HARGROVE AND JAMES, P. A., ET AL. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 195 So. 3d 385.

No. 15–349. NESTLE U. S. A., INC., ET AL. *v.* DOE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 766 F. 3d 1013.

No. 15–370. BERCOVICH ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 416.

No. 15–376. MARICOPA COUNTY, ARIZONA *v.* ORTEGA MELENDRES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 1254.

No. 15–410. MEZERHANE *v.* REPUBLICA BOLIVARIANA DE VENEZUELA ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 785 F. 3d 545.

No. 15–432. HEINZ ET AL. *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 790 F. 3d 365 and 607 Fed. Appx. 53.

No. 15–461. SPEEDTRACK, INC. *v.* OFFICE DEPOT, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 791 F. 3d 1317.

No. 15–466. COX COMMUNICATIONS, INC. *v.* HEALY. C. A. 10th Cir. Certiorari denied. Reported below: 790 F. 3d 1112.

No. 15–473. SORENSEN *v.* WD–40 CO. C. A. 7th Cir. Certiorari denied. Reported below: 792 F. 3d 712.

No. 15–484. HENDRY ET UX. *v.* GEORGELAS GROUP, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 222.

No. 15–485. TETZLAFF *v.* EDUCATIONAL CREDIT MANAGEMENT CORPORATION. C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 3d 756.

No. 15–489. GORDON ET AL. *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 612 Fed. Appx. 629.

No. 15–490. BROWN *v.* LOWER BRULE COMMUNITY DEVELOPMENT ENTERPRISE, LLC, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 606 Fed. Appx. 626.

No. 15–492. ASH ET AL. *v.* ANDERSON MERCHANDISERS LLC ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 799 F. 3d 957.

No. 15–495. ORIGINAL TALK RADIO NETWORK, INC. *v.* WIENER, AKA SAVAGE, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 568.

No. 15–499. U. S. BANK N. A. *v.* ROSENBERG. C. A. 11th Cir. Certiorari denied. Reported below: 779 F. 3d 1254.

No. 15–500. WILLIS *v.* MOBLEY. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 171 So. 3d 739.

No. 15–501. TONKIN *v.* SHADOW MANAGEMENT, INC., DBA PLATINUM PLUS. C. A. 4th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 194.

No. 15–502. FEASTER *v.* FEDERAL EXPRESS CORP. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 63.

No. 15–504. D'ANTIGNAC *v.* DEERE & CO., DBA JOHN DEERE COMMERCIAL PRODUCTS, INC. C. A. 11th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 875.

No. 15–509. TATA CONSULTANCY SERVICES LTD. ET AL. *v.* COUNTY OF ORANGE, CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 784 F. 3d 520.

No. 15–512. ACKELS *v.* KRAUSE ET AL. Sup. Ct. Alaska. Certiorari denied.

No. 15–514. MULERO-CARRILLO ET AL. *v.* ROMAN-HERNANDEZ ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 790 F. 3d 99.

No. 15–515. RIZZO *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 107 A. 3d 228.

No. 15–516. LOAN PHUONG *v.* THOMPSON ET AL. Sup. Ct. Va. Certiorari denied.

No. 15–520. HAAGENSEN, PERSONAL REPRESENTATIVE OF THE ESTATE OF HAAGENSEN *v.* WHERRY, VISITING JUDGE, LAWRENCE COUNTY COURT OF COMMON PLEAS, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 210.

No. 15–521. GIAMPA *v.* DUCKWORTH ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 284.

No. 15–526. PHILLIPS *v.* TERNES ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 3d 650.

No. 15–528. MICHIGAN *v.* STEVENS. Sup. Ct. Mich. Certiorari denied. Reported below: 498 Mich. 162, 869 N. W. 2d 233.

No. 15–529. TSIRELMAN *v.* ZUCKER, COMMISSIONER, NEW YORK DEPARTMENT OF HEALTH, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 3d 310.

No. 15–531. DOAL *v.* CENTRAL INTELLIGENCE AGENCY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 63.

No. 15–532. DOE ET AL. *v.* ROSA. C. A. 4th Cir. Certiorari denied. Reported below: 795 F. 3d 429.

No. 15–534. HONGYAN LI *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 298.

No. 15–535. KOFFLEY *v.* FOGEL. Ct. Sp. App. Md. Certiorari denied. Reported below: 219 Md. App. 712 and 714.

No. 15–536. CHAMBERLAIN *v.* CHAMBERLAIN. Ct. Sp. App. Md. Certiorari denied. Reported below: 222 Md. App. 708.

No. 15–539. GUTHRIE *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 612.

No. 15–544. KEENE *v.* ROSSI ET AL. Ct. App. Mich. Certiorari denied. Reported below: 306 Mich. App. 252, 856 N. W. 2d 556.

No. 15–546. BRAXTON ET VIR *v.* APPERSON, CRUMP & MAXWELL, PLC, ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–548. PERKINS *v.* TEXAS. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 15–552. MENTOR *v.* ROSENBERG ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 163 So. 3d 1209.

No. 15–554. STEVENSON ET AL. *v.* FIRST AMERICAN TITLE INSURANCE CO. ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 789 F. 3d 197.

No. 15–562. NECA–IBEW PENSION TRUST FUND ET AL. *v.* LEWIS ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 79.

No. 15–570. KIMCA ET AL. *v.* LYNCH, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 54.

No. 15–575. Upshaw *v.* United States. C. A. Fed. Cir. Certiorari denied. Reported below: 615 Fed. Appx. 949.

No. 15–576. Tian *v.* Aspen Technology, Inc. C. A. 1st Cir. Certiorari denied.

No. 15–579. Lothian Cassidy, LLC, et al. *v.* Ransom et al. C. A. 5th Cir. Certiorari denied.

No. 15–581. Thomas *v.* Johnson, Secretary of Homeland Security. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 3d 177.

No. 15–582. Dinh Ton That *v.* Alders Maintenance Assn. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 15–586. Ceglia *v.* Zuckerberg et al. C. A. 2d Cir. Certiorari denied. Reported below: 600 Fed. Appx. 34.

No. 15–589. United States ex rel. Barko *v.* Kellogg Brown & Root, Inc., et al. C. A. D. C. Cir. Certiorari denied. Reported below: 796 F. 3d 137.

No. 15–593. Tesler *v.* Cacace et al. C. A. 2d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 87.

No. 15–594. Chavis, Individually and on Behalf of the Estate of Jones, Deceased *v.* Borden. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 283.

No. 15–598. Arizona Libertarian Party et al. *v.* Reagan, Arizona Secretary of State. C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 3d 723.

No. 15–601. Platas-Hernandez *v.* Lynch, Attorney General. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 404.

No. 15–602. Morgan et al. *v.* Global Traffic Technologies, LLC. C. A. Fed. Cir. Certiorari denied. Reported below: 620 Fed. Appx. 895.

No. 15–603. Menchu *v.* Lynch, Attorney General. C. A. 9th Cir. Certiorari denied. Reported below: 592 Fed. Appx. 645.

No. 15–604. Brink et al. *v.* Continental Insurance Co. et al. C. A. D. C. Cir. Certiorari denied. Reported below: 787 F. 3d 1120.

No. 15–605. CHEEKS *v.* FREEPORT PANCAKE HOUSE, INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 3d 199.

No. 15–612. RYSKAMP *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. Reported below: 797 F. 3d 1142.

No. 15–614. DORSEY *v.* TENNILLE ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL.; and No. 15–615. NELSON *v.* TENNILLE ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 785 F. 3d 422.

No. 15–617. KWAN HO WU, AKA SHUI-HUI WEI, AKA KWAN HE WU, AKA HO KWAN WU *v.* LYNCH, ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied. Reported below: 612 Fed. Appx. 140.

No. 15–632. CUTLER *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 797 F. 3d 1173.

No. 15–634. HUFFMAN *v.* SPEEDWAY LLC. C. A. 6th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 792.

No. 15–647. RANSOM *v.* GRISAFE ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 790 F. 3d 804.

No. 15–656. KYUNG CHOI *v.* MABUS, SECRETARY OF THE NAVY. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 669.

No. 15–669. YI HONG CHEN *v.* LYNCH, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied.

No. 15–670. JONES *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. Reported below: 597 Fed. Appx. 1083.

No. 15–671. ROCHESTER CITY LINES, CO. *v.* CITY OF ROCHESTER, MINNESOTA, ET AL. Sup. Ct. Minn. Certiorari denied. Reported below: 868 N. W. 2d 655.

No. 15–678. BOWLING *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 235.

No. 15–679. SINGH, AS NEXT FRIEND FOR SINGH, ET AL. *v.* CARIBBEAN AIRLINES LTD. C. A. 11th Cir. Certiorari denied. Reported below: 798 F. 3d 1355.

No. 15–687. HYKES *v.* LEW, SECRETARY OF THE TREASURY. C. A. 6th Cir. Certiorari denied.

No. 15–690. LAYNE ENERGY, INC., ET AL. *v.* CATRON. C. A. 10th Cir. Certiorari denied.

No. 15–691. ARUNACHALAM *v.* JPMORGAN CHASE & CO. C. A. Fed. Cir. Certiorari denied. Reported below: 600 Fed. Appx. 774.

No. 15–695. BAHAUDIN *v.* FANNING, ACTING SECRETARY OF THE ARMY. C. A. 9th Cir. Certiorari denied.

No. 15–697. RUBIN *v.* FANNIE MAE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 587 Fed. Appx. 273.

No. 15–699. MULLIKIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–702. WALKER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 799 F. 3d 1361.

No. 15–705. BOLLINGER *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 302 Kan. 309, 352 P. 3d 1003.

No. 15–713. LAZNIARZ ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 8th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 900.

No. 15–718. CEAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 621 Fed. Appx. 44.

No. 15–733. DECKER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 959.

No. 15–5096. BRAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 776 F. 3d 276.

No. 15–5156. STRUNK ET UX. *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 614 Fed. Appx. 586.

No. 15–5267. NEAL *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2014–0259 (La. 4/17/15), 168 So. 3d 391.

No. 15–5399. MOSLEY *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 60 Cal. 4th 1044, 344 P. 3d 788.

No. 15–5421. ARGYRIS *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 24 N. Y. 3d 1138, 27 N. E. 3d 425.

No. 15–5645. KING *v.* DEPARTMENT OF THE ARMY. C. A. Fed. Cir. Certiorari denied. Reported below: 602 Fed. Appx. 812.

No. 15–5985. EVERETT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 779 F. 3d 1212.

No. 15–6037. ROALSON *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2014 WI App 90, 356 Wis. 2d 327, 855 N. W. 2d 492.

No. 15–6068. SALAHUDDIN *v.* ZONING HEARING BOARD OF WEST CHESTER ET AL. Commw. Ct. Pa. Certiorari denied. Reported below: 103 A. 3d 888.

No. 15–6070. ROUP *v.* COMMERCIAL RESEARCH, LLC. Sup. Ct. Colo. Certiorari denied. Reported below: 349 P. 3d 273.

No. 15–6090. ANTOMATTEI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 33.

No. 15–6098. FOLEY ET AL. *v.* BESHEAR, GOVERNOR OF KENTUCKY, ET AL. Sup. Ct. Ky. Certiorari denied. Reported below: 462 S. W. 3d 389.

No. 15–6110. HAMMONS *v.* UNITED STATES; and NIX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6191. LYNCH *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 776 F. 3d 1209.

No. 15–6198. FIELDS *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied.

No. 15–6211. WHITE *v.* DETROIT EAST COMMUNITY MENTAL HEALTH ET AL. Ct. App. Mich. Certiorari denied.

No. 15–6301. Rios Suarez *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 3d 363 and 615 Fed. Appx. 5.

No. 15–6360. Jackson *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 438.

No. 15–6361. Dellosantos *v.* United States; and
No. 15–6407. Szpyt *v.* United States. C. A. 1st Cir. Certiorari denied. Reported below: 785 F. 3d 31.

No. 15–6493. Lan *v.* Comcast Corp., LLC. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 15–6504. Brady *v.* Williams, Warden. C. A. 9th Cir. Certiorari denied.

No. 15–6506. Beasley *v.* Woods, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–6508. Bernard *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 15–6518. Ranteesi *v.* Arnold, Warden. C. A. 9th Cir. Certiorari denied.

No. 15–6521. Lattimore *v.* Banks, Superintendent, South Mississippi Correctional Institution. C. A. 5th Cir. Certiorari denied.

No. 15–6535. McKeithen *v.* Jackson et al. C. A. 11th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 937.

No. 15–6536. Robinson *v.* Haas, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–6539. Denson *v.* Shepard, Warden. Super. Ct. Montgomery County, Ga. Certiorari denied.

No. 15–6540. Kelley *v.* Winn, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–6541. Wright *v.* Fisher, Commissioner, Mississippi Department of Corrections. C. A. 5th Cir. Certiorari denied.

No. 15–6548. BATTAGLIA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 781.

No. 15–6552. LOON *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 15–6563. BOLDS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6574. BURCE *v.* LAUGHLIN, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6575. BUTLER *v.* WHITTEN ET AL. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 15–6579. ZAVALIDROGA ET AL. *v.* ONEIDA COUNTY SHERIFF'S DEPARTMENT ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6583. WILLIAMS *v.* WARRIOR, INTERIM WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 782 F. 3d 1184.

No. 15–6587. WALLACE *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 128 App. Div. 3d 866, 7 N. Y. S. 3d 610.

No. 15–6588. THOMAS *v.* CAPE, SHERIFF, PULASKI COUNTY, GEORGIA. C. A. 11th Cir. Certiorari denied.

No. 15–6591. CHOKCHAI KRONGKIET *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 416.

No. 15–6594. ORTIZ *v.* COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–6597. JOHNSON *v.* SANTA CLARA COUNTY, CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 15–6605. DIAZ *v.* UNGER, SUPERINTENDENT, WYOMING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–6607. STATON *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 632 Pa. 400, 120 A. 3d 277.

No. 15–6619. CHURN *v.* PARKKILA ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6620. WILLIAMS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–6626. MAXTON *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6628. CARSON *v.* MILLUS. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 787.

No. 15–6630. COOPER *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 127.

No. 15–6633. BARNETT *v.* CROCKETT ET AL. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 15–6638. SMITH *v.* AMERICAN MORTGAGE NETWORK ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–6640. J. P. *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 206 So. 3d 53.

No. 15–6641. PETERSON *v.* CAMERON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HOUTZDALE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6642. POLK *v.* NEVADA ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1334.

No. 15–6643. PACHECO *v.* FOULK, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6646. HAMILTON ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 237.

No. 15–6648. FREEMAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS

DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 180.

No. 15–6653. ZEEDYK *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6654. ADDISON *v.* NEW HAMPSHIRE. Sup. Ct. N. H. Certiorari denied. Reported below: 167 N. H. 562, 116 A. 3d 551.

No. 15–6659. JACK *v.* PANUCCIO. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 287.

No. 15–6661. MANO *v.* MCDOWELL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6663. SMITH *v.* HAUGEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 322.

No. 15–6664. KUSAK *v.* CREEDEN ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6666. WHITEHEAD *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 15–6667. ALBRITTON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–6668. BONTRAGER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 665.

No. 15–6672. VILLAREAL VILLANUEVA *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6675. KERSEY *v.* NEW HAMPSHIRE ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–6677. FRANKLIN *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied.

No. 15–6681. JILES *v.* MCLAUGHLIN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–6682. LEWIS *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6684. NGOC DUONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 580.

No. 15–6685. CUPP *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 237.

No. 15–6687. FRENCH *v.* CARTER, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 3d 1259.

No. 15–6688. LEFKOVITCH *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 15–6689. HIGGINS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–6693. ARMENDARIZ SANDOVAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 438.

No. 15–6694. PRESTON *v.* ATTEBURY. C. A. 8th Cir. Certiorari denied.

No. 15–6695. FORD *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 105 A. 3d 45.

No. 15–6696. HOSKINS *v.* FAYRAM, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–6697. HAYES *v.* COWANS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6699. MAY *v.* SCHNURR, WARDEN. Ct. App. Kan. Certiorari denied. Reported below: 51 Kan. App. 2d xviii, 345 P. 3d 296.

No. 15–6700. FOULES *v.* SANTA CLARA COUNTY FEDERAL CREDIT UNION. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–6701. GRIFFITH *v.* CASH, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6706. MCCALL *v.* SHOCK, SHERIFF, FAULKNER COUNTY, ARKANSAS. C. A. 8th Cir. Certiorari denied.

No. 15–6708. CARDENAS-BUCIO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 207.

No. 15–6709. KOKAL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6710. LE *v.* RACETTE, SUPERINTENDENT, GREAT MEADOW CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–6711. JOHNSON *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 288.

No. 15–6712. GAINES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6713. HARDY *v.* ADAMS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6714. FOSTER *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–6716. HARRIS *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied.

No. 15–6717. KRONENBERG *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2015-Ohio-1020.

No. 15–6718. RODRIGUEZ *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–6722. GATES *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2015 ND 177, 865 N. W. 2d 816.

No. 15–6723. FLOYD *v.* GORCYCA. C. A. 6th Cir. Certiorari denied.

No. 15–6724. SANDERS *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–6725. CUONG PHU LE *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 463 S. W. 3d 872.

No. 15–6733. HENRY *v.* VASQUEZ ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6734. BELL *v.* PEREZ ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 849.

No. 15–6740. SAENZ *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–6745. SCOTT *v.* HUBERT. C. A. 5th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 433.

No. 15–6746. COX *v.* CALIFORNIA. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 15–6747. CLAY *v.* BERGH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6748. EDWARDS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6750. MANNING *v.* BOWERSOX, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–6751. MINES *v.* BARBER ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 838.

No. 15–6754. ZAVALETA *v.* BERGH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6756. JONES *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 801 F. 3d 556.

No. 15–6757. THOMAS *v.* LEE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 271.

No. 15–6767. GRIFFIN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 787 F. 3d 1086.

No. 15–6774. STRICKLEN *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6778. KIRBY *v.* MORRISSEY, JUDGE, DISTRICT COURT OF OKLAHOMA, TULSA COUNTY, ET AL. Sup. Ct. Okla. Certiorari denied.

No. 15–6779. ESPARZA *v.* FALK, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 938.

No. 15–6784. CROSBY *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6788. SMITH *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 126 App. Div. 3d 534, 5 N. Y. S. 3d 89.

No. 15–6789. PIPER *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–6790. PORTNOY *v.* CITY OF WOODLAND, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 921.

No. 15–6792. LEWIS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 130687–U.

No. 15–6794. THORNTON *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–6796. TILLMAN *v.* GASTELO, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6797. THIVEL *v.* BUTLER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–6801. SERRANO *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 163 So. 3d 513.

No. 15–6802. LEWIS *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6808. JACKSON *v.* DENNEY, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–6809. ROSEBERRY *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 237 Ariz. 507, 353 P. 3d 847.

No. 15–6810. NELSON *v.* FLEMMER, JUDGE, FIFTH CIRCUIT COURT OF SOUTH DAKOTA, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6811. MCCALL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6812. MCFADDEN *v.* BUSH, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 309.

No. 15–6813. JONES *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–6815. OBERWISE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6817. VIERS *v.* SHEPARD, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 933.

No. 15–6822. ALLEN, AKA DUNCAN, AKA FITZGERALD *v.* ROLF, JUDGE, CIRCUIT COURT OF MISSOURI, LAFAYETTE AND SALINE COUNTIES. Sup. Ct. Mo. Certiorari denied.

No. 15–6823. BARNEY *v.* CONGOLEUM CORP. ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6824. BRUMFIEL *v.* U. S. BANK N. A. ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 933.

No. 15–6828. CAISON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 177 So. 3d 1263.

No. 15–6829. EMERSON *v.* HUTCHINSON, GOVERNOR OF ARKANSAS. C. A. 8th Cir. Certiorari denied.

No. 15–6830. BRADDEN *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 15–6831. OLAGUE *v.* COUNTY OF SACRAMENTO, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 557.

No. 15–6832. NURSE *v.* RICHMOND COUNTY SHERIFF'S DEPARTMENT ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6833. MURRAY *v.* TOAL ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6835. TAYLOR *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied.

No. 15–6839. JENKINS *v.* MYRICK, SUPERINTENDENT, TWO RIVERS CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 15–6841. REMBERT *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 131220–U.

No. 15–6843. LITSCHEWSKI *v.* DOOLEY, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 792 F. 3d 1012.

No. 15–6845. ALVAREZ *v.* KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 50 Kan. App. 2d xxii, 336 P. 3d 922.

No. 15–6846. AGUILAR *v.* TEXAS. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 245.

No. 15–6847. ABBY *v.* PERRY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6849. HARDY *v.* THOMPSON ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6852. CHARLES *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 61 Cal. 4th 308, 349 P. 3d 990.

No. 15–6856. HARDY *v.* PETERMAN ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6858. GREEN *v.* BUSH, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 235.

No. 15–6861. HICKINGBOTTOM *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 26 N. E. 3d 684.

No. 15–6862. FIELDS *v.* GIROUX, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6864. THOMAS G. *v.* SONYA G. Sup. Ct. Alaska. Certiorari denied.

No. 15–6868. SEALS *v.* CAPRA, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–6871. NELSON *v.* FLEMMER, JUDGE, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–6872. ROJAS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6873. RABY *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–6876. L. B. *v.* S. T. ET AL. Ct. App. D. C. Certiorari denied. Reported below: 120 A. 3d 89.

No. 15–6877. FAIRCHILD *v.* WARRIOR, INTERIM WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 784 F. 3d 702.

No. 15–6881. LEWIS *v.* SMITH, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–6884. JEFFERY *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6885. KIDWELL *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 546.

No. 15–6886. JOHNSON *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–6887. KRIEGER *v.* MINNESOTA. C. A. 8th Cir. Certiorari denied.

No. 15–6888. LITTLEBEAR *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 15–6891. PERRY *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6892. MTOCHED *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 3d 1210.

No. 15–6894. MILLER *v.* SEXTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6895. RAYFIELD *v.* EAGLETON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 135.

No. 15–6898. RAMIREZ *v.* PARKER ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6901. CLARK *v.* FOXX, SECRETARY OF TRANSPORTATION, ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–6908. KUSAK *v.* LAMBADOLA ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6909. KUSAK *v.* KLEIN ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6912. PEOPLES *v.* FALK, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 752.

No. 15–6915. CLEMENTE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–6921. TAYLOR *v.* MEMPHIS AREA LEGAL SERVICES ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6923. VAIGASI *v.* SOLOW MANAGEMENT CORP. ET AL.; and

No. 15–6924. VAIGASI *v.* SOLOW MANAGEMENT CORP. ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6926. LEWIS *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 163.

No. 15–6928. REEDOM *v.* DEPARTMENT OF THE TREASURY ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–6929. LANGLEY *v.* INTERNAL REVENUE SERVICE. C. A. 11th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 585.

No. 15–6930. POUYEH *v.* BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 495.

No. 15–6933. DIAZ *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6934. ROBERTSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 196.

No. 15–6935. SANDOVAL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 645.

No. 15–6936. CASCIOLA *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6940. CORNISH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 104.

No. 15–6941. CLARK *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–6945. DECARO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 593 Fed. Appx. 605.

No. 15–6946. RAUSO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–6947. DUNCAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–6948. DE LA CRUZ-QUINTANA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 366.

No. 15–6951. BUSH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 594 Fed. Appx. 389.

No. 15–6952. BARRON-ESPINOSA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 140.

No. 15–6954. COPPOLA *v.* O'BRIEN, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 80.

No. 15–6960. WOODARD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 101.

No. 15–6961. BOWERS *v.* POLLARD, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–6962. JEFFERSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 757.

No. 15–6964. HEATH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 843.

No. 15–6967. GONZALEZ-MARTINEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 587.

No. 15–6969. GREEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 848.

No. 15–6970. GONZALEZ-TEJEDA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 734.

No. 15–6973. FOWLER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 647.

No. 15–6974. ROBERTSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 125 A. 3d 444.

No. 15–6976. BROOKS *v.* RAEMISCH, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 773.

No. 15–6977. BARKLEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 557.

No. 15–6978. ALLEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6979. BRISCOE *v.* WALLACE, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–6982. PEREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 777.

No. 15–6983. LEWIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 306.

No. 15–6984. SUTTON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–6985. BALDWIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 150.

No. 15–6986. BECKSTROM *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 361.

No. 15–6987. BAILEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 634 Fed. Appx. 473.

No. 15–6989. WALLS *v.* DILLON COUNTY DETENTION CENTER. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 696.

No. 15–6993. GUTIERREZ RUBIO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 514.

No. 15–6994. LOPEZ-ILUSTRE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 750.

No. 15–6998. MATIAS-TORRES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–6999. LOPEZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–7000. RUMANEK *v.* INDEPENDENT SCHOOL MANAGEMENT, INC. C. A. 3d Cir. Certiorari denied. Reported below: 619 Fed. Appx. 71.

No. 15–7002. LUIS CRUZ *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 259.

No. 15–7006. NOVACK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 623 Fed. Appx. 538.

No. 15–7007. MONTOYA-CORREA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 786.

No. 15–7010. JAMES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 752.

No. 15–7012. THOMAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 788 F. 3d 345.

No. 15–7014. OLLIE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 624 Fed. Appx. 807.

No. 15–7016. CEDILLO-MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 385.

No. 15–7018. NICHOLS *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 721.

No. 15–7019. WANNAMAKER *v.* BOULWARE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 686.

No. 15–7020. WILLIAMS *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7025. CARBAJAL-MORENO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 767.

No. 15–7028. BUCK-SOLTERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 246.

No. 15–7029. JIMENEZ-ARCHAGA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 370.

No. 15–7031. ORTIZ-VARELA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 350.

No. 15–7033. NORRIS *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–7034. GUZMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 745.

No. 15–7036. HUNTER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–7037. HUGHES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 829.

No. 15–7039. GUNNELL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 775 F. 3d 1079.

No. 15–7041. HOLDEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 744.

No. 15–7042. HORTON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 770 F. 3d 582.

No. 15–7045. GRAY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 788.

No. 15–7046. CHATMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 942.

No. 15–7047. LOCKAMY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 227.

No. 15–7048. MADDOX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 803 F. 3d 1215.

No. 15–7051. HENOUD *v.* APKER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 734.

No. 15–7052. HERRERA-SIFUENTES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–7054. HOLMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 302.

No. 15–7055. GONZALEZ URIBE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–7056. HAMPTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7057. HERNANDEZ-LOPEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 602 Fed. Appx. 921.

No. 15–7059. NEELEY *v.* EDWARDS ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–7060. MCPIKE-MCDYESS *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7061. MISSOURI EX REL. MIDDLETON *v.* PASH, SUPERINTENDENT, CROSSROADS CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 15–7062. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 385.

No. 15–7063. GREEN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–7064. GUNN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–7065. HOPE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7066. CLARK *v.* FOXX, SECRETARY OF TRANSPORTATION, ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–7067. COSKUN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 663.

No. 15–7068. REAVES *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 414 S. C. 118, 777 S. E. 2d 213.

No. 15–7071. WILLIAMS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–7076. PRICE *v.* WALL, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS, ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–7080. WALKER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–7081. BOYKIN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 794 F. 3d 939.

No. 15–7088. GIOELI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 796 F. 3d 176.

No. 15–7089. MARTIN FLORES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 639.

No. 15–7091. JOHNSON *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 256 So. 3d 684.

No. 15–7099. VELAZCO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–7100. KEELAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 786 F. 3d 865.

No. 15–7105. COLON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–7108. DE LA ROSA-SOTO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 558.

No. 15–7109. SUPREME-EL, FKA MCLEAN *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 279.

No. 15–7110. IRBY *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 278.

No. 15–7111. FISHMAN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 711.

No. 15–7112. FUENTES-MAJANO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7113. CORDOVANO *v.* FLORIDA ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7114. CRUELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–7117. DUPERVAL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 777 F. 3d 1324.

No. 15–7120. HEDDINGS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 598 Fed. Appx. 500.

No. 15–7121. KRANTZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7123. MANGARELLA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 89.

No. 15–7125. LEACH *v.* BICKELL, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7137. MURRAY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–7141. GARCIA ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 793 F. 3d 1194.

No. 15–7142. GILMORE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 436.

No. 15–7145. LAGOS-MARADIAGA *v.* UNITED STATES (Reported below: 615 Fed. Appx. 185); MORALES-VEGA, AKA MORALES *v.* UNITED STATES (620 Fed. Appx. 322); MACHUCA-ANZALDO *v.* UNITED STATES (617 Fed. Appx. 370); DE JESUS MARTINEZ *v.* UNITED STATES (617 Fed. Appx. 361); NUNEZ-PENA *v.* UNITED STATES (620 Fed. Appx. 320); NETRO-DE LEON *v.* UNITED STATES (620 Fed. Appx. 337); CORONA-ROSALES *v.* UNITED STATES (620 Fed. Appx. 324); VARGAS-ALVAREZ *v.* UNITED STATES (619 Fed. Appx. 426); SALGADO-PADILLA *v.* UNITED STATES (619 Fed. Appx. 439); CANTU-MORENO *v.* UNITED STATES (619 Fed. Appx. 428); LUNA-ERIVES *v.* UNITED STATES (620 Fed. Appx. 328); PAREDES-CARMONA *v.* UNITED STATES (620 Fed. Appx. 341); CRUZ-GRANADOS *v.* UNITED STATES (617 Fed. Appx. 356); GARCIA-GAONA *v.* UNITED STATES (617 Fed. Appx. 360); SANCHEZ-RODRIGUEZ *v.* UNITED STATES (617 Fed. Appx. 357); VILLAGRAN-PECINA, AKA QUINTANILLA *v.* UNITED STATES (620 Fed. Appx. 333); PEREZ-DE LA ROSA *v.* UNITED STATES (619 Fed. Appx. 436);

ARAMBURO-MORENO *v.* UNITED STATES (620 Fed. Appx. 327); GOMEZ-LOPEZ *v.* UNITED STATES (620 Fed. Appx. 328); and MORA-PATINO *v.* UNITED STATES (617 Fed. Appx. 359). C. A. 5th Cir. Certiorari denied.

No. 15–7146. BARTLEY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 439.

No. 15–7147. WIGGINS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–7150. GUERRERO-GONZALEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 779.

No. 15–7154. RHODES *v.* BECKWITH, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 604 Fed. Appx. 302.

No. 15–7160. ARNESS *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 74 M. J. 441.

No. 15–7162. DECARLO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7168. GARCIA-GONZALEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 3d 1175.

No. 15–7169. GUEVARA *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–7170. WOMBLE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–7171. WEBB *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 189.

No. 15–7178. MCGOWAN *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied.

No. 15–7180. TAM TRAN NGUYEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7185. WHITSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7187. KELLER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 228.

No. 15–7191. ADEYI *v.* MCDONALD, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 606 Fed. Appx. 1002.

No. 15–7193. AMAYA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 93.

No. 15–7195. ABBOTT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 817.

No. 15–7201. PEREZ-PEREZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 626 Fed. Appx. 8.

No. 15–7206. LOBO-LOPEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 332.

No. 15–7208. MONELL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 801 F. 3d 34.

No. 15–7212. LAROSE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 629.

No. 15–7213. KEEL *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 302 Kan. 560, 357 P. 3d 251.

No. 15–7214. DALE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 494.

No. 15–7218. CROOK *v.* GALAVIZ ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 747.

No. 15–7219. CLARK *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7226. MENDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–7228. SHANNON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 3d 778.

No. 15–7229. CANTERO-PEREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 796.

No. 15–7230. JABALERA-CHAVIRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 448.

No. 15–7233. ROSENBAUM *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 923.

No. 15–7235. ADAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7236. DABBS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 143.

No. 15–7241. BRUMFIELD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 184.

No. 15–7243. MERCEDES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–7247. WOODINGS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 122 A. 3d 945.

No. 15–7248. TRUE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 116 A. 3d 938.

No. 15–7251. BARNETT *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 122 A. 3d 946.

No. 15–7253. ADAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 565.

No. 15–7257. CHAMPION *v.* HOLT, WARDEN. C. A. D. C. Cir. Certiorari denied.

No. 15–7258. RUIZ-VAZQUEZ *v.* UNITED STATES (Reported below: 620 Fed. Appx. 339); SOBREVILLA-REVOLLOSO *v.* UNITED STATES (620 Fed. Appx. 340); MARTINEZ-GARZA *v.* UNITED STATES (617 Fed. Appx. 368); RAVELL *v.* UNITED STATES (619 Fed. Appx. 440); MEDINA *v.* UNITED STATES (619 Fed. Appx. 431); CUEVAS-MEDINA *v.* UNITED STATES (619 Fed. Appx. 433); HERNAN DE LA PAZ *v.* UNITED STATES (620 Fed. Appx. 332); DE LA GARZA-GARZA *v.* UNITED STATES (620 Fed. Appx. 333); and HERNANDEZ *v.* UNITED STATES (620 Fed. Appx. 326). C. A. 5th Cir. Certiorari denied.

No. 15–7259. CORNEJO-MACIAS, AKA CORNEJO, AKA LITTLEMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 287.

No. 15–7265. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 945.

No. 15–7272. WASHINGTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 546.

No. 15–7280. CEPHAS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 14–1467. GLOVER *v.* MATHIS ET AL. C. A. 9th Cir. Motion of Nevada Public Agency Insurance Pool et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 591 Fed. Appx. 635.

No. 15–54. SCHOTT *v.* WENK ET UX. C. A. 6th Cir. Motion of Ohio School Boards Association et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 783 F. 3d 585.

No. 15–305. MARTINEZ ASIGNACION *v.* RICKMERS GENOA SCHIFFAHRTSGESELLSCHAFT MBH & CIE KG. C. A. 5th Cir. Motions of International Transport Workers' Federation et al. and Global Maritime Ministries, Inc. of New Orleans, Louisiana, et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 783 F. 3d 1010.

No. 15–328. LAWSON *v.* SUN MICROSYSTEMS, INC. C. A. 7th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 791 F. 3d 754.

No. 15–331. TIFD III–E, LLC *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR and JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 604 Fed. Appx. 69.

No. 15–353. SIEGELMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 786 F. 3d 1322.

No. 15–365. PEREZ ET AL. *v.* FREDERICKSBURG CARE CO., LP. Sup. Ct. Tex. Motion of Texas Chapters of the American Board of Trial Advocates et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 461 S. W. 3d 513.

No. 15–367. BEAR VALLEY MUTUAL WATER CO. ET AL. *v.* JEWELL, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. Motions of Pacific Legal Foundation and Association of California

Water Agencies et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 790 F. 3d 977.

No. 15–387. DOE *v.* BOARD OF COUNTY COMMISSIONERS OF PAYNE COUNTY, OKLAHOMA, ET AL. C. A. 10th Cir. Motion of Iraq and Afghanistan Veterans of America for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 613 Fed. Appx. 743.

No. 15–555. BENDER *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 2d Cir. Certiorari before judgment denied.

No. 15–600. ORTHO-MCNEIL-JANSSEN PHARMACEUTICALS, INC., FKA JANSSEN PHARMACEUTICAL, INC., ET AL. *v.* SOUTH CAROLINA EX REL. WILSON, ATTORNEY GENERAL. Sup. Ct. S. C. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 414 S. C. 33, 777 S. E. 2d 176.

No. 15–721. WATSON *v.* FLORIDA JUDICIAL QUALIFICATIONS COMMISSION. Sup. Ct. Fla. Motion of Philip Busey et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 174 So. 3d 364.

No. 15–6050. JONES *v.* JARVIS, WARDEN. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 598 Fed. Appx. 678.

No. 15–6753. DAVIS *v.* BOEING CO. ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 604 Fed. Appx. 565.

No. 15–6836. TURNER *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 15–6907. RICHARDS *v.* BARNES, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

No. 15–6937. CHOINIERE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–6953. BAKER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 610 Fed. Appx. 263.

No. 15–7004. WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–7262. MARCH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–7276. SCOTT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 624 Fed. Appx. 850.

*Rehearing Denied*

No. 14–1446. RAGGE *v.* WEBSTER BANK, N. A., *ante*, p. 823;

No. 14–1529. LILLY *v.* LEWISTON-PORTER CENTRAL SCHOOL DISTRICT ET AL., *ante*, p. 827;

No. 14–8890. GARCIA *v.* ALLISON, WARDEN (two judgments), 575 U. S. 1001;

No. 14–9586. FUTCH *v.* UNITED STATES, 576 U. S. 1010;

No. 14–9731. JONES *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, *ante*, p. 835;

No. 14–9754. VELEZ *v.* NEW YORK, *ante*, p. 835;

No. 14–9791. IN RE SCHNEIDER, *ante*, p. 814;

No. 14–9863. ALLEN *v.* DAVEY, WARDEN, *ante*, p. 839;

No. 14–9879. KRALOVETZ *v.* SPEARMAN, WARDEN, *ante*, p. 840;

No. 14–9894. ESTRADA *v.* TEXAS, *ante*, p. 840;

No. 14–10081. ARANDA *v.* DAL-TILE CORP., *ante*, p. 846;

No. 14–10130. SHACKELFORD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 849;

No. 14–10141. JORDAN *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY, *ante*, p. 849;

No. 14–10215. MERIWEATHER *v.* WELLS FARGO BANK, N. A., ET AL., *ante*, p. 853;

No. 14–10256. WEINHAUS *v.* MISSOURI, *ante*, p. 855;

No. 14–10282. WALTHALL *v.* MCQUIGGEN, WARDEN, ET AL., *ante*, p. 857;

No. 14–10287. Rollins *v.* Louisiana Department of Corrections Officials et al., *ante*, p. 857;

No. 14–10354. Lawshea *v.* Kelley, Director, Arkansas Department of Correction, *ante*, p. 861;

No. 14–10389. In re Booth, *ante*, p. 812;

No. 14–10413. Brown *v.* Perez, Warden, *ante*, p. 865;

No. 14–10473. Tomkins *v.* United States, *ante*, p. 955;

No. 15–104. Nunez et al. *v.* CitiMortgage, Inc., Successor by Merger to ABN AMRO Mortgage Group, Inc., *ante*, p. 873;

No. 15–192. Henderson *v.* Town of Hope Mills, North Carolina, et al., *ante*, p. 924;

No. 15–200. Taggart *v.* GMAC Mortgage, LLC, et al., *ante*, p. 939;

No. 15–262. Echeverry *v.* Deutsche Bank National Trust Co., *ante*, p. 957;

No. 15–295. Pierson *v.* Rogow et al., *ante*, p. 957;

No. 15–299. Russo *v.* New York City Department of Education, *ante*, p. 957;

No. 15–311. Houston et al. *v.* Queen et al., *ante*, p. 986;

No. 15–322. Wu et ux. *v.* Capital One, N. A., et al., *ante*, p. 986;

No. 15–332. Lewicki et al. *v.* Washington County, Pennsylvania, et al., *ante*, p. 986;

No. 15–392. Hall *v.* Gilbert et al., *ante*, p. 958;

No. 15–393. Long *v.* Libertywood Nursing Center et al., *ante*, p. 986;

No. 15–413. Searcy *v.* Merit Systems Protection Board, *ante*, p. 976;

No. 15–5044. Ortega *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 879;

No. 15–5074. Rivas *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division, *ante*, p. 881;

No. 15–5125. In re Williamson, *ante*, p. 812;

No. 15–5209. Williams *v.* Illinois, *ante*, p. 888;

No. 15–5246. Woodard *v.* Fortress Insurance Co. et al., *ante*, p. 890;

No. 15–5403. LeBlanc *v.* Macomb Regional Facility, *ante*, p. 898;

No. 15–5434. LeBlanc *v.* Kalamazoo County Sheriff's Department, *ante*, p. 900;

No. 15–5440. LeBlanc *v.* Michigan Department of Corrections, *ante*, p. 901;

No. 15–5496. Cowart *v.* Sherman, Warden, *ante*, p. 926;

No. 15–5518. Thurston *v.* Maryland, *ante*, p. 904;

No. 15–5534. LaBelle *v.* United States, *ante*, p. 905;

No. 15–5542. Alfred *v.* Jones, Secretary, Florida Department of Corrections, et al., *ante*, p. 927;

No. 15–5554. LeBlanc *v.* Kalamazoo County, Michigan, *ante*, p. 905;

No. 15–5597. Pickens *v.* Perritt, Superintendent, Lumberton Correctional Institution, *ante*, p. 928;

No. 15–5612. Chambliss *v.* United States, *ante*, p. 907;

No. 15–5622. Boyd *v.* Mississippi, *ante*, p. 929;

No. 15–5698. Maki *v.* New York et al., *ante*, p. 941;

No. 15–5706. Savoie *v.* Bradshaw, Sheriff, Palm Beach County, Florida, et al., *ante*, p. 942;

No. 15–5719. Bolton *v.* United States, *ante*, p. 942;

No. 15–5720. Brost *v.* Iowa, *ante*, p. 942;

No. 15–5839. In re GwanJun Kim, *ante*, p. 954;

No. 15–5842. Carter *v.* Michigan Department of Corrections et al., *ante*, p. 961;

No. 15–5845. Ellison *v.* Kazmierski, Supervising Judge, Circuit Court of Illinois, Cook County, et al., *ante*, p. 961;

No. 15–5847. Staples *v.* Texas, *ante*, p. 961;

No. 15–5860. Johnson *v.* Beak et al., *ante*, p. 961;

No. 15–5884. Curry *v.* Berger et al., *ante*, p. 962;

No. 15–5889. Balsam *v.* United States, *ante*, p. 932;

No. 15–5891. Jones *v.* United States, *ante*, p. 932;

No. 15–5943. Spencer, aka Buxton *v.* United States, *ante*, p. 933;

No. 15–5974. Jackson *v.* Park Place Condominiums Assn., Inc., *ante*, p. 977;

No. 15–5986. Qureshi *v.* New York (two judgments), *ante*, p. 978;

No. 15–6025. Goodrich *v.* United States, *ante*, p. 944;

No. 15–6056. Kornegay *v.* New York et al., *ante*, p. 978;

No. 15–6218. Barksdale *v.* United States District Court for the Northern District of Ohio, *ante*, p. 1012;

No. 15–6227. Taylor *v.* Crowley, Superintendent, Orleans Correctional Facility, *ante*, p. 990;

No. 15–6234. LEE *v.* HYMOWITZ ET AL., *ante*, p. 1012;
No. 15–6249. BROWN *v.* UNITED STATES, *ante*, p. 966;
No. 15–6255. MCCORMICK *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL., *ante*, p. 990;
No. 15–6259. JOHNSON *v.* DEPARTMENT OF LABOR ET AL., *ante*, p. 990;
No. 15–6348. FULTON *v.* UNITED STATES, *ante*, p. 967;
No. 15–6367. SULLIVAN *v.* UNITED STATES, *ante*, p. 979;
No. 15–6420. TAYLOR *v.* UNITED STATES, *ante*, p. 968; and
No. 15–6564. ROWE *v.* UNITED STATES, *ante*, p. 993. Petitions for rehearing denied.

No. 14–1385. CRUZ *v.* CITIBANK, N. A., *ante*, p. 820;
No. 15–78. MIRABAL *v.* HSBC BANK USA, N. A., *ante*, p. 872; and
No. 15–97. DOLZ *v.* CITIMORTGAGE, INC., *ante*, p. 873. Motions of petitioners for leave to file petitions for rehearing denied.

## JANUARY 12, 2016

*Dismissal Under Rule 46*

No. 15–655. DOWNS ET AL. *v.* VAN ORDEN, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BANNISTER, ET AL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 609 Fed. Appx. 474.

## JANUARY 15, 2016

*Miscellaneous Orders*

No. 14–1418. ZUBIK ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 3d Cir.;
No. 14–1453. PRIESTS FOR LIFE ET AL. *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. D. C. Cir.;
No. 14–1505. ROMAN CATHOLIC ARCHBISHOP OF WASHINGTON ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. D. C. Cir.;
No. 15–35. EAST TEXAS BAPTIST UNIVERSITY ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 5th Cir.;
No. 15–105. LITTLE SISTERS OF THE POOR HOME FOR THE AGED, DENVER, COLORADO, ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 10th Cir.;

No. 15–119. Southern Nazarene University et al. *v.* Burwell, Secretary of Health and Human Services, et al. C. A. 10th Cir.; and

No. 15–191. Geneva College *v.* Burwell, Secretary of Health and Human Services, et al. C. A. 3d Cir. [Certiorari granted, *ante*, p. 971.] Motion of petitioners for divided argument and enlargement of time for oral argument granted.

No. 15–6418. Welch *v.* United States. C. A. 11th Cir. [Certiorari granted, *ante*, p. 1056.] Helgi C. Walker, Esq., of Washington, D. C., is invited to brief and argue this case, as *amicus curiae*, in support of the judgment below. Briefs of other *amici curiae* in support of affirmance are to be filed within seven days after filing of the brief of the Court-appointed *amicus curiae*.

*Certiorari Granted*

No. 15–214. Murr et al. *v.* Wisconsin et al. Ct. App. Wis. Certiorari granted. Reported below: 2015 WI App 13, 359 Wis. 2d 675, 859 N. W. 2d 628.

No. 15–375. Kirtsaeng, dba Bluechristine99 *v.* John Wiley & Sons, Inc. C. A. 2d Cir. Certiorari granted. Reported below: 605 Fed. Appx. 48.

No. 15–415. Encino Motorcars, LLC *v.* Navarro et al. C. A. 9th Cir. Certiorari granted. Reported below: 780 F. 3d 1267.

No. 15–446. Cuozzo Speed Technologies, LLC *v.* Lee, Under Secretary of Commerce for Intellectual Property and Director, Patent and Trademark Office. C. A. Fed. Cir. Certiorari granted. Reported below: 793 F. 3d 1268.

No. 15–577. Trinity Lutheran Church of Columbia, Inc. *v.* Pauley, Director, Missouri Department of Natural Resources. C. A. 8th Cir. Certiorari granted. Reported below: 788 F. 3d 779.

No. 14–9496. Manuel *v.* City of Joliet, Illinois, et al. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 590 Fed. Appx. 641.

No. 15–457. MICROSOFT CORP. *v.* BAKER ET AL. C. A. 9th Cir. Certiorari granted limited to the following question: "Whether a federal court of appeals has jurisdiction under both Article III and 28 U. S. C. § 1291 to review an order denying class certification after the named plaintiffs voluntarily dismiss their individual claims with prejudice." Reported below: 797 F. 3d 607.

No. 15–474. MCDONNELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 792 F. 3d 478.

JANUARY 19, 2016

*Certiorari Granted—Vacated and Remanded*

No. 15–85. MEDTRONIC SOFAMOR DANEK USA, INC., ET AL. *v.* NUVASIVE, INC. C. A. Fed. Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Commil USA, LLC* v. *Cisco Systems, Inc.*, 575 U. S. 632 (2015). Reported below: 778 F. 3d 1365.

*Certiorari Dismissed*

No. 15–6957. GREENE *v.* CALIFORNIA ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7124. KUMVACHIRAPITAG *v.* OBAMA, PRESIDENT OF THE UNITED STATES. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 617 Fed. Appx. 804.

No. 15–7326. VIEUX *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition. Reported below: 616 Fed. Appx. 891.

No. 15–7352. ADKINS *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

*Miscellaneous Orders*

No. 15A551. AKINA ET AL. *v.* HAWAII ET AL. D. C. HAW. Motion of applicants Keli'i Akina et al. for civil contempt denied.

No. D–2852. IN RE DONOHUE. James Francis Donohue, of Butler, Pa., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to the practice of law before this Court. The rule to show cause, issued on November 2, 2015, [*ante*, p. 952] is discharged.

No. 15M75. BIROS *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL. Motion for leave to file petition for writ of certiorari under seal granted.

No. 15–497. FRY ET VIR, NEXT FRIENDS OF MINOR E. F. *v.* NAPOLEON COMMUNITY SCHOOLS ET AL. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 15–5495. ENRIQUEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 919] denied.

No. 15–5648. DIXON *v.* 24TH DISTRICT COURT OF LOUISIANA ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 984] denied.

No. 15–6142. CLAY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1002] denied.

No. 15–6244. MOORE *v.* MONTIEL ET AL. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1005] denied.

No. 15–6492. ZAMMIT *v.* CITY OF NEW BALTIMORE, MICHIGAN. Cir. Ct. Macomb County, Mich. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1005] denied.

No. 15–6890. STEWART *v.* TREASURE BAY CASINO. C. A. 5th Cir.;

No. 15–6916. KINNEY *v.* STEELE ET AL. Ct. App. Cal., 1st App. Dist., Div. 4;

No. 15–7093. PHIFER *v.* SEVENSON ENVIRONMENTAL SERVICES, INC., ET AL. C. A. 3d Cir.;

No. 15–7153. SUTEERACHANON *v.* MCDONALD'S RESTAURANTS OF MARYLAND, INC. C. A. 4th Cir.;

No. 15–7304. RAUSO *v.* UNITED STATES. C. A. 3d Cir.; and

No. 15–7406. WILLIAMS *v.* UNITED STATES. Ct. App. D. C. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until February 9, 2016, 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*

No. 15–458. DIETZ *v.* BOULDIN. C. A. 9th Cir. Certiorari granted. Reported below: 794 F. 3d 1093.

No. 15–628. SALMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 792 F. 3d 1087.

No. 15–674. UNITED STATES ET AL. *v.* TEXAS ET AL. C. A. 5th Cir. Certiorari granted. In addition to the questions presented by the petition, the parties are directed to brief and argue the following question: "Whether the Guidance violates the Take Care Clause of the Constitution, Art. II, § 3." Reported below: 809 F. 3d 134.

No. 15–6092. MATHIS *v.* UNITED STATES. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 786 F. 3d 1068.

*Certiorari Denied*

No. 14–8071. BERNARD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 762 F. 3d 467.

No. 15–170. MORRIS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 784 F. 3d 870.

No. 15–186. MCCOY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 589 Fed. Appx. 169.

No. 15–362. ORTIZ-FRANCO *v.* LYNCH, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied. Reported below: 782 F. 3d 81.

No. 15–428. MILLER *v.* FEDERAL ELECTION COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 793 F. 3d 1.

No. 15–447. SCHOEPS ET AL. *v.* FREE STATE OF BAVARIA, FEDERAL REPUBLIC OF GERMANY. C. A. 2d Cir. Certiorari denied. Reported below: 611 Fed. Appx. 32.

No. 15–448. BECK, CHAIRPERSON, ARKANSAS STATE MEDICAL BOARD, ET AL. *v.* EDWARDS ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 786 F. 3d 1113.

No. 15–450. ANGOV *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 788 F. 3d 893.

No. 15–451. FIREFIGHTERS' RETIREMENT SYSTEM ET AL. *v.* CITCO GROUP LTD. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 796 F. 3d 520.

No. 15–456. JEFFERSON ET AL. *v.* CERTAIN UNDERWRITERS OF LLOYD'S, LONDON. C. A. 5th Cir. Certiorari denied.

No. 15–468. WHELAN ET UX. *v.* PASCALE ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 19.

No. 15–480. TOWN OF MOCKSVILLE, NORTH CAROLINA, ET AL. *v.* HUNTER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 789 F. 3d 389.

No. 15–505. TOWNSEND *v.* HSBC BANK USA, N. A. C. A. 7th Cir. Certiorari denied. Reported below: 793 F. 3d 771.

No. 15–560. BOEHRINGER INGELHEIM PHARMACEUTICALS, INC. *v.* FEDERAL TRADE COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 778 F. 3d 142.

No. 15–567. ALPS SOUTH, LLC *v.* OHIO WILLOW WOOD CO. C. A. Fed. Cir. Certiorari denied. Reported below: 787 F. 3d 1379.

No. 15–613. RODRIGUEZ *v.* AMERICAN HOME MORTGAGE SERVICING. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 195 So. 3d 390.

No. 15–616. MEDIMMUNE, LLC *v.* BOARD OF TRUSTEES OF THE UNIVERSITY OF MASSACHUSETTS, DBA UNIVERSITY OF MASSACHUSETTS BIOLOGIC LABORATORIES. Ct. Sp. App. Md. Certiorari denied. Reported below: 223 Md. App. 777 and 781.

No. 15–618. VARRIALE *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 444 Md. 400, 119 A. 3d 824.

No. 15–619. WHITE *v.* WHITE. Sup. Ct. Va. Certiorari denied.

No. 15–624. PELLERIN *v.* NEVADA COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 635 Fed. Appx. 345.

No. 15–629. HOFFMAN ET UX. *v.* TEXAS. County Ct. at Law No. 2, Montgomery County, Tex. Certiorari denied.

No. 15–633. DUFF ET AL. *v.* LEWIS ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–636. CARRILLO ET AL. *v.* DEUTSCHE BANK NATIONAL TRUST CO., AS TRUSTEE. Sup. Ct. Fla. Certiorari denied. Reported below: 171 So. 3d 114.

No. 15–637. ENERGY-INTENSIVE MANUFACTURERS WORKING GROUP ON GREENHOUSE GAS REGULATION *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 606 Fed. Appx. 6.

No. 15–643. ARPAIO, SHERIFF, MARICOPA COUNTY, ARIZONA *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 797 F. 3d 11.

No. 15–644. DOLAN *v.* PENN MILLERS INSURANCE CO. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 625 Fed. Appx. 91.

No. 15–658. HADSELL *v.* HADSELL. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 15–661. JOSEPH *v.* BERNSTEIN ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 551.

No. 15–663. KRATZ *v.* CITIMORTGAGE, INC. Super. Ct. Pa. Certiorari denied. Reported below: 108 A. 3d 122.

No. 15–688. FRANKEL *v.* WELLS FARGO BANK, N. A. Super. Ct. Pa. Certiorari denied. Reported below: 120 A. 3d 392.

No. 15–701. WILLAMAN *v.* ERIE SATELLITE OFFICE OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES. C. A. 3d Cir. Certiorari denied. Reported below: 620 Fed. Appx. 88.

No. 15–714. MARTINEZ ET AL. *v.* FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES. Sup. Ct. Fla. Certiorari denied. Reported below: 177 So. 3d 1268.

No. 15–717. DIXON *v.* DISCIPLINARY BOARD OF THE SUPREME COURT OF NEW MEXICO ET AL. Sup. Ct. N. M. Certiorari denied.

No. 15–724. NIVIA ET AL. *v.* AURORA LOAN SERVICES, LLC, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 822.

No. 15–738. MITCHELL *v.* TEXAS MEDICAL BOARD. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 15–752. COPLEY FUND, INC. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 796 F. 3d 131.

No. 15–756. RANZA *v.* NIKE, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 793 F. 3d 1059.

No. 15–760. SCHLOFF *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 74 M. J. 312.

No. 15–761. LESHER ET AL. *v.* ELLISON, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ELLISON, DECEASED. C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 3d 910.

No. 15–800. BROWN ET AL. *v.* MCCAUSLAND. Sup. Ct. App. W. Va. Certiorari denied.

No. 15–823. MIRA OVERSEAS CONSULTING LTD. ET AL. *v.* MUSE FAMILY ENTERPRISES, LTD., ET AL. Ct. App. Cal., 2d App.

Dist., Div. 2. Certiorari denied. Reported below: 237 Cal. App. 4th 378, 187 Cal. Rptr. 3d 858.

No. 15–5115. CLARK *v.* FEDERAL LABOR RELATIONS AUTHORITY. C. A. D. C. Cir. Certiorari denied. Reported below: 782 F. 3d 701.

No. 15–6022. IRICK *v.* CARPENTER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6081. HOOPER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 770.

No. 15–6119. CADE *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–6221. JENNINGS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 315.

No. 15–6236. KITTERMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 963.

No. 15–6557. GARCIA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 793 F. 3d 513.

No. 15–6883. LETEVE *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 237 Ariz. 516, 354 P. 3d 393.

No. 15–6899. JOHNSON *v.* DELAWARE ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6900. JOHNSON *v.* BRAZELTON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6903. BOYD *v.* BOUGHTON, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 798 F. 3d 490.

No. 15–6906. CARDELLE *v.* WILMINGTON TRUST, N. A. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 195 So. 3d 380

No. 15–6910. NICKERSON *v.* FOULK, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6911. PARKER *v.* EXETER FINANCE CORP. C. A. 5th Cir. Certiorari denied.

No. 15–6913. SHAKER *v.* CORRECTIONAL CARE SOLUTIONS MEDICAL ADVISOR ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6914. RICHARD *v.* MOHR ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–6917. WEISHEIT *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: 26 N. E. 3d 3.

No. 15–6919. WILLIAMS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–6922. THOMPKINS *v.* BROWN ET AL. Ct. App. Mich. Certiorari denied.

No. 15–6925. RIGDON *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 15–6927. SIMS *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2014–1571 (La. 8/28/15), 175 So. 3d 398.

No. 15–6938. CERVANTES CHAVEZ *v.* LOS ANGELES COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 792.

No. 15–6939. CAMPBELL *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Butler County. Certiorari denied. Reported below: 2014-Ohio-5315.

No. 15–6942. CARR *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–6943. COWDER *v.* THOMPSON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MERCER. C. A. 3d Cir. Certiorari denied.

No. 15–6944. DAVIDSON *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–6949. BERNIER *v.* COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION ONE, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–6950. BECKHAM *v.* ALLEN, WARDEN. Sup. Ct. Va. Certiorari denied.

No. 15–6958. MURRAY *v.* WOLF, GOVERNOR OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–6959. ROMAN *v.* LOS ANGELES COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 726.

No. 15–6963. SMITH *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 297 Ga. 214, 773 S. E. 2d 209.

No. 15–6965. HURD *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 15–6966. MAGNO GANA *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied. Reported below: 236 Cal. App. 4th 598, 186 Cal. Rptr. 3d 724.

No. 15–6968. HOOVER *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 2015 ME 109, 121 A. 3d 1281.

No. 15–6971. HENRY *v.* ALLEN ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–6975. JONES *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 173 So. 3d 900.

No. 15–6980. BEELBY *v.* GIDLEY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6981. STUDY *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 15–6991. JUAREZ *v.* WARREN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–6995. DIAS *v.* PEERY, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–6996. TAYLOR *v.* PALMER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 783.

No. 15–7001. WELLS *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 30 N. E. 3d 1256.

No. 15–7035. HOLDRIDGE *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–7095. PABON *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7098. YELL *v.* WHITE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7104. LEVITAN *v.* MORGAN, SHERIFF, ESCAMBIA COUNTY, FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 172 So. 3d 872.

No. 15–7128. KING *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 15–7130. CARDENAS *v.* SWARTHOUT, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7135. RAMIREZ-RIVERA, AKA PAI *v.* UNITED STATES; and

No. 15–7374. LAUREANO-SALGADO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 800 F. 3d 1.

No. 15–7148. WILSON *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied.

No. 15–7159. GRAY *v.* LEE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 172.

No. 15–7173. MCADAM *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 305.

No. 15–7192. BOWERS *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 87 Mass. App. 1131, 32 N. E. 3d 370.

No. 15–7198. JOHNSON *v.* GENERAL MOTORS CORP. C. A. 6th Cir. Certiorari denied.

No. 15–7203. OROZCO *v.* REZNICHENKO. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 15–7223. TODISCO *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 87 Mass. App. 1117, 30 N. E. 3d 133.

No. 15–7225. RAMIREZ *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 121766–U.

No. 15–7227. SPIVEY *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–7237. COPE *v.* MEKO, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7254. JOHNSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–7271. TOLER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7281. COLEMAN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–7284. MATSON *v.* HRABE. C. A. 10th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 926.

No. 15–7287. SANCHEZ MONTES *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 177 So. 3d 624.

No. 15–7296. ST. JOHN *v.* UNITED STATES; and
No. 15–7314. ST. JOHN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 661.

No. 15–7299. LEE-GUTIERREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 175.

No. 15–7301. MARQUEZ-ESQUIVEL, AKA MARQUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 197.

No. 15–7303. CASTLEMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 795 F. 3d 904.

No. 15–7305. DRUMMONDO-FARIAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 616.

No. 15–7312. HANSON MOSTELLER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 741 F. 3d 503.

No. 15–7315. VELEZ-SOTO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–7316. SCOTT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 576 Fed. Appx. 409.

No. 15–7317. HALES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 375.

No. 15–7319. HERNANDEZ-DIAZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 171.

No. 15–7320. IWUALA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 789 F. 3d 1.

No. 15–7321. FARAZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 395.

No. 15–7324. HOWARD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 934.

No. 15–7325. FIREMPONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 497.

No. 15–7328. JONES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 229.

No. 15–7330. JONES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 213.

No. 15–7335. GUNTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 162.

No. 15–7337. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 742.

No. 15–7338. CUMMINGS-AVILA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 797 F. 3d 45.

No. 15–7340. MEZA-GARCIA *v.* UNITED STATES (Reported below: 619 Fed. Appx. 429); ORTEGA *v.* UNITED STATES (617 Fed. Appx. 352); and GUAJARDO-PRIETO *v.* UNITED STATES (620 Fed. Appx. 319). C. A. 5th Cir. Certiorari denied.

No. 15–7357. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7358. MAYELE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 314.

No. 15–7361. OATES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 172.

No. 15–7362. MILLER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 3d 843.

No. 15–7363. VIZCARRA-SERRANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 874.

No. 15–7371. SINGLETON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 589.

No. 15–7372. GALVAN MIRELES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 133.

No. 15–7373. EDMONDSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7377. JORDAN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 619 Fed. Appx. 1.

No. 15–7379. MORENO VARGAS ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 629 Fed. Appx. 415.

No. 15–7381. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 790 F. 3d 1240.

No. 15–7383. CAVAZOS *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2015 IL App (2d) 120171, 40 N. E. 3d 92.

No. 15–7385. JENKINS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 113 A. 3d 535.

No. 15–7387. KIRKLAND *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 117 A. 3d 1042.

No. 15–7388. JONES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 712.

No. 15–7390. SERNA *v.* GRAY, COMMANDANT, UNITED STATES DISCIPLINARY BARRACKS, FORT LEAVENWORTH. C. A. 10th Cir. Certiorari denied.

No. 15–7393. BERRONES-VARGAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 135.

No. 15–7397. VINSON *v.* OHIO. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied.

No. 15–7410. WITZLIB *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 796 F. 3d 799.

No. 15–7414. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 120.

No. 15–7418. BRIDGES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 620.

No. 15–7421. COLE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 117 A. 3d 583.

No. 15–7428. MALOUFF *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 432.

No. 15–7429. FOREMAN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 114 A. 3d 631.

No. 15–7433. GALAN-OLAVARRIA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 134.

No. 15–7439. SIMPSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 796 F. 3d 548.

No. 15–7443. JONES ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 194.

No. 15–7444. LOPEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7450. RAMSEY *v.* STEPHENSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7452. BATES *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 113 A. 3d 535.

No. 15–7454. DURANTY-MOORE, AKA COLLINS, AKA DURANTY, AKA MOORE, AKA PROEBSTLE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 330.

No. 15–7455. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7459. ANGEL CUEVAS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–7462. LANE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 328.

No. 15–7486. PRIESTLEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 222.

No. 15–7491. VILLALONGA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 945.

No. 15–122. CALDERON-CARDONA ET AL. *v.* BANK OF NEW YORK MELLON ET AL. C. A. 2d Cir. Motion of Levin Judgment Creditors for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 770 F. 3d 993.

No. 15–125. HAUSLER, AS SUCCESSOR PERSONAL REPRESENTATIVE OF THE ESTATE OF FULLER, DECEASED *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 2d Cir. Motion of Levin Judgment Creditors for leave to file brief as *amicus curiae* granted. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this motion and this petition. Reported below: 770 F. 3d 207.

No. 15–374. KANSAS *v.* AGUIRRE. Sup. Ct. Kan. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 301 Kan. 950, 349 P. 3d 1245.

No. 15–449. JOHNSON & JOHNSON ET AL. *v.* RECKIS ET VIR. Sup. Jud. Ct. Mass. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 471 Mass. 272, 28 N. E. 3d 445.

No. 15–470. LIVINGSTON *v.* FRANK, CLERK, CIRCUIT COURT OF HILLSBOROUGH COUNTY, FLORIDA, ET AL. Dist. Ct. App. Fla., 2d Dist. Motions of Cato Institute and Owners' Counsel of America for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 150 So. 3d 239.

No. 15–543. SISSEL *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. D. C. Cir. Motion of Daniel G. Anderson et al. for leave to file brief as *amici curiae* out of time denied. Certiorari denied. Reported below: 760 F. 3d 1.

No. 15–7118. TIPPENS *v.* VIRGINIA. C. A. 4th Cir. Certiorari before judgment denied.

No. 15–7351. BARNETT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 15–7463. PANNELL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–9909. ROSS *v.* COBB, *ante*, p. 840;

No. 15–5855. MARTIN *v.* UNITED STATES, *ante*, p. 931;

No. 15–6026. IVY *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY, *ante*, p. 988;

No. 15–6125. BRUNSON *v.* TAYLOR, WARDEN, *ante*, p. 964;

No. 15–6158. ALSTON *v.* KEAN UNIVERSITY ET AL., *ante*, p. 989;

No. 15–6237. JOHNSON *v.* DAUPHANUS ET AL., *ante*, p. 1012;

No. 15–6393. PRIDGEN *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL., *ante*, p. 1015;

No. 15–6590. TIBURCIO *v.* UNITED STATES CAPITOL, *ante*, p. 1017; and

No. 15–6791. MOORE *v.* UNITED STATES, *ante*, p. 1037. Petitions for rehearing denied.

JANUARY 20, 2016

*Miscellaneous Order*

No. 15–7777 (15A750). IN RE MASTERSON. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

*Certiorari Denied*

No. 15–7767 (15A743). MASTERSON *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

No. 15–7768 (15A744). MASTERSON *v.* TEXAS. 178th Jud. Dist. Ct. Tex., Harris County. Application for stay of execution of

sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

No. 15–7769 (15A745). MASTERSON *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

JANUARY 21, 2016

*Certiorari Denied*

No. 15–7786 (15A755). BROOKS *v.* ALABAMA. Sup. Ct. Ala. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, concurring in the denial of certiorari.

This Court's opinion upholding Alabama's capital sentencing scheme was based on *Hildwin* v. *Florida*, 490 U. S. 638 (1989) (*per curiam*), and *Spaziano* v. *Florida*, 468 U. S. 447 (1984), two decisions we recently overruled in *Hurst* v. *Florida*, *ante*, p. 92. See *Harris* v. *Alabama*, 513 U. S. 504 (1995). I nonetheless vote to deny certiorari in this particular case because I believe procedural obstacles would have prevented us from granting relief.

JUSTICE BREYER, dissenting.

Christopher Eugene Brooks was sentenced to death in accordance with Alabama's procedures, which allow a jury to render an "advisory verdict" that "is not binding on the court." Ala. Code § 13A–5–47(e) (2015). For the reasons explained in my opinions concurring in the judgment in *Hurst* v. *Florida*, *ante*, at 103, and *Ring* v. *Arizona*, 536 U. S. 584, 613–619 (2002), and my dissenting opinion in *Schriro* v. *Summerlin*, 542 U. S. 348, 358–366 (2004), I dissent from the order of the Court to deny the application for stay of execution and the petition for a writ of certiorari.

Moreover, we have recognized that Alabama's sentencing scheme is "much like" and "based on Florida's sentencing scheme." *Harris* v. *Alabama*, 513 U. S. 504, 508 (1995). Florida's scheme is unconstitutional. See *Hurst*, *ante*, at 103 (BREYER, J., concurring in judgment). The unfairness inherent in treating this case differently from others which used similarly

unconstitutional procedures only underscores the need to reconsider the validity of capital punishment under the Eighth Amendment. See *Glossip* v. *Gross*, 576 U. S. 863, 908–909 (2015) (BREYER, J., dissenting). I respectfully dissent.

No. 15–7787 (15A756). BROOKS *v.* DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 810 F. 3d 812.

JANUARY 25, 2016

*Certiorari Granted—Reversed and Remanded.* (See No. 15–493, *ante*, p. 306, and No. 15–278, *ante*, p. 308.)

*Certiorari Granted—Vacated and Remanded*

No. 14–1061. ELEM ET AL. *v.* AIRTRAN AIRWAYS, INC. C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Montanile* v. *Board of Trustees of Nat. Elevator Industry Health Benefit Plan*, *ante*, p. 136. Reported below: 767 F. 3d 1192.

*Certiorari Dismissed*

No. 15–7023. LEBLANC *v.* ROMANOWSKI, WARDEN. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7024. LEBLANC *v.* ROMANOWSKI, WARDEN. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7044. LEBLANC *v.* MICHIGAN STATE POLICE. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7103. KEARNEY *v.* GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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 *Mar-*

*tin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*). JUSTICE SOTOMAYOR took no part in the consideration or decision of this motion and this petition.

No. 15–7199. LACROIX *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 627 Fed. Appx. 816.

*Miscellaneous Orders*

No. 15M76. ERARD *v.* JOHNSON, MICHIGAN SECRETARY OF STATE. C. A. 6th Cir. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 14–614. HUGHES, CHAIRMAN, MARYLAND PUBLIC SERVICE COMMISSION, ET AL. *v.* TALEN ENERGY MARKETING, LLC, FKA PPL ENERGYPLUS, LLC, ET AL.; and

No. 14–623. CPV MARYLAND, LLC *v.* TALEN ENERGY MARKETING, LLC, FKA PPL ENERGYPLUS, LLC, ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 938.] Joint motion of petitioners for divided argument granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–1513. HALO ELECTRONICS, INC. *v.* PULSE ELECTRONICS, INC., ET AL.; and

No. 14–1520. STRYKER CORP. ET AL. *v.* ZIMMER, INC., ET AL. C. A. Fed. Cir. [Certiorari granted, *ante*, p. 938.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Joint motion of respondents for divided argument denied.

No. 15–274. WHOLE WOMAN'S HEALTH ET AL. *v.* HELLERSTEDT, COMMISSIONER, TEXAS DEPARTMENT OF STATE HEALTH SERVICES, ET AL. C. A. 5th Cir. [Certiorari granted *sub nom. Whole Woman's Health* v. *Cole*, *ante*, p. 982.] Motion of petitioners to file volume VIII of the joint appendix under seal granted.

No. 15–278. AMGEN INC. ET AL. *v.* HARRIS ET AL., *ante*, p. 308. C. A. 9th Cir. Motions of Washington Legal Foundation, American Benefits Council, and Chamber of Commerce of the United States of America et al. for leave to file briefs as *amici curiae* granted.

No. 15–7043. HALL *v.* E. I. DU PONT DE NEMOURS & CO. C. A. 3d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 16, 2016, 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. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 15–7097. YOUNG-SMITH *v.* UNITED STEELWORKERS OF AMERICA, AFL–CIO, CLC, ET AL. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 16, 2016, 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.

No. 15–7614. IN RE HACKNEY. Petition for writ of habeas corpus denied.

No. 15–7603. IN RE SCHOTZ. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 15–7013. IN RE RICHARDSON. Petition for writ of mandamus denied.

*Certiorari Denied*

No. 14–1194. HARVARD DRUG GROUP, LLC *v.* BARR. C. A. 11th Cir. Certiorari denied. Reported below: 591 Fed. Appx. 928.

No. 15–84. NEW ALLIANCE BANK ET AL. *v.* TANASI ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 786 F. 3d 195.

No. 15–491. PENNSYLVANIA *v.* FEDERAL COMMUNITY DEFENDER ORGANIZATION OF PHILADELPHIA; and

No. 15–494. PENNSYLVANIA *v.* DEFENDER ASSOCIATION OF PHILADELPHIA. C. A. 3d Cir. Certiorari denied. Reported below: 790 F. 3d 457.

No. 15–522. TEXAS *v.* DAVIS ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 798 F. 3d 1108.

No. 15–583. SHELBY COUNTY, ALABAMA *v.* LYNCH, ATTORNEY GENERAL, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 799 F. 3d 1173.

No. 15–627. STENEHJEM, ATTORNEY GENERAL OF NORTH DAKOTA, ET AL. *v.* MKB MANAGEMENT CORP., DBA RED RIVER WOMEN'S CLINIC, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 795 F. 3d 768.

No. 15–638. PRICEWATERHOUSECOOPERS LLP ET AL. *v.* LAURENT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 794 F. 3d 272.

No. 15–650. WALTER *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 632 Pa. 174, 119 A. 3d 255.

No. 15–653. DOUGLAS *v.* PRESIDENT AND FELLOWS OF HARVARD COLLEGE. C. A. 1st Cir. Certiorari denied.

No. 15–654. WILLIAMS *v.* MACKIE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 461.

No. 15–657. BLACK *v.* HATHAWAY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 650.

No. 15–660. NEW MILLENNIUM SPORTS, S. L. U. *v.* JACK WOLFSKIN AUSRUSTUNG FUR DRAUSSEN GMBH & CO. KGAA. C. A. Fed. Cir. Certiorari denied. Reported below: 797 F. 3d 1363.

No. 15–662. PETFINDERS, LLC *v.* SHERMAN, CHAPTER 11 TRUSTEE. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 290.

No. 15–665. MURTAGH *v.* EMORY UNIVERSITY. Ct. App. Ga. Certiorari denied. Reported below: 332 Ga. App. XXIV.

No. 15–668. MARIN *v.* FANNIE MAE, FEDERAL NATIONAL MORTGAGE ASSOCIATION. Sup. Ct. Fla. Certiorari denied. Reported below: 177 So. 3d 1268.

No. 15–672. JOSHI *v.* NATIONAL TRANSPORTATION SAFETY BOARD ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 791 F. 3d 8.

No. 15–676. UNITED STATES EX REL. GAGE *v.* DAVIS S. R. AVIATION, L. L. C., DBA CHALLENGER SPARES AND SUPPORT, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 622.

No. 15–681. MEISNER *v.* SOUTH STATE BANK, FKA SCBT, N. A. Ct. App. S. C. Certiorari denied.

No. 15–685. WILLIAMS *v.* KETTLER MANAGEMENT, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 200.

No. 15–686. GILLIS *v.* CLARK ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–692. BROWN *v.* TD BANK USA, N. A. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 15–711. MCCOOL *v.* LOUISIANA ATTORNEY DISCIPLINARY BOARD. Sup. Ct. La. Certiorari denied. Reported below: 2015–0284 (La. 6/30/15), 172 So. 3d 1058.

No. 15–732. SMITH *v.* ARIZONA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 574.

No. 15–737. MINNICK *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2015 WI App 58, 364 Wis. 2d 527, 868 N. W. 2d 198.

No. 15–748. SWECKER ET AL. *v.* MIDLAND POWER COOPERATIVE ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 807 F. 3d 883.

No. 15–809. ANTONARAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 627 Fed. Appx. 819.

No. 15–6075. FLETCHER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 168 So. 3d 186.

No. 15–6370. JACKSON *v.* WHITE, ILLINOIS SECRETARY OF STATE, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 581 Fed. Appx. 556.

No. 15–6401. JOHNSON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 293.

No. 15–6430. SMITH *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 170 So. 3d 745.

No. 15–6611. FLORES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 794 F. 3d 494.

No. 15–6988. THOMAS *v.* HAMMER, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–7003. WILDMAN *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 15–7009. COBAS *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 15–7021. E. L. M. *v.* J. E. F. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–7026. ELLIS *v.* HOOKS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7027. DUPONT *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied. Reported below: 2014–0497 (La. App. 1 Cir. 11/7/14).

No. 15–7030. COLEMAN *v.* DELBALSO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT RETREAT, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 138.

No. 15–7032. PADILLA *v.* DUCART, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7038. HANNA *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7040. FITZGERALD *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS. C. A. 8th Cir. Certiorari denied.

No. 15–7049. LACKING *v.* UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT. C. A. 5th Cir. Certiorari denied.

No. 15–7050. EPSHTEYN *v.* POLICE DEPARTMENT OF UPPER PROVIDENCE TOWNSHIP ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 615 Fed. Appx. 88.

No. 15–7053. SISTRUNK *v.* PENNSYLVANIA ET AL. Sup. Ct. Pa. Certiorari denied. Reported below: 632 Pa. 566, 121 A. 3d 954.

No. 15–7069. JONES *v.* DEXTER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 483.

No. 15–7070. RODRIGUEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–7075. SHARPE *v.* ARTUS, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–7077. ROBINSON *v.* ALLEN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–7079. THOMPSON *v.* OZMINT, DIRECTOR, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL. Ct. App. S. C. Certiorari denied.

No. 15–7082. BALFOUR *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 122325, 30 N. E. 3d 1141.

No. 15–7084. ALBERTA *v.* CAMPBELL, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7085. ALJA-IZ *v.* VIRGIN ISLANDS DEPARTMENT OF EDUCATION. C. A. 3d Cir. Certiorari denied. Reported below: 626 Fed. Appx. 44.

No. 15–7086. BARTLETT *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 667.

No. 15–7096. ERVIN *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7102. ROBERTS *v.* FLORIDA. C. A. 11th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 586.

No. 15–7115. MITCHELL *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY. C. A. 3d Cir. Certiorari denied.

No. 15–7116. NORMAN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–7140. DAVIS *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Butler County. Certiorari denied. Reported below: 2013-Ohio-3878.

No. 15–7158. BOSWELL *v.* TEXAS CHRISTIAN UNIVERSITY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 291.

No. 15–7166. ARMSTRONG *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7177. CUNNINGHAM *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 61 Cal. 4th 609, 352 P. 3d 318.

No. 15–7188. PANN *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7190. ALEXANDER *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA. C. A. 11th Cir. Certiorari denied.

No. 15–7209. JONES *v.* UNITED STATES;
No. 15–7378. JONES ET AL. *v.* UNITED STATES; and
No. 15–7392. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 204.

No. 15–7242. NEWELL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–7285. MOORE *v.* HARTLEY, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 714.

No. 15–7394. BROOKS *v.* KEY, SUPERINTENDENT, AIRWAY HEIGHTS CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 15–7422. DIXON ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 959.

No. 15–7477. Soto *v.* United States et al. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 68.

No. 15–7485. Meade *v.* United States. Ct. App. D. C. Certiorari denied. Reported below: 125 A. 3d 1139.

No. 15–7498. Morant *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 935.

No. 15–7499. Andrews *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 3d 823.

No. 15–7502. Jackson, aka Brame *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 619 Fed. Appx. 189.

No. 15–7511. Wilson *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 393.

No. 15–421. Jacobs Engineering Group, Inc. *v.* Adkisson et al. C. A. 6th Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 790 F. 3d 641.

No. 15–659. ACT, Inc. *v.* Bais Yaakov of Spring Valley. C. A. 1st Cir. Motion of Anthony Michael Sabino for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 798 F. 3d 46.

No. 15–667. White et al. *v.* Regents of the University of California et al. C. A. 9th Cir. Motions of American Association of Physical Anthropologists et al. and Ohio Archaeological Council et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 765 F. 3d 1010.

*Rehearing Denied*

No. 14–9708. Begolli *v.* Home Depot U. S. A., Inc., *ante*, p. 1006;

No. 15–5227. Warren *v.* United States, *ante*, p. 889;

No. 15–6076. Krushwitz *v.* University of California, *ante*, p. 978;

No. 15–6101. In re Michaels, *ante*, p. 954;

No. 15–6105. Johnson *v.* United States, *ante*, p. 989;

No. 15–6130. Israni *v.* Crystal Lake 960 Assn., Inc., *ante*, p. 989;

No. 15–6171. MARTIN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 1011;

No. 15–6194. SEIBERT *v.* GEORGIA, *ante*, p. 1011;

No. 15–6200. TALLEY *v.* BAKER ET AL., *ante*, p. 1012;

No. 15–6231. VALENCIA *v.* CITY OF SANTA FE, NEW MEXICO, ET AL., *ante*, p. 1012;

No. 15–6232. VALENCIA *v.* DE LUCA ET AL., *ante*, p. 1012;

No. 15–6343. ADKINS *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 990;

No. 15–6572. MCCANN *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR LAKESIDE COMMUNITY BANK, *ante*, p. 1016;

No. 15–6622. TAYLOR *v.* UNITED STATES, *ante*, p. 1017; and

No. 15–6803. JACKMAN *v.* UNITED STATES, *ante*, p. 1038. Petitions for rehearing denied.

No. 14–10470. IN RE BEN-ARI, *ante*, p. 814. Motion of petitioner for leave to file petition for rehearing under seal with redacted copies for the public record granted. Petition for rehearing denied.

## FEBRUARY 1, 2016

*Miscellaneous Order*

No. 15A724 (14–1504). WITTMAN ET AL. *v.* PERSONHUBALLAH ET AL. D. C. E. D. Va. [Probable jurisdiction postponed, *ante*, p. 982.] Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

## FEBRUARY 2, 2016

*Certiorari Denied*

No. 15–7928 (15A800). JONES *v.* BRYSON, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 811 F. 3d 1288.

No. 15–7929 (15A801). JONES *v.* CHATMAN, WARDEN. Sup. Ct. Ga. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

## February 3, 2016

*Miscellaneous Order*

No. 15A795. Gutierrez *v.* United States. Application for stay of surrender and extradition, presented to Justice Scalia, and by him referred to the Court, denied.

## February 9, 2016

*Dismissal Under Rule 46*

No. 15–842. Achates Reference Publishing, Inc. *v.* Apple Inc. et al. C. A. Fed. Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 803 F. 3d 652.

*Miscellaneous Orders*

No. 15A773. West Virginia et al. *v.* Environmental Protection Agency et al. Application for stay, submitted to The Chief Justice, and by him referred to the Court, granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64662 (Oct. 23, 2015), is stayed pending disposition of applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of applicants' petition for writ of certiorari, if such writ is sought. If writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

No. 15A776. Basin Electric Power Cooperative et al. *v.* Environmental Protection Agency et al. Application for stay, submitted to The Chief Justice, and by him referred to the Court, granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64662 (Oct. 23, 2015), is stayed pending disposition of applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of applicants' petition for writ of certiorari, if such writ is sought. If writ of certiorari is sought and the Court denies the petition, this order shall termi-

nate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

No. 15A778. MURRAY ENERGY CORP. ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. Application for stay, submitted to THE CHIEF JUSTICE, and by him referred to the Court, granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64662 (Oct. 23, 2015), is stayed pending disposition of applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of applicants' petition for writ of certiorari, if such writ is sought. If writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

No. 15A787. CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. Application for stay, submitted to THE CHIEF JUSTICE, and by him referred to the Court, granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64662 (Oct. 23, 2015), is stayed pending disposition of applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of applicants' petition for writ of certiorari, if such writ is sought. If writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

No. 15A793. NORTH DAKOTA *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. Application for stay, submitted to THE CHIEF JUSTICE, and by him referred to the Court, granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating

Units," 80 Fed. Reg. 64662 (Oct. 23, 2015), is stayed pending disposition of applicant's petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of applicant's petition for writ of certiorari, if such writ is sought. If writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

## FEBRUARY 10, 2016

*Rehearing Denied*

No. 15–6557 (15A786). GARCIA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 1105. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Petition for rehearing denied.

## FEBRUARY 17, 2016

*Certiorari Denied*

No. 15–8157 (15A857). HITTSON *v.* CHATMAN, WARDEN. Sup. Ct. Ga. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

## FEBRUARY 18, 2016

*Miscellaneous Orders*

No. 14–1373. UTAH *v.* STRIEFF. Sup. Ct. Utah. [Certiorari granted, 576 U. S. 1094.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–145. HUSKY INTERNATIONAL ELECTRONICS, INC. *v.* RITZ. C. A. 5th Cir. [Certiorari granted, *ante*, p. 971.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–274. WHOLE WOMAN'S HEALTH ET AL. *v.* HELLERSTEDT, COMMISSIONER, TEXAS DEPARTMENT OF STATE HEALTH

SERVICES, ET AL. C. A. 5th Cir. [Certiorari granted *sub nom. Whole Woman's Health* v. *Cole*, *ante*, p. 982.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion to allow counsel or guardian ad litem to represent all unborn persons denied. Motion of Indiana Tech Law School *Amicus* Project for leave to file brief as *amicus curiae* out of time granted.

FEBRUARY 19, 2016

*Dismissal Under Rule 46*

No. 15–361. ROSALES-MARTINEZ *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46.1.

*Miscellaneous Order*

No. 15A809. MCCRORY, GOVERNOR OF NORTH CAROLINA, ET AL. *v.* HARRIS ET AL. D. C. M. D. N. C. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

FEBRUARY 25, 2016

*Miscellaneous Order.* (For Court's order making allotment of Justices, see *ante*, p. III.)

FEBRUARY 29, 2016

*Certiorari Granted—Vacated and Remanded*

No. 15–316. SCHUMACHER HOMES OF CIRCLEVILLE, INC. *v.* SPENCER ET UX. Sup. Ct. App. W. Va. Motion of Chamber of Commerce of the United States of America for leave to file brief as *amicus curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *DIRECTV, Inc.* v. *Imburgia*, *ante*, p. 47. Reported below: 235 W. Va. 335, 774 S. E. 2d 1.

No. 15–805. BAKER, WARDEN, ET AL. *v.* ELVIK. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Davis* v. *Ayala*, 576 U. S. 257 (2015). Reported below: 612 Fed. Appx. 412.

No. 15–6053. RICHARDSON *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis*

granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015). Reported below: 793 F. 3d 612.

*Certiorari Dismissed*

No. 15–7307. MOORE *v.* GRIEVANCE COMMITTEE FOR THE SECOND, ELEVENTH, AND THIRTEENTH JUDICIAL DISTRICTS. Ct. App. N. Y. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 26 N. Y. 3d 961, 38 N. E. 3d 824.

No. 15–7364. WILLIAMS *v.* JAMES ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–7400. LEBLANC *v.* SCHUETTE. C. A. 6th Cir.;

No. 15–7401. LEBLANC *v.* DUGGAN ET AL. C. A. 6th Cir.;

No. 15–7402. LEBLANC *v.* ROBERT G. COTTON CORRECTIONAL FACILITY. C. A. 6th Cir.;

No. 15–7403. LEBLANC *v.* UNITED PETROLEUM EQUIPMENT. C. A. 6th Cir.;

No. 15–7404. LEBLANC *v.* LIGHTVOET. C. A. 6th Cir.;

No. 15–7481. LEBLANC *v.* FOLEY. C. A. 6th Cir.;

No. 15–7482. LEBLANC *v.* SHAW. C. A. 6th Cir.; and

No. 15–7483. LEBLANC *v.* SPARROW. C. A. 6th Cir. Motions of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–7461. GREENE *v.* CHAPMAN. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7506. WATSON *v.* O'BRIEN, WARDEN. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 610 Fed. Appx. 299.

No. 15–7667. MADURA ET UX. *v.* BAC HOME LOANS SERVICING L. P. ET AL. C. A. 11th Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

*Miscellaneous Orders*

No. 15A595. SHERBOW *v.* UNITED STATES. Ct. App. D. C. Application for stay, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. 15A650 (15–7501). ROBINSON ET AL. *v.* SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY, ET AL. Sup. Ct. Cal. Application for stay, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. D–2864. IN RE DISBARMENT OF ROSEN. Disbarment entered. [For earlier order herein, see *ante*, p. 1027.]

No. D–2869. IN RE DISCIPLINE OF O'BRIEN. Christopher W. O'Brien, of Wichita, Kan., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2870. IN RE DISCIPLINE OF DENICOLA. Ronald John Denicola, of Cincinnati, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2871. IN RE DISCIPLINE OF FREDERICKS. Kristi Ann Fredericks, of Downingtown, Pa., is suspended from the practice

of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–2872. IN RE DISCIPLINE OF KWASNY. Richard J. Kwasny, of Yardley, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2873. IN RE DISCIPLINE OF KAUFMAN. Paul Michael Kaufman, of Cleveland, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2874. IN RE DISCIPLINE OF COHEN. David M. Cohen, of Stoughton, Mass., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2875. IN RE DISCIPLINE OF KONIGSBERG. Paul Jay Konigsberg, of Palm Beach Gardens, Fla., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2876. IN RE DISCIPLINE OF LAVALLEE. Raymond G. Lavallee, of Hauppauge, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2877. IN RE DISCIPLINE OF SCHLESINGER. Stuart A. Schlesinger, of New York, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2878. IN RE DISCIPLINE OF FASCIANA. John Edward Fasciana, of Bedford Hills, N. Y., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2879. IN RE DISCIPLINE OF GALLIMORE. Allan G. Gallimore, of Pittsburgh, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2880. IN RE DISCIPLINE OF LONDON. Edwin L. London, of Langhorne, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 15M77. HUAFENG XU *v.* WALSH;

No. 15M78. READE *v.* GALVIN ET AL.;

No. 15M79. LESNICK-OAKES *v.* AMERICAN AIRLINES, INC., ET AL.;

No. 15M80. SEUNGJIN KIM *v.* GOOGLE INC.;

No. 15M81. GIDDENS *v.* UPS SUPPLY CHAIN SOLUTIONS;

No. 15M83. POLZER *v.* ALLEGHENY COUNTY, PENNSYLVANIA, ET AL.;

No. 15M84. WATTS *v.* CALIFORNIA;

No. 15M86. JONES *v.* MORROW, WARDEN; and

No. 15M87. MOORE *v.* WELLS FARGO BANK, N. A. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15M82. JOSEPH H. *v.* CALIFORNIA. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 15M85. FURCH *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 14–1278. PEABODY COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL., *ante*, p. 816. The Court approves the parties' agreed upon attorney's fee of $25,000, and expenses of $2,508.34, to be awarded by the Director, Office of Workers' Compensation Programs from the Black Lung Trust Fund to respondent Eva Elizabeth Hill.

No. 14–1468. BIRCHFIELD *v.* NORTH DAKOTA. Sup. Ct. N. D.;

No. 14–1470. BERNARD *v.* MINNESOTA. Sup. Ct. Minn.; and

No. 14–1507. BEYLUND *v.* LEVI, DIRECTOR, NORTH DAKOTA DEPARTMENT OF TRANSPORTATION. Sup. Ct. N. D. [Certiorari granted, *ante*, p. 1045.] Motion of Indiana Tech Law School *Amicus* Project for leave to file brief as *amicus curiae* in support of neither party granted. Motion of petitioners to dispense with printing joint appendix granted.

No. 14–1504. WITTMAN ET AL. *v.* PERSONHUBALLAH ET AL. D. C. E. D. Va. [Probable jurisdiction postponed, *ante*, p. 982.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of state appellees for divided argument and enlargement of time for oral argument granted, and the time is divided as follows: 35 minutes for appellants, 10 minutes for state appellees, 15 minutes for private appellees, and 10 minutes for the Solicitor General.

No. 15–138. RJR NABISCO, INC., ET AL. *v.* EUROPEAN COMMUNITY ET AL. C. A. 2d Cir. [Certiorari granted, 576 U. S. 1095.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE SOTOMAYOR took no part in the consideration or decision of this motion.

No. 15–423. BOLIVARIAN REPUBLIC OF VENEZUELA ET AL. *v.* HELMERICH & PAYNE INTERNATIONAL DRILLING CO. ET AL.; and

No. 15–698. HELMERICH & PAYNE INTERNATIONAL DRILLING CO. ET AL. *v.* BOLIVARIAN REPUBLIC OF VENEZUELA ET AL. C. A. D. C. Cir.;

No. 15–486. IVY ET AL. *v.* MORATH, TEXAS COMMISSIONER OF EDUCATION. C. A. 5th Cir.; and

No. 15–649. CZYZEWSKI ET AL. *v.* JEVIC HOLDING CORP. ET AL. C. A. 3d Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 15–6181. FAISON *v.* UNITED STATES. C. A. 3d Cir. Motion for leave to file an amended petition for writ of certiorari denied.

No. 15–6228. YOUNGBLOOD *v.* SUPERIOR COURT OF CALIFORNIA, BUTTE COUNTY, ET AL. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1003] denied.

No. 15–6373. LANCASTER *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1026] denied.

No. 15–6566. SPENCE *v.* WILLIS. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1059] denied.

No. 15–6567. SPENCE *v.* WILLIS. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1059] denied.

No. 15–6698. IN RE SOLIS. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1006] denied.

No. 15–6704. IN RE SOLIS. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1006] denied.

No. 15–6932. STOLLER *v.* CONSUMER FINANCIAL PROTECTION BUREAU ET AL. C. A. D. C. Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1057] denied.

No. 15–6957. GREENE *v.* CALIFORNIA ET AL. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1099] denied.

No. 15–7133. KINNEY *v.* CLARK. Ct. App. Cal., 2d App. Dist., Div. 1;

No. 15–7149. GONZALES *v.* INDUSTRIAL CLAIM APPEALS OFFICE OF COLORADO ET AL. Ct. App. Colo.;

No. 15–7152. LATKA *v.* MILES ET AL. C. A. 4th Cir.;

No. 15–7182. LUNDAHL *v.* LUNDAHL. Sup. Ct. Wyo.;

No. 15–7411. TANIKUMI, AKA GONZALEZ *v.* WALT DISNEY CO. ET AL.;

No. 15–7468. HOFELICH *v.* LACY ET AL. C. A. 9th Cir.;

No. 15–7546. THOMAS *v.* NORTH CAROLINA. Ct. App. N. C.; and

No. 15–7570. HOLBROOK *v.* RONNIES LLC, DBA RONNY'S RV PARK. Dist. Ct. App. Fla., 4th Dist. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are al-

lowed until March 21, 2016, 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.

No. 15–7352. ADKINS *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS. C. A. 10th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1100] denied.

No. 15–7539. WALSH *v.* PNC BANK ET AL. Ct. App. Cal., 3d App. Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until March 21, 2016, 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. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 15–7756. IN RE DRAGO;
No. 15–7852. IN RE SUTTON;
No. 15–7886. IN RE SPENCER;
No. 15–7933. IN RE HILLS;
No. 15–8003. IN RE GIDDENS;
No. 15–8018. IN RE BRACKEN;
No. 15–8059. IN RE COATES; and
No. 15–8076. IN RE MOLESKI. Petitions for writs of habeas corpus denied.

No. 15–731. IN RE SHARP;
No. 15–745. IN RE FARR;
No. 15–7164. IN RE ALBRA;
No. 15–7210. IN RE JOSEPH;
No. 15–7275. IN RE VINNIE;
No. 15–7460. IN RE DAVIS; and
No. 15–7757. IN RE RAY. Petitions for writs of mandamus denied.

No. 15–744. IN RE FLORIMONTE;
No. 15–770. IN RE BARTHOLOMEW; and
No. 15–7697. IN RE TUNSTALL. Petitions for writs of mandamus and/or prohibition denied.

No. 15–7391. IN RE MURRAY. Petition for writ of prohibition denied.

*Certiorari Denied*

No. 14–8112. VIALVA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 762 F. 3d 467.

No. 14–10247. BODDIE *v.* DEPARTMENT OF THE TREASURY. C. A. Fed. Cir. Certiorari denied. Reported below: 590 Fed. Appx. 978.

No. 15–195. DOE ET AL. *v.* CHRISTIE, GOVERNOR OF NEW JERSEY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 783 F. 3d 150.

No. 15–222. BARNES ET UX. *v.* UNITED STATES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 776 F. 3d 1134.

No. 15–293. BURGOS ET AL. *v.* NEW JERSEY ET AL. Sup. Ct. N. J. Certiorari denied. Reported below: 222 N. J. 175, 118 A. 3d 270.

No. 15–371. ESCOBAR *v.* CELEBRATION CRUISE OPERATOR, INC. C. A. 11th Cir. Certiorari denied. Reported below: 805 F. 3d 1279.

No. 15–372. CARVAL UK LTD. *v.* GIDDENS, TRUSTEE FOR THE SIPA LIQUIDATION OF LEHMAN BROTHERS INC., ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 3d 277.

No. 15–483. FREW ET AL. *v.* TRAYLOR, COMMISSIONER, TEXAS HEALTH AND HUMAN SERVICES COMMISSION, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 780 F. 3d 320.

No. 15–507. SENSATIONAL SMILES, LLC, DBA SMILE BRIGHT *v.* MULLEN, COMMISSIONER, CONNECTICUT DEPARTMENT OF PUBLIC HEALTH, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 793 F. 3d 281.

No. 15–511. LAW OFFICE OF JOSEPH ONWUTEAKA, P. C., ET AL. *v.* SERNA. C. A. 5th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 146.

No. 15–533. ISOM *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: 31 N. E. 3d 469.

No. 15–541. WESTERN WORLD, INC. *v.* PEREZ, SECRETARY OF LABOR. C. A. 3d Cir. Certiorari denied. Reported below: 604 Fed. Appx. 188.

No. 15–549. DIRECT DIGITAL, LLC *v.* MULLINS. C. A. 7th Cir. Certiorari denied. Reported below: 795 F. 3d 654.

No. 15–553. KUCERA ET AL. *v.* JEFFERSON COUNTY BOARD OF SCHOOL COMMISSIONERS. C. A. 6th Cir. Certiorari denied. Reported below: 788 F. 3d 580.

No. 15–559. ARTHREX, INC. *v.* SMITH & NEPHEW, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 603 Fed. Appx. 981.

No. 15–566. BOLIN ET AL. *v.* MILAN. C. A. 7th Cir. Certiorari denied. Reported below: 795 F. 3d 726.

No. 15–569. KENTUCKY DEPARTMENT OF REVENUE *v.* BULK PETROLEUM CORP. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 796 F. 3d 667.

No. 15–571. SPADY, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF SPADY *v.* RODGERS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 800 F. 3d 633.

No. 15–573. MCCLEARY-EVANS *v.* MARYLAND DEPARTMENT OF TRANSPORTATION, STATE HIGHWAY ADMINISTRATION. C. A. 4th Cir. Certiorari denied. Reported below: 780 F. 3d 582.

No. 15–574. MUELLER *v.* MUELLER. Sup. Ct. Ill. Certiorari denied. Reported below: 2015 IL 117876, 34 N. E. 3d 538.

No. 15–592. STC, INC. *v.* GLOBAL TRAFFIC TECHNOLOGIES, LLC. C. A. Fed. Cir. Certiorari denied. Reported below: 620 Fed. Appx. 895.

No. 15–595. SORENSEN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 801 F. 3d 1217.

No. 15–597. WAL-MART STORES, INC. *v.* PHIPPS ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 792 F. 3d 637.

No. 15–599. AMERICAN FARM BUREAU FEDERATION ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 792 F. 3d 281.

No. 15–608. OLSON *v.* SMITH ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 370.

No. 15–611. First American Title Insurance Co. *v.* Federal Deposit Insurance Corporation. C. A. 11th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 522.

No. 15–639. ePlus, Inc. *v.* Lawson Software, Inc. C. A. Fed. Cir. Certiorari denied. Reported below: 789 F. 3d 1349.

No. 15–645. Marshall et al. *v.* National Football League. C. A. 8th Cir. Certiorari denied. Reported below: 787 F. 3d 502.

No. 15–677. Nobach *v.* Woodland Village Nursing Center, LLC. C. A. 5th Cir. Certiorari denied. Reported below: 799 F. 3d 374.

No. 15–689. Jones, Secretary, Florida Department of Corrections, et al. *v.* Thompson. C. A. 11th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 495.

No. 15–694. Harman International Industries, Inc., et al. *v.* Arkansas Public Employees Retirement System et al. C. A. D. C. Cir. Certiorari denied. Reported below: 791 F. 3d 90.

No. 15–696. Sayman et al. *v.* Goddard & Peterson, PLLC, et al. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 101.

No. 15–700. Myer-Bennett *v.* Lomont. Sup. Ct. La. Certiorari denied. Reported below: 2014–2483 (La. 6/30/15), 172 So. 3d 620.

No. 15–707. Doe et al. *v.* Drummond Co., Inc., et al. C. A. 11th Cir. Certiorari denied. Reported below: 782 F. 3d 576.

No. 15–708. California Association of Professional Firefighters et al. *v.* Barboza. C. A. 9th Cir. Certiorari denied. Reported below: 799 F. 3d 1257.

No. 15–710. Jaramillo *v.* Bank of America, N. A. Sup. Ct. Fla. Certiorari denied. Reported below: 173 So. 3d 963.

No. 15–725. Media Rights Technologies, Inc. *v.* Capitol One Financial Corp. et al. C. A. Fed. Cir. Certiorari denied. Reported below: 800 F. 3d 1366.

No. 15–726. D. D., By and Through His Parents, Dabney et al., et al. *v.* Niles, Commissioner, Georgia Department of Juvenile Justice. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 654.

No. 15–727. City of Springfield, Illinois, et al. *v.* Norton et al. C. A. 7th Cir. Certiorari denied. Reported below: 806 F. 3d 411.

No. 15–728. McCormack, Executor of the Will of Salvati *v.* Fernandez, as Guardian of the Property and Co-Guardian of the Person of Salvati, Deceased. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 127 App. Div. 3d 584, 8 N. Y. S. 3d 108.

No. 15–730. Sawyer *v.* Smith, Superintendent, State Correctional Institution at Muncy, et al. C. A. 3d Cir. Certiorari denied. Reported below: 619 Fed. Appx. 163.

No. 15–736. Alexsam, Inc. *v.* Gap, Inc., et al. C. A. Fed. Cir. Certiorari denied. Reported below: 621 Fed. Appx. 983.

No. 15–740. D. Z., by His Next Friend, Thompson *v.* Buell. C. A. 7th Cir. Certiorari denied. Reported below: 796 F. 3d 749.

No. 15–743. Flowers *v.* City of Madison, Wisconsin, et al. Ct. App. Wis. Certiorari denied. Reported below: 2014 WI App 110, 357 Wis. 2d 720, 855 N. W. 2d 903.

No. 15–747. Hausch *v.* Ecklond et al. C. A. 2d Cir. Certiorari denied. Reported below: 604 Fed. Appx. 59.

No. 15–753. Jaye *v.* Oak Knoll Village Condominium Owners Assn. et al. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–757. Machala *v.* Estate of Nemec. Ct. App. D. C. Certiorari denied. Reported below: 120 A. 3d 88.

No. 15–762. Duggan *v.* Department of the Air Force et al. C. A. 5th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 321.

No. 15–764. Rutherford *v.* Henderson Municipal Court, Nevada, et al. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1342.

No. 15–766. WILSON *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 15–767. MICHAUD *v.* CALDERONE ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–768. ANGINO & ROVNER, P. C., ET AL. *v.* SANTANDER BANK, N. A. Super. Ct. Pa. Certiorari denied. Reported below: 121 A. 3d 1143.

No. 15–769. ANGINO & ROVNER, P. C., ET AL. *v.* SANTANDER BANK, N. A. Super. Ct. Pa. Certiorari denied. Reported below: 118 A. 3d 457.

No. 15–771. HUETE *v.* BANK OF NEW YORK MELLON. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 177 So. 3d 266.

No. 15–778. BALLAI *v.* KIEWIT POWER CONSTRUCTORS, CO., ET AL. Ct. App. Kan. Certiorari denied. Reported below: 51 Kan. App. 2d x, 342 P. 3d 2.

No. 15–782. DOANE *v.* CHOI ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–788. MARGELIS *v.* INDYMAC BANK ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–790. CLEMENS *v.* UNITED STATES ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–792. GUTTORMSON *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2015 ND 235, 869 N. W. 2d 737.

No. 15–793. GRAY-BROCK *v.* ILLINOIS AMERICAN WATER CO. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 867.

No. 15–794. WALKER *v.* WALKER. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–796. ODION *v.* VARON ET AL. Ct. App. Ga. Certiorari denied.

No. 15–799. BURCH *v.* COCA-COLA BOTTLING COMPANY UNITED, INC. C. A. 11th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 916.

No. 15–803. SCOTT *v.* FRANKEL ET AL. C. A. D. C. Cir. Certiorari denied.

No. 15–804. SOUTHERN CALIFORNIA INSTITUTE OF LAW *v.* BIGGERS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 665.

No. 15–806. MUNNS ET AL. *v.* KERRY, SECRETARY OF STATE, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 782 F. 3d 402.

No. 15–807. DANSBERRY *v.* PFISTER, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 801 F. 3d 863.

No. 15–810. WHITMAN *v.* LASALLE BANK N. A., TRUSTEE. Super. Ct. Pa. Certiorari denied. Reported below: 116 A. 3d 685.

No. 15–811. ZUTRAU *v.* JANSING ET AL. Sup. Ct. Del. Certiorari denied. Reported below: 123 A. 3d 938.

No. 15–813. MUECKE CO., INC., ET AL. *v.* CVS CAREMARK CORP. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 837.

No. 15–814. OWEN THOMAS, INC. *v.* ATIAPO. Ct. App. N. C. Certiorari denied. Reported below: 240 N. C. App. 1, 770 S. E. 2d 684.

No. 15–815. SQUALLS *v.* BRENNAN, POSTMASTER GENERAL. C. A. 8th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 457.

No. 15–817. SCOTT *v.* SAMUEL I. WHITE, P. C., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 191.

No. 15–818. RUIZ *v.* CITY OF NORTH LAS VEGAS, NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1264.

No. 15–819. CARTER ET UX. *v.* FIRST SOUTH FARM CREDIT, ACA, ET AL. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 49,531 (La. App. 2 Cir. 1/14/15), 161 So. 3d 928.

No. 15–822. BALDONE *v.* ROGERS, TERREBONNE PARISH REGISTRAR OF VOTERS. Ct. App. La., 1st Cir. Certiorari denied.

Reported below: 2015–1356 (La. App. 1 Cir. 9/21/15), 182 So. 3d 1005.

No. 15–825. BURGIS ET AL. *v.* NEW YORK CITY DEPARTMENT OF SANITATION ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 798 F. 3d 63.

No. 15–828. BILLHARTZ, EXECUTOR OF THE ESTATE OF BILLHARTZ *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 3d 794.

No. 15–832. GOODALL-GAILLARD *v.* NEW JERSEY DEPARTMENT OF CORRECTIONS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 625 Fed. Appx. 123.

No. 15–836. LIVINGSTON COUNTY, MICHIGAN, ET AL. *v.* AMERICAN CIVIL LIBERTIES UNION FUND OF MICHIGAN. C. A. 6th Cir. Certiorari denied. Reported below: 796 F. 3d 636.

No. 15–837. DISCOUNT INN, INC. *v.* CITY OF CHICAGO, ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 803 F. 3d 317.

No. 15–839. HOLUB *v.* GDOWSKI ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 802 F. 3d 1149.

No. 15–856. TRUST TITLE CO. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 610 Fed. Appx. 1014.

No. 15–857. MARQUEZ CARRILLO *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 781 F. 3d 1155.

No. 15–860. SCHNEIDER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 801 F. 3d 186.

No. 15–874. MIRE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 330.

No. 15–875. CLOUGH *v.* FRANKLIN COUNTY CHILDREN'S SERVICES, OHIO, ET AL. Sup. Ct. Ohio. Certiorari denied. Reported below: 144 Ohio St. 3d 83, 2015-Ohio-3425, 40 N. E. 3d 1132.

No. 15–885. PABLO GOMEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 400.

No. 15–887. HENTZEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 638 Fed. Appx. 427.

No. 15–893. UNIVERSAL LIGHTING TECHNOLOGIES, INC. *v.* LIGHTING BALLAST CONTROL LLC. C. A. Fed. Cir. Certiorari denied. Reported below: 790 F. 3d 1329.

No. 15–897. ALOMARI *v.* OHIO DEPARTMENT OF PUBLIC SAFETY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 558.

No. 15–904. AARON *v.* ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 627 Fed. Appx. 823.

No. 15–908. HAYDEN *v.* WAL-MART STORES, INC. C. A. 2d Cir. Certiorari denied. Reported below: 619 Fed. Appx. 22.

No. 15–915. SOUTHERN CALIFORNIA INSTITUTE OF LAW *v.* STATE BAR OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 659.

No. 15–936. MULTI TIME MACHINE, INC. *v.* AMAZON.COM, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 3d 930.

No. 15–959. GAGACKI *v.* GREEN TREE SERVICING, LLC. C. A. 6th Cir. Certiorari denied.

No. 15–976. NAGLE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 803 F. 3d 167.

No. 15–5613. MOREIRA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 605 Fed. Appx. 852.

No. 15–5697. JONES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 15–5767. COLLIE *v.* SOUTH CAROLINA COMMISSION ON LAWYER CONDUCT. Sup. Ct. S. C. Certiorari denied.

No. 15–5947. MACEDO-FLORES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 3d 181.

No. 15–5976. VILLERY *v.* SHERMAN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 700.

No. 15–6006. MATHEWS *v.* BECHTOLD, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 597 Fed. Appx. 1048.

No. 15–6060. WOOD *v.* FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 162 So. 3d 1028.

No. 15–6099. FLEMING *v.* SHORE HEALTH SYSTEM, INC. Ct. Sp. App. Md. Certiorari denied. Reported below: 221 Md. App. 730 and 739.

No. 15–6206. CLINKSCALE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 100 A. 3d 116.

No. 15–6224. JACKSON *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 471 Mass. 262, 28 N. E. 3d 437.

No. 15–6258. CASSANO *v.* OHIO. Ct. App. Ohio, 5th App. Dist., Richland County. Certiorari denied. Reported below: 2013-Ohio-1783.

No. 15–6408. DUNCAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 679.

No. 15–6448. FRIERSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 611 Fed. Appx. 82.

No. 15–6450. GOAD *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 788 F. 3d 873.

No. 15–6593. MORRIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–6615. ALLEN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 280.

No. 15–6657. BUSBY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 627.

No. 15–6660. RIVERA *v.* CREECH. Super. Ct. N. J., App. Div. Certiorari denied.

No. 15–6662. GIBBS *v.* SHANNON ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 618 Fed. Appx. 59.

No. 15–6669. ABDULLAH *v.* IDAHO. Sup. Ct. Idaho. Certiorari denied. Reported below: 158 Idaho 386, 348 P. 3d 1.

No. 15–6761. MACHULAS *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 621 Fed. Appx. 629.

No. 15–6798. CUNNINGHAM *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 922.

No. 15–6816. OKEZIE *v.* LEONARD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 788.

No. 15–6821. MAZAREGO-SALAZAR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 234.

No. 15–6827. EMERY *v.* BOGLE ET AL. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 171 So. 3d 735.

No. 15–6853. DUERST *v.* PLACER COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6863. FLETCHER ET VIR *v.* PARK COUNTY, MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 379 Mont. 538, 353 P. 3d 508.

No. 15–6880. ANDREWS *v.* SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 7. Certiorari denied.

No. 15–6896. KINNEY *v.* CLARK. C. A. 9th Cir. Certiorari denied.

No. 15–6897. KINNEY *v.* CHOMSKY ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–6916. KINNEY *v.* STEELE ET AL. Ct. App. Cal., 1st App. Dist., Div. 4. Certiorari denied.

No. 15–7083. BREAKIRON *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7101. CONNER *v.* HUMPHREY, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 784 F. 3d 752.

No. 15–7107. HOLLOWAY *v.* CITY OF ALBANY, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–7119. EUSEBIO GONZALES *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 160 So. 3d 438.

No. 15–7122. MACIAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 3d 1011.

No. 15–7127. SEEBOTH *v.* AHLIN, DIRECTOR, CALIFORNIA DEPARTMENT OF STATE HOSPITALS. C. A. 9th Cir. Certiorari denied. Reported below: 789 F. 3d 1099.

No. 15–7129. POUYEH *v.* BASCOM PALMER EYE INSTITUTE ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 802.

No. 15–7131. LADEAIROUS *v.* GOLDSMITH ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 315.

No. 15–7134. LAROCHE *v.* DUNLAP, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 323.

No. 15–7136. NOTICE *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 15–7138. NASH *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 15–7139. SELDEN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 177 So. 3d 1271.

No. 15–7144. STRAKER ET AL. *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 800 F. 3d 570.

No. 15–7155. BEESON *v.* PERRITT, SUPERINTENDENT, LUMBERTON CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 115.

No. 15–7156. BRADLEY *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–7157. BACKSTROM *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–7161. NORTON *v.* MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 2015 ME 100, 121 A. 3d 105.

No. 15–7163. CAMPBELL *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2014 IL App (4th) 130177–U.

No. 15–7167. LANKFORD *v.* LANKFORD. Int. Ct. App. Haw. Certiorari denied. Reported below: 134 Haw. 539, 345 P. 3d 205.

No. 15–7172. WITKIN *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7174. GILES *v.* TRANSIT EMPLOYEES FEDERAL CREDIT UNION. C. A. D. C. Cir. Certiorari denied. Reported below: 794 F. 3d 1.

No. 15–7175. DEAN *v.* BECKSTROM, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7176. TYLER *v.* JOYNER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 176.

No. 15–7179. PRUITT *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–7181. MANNING *v.* ALASKA DEPARTMENT OF FISH AND GAME ET AL. Sup. Ct. Alaska. Certiorari denied. Reported below: 355 P. 3d 530.

No. 15–7183. VASQUEZ *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 25 N. Y. 3d 1209, 37 N. E. 3d 1174.

No. 15–7184. WHITTKER *v.* KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 50 Kan. App. 2d xxxvii, 324 P. 3d 1153.

No. 15–7186. TAYLOR *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 126 App. Div. 3d 1120, 4 N. Y. S. 3d 743.

No. 15–7196. WATKINS *v.* MICHIGAN. Cir. Ct. Wayne County, Mich. Certiorari denied.

No. 15–7197. JOHNSON *v.* INTERNATIONAL UNION, UAW, AFL–CIO, ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7200. KOENIG *v.* CORTEZ ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 814.

No. 15–7202. MITCHELL *v.* UNITED MEDICAL SYSTEMS INC. ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7204. PIANKA *v.* DE LA ROSA, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7205. JORDAN *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7207. GONZALEZ DE LA CRUZ *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 466 S. W. 3d 855.

No. 15–7211. MAYFIELD *v.* CASSADY, SUPERINTENDENT, JEFFERSON CITY CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 15–7215. LAMONT *v.* CREWS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 268.

No. 15–7216. LORDMASTER, FKA GOLDADER *v.* EPPS ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–7217. MAULDIN *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–7220. RODRIGUEZ *v.* KERNAN, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–7221. YO, FKA BALLARD *v.* RATLIFFE-WALKER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 678.

No. 15–7224. COCHRAN *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–7231. LINDSEY *v.* MORGAN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–7232. JAY *v.* WRIGHT ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7234. CRUDUP *v.* ENGLEHART ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 590 Fed. Appx. 226.

No. 15–7238. ENCARNACION *v.* ANNUCCI, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–7240. TURNER *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7244. POTTER *v.* UNIVERSITY OF MARYLAND. Ct. Sp. App. Md. Certiorari denied.

No. 15–7245. LAWSON *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 185 Wash. App. 349, 340 P. 3d 979.

No. 15–7246. ROBERSON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 353.

No. 15–7252. BROOKS *v.* DIAZ ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 254.

No. 15–7256. COLE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–7260. KOSOVSKIY *v.* E*TRADE BANK ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 15–7261. KNOTT *v.* MCLAUGHLIN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–7263. MATTHEWS *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7264. LARA *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7266. EDMONDS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 603 Fed. Appx. 236.

No. 15–7268. EDWARDS *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7269. EDWARDS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–7270. DELARM *v.* WOFFORD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7273. WALKER *v.* FLORIDA DEPARTMENT OF CORRECTIONS (three judgments). Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 173 So. 3d 891 (first judgment); 171 So. 3d 708 (second judgment); 166 So. 3d 776 (third judgment).

No. 15–7274. WILLIAMS *v.* WINGARD, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7283. KING *v.* LIVINGSTON ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–7288. MOSS *v.* PENNSYLVANIA BOARD OF PROBATION AND PAROLE. Sup. Ct. Pa. Certiorari denied. Reported below: 632 Pa. 432, 120 A. 3d 296.

No. 15–7289. POSITANO *v.* PENNSYLVANIA CARDIOTHORACIC SURGERY, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 191.

No. 15–7291. OWENS *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 792 F. 3d 1234.

No. 15–7292. WOOD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 304.

No. 15–7293. TORRES, AKA MUHAMMAD *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–7294. TROGLIN *v.* COOK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7295. LIN GAO *v.* ST. LOUIS LANGUAGE IMMERSION SCHOOLS, INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 621.

No. 15–7297. KINNEY *v.* THREE ARCH BAY COMMUNITY SERVICES DISTRICT ET AL. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 15–7298. MARSHALL *v.* CRUTCHFIELD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7302. CHUTE *v.* NIFTY-FIFTIES, INC., ET AL. Sup. Ct. S. D. Certiorari denied.

No. 15–7306. DUHART *v.* FOX, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 647.

No. 15–7308. PETRICK *v.* THORNTON. C. A. 4th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 72.

No. 15–7310. ROSIERE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–7318. GARY *v.* ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 2015 IL App (5th) 120478–U.

No. 15–7322. SMITH *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 207 So. 3d 803.

No. 15–7323. HICKS *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied. Reported below: 497 Mich. 952, 858 N. W. 2d 42.

No. 15–7329. JOHNSON *v.* STEWART, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 15–7331. ROUNDTREE *v.* OHIO. Ct. App. Ohio, 6th App. Dist., Lucas County. Certiorari denied. Reported below: 2015-Ohio-2230.

No. 15–7333. WILSON *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7334. SHOWALTER *v.* LEE ET AL. C. A. 4th Cir. Certiorari denied.

No. 15–7336. ROBERTSON *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7339. COLE *v.* JACKSON, ACTING WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7341. DAKER *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA;

No. 15–7342. DAKER *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA;

No. 15–7343. DAKER *v.* UNNAMED DEFENDANT;

No. 15–7344. DAKER *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA; and

No. 15–7345. DAKER *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA. C. A. 11th Cir. Certiorari denied.

No. 15–7346. SAMUL *v.* UTAH. Ct. App. Utah. Certiorari denied. Reported below: 2015 UT App 23, 343 P. 3d 719.

No. 15–7347. AASE *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 15–7348. BOYKIN *v.* MCMAHON ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–7353. SMITH *v.* 241ST DISTRICT COURT OF SMITH COUNTY, TEXAS, ET AL. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 15–7355. KARNAZES *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–7356. SPEAR *v.* KIRKLAND ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7359. SAUER *v.* HAWKINS, CORRECTIONAL ADMINISTRATOR, NASH CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 167.

No. 15–7365. JACKSON *v.* TEXAS. Ct. App. Tex., 6th Dist. Certiorari denied.

No. 15–7366. STUCKEY *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7367. PERAZA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 467 S. W. 3d 508.

No. 15–7368. MORRIS *v.* NEVEN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7370. OMRAN *v.* UNITED STATES ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–7375. KELLY *v.* STREETER. Ct. App. Mich. Certiorari denied.

No. 15–7376. FENG LI *v.* PENG ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 126.

No. 15–7382. THOMPSON *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 183 Wash. App. 1002.

No. 15–7386. JONES *v.* BUTLER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 15–7389. PETREY *v.* BARTLETT, JUDGE, ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7396. SIDES *v.* TEXAS (two judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 15–7405. WILEY *v.* COOK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7407. LUMENTUT *v.* NDOH, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7408. THOMAS *v.* SOUTH CAROLINA DEPARTMENT OF CORRECTIONS ET AL. (two judgments). C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 66 (first judgment) and 89 (second judgment).

No. 15–7409. THOMAS *v.* PATTON, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS. C. A. 10th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 382.

No. 15–7412. ALI *v.* MASCARA, SHERIFF, ST. LUCIE COUNTY, FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 15–7413. BROWN *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 332 Ga. App. XXVI.

No. 15–7415. BENSON *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7416. CROSKEY *v.* ASPHALT CONTRACTORS, INC. Ct. Civ. App. Ala. Certiorari denied. Reported below: 212 So. 3d 193.

No. 15–7417. BOATRIGHT *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–7419. ARRINGTON *v.* COURTYARD CITIFLATS, LLC, ET AL. Sup. Ct. Ala. Certiorari denied. Reported below: 191 So. 3d 787.

No. 15–7420. ACKERMAN *v.* MERCY BEHAVIORAL HEALTH ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 617 Fed. Appx. 114.

No. 15–7423. MOORE *v.* FRUIN. C. A. 9th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 563.

No. 15–7424. RAJKOVIC *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 598 Fed. Appx. 791.

No. 15–7425. RAJKOVIC *v.* LYNCH, ATTORNEY GENERAL, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 598 Fed. Appx. 791.

No. 15–7427. LEWIS *v.* UNITED STATES ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–7430. LEMPAR *v.* LIVINGSTON, EXECUTIVE DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 398.

No. 15–7434. WALKER *v.* FLORIDA DEPARTMENT OF CORRECTIONS. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 178 So. 3d 404.

No. 15–7435. PORTNOY *v.* YOLO COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 586.

No. 15–7436. GIRALDES *v.* RAMIREZ-PALMER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7437. HUNTER *v.* BENTON, SHERIFF, HIGHLAND COUNTY, FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 157 So. 3d 1044.

No. 15–7438. SWANSON *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7440. QUINTERO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 962.

No. 15–7442. KECK *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1307.

No. 15–7445. SERNA *v.* ALLEN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 384.

No. 15–7446. FRIES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 3d 1112.

No. 15–7447. HOLLOWAY *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 860.

No. 15–7448. CONSTANT *v.* UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICE. C. A. 6th Cir. Certiorari denied.

No. 15–7449. HARNAGE *v.* SCHULMAN ET AL. App. Ct. Conn. Certiorari denied. Reported below: 156 Conn. App. 903, 110 A. 3d 549.

No. 15–7453. DOWDY *v.* CURRY, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 772.

No. 15–7456. JOHNSTON *v.* LEGRAND, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7457. PATTERSON *v.* STEWART, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7458. SIMPSON *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7464. FISHER *v.* NELSON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 186.

No. 15–7465. ROBINSON *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 26 N. Y. 3d 1042, 43 N. E. 3d 382.

No. 15–7466. COLLINGTON, AKA CAVE *v.* OWENS ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 622 Fed. Appx. 1.

No. 15–7467. GOUCH-ONASSIS *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 15–7469. GOMEZ *v.* TEXAS. Ct. App. Tex., 12th Dist. Certiorari denied. Reported below: 459 S. W. 3d 651.

No. 15–7470. HAMILTON *v.* SCHLOFFER. Ct. App. Colo. Certiorari denied.

No. 15–7471. HOOD *v.* WOODS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7472. EPSHTEYN *v.* COURT OF COMMON PLEAS OF PENNSYLVANIA, DELAWARE COUNTY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 608 Fed. Appx. 92.

No. 15–7473. COLE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 12–2175–U.

No. 15–7474. DAVIES *v.* UNITED STATES; and DAVIES *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA (Reported below: 616 Fed. Appx. 55). C. A. 3d Cir. Certiorari denied.

No. 15–7478. RODRIGUEZ-MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 161.

No. 15–7480. LITSCHEWSKI *v.* DOOLEY, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–7484. MOCCO *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 15–7487. MEEKS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 335.

No. 15–7488. BLAGG *v.* TEXAS (three judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 15–7489. ABDILLAHI *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 15–7492. WASHINGTON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–7493. BARKSDALE *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7494. BAILEY *v.* LOUISIANA. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 49,362 (La. App. 2 Cir. 11/19/14), 152 So. 3d 1056.

No. 15–7495. CAMARENA HERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 795 F. 3d 1195.

No. 15–7497. LYTTLE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–7500. BENTLEY *v.* COLON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 221.

No. 15–7501. ROBINSON *v.* SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 15–7504. STURGIS *v.* WILLIS ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7505. WESTLEY *v.* LAZAROFF, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7507. CROCKETT *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–7508. SPAULDING *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 802 F. 3d 1110.

No. 15–7509. JOHNSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 61 Cal. 4th 734, 353 P. 3d 266.

No. 15–7510. VAUGHAN *v.* NOOTH, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 15–7512. DEVORCE *v.* PHILLIPS, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 603 Fed. Appx. 45.

No. 15–7513. DULCIE *v.* GUARDIAN TRANSFER STORAGE CO., INC. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 15–7514. COX *v.* STALLINGS. Sup. Ct. Fla. Certiorari denied. Reported below: 177 So. 3d 1264.

No. 15–7515. McQueen *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 338.

No. 15–7516. Tyler *v.* Nebraska. Sup. Ct. Neb. Certiorari denied. Reported below: 291 Neb. 920, 870 N. W. 2d 119.

No. 15–7518. Worku, aka Temanu *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 800 F. 3d 1195.

No. 15–7519. Smith *v.* Neal, Superintendent, Indiana State Prison. C. A. 7th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 798.

No. 15–7520. Downs *v.* Illinois. Sup. Ct. Ill. Certiorari denied. Reported below: 2015 IL 117934, 69 N. E. 3d 784.

No. 15–7521. Matthews *v.* Illinois. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2015 IL App (2d) 120403–U.

No. 15–7522. Sheley *v.* Illinois. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2015 IL App (3d) 130116–U.

No. 15–7523. Barrett *v.* Kentucky. Sup. Ct. Ky. Certiorari denied. Reported below: 470 S. W. 3d 337.

No. 15–7524. Mundo Velez *v.* United States. C. A. 1st Cir. Certiorari denied.

No. 15–7525. Ball *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 804 F. 3d 1238.

No. 15–7526. Allen *v.* California. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 15–7527. Anderson *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 665.

No. 15–7529. Chino-Tellez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 216.

No. 15–7530. Alejandro Cardenas *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 441.

No. 15–7531. Cooper *v.* Copeland. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 15–7533. AVERY *v.* MISSISSIPPI. Ct. App. Miss. Certiorari denied. Reported below: 179 So. 3d 1182.

No. 15–7534. AUSTIN *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 173 So. 3d 979.

No. 15–7535. ADAMS-GATES *v.* BUSH ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–7536. DARDEN ET AL. *v.* CROWLEY ET AL. Sup. Ct. Va. Certiorari denied.

No. 15–7537. ALLEN *v.* FALK, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 980.

No. 15–7538. WISMER *v.* SARASOTA HOUSING AUTHORITY. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 207 So. 3d 236.

No. 15–7541. JOHN *v.* TERRITORY OF THE VIRGIN ISLANDS. Sup. Ct. V. I. Certiorari denied. Reported below: 63 V. I. 629.

No. 15–7542. WIGGINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 625 Fed. Appx. 602.

No. 15–7543. TYERMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–7544. BURNEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 754.

No. 15–7545. THOMAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 175.

No. 15–7547. SMITH *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–7548. SCHOFIELD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 802 F. 3d 722.

No. 15–7549. RANKIN *v.* BYRNE, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 703.

No. 15–7551. LOLES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 628 Fed. Appx. 7.

No. 15–7555. FRIDAY *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 239 N. C. App. 467, 770 S. E. 2d 388.

No. 15–7557. WATSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 647.

No. 15–7559. TATE *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2015 IL App (2d) 130733–U.

No. 15–7560. IRIAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 216.

No. 15–7562. GORRELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7564. GREEN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 623 Fed. Appx. 571.

No. 15–7565. ISAAC *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 627 Fed. Appx. 160.

No. 15–7567. COOK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 860.

No. 15–7568. CONANT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 799 F. 3d 1195.

No. 15–7572. BRANDWEIN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 3d 980.

No. 15–7573. DENSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 804 F. 3d 1339.

No. 15–7575. MARTINEZ, AKA GARZA MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 758.

No. 15–7576. TYLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 511.

No. 15–7579. GRIFFIN, AKA JENKINS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 800 F. 3d 198.

No. 15–7580. BROWN *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7582. GRIGSBY *v.* LEMUZ. C. A. 10th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 551.

No. 15–7583. SATTERFIELD *v.* FOREMOST INSURANCE CO. Ct. App. Okla. Certiorari denied.

No. 15–7584. HUGHES *v.* DEPARTMENT OF HOMELAND SECURITY. C. A. Fed. Cir. Certiorari denied. Reported below: 544 Fed. Appx. 970.

No. 15–7586. GRAHAM *v.* PFISTER, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 847.

No. 15–7594. KNIEST *v.* CASSADY, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 15–7599. ABELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 648.

No. 15–7600. BATCHELOR *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 175 So. 3d 301.

No. 15–7604. GROOMS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–7606. MILLER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 795 F. 3d 619.

No. 15–7607. MOSES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 497.

No. 15–7608. OKUN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 610 Fed. Appx. 272.

No. 15–7609. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 113.

No. 15–7622. POURYAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 628 Fed. Appx. 18.

No. 15–7623. MOSELEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 399.

No. 15–7625. WILFONG *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 15–7629. TAHAH *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 302 Kan. 783, 358 P. 3d 819.

No. 15–7630. TORRES-MARTINEZ *v.* UNITED STATES (Reported below: 617 Fed. Appx. 359); AYALA-GARCIA *v.* UNITED STATES (619 Fed. Appx. 434); and CASTORENA-HERNANDEZ *v.* UNITED STATES (619 Fed. Appx. 437). C. A. 5th Cir. Certiorari denied.

No. 15–7633. RUST *v.* MYRICK, SUPERINTENDENT, TWO RIVERS CORRECTIONAL INSTITUTION. Sup. Ct. Ore. Certiorari denied.

No. 15–7637. JONES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–7640. BRITO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 615 Fed. Appx. 701.

No. 15–7642. BOWALD *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2015 IL App (4th) 130587–U.

No. 15–7643. MEDINA-NAVEJAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 902.

No. 15–7644. PREACHER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 420.

No. 15–7647. MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 203.

No. 15–7649. JOHNSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–7653. MANNING *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 635 Fed. Appx. 404.

No. 15–7654. SANTIAGO *v.* OVERMYER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7656. DE JESUS VENTURA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 805 F. 3d 485.

No. 15–7660. RHONE ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 763.

No. 15–7664. SPRUEL *v.* WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES. Ct. App. Wash. Certiorari denied. Reported below: 182 Wash. App. 1028.

No. 15–7668. JOLIVETTE *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 201.

No. 15–7670. PARKER *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7672. REYES *v.* LYNCH, ATTORNEY GENERAL. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 161.

No. 15–7673. RIVAS *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–7674. RASHID *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 226.

No. 15–7675. CASAS-GIL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 360.

No. 15–7677. JAMES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7678. TOBIAS MATRAJT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7679. WILSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 959.

No. 15–7680. BRUMFIELD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 177.

No. 15–7681. RODRIGUEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 626 Fed. Appx. 395.

No. 15–7682. WHITE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 889.

No. 15–7684. FORTONEL-OCAMPO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 761.

No. 15–7685. GALLEGOS-CARMONA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 267.

No. 15–7686. GRIMALDO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 214.

No. 15–7690. PAZ-ALVAREZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 12.

No. 15–7692. PERRETTA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 804 F. 3d 53.

No. 15–7696. SNOWDEN *v.* ALASKA. Ct. App. Alaska. Certiorari denied. Reported below: 352 P. 3d 439.

No. 15–7699. TANIGUCHI *v.* BUTLER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7700. SLANE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–7701. LEROY *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 468.

No. 15–7702. LEACH *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 15–7706. SCOTT *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 745.

No. 15–7709. BRADLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–7712. CHRISTOPHER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–7716. WILLIAMS *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7718. MARRERO-MARRERO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 12.

No. 15–7721. RAFAEL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 154 So. 3d 505.

No. 15–7722. PAUL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 720.

No. 15–7723. ORTIZ-MIRANDA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–7724. POULIN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–7726. SPRIGGS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 632 Fed. Appx. 976.

No. 15–7727. STEWART *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 179.

No. 15–7728. NORRIS *v.* BROOKS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 794 F. 3d 401.

No. 15–7732. DAUGHTIE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 121.

No. 15–7735. WALBEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 634 Fed. Appx. 767.

No. 15–7740. WING *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 622 Fed. Appx. 107.

No. 15–7751. SWANK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 450.

No. 15–7752. JUAN BALLESTAS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 795 F. 3d 138.

No. 15–7754. GAFFNEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 789 F. 3d 866.

No. 15–7755. GRIGSBY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 838.

No. 15–7758. WHITE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 804 F. 3d 132.

No. 15–7760. LOPEZ-DIAZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 794 F. 3d 106.

No. 15–7763. TOVAR BALLEZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 400.

No. 15–7764. COLE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 178.

No. 15–7770. MULLINS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 803 F. 3d 858.

No. 15–7771. MARTINEZ ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 803 F. 3d 878.

No. 15–7772. KOWALCZYK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 805 F. 3d 847.

No. 15–7773. MACK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 808 F. 3d 1074.

No. 15–7783. ROBINSON *v.* OHIO. Ct. App. Ohio, 1st App. Dist., Hamilton County. Certiorari denied. Reported below: 2015-Ohio-773.

No. 15–7789. TONSING *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 464.

No. 15–7795. BARRERA-LOPEZ *v.* UNITED STATES (Reported below: 619 Fed. Appx. 440); ESCOBAR-ROJAS *v.* UNITED STATES (624 Fed. Appx. 250); GONZALEZ-LUCAS *v.* UNITED STATES (624 Fed. Appx. 267); LOPEZ-ORTIZ *v.* UNITED STATES (624 Fed. Appx. 252); and MORENO *v.* UNITED STATES (624 Fed. Appx. 242). C. A. 5th Cir. Certiorari denied.

No. 15–7797. AL-DIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 313.

No. 15–7800. RAMIREZ-RODRIGUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 655.

No. 15–7801. GARCIA-DE LA CRUZ *v.* UNITED STATES (Reported below: 620 Fed. Appx. 341); GODOY-GALAN *v.* UNITED STATES (624 Fed. Appx. 282); SOLORZANO-GONZALEZ *v.* UNITED STATES (624 Fed. Appx. 310); and OBREGON-GONZALEZ *v.* UNITED STATES (624 Fed. Appx. 309). C. A. 5th Cir. Certiorari denied.

No. 15–7809. BUTLER *v.* TRITT, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FRACKVILLE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7819. JIMENEZ-ORTIZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 432.

No. 15–7821. CONANT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 799 F. 3d 1195.

No. 15–7822. BOBADILLA-CHUCARI *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 391.

No. 15–7823. BENTLEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 795 F. 3d 630.

No. 15–7825. TOPETE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 1028.

No. 15–7827. ALEJANDRO VAZQUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 369.

No. 15–7829. HERNANDEZ-AMAYA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 370.

No. 15–7830. GIBSON ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 636 Fed. Appx. 134.

No. 15–7831. GARCIA-CONTRERAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 317.

No. 15–7833. GONZALEZ-FLORES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 3d 920.

No. 15–7835. MAYA-OSORIO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 321.

No. 15–7836. JORDAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 301.

No. 15–7838. CAMPA-BARRERA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 880.

No. 15–7841. HUPP *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 383.

No. 15–7845. PAGAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 623 Fed. Appx. 35.

No. 15–7847. MENDEZ-SOLIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 334.

No. 15–7858. MULLINS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 800 F. 3d 866.

No. 15–7863. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–7865. BALBOA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 622 Fed. Appx. 31.

No. 15–7876. SOTO-MATEO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 799 F. 3d 117.

No. 15–7879. NAVARRETTE-JIZCANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 443.

No. 15–7881. ALFREDO MERLOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 639.

No. 15–7883. MELVIN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 628 Fed. Appx. 774.

No. 15–7889. VALLE-MENDIVIL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 660.

No. 15–7894. JACKSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 384.

No. 15–7901. RUIZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 463.

No. 15–7904. MOHSSEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 632 Fed. Appx. 98.

No. 15–7905. PALMER *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 14–10186. BEN-LEVI, AKA LOREN *v.* BROWN. C. A. 4th Cir. Certiorari denied. Reported below: 600 Fed. Appx. 899.

JUSTICE ALITO, dissenting.

Petitioner Israel Ben-Levi, a North Carolina inmate, filed a *pro se* petition challenging a prison policy that prevented him and other Jewish inmates from praying and studying the Torah together. The North Carolina Department of Public Safety (NCDPS) imposed stringent restrictions on Jewish group meetings that it did not apply to other religious groups. Because Ben-Levi has provided ample evidence that these restrictions substantially burdened his religious exercise, and because respondent has not identified a legitimate penological interest in treating Jewish inmates more strictly than inmates of other religions, I would grant Ben-Levi's petition for certiorari and summarily reverse the judgment below.

I

Petitioner Ben-Levi is a practicing Jew in the custody of NCDPS. Respondent Betty Brown is NCDPS's Director of

Chaplaincy Services. Because this case arises in a summary judgment posture, I view the facts in the light most favorable to Ben-Levi, the nonmoving party. See, *e. g.*, *City and County of San Francisco* v. *Sheehan*, 575 U. S. 600, 603 (2015).

In 2012, while housed in NCDPS's Hoke Correctional Institute (Hoke), Ben-Levi requested permission to meet in a quiet room to pray and study the Torah with two other Jewish prisoners. Doc. No. 1–1; Doc. No. 33, pp. 1–2.[1] After Hoke officials denied his request, Ben-Levi sent a letter to respondent asking if she had "the authority to let the superintendent [at Hoke] approve a quiet place . . . to have a Jewish Bible Study." Doc. No. 1–1, at 3–4. Ben-Levi later clarified that he was seeking to meet with his fellow Jewish believers for an hour per week. Doc. No. 29, p. 6.

Respondent denied Ben-Levi's request in a July 10, 2012, letter. See Doc. No. 24–1. The letter asserted that a Jewish study group requires a quorum of 10 adult Jews (also referred to as a minyan). *Ibid.* Ben-Levi's proposed group, however, had only three members. Doc. No. 33, at 1–2. Respondent further explained that the minyan requirement "may be waived in a prison setting only when the service is led by a Rabbi." Doc. No. 24–1. But because "no orthodox Rabbi" was available "to supervise a study group," respondent continued, "no formal authorization can be given even though you say that requirements are relaxed for an orthodox Jewish bible study." *Ibid.* Respondent warned Ben-Levi that his proposed study group was prohibited and stated that "[n]o further action will be taken on this issue." *Ibid.*

Respondent based her denial of Ben-Levi's request on established NCDPS policy, which requires either a minyan or the presence of a qualified leader (such as a rabbi) in order for a Jewish study group to take place. Brief in Opposition 11; see Doc. No. 42–2, pp. 5–7. NCDPS instituted this policy after "Respondent Brown personally exchanged emails" with a rabbi and "he advised her regarding the 'requirements for Torah and Talmud study sessions.'" Brief in Opposition 10 (citing Doc. No. 42–2, at 9). "Based on the information provided by [the rabbi], Respondent Brown was of the opinion at all relevant times that NCDPS's requirement of a quorum, Rabbi, or other qualified community

[1] Documents filed with the District Court are designated by their docket entry number, denoted as "Doc. No. __."

volunteer to lead Jewish bible study was in conformity with the 'requirements, practices and tenets of Judaism.'" Brief in Opposition 11 (citing Doc. No. 42–2, at 9).

Because NCDPS's policy rests on its understanding of Jewish doctrine, the policy does not apply to other religions. In fact, NCDPS intentionally treats different religions differently based on its perception of the importance of their various tenets. Doc. No. 42–2, at 5. As explained by respondent, "[s]ome faith practices are required of an adherent, while others are not, such that different accommodations are made for dissimilar groups." *Ibid.* Thus, although other religious groups were allowed to meet without a quorum or an outside volunteer, Jewish groups were not. See Doc. No. 29, at 1; Doc. No. 32, p. 3; Doc. No. 49, p. 2; Doc. No. 54, p. 2.[2]

The hurdles imposed on Jewish group meetings are heightened by the paucity of Jews at Hoke and in the surrounding community. "[B]ecause the numbe[r] of declared Judaism followers is small," Doc. No. 42–2, at 10, Ben-Levi could not assemble a quorum of 10 Jews. And because respondent was unable to find a rabbi or other qualified leader to serve the Jewish prisoners at Hoke, see 2014 WL 7239858, *3, n. 2 (EDNC, Dec. 18, 2014), Ben-Levi could not take advantage of the exception to the minyan requirement. As a result, Ben-Levi was completely deprived of the ability to pray or study with other Jewish inmates. Doc. No. 32, at 3.

After respondent denied the request for group Torah study, Ben-Levi filed a *pro se* complaint under Rev. Stat. § 1979, 42 U. S. C. § 1983, in the United States District Court for the Eastern District of North Carolina. Ben-Levi alleged that the denial of his request violated his free exercise rights under the First Amendment and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 114 Stat. 803, 42 U. S. C. § 2000cc *et seq.*

On March 19, 2014, the District Court granted respondent's motion for summary judgment as to Ben-Levi's RLUIPA claim and his requests for declaratory and injunctive relief, finding them

[2] Respondent does not dispute this conclusion. See, *e. g.*, Brief in Opposition 20 ("While Petitioner argues that other faith groups have been allowed to participate in study groups, Petitioner has not presented any evidence that members of his faith group or similar faith groups (i. e., where the tenets of the faith require a minyan or the presence of a qualified teacher) were allowed to meet without a quorum or qualified community volunteer").

mooted by Ben-Levi's transfer from Hoke to another facility. Doc. No. 33. After further filings, the court granted respondent summary judgment on Ben-Levi's remaining free exercise claim for monetary damages. 2014 WL 7239858, *1. The court first concluded that respondent had not substantially burdened Ben-Levi's religious exercise. *Id.*, at *4. Pursuant to NCDPS policy, the court noted, "a Jewish Bible Study generally requires a quorum of ten adult Jews," although "[t]his requirement may be waived when the study is led by a volunteer Rabbi." *Id.*, at *3. Because respondent was merely enforcing this policy, the court reasoned, and because Ben-Levi was allowed to engage in private worship, his religious exercise was not substantially burdened. *Id.*, at *4.

The court further held that, even if Ben-Levi had demonstrated a burden on his religious exercise, summary judgment was appropriate because respondent's actions were reasonably related to legitimate penological interests in (1) maintaining order, security, and safety; (2) balancing inmate relationships; and (3) conserving personnel resources. *Id.*, at *3–*4. The court observed that extremist groups in the past have used religious gatherings to "mask their gang activity." *Ibid.*

Ben-Levi appealed, and the Fourth Circuit summarily affirmed "for the reasons stated by the district court." 600 Fed. Appx. 899, 900 (2015) (*per curiam*). Ben-Levi then filed a *pro se* petition for a writ of certiorari.[3]

## II

Petitioner argues that NCDPS's refusal to allow him to meet with other Jewish inmates to study the Torah violated his rights under the Free Exercise Clause of the First Amendment.[4] "[W]hen a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." *Turner* v. *Safley*, 482 U. S. 78, 89 (1987); see *O'Lone* v. *Estate of Shabazz*, 482 U. S. 342, 349–350 (1987). When this test is applied to the current record, it is

[3] Ben-Levi subsequently obtained counsel, who—more than eight months after Ben-Levi filed his *pro se* petition—submitted a reply brief.

[4] Because I would reverse the decision below on free exercise grounds, I have no occasion to consider whether Ben-Levi, proceeding *pro se*, adequately preserved an objection based on RLUIPA, which provides broader protection than the First Amendment. I would leave it to the lower courts on remand to address that question, if necessary.

clear that summary judgment on Ben-Levi's free exercise claim was improper.

A

First, the courts below erred in concluding as a matter of law that respondent did not substantially burden Ben-Levi's religious exercise. The record clearly shows that Ben-Levi, like many religious people, views group prayer and study as an important part of his "religious observance." Doc. No. 32, at 2. And Ben-Levi repeatedly asserts that NCDPS's policy denied him "a reasonable opportunity of pursuing his faith." Doc. No. 29, at 2; see Doc. No. 32, at 5.

Respondent and the District Court have "not question[ed] the sincerity of Petitioner's beliefs." Brief in Opposition 16, n. 5; see 2014 WL 7239858, *2, *4. Instead, their primary argument is that Ben-Levi's religious exercise was not burdened because respondent was merely enforcing NCDPS's requirements for Torah studies. See, *e. g.*, Brief in Opposition 17–18; 2014 WL 7239858, *4 ("Defendant did not forbid Plaintiff from participating in a Jewish Bible Study. Rather, she enforced DPS policy requiring that a study with fewer than ten participants be led by a Rabbi").

"Petitioner's request for a Jewish bible study was not denied per se," respondent explains. Brief in Opposition 17. "Instead, based upon research by Respondent Brown and the Religious Practices Committee, Petitioner was informed that a quorum (minyan) or presence of a qualified clergy volunteer was required before the group could meet." *Ibid.* "NCDPS's position was based upon its understanding of the basic tenets of the Jewish faith which it obtained through consultations with an established leader of that faith who confirmed that a minyan or qualified Rabbi is required for 'Torah and Talmud study.'" *Ibid.* Respondent faults Ben-Levi for failing to provide "documentation from reliable sources or authorities on the Jewish faith disputing NCDPS's understanding that the Jewish religion itself, and not just institutional concerns, requires a quorum or the presence of a qualified teacher for worship or religious study." *Id.*, at 18. As a result of this failure, respondent argues, "the Record establishes as a matter of law that Respondent Brown's denial of Petitioner's request did not substantially burden his ability to practice the Jewish faith but, rather, was in line with the tenets of that faith." *Ibid.*

In essence, respondent's argument—which was accepted by the courts below—is that Ben-Levi's religious exercise was not burdened because he misunderstands his own religion.[5] If Ben-Levi truly understood Judaism, respondent implies, he would recognize that his proposed study group was not consistent with Jewish practice and that respondent's refusal to authorize the group "was in line with the tenets of that faith." *Ibid.*; see also 2014 WL 7239858, *4 (noting that "the requirement of a quorum of ten adult Jews or the presence of a Rabbi" "'ensures the purity of the doctrinal message and teaching'").

The argument that a plaintiff's own interpretation of his or her religion must yield to the government's interpretation is foreclosed by our precedents. This Court has consistently refused to "'question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds.'" *Employment Div., Dept. of Human Resources of Ore.* v. *Smith*, 494 U. S. 872, 887 (1990). "Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim." *Ibid.*; see also *Presbyterian Church in U. S.* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U. S. 440, 450 (1969) (holding that "the First Amendment forbids civil courts from" interpreting "particular church doctrines" and determining "the importance of those doctrines to the religion").

Just last Term, we emphasized that the government cannot define the scope of personal religious beliefs. See *Holt* v. *Hobbs*, 574 U. S. 352 (2015). In *Holt*, we held that a prison policy preventing a Sunni Muslim inmate from growing a ½-inch beard substantially burdened his religious exercise. *Id.*, at 357. In so holding, we explicitly rejected the argument that there was no burden because "not all Muslims believe that men must grow

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[5] See, *e. g.*, Brief in Opposition 17–18 ("Petitioner attempts to create an issue of fact by arguing that there is a difference between worship and study. According to [the rabbi that respondent consulted], however, the minyan or qualified teacher requirements apply to Torah and Talmud *study*"); Doc. No. 42–2, p. 6 ("It should be noted that, the language (Jewish Bible Study) the Plaintiff uses in his complaint exhibits that he is not knowledgeable to teach or guide others in the Jewish faith. What Plaintiff incorrectly identifies as a Jewish Bible study is really called the Torah/or Talmud study").

beards," reaffirming that "the guarantee of the Free Exercise Clause . . . is 'not limited to beliefs which are shared by all of the members of a religious sect.'" *Id.*, at 362 (quoting *Thomas* v. *Review Bd. of Indiana Employment Security Div.*, 450 U. S. 707, 715–716 (1981)).

As this discussion makes clear, respondent's focus on the correctness of Ben-Levi's understanding of Judaism is inconsistent with our case law. Even assuming that respondent accurately identified the requirements for a group Torah study under Jewish doctrine—and that is not at all clear—federal courts have no warrant to evaluate "'the validity of [Ben-Levi's] interpretations.'" *Smith*, *supra*, at 887. Instead, the courts below should have considered whether the NCDPS policy imposed a substantial burden on Ben-Levi's ability to exercise *his* religious beliefs, as *he* understands them. Ben-Levi believes that relaxing the minyan requirement promotes his faith more than sacrificing group Torah study altogether.[6] By ignoring Ben-Levi's actual beliefs and focusing solely on NCDPS's understanding of Judaism, respondent and the courts below considered the wrong question.

Perhaps Ben-Levi—who proceeded *pro se* below and in filing this petition—could have more clearly explained why he believes group study is more important than adherence to the minyan requirement. See Brief in Opposition 17–18. But "[c]ourts should not undertake to dissect religious beliefs . . . because [the] beliefs are not articulated with the clarity and precision that a more sophisticated person might employ." *Thomas*, 450 U. S., at 715. Ben-Levi has unmistakably indicated that he prefers group study without a minyan to no group study at all, and "it is not for us to say that the line he drew was an unreasonable one." *Ibid.*

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[6] Respondent notes that "in one of the few documents filed by Petitioner in this case, the author states that '[i]t is best to pray in a synagogue with a Minyan (a congregation of at least ten adult men).'" Brief in Opposition 18. Even assuming that Ben-Levi agrees with that statement, respondent is not permitted to dictate the appropriate religious response to Ben-Levi's inability to muster a minyan. The prisoner in *Holt* believed that "his faith requires him not to trim his beard at all," but he preferred a ½-inch beard to no beard. *Holt* v. *Hobbs*, 574 U. S. 352, 359 (2015). Likewise, Ben-Levi believes that a study group with fewer than 10 Jewish participants is preferable to no study group at all. Respondent has no business questioning the validity of this belief.

Nor can I conclude that Ben-Levi's ability to engage in "private worship" shows that his religious exercise was not burdened. See 2014 WL 7239858, *3–*4; Brief in Opposition 9. If the opportunity to pray and study privately were sufficient to satisfy the First Amendment, then prisons could justify any restriction on religious exercise short of depriving an inmate of his religious texts. Many prisoners, Ben-Levi included, consider it important to congregate with other practitioners of their faith for prayer and discussion. Preventing them from doing so burdens their religious exercise, even if they are allowed to study and pray alone in a cell. Ben-Levi has presented ample evidence that group study, even absent a minyan, is important to his faith. The courts below thus erred in holding that his religious exercise was not substantially burdened as a matter of law.[7]

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[7] Respondent argues that Ben-Levi's claims are "moot" because "the NCDPS Policy at issue in this case was amended and now allows approved inmates to lead worship and religious study groups when outside clergy volunteers are not available." Brief in Opposition 13. This argument provides no basis for denying certiorari here. "The voluntary cessation of challenged conduct does not ordinarily render a case moot because a dismissal for mootness would permit a resumption of the challenged conduct as soon as the case is dismissed." *Knox* v. *Service Employees*, 567 U. S. 298, 307 (2012).

Even if respondent could overcome that obstacle, the new policy does nothing to alleviate the burden on Ben-Levi's religious exercise. The "amended" policy allows an inmate to lead a study group only if a "community volunteer is not available . . . and there is sufficient offender interest (10 or more designated faith group members)." App. to Brief in Opposition, Exh. A, p. 6. Jewish prisoners thus need either a qualified volunteer or a quorum of 10 Jews in order to hold a study group—just as they did under the previous policy.

If anything, this change aggravates the religious liberty problem. There are strong reasons to believe that NCDPS made this change for the specific purpose of defeating Jewish prisoners' claims. (Where else did the 10-inmate requirement come from?) In other words, there is strong reason to believe that Jewish inmates but not Christian inmates would have trouble satisfying this requirement. And if NCDPS previously did not think that penological concerns necessitated such a requirement for non-Jewish groups, what justification is there for imposing such a categorical rule now?

Finally, even if NCDPS had meaningfully changed its policy, such a change could not moot Ben-Levi's backward-looking damages claim. "Untold numbers of cases illustrate the rule that a claim for money damages is not moot, no matter how clear it is that the claim arises from events that have completely concluded without any prospect of recurrence." 13C C. Wright,

B

Moreover, contrary to the conclusions of the courts below, respondent has not demonstrated that the burden on Ben-Levi's religious exercise was reasonably related to legitimate penological interests. Respondent contends that several government interests justify NCDPS's policy, including (1) maintaining order, security, and safety; (2) balancing inmate relationships; and (3) conserving personnel resources. 2014 WL 7239858, *3–*4; Brief in Opposition 18–19. I do not question the importance of these interests. See, *e. g.*, *Holt*, 574 U. S., at 364 ("Prison officials are experts in running prisons and evaluating the likely effects of altering prison rules, and courts should respect that expertise"). But respondent's invocation of these interests is insufficient to justify NCDPS's policy toward Jewish inmates. The problem with these asserted justifications is that they seem to apply equally to inmates of other religions, who were nevertheless allowed to meet in groups of fewer than 10 without an outside leader. For instance, respondent has given no reason to believe that Jewish prisoners are more inclined than prisoners of other religions to "'us[e] faith practice to mask their gang activity.'" 2014 WL 7239858, *4. Nor is there any indication that a Jewish study group is more likely than a Christian or Muslim group to impede order, compromise inmate relationships, or absorb personnel resources. The State has no apparent reason for discriminating against Jewish inmates in this way. The District Court erred in holding otherwise, and the Fourth Circuit erred in affirming.[8] I would thus grant certiorari, summarily reverse the judgment below, and remand for further proceedings.

Needless to say, the Court's refusal to grant review in this case does not signify approval of the decision below. But the Court's

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A. Miller, & E. Cooper, Federal Practice and Procedure § 3533.3, p. 6 (3d ed. 2008); see, *e. g.*, *Board of Pardons* v. *Allen*, 482 U. S. 369, 370–371, n. 1 (1987).

[8] The courts below also erred in concluding as a matter of law that respondent did not intentionally violate Ben-Levi's free exercise rights. See 2014 WL 7239858, *4 (EDNC, Dec. 18, 2014). Respondent explicitly rejected Ben-Levi's request for a group Torah study, knowing full well that this decision would completely prevent him from praying or studying with other Jewish inmates. See Doc. No. 32, p. 3; Doc. No. 42–2, at 5–6. There is thus a genuine issue of material fact as to whether respondent acted intentionally.

indifference to this discriminatory infringement of religious liberty is disappointing.

No. 15–169. TAYLOR ET AL. *v.* YEE, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY AS STATE CONTROLLER OF THE STATE OF CALIFORNIA, ET AL. C. A. 9th Cir. Motions of Unclaimed Property Professionals Organization and Shareholder Services Association et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 780 F. 3d 928.

JUSTICE ALITO, with whom JUSTICE THOMAS joins, concurring.

California's Unclaimed Property Law, Cal. Civ. Proc. Code Ann. § 1510 *et seq.* (West 2007 and Cum. Supp. 2016), permits the State to confiscate forgotten security deposits, uncashed money orders, unused insurance benefits, idle shares of stock, and even the undisturbed contents of safe-deposit boxes and bank accounts if those assets lie dormant for the statutorily required time period (in this case, three years). Unless the forgotten property's rightful owner can be located, the State uses the funds in these accounts for its own benefit.

The petition in this case asks us to decide whether the California law provides property owners with constitutionally sufficient notice before escheating their financial assets. The Due Process Clause requires States to give adequate notice before seizing private property. *Mullane* v. *Central Hanover Bank & Trust Co.*, 339 U. S. 306, 313 (1950) (Although "[m]any controversies have raged about the cryptic and abstract words of the Due Process Clause," that provision undoubtedly requires that, before seizing private property, the government must give "notice and opportunity for hearing appropriate to the nature of the case"). When a State is required to give notice, it must do so through processes "reasonably calculated" to reach the interested party—here, the property owner. See *id.*, at 318. Because the seizure of private property is no small thing, notification procedures may not be empty rituals: "[P]rocess which is a mere gesture is not due process." *Id.*, at 315. Whether the means and methods employed by a State to notify owners of a pending escheat meet the constitutional floor is an important question.

In recent years, States have shortened the periods during which property must lie dormant before being labeled abandoned and subject to seizure. See Bower, Note, Inequitable Escheat?: Reflecting on Unclaimed Property Law and the Supreme Court's

Interstate Escheat Framework, 74 Ohio St. L. J. 515, 529, n. 81 (2013) (noting that New York, Michigan, Indiana, New Jersey, and Arizona all recently shortened their dormancy periods from as long as 15 years to merely 3). And some States still rely on decidedly old-fashioned methods that are unlikely to be effective. See, *e. g.*, Del. Code, Tit. 12, § 1172 (2007 and Cum. Supp. 2014) (relying only on blanket newspaper notification).

This trend—combining shortened escheat periods with minimal notification procedures—raises important due process concerns. As advances in technology make it easier and easier to identify and locate property owners, many States appear to be doing less and less to meet their constitutional obligation to provide adequate notice before escheating private property. Cash-strapped States undoubtedly have a real interest in taking advantage of truly abandoned property to shore up state budgets. But they also have an obligation to return property when its owner can be located. To do that, States must employ notification procedures designed to provide the pre-escheat notice the Constitution requires.

The convoluted history of this case makes it a poor vehicle for reviewing the important question it presents, and therefore I concur in the denial of review. But the constitutionality of current state escheat laws is a question that may merit review in a future case.

No. 15–302. New Jersey Education Assn. et al. *v.* New Jersey et al. Sup. Ct. N. J. Motion of New Jersey Public Employees' Retirement System et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 222 N. J. 175, 118 A. 3d 270.

No. 15–324. Gentry, Warden, et al. *v.* Rudin. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 781 F. 3d 1043.

No. 15–330. California Building Industry Assn. *v.* City of San Jose, California, et al. Sup. Ct. Cal. Certiorari denied. Reported below: 61 Cal. 4th 435, 351 P. 3d 974.

Justice Thomas, concurring.

This case implicates an important and unsettled issue under the Takings Clause. The city of San Jose, California, enacted a hous-

ing ordinance that compels all developers of new residential development projects with 20 or more units to reserve a minimum of 15 percent of for-sale units for low-income buyers. See San Jose Municipal Ordinance No. 28689, §§ 5.08.250(A), 5.08.400(A)(a) (2010). Those units, moreover, must be sold to these buyers at an "affordable housing cost"—a below-market price that cannot exceed 30 percent of these buyers' median income. §§ 5.08.105, 5.08.400(A)(a); see Cal. Health & Safety Code Ann. §§ 50052.5(b)(1)–(4) (West 2014). The ordinance requires these restrictions to remain in effect for 45 years. San Jose Municipal Ordinance No. 28689, § 5.08.600(B); Cal. Health & Safety Code Ann. § 33413(C). Petitioner, the California Building Industry Association, sued to enjoin the ordinance. A California state trial court enjoined the ordinance, but the Court of Appeal reversed, and the Supreme Court of California affirmed that decision. 61 Cal. 4th 435, 351 P. 3d 974 (2015).

Our precedents in *Nollan* v. *California Coastal Comm'n*, 483 U. S. 825 (1987), and *Dolan* v. *City of Tigard*, 512 U. S. 374 (1994), would have governed San Jose's actions had it imposed those conditions through administrative action. In those cases, which both involved challenges to administrative conditions on land use, we recognized that governments "may not condition the approval of a land-use permit on the owner's relinquishment of a portion of his property unless there is a 'nexus' and 'rough proportionality' between the government's demand and the effects of the proposed land use." *Koontz* v. *St. Johns River Water Management Dist.*, 570 U. S. 595, 599 (2013) (describing *Nollan/Dolan* framework).

For at least two decades, however, lower courts have divided over whether the *Nollan/Dolan* test applies in cases where the alleged taking arises from a legislatively imposed condition rather than an administrative one. See *Parking Assn. of Georgia, Inc.* v. *Atlanta*, 515 U. S. 1116, 1117 (1995) (THOMAS, J., dissenting from denial of certiorari). That division shows no signs of abating. The decision below, for example, reiterated the California Supreme Court's position that a legislative land-use measure is not a taking and survives a constitutional challenge so long as the measure bears "a reasonable relationship to the public welfare." 61 Cal. 4th, at 456–459, and n. 11, 351 P. 3d, at 987–990, and n. 11; compare *ibid.* with, *e. g.*, *Home Builders Assn. of Dayton and Miami Valley* v. *Beavercreek*, 89 Ohio St. 3d 121, 128,

729 N. E. 2d 349, 356 (2000) (applying the *Nollan/Dolan* test to legislative exaction).

I continue to doubt that "the existence of a taking should turn on the type of governmental entity responsible for the taking." *Parking Assn. of Georgia*, *supra*, at 1117–1118. Until we decide this issue, property owners and local governments are left uncertain about what legal standard governs legislative ordinances and whether cities can legislatively impose exactions that would not pass muster if done administratively. These factors present compelling reasons for resolving this conflict at the earliest practicable opportunity.

Yet this case does not present an opportunity to resolve the conflict. The city raises threshold questions about the timeliness of the petition for certiorari that might preclude us from reaching the Takings Clause question. Moreover, petitioner disclaimed any reliance on *Nollan* and *Dolan* in the proceedings below. Nor did the California Supreme Court's decision rest on the distinction (if any) between takings effectuated through administrative versus legislative action. See 61 Cal. 4th, at 461–462, 351 P. 3d, at 991–992. Given these considerations, I concur in the Court's denial of certiorari.

No. 15–547. NEAL, SUPERINTENDENT, INDIANA STATE PRISON *v.* PRUITT. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 788 F. 3d 248.

No. 15–588. JOHNSON ET AL. *v.* UNITED STATES; and

No. 15–6755. CAROZZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of these petitions. Reported below: 608 Fed. Appx. 532.

No. 15–622. HOTZE ET AL. *v.* BURWELL, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 5th Cir. Motion of Foundation for Moral Law for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 784 F. 3d 984.

No. 15–666. BELL *v.* ITAWAMBA COUNTY SCHOOL BOARD ET AL. C. A. 5th Cir. Motions of Student Press Law Center et al. and Massachusetts Citizens for Children for leave to file

briefs as *amici curiae* granted. Certiorari denied. Reported below: 799 F. 3d 379.

No. 15–693. PNC Bank, N. A. *v.* Brian W. et al. C. A. 3d Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 795 F. 3d 380.

No. 15–704. Girardi Keese Law Firm *v.* Plaintiffs' Advisory Committee et al. C. A. 3d Cir. Motion of Vicente Ruiz et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 617 Fed. Appx. 136.

No. 15–722. Davis, Warden *v.* Bemore. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 788 F. 3d 1151.

No. 15–754. Adkins *v.* Adkins. Ct. App. Mich. Motion of Safe Kids International et al. for leave to file brief as *amici curiae* granted. Certiorari denied.

No. 15–772. New Jersey *v.* Maltese. Sup. Ct. N. J. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 222 N. J. 525, 120 A. 3d 197.

No. 15–773. Breadiy et al. *v.* PNC Mortgage Co. C. A. 6th Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 620 Fed. Appx. 382.

No. 15–801. Griffith, Warden *v.* Gabaree. C. A. 8th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 792 F. 3d 991.

No. 15–820. GGNSC Gettysburg LP, dba Golden Living Center-Gettysburg, et al. *v.* Wert, Executrix of the Estate of Kepner, Deceased. Sup. Ct. Pa. Motion of American Health Care Association et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 633 Pa. 260, 124 A. 3d 1248.

No. 15–912. Szafranski *v.* Dunston. App. Ct. Ill., 1st Dist. Motion of American Association of Pro-Life Obstetricians and Gynecologists for leave to file brief as *amicus curiae* granted. Cer-

tiorari denied. Reported below: 2015 IL App (1st) 122975–B, 34 N. E. 3d 1132.

No. 15–6330. VINSON *v.* MAIORANA, COMPLEX WARDEN. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 604 Fed. Appx. 349.

No. 15–6679. MITCHELL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 625 Fed. Appx. 113.

No. 15–7143. FONTANEZ *v.* TIME WARNER CABLE ET AL. C. A. 7th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 618 Fed. Appx. 288.

No. 15–7558. WEAVER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 793 F. 3d 857.

No. 15–7601. KARKENNY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 15–7707. RODRIGUEZ-ZAMO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–7778. BOLDS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 620 Fed. Appx. 592.

No. 15–7824. BARIAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 14–5566. CLARK *v.* COMMISSIONER, HUMAN RESOURCE ADMINISTRATION, 574 U. S. 905;

No. 14–5568. CLARK *v.* HUMAN RESOURCES ADMINISTRATION, 574 U. S. 905;

No. 14–5858. Clark *v.* City of New York Human Resources Administration, 574 U. S. 915;

No. 14–9299. Marshall *v.* Federal Bureau of Prisons, *ante*, p. 1029;

No. 14–9686. Robinson *v.* Valdamudi et al., *ante*, p. 834;

No. 14–9794. Ferry *v.* Virginia, *ante*, p. 837;

No. 14–9962. Burnett *v.* Burnett, *ante*, p. 1061;

No. 15–464. Groeber *v.* Friedman & Schuman, P. C., *ante*, p. 1049;

No. 15–498. In re Wolf et al., *ante*, p. 1060;

No. 15–504. D'Antignac *v.* Deere & Co., dba John Deere Commercial Products, Inc., *ante*, p. 1064;

No. 15–516. Loan Phuong *v.* Thompson et al., *ante*, p. 1064;

No. 15–531. Doal *v.* Central Intelligence Agency et al., *ante*, p. 1065;

No. 15–535. Koffley *v.* Fogel, *ante*, p. 1065;

No. 15–582. Dinh Ton That *v.* Alders Maintenance Assn., *ante*, p. 1066;

No. 15–603. Menchu *v.* Lynch, Attorney General, *ante*, p. 1066;

No. 15–643. Arpaio, Sheriff, Maricopa County, Arizona *v.* Obama, President of the United States, et al., *ante*, p. 1103;

No. 15–5222. Norris *v.* Foxx, Secretary of Transportation, et al., *ante*, p. 1009;

No. 15–5756. Tuomi *v.* United States, *ante*, p. 1010;

No. 15–6068. Salahuddin *v.* Zoning Hearing Board of West Chester et al., *ante*, p. 1069;

No. 15–6141. Dillon *v.* Dooley, Warden, et al., *ante*, p. 1010;

No. 15–6183. Garvin *v.* Wright et al., *ante*, p. 947;

No. 15–6238. In re Bluemel, *ante*, p. 937;

No. 15–6263. Nurse *v.* Sheraton Atlanta Hotel et al., *ante*, p. 1013;

No. 15–6329. Washington *v.* William Morris Endeavor Entertainment, LLC, et al., *ante*, p. 1014;

No. 15–6395. Davis *v.* Thomas et al., *ante*, p. 1034;

No. 15–6426. Thomas *v.* Outlaw, Warden, *ante*, p. 1050;

No. 15–6427. Laschkewitsch *v.* ReliaStar Life Insurance Co., *ante*, p. 1034;

No. 15–6432. Miller *v.* Kashani et al., *ante*, p. 1050;

No. 15–6449. GACHE *v.* HILL REALTY ASSOCIATES, LLC, ET AL., *ante*, p. 1051;

No. 15–6493. LAN *v.* COMCAST CORP., LLC, *ante*, p. 1070;

No. 15–6511. CLUM *v.* UNITED STATES, *ante*, p. 1016;

No. 15–6518. RANTEESI *v.* ARNOLD, WARDEN, *ante*, p. 1070;

No. 15–6579. ZAVALIDROGA ET AL. *v.* ONEIDA COUNTY SHERIFF'S DEPARTMENT ET AL., *ante*, p. 1071;

No. 15–6589. TAYLOR *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA, *ante*, p. 993;

No. 15–6683. JOHNSON *v.* MARYLAND, *ante*, p. 1052;

No. 15–6898. RAMIREZ *v.* PARKER ET AL., *ante*, p. 1080;

No. 15–6930. POUYEH *v.* BOARD OF TRUSTEES OF THE UNIVERSITY OF ALABAMA ET AL., *ante*, p. 1081;

No. 15–7011. IN RE WELLS, *ante*, p. 1047;

No. 15–7078. IN RE WILLIAMS, *ante*, p. 1061;

No. 15–7148. WILSON *v.* NORTH CAROLINA, *ante*, p. 1108;

No. 15–7171. WEBB *v.* UNITED STATES, *ante*, p. 1089;

No. 15–7267. IN RE DELRIO, *ante*, p. 1061; and

No. 15–7327. IN RE SPANGLER, *ante*, p. 1060. Petitions for rehearing denied.

No. 15–6055. DOUGLAS, AKA HOUSTON *v.* WRIGHT ET AL., *ante*, p. 988. Motion for leave to file petition for rehearing denied.

## MARCH 1, 2016

*Dismissal Under Rule 46*

No. 15–851. WOODFOX *v.* CAIN, WARDEN, ET AL. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46.1.

## MARCH 4, 2016

*Miscellaneous Order*

No. 15A880. JUNE MEDICAL SERVICES, L. L. C., ET AL. *v.* GEE, SECRETARY, LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS. Consistent with the Court's action granting a stay in No. 14A1288, *Whole Woman's Health* v. *Cole* [576 U. S. 1050], the application to vacate the stay entered by the United States Court of Appeals for the Fifth Circuit on February 24, 2016, presented to JUSTICE THOMAS, and by him referred to the Court, granted, and the Fifth Circuit's stay of the District Court's injunction is vacated. JUSTICE THOMAS would deny the application.

March 7, 2016

*Certiorari Granted—Reversed and Remanded.* (See No. 14–10008, *ante*, p. 385, and No. 15–648, *ante*, p. 404.)

*Certiorari Granted—Vacated and Remanded*

No. 14–741. Self-Insurance Institute of America, Inc. *v.* Snyder, Governor of Michigan, et al. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Gobeille* v. *Liberty Mut. Ins. Co.*, *ante*, p. 312. Reported below: 761 F. 3d 631.

No. 14–824. Carp *v.* Michigan; and

No. 14–8106. Davis *v.* Michigan. Sup. Ct. Mich. Motion of petitioner in No. 14–8106 for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Montgomery* v. *Louisiana*, *ante*, p. 190. Reported below: 496 Mich. 440, 852 N. W. 2d 801.

Justice Thomas, with whom Justice Alito joins, concurring.

The Court has held the petitions in these and many other cases pending the decision in *Montgomery* v. *Louisiana*, *ante*, p. 190. In holding these petitions and now vacating and remanding the judgment below, the Court has not assessed whether petitioners' asserted entitlement to retroactive relief "is properly presented in the case." *Ante*, at 205. On remand, courts should understand that the Court's disposition of these petitions does not reflect any view regarding petitioners' entitlement to relief. The Court's disposition does not, for example, address whether an adequate and independent state ground bars relief, whether petitioners forfeited or waived any entitlement to relief (by, for example, entering into a plea agreement waiving any entitlement to relief), or whether petitioners' sentences actually qualify as mandatory life without parole sentences.

No. 14–1068. Tyler *v.* Louisiana. 29th Jud. Dist. Ct. La., St. Charles Parish;

No. 14–1196. Lewis *v.* Michigan. Sup. Ct. Mich. Reported below: 497 Mich. 946, 857 N. W. 2d 24;

No. 14–1248. Jones *v.* Virginia. Sup. Ct. Va. Reported below: 288 Va. 475, 763 S. E. 2d 823; and

No. 14–1478. SANCHEZ *v.* PIXLEY, WARDEN. C. A. 4th Cir. Reported below: 597 Fed. Appx. 201. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Montgomery* v. *Louisiana*, *ante*, p. 190.

JUSTICE THOMAS, with whom JUSTICE ALITO joins, concurring.

The Court has held the petitions in these and many other cases pending the decision in *Montgomery* v. *Louisiana*, *ante*, p. 190. In holding these petitions and now vacating and remanding the judgments below, the Court has not assessed whether petitioners' asserted entitlement to retroactive relief "is properly presented in the case." *Ante*, at 205. On remand, courts should understand that the Court's disposition of these petitions does not reflect any view regarding petitioners' entitlement to relief. The Court's disposition does not, for example, address whether an adequate and independent state ground bars relief, whether petitioners forfeited or waived any entitlement to relief (by, for example, entering into a plea agreement waiving any entitlement to relief), or whether petitioners' sentences actually qualify as mandatory life without parole sentences.

No. 14–6673. TOLLIVER *v.* LOUISIANA. Sup. Ct. La. Reported below: 2013–2893 (La. 7/31/14), 147 So. 3d 176;

No. 14–8047. TAPP *v.* LOUISIANA. Ct. App. La., 4th Cir.;

No. 14–9077. BURGOS *v.* MICHIGAN. Cir. Ct. Wayne County, Mich.;

No. 14–9521. COOK *v.* MICHIGAN. Ct. App. Mich.;

No. 14–9712. RILEY *v.* LOUISIANA. Ct. App. La., 1st Cir.;

No. 14–9941. YOUNG *v.* LOUISIANA. Ct. App. La., 3d Cir.;

No. 14–9998. GIBSON *v.* LOUISIANA. Sup. Ct. La. Reported below: 2014–0379 (La. 1/9/15), 157 So. 3d 589;

No. 14–10142. WILLIAMS *v.* LOUISIANA. Sup. Ct. La. Reported below: 2014–1139 (La. 3/6/15), 161 So. 3d 10;

No. 15–5004. JACOBS *v.* LOUISIANA. Sup. Ct. La. Reported below: 2014–1622 (La. 4/17/15), 165 So. 3d 69;

No. 15–5278. LIVAS *v.* LOUISIANA. Ct. App. La., 4th Cir.;

No. 15–5310. CONTRERAS *v.* DAVIS, WARDEN. C. A. 4th Cir. Reported below: 597 Fed. Appx. 175;

No. 15–5749. CLICK *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 464;

No. 15–6030. MARTIN *v.* SMITH, WARDEN. C. A. 8th Cir. Reported below: 782 F. 3d 939;

No. 15–6251. WILLIAMS *v.* ALABAMA. Sup. Ct. Ala. Reported below: 183 So. 3d 220;

No. 15–6278. WILSON *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 468;

No. 15–6283. MATTHEWS *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 466;

No. 15–6287. DUNLAP *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 470;

No. 15–6288. BLACK *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 467;

No. 15–6297. PRATT *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 467;

No. 15–6299. STUBBS *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 190 So. 3d 585;

No. 15–6303. REEVES *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 470;

No. 15–6304. GARDNER *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 467;

No. 15–6305. HOGAN *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 190 So. 3d 585;

No. 15–6307. IIAMS *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 467;

No. 15–6308. FOSTER *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 466;

No. 15–6309. FLYNN *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 466;

No. 15–6310. INGRAM *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 468;

No. 15–6317. FORMAN *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 467;

No. 15–6319. MCWILLIAMS *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 467;

No. 15–6326. STOREY *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 184 So. 3d 466;

No. 15–6584. THOMPSON *v.* ROY, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS. C. A. 8th Cir. Reported below: 793 F. 3d 843;

No. 15–7255. BAKER *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 213 So. 3d 617;

No. 15–7441. DUKE *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 207 So. 3d 832; and

No. 15–7550. PRESLEY *v.* ALABAMA. Ct. Crim. App. Ala. Reported below: 213 So. 3d 623. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Montgomery* v. *Louisiana*, *ante*, p. 190.

JUSTICE THOMAS, with whom JUSTICE ALITO joins, concurring.

The Court has held the petitions in these and many other cases pending the decision in *Montgomery* v. *Louisiana*, *ante*, p. 190. In holding these petitions and now vacating and remanding the judgments below, the Court has not assessed whether petitioners' asserted entitlement to retroactive relief "is properly presented in the case." *Ante*, at 205. On remand, courts should understand that the Court's disposition of these petitions does not reflect any view regarding petitioners' entitlement to relief. The Court's disposition does not, for example, address whether an adequate and independent state ground bars relief, whether petitioners forfeited or waived any entitlement to relief (by, for example, entering into a plea agreement waiving any entitlement to relief), or whether petitioners' sentences actually qualify as mandatory life without parole sentences.

*Certiorari Dismissed*

No. 15–7612. LEBLANC *v.* CORPORATE MARATHON. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7615. FOSTER *v.* WILLIAMS, WARDEN. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 15–7631. WEBB *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

*Miscellaneous Orders*

No. D–2837. IN RE DISBARMENT OF WYMAN. Disbarment entered. [For earlier order herein, see *ante*, p. 950.]

No. D–2838. IN RE DISBARMENT OF BECK. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2839. IN RE DISBARMENT OF ALLENBAUGH. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2840. IN RE DISBARMENT OF BROIDA. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2841. IN RE DISBARMENT OF STARR. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2842. IN RE DISBARMENT OF TRACIA. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2843. IN RE DISBARMENT OF HANLON. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2844. IN RE DISBARMENT OF ARMSTRONG. Disbarment entered. [For earlier order herein, see *ante*, p. 951.]

No. D–2845. IN RE DISBARMENT OF DORAN. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. D–2846. IN RE DISBARMENT OF PURCELL. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. D–2847. IN RE DISBARMENT OF KORMANIK. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. D–2849. IN RE DISBARMENT OF WILLIAMS. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. D–2850. IN RE DISBARMENT OF ANDERSON. Disbarment entered. [For earlier order herein, see *ante*, p. 952.]

No. D–2853. IN RE DISBARMENT OF BIDDLE. Disbarment entered. [For earlier order herein, see *ante*, p. 953.]

No. D–2855. IN RE DISBARMENT OF HALLORAN. Disbarment entered. [For earlier order herein, see *ante*, p. 953.]

No. D–2856. IN RE DISBARMENT OF WEBER. Disbarment entered. [For earlier order herein, see *ante*, p. 953.]

No. 15M88. VEHICLE INTELLIGENCE & SAFETY LLC *v.* MERCEDES-BENZ USA, LLC, ET AL. Motion of Kevin Roe, *pro se*, to direct the Clerk to file petition for writ of certiorari on behalf of Vehicle Intelligence and Safety denied.

No. 14–1091. DOW CHEMICAL CO. *v.* INDUSTRIAL POLYMERS, INC., ET AL. C. A. 10th Cir. Joint motion to hold petition in abeyance granted.

No. 14–1457. BETTERMAN *v.* MONTANA. Sup. Ct. Mont. [Certiorari granted, *ante*, p. 1025.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 14–9496. MANUEL *v.* CITY OF JOLIET, ILLINOIS, ET AL. C. A. 7th Cir. [Certiorari granted, *ante*, p. 1098.] Motion of petitioner for appointment of counsel granted, and Stanley B. Eisenhammer, Esq., of Arlington Heights, Ill., is appointed to serve as counsel for petitioner in this case.

No. 15–446. CUOZZO SPEED TECHNOLOGIES, LLC *v.* LEE, UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR, PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. [Certiorari granted, *ante*, p. 1098.] Motion of petitioner to dispense with printing joint appendix granted.

No. 15–474. MCDONNELL *v.* UNITED STATES. C. A. 4th Cir. [Certiorari granted, *ante*, p. 1099.] Motion of petitioner to deem the Court of Appeals joint appendix and supplemental appendix as the joint appendix in this Court granted.

No. 15–7091. JOHNSON *v.* ALABAMA, *ante*, p. 1087. Respondent is requested to file a response to the petition for rehearing within 30 days.

No. 15–7304. RAUSO *v.* UNITED STATES. C. A. 3d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1101] denied.

No. 15–7406. WILLIAMS *v.* UNITED STATES. Ct. App. D. C. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1101] denied.

No. 15–7431. LIEBESKIND *v.* RUTGERS UNIVERSITY ET AL. Super. Ct. N. J., App. Div.;

No. 15–7602. READE *v.* GALVIN, SECRETARY OF THE COMMONWEALTH OF MASSACHUSETTS, ET AL. Sup. Jud. Ct. Mass.;

No. 15–7610. JOHNSSON *v.* RITTMANIC. App. Ct. Ill., 1st Dist.;

No. 15–7645. MUATHE *v.* FIFTH THIRD BANK ET AL. C. A. Fed. Cir.; and

No. 15–7840. HANSEN *v.* DEPARTMENT OF THE ARMY. C. A. Fed. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until March 28, 2016, 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.

No. 15–8155. IN RE SHIVER;

No. 15–8182. IN RE ORTIZ;

No. 15–8193. IN RE GETZ; and

No. 15–8198. IN RE SMAAGE. Petitions for writs of habeas corpus denied.

No. 15–8143. IN RE RODRIGUEZ. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. As 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*).

No. 15–7517. IN RE WHITE;

No. 15–7659. IN RE RAY;

No. 15–7843. IN RE VIOLA; and

No. 15–7956. IN RE HEDRICK. Petitions for writs of mandamus denied.

No. 15–7591. IN RE KOCH. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus and/or prohibition dismissed. See this Court's Rule 39.8. As 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*).

No. 15–8052. In re Boyd. Petition for writ of prohibition denied.

*Certiorari Denied*

No. 15–276. Kansas *v.* Dull. Sup. Ct. Kan. Certiorari denied. Reported below: 302 Kan. 32, 351 P. 3d 641.

No. 15–380. Salem Financial, Inc. *v.* United States. C. A. Fed. Cir. Certiorari denied. Reported below: 786 F. 3d 932.

No. 15–438. Alliance of Automobile Manufacturers, Inc. *v.* Currey, Commissioner, Connecticut Department of Motor Vehicles, et al. C. A. 2d Cir. Certiorari denied. Reported below: 610 Fed. Appx. 10.

No. 15–460. One Beacon Insurance Co. et al. *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 783 F. 3d 607.

No. 15–478. American International Group, Inc. *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 3d 104.

No. 15–517. Lopez *v.* United States; and
No. 15–6608. Kuhrt *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 788 F. 3d 403.

No. 15–551. Eason *v.* Huntington Ingalls Industries, Inc., fka Northrup Grumman Shipbuilding, Inc., et al. C. A. 4th Cir. Certiorari denied. Reported below: 788 F. 3d 118.

No. 15–563. Shammas *v.* Hirshfeld, Commissioner for Patents. C. A. 4th Cir. Certiorari denied. Reported below: 784 F. 3d 219.

No. 15–565. Apple, Inc. *v.* United States et al. C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 3d 290.

No. 15–572. Bank of New York Mellon Corp., as Successor in Interest to Bank of New York Co., Inc. *v.* Commissioner of Internal Revenue. C. A. 2d Cir. Certiorari denied. Reported below: 801 F. 3d 104.

No. 15–715. Adar 980 Realty, LLC *v.* Sofer et al. C. A. 2d Cir. Certiorari denied. Reported below: 613 Fed. Appx. 92.

No. 15–720. BILL ET AL. *v.* BREWER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 799 F. 3d 1295.

No. 15–735. BNSF RAILWAY CO. *v.* FAIR. Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 238 Cal. App. 4th 269, 189 Cal. Rptr. 3d 150.

No. 15–741. KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION *v.* GORDON. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 277, 465 S. W. 3d 842.

No. 15–841. DIXON *v.* COLUMBIA ASSN., INC. Ct. Sp. App. Md. Certiorari denied. Reported below: 222 Md. App. 708 and 710.

No. 15–844. EWING INDUSTRIES CORP. *v.* BOB WINES NURSERY, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 795 F. 3d 1324.

No. 15–845. DAHMS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 133301–U.

No. 15–852. CLELAND ET AL. *v.* BAYNES. C. A. 6th Cir. Certiorari denied. Reported below: 799 F. 3d 600.

No. 15–854. PADULA-WILSON *v.* WILSON. Sup. Ct. Va. Certiorari denied.

No. 15–878. CHINWEZE *v.* BANK OF AMERICA, N. A. Sup. Ct. Fla. Certiorari denied. Reported below: 182 So. 3d 631.

No. 15–883. ALBERTO RUIZ-VIDAL *v.* LYNCH, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 803 F. 3d 1049.

No. 15–890. KENTUCKY *v.* ROUSE. Ct. App. Ky. Certiorari denied.

No. 15–902. NANIC ET UX. *v.* LYNCH, ATTORNEY GENERAL. C. A. 8th Cir. Certiorari denied. Reported below: 793 F. 3d 945.

No. 15–920. WAHAB *v.* ESTEE LAUDER COS., INC. C. A. 2d Cir. Certiorari denied. Reported below: 615 Fed. Appx. 50.

No. 15–943. TOWLE *v.* DC COMICS. C. A. 9th Cir. Certiorari denied. Reported below: 802 F. 3d 1012.

No. 15–970. BALDEO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 615 Fed. Appx. 26.

No. 15–972. DELACRUZ *v.* COMMITTEE OF BAR EXAMINERS OF THE STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–5810. CROWE *v.* UNITED STATES; and
No. 15–5979. WINGATE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 303.

No. 15–6479. KELLY *v.* SWARTHOUT, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 599 Fed. Appx. 267.

No. 15–6520. WILSON *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2015 WI 48, 362 Wis. 2d 193, 864 N. W. 2d 52.

No. 15–6568. MALIK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 911.

No. 15–6691. LITTLE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 950.

No. 15–6768. HODGES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 961.

No. 15–7153. SUTEERACHANON *v.* MCDONALD'S RESTAURANTS OF MARYLAND, INC. C. A. 4th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 339.

No. 15–7222. HONG LEE WONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 580.

No. 15–7554. HARTLEY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 175 So. 3d 757.

No. 15–7556. HENDERSON *v.* ARTUS, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–7566. DREIBELBIS *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD. C. A. 3d Cir. Certiorari denied.

No. 15–7569. HARRIS *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 516.

No. 15–7574. WHITT *v.* SLEEPY HOLLOW GOLF CLUB, INC. Sup. Ct. App. W. Va. Certiorari denied.

No. 15–7577. BRANTLEY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 112633 and 131431–U.

No. 15–7578. RUSS *v.* WITHROW, ACTING EXECUTIVE DIRECTOR, COALINGA STATE HOSPITAL. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 302.

No. 15–7585. GILES *v.* HAAS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7587. LAWSON *v.* CAMPBELL, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7588. JOHNSON *v.* CAMPBELL, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7589. LAMBERT *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 15–7590. LISENBY *v.* COHEN, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 247.

No. 15–7592. POTVIN *v.* POWERS, CHIEF PROBATION OFFICER, LOS ANGELES COUNTY, ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7593. OTYANG *v.* CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 541.

No. 15–7595. NELSON ET AL. *v.* LOUISE, MAYOR OF CITY OF PORT ALLEN, LOUISIANA, ET AL. C. A. 5th Cir. Certiorari denied.

No. 15–7596. PITTS *v.* QUILTER ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7597. GREEN *v.* HILL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7598. STRAND *v.* NUPETCO ASSOCIATES, LLC. Ct. App. Utah. Certiorari denied. Reported below: 2013 UT App 188, 309 P. 3d 251.

No. 15–7605. MUBITA *v.* BLADES, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7613. ENRIQUEZ SANCHEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–7616. HOLLAND *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 800 F. 3d 224.

No. 15–7617. GUERRERO *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 122314–U.

No. 15–7618. HOLMES *v.* STEPPIG MANAGEMENT. App. Ct. Ill., 5th Dist. Certiorari denied.

No. 15–7619. SPENCER *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 148 So. 3d 128.

No. 15–7620. CALDERON-LOPEZ *v.* GUMUSHYAN ET AL. C. A. 9th Cir. Certiorari denied.

No. 15–7621. MIMS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–7627. WINFIELD *v.* UNIVERSITY OF CHICAGO MEDICAL CENTER. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 142100–U.

No. 15–7628. VALENTINE-MORALES *v.* MOONEY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT COAL TOWNSHIP, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7636. LONG *v.* QUALLS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 627 Fed. Appx. 492.

No. 15–7638. LORDMASTER, FKA GOLDADER *v.* EPPS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 206.

No. 15–7641. MIGUEL AGUIRRE *v.* MONTGOMERY, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 686.

No. 15–7646. SPENCER *v.* OLIN ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 401.

No. 15–7648. MAMMEN *v.* CHAPMAN, JUDGE, SUPREME COURT OF MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 464 S. W. 3d 513.

No. 15–7650. SUERO *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 120 A. 3d 388.

No. 15–7651. ROMERO *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 15–7652. JAMES *v.* PHILLIPS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 708.

No. 15–7655. TROGLIN *v.* COOK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7657. MCDONALD *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 140097–U.

No. 15–7658. SACKS *v.* SHOPRITE SUPERMARKETS. C. A. 2d Cir. Certiorari denied.

No. 15–7665. BLAKE *v.* WRIGLEY, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 640.

No. 15–7711. DIXON *v.* AYERS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 627 Fed. Appx. 598.

No. 15–7747. VISITH NY *v.* LIND ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 760.

No. 15–7782. WRIGHT *v.* BANK OF AMERICA, N. A., ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–7785. SZABO *v.* GOLDFARB. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 130 App. Div. 3d 728, 13 N. Y. S. 3d 247.

No. 15–7791. JAMES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 628 Fed. Appx. 812.

No. 15–7826. BONEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 634 Fed. Appx. 894.

No. 15–7837. BROWN *v.* MANSUKHANI, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 200.

No. 15–7853. SAINT-SURIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7862. COLLINS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 842.

No. 15–7864. BARNETT *v.* FOX, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 496.

No. 15–7867. BUTLER *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN. C. A. 6th Cir. Certiorari denied.

No. 15–7870. KIEFER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 760 F. 3d 926.

No. 15–7873. DANIELS, AKA ROBINSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 366.

No. 15–7874. CHAFIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 808 F. 3d 1263.

No. 15–7877. SIMMONS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 365.

No. 15–7884. SPENCER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–7890. WOODWARD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7895. MAYNOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 234.

No. 15–7898. AVILA-CORREA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 653.

No. 15–7899. ANDREWS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 808 F. 3d 964.

No. 15–7906. NICHOLSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 473.

No. 15–7908. TORRES GUZMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 499.

No. 15–7916. BUMAGIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–7917. WARREN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 632 Fed. Appx. 973.

No. 15–7922. ALFREDO DELGADO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 673.

No. 15–7924. NAUGHTON, AKA BLACK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 170.

No. 15–7925. MYERS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 804 F. 3d 1246.

No. 15–7930. DUDLEY *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 804 F. 3d 506.

No. 15–7947. FRANCIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 171.

No. 15–7951. RONDON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7961. JEAN-PIERRE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–7962. MADSEN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 809 F. 3d 712.

No. 15–7963. MARRERO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–7966. MCDONALD *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 804 F. 3d 497.

No. 15–7975. CLAY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 377.

No. 15–7976. SILER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 990.

No. 15–7979. SHOUMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–7983. HARLEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–7986. HARRELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 603.

No. 15–7990. KENNEDY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–7992. CHAPMAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 804 F. 3d 895.

No. 15–7996. WOMACK *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 634 Fed. Appx. 851.

No. 15–7997. TASKOV *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 347.

No. 15–8011. ARNOLD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 432.

No. 15–8016. BARRERA-ESTRADA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 371.

No. 15–8021. HEDRICK *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 583 Fed. Appx. 364.

No. 15–8035. GUTIERREZ-JARAMILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–8046. RAGHUNATHAN ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–8053. LEONEL ACCITUNO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 292.

No. 15–8064. MEDINA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 682.

No. 15–8070. RAMOS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–8072. BROXSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 738.

No. 15–8073. TIPPINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 501.

No. 15–8075. PEREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 734.

No. 15–8115. DAVIS *v.* COMCAST CORP., INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 156.

No. 14–639. NEW HAMPSHIRE *v.* SOTO ET AL. Sup. Ct. N. H. Motion of respondents Robert Dingman and Eduardo Lopez, Jr., for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 166 N. H. 659, 103 A. 3d 227.

No. 14–1472. CONNECTICUT *v.* RILEY. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 315 Conn. 637, 110 A. 3d 1205.

No. 15–238. SEMPLE, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION *v.* CASIANO. Sup. Ct. Conn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 317 Conn. 52, 115 A. 3d 1031.

No. 15–584. AMERICAN FREEDOM DEFENSE INITIATIVE ET AL. *v.* KING COUNTY, WASHINGTON. C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 3d 1165.

JUSTICE THOMAS, with whom JUSTICE ALITO joins, dissenting.

The First Amendment prohibits the government from "abridging the freedom of speech." But the Court has struggled with how that guarantee applies when private speech occurs on government property. We have afforded private speech different levels of protection depending on the forum in which it occurs. See *Pleasant Grove City* v. *Summum*, 555 U. S. 460, 469–470 (2009). In a "traditional public forum"—namely, public streets or parks—speech restrictions must be "narrowly tailored to serve a compelling government interest." *Id.*, at 469. That same standard governs speech restrictions within a "'designated public forum,'" which exists "if government property that has not traditionally been regarded as a public forum is intentionally opened up for that purpose." *Ibid.* But if the government creates a limited public forum (also called a nonpublic forum)—namely, "a forum that is limited to use by certain groups or dedicated solely

to the discussion of certain subjects"—then speech restrictions need only be "reasonable and viewpoint neutral." *Id.*, at 470.

Distinguishing between designated and limited public forums has proved difficult. We have said that whether the government created a designated public forum depends on its intent—as evidenced by its "policy and practice" and "the nature of the [government] property and its compatibility with expressive activity." *Cornelius* v. *NAACP Legal Defense & Ed. Fund, Inc.*, 473 U. S. 788, 802 (1985). But what this guidance means has bedeviled federal courts.

This case involves a type of forum that has prompted especially stark divisions among federal courts of appeals: advertising in public transit spaces. A plurality of this Court has concluded that a public transit authority that categorically prohibits advertising involving political speech does not create a designated public forum. *Lehman* v. *Shaker Heights*, 418 U. S. 298, 300–302 (1974). But many transit authorities have instead opened their advertising spaces to a wide array of political speech, and courts of appeals are divided on what type of forum this creates. Transit authorities in Chicago, Detroit, New York City, and Washington, D. C., are bound by rulings that classify their ad spaces as designated public forums and, thus, prohibit content-based restrictions on advertising. Transit authorities in Boston—and, in this case, Seattle—are similarly open to political speech, yet can freely restrict speech based on its content. Whether public transit advertising spaces are designated or limited public forums determines what speech millions of Americans will—or will not—encounter during their commutes.

This case offers an ideal opportunity to bring clarity to an important area of First Amendment law. In the decision below, the U. S. Court of Appeals for the Ninth Circuit held that Seattle public transit advertising space is a limited public forum. The court then allowed the transit authority to exclude ads submitted by the American Freedom Defense Initiative (AFDI)—petitioner here—by applying content-based advertising restrictions. I would have granted certiorari.

## I

King County, Washington, operates a public transit system that provides transportation to hundreds of thousands of riders in and around Seattle. Like many transit authorities, King County's

transit system funds itself in part by selling advertising space on its buses and other property. And, like many transit authorities, King County subjects proposed ads to a preapproval process. Its policy for evaluating ads prohibits political campaign advertising, but allows other political messages. Political messages, however, cannot be displayed if the county deems them "false or misleading," "demeaning and disparaging," or a risk to the orderly operation of the transit system. 2014 WL 345245, *4 (WD Wash., Jan. 30, 2014).

King County has approved many controversial political ads. Transit bus exteriors have proclaimed "Save Gaza! Justice for all." Riders have encountered ads urging women to visit a pro-life crisis pregnancy center to discuss abortion alternatives. Ads have championed "Equal Rights for Palestinians[:] The Way to Peace," and announced, "The Palestinian Authority Is Calling For A Jew-Free State[:] Equal Rights for Jews." King County even initially accepted an ad that would have emblazoned "Israeli War Crimes[,] Your Tax Dollars At Work" on buses—before withdrawing that acceptance based on threats of violence. See *Seattle Mideast Awareness Campaign* v. *King County*, 781 F. 3d 489, 494 (CA9 2015) (*SeaMAC*).

In 2013, the State Department and the Federal Bureau of Investigation (FBI) launched a campaign to encourage anyone in Seattle—an international travel hub—to report information about wanted terrorists. To that end, the State Department submitted ads for King County's approval to run on bus exteriors.

Consistent with a campaign aimed at soliciting information about wanted terrorists, one ad displayed the names and faces of 16 wanted terrorists beneath the words "Faces of Global Terrorism." Appendix, *infra*. The bottom of this ad announced: "Stop a Terrorist. Save Lives. Up to $25 Million Reward." *Ibid.* The ad included contact information for the Rewards for Justice Program, which offers substantial monetary rewards for information helping to locate wanted terrorists. See *ibid.* King County's Transit Advertising Program Project Manager interpreted the ad as a conventional " 'wanted poster' " and approved it. Record in No. 2:13–CV–01804 (WD Wash.) (Record), Doc. 14, pp. 5–6 (Shinbo decl.). The ad started appearing on buses in June 2013. *Ibid.*

King County then received a "small" number of complaints. *Id.*, at 6. Faultfinders complained that juxtaposing the words "Faces of Global Terrorism" next to "pictures of persons of color

with Muslim-sounding names . . . suggested that all similar persons were dangerous terrorists," and that "just to depict men of certain races is . . . incendiary itself." *Ibid.* (internal quotation marks omitted). A Seattle-area U. S. Congressman echoed these objections. The State Department voluntarily withdrew the ad.

Weeks later, petitioner AFDI—an advocacy group that seeks to convey its views on terrorism by buying public transit ad space—submitted a proposed ad. See Appendix, *infra*. Like the State Department ad, AFDI's ad was captioned "Faces of Global Terrorism." *Ibid.* And like the State Department ad, AFDI's ad displayed the same 16 photos of wanted terrorists, with their names beneath. At the bottom of the ad, AFDI included slightly different text. Whereas the State Department ad concluded "Stop a Terrorist. Save Lives. Up to $25 Million Reward," AFDI's ad concluded: "AFDI Wants You to Stop a Terrorist. The FBI Is Offering Up To $25 Million Reward If You Help Capture One Of These Jihadis." *Ibid.*

King County rejected AFDI's ad as inconsistent with its policy. First, King County deemed the ad "false or misleading," because the Government was not offering a $25 million reward for any depicted terrorist, and because the State Department, not the FBI, offers the rewards. Record, Doc. 13, pp. 7–8 (Desmond decl.). Second, King County considered the ad "demeaning and disparaging" to minorities "by equating their dress and skin color with terrorists" and by misusing the term "jihadi." *Id.*, at 8. Third, King County believed that the ad could "interfere with operation of the Metro transit system" because the ad could alienate riders and discomfort staff. *Id.*, at 9.

AFDI sued, but the District Court rejected AFDI's First Amendment challenge. It reasoned that the transit system's advertising space was a limited public forum, and that King County's restrictions were reasonable and viewpoint neutral. 2014 WL 345245, *4–*7. The Ninth Circuit affirmed. It agreed that King County's transit ad space was a limited public forum, and considered the rejection of AFDI's ad as "false or misleading" to be reasonable and viewpoint neutral. 796 F. 3d 1165, 1168–1172 (2015). It did not reach King County's other rationales. *Ibid.*

## II

In the large portions of this country encompassed by the Second, Sixth, Seventh, and D. C. Circuits, AFDI's ad would likely have met a different fate. In those Circuits, accepting a wide

array of political and issue-related ads demonstrates that the government intended to create a designated (rather than limited) public forum because "political advertisements . . . [are] the hallmark of a public forum." *AFDI* v. *Suburban Mobility Auth. for Regional Transp.*, 698 F. 3d 885, 890 (CA6 2012).* In those Circuits, transit authorities that open their ad spaces to political messages must provide compelling justifications for restricting ads, and must narrowly tailor any restrictions to those justifications.

In the First and Ninth Circuits, however, transit authorities have far more leeway to restrict speech. There, "a transit agency's decision to allow the display of controversial advertising does not in and of itself establish a designated public forum." *AFDI* v. *Massachusetts Bay Transp. Auth.*, 781 F. 3d 571, 580 (CA1 2015); see *SeaMAC*, 781 F. 3d, at 498–499 (similar); see also 796 F. 3d, at 1168 (decision below, relying on *SeaMAC*). As the Ninth Circuit acknowledged, this approach conflicts with the approaches of "other courts [that] have held that similar transit advertising programs constitute designated public forums." *SeaMAC*, *supra*, at 498–499. Materially similar public transit advertising programs should not face such different First Amendment constraints based on geographical happenstance.

This case would allow us to resolve that division. King County's advertising restrictions cannot pass muster if the transit advertising space is a designated public forum. King County bans ads that it deems "false or misleading," but this Court considers broad, content-based restrictions on false statements in political messages to be generally impermissible. See *United States* v. *Alvarez*, 567 U. S. 709, 718 (2012) (plurality opinion); see *id.*, at 737–739 (BREYER, J., concurring in judgment). King County's

*Accord, *New York Magazine* v. *Metropolitan Transp. Auth.*, 136 F. 3d 123, 130 (CA2 1998) ("[T]he advertising space on the outside of [transit] buses is a designated public forum, because the [authority] accepts both political and commercial advertising"); *Lebron* v. *Washington Metropolitan Area Transit Auth.*, 749 F. 2d 893, 896, and n. 6 (CADC 1984) ("[T]he Authority here, by accepting political advertising, has made its subway stations into public fora"); *Air Line Pilots Assn. Int'l* v. *Department of Aviation of Chicago*, 45 F. 3d 1144, 1152–1154, and n. 7 (CA7 1995) (focusing on "whether or to what extent 'political' advertisements have been permitted in the past"); *Planned Parenthood Assn./Chicago Area* v. *Chicago Transit Auth.*, 767 F. 2d 1225, 1232 (CA7 1985) (similar).

prohibitions on "demeaning and disparaging" ads, or ads that could disrupt the transit system by alienating riders, are also problematic content-based restrictions. King County may wish to protect captive riders' sensibilities, but "'we are often "captives" outside the sanctuary of the home and subject to objectionable speech.'" *Cohen* v. *California*, 403 U. S. 15, 21 (1971). The government cannot automatically "shut off discourse solely to protect others from hearing it." *Ibid.*

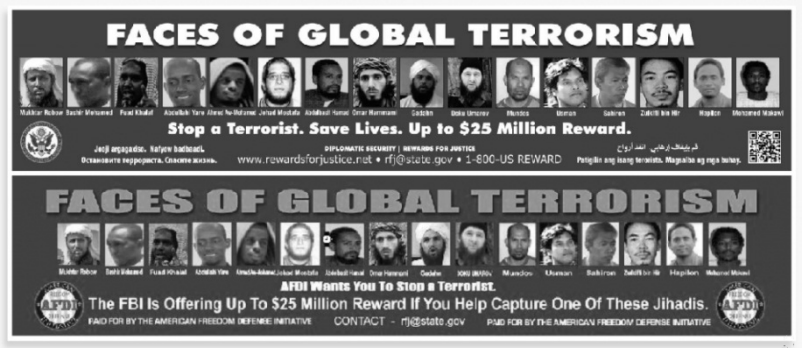
To be sure, this case involves speech that some may consider offensive, on a politically charged subject. That is all the more reason to grant review. "[A] principal function of free speech . . . is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger." *Texas* v. *Johnson*, 491 U. S. 397, 408–409 (1989) (internal quotation marks omitted).

Many of the Court's landmark First Amendment decisions have involved contentious speech in times of national turmoil. When some States branded the civil rights movement a threat to public order, the Court decided whether protesters against segregation could be punished for purportedly disrupting the peace. *E. g.*, *Cox* v. *Louisiana*, 379 U. S. 536, 537–538 (1965). When the Nation was divided over the Vietnam War, the Court decided whether the First Amendment prohibits the Government from prosecuting a man for wearing a "'"F*** the Draft"'" jacket in a courthouse, *Cohen*, *supra*, at 16, and whether a public school could punish students who wear black armbands as symbols of antiwar protest, *Tinker* v. *Des Moines Independent Community School Dist.*, 393 U. S. 503, 504 (1969). More recently, we have decided whether protesters can brandish signs proclaiming "'God Hates Fags'" and "'God Hates the USA/Thank God for 9/11'" outside a soldier's funeral, *Snyder* v. *Phelps*, 562 U. S. 443, 447–448 (2011); whether the First Amendment protects videos that depict women crushing small animals to death to satisfy viewers' sexual fetishes, *United States* v. *Stevens*, 559 U. S. 460, 464–466 (2010); and whether States can reject Confederate-flag license plates, *Walker* v. *Texas Div., Sons of Confederate Veterans, Inc.*, 576 U. S. 200, 235 (2015).

I see no sound reason to shy away from this First Amendment case. It raises an important constitutional question on which there is an acknowledged and well-developed division among the

Courts of Appeals. One of this Court's most basic functions is to resolve this kind of question. I respectfully dissent from the denial of certiorari.

APPENDIX




The top image is the State Department's "Faces of Global Terrorism" advertisement, which King County approved and allowed to run on its buses. The bottom image is AFDI's "Faces of Global Terrorism" advertisement, which King County rejected.

No. 15–870. FLORIDA *v.* GRIDINE. Sup. Ct. Fla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 175 So. 3d 672.

No. 15–5798. SCHWAGER *v.* SCHWAGER. Super. Ct. N. J., App. Div. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied.

No. 15–7571. HAMILTON *v.* BIRD ET AL. C. A. 10th Cir. Certiorari before judgment denied.

No. 15–8054. BLANCO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 632 Fed. Appx. 549.

*Rehearing Denied*

No. 15–593. TESLER *v.* CACACE ET AL., *ante*, p. 1066;
No. 15–633. DUFF ET AL. *v.* LEWIS ET AL., *ante*, p. 1103;

No. 15–663. KRATZ *v.* CITIMORTGAGE, INC., *ante*, p. 1104;
No. 15–691. ARUNACHALAM *v.* JPMORGAN CHASE & CO., *ante*, p. 1068;
No. 15–6075. FLETCHER *v.* FLORIDA, *ante*, p. 1120;
No. 15–6211. WHITE *v.* DETROIT EAST COMMUNITY MENTAL HEALTH ET AL., *ante*, p. 1069;
No. 15–6633. BARNETT *v.* CROCKETT ET AL., *ante*, p. 1072;
No. 15–6696. HOSKINS *v.* FAYRAM, WARDEN, *ante*, p. 1074;
No. 15–6718. RODRIGUEZ *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, *ante*, p. 1075;
No. 15–6787. RASHID *v.* ORTIZ, WARDEN, *ante*, p. 1037;
No. 15–6876. L. B. *v.* S. T. ET AL., *ante*, p. 1080;
No. 15–7104. LEVITAN *v.* MORGAN, SHERIFF, ESCAMBIA COUNTY, FLORIDA, *ante*, p. 1108; and
No. 15–7235. ADAMS *v.* UNITED STATES, *ante*, p. 1091. Petitions for rehearing denied.

No. 15–5579. FLORES-PEREZ *v.* UNITED STATES, *ante*, p. 917. Petition for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

## MARCH 10, 2016

*Dismissal Under Rule 46*

No. 15–6517. PONGO ET AL. *v.* BANK OF AMERICA ET AL. C. A. 4th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 612 Fed. Appx. 698.

## MARCH 14, 2016

*Dismissal Under Rule 46*

No. 15–6670. BRICE *v.* UNITED STATES. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 593 Fed. Appx. 709.

## MARCH 18, 2016

*Miscellaneous Orders*

No. 15–338. SHERIFF ET AL. *v.* GILLIE ET AL. C. A. 6th Cir. [Certiorari granted, *ante*, p. 1045.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–339. Ross *v.* Blake. C. A. 4th Cir. [Certiorari granted, *ante*, p. 1045.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–6418. Welch *v.* United States. C. A. 11th Cir. [Certiorari granted, *ante*, p. 1056.] Motion of respondent United States for divided argument granted.

## March 21, 2016

*Certiorari Granted—Vacated and Remanded.* (See No. 14–10078, *ante*, p. 411.)

*Miscellaneous Orders.* (See also No. 137, Orig., *ante*, p. 423.)

No. D–2881. In re Discipline of McMeen. Herbert Edgar McMeen, of Carbondale, Ill., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2882. In re Discipline of Brush. Michael A. Brush, of Sylmar, Cal., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2883. In re Discipline of Castle. Leroy Russell Castle, of Durham, N. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2884. In re Discipline of Zuganelis. George Mark Zuganelis, of Harwood Heights, Ill., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2885. In re Discipline of Davies. David Harrison Davies, of Willoughby, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2886. In re Discipline of Carter. Stephen E. Carter, of Beaufort, S. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 15M89. Konover *v.* Wells Fargo Bank, N. A. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 15M90. Taylor *v.* United States; and
No. 15M91. Hall *v.* Brennan, Postmaster General. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 142, Orig. Florida *v.* Georgia. Motion of the Special Master for allowance of fees and disbursements granted, and the Special Master is awarded a total of $41,564.31 for the period September 1, 2015, through January 31, 2016, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, *ante*, p. 921.]

No. 144, Orig. Nebraska et al. *v.* Colorado. Motion for leave to file bill of complaint denied. [For earlier order herein, see 575 U. S. 994.]

Justice Thomas, with whom Justice Alito joins, dissenting.

Federal law does not, on its face, give this Court discretion to decline to decide cases within its original jurisdiction. Yet the Court has long exercised such discretion, and does so again today in denying, without explanation, Nebraska and Oklahoma's motion for leave to file a complaint against Colorado. I would not dispose of the complaint so hastily. Because our discretionary approach to exercising our original jurisdiction is questionable, and because the plaintiff States have made a reasonable case that this dispute falls within our original and exclusive jurisdiction, I would grant the plaintiff States leave to file their complaint.

## I

The Constitution provides that "[i]n all Cases . . . in which a State shall be [a] Party, the supreme Court shall have original Jurisdiction." Art. III, § 2, cl. 2. In accordance with Article III, Congress has long provided by statute that this Court "shall have

original and exclusive jurisdiction of all controversies between two or more States." 28 U. S. C. § 1251(a).

Federal law is unambiguous: If there is a controversy between two States, this Court—and only this Court—has jurisdiction over it. Nothing in § 1251(a) suggests that the Court can opt to decline jurisdiction over such a controversy. Context confirms that § 1251(a) confers no such discretion. When Congress has chosen to give this Court discretion over its merits docket, it has done so clearly. Compare § 1251(a) (the Court "shall have" jurisdiction over controversies between States) with § 1254(1) (cases in the courts of appeals "may be reviewed" by this Court by writ of certiorari) and § 1257(a) (final judgments of state courts "may be reviewed" by this Court by writ of certiorari).

The Court's lack of discretion is confirmed by the fact that, unlike other matters within our original jurisdiction, our jurisdiction over controversies between States is exclusive. Compare § 1251(a) with § 1251(b) (the Court "shall have original but not exclusive jurisdiction" of other cases over which Article III gives this Court original jurisdiction). If this Court does not exercise jurisdiction over a controversy between two States, then the complaining State has no judicial forum in which to seek relief. When presented with such a controversy, "[w]e have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given." *Cohens* v. *Virginia*, 6 Wheat. 264, 404 (1821) (Marshall, C. J.).

Nonetheless, the Court has exercised discretion and declined to hear cases that fall within the terms of its original jurisdiction. See, *e. g.*, *United States* v. *Nevada*, 412 U. S. 534, 537–540 (1973) (*per curiam*) (controversy between United States and individual States); *Ohio* v. *Wyandotte Chemicals Corp.*, 401 U. S. 493, 500–505 (1971) (action by a State against citizens of other States). The Court has even exercised this discretion to decline cases where, as here, the dispute is between two States and thus falls within our *exclusive* jurisdiction. See, *e. g.*, *Arizona* v. *New Mexico*, 425 U. S. 794, 796–798 (1976) (*per curiam*). The Court has concluded that its original jurisdiction is "obligatory only in appropriate cases" and has favored a "sparing use" of that jurisdiction. *Illinois* v. *Milwaukee*, 406 U. S. 91, 93–94 (1972). The Court's reasons for transforming its mandatory, original jurisdiction into discretionary jurisdiction have been rooted in policy considerations. The Court has, for example, cited its purported lack

of "special competence in dealing with" many interstate disputes and emphasized its modern role "as an appellate tribunal." *Wyandotte Chemicals Corp.*, 401 U. S., at 498; see *id.*, at 497–499.

I have previously applied the Court's precedents taking this discretionary approach to our original jurisdiction. See *Wyoming* v. *Oklahoma*, 502 U. S. 437, 474–475, n. (1992) (dissenting opinion) (acknowledging precedents, noting that they "have not been challenged here," and arguing against exercising jurisdiction). I have also acknowledged that "sound reasons" support that approach. *Id.*, at 475.

Because our discretionary approach appears to be at odds with the statutory text, it bears reconsideration. Moreover, the "reasons" we have given to support the discretionary approach are policy judgments that are in conflict with the policy choices that Congress made in the statutory text specifying the Court's original jurisdiction.

II

This case involves a suit brought by two States against another State, and thus presents an opportunity for us to reevaluate our discretionary approach to our original jurisdiction.

Federal law generally prohibits the manufacture, distribution, dispensing, and possession of marijuana. See Controlled Substances Act (CSA), 84 Stat. 1242, as amended, 21 U. S. C. §§ 812(c), Schedule I(c)(10), 841–846 (2012 ed. and Supp. II). Emphasizing the breadth of the CSA, this Court has stated that the statute establishes "a comprehensive regime to combat the international and interstate traffic in illicit drugs." *Gonzales* v. *Raich*, 545 U. S. 1, 12 (2005). Despite the CSA's broad prohibitions, in 2012 the State of Colorado adopted Amendment 64, which amends the State Constitution to legalize, regulate, and facilitate the recreational use of marijuana. See Colo. Const., Art. XVIII, § 16. Amendment 64 exempts from Colorado's criminal prohibitions certain uses of marijuana. §§ 16(3)(a), (c), (d); see Colo. Rev. Stat. § 18–18–433 (2015). Amendment 64 directs the Colorado Department of Revenue to promulgate licensing procedures for marijuana establishments. Art. XVIII, § 16(5)(a). And the amendment requires the Colorado General Assembly to enact an excise tax for sales of marijuana from cultivation facilities to manufacturing facilities and retail stores. § 16(5)(d).

In December 2014, Nebraska and Oklahoma filed in this Court a motion seeking leave to file a complaint against Colorado. The

plaintiff States—which share borders with Colorado—allege that Amendment 64 affirmatively facilitates the violation and frustration of federal drug laws. See Complaint ¶¶54–65. They claim that Amendment 64 has "increased trafficking and transportation of Colorado-sourced marijuana" into their territories, requiring them to expend significant "law enforcement, judicial system, and penal system resources" to combat the increased trafficking and transportation of marijuana. *Id.*, ¶58; Brief [for Nebraska and Oklahoma] in Support of Motion for Leave To File Complaint 11–16. The plaintiff States seek a declaratory judgment that the CSA pre-empts certain of Amendment 64's licensing, regulation, and taxation provisions and an injunction barring their implementation. Complaint 28–29.

The complaint, on its face, presents a "controvers[y] between two or more States" that this Court alone has authority to adjudicate. 28 U. S. C. § 1251(a). The plaintiff States have alleged significant harms to their sovereign interests caused by another State. Whatever the merit of the plaintiff States' claims, we should let this complaint proceed further rather than denying leave without so much as a word of explanation.

* * *

I respectfully dissent from the denial of the motion for leave to file a complaint.

No. 15–7. Universal Health Services, Inc. *v.* United States et al. ex rel. Escobar et al. C. A. 1st Cir. [Certiorari granted, *ante*, p. 1025.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 15–610. Midland Funding, LLC, et al. *v.* Madden. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 15–6565. Long *v.* Minton, Chief Justice, Supreme Court of Kentucky, et al. C. A. 6th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1056] denied.

No. 15–6878. In re Campbell. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1060] denied.

No. 15–7603. IN RE SCHOTZ. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1118] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 15–7713. YAN PING XU *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir.;

No. 15–7719. LASLIE *v.* CHICAGO TRANSIT AUTHORITY. C. A. 7th Cir.;

No. 15–7910. DOAK *v.* JOHNSON, SECRETARY OF HOMELAND SECURITY. C. A. D. C. Cir.;

No. 15–8013. BURSE *v.* GOTTLIEB ET AL. C. A. 7th Cir.; and

No. 15–8187. SLOCUM *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until April 11, 2016, 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.

No. 15–8244. IN RE DEBROW;

No. 15–8288. IN RE MCCORMICK; and

No. 15–8359. IN RE DEROVEN. Petitions for writs of habeas corpus denied.

No. 15–907. IN RE HOUSTON ET AL.; and

No. 15–8006. IN RE JOSEPH. Petitions for writs of mandamus denied.

*Certiorari Granted*

No. 15–777. SAMSUNG ELECTRONICS CO., LTD., ET AL. *v.* APPLE INC. C. A. Fed. Cir. Certiorari granted limited to Question 2 presented by the petition. Reported below: 786 F. 3d 983.

*Certiorari Denied*

No. 15–168. RYNEARSON *v.* LANDS, BORDER PATROL AGENT, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 601 Fed. Appx. 302.

No. 15–424. ELECTRONIC ARTS INC. *v.* DAVIS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 775 F. 3d 1172.

No. 15–439. AETNA LIFE INSURANCE CO. ET AL. *v.* LEGRAS. C. A. 9th Cir. Certiorari denied. Reported below: 786 F. 3d 1233.

No. 15–527. MEBO INTERNATIONAL, INC. *v.* YAMANAKA. C. A. 9th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 768.

No. 15–580. COOK, WARDEN *v.* BARTON. C. A. 6th Cir. Certiorari denied. Reported below: 786 F. 3d 450.

No. 15–585. ROSEMOND *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 480.

No. 15–590. FLOREZ, AKA FLORES *v.* LYNCH, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied. Reported below: 779 F. 3d 207.

No. 15–607. BIOGEN MA, INC. *v.* JAPANESE FOUNDATION FOR CANCER RESEARCH ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 785 F. 3d 648.

No. 15–641. UINTAH COUNTY, UTAH, ET AL. *v.* UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION. C. A. 10th Cir. Certiorari denied. Reported below: 790 F. 3d 1000.

No. 15–706. MCWANE, INC. *v.* FEDERAL TRADE COMMISSION. C. A. 11th Cir. Certiorari denied. Reported below: 783 F. 3d 814.

No. 15–709. CRESSMAN *v.* THOMPSON ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 798 F. 3d 938.

No. 15–746. BONIDY ET AL. *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 790 F. 3d 1121.

No. 15–749. UNITED VETERANS MEMORIAL AND PATRIOTIC ASSOCIATION OF THE CITY OF NEW ROCHELLE ET AL. *v.* CITY OF NEW ROCHELLE, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 615 Fed. Appx. 693.

No. 15–750. WAN HAI LINES, LTD., ET AL. *v.* ELITE LOGISTICS CORP. ET AL. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 15–755. BOARD OF TRUSTEES OF THE CARPENTERS HEALTH AND WELFARE TRUST FUND FOR CALIFORNIA ET AL. *v.* BOS. C. A. 9th Cir. Certiorari denied. Reported below: 795 F. 3d 1006.

No. 15–763. OSTENSON ET UX. *v.* HOLZMAN ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 184 Wash. 2d 176, 357 P. 3d 650.

No. 15–784. BEACON RESOURCES, INC. *v.* WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS. Sup. Ct. App. W. Va. Certiorari denied. Reported below: 236 W. Va. 50, 777 S. E. 2d 619.

No. 15–864. CHAMBERS *v.* HSBC BANK USA, N. A., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 796 F. 3d 560.

No. 15–865. THOMAS *v.* HANGER. Ct. App. Ga. Certiorari denied.

No. 15–867. FROMAL *v.* SINK. Sup. Ct. Va. Certiorari denied.

No. 15–869. FLYNN *v.* YELLOWSTONE MOUNTAIN CLUB, LLC, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 796 F. 3d 1004.

No. 15–871. FLORIDA *v.* HENRY. Sup. Ct. Fla. Certiorari denied. Reported below: 175 So. 3d 675.

No. 15–876. DODGE OF NAPERVILLE, INC., ET AL. *v.* NATIONAL LABOR RELATIONS BOARD. C. A. D. C. Cir. Certiorari denied. Reported below: 796 F. 3d 31.

No. 15–877. COLUMBIA VENTURE, LLC *v.* RICHLAND COUNTY, SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 413 S. C. 423, 776 S. E. 2d 900.

No. 15–879. BATTON *v.* COMMUNICATION WORKERS OF AMERICA, AFL–CIO, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 175.

No. 15–894. DOUDS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 472 S. W. 3d 670.

No. 15–895. MEISNER *v.* ZYMOGENETICS, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 182.

No. 15–896. MORALES *v.* SQUARE, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 621 Fed. Appx. 660.

No. 15–903. J. B., a Minor, by Benjamin et al., Parents and Natural Guardians *v.* Fassnacht et al. C. A. 3d Cir. Certiorari denied. Reported below: 801 F. 3d 336.

No. 15–909. Ellis *v.* Louisiana. Sup. Ct. La. Certiorari denied. Reported below: 2014–1511 (La. 10/14/15), 179 So. 3d 586.

No. 15–913. Luo Zheng *v.* Jianyi Zhang. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–916. Coven *v.* Arizona. Ct. App. Ariz. Certiorari denied. Reported below: 236 Ariz. 393, 340 P. 3d 1101.

No. 15–919. Singh, aka Sinch *v.* Lynch, Attorney General. C. A. 9th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 614.

No. 15–934. Maldonado et al. *v.* DeLong et al. C. A. 8th Cir. Certiorari denied. Reported below: 607 Fed. Appx. 612.

No. 15–935. Lempert *v.* Power et al. C. A. D. C. Cir. Certiorari denied. Reported below: 618 Fed. Appx. 3.

No. 15–941. City of Oakland, California *v.* Lynch, Attorney General, et al. C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 3d 1159.

No. 15–953. Shanklin *v.* Alabama. Ct. Crim. App. Ala. Certiorari denied. Reported below: 187 So. 3d 734.

No. 15–956. Campbell *v.* American International Group, Inc., et al. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 74.

No. 15–957. Dwyer *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 629 Fed. Appx. 69.

No. 15–967. Rechtzigel *v.* Mohrman & Kaardal, P. A. Ct. App. Minn. Certiorari denied.

No. 15–974. Joao Bock Transaction Systems, LLC *v.* Jack Henry & Associates, Inc. C. A. Fed. Cir. Certiorari denied. Reported below: 803 F. 3d 667.

No. 15–975. Purifoy *v.* Alabama. Ct. Crim. App. Ala. Certiorari denied. Reported below: 219 So. 3d 698.

No. 15–986. WERNER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–1012. BLACKINGTON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–1015. MARTIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 807 F. 3d 842.

No. 15–1025. BRIARTEK IP, INC. *v.* DELORME PUBLISHING CO., INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 622 Fed. Appx. 912.

No. 15–6063. POWELL *v.* TOMPKINS, SHERIFF, SUFFOLK COUNTY, MASSACHUSETTS. C. A. 1st Cir. Certiorari denied. Reported below: 783 F. 3d 332.

No. 15–6341. RANDOLPH-KENNEDY *v.* VERIZON SERVICES CORP. Sup. Ct. App. W. Va. Certiorari denied.

No. 15–6356. SHINE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–6490. JOHNSON *v.* JUST ENERGY. C. A. 2d Cir. Certiorari denied.

No. 15–6549. BAUTISTA-AVELINO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 644.

No. 15–6703. BROOKS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–6840. THOMAS ET UX. *v.* CHATTAHOOCHEE JUDICIAL CIRCUIT ET AL. C. A. 11th Cir. Certiorari denied.

No. 15–6874. WILLIAMS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 796 F. 3d 951.

No. 15–6918. WILLIAMS *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2015 WI 75, 364 Wis. 2d 126, 867 N. W. 2d 736.

No. 15–6990. KOSMES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 792 F. 3d 973.

No. 15–6992. SAIZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 797 F. 3d 853.

No. 15–7072. WILLIAMS *v.* MONTGOMERY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 15–7094. MOBLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 803 F. 3d 1105.

No. 15–7349. YOUNG *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 795 F. 3d 484.

No. 15–7380. WARD *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–7476. HOBART *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 175 So. 3d 191.

No. 15–7624. CRAWFORD *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2015–0784 (La. 10/2/15), 176 So. 3d 394.

No. 15–7661. SCULLARK *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2015 IL App (1st) 120962–U.

No. 15–7666. BARNEY *v.* ASARCO, L. L. C., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 178.

No. 15–7671. NATHAN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 15–7683. WEST *v.* WESTBROOKS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 790 F. 3d 693.

No. 15–7687. HAMILTON-RIVERS *v.* CITY OF GREELEY, COLORADO. Dist. Ct. Colo., Weld County. Certiorari denied.

No. 15–7688. GRASON *v.* HSBC BANK USA. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2015 IL App (4th) 140776–U.

No. 15–7689. SEUMANU *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 61 Cal. 4th 1293, 355 P. 3d 384.

No. 15–7691. McGregory *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2014 IL App (1st) 122900–U.

No. 15–7693. Rivers *v.* City of Greeley, Colorado. Dist. Ct. Colo., Weld County. Certiorari denied.

No. 15–7694. Dozier *v.* California. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 15–7698. Tobias *v.* Bowersox, Warden. C. A. 8th Cir. Certiorari denied.

No. 15–7703. Self *v.* California. Sup. Ct. Cal. Certiorari denied. Reported below: 62 Cal. 4th 1, 354 P. 3d 983.

No. 15–7704. Reedman *v.* Bryson, Commissioner, Georgia Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 15–7705. Ricco *v.* Annucci, Acting Commissioner, New York Department of Corrections and Community Supervision. C. A. 2d Cir. Certiorari denied.

No. 15–7708. Brown *v.* Lazaroff, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–7710. Boyer *v.* Jones, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 15–7714. Turner *v.* Maryland. Ct. App. Md. Certiorari denied. Reported below: 445 Md. 7, 122 A. 3d 976.

No. 15–7715. Thomas *v.* Tennessee. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–7717. Keels *v.* Texas. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 15–7720. Jones *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 15–7725. O'Keefe *v.* California. Sup. Ct. Cal. Certiorari denied.

No. 15–7729. Peck *v.* Washoe County, Nevada, et al. Ct. App. Nev. Certiorari denied. Reported below: 131 Nev. 1332.

No. 15–7730. SCHMITT *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 15–7731. RATCHFORD *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 309, 468 S. W. 3d 274.

No. 15–7734. WILSON *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 26 N. Y. 3d 1093, 44 N. E. 3d 948.

No. 15–7736. TAYLOR *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 26 N. Y. 3d 1112, 47 N. E. 3d 101.

No. 15–7737. WILLIAMSON *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2015 Ark. 373, 471 S. W. 3d 633.

No. 15–7738. SMITH *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2015 IL App (4th) 130205, 29 N. E. 3d 674.

No. 15–7739. SPRATT *v.* WALL, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS, ET AL. C. A. 1st Cir. Certiorari denied.

No. 15–7741. WILHELM *v.* WOODFORD. C. A. 9th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 462.

No. 15–7743. DECAPRIO *v.* ROCKRIDGE PROPERTIES, LLC. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 15–7744. LAWS *v.* HUGHES, JUDGE, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 200.

No. 15–7745. KITCHEN *v.* KLEE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 743.

No. 15–7746. PETROVIC *v.* ENTERPRISE LEASING COMPANY OF CHICAGO, LLC, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 618 Fed. Appx. 855.

No. 15–7748. STURGIS *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 15–7749. TAYLOR *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–7750. ROANE *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 15–7753. SMITH *v.* MISSOURI ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–7759. SWINSON *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 79.

No. 15–7761. MURPHY *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. C. A. D. C. Cir. Certiorari denied.

No. 15–7765. POPE *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 15–7766. BROWN *v.* SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 15–7774. SMITH *v.* CLARK, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 418.

No. 15–7775. REILLY *v.* HERRERA ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 622 Fed. Appx. 832.

No. 15–7779. ARELLANO *v.* PFEIFFER, ACTING WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 617.

No. 15–7780. TAYLOR *v.* SAN DIEGO COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 3d 1164.

No. 15–7781. WOOD *v.* PIERCE, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 15–7784. NICHOLS *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 15–7788. STEWART *v.* MURPHY ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 872.

No. 15–7794. BURNSIDE *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 371, 352 P. 3d 627.

No. 15–7802. DAVIS *v.* CARPENTER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 798 F. 3d 468.

No. 15–7805. CASTRO *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–7806. MORRIS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 15–7807. NAYAK *v.* CGA LAW FIRM ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 620 Fed. Appx. 90.

No. 15–7808. SMITH *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 15–7810. ALJA-IZ *v.* VIRGIN ISLANDS BOARD OF EDUCATION. C. A. 3d Cir. Certiorari denied. Reported below: 625 Fed. Appx. 591.

No. 15–7861. STEWART *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied.

No. 15–7869. JOHNSON *v.* CRUTCHFIELD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7914. LORDMASTER, FKA GOLDADER *v.* DAVIS, MAGISTRATE JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 207.

No. 15–7920. WARE *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 292 Neb. 24, 870 N. W. 2d 637.

No. 15–7934. GARBER *v.* CITY OF LOS ANGELES, CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 15–7936. HALL *v.* KIRBY, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 609 Fed. Appx. 51.

No. 15–7941. WOODWARD *v.* COAKLEY ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7943. HILL *v.* MCDANIEL ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–7944. HARVEY *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied.

No. 15–7959. Du Ju *v.* Washington. Ct. App. Wash. Certiorari denied.

No. 15–7970. Estrada *v.* Gooden et al. C. A. 11th Cir. Certiorari denied.

No. 15–7973. Marshall *v.* Payne et al. C. A. 4th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 604.

No. 15–7981. Melgoza *v.* Kirkland, Associate Warden. C. A. 9th Cir. Certiorari denied.

No. 15–7985. Sanchez-Llamas *v.* Persson, Superintendent, Oregon State Correctional Institution. C. A. 9th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 498.

No. 15–7989. Hughes *v.* California. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 15–8014. Bamdad *v.* Drug Enforcement Administration et al. C. A. D. C. Cir. Certiorari denied. Reported below: 617 Fed. Appx. 7.

No. 15–8042. Hall *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 354.

No. 15–8044. Vore *v.* Bradshaw, Warden. C. A. 6th Cir. Certiorari denied.

No. 15–8055. Bour *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 804 F. 3d 880.

No. 15–8058. Dixon *v.* Ballard, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 613 Fed. Appx. 250.

No. 15–8065. Pittman *v.* North Carolina. Sup. Ct. N. C. Certiorari denied. Reported below: 368 N. C. 424, 778 S. E. 2d 276.

No. 15–8067. Peterson *v.* Jones, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 664.

No. 15–8081. Moody *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 634 Fed. Appx. 531.

No. 15–8082. SIMMONS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 606 Fed. Appx. 848.

No. 15–8083. KENNEDY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 955.

No. 15–8084. LASSEQUE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 806 F. 3d 618.

No. 15–8092. RAFFERTY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–8094. DOUGHERTY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 632 Fed. Appx. 993.

No. 15–8095. FRY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 823.

No. 15–8097. SPEROW *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 15–8100. MENDOZA-LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 301.

No. 15–8101. JEFFERSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 791 F. 3d 1013.

No. 15–8102. OJO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 630 Fed. Appx. 83.

No. 15–8103. PAULINO-GUZMAN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 807 F. 3d 447.

No. 15–8104. MORRIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 820.

No. 15–8106. VONDETTE *v.* IVES, COMPLEX WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 445.

No. 15–8107. WALKER *v.* BRENNAN, POSTMASTER GENERAL, ET AL. C. A. 7th Cir. Certiorari denied.

No. 15–8110. JACKSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 15–8111. MARTINEZ-IBARRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 199.

No. 15–8116. LARSEN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 495.

No. 15–8118. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 635 Fed. Appx. 574.

No. 15–8122. RIVERA-PAREDES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 889.

No. 15–8125. HERNANDEZ-RODRIGUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 627 Fed. Appx. 373.

No. 15–8131. ECCLESTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 767.

No. 15–8136. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 666.

No. 15–8137. GILMORE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 711.

No. 15–8139. MCDONALD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 177.

No. 15–8140. MYLES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 178.

No. 15–8146. BIGELOW *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 152.

No. 15–8148. GARCIA *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 125 A. 3d 1139.

No. 15–8171. HUNT ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 801 F. 3d 606.

No. 15–8176. AUBREY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 3d 1115.

No. 15–8183. MONTIEL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 456.

No. 15–8184. MORENO-PADILLA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 287.

No. 15–8188. CROFT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 15–8189. HUFF *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 471.

No. 15–8190. GARCIA-PILLADO, AKA MARTINEZ-SANCHEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 435.

No. 15–8191. HERNANDEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 803 F. 3d 1341.

No. 15–8192. GAGNON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 332.

No. 15–8196. ROJAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 362.

No. 15–8200. RIVERA-GONZALEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 201.

No. 15–8201. HORTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 617.

No. 15–8202. HUGGINS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–8203. MARTINEZ-RODRIGUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 205.

No. 15–8210. AGUILAR-OSORTO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 197.

No. 15–8211. ALVARADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 271.

No. 15–8212. BEAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 612 Fed. Appx. 482.

No. 15–8217. URIBES-GUARDIOLA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 195.

No. 15–8218. YOUNG *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 630 Fed. Appx. 52.

No. 15–8222. HIMMELREICH *v.* BAIRD, WARDEN, ET AL. C. A. 2d Cir. Certiorari denied.

No. 15–8223. HARPER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–8231. GONZALEZ-MENDEZ *v.* UNITED STATES (two judgments). C. A. 1st Cir. Certiorari denied.

No. 15–8233. STEWART *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 554.

No. 15–8235. RANGEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–8237. CORBIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 607 Fed. Appx. 134.

No. 15–8238. ANGEL CASTILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 804 F. 3d 361.

No. 15–8239. SMITH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–8242. BOGOMOL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 219.

No. 15–8247. GALLOWAY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 75.

No. 15–8248. GOMEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 15–8264. ODEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 181.

No. 15–8275. MARLOWE *v.* THOMAS, WARDEN. C. A. 3d Cir. Certiorari denied.

No. 15–8296. FORTSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 120 A. 3d 88.

No. 15–630. BAKER, WARDEN *v.* RILEY. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 786 F. 3d 719.

No. 15–640. WASATCH COUNTY, UTAH, ET AL. *v.* UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION. C. A. 10th Cir. Motion of Myton City for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 790 F. 3d 1000.

No. 15–765. FRANK *v.* POERTNER ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 618 Fed. Appx. 624.

No. 15–858. CLEMENTS, WARDEN *v.* THOMAS. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 789 F. 3d 760.

No. 15–891. AURELIUS CAPITAL MANAGEMENT, L. P. *v.* TRIBUNE MEDIA CO., FKA TRIBUNE CO., FKA TIMES MIRROR CORP., ET AL. C. A. 3d Cir. Motions of Bankruptcy Law Professors and former Federal Judges for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 799 F. 3d 272.

No. 15–914. CREECH *v.* MUNIZ, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 800 F. 3d 1005.

No. 15–1016. SPRINGER *v.* CHAPA, WARDEN. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 608 Fed. Appx. 258.

No. 15–6560. BASHAM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 789 F. 3d 358.

No. 15–7676. QUINTANA *v.* GIPSON, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 621 Fed. Appx. 475.

No. 15–7742. RUNNELS *v.* MCDOWELL, WARDEN. C. A. 9th Cir. Certiorari before judgment denied.

No. 15–7799. ROMERO *v.* CALIFORNIA. Sup. Ct. Cal. Motion of Survivors of Murder Victims and Counselors of Such Survivors for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 62 Cal. 4th 1, 354 P. 3d 983.

No. 15–8194. GUNTER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 15–8234. MABRY *v.* SHARTEL, WARDEN. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 632 Fed. Appx. 707.

No. 15–8251. SANTIAGO-LUGO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 15–348. ALEXOPOULOS ET VIR *v.* GORDON HARGROVE AND JAMES, P. A., ET AL., *ante*, p. 1062;

No. 15–440. DIAZ *v.* CITIMORTGAGE, INC., *ante*, p. 1049;

No. 15–447. SCHOEPS ET AL. *v.* FREE STATE OF BAVARIA, FEDERAL REPUBLIC OF GERMANY, *ante*, p. 1102;

No. 15–520. HAAGENSEN, PERSONAL REPRESENTATIVE OF THE ESTATE OF HAAGENSEN *v.* WHERRY, VISITING JUDGE, LAWRENCE COUNTY COURT OF COMMON PLEAS, PENNSYLVANIA, ET AL., *ante*, p. 1064;

No. 15–613. RODRIGUEZ *v.* AMERICAN HOME MORTGAGE SERVICING, *ante*, p. 1103;

No. 15–5707. PHILLIPS *v.* TEXAS DEPARTMENT OF PUBLIC SAFETY, *ante*, p. 929;

No. 15–6430. SMITH *v.* FLORIDA, *ante*, p. 1121;

No. 15–6474. GOUCH-ONASSIS *v.* UNITED STATES, *ante*, p. 1035;

No. 15–6597. JOHNSON *v.* SANTA CLARA COUNTY, CALIFORNIA, *ante*, p. 1071;

No. 15–6630. COOPER *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL., *ante*, p. 1072;

No. 15–6646. HAMILTON ET AL. *v.* UNITED STATES, *ante*, p. 1072;

No. 15–6717. KRONENBERG *v.* OHIO, *ante*, p. 1075;

No. 15–6722. GATES *v.* NORTH DAKOTA, *ante*, p. 1075;

No. 15–6812. MCFADDEN *v.* BUSH, WARDEN, *ante*, p. 1077;

No. 15–6817. VIERS *v.* SHEPARD, WARDEN, *ante*, p. 1078;

No. 15–6823. BARNEY *v.* CONGOLEUM CORP. ET AL., *ante*, p. 1078;

No. 15–6857. IN RE RUPPERT, *ante*, p. 1060;

No. 15–6906. CARDELLE *v.* WILMINGTON TRUST, N. A., *ante*, p. 1105;

No. 15–6914. RICHARD *v.* MOHR ET AL., *ante*, p. 1106;

No. 15–6941. CLARK *v.* CALIFORNIA, *ante*, p. 1082;
No. 15–6954. COPPOLA *v.* O'BRIEN, WARDEN, *ante*, p. 1082;
No. 15–7312. HANSON MOSTELLER *v.* UNITED STATES, *ante*, p. 1109;
No. 15–7428. MALOUFF *v.* UNITED STATES, *ante*, p. 1112; and
No. 15–7455. JACKSON *v.* UNITED STATES, *ante*, p. 1112. Petitions for rehearing denied.

No. 15–6805. DAVIS *v.* DISTRICT OF COLUMBIA, *ante*, p. 1052. Motion for leave to file petition for rehearing denied.

MARCH 22, 2016

*Miscellaneous Order*

No. 15–8590 (15A965). IN RE WARD. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

*Certiorari Denied*

No. 15–8589 (15A964). WARD *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

MARCH 23, 2016

*Miscellaneous Order*

No. 15A911. RAVALLI COUNTY REPUBLICAN CENTRAL COMMITTEE ET AL. *v.* MCCULLOCH, MONTANA SECRETARY OF STATE, ET AL. C. A. 9th Cir. Application for injunctive relief pending appeal, presented to JUSTICE KENNEDY, and by him referred to the Court, denied.

MARCH 24, 2016

*Dismissal Under Rule 46*

No. 15–1079. LAND *v.* UNITED STATES. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 616 Fed. Appx. 196.

MARCH 28, 2016

*Certiorari Granted—Vacated and Remanded*

No. 15–7189. MOON, AKA JOHNSON *v.* UNITED STATES. C. A. 3d Cir. Reported below: 625 Fed. Appx. 136; and

No. 15–7300. JEFFRIES *v.* UNITED STATES. C. A. 5th Cir. Reported below: 616 Fed. Appx. 763. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Johnson* v. *United States*, 576 U. S. 591 (2015).

*Certiorari Dismissed*

No. 15–7814. LEBLANC *v.* MALONEY. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7815. LEBLANC *v.* RIVARD. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7816. LEBLANC *v.* BELLAMY CREEK CORRECTIONAL FACILITY. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7817. LEBLANC *v.* ARWOOD. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 15–7818. LEBLANC *v.* MICHIGAN. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

*Miscellaneous Orders*

No. 15M92. ROBERTSON *v.* UNITED STATES. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 15M93. DIXON *v.* PENNSYLVANIA UNEMPLOYMENT COMPENSATION BOARD OF REVIEW; and

No. 15M94. DIAZ *v.* MACOMBER, WARDEN. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 15M95. KAIGHN ET AL. *v.* UNITED STATES ET AL. Motion for leave to file bill of complaint denied.

No. 15–830. GOVERNMENT OF BELIZE *v.* BELIZE SOCIAL DEVELOPMENT LTD. C. A. D. C. Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 15–7812. Ullah *v.* Wells Fargo Bank, N. A. C. A. 2d Cir.;

No. 15–8254. DiLeo *v.* United States. C. A. 11th Cir.;

No. 15–8259. Wakefield *v.* West Virginia. Sup. Ct. App. W. Va.;

No. 15–8276. Reed *v.* United States. C. A. 4th Cir.;

No. 15–8277. Williams *v.* Webb Law Firm, P. C. C. A. 3d Cir.; and

No. 15–8283. Michael *v.* United States. C. A. 5th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until April 18, 2016, 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.

No. 15–8480. In re Baublitz. Petition for writ of habeas corpus denied.

No. 15–8464. In re Bui Phu Xuan. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8.

No. 15–926. In re Griskie. Petition for writ of mandamus and/or prohibition denied.

*Certiorari Granted*

No. 15–537. Bravo-Fernandez et al. *v.* United States. C. A. 1st Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 790 F. 3d 41.

*Certiorari Denied*

No. 15–467. Alaska *v.* Organized Village of Kake, Alaska, et al. C. A. 9th Cir. Certiorari denied. Reported below: 795 F. 3d 956.

No. 15–652. Daiichi Sankyo Co., Ltd. *v.* Lee, Director, United States Patent and Trademark Office. C. A. Fed. Cir. Certiorari denied. Reported below: 791 F. 3d 1373.

No. 15–664. Blagojevich *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 794 F. 3d 729.

No. 15–684. Ohio *v.* Sierra Club et al. C. A. 6th Cir. Certiorari denied. Reported below: 793 F. 3d 656.

No. 15–781. KOCH ET AL. *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 793 F. 3d 147.

No. 15–783. RBS SECURITIES INC. ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, RECEIVER FOR GUARANTY BANK. C. A. 5th Cir. Certiorari denied. Reported below: 798 F. 3d 244.

No. 15–787. KRAMER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 797 F. 3d 493.

No. 15–829. BNSF RAILWAY CO. *v.* ANDERSON. Sup. Ct. Mont. Certiorari denied. Reported below: 380 Mont. 319, 354 P. 3d 1248.

No. 15–918. SUTTON *v.* WESTBROOKS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 434.

No. 15–921. KONOWALOFF *v.* YALE UNIVERSITY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 620 Fed. Appx. 60.

No. 15–923. KIRSCHMANN *v.* KIRSCHMANN. Sup. Ct. Va. Certiorari denied.

No. 15–924. WINWARD *v.* UTAH. Sup. Ct. Utah. Certiorari denied. Reported below: 2015 UT 61, 355 P. 3d 1022.

No. 15–928. MEZU *v.* MORGAN STATE UNIVERSITY. C. A. 4th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 796.

No. 15–929. OREGON TEAMSTER EMPLOYERS TRUST *v.* HILLSBORO GARBAGE DISPOSAL, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 800 F. 3d 1151.

No. 15–930. ODION *v.* GOOGLE, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 628 Fed. Appx. 635.

No. 15–932. CORNISH *v.* CITY OF BALTIMORE, MARYLAND, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 621 Fed. Appx. 185.

No. 15–937. ST. PAUL FIRE & MARINE INSURANCE CO. *v.* ABHE & SVOBODA, INC. C. A. 8th Cir. Certiorari denied. Reported below: 798 F. 3d 715.

No. 15–938. HOSPITALITY FRANCHISE SERVICE, INC., DBA GALLERIA MOTEL *v.* CITY OF MONTCLAIR, CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 798 F. 3d 895.

No. 15–939. MCWHORTER *v.* NEAL, SUPERINTENDENT, INDIANA STATE PRISON. C. A. 7th Cir. Certiorari denied.

No. 15–994. ROBINSON ET AL. *v.* JEWELL, SECRETARY OF THE INTERIOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 790 F. 3d 910.

No. 15–996. MILLER *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. Reported below: 626 Fed. Appx. 261.

No. 15–997. BEBO *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 7th Cir. Certiorari denied. Reported below: 799 F. 3d 765.

No. 15–1001. CORRIGAN *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied.

No. 15–1011. SHAFEI ET AL. *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Butler County. Certiorari denied. Reported below: 2015-Ohio-645, 27 N. E. 3d 593.

No. 15–1050. HARRISON *v.* OCEAN BANK ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 614 Fed. Appx. 429.

No. 15–1056. COOPER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 624 Fed. Appx. 819.

No. 15–1060. DANE *v.* GEICO GENERAL INSURANCE CO. Sup. Ct. Nev. Certiorari denied. Reported below: 131 Nev. 1269 and 1270.

No. 15–1092. PARKERVISION, INC. *v.* QUALCOMM INC. C. A. Fed. Cir. Certiorari denied. Reported below: 621 Fed. Appx. 1009.

No. 15–6602. FORD *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied. Reported below: 235 Cal. App. 4th 987, 185 Cal. Rptr. 3d 898.

No. 15–7151. HYDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 609 Fed. Appx. 227.

No. 15–7503. CORCORAN *v.* NEAL, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 783 F. 3d 676.

No. 15–7626. VILLANUEVA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 619 Fed. Appx. 269.

No. 15–7762. SARANCHAK *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 802 F. 3d 579.

No. 15–7792. LLOYD *v.* MOHR, DIRECTOR, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, ET AL. C. A. 6th Cir. Certiorari denied.

No. 15–7793. LANG *v.* STEWART, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7803. CARTER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 805 F. 3d 552.

No. 15–7811. CHRISTIAN *v.* HOFFNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–7820. MOREIRA DA SILVA *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 75 So. 3d 289.

No. 15–7839. FAULTRY *v.* ALLISON, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 315.

No. 15–7842. GALLARDO *v.* KERNAN, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 15–7844. TORNE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 15–7851. BRIAN K. *v.* JENISE B. Ct. App. Ohio, 2d App. Dist., Champaign County. Certiorari denied. Reported below: 2015-Ohio-29.

No. 15–7854. JEZOWSKI ET AL. *v.* ARENAC COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES. Ct. App. Mich. Certiorari denied.

No. 15–7856. HARRISON *v.* OWENS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 151.

No. 15–7857. OAKMAN *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 122 A. 3d 1145.

No. 15–7885. WREN *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 15–7913. LARA *v.* NEVEN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 790.

No. 15–7921. WALKER *v.* FISHER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 794.

No. 15–7953. HUEBNER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 15–7958. CLAY *v.* CHAPPIUS, SUPERINTENDENT, ELMIRA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–8001. BRITT *v.* MUNIZ, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 336.

No. 15–8004. HARPER *v.* MILLER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–8017. BAHAM *v.* LOUISIANA. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 2014–00571 (La. App. 3 Cir. 11/5/14), 155 So. 3d 727.

No. 15–8029. GORDY *v.* HEDGPETH, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 322.

No. 15–8096. DAVENPORT *v.* HOOKS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–8099. MURPHY *v.* MISSOURI BOARD OF PROBATION AND PAROLE ET AL. C. A. 8th Cir. Certiorari denied.

No. 15–8128. MURRAY *v.* DOLCE, SUPERINTENDENT, ORLEANS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 15–8142. MELOT *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 398.

No. 15–8154. DHALIWAL *v.* COUNTY OF IMPERIAL, CALIFORNIA, ET AL. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 15–8197. SIMMONS *v.* CLARK, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 90.

No. 15–8220. KAMMERER *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 15–8249. HAMPTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–8253. LIRIANO-DE-LA-CRUZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 809 F. 3d 686.

No. 15–8262. WESTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 544.

No. 15–8269. COOPER *v.* SELY. C. A. 9th Cir. Certiorari denied. Reported below: 608 Fed. Appx. 548.

No. 15–8272. COOK *v.* LINDAMOOD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 15–8278. YANNAI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 791 F. 3d 226.

No. 15–8286. STRENG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 323.

No. 15–8289. MUNERA-CADAVID *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 615 Fed. Appx. 943.

No. 15–8290. PETERSEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 884.

No. 15–8291. MONTEROLA-MATA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 583.

No. 15–8293. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 803 F. 3d 279.

No. 15–8298. JIMENEZ-ECHEVARRIA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–8305. LEWIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 631 Fed. Appx. 313.

No. 15–8313. CASTILLO-GUERRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 627 Fed. Appx. 353.

No. 15–8321. LISYANSKY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 806 F. 3d 706.

No. 15–8327. PORTILLO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 630 Fed. Appx. 594.

No. 15–8328. PEELE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 15–8329. HECTOR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 611 Fed. Appx. 632.

No. 15–8332. MAGDALENA ROCHA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 623 Fed. Appx. 353.

No. 15–8333. SYED *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 616 Fed. Appx. 973.

No. 15–8334. SPANGLE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 617 Fed. Appx. 764.

No. 15–8343. ADKINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 629 Fed. Appx. 464.

No. 15–8344. APONTE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–8345. BRITTON-HARR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 15–8363. SMITH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 15–8371. SCOTT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 15–8372. MANN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 15–8375. ANDERSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 113 A. 3d 535.

No. 15–835. PROCTER & GAMBLE CO. *v.* RIKOS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 799 F. 3d 497.

No. 15–855. OAKLAND *v.* BELL STATE BANK & TRUST. Sup. Ct. N. D. Motion of Professor Jona Goldschmidt et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 2015 ND 188, 867 N. W. 2d 325.

No. 15–922. LAM LUONG *v.* ALABAMA. Ct. Crim. App. Ala. Motion of National Association of Criminal Defense Lawyers for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 199 So. 3d 173.

No. 15–7581. FRANKLIN *v.* LAZAROFF, WARDEN. C. A. 6th Cir. Certiorari before judgment denied.

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No. 14–8986. SHABAZZ *v.* RICHARDS, ACTING JUDGE, FRANKLIN COUNTY COURT OF NEW YORK, ET AL., 575 U. S. 1030;

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No. 15–6694. PRESTON *v.* ATTEBURY, *ante*, p. 1074;

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*Wholesale electricity rate regulation—Peak power demand periods.*— Act authorizes FERC to regulate compensation that wholesale market operators pay to electricity consumers for commitments *not* to use power during peak demand periods; FERC's compensation formula is not arbitrary and capricious. FERC v. Electric Power Supply Assn., p. 260.

**FEDERAL RULES OF CIVIL PROCEDURE.** See **Class Actions.**

**FEDERAL-STATE RELATIONS.** See **Alaska National Interest Lands Conservation Act; Federal Arbitration Act.**

**FEES.** See ***In Forma Pauperis.***

**FIDUCIARY RESPONSIBILITIES.** See **Employee Retirement Income Security Act of 1974,** 1.

**FIRST AMENDMENT.** See **Jurisdiction,** 1.

**FLORIDA.** See **Constitutional Law,** VI.

**FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976.**

*Injuries suffered boarding train—Commercial activity exception.*— Respondent's federal suit against Austrian state-owned railway, which arose from injuries she suffered while attempting to board a train in Austria, was not "based upon" U. S. sale of a Eurail pass for purposes of 28 U. S. C. § 1605(a)(2)'s "commercial activity" exception to FSIA and is therefore barred by sovereign immunity. OBB Personenverkehr AG v. Sachs, p. 27.

**FOURTEENTH AMENDMENT.** See **Constitutional Law,** II; **Habeas Corpus.**

**FOURTH AMENDMENT.** See **Immunity from Suit.**

**FREEDOM OF ASSOCIATION.** See **Jurisdiction,** 1.

**GEORGIA.** See **Constitutional Law,** III.

**GOVERNMENT CONTRACTORS.** See **Jurisdiction,** 3.

**HABEAS CORPUS.**

*Clearly established federal law—Death penalty—Juror exclusion.*— Sixth Circuit erred in overturning respondent's death sentence on habeas review, because Kentucky Supreme Court did not unreasonably apply clearly established federal law in affirming trial court's exclusion of a juror who could not give sufficient assurance of neutrality or impartiality in considering whether to impose death penalty. White v. Wheeler, p. 73.

**HEALTH INSURANCE.** See **Employee Retirement and Income Security Act of 1974,** 2.

**IDAHO.** See **Civil Rights Attorney's Fees Awards Act of 1976.**

**IMMUNITY FROM SUIT.** See also **Foreign Sovereign Immunities Act of 1976.**

*Qualified immunity—Police officer's conduct.*— Fifth Circuit erred in denying qualified immunity to Trooper Mullenix, because existing precedent does not clearly establish that he acted unreasonably when he shot and killed a fleeing suspect in an attempt to disable suspect's vehicle. Mullenix v. Luna, p. 7.

**INDIANS.**

1. *Indian Self-Determination and Education Assistance Act claims.*— Equitable tolling does not apply to presentment of Menominee Tribe's claims under Act. Menominee Tribe of Wis. v. United States, p. 250.

2. *Omaha Tribe—Sale of reservation land for Tribe's benefit.*—An 1882 Act that authorized Interior Secretary to survey and sell more than 50,000 acres of Omaha Indian Reservation land for Tribe's benefit did not diminish reservation's boundaries. Nebraska v. Parker, p. 481.

**INEFFECTIVE ASSISTANCE OF COUNSEL.** See **Constitutional Law,** V.

***IN FORMA PAUPERIS.***

*Prisoner's federal-court filing fees—Monthly installment payments.*— Where an *in forma pauperis* prisoner is required to pay federal-court filing fees in more than one civil action, 28 U. S. C. § 1915(b)(2) calls for simultaneous, not sequential, recoupment of multiple monthly installment payments. Bruce v. Samuels, p. 82.

**JURISDICTION.** See also **Criminal Law,** 2.

1. *Congressional redistricting plan—Right of political association—Three-judge court.*—Title 28 U. S. C. § 2284 entitles petitioners to make their case—that Maryland's 2011 congressional redistricting plan burdens their First Amendment right of political association—before a three-judge court. Shapiro v. McManus, p. 39.

**JURISDICTION**—Continued.

2. *Real estate investment trust—Federal diversity jurisdiction—Citizenship of members.*—Because a "real estate investment trust" under Maryland law is a distinct, unincorporated entity with capacity to sue or be sued, Americold's citizenship for federal diversity jurisdiction purposes is based on citizenship of its members, including its shareholders. Americold Realty Trust v. ConAgra Foods, Inc., p. 378.

3. *Telephone Consumer Protection Act—Class action—Offer of judgment—Immunity from suit.*—Because an unaccepted settlement offer or offer of judgment does not moot a plaintiff's case, District Court retained jurisdiction to adjudicate respondent's complaint in this TCPA case; petitioner's status as a federal contractor does not entitle it to immunity from suit under TCPA. Campbell-Ewald Co. v. Gomez, p. 153.

**JURY INSTRUCTIONS.** See **Constitutional Law,** I, 1**; Criminal Law,** 2**.**

**JURY SELECTION.** See **Habeas Corpus.**

**JURY TRIAL RIGHT.** See **Constitutional Law,** VI**.**

**JUVENILE OFFENDERS.** See **Constitutional Law,** I, 2**.**

**KENTUCKY.** See **Habeas Corpus.**

**LIFE-IMPRISONMENT SENTENCES.** See **Constitutional Law,** I, 2**.**

**MARYLAND.** See **Constitutional Law; Jurisdiction,** 2**.**

**MASSACHUSETTS.** See **Constitutional Law,** IV**.**

**MOOTNESS.** See **Jurisdiction,** 3**.**

**NATIONAL PARK SERVICE.** See **Alaska National Interest Lands Conservation Act.**

**PARENTAL RIGHTS.** See **Constitutional Law,** III**.**

**PERSONAL INJURY LAWSUITS.** See **Foreign Sovereign Immunities Act of 1976.**

**POLICE CONDUCT.** See **Immunity from Suit.**

**POLITICAL ASSOCIATION.** See **Jurisdiction,** 1**.**

**POWER RATES.** See **Federal Power Act.**

**PRE-EMPTION.** See **Employee Retirement and Income Security Act of 1974,** 2**; Federal Arbitration Act.**

**PREVAILING PARTIES.** See **Civil Rights Attorney's Fees Awards Act of 1976.**

**PRISONERS.** See ***In Forma Pauperis*.**

**PROTECTIVE GEAR DONNING AND DOFFING.** See **Class Actions.**

**QUALIFIED IMMUNITY.** See **Immunity from Suit.**

**RAILROADS.** See **Foreign Sovereign Immunities Act of 1976.**

**REAL ESTATE INVESTMENT TRUSTS.** See **Jurisdiction,** 2.

**REASONABLE-DOUBT STANDARD.** See **Constitutional Law,** I, 1.

**RESERVATIONS.** See **Indians,** 2.

**RETROACTIVE APPLICATION OF SUPREME COURT DECISIONS.** See **Constitutional Law,** I, 2.

**RIGHT TO BEAR ARMS.** See **Constitutional Law,** IV.

**RIGHT TO COUNSEL.** See **Constitutional Law,** V.

**RIGHT TO JURY TRIAL.** See **Constitutional Law,** VI.

**SEARCHES AND SEIZURES.** See **Immunity from Suit.**

**SECOND AMENDMENT.** See **Constitutional Law,** IV.

**SENTENCING.** See **Constitutional Law,** VI.

**SEXUAL OFFENSES.** See **Criminal Law,** 1.

**SHAREHOLDERS.** See **Jurisdiction,** 2.

**SIXTH AMENDMENT.** See **Constitutional Law,** VI; **Habeas Corpus.**

**SOVEREIGN IMMUNITY.** See **Foreign Sovereign Immunities Act of 1976.**

**STATUTES OF LIMITATIONS.** See **Criminal Law,** 2; **Indians,** 1.

**STOCK OWNERSHIP PLANS.** See **Employee Retirement and Income Security Act of 1974,** 1.

**STUN GUNS.** See **Constitutional Law,** IV.

**SUFFICIENCY OF EVIDENCE.** See **Criminal Law,** 2.

**SUPREME COURT.**

Notation of death of JUSTICE SCALIA, p. VII.

**TELEPHONE CONSUMER PROTECTION ACT.** See **Jurisdiction,** 3.

**TRIAL BY JURY.** See **Constitutional Law,** VI.

**UTILITY RATES.** See **Federal Power Act.**

**UTILITY REGULATION.** See **Federal Power Act.**

**VERMONT.** See **Employee Retirement and Income Security Act of 1974,** 2.

**WAIVER OF FEES.** See ***In Forma Pauperis*.**

**WHOLESALE ENERGY RATES.** See **Federal Power Act.**

**WORDS AND PHRASES.**

"[*B*]*ased upon a commercial activity*." Foreign Sovereign Immunities Act of 1976, 28 U. S. C. § 1605(a)(2). OBB Personenverkehr AG v. Sachs, p. 27.