

(ORDER LIST: 575 U.S.)

MONDAY, MARCH 23, 2015

CERTIORARI -- SUMMARY DISPOSITIONS

14-148) AMANATULLAH, ET AL. V. OBAMA, PRESIDENT OF U.S., ET AL.
)
14-6575) AL-NAJAR, REDHA V. CARTER, SEC. OF DEFENSE, ET AL.

The petitions in these cases seek review of the judgments of the United States Court of Appeals for the District of Columbia Circuit in *Al-Najar v. Obama*, No. 12-5401 (CADC 2013), and *Amanatullah v. Obama*, No. 12-5407 (CADC 2013). They do not seek review of the judgments in *Al Maqaleh v. Hage1*, No. 12-5404 (CADC 2013), or *Al Bakri v. Obama*, No. 12-5399 (CADC 2013), which were consolidated with petitioners' appeals. Subsequent to the decisions of the court below, petitioners were transferred from the custody of the United States to the custody of other nations. As a result, these cases have become moot. We therefore grant the petitions and vacate the judgments of the Court of Appeals with respect to these petitioners. See *United States v. Munsingwear*, 340 U. S. 36 (1950); *Al-Marri v. Spagone*, 555 U. S. 1220 (2009). The motion of petitioner for leave to proceed *in forma pauperis* in No. 14-6575 is granted. Justice Kagan took no part in the consideration or decision of this motion and these petitions.

ORDERS IN PENDING CASES

14M93 ANTHONY, CLYDE V. COFFEE COUNTY, GA, ET AL.
14M94 BOWMAN, EDUARDO V. UNITED STATES

The motions to direct the Clerk to file petitions for writs

of certiorari out of time are denied.

14M95 ARSIS, WILLIAM V. JONES, SEC., FL DOC, ET AL.

14M96 WILLIAMS, CAMERON V. WOODS, WARDEN

The motions to direct the Clerk to file petitions for writs of certiorari out of time under Rule 14.5 are denied.

14M97 ATKINS, LISA A. V. CREIGHTON ELEMENTARY SCH. DIST.

14M98 REED, WADE V. McDONALD, SEC. OF VA

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

126, ORIG. KANSAS V. NEBRASKA AND COLORADO

The Honorable William J. Kayatta, Jr., of Portland, Maine, the Special Master in this case, is hereby discharged with the thanks of the Court.

14-614) NAZARIAN, DOUGLAS R., ET AL. V. PPL ENERGYPLUS, ET AL.

14-623) CPV MARYLAND V. PPL ENERGYPLUS, ET AL.

14-634) CPV POWER DEVELOPMENT, ET AL. V. PPL ENERGYPLUS, ET AL.

14-694) FIORDALISON, JOSEPH L., ET AL. V. PPL ENERGYPLUS, ET AL.

The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

14-8144 LARMANGER, KIMERIE V. KAISER FOUNDATION, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until April 13, 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.

CERTIORARI GRANTED

14-280 MONTGOMERY, HENRY V. LOUISIANA

The petition for a writ of certiorari is granted. In addition to the question presented by the petition, the parties are directed to brief and argue 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 v. Alabama*, 567 U. S. __ (2012)?"

14-462 DIRECTV, INC. V. IMBURGIA, AMY, ET AL.

The petition for a writ of certiorari is granted.

CERTIORARI DENIED

13-1512 HAMMOND, STEVEN D., ET AL. V. UNITED STATES

13-10288 DeMOLA, NATALIE V. JOHNSON, WARDEN

14-493 KENT RECYCLING SERVICES V. ARMY CORPS OF ENGINEERS

14-552 IL PUBLIC TELECOMMUNICATIONS V. FCC, ET AL.

14-681 CEATS, INC. V. CONTINENTAL AIRLINES, INC., ET AL.

14-685 OLSON, SHELLY V. MERRILL LYNCH CREDIT, ET AL.

14-687 STIEFEL LABS., INC., ET AL. V. FINNERTY, TIMOTHY

14-688 SHAMOKIN FILLER COMPANY, INC. V. FEDERAL MINE SAFETY, ET AL.

14-708 TRUVIA, EARL, ET AL. V. CONNICK, HARRY F., ET AL.

14-721 MORTON GROVE PHARMACEUTICALS V. ADAMS, SPARKELL, ET AL.

14-779 ARNESON, ROSS, ET AL. V. 281 CARE COMMITTEE, ET AL.

14-793 ROME, HEATHER V. DEVELOPMENT ALTERNATIVES, INC.

14-799 CAPPS, PATRICIA R., ET AL. V. WEFLEN, COLLEEN L., ET AL.

14-800 MCGEE-HUDSON, VALVETTA V. AT&T, ET AL.

14-803 FRANK, RUTHELLE, ET AL. V. WALKER, GOV. OF WI, ET AL.

14-806 TRIPLETT-FAZZONE, RAGNA V. COLUMBUS DIV. OF POLICE, ET AL.

14-811 DAVIS, CURTIS V. PRODUCERS AGRICULTURAL INS. CO.

14-815 KIENITZ, MICHAEL V. SCONNIE NATION, ET AL.
14-816 GYAMFI, KWAME V. SSCI CORP.
14-826 DUMMETT, JOHN A., ET AL. V. PADILLA, ALEX, ET AL.
14-831 EICHERS, COREY J. V. MINNESOTA
14-833 VICTORICK, DAVID L. V. TEXAS
14-834 COUNTY OF SANTA CRUZ, CA, ET AL. V. BURWELL, SEC. OF H&HS
14-836 BRUNETTI, ANTHONY N. V. FALCONE, WARDEN
14-842 CORBETT, JONATHAN V. TRANSPORTATION SECURITY ADMIN.
14-865 RUNDGREN, TODD, ET AL. V. WASHINGTON MUTUAL BANK, ET AL.
14-868 DOBRYDNEV, ILYA V. BURWELL, SEC. OF H&HS
14-870 PARKER, SPENCER J. V. ALABAMA
14-878 RENAISSANCE ART INVESTORS V. AXA ART INSURANCE CORP.
14-879 HARP, EVERLINA L. V. RAHME, LAURICE EL BADRY
14-895 LEMON, D. V. SHAW, EVAN
14-914 CARNACCHI, MICHAEL A. V. U.S. BANK NAT. ASSOC., ET AL.
14-917 DEMERS, KEVIN S. V. FLORIDA
14-928 SINGLETARY, CHARLES V. DISTRICT OF COLUMBIA
14-942 SHEPLEY, BULFINCH, RICHARDSON V. W. J. O'NEIL COMPANY
14-948 CAUDILL, BOBBY J. V. UNITED STATES
14-949 HARRISON, DWIGHT V. NFL PLAYER RETIREMENT
14-962 TEXAS ENTERTAINMENT, ET AL. V. HEGAR, GLENN, ET AL.
14-967 COFFMAN, BRYAN V. UNITED STATES
14-970 FRIEDLANDER, CHARLES J. V. UNITED STATES
14-994 WE THE PEOPLE FOUNDATION, ET AL. V. CIR
14-1016 BETHANY, RASHOD V. UNITED STATES
14-5069 HARRIS, KAREN V. CHANGE, INC.
14-5241 CARTER, DARRELL J. V. UNITED STATES
14-5246 HODGES, HENRY E. V. CARPENTER, WARDEN

14-5757) TAYLOR, KENDAL V. UNITED STATES
)
 14-5794) EDELEN, JEFFREY V. UNITED STATES

 14-6212) JUSTICE, BRENT V. UNITED STATES
)
 14-6295) RICHARDS, ASHLEY N. V. UNITED STATES

 14-6505 TAAL, BABOUCAR B. V. ST. MARY'S BANK

 14-6820 DURAN, EMMANUEL V. UNITED STATES

 14-6831 BARCUS, SANDRA L. V. SEARS, ROEBUCK AND CO.

 14-6996 JORY, JACK A. V. UNITED STATES

 14-7004 STARKS, TRAMELL E. V. WISCONSIN

 14-7073 MORALES, HECTOR V. PENNSYLVANIA

 14-7103 GUERRERO, JAVIER V. UNITED STATES

 14-7212 LOPEZ, VICTOR V. UNITED STATES

 14-7316 WHEETLEY, MARY V. TENNESSEE

 14-7548 CARMICHAEL, KIRK V. AMERICAN EXPRESS TRAVEL

 14-7617 PARRIS, DOUGLAS L. V. WEAVER, CHARLES

 14-7855 POPE, THOMAS D. V. JONES, SEC., FL DOC

 14-7870 WILLIAMS, W. L. V. JONES, SEC., FL DOC, ET AL.

 14-7873 MATA, LUCIA V. WORKERS COMPENSATION, ET AL.

 14-7874 SCOTT, MICHAEL D. V. FORSHEY, WARDEN

 14-7875 O'NEAL, DUJUAN V. BURT, WARDEN

 14-7877 PAGLIACCETTI, ANTHONY P. V. KERESTES, SUPT., MAHANAY, ET AL.

 14-7880 MCKENZIE, GUSTAVO V. CASILLAS, R., ET AL.

 14-7893 BALLARD, JOHN M. V. ANDREWS, JUSTIN, ET AL.

 14-7896 JOHNSON, ZAJAHN A. V. TEXAS

 14-7902 WARE, CHRISTOPHER J. V. RILEY, TODD, ET AL.

 14-7908 KISSNER, DONALD V. ROMANOWSKI, WARDEN

 14-7912 ALNUTT, JEFFERY V. NEW YORK

 14-7913 THOMPSON, DEWAYNE V. DePOND, J.

14-7916 DEVILLE, PATRICK V. CALIFORNIA
14-7923 KOKINDA, JASON V. USDC ED PA
14-7925 MOORE, CHRISTOPHER V. STEPHENS, DIR., TX DCJ
14-7930 PURDIE, KEITH V. NEBRASKA
14-7934 AUGUST, TRACY V. WARREN, WARDEN
14-7937 MILLER, CHRISTOPHER V. WASHINGTON
14-7942 BOGAN, LEWIS V. GEORGIA
14-7951 LUNGBERG, JEFFREY C. V. MONTGOMERY, WARDEN
14-7956 HINCHLIFFE, JAMES A. V. WELLS FARGO BANK
14-7958 FORD, LARRY A. V. WALLACE-BRYANT, PATRICIA D.
14-7960 GALLOWAY, TERRENCE V. ILLINOIS
14-7962 HAMMERSLEY, ROBERT E. V. OCONTO, WI
14-7967 VILLA, DANIEL V. STEPHENS, DIR., TX DCJ
14-7971 McCLAM, LEO V. THOMAS, JANICE, ET AL.
14-7981 HERNANDEZ MEJIA, LEOPOLDO V. NOOTH, SUPT., SNAKE RIVER
14-7985 ZAKRZEWSKI, EDWARD J. V. FLORIDA
14-7986 NOORDMAN, KINZIE G. V. BEARD, SEC., CA DOC
14-7988 HIRAMANNEK, ADIL, ET AL. V. CLARK, L. MICHAEL, ET AL.
14-7992 INGLIS, ANTONIO J. V. CONNECTICUT
14-7994 McMILLER, TYRONE H. V. PATTON, DIR., OK DOC, ET AL.
14-7998 FLORES, TERESA V. SAMUELS, DIR., BOP, ET AL.
14-8000 FALK, JOHN R. V. TEXAS
14-8005 CHAE, BONG H. V. RODRIGUEZ, PAUL, ET AL.
14-8012 JACKSON, SHAWN V. ARTUS, SUPT., ATTICA
14-8015 McCURDY, GENE E. V. CALIFORNIA
14-8018 STORM, DANIEL V. WISCONSIN
14-8023 COLBERT, GREGORY V. MARTEL, WARDEN
14-8024 WELLS, MACK C. V. MISSISSIPPI

14-8028 DAVIS, JERMAINE L. V. ILLINOIS
14-8032 CLEVELAND, LARRY V. CALIFORNIA
14-8037 OSIE, GREGORY V. OHIO
14-8064 McCANN, ROBERT V. KENNEDY UNIVERSITY HOSPITAL
14-8065 PRYOR, VEDA V. McHUGH, SEC. OF ARMY, ET AL.
14-8098 MADISON, VERNON V. THOMAS, COMM'R, AL DOC, ET AL.
14-8127 REED, KELVIN, L. V. JONES, SEC., FL DOC, ET AL.
14-8128 CHHUON, RITHY V. McEWEN, WARDEN
14-8133 CARLUCCI, GINO V. UNITED STATES
14-8136 CURIEL, JUAN A. V. DUCART, WARDEN
14-8141 RUDDOCK, LEROY O. V. HOLDER, ATT'Y GEN.
14-8154 CABALLERO, RODRIGO V. CALIFORNIA
14-8174 ROBERTSON, MARCO M. V. SAMUELS, CHARLES E., ET AL.
14-8185 HALE, ROBERT L. V. SOTO, WARDEN
14-8199 ENGELHARDT, ROBERT J. V. HEIMGARTNER, WARDEN, ET AL.
14-8207 WIELAND, WILLIAM W. V. NOOTH, SUPT., SNAKE RIVER
14-8219 ENGLISH, KEVIN L. V. JOHNS, TRACY, ET AL.
14-8221 MASSEY, WARREN V. JONES, SEC., FL DOC, ET AL.
14-8239 WILLIAMS, MICHAEL D. V. MACOMBER, WARDEN
14-8244 REED, WILLIE E. V. KANSAS
14-8246 HOFFMAN, BRANDON V. OHIO
14-8250 JOHNSON, JACKIE V. BURTON, TERRY
14-8255 TORRENCE, THOMAS J. V. SC DOC
14-8257 ANDERSON, FATIH V. PENNSYLVANIA
14-8264 MERCHANT, ROGER D. V. CASSADY, WARDEN
14-8269 FULWOOD, LENNIE V. SAMUELS, CHARLES E., ET AL.
14-8272 GRATE, CHRISTOPHER L. V. McFADDEN, WARDEN
14-8278 STAGG, CLINT M. V. JONES, SEC., FL DOC

14-8308 SEAY, JERMAINE V. UNITED STATES
14-8309 BLANCHARD, ANTONIO V. WALLACE, WARDEN
14-8314 CASTEEL, TIRAN R. V. USDC SD IA
14-8317 NIE, HARRY V. CLARKE, DIR., VA DOC
14-8321 SHIPTON, DENNIS G. V. UNITED STATES
14-8348 HOLMES, ROCHESTER V. OPM
14-8352 SHEAFE-CARTER, INGRID V. DONAHOE, POSTMASTER GEN.
14-8357 BROWN, RICCO V. JONES, SEC., FL DOC, ET AL.
14-8361 BOYLE, EDMUND V. UNITED STATES
14-8377 BROOKS, LOVE A. V. CARAWAY, WARDEN
14-8386 BLANGO, ROBERT L. V. UNITED STATES
14-8387 MATTHEWS, REGGIE V. UNITED STATES
14-8389 KNIGHT, RONALD V. JONES, SEC., FL DOC, ET AL.
14-8394 BROCK, CARL V. UNITED STATES
14-8396 SODANO, JAMES F. V. UNITED STATES
14-8397 ROGERS, JAMAR V. UNITED STATES
14-8398 BADGETT, FRANK N. V. UNITED STATES
14-8399 LEE, BRANDON C. V. UNITED STATES
14-8400 KRAMER, PAUL V. UNITED STATES
14-8405 VILLA-RODRIGUEZ, GUADALUPE V. UNITED STATES
14-8407 MURO-INCLAIN, JUAN V. UNITED STATES
14-8415 CAIN, LENNY V. UNITED STATES
14-8417 BURT, MICHAEL V. CIR
14-8420 PARKER, TROY V. UNITED STATES
14-8421 CISNEROS-CASTILLO, JOSE V. V. UNITED STATES
14-8423 McCREA, TYRELL J. V. COLORADO
14-8426 LUIS, MARCO M. V. UNITED STATES
14-8432 BATES, KATRINA S. V. UNITED STATES

14-8433 CLARK, CHRISTOPHER J. V. UNITED STATES
14-8434 BROWN, STEVEN V. CALIFORNIA
14-8436 MOSLEY, REGINALD V. UNITED STATES
14-8437 MERCADO-CRUZ, ALBERT V. UNITED STATES
14-8442 WHITE, MICHAEL L. V. UNITED STATES
14-8445 WOODS, ANNA R. V. UNITED STATES
14-8450 ELBE, KENNETH V. UNITED STATES
14-8453 SPRIGGS, DEREK E. V. UNITED STATES
14-8458 DILLON, MARCO V. UNITED STATES
14-8459 COLEMAN, QUADALE D. V. UNITED STATES
14-8460 DOMINGUEZ-ESPINOZA, UVERCLAIN V. UNITED STATES
14-8463 MUNDY, ISIAH M. V. UNITED STATES
14-8465 LEDEE, MICHAEL V. UNITED STATES
14-8468 ANDERSON, ALLON V. UNITED STATES
14-8469 BURCHELL, BENJAMIN J. V. UNITED STATES
14-8473 SEXTON, JACK P. V. UNITED STATES
14-8474 COLON-VEGA, MARIA L. V. UNITED STATES
14-8476 TRAVIS, TROY D. V. UNITED STATES
14-8481 BIRON, LISA V. UNITED STATES
14-8489 WILLIAMS, CHRISTOPHER V. UNITED STATES
14-8490 TORRES, GEORGE V. UNITED STATES
14-8494 ONTIVEROS, ESMERALDA V. UNITED STATES
14-8496 RUBIN, MATTHEW C. V. UNITED STATES
14-8500 CABRERA-PARADES, RAYMUNDO J. V. UNITED STATES
14-8501 CARTER, LARON V. UNITED STATES
14-8502 RUIZ-ACOSTA, ANTONIO V. UNITED STATES
14-8504 GOODWIN, FORREST T. V. UNITED STATES
14-8505 HAMILTON, JEFFREY E. V. UNITED STATES

14-8506 GRAVLEY, DWAUNE V. UNITED STATES
14-8507 RODRIGUEZ, SERGIO V. UNITED STATES
14-8510 FARMER, GEORGE A. V. UNITED STATES
14-8514 FRANCO, ERIC V. UNITED STATES
14-8515 HUERTA-RAMOS, RODOLFO V. UNITED STATES
14-8516 HARMON, THEODORE R. V. UNITED STATES
14-8518 HARRIS, CARL V. UNITED STATES
14-8519 GASKIN, JERON V. UNITED STATES
14-8531 KOMASA, THOMAS V. UNITED STATES
14-8539 ARCHIE, SHERWIN V. UNITED STATES
14-8544 GUILLEN, JOSE L. V. UNITED STATES
14-8560 MALDONADO-GARCIA, REYNALDO V. UNITED STATES
14-8561 BRUNO-SANDOVAL, FELICIANO V. UNITED STATES
14-8647 GISSENDANER, KELLY R. V. BRYSON, COMM'R, GA DOC
14-8663 GISSENDANER, KELLY R. V. KENNEDY, WARDEN

The petitions for writs of certiorari are denied.

14-531 WETZEL, SEC., PA DOC, ET AL. V. COX, JERMONT

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

14-877 BRIGHT, ROBERT W. V. GALLIA COUNTY, OH, ET AL.

The motion of National Association for Public Defense, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

14-966 BERMAN, ROBERT A. V. UNITED STATES

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

14-988 SPRINT SPECTRUM L.P. V. EMILIO, VINCENT

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

14-999 D'AMELIO, DANIEL V. UNITED STATES

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

14-1003 AWAD, ALI V. UNITED STATES

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

14-6302 ELSO, JUAN C. V. UNITED STATES

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

14-7894 MARGARET B. V. MILWAUKEE COUNTY, WI, ET AL.

14-7895 BACH, MARGARET V. CIRCUIT COURT OF WI, ET AL.

14-7899 PERRY, MOSHE V. EDD, ET AL.

14-7928 LUH, TODD J. V. MISSOURI

14-8020 LAVERGNE, BRANDON S. V. TURK, LESLIE, ET AL.

14-8118 CLARK, SEAN A. V. SSA

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

14-8454 DeGLACE, CARLOS V. EDENFIELD, WARDEN

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

petition.

HABEAS CORPUS DENIED

14-8452 IN RE THEODORE SMITH
14-8455 IN RE ALEJANDRO RODRIGUEZ
14-8595 IN RE CHARLES EDKINS
14-8631 IN RE JAMES J. ZARYCHTA, JR.

The petitions for writs of habeas corpus are denied.

14-8600 IN RE BARRY W. ADAMS

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

MANDAMUS DENIED

14-7901 IN RE RAUL A. TREVINO
14-7919 IN RE TED A. KLAUDT
14-8060 IN RE ALLAN AUSTIN

The petitions for writs of mandamus are denied.

14-7959 IN RE ROBERT L. REHBERGER

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

REHEARINGS DENIED

13-10797 McNAB, RADCLIFFE O. V. NEW YORK, ET AL.

14-532 WIDEMAN, EUGENE V. PUEBLO CTY. DEPT. SOC. SERV.

14-5358 HARDY, DAVID V. COLVIN, ACTING COMM'R, SOCIAL

14-6332 NGUYEN, NHUONG V. V. PHAM, MONIQUE, ET AL.

14-6338 DIXON, WILLIAM V. GREENE, LARRY, ET AL.

14-6636 ROBINSON, JEFFREY V. LASSITER, WARDEN

14-6746 BAILEY, STEVEN D. V. SHERMAN, ACTING WARDEN

14-6785 WAREFIELD, PATRICK E. V. WAREFIELD, NANCY R.

14-6808 MAMMOLA, ROBERT V. FEENEY, JUDGE, USBC D MA, ET AL.

14-6908 NAVARRETTE, JESUS M. V. TEXAS

14-6924 SCARLETT, KENWORTH V. RIKERS ISLAND

14-6935 PHILLIPS, GLENN, ET UX. V. DAVIS, JAMES W.

14-7021 SCOTT, JOE N. V. NEVADA

14-7039 RISHAR, JOHN R. V. UNITED STATES, ET AL.

14-7047 ROCCO, STEFANO V. SUPERIOR COURT OF CA

14-7061 LUCAS, JAMES V. REYNOLDS, WARDEN

14-7069 PRATER, WAYNE V. PHILADELPHIA FAMILY COURT

14-7071 MAGANA-TORRES, JOSE H. V. BITER, WARDEN

14-7115 WILLIAMS, JAMES V. MARYLAND

14-7117 WEBSTER, BRENT E. V. ARAMARK CORRECTIONAL SERVICES

14-7145 RUBIO, JORGE A. V. GRAY, Y LAQUIDA W., ET AL.

14-7153 RICHARDS, MARK E. V. CLARKE, DIR., VA DOC

14-7166 WILLIAMS, DIANA R. V. BD. OF ED. OF BALTIMORE COUNTY

14-7167 WEEKLEY, JEFFREY A. V. JONES, SEC., FL DOC, ET AL.

14-7225 KLINEFELTER, JEFFREY V. ALFARO, WARDEN

14-7227 CARTER, GLORIA V. CARTER, ODIS E., ET AL.

14-7228 IN RE SIDNEY J. CLARK, JR.

14-7229 BRATTON, RONALD V. CALIFORNIA
14-7241 SANTIAGO, FRANK P. V. CALIFORNIA
14-7256 SANTISTEVAN, DAVID L. V. YORDY, WARDEN
14-7262 VIOLA, JOSEPH J. V. UNITED STATES
14-7308 HILTON, MICHAEL V. McCALL, WARDEN
14-7381 VIVO, JOHN V. CONNECTICUT
14-7605 AMAR, MARK S. V. UNITED STATES

The petitions for rehearing are denied.

14-426 NIVIA, LILIA V. BANK UNITED
14-490 MOLINA, ANGELA V. AURORA LOAN SERVICES

The motions for leave to file petitions for rehearing are denied.

ATTORNEY DISCIPLINE

D-2827 IN THE MATTER OF HOWARD NEIL SHIPLEY

A response having been filed, the Order to Show Cause, dated December 8, 2014, is discharged. All Members of the Bar are reminded, however, that they are responsible—as Officers of the Court—for compliance with the requirement of Supreme Court Rule 14.3 that petitions for certiorari be stated “in plain terms,” and may not delegate that responsibility to the client.

BREYER, J., dissenting

SUPREME COURT OF THE UNITED STATES

LESTER LEROY BOWER, JR. v. TEXAS

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

No. 14–292. Decided March 23, 2015

The petition for a writ of certiorari is denied.

JUSTICE BREYER, with whom JUSTICE GINSBURG and JUSTICE SOTOMAYOR join, dissenting from the denial of certiorari.

On April 28, 1984, petitioner Lester Leroy Bower was convicted in a Texas court of murdering four men. Each of the four men had been shot multiple times. Their bodies were left in an airplane hangar, and an ultralight aircraft was missing.

The State sought the death penalty. Bower introduced evidence that was, in his view, mitigating. He noted that he was 36 years old, married, employed full-time, and a father of two. He had no prior criminal record. Through the testimony of Bower’s family members and friends, the jury also heard about Bower’s religious devotion, his commitment to his family, his community service, his concern for others, his even temperament, and his lack of any previous violent (or criminal) behavior.

At the time of Bower’s sentencing, Texas law permitted the jury to consider this mitigating evidence only insofar as it was relevant to three “special issues”: (1) whether the conduct of the defendant that caused the death of the four victims was committed deliberately and with the reasonable expectation that the victims’ deaths would result; (2) whether there was a probability that the defendant would continue to commit violent criminal acts, and as such would be a continuing threat to society; and (3) whether the defendant acted in response to provocation. See Tex. Code Crim. Proc. Ann., Art. 37.071(b) (Vernon 1981 and

BREYER, J., dissenting

Cum. Supp. 1986). Since the third issue was irrelevant in Bower’s case, the court asked the jury to consider only the first two. Because the jury answered “yes” to both, the trial judge automatically imposed a death sentence, as required by then-controlling Texas law. Arts. 37.071(c)–(e).

Bower appealed his case, lost, sought state postconviction relief, lost, appealed that loss, and lost again. See *Bower v. Texas*, 769 S. W. 2d 887 (Tex. Crim. App.), cert. denied, 492 U. S. 927 (1989); *Ex parte Bower*, 823 S. W. 2d 284 (Tex. Crim. App. 1991), cert. denied, 506 U. S. 835 (1992). But a week before Bower’s conviction became final, this Court decided in *Penry v. Lynaugh*, 492 U. S. 302 (1989), that Texas’ special issues procedure was unconstitutional. Specifically, the Court held that Texas’ procedure impermissibly prevented the jury from considering or acting upon potentially mitigating evidence. The Court wrote that a State cannot

“consistent with the Eighth and Fourteenth Amendments, prevent the sentencer from considering and giving effect to evidence relevant to the defendant’s background or character or to the circumstances of the offense that mitigate against imposing the death penalty.” *Id.*, at 318.

Penry himself had offered evidence of mental retardation and childhood abuse. This Court decided that Texas’ special issues, while allowing the jury to decide if Penry might commit violent crimes in the future, did not give the jury the constitutionally requisite opportunity to consider whether Penry’s mental retardation or childhood abuse constituted significantly mitigating evidence regardless. It “is not enough,” the Court wrote,

“simply to allow the defendant to present mitigating evidence to the sentencer. The sentencer must also be able to consider and give effect to that evidence in im-

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posing [a] sentence. Only then can [the court] be sure that the sentencer has treated the defendant as a uniquely individual human bein[g] and has made a reliable determination that death is the appropriate sentence.” *Id.*, at 319 (citations and internal quotation marks omitted; last alteration in original).

After this Court decided *Penry*, Bower filed a petition for habeas corpus in Federal District Court. He argued, among other things, that, given *Penry*, his own sentencing proceeding was constitutionally deficient. After a hearing, the court denied his petition and also refused to issue a certificate of appealability on the *Penry* issue. The Fifth Circuit affirmed the District Court’s denial of a certificate of appealability, reasoning that, in Bower’s case, the second special issue (about future dangerousness) sufficiently permitted the jury to take account of Bower’s mitigating evidence. *Bower v. Dretke*, 145 Fed. Appx. 879, 885, 887 (2005). In doing so, the Circuit referred to several of its earlier decisions reaching the same conclusion in similar circumstances. See *ibid.* (citing *Coble v. Dretke*, 417 F. 3d 508 (2005); *Boyd v. Johnson*, 167 F. 3d 907 (1999); *Barnard v. Collins*, 958 F. 2d 634 (1992)). Bower then sought certiorari here, but we denied his petition. *Bower v. Dretke*, 546 U. S. 1140 (2006).

The Fifth Circuit subsequently changed its mind about the meaning of *Penry*. And, in doing so, it specifically said that it had been wrong about Bower’s *Penry* claim. See *Pierce v. Thaler*, 604 F. 3d 197, 210, n. 9 (2010). It said this not in Bower’s case, but in an unrelated one. At that point, Bower’s case was no longer in federal court. So Bower could not take advantage of the Fifth Circuit’s change of mind; he had already brought a subsequent application for postconviction relief in Texas court, arguing (among other things) that Texas had used an unconstitutional sentencing procedure in his case.

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The Texas trial court decided that Bower was right. Conclusions of Law ¶97 in *Ex parte Bower*, No. 33426–B (15th Jud. Dist. Ct., Grayson Cty., Dec. 10, 2012), App. to Pet. for Cert. 127 (hereinafter Conclusions of Law). It issued an opinion requiring a new sentencing proceeding. See *ibid.* But the State appealed, and the Texas Court of Criminal Appeals reversed the trial court. See Order in *Ex parte Bower*, No. WR–21005–02, etc. (Tex. Ct. Crim. App., June 11, 2014), App. to Pet. for Cert. 1. It explained that “unlike the double-edged evidence in *Penry* . . . , the mitigating evidence presented by [Bower] during the punishment phase of his trial—evidence of his good and non-violent character, his good deeds, and the absence of a prior criminal record—was not outside the scope of special issues given.” *Id.*, at 4 (citing *Ex parte Bower*, 823 S. W. 2d, at 286). Because Bower’s evidence was not “double-edged” as *Penry*’s had been, the Texas Court of Criminal Appeals believed that the use of the special issues proceeding in Bower’s sentencing proceeding did not constitutionally entitle him to resentencing. See *ibid.*

Bower now asks us to grant certiorari and to reverse the Texas Court of Criminal Appeals. In my view, we should do so. *Penry*’s holding rested on the fact that Texas’ former special issues did not tell the jury “what ‘to do if it decided that [the defendant] . . . should not be executed’” because of his mitigating evidence. *Abdul-Kabir v. Quarterman*, 550 U. S. 233, 256 (2007) (quoting *Penry*, *supra*, at 324). Bower’s sentencing procedure suffered from this defect just as *Penry*’s did. The distinction that the Texas court drew between *Penry*’s and Bower’s evidence is irrelevant. Indeed, we have expressly made “clear that *Penry* . . . applies in cases involving evidence that is neither double edged nor purely aggravating, because in some cases a defendant’s evidence may have mitigating effect beyond its ability to negate the special issues.” 550 U. S., at 255, n. 16. The trial court and the Fifth Circuit both

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recognized that Bower's *Penry* claim was improperly rejected on that basis. See Conclusions of Law ¶97; *Pierce, supra*, at 210, n. 9.

The Constitution accordingly entitles Bower to a new sentencing proceeding. I recognize that we do not often intervene only to correct a case-specific legal error. But the error here is glaring, and its consequence may well be death. After all, because Bower already filed an application for federal habeas relief raising his *Penry* claim, the law may bar him from filing another application raising this same issue. See 28 U. S. C. §2254(b)(1). In these circumstances, I believe we should act and act now. I would grant the petition and summarily reverse the judgment below. I dissent from the Court's decision not to do so.