(ORDER LIST: 571 U.S.)

MONDAY, NOVEMBER 4, 2013

CERTIORARI -- SUMMARY DISPOSITIONS

12-1094 CLINE, TERRY, ET AL. V. OK COALITION FOR REPRODUCTIVE

The writ of certiorari is dismissed as improvidently granted.

12-9916 MARTIN, DONN V. STEPHENS, DIR., TX DCJ

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *McQuiggin* v. *Perkins*, 569 U. S. ___ (2013).

13-6359 OLSSON, MATTHEW R. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Eighth Circuit for further consideration in light of *Descamps* v. *United States*, 570 U. S. ___ (2013).

ORDERS IN PENDING CASES

13M46 JONES, MARTIN V. UNITED STATES

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

13M47 MELLY, ANNE E. V. SINGER, LAWRENCE D., ET AL.

13M48 TONEY, LAURA V. LaSALLE BANK, ET AL.

13M49 SINGLETON, TREECE A. V. SUNSHINE STATE INSURANCE CO.

13M50 JONES, MILDRED V. GIARRUSSO, JUDGE, ETC., ET AL.

13M51 BAGBY, TERRANCE L. V. JONES, DIR., OK DOC

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

12-9490 NAVARETTE, LORENZO P., ET AL. V. CALIFORNIA

The motion of petitioners for leave to proceed further herein *in forma pauperis* is granted. The motion of petitioners for appointment of counsel is granted. Paul Kleven, Esquire, of Berkeley, California, is appointed to serve as counsel for the petitioners in this case.

13-6007 LEWIS, ESTHER V. NAVY FED. CREDIT UNION

13-6046 HUNTER, CHASE C. V. MARION SUPERIOR COURT, ET AL.

13-6056 OWENS, MICHAEL V. V. LOUISIANA

13-6538 BURTTON, TAFT V. UNITED STATES

13-6542 SNYDER, ROBIN N. V. UNITED STATES

13-6608 DIAZ, AGUSTEN V. UNITED STATES

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until November 25, 2013, 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 DENIED

12-1403 MARTINEZ-CLAIB, BEATRIZ V. BUSINESS MEN'S ASSURANCE, ET AL.

12-1443 SCHRADER, JEFFERSON W., ET AL. V. HOLDER, ATT'Y GEN., ET AL.

12-6956 EBRON, JOSEPH V. UNITED STATES

12-9933 FRYE, JAMES E. V. UNITED STATES

12-10695 RODRIGUEZ, GEORGE C. V. UNITED STATES

12-10954 QUIROGA-HERNANDEZ, JUAN V. UNITED STATES

13-108 MATKIN, KRISTOPHER A., ET AL. V. BARRETT, FORMER SHERIFF

13-128 WALKER, MARVIN P. V. CHAPPELL, WARDEN

13-139 PCS NITROGEN, INC. V. ASHLEY II OF CHARLESTON, ET AL.

13-236 McDOWELL, DAVID H. V. TANKINETICS, INC., ET AL.

13-247 NAT. UNION OF HEALTHCARE, ET AL. V. SERVICE EMPLOYERS INT'L

13-250 VURIMINDI, VAMSIDHAR R. V. ACHEK, DAN, ET AL.

13-262 TRABER, LAWRENCE, ET UX. V. MORTGAGE ELEC. REGISTRATION SYS.

13-263 J. R. L. V. GEORGIA

13-265 SLOAN, SAM V. SZALKIEWICZ, DANIEL S., ET AL.

13-267 DATTO, JEFFREY P. V. HARRISON, BRIAN, ET AL.

13-268 EVANS, WAYNE C. V. DUKE ENERGY INDIANA, INC.

13-273 RAPP, JARED, ET AL. V. EAST LANSING, MI

13-286 ALLGOOD, WILLIAM, ET AL. V. WANSLEY, BILL, ET AL.

13-287 RAPOLD, HANS J. V. BAXTER INTERNATIONAL, INC.

13-292 CHARDIN, MIRKO V. DAVIS, EDWARD F., ET AL.

13-293 SISKOS, WILLIAM R. V. BRITZ, EDWIN, ET AL.

13-310 EIGLES, HENRY, ET UX. V. STATE FARM AUTOMOBILE, ET AL.

13-314 FLINT, EDWARD H. V. MARX, GERALD, ET AL.

13-315 KEYS, NIAMKE, ET AL. V. WMATA

13-325 CHAVEZ, CARMEN L. V. TEXAS

13-333 WORLEY, ANDREW N., ET AL. V. DETZNER, FL SEC. OF STATE

13-335 HAMDEH, ABDELMONIM, ET AL. V. UNITED STATES, ET AL.

13-336 FUMO, VINCENT J. V. UNITED STATES

13-344 EHRMAN, RAYMOND V. UNITED STATES, ET AL.

13-353 YARCHESKI, TOM V. KEISER SCHOOL, INC.

13-357 DIAZ, EDUVIGIS V. LOS ANGELES CTY. METRO. TRANSP.

13-363 HOLM, JON C. V. GONZALEZ, ACTING WARDEN

13-368 PARKER, RUBY V. UNITED STATES

13-382 ARNOLD, YOLANDA V. COLUMBUS, OH

13-401 LONGAKER, DAVID V. BOSTON SCIENTIFIC CORP., ET AL.

13-403 LUSK, HARLEY T. V. UNITED STATES

13-417 BROWN, KEITH S. V. UTAH

13-422 STORY, RAYMUND V. UNITED STATES

13-427 JUSTICE, ROBERT V. IRS

13-440 DATTA, VIKRAM V. UNITED STATES

13-5002 BARNES, CLIFTON V. UNITED STATES

13-5005 COLEY, DOUGLAS L. V. ROBINSON, WARDEN

13-5415 GARRIDO, FRANCISCO V. UNITED STATES

13-5430 JOHNSON, NICKOLUS L. V. TENNESSEE

13-5436 SMITH, RONALD B. V. THOMAS, COMM'R, AL DOC

13-5483 BLACKSON, JOSEPH L. V. UNITED STATES

13-5484 STOJETZ, JOHN V. OHIO

13-5522 FRANCOIS, ROLDY V. UNITED STATES

13-5920 SATINOVER, DAVID V. SUPERIOR COURT OF CA

13-5933) PRESLEY, DEWAYNE V. CALIFORNIA
)
13-6106) WHITAKER, GENE V. CALIFORNIA

13-5943 SMITH, MARVIN B., ET UX. V. ATLANTIC SOUTHERN BANK, ET AL.

13-5945 LAO, HOUA V. LEWIS, WARDEN

13-5954 CONWAY, JACOB W. V. WALKER, WARDEN

13-5965 NGUYEN, HUNG V. YARBOROUGH, WARDEN

13-5966 MARTIN, JOEL V. CALIFORNIA

13-5969 WARD, DESRON V. VIRGIN ISLANDS

13-5970 ELASALI, NOUR E. V. SURERIDE CHARTER, INC., ET AL.

13-5973 SUAREZ, MIGUEL A. V. BARTKOWSKI, GREG, ET AL.

13-5980 MITCHELL, COSTROMA V. TX DCJ, ET AL.

13-5984 GAKUBA, PETER V. KURTZ, KATE C., ET AL.

13-5987 CASEY, BRIAN M. V. FLORIDA

13-5992 KEITZ, MICHAEL J. V. NEW YORK

13-5994 MANWARREN, DAVID W. V. WALLACE, WARDEN

13-6002 WILLIAMS, DARIUS V. ILLINOIS

13-6004 JONES, LEVONE V. MORGAN, WARDEN

13-6012 ELLISON, MICHAEL A. V. BROWN, WARDEN

13-6013 DOOLEY, BILLEY L. V. CHAPPELL, WARDEN

13-6020 COZY, JOHN V. LeGRAND, WARDEN, ET AL.

13-6023 JOHNSON, WADE V. NEW JERSEY

13-6025 MILES, KEVIN A. V. RYAN, DIR., AZ DOC

13-6029 FLEMING, LLOYD J. V. COWARD, RICHARD, ET AL.

13-6043 DAILEY, JAMES V. GIPSON, WARDEN

13-6044 HOWARD, ROBERT V. CLARK, LARRY, ET AL.

13-6049 HARBISON, EDWARD J. V. TENNESSEE

13-6053 GRABINSKI, MICHAEL V. BERGH, WARDEN

13-6054 DeLEON, MICHAEL V. CALIFORNIA

13-6060 TINSLEY, RUSSELL V. NEW JERSEY

13-6061 WILSON, BOBBY E. V. MISSISSIPPI

13-6064 TAYLOR, LEONARD V. CREWS, SEC., FL DOC, ET AL.

13-6068 BROCKMAN, WARD V. GEORGIA

13-6071 OLIC, MILORAD V. CALIFORNIA

13-6073 ALLEN, JOSEPH A. V. GIPSON, WARDEN

13-6078 MEZA, JOAQUIN V. McDONALD, WARDEN

13-6090 QUINTANA, JOSE V. NEW JERSEY

13-6092 SCOTT, WILLIE C. V. USDC MD FL

13-6093 STRICKLIN, RICHARD C. V. STEPHENS, DIR., TX DCJ

13-6094 DODSON, ANTHONY V. TENNESSEE

13-6097 DOUCETTE, PETER V. CREWS, SEC., FL DOC, ET AL.

13-6099 BROWN, LYLE Q. V. McCOLLUM, WARDEN

13-6102 WHITFIELD, TONY K. V. TEXAS

13-6105 IBARRA, DANIEL V. CALIFORNIA

13-6110 WILEY, CHRISTOPHER G. V. FIELDS, CLEO, ET AL.

13-6111 LANCASTER, CHARLES C. V. TEXAS

13-6117 SKINNER, JESSE P. V. D'CUNHA, TONY, ET AL.

13-6119 WARE, JARVIS A. V. GEORGIA

13-6120 PALIOTTA, GILBERT J. V. McDANIEL, ELDON K., ET AL.

13-6121 MATHIS, DAVID L. V. MONZA, JENNIFER, ET AL.

13-6130 HARRIS, JEFFERY J. V. ARVEST BANK

13-6138 WILLIAMS, ANTHONY W. V. SWARTHOUT, WARDEN

13-6141 VAUGHAN, JOHNNY A. V. AMTRAK

13-6154 AREF, YASSER V. CA EPA, ET AL.

13-6159 LEPRE, GERALD S. V. DEPT. OF EDUCATION, ET AL.

13-6175 FITZGERALD, JOHN V. V. ARIZONA

13-6193 BILAAL, YUSUF V. COLEMAN, WARDEN

13-6206 VASKO, GARY V. LAMB, JUDGE, ETC.

13-6215 KUBLAWI, MOUNIR V. PALMER, WARDEN, ET AL.

13-6218 BABB, LATISHA M. V. GENTRY, WARDEN, ET AL.

13-6228 THACH, HUNG V. PENNSYLVANIA

13-6275 MOREIRA, RUDIS V. VARANO, SUPT., COAL TOWNSHIP

13-6277 PEREZ, JAVIER E. V. CALIFORNIA

13-6284 PAGAN, ALBERTO V. PENNSYLVANIA

13-6286 MANSFIELD, JAMES E., ET AL. V. MO DOC, ET AL.

13-6290 CARTER, ANTAWYN V. HEAD, WARDEN

13-6296 CINTRON, JORGE V. WENEROWICZ, SUPT., GRATERFORD

13-6299 ROBLES, JESUS V. BUREAU OF PRISONS, ET AL.

13-6301 RINICK, WILLIAM V. GLUNT, SUPT., HOUTZDALE, ET AL.

13-6305 KILLEN, EDGAR R. V. EPPS, COMM'R, MS DOC, ET AL.

13-6311 I. S. V. NJ DEPT. OF CHILDREN & FAMILIES

13-6334 THOMAS, PERMON V. POVEDA, JULIO, ET AL.

13-6346 GATES, EDWARD A. V. CALIFORNIA

13-6366 WILSON, DENVER I. V. CREWS, SEC., FL DOC

13-6377 JACOBS, NATHAN E. V. BUREAU OF PRISONS, ET AL.

13-6387 MAYFIELD, ANDRE V. TAYLOR, WARDEN

13-6399 VANDO, LEN V. PENNSYLVANIA

13-6404 TATUM, ROBERT L. V. WISCONSIN

13-6429 CHRISTMAS, LARRY D. V. HUNTINGTON INGALLS, INC.

13-6447 VORE, WILLIAM B. V. OHIO

13-6458 LOVETT, VIRGINIA V. IRS

13-6481 FLETCHER, LAMARR V. MYERS, JEAN, ET AL.

13-6490 HUNKELE, ERNEST V. KERESTES, SUPT., MAHANOY, ET AL.

13-6499 THOMPSON, BRUCE V. PENNSYLVANIA

13-6508 MICHAEL H. V. WEST VIRGINIA

13-6513 DOE, JOHN V. UNITED STATES

13-6526 ZIERKE, GARY V. UNITED STATES

13-6528 WILLIAMS, DONALD R. V. MISSISSIPPI

13-6533 ANDERSON, JEROME V. PRUITT, A. K., ET AL.

13-6535 LASH, TERRANCE V. UNITED STATES

13-6537 LINGENFELTER, LARRY V. UNITED STATES

13-6539 BURNS, TOMMY D. V. UNITED STATES

13-6546) RIASCOS, NIVALDO V. UNITED STATES
)
13-6592) ZAPATA, HECTOR F. V. UNITED STATES

13-6548 MURPHY-CORDERO, JOHN V. UNITED STATES

13-6554 MINTZ, EDWARD B. V. UNITED STATES

13-6558 CHERRY, EUGENE L. V. WASHINGTON COUNTY, WI, ET AL.

13-6559 LUCAS, WILLIAM O. V. UNITED STATES

13-6563 JONES, MICHAEL A. V. UNITED STATES

13-6564 JONES, DANDRAE V. UNITED STATES

13-6571 ROSIERE, SHAUN V. UNITED STATES

13-6572 CURTIS, LEIGHTON M. V. UNITED STATES

13-6573 MASSARO, JOSEPH V. UNITED STATES

13-6574 HILTERBRAND, CHOYES V. UNITED STATES

13-6575 HULL, CLYDE T. V. UNITED STATES

13-6577 CHAVARRY, RAFAEL V. UNITED STATES

13-6579 DILL, PETE V. UNITED STATES

13-6581 FREEMAN, UEL J. V. MISSOURI

13-6582 FRAZIER, STEFFANY V. UNITED STATES

13-6583 GRIFFITH, KEITH A. V. UNITED STATES

13-6584 HAWKINS, DON N. V. UNITED STATES

13-6585 FLORES-JIMENEZ, FRANCISCO J. V. UNITED STATES

13-6588 REMINSKY, JARED N. V. UNITED STATES

13-6593 ALVAREZ-SOTO, ALFREDO V. UNITED STATES

13-6594 BROWN, SIDNEY V. UNITED STATES

13-6597 O'NEAL, GREGORY O. V. UNITED STATES

13-6600 KEBEDE, ADANE V. UNITED STATES

13-6602 GARIBALDI-IBANES, SERGIO V. UNITED STATES

13-6607 DOTSTRY, KENDRICK L. V. UNITED STATES

13-6612 COOK, THOMAS V. UNITED STATES

13-6616 DeCIANTIS, ANTHONY V. VIERRA, WARDEN

13-6617 CHAMBERS, MILLARD P. V. UNITED STATES

13-6618 CAMPBELL, HORACE V. UNITED STATES

13-6621 BENNETT, JAMES D. V. UNITED STATES

13-6622 ANDERSON, JAMES R. V. WENEROWICZ, SUPT., GRATERFORD

13-6624 HARRIS, TIMOTHY J. V. UNITED STATES

13-6625 CERVANTES, VINCENTE S. V. UNITED STATES

13-6626 PETERS, MICHAEL D. V. UNITED STATES

13-6627 MILLER, ADAM M. V. UNITED STATES

13-6629 ORTEGA-GARCIA, ARMANDO V. UNITED STATES

13-6632 VAUGHN, MAURICE D. V. UNITED STATES

13-6633 RAGOSTA, NICHOLAS M. V. UNITED STATES

13-6636 CRIMMINS, THOMAS W. V. UNITED STATES

13-6638 MOORE, CHRISTOPHER V. UNITED STATES

13-6639 JONES, COREY T., ET AL. V. UNITED STATES

13-6654 FLUELLEN, FRANK V. KERESTES, SUPT., MAHANOY, ET AL.

13-6657 CORONADO-MEZA, HILARIO V. UNITED STATES

13-6658 ESPINOZA, JOSE R. V. UNITED STATES

13-6660 BAILENTIA, TONY E. V. UNITED STATES

13-6661) ANCHINO-MOSQUERA, OMAR, ET AL. V. UNITED STATES
)
13-6663) LOYD, MARKEITH, ET AL. V. UNITED STATES

13-6662 ANGUIANO-MORFIN, MARIANO V. UNITED STATES

13-6664 JOHNSON, WALTER V. UNITED STATES

13-6669 NEUMANN, LEILANI, ET VIR V. WISCONSIN

13-6673 WOIDA, ROBERT A. V. UNITED STATES

13-6685 READER, JOHNNY L. V. UNITED STATES

13-6692 BOWEN, JERSHAD J. V. TEXAS

13-6693 DAVIS, TERRY V. UNITED STATES

13-6694 VENEGAS-REYNOSO, MARCO V. UNITED STATES

13-6697 WINSTON, JOHN E. V. UNITED STATES

13-6698 STINNETT, JOSEPH F. V. MILLER, WARDEN

13-6699 MATCOVICH, ROBERT R. V. UNITED STATES

13-6700 CLARK, WILLIAM J. V. UNITED STATES

13-6705 STRONG, OCTAVIUS V. UNITED STATES

13-6706 HEMETEK, KATHRYN A. V. UNITED STATES

13-6707 FERNANDEZ-TORRES, ANGEL L. V. UNITED STATES

13-6708 GRIMSLEY, TIMOTHY V. UNITED STATES

13-6710 GARCIA-DIAZ, ADA V. UNITED STATES

13-6711 FALLAS-GARO, RONALD G. V. UNITED STATES

13-6731 MILLER, ANTHONY S. V. UNITED STATES

13-6732 McCALLUM, WINSTON V. UNITED STATES

13-6741 JONES, JASON V. UNITED STATES

13-6744 LOPEZ, CARLOS V. UNITED STATES

13-6745 DAVIS, FRANCIS C. V. UNITED STATES

13-6749 NASI, GERALD E. V. UNITED STATES

13-6751 PLAZA-UZETA, RUBEN V. UNITED STATES

13-6752 NAVARRO-MONTES, JESUS A. V. UNITED STATES

13-6753 PINEDA-PINEDA, J. JESUS V. UNITED STATES

13-6754 PILCH, BRIAN D. V. UNITED STATES

13-6755 BOLANDER, MIKEL V. UNITED STATES

The petitions for writs of certiorari are denied.

13-264 FLORIDA V. DEVINEY, RANDALL T.

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

13-355 GILLER, JAMES V. ORACLE USA, INC.

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

13-365 MARKGRAF, STEPHEN V. A. D., ET AL.

The motion of California State Association of Counties for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

13-418 DHAFIR, RAFIL V. UNITED STATES

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

13-5482 BYRD, CAROL V. TIME WARNER CABLE, ET AL.

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

13-5977 SWAIN, TYRONE F. V. SMALL, WARDEN

13-6022 LYON, EDWARD B. V. TEXAS

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.

13-6034 RENTERIA, SALVADOR M. V. ADAMS, WARDEN

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

13-6089 RICHARDS, JUSTO V. YELICH, SUPT., BARE HILL, ET AL.

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

13-6545 ROBINSON, CHARLES R. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is

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

13-6550 COX, CLINTON 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.

13-6568 MAYER, CASEY D. 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.

13-6691 ALEXANDER, TOMMY V. UNITED STATES

13-6717 JEFFUS, EDWARD D. V. UNITED STATES

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. As the petitioners have repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioners unless the docketing fees required by Rule 38(a) are paid and the petitions are 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 these motions and these petitions.

13-6759 HAIRSTON, ARTHUR L. 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.

HABEAS CORPUS DENIED

13-6822 IN RE SALVATORE P. CORDOVANO

13-6842 IN RE MITCHELL D. DiVENTURA

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

13-6145 IN RE PAUL SATTERFIELD

13-6146 IN RE RENARD POLK

13-6667 IN RE CHRISTOPHER J. COMEAUX

The petitions for writs of mandamus are denied.

ATTORNEY DISCIPLINE

D-2733 IN THE MATTER OF DISCIPLINE OF JOSEPH LOUIS LISONI

Joseph Louis Lisoni, of Solvang, California, 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.

D-2734 IN THE MATTER OF DISCIPLINE OF KENNETH P. ANDRESEN

Kenneth P. Andresen, of Charlotte, North Carolina, 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.

D-2735 IN THE MATTER OF DISCIPLINE OF KATHY A. LYNN

Kathy A. Lynn, of Mountlake Terrace, Washington, 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.

D-2736 IN THE MATTER OF DISCIPLINE OF JACOB ADDINGTON ROSE

Jacob Addington Rose, of West Palm Beach, Florida, 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.

D-2737 IN THE MATTER OF DISCIPLINE OF STEVEN NEIL LIPPMAN

Steven Neil Lippman, of Fort Lauderdale, Florida, 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.

D-2738 IN THE MATTER OF DISCIPLINE OF PHILIP J. BERG

Philip J. Berg, of Lafayette Hill, Pennsylvania, 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.

D-2739 IN THE MATTER OF DISCIPLINE OF KARL W. CARTER, JR.

Karl W. Carter, Jr., of Alexandria, Virginia, 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.

D-2740 IN THE MATTER OF DISCIPLINE OF ALEXANDER ZOUZOULAS

Alexander Zouzoulas, of Winter Park, Florida, 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.

D-2741 IN THE MATTER OF DISCIPLINE OF KENNETH ALLEN MARTIN

Kenneth Allen Martin, of McLean, Virginia, 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.

D-2742 IN THE MATTER OF DISCIPLINE OF RAYMOND EDMUND MAKOWSKI

Raymond Edmund Makowski, of Jacksonville, Florida, 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.

Per Curiam

SUPREME COURT OF THE UNITED STATES

MIKE STANTON, PETITIONER *v.* DRENDOLYN SIMS

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

No. 12–1217. Decided November 4, 2013

PER CURIAM.

Around one o'clock in the morning on May 27, 2008, Officer Mike Stanton and his partner responded to a call about an "unknown disturbance" involving a person with a baseball bat in La Mesa, California. App. to Pet. for Cert. 6. Stanton was familiar with the neighborhood, known for "violence associated with the area gangs." *Ibid.* The officers—wearing uniforms and driving a marked police vehicle—approached the place where the disturbance had been reported and noticed three men walking in the street. Upon seeing the police car, two of the men turned into a nearby apartment complex. The third, Nicholas Patrick, crossed the street about 25 yards in front of Stanton's car and ran or quickly walked toward a residence. *Id.,* at 7, 17. Nothing in the record shows that Stanton knew at the time whether that residence belonged to Patrick or someone else; in fact, it belonged to Drendolyn Sims.

Stanton did not see Patrick with a baseball bat, but he considered Patrick's behavior suspicious and decided to detain him in order to investigate. *Ibid.*; see *Terry* v. *Ohio*, 392 U. S. 1 (1968). Stanton exited his patrol car, called out "police," and ordered Patrick to stop in a voice loud enough for all in the area to hear. App. to Pet. for Cert. 7. But Patrick did not stop. Instead, he "looked directly at Stanton, ignored his lawful orders[,] and quickly went through [the] front gate" of a fence enclosing Sims' front yard. *Id.,* at 17 (alterations omitted). When the gate closed behind Patrick, the fence—which was more than six feet tall and made of wood—blocked Stanton's view of the

yard. Stanton believed that Patrick had committed a jailable misdemeanor under California Penal Code §148 by disobeying his order to stop;* Stanton also "fear[ed] for [his] safety." App. to Pet. for Cert. 7. He accordingly made the "split-second decision" to kick open the gate in pursuit of Patrick. *Ibid.* Unfortunately, and unbeknownst to Stanton, Sims herself was standing behind the gate when it flew open. The swinging gate struck Sims, cutting her forehead and injuring her shoulder.

Sims filed suit against Stanton in Federal District Court under Rev. Stat. §1979, 42 U. S. C. §1983, alleging that Stanton unreasonably searched her home without a warrant in violation of the Fourth Amendment. The District Court granted summary judgment to Stanton, finding that: (1) Stanton's entry was justified by the potentially dangerous situation, by the need to pursue Patrick as he fled, and by Sims' lesser expectation of privacy in the curtilage of her home; and (2) even if a constitutional violation had occurred, Stanton was entitled to qualified immunity because no clearly established law put him on notice that his conduct was unconstitutional.

Sims appealed, and a panel of the Court of Appeals for the Ninth Circuit reversed. 706 F. 3d 954 (2013). The court held that Stanton's warrantless entry into Sims' yard was unconstitutional because Sims was entitled to the same expectation of privacy in her curtilage as in her home itself, because there was no immediate danger, and because Patrick had committed only the minor offense of disobeying a police officer. *Id.,* at 959–963. The court also found the law to be clearly established that Stanton's

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*"Every person who willfully resists, delays, or obstructs any . . . peace officer . . . in the discharge or attempt to discharge any duty of his or her office or employment . . . shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment." Cal. Penal Code Ann. §148(a)(1) (2013 West Cum. Supp.).

pursuit of Patrick did not justify his warrantless entry, given that Patrick was suspected of only a misdemeanor. *Id.,* at 963–964. The court accordingly held that Stanton was not entitled to qualified immunity. *Id.,* at 964–965. We address only the latter holding here, and now reverse.

"The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar 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)). "Qualified immunity gives government officials breathing room to make reasonable but mistaken judgments," and "protects 'all but the plainly incompetent or those who knowingly violate the law.'" *Ashcroft* v. *al-Kidd*, 563 U. S. ___, ___ (2011) (slip op., at 12) (quoting *Malley* v. *Briggs*, 475 U. S. 335, 341 (1986)). "We do not require a case directly on point" before concluding that the law is clearly established, "but existing precedent must have placed the statutory or constitutional question beyond debate." *al-Kidd*, 563 U. S., at ___ (slip op., at 9).

There is no suggestion in this case that Officer Stanton knowingly violated the Constitution; the question is whether, in light of precedent existing at the time, he was "plainly incompetent" in entering Sims' yard to pursue the fleeing Patrick. *Id.,* at ___ (slip op., at 12). The Ninth Circuit concluded that he was. It did so despite the fact that federal and state courts nationwide are sharply divided on the question whether an officer with probable cause to arrest a suspect for a misdemeanor may enter a home without a warrant while in hot pursuit of that suspect. Compare, *e.g., Middletown* v. *Flinchum*, 95 Ohio St. 3d 43, 45, 765 N. E. 2d 330, 332 (2002) ("We . . . hold today that when officers, having identified themselves, are in hot pursuit of a suspect who flees to a house in order to avoid arrest, the police may enter without a warrant,

regardless of whether the offense for which the suspect is being arrested is a misdemeanor"), and *State* v. *Ricci*, 144 N. H. 241, 244, 739 A. 2d 404, 407 (1999) ("the facts of this case demonstrate that the police had probable cause to arrest the defendant for the misdemeanor offense of disobeying a police officer" where the defendant had fled into his home with police officers in hot pursuit), with *Mascorro* v. *Billings*, 656 F. 3d 1198, 1207 (CA10 2011) ("The warrantless entry based on hot pursuit was not justified" where "[t]he intended arrest was for a traffic misdemeanor committed by a minor, with whom the officer was well acquainted, who had fled into his family home from which there was only one exit" (footnote omitted)), and *Butler* v. *State*, 309 Ark. 211, 217, 829 S. W. 2d 412, 415 (1992) ("even though Officer Sudduth might have been under the impression that he was in continuous pursuit of Butler for what he considered to be the crime of disorderly conduct, . . . since the crime is a minor offense, under these circumstances there is no exigent circumstance that would allow Officer Sudduth's warrantless entry into Butler's home for what is concededly, at most, a petty disturbance").

Other courts have concluded that police officers are at least entitled to qualified immunity in these circumstances because the constitutional violation is not clearly established. *E.g., Grenier* v. *Champlin*, 27 F. 3d 1346, 1354 (CA8 1994) ("Putting firmly to one side the merits of whether the home arrests were constitutional, we cannot say that only a plainly incompetent policeman could have thought them permissible at the time," where officers entered a home without a warrant in hot pursuit of misdemeanor suspects who had defied the officers' order to remain outside (internal quotation marks and citation omitted)).

Notwithstanding this basic disagreement, the Ninth Circuit below denied Stanton qualified immunity. In its one-paragraph analysis on the hot pursuit point, the panel

relied on two cases, one from this Court, *Welsh* v. *Wisconsin*, 466 U. S. 740, 750 (1984), and one from its own, *United States* v. *Johnson*, 256 F. 3d 895, 908 (2001) (en banc) (*per curiam*). Neither case clearly establishes that Stanton violated Sims' Fourth Amendment rights.

In *Welsh*, police officers learned from a witness that Edward Welsh had driven his car off the road and then left the scene, presumably because he was drunk. Acting on that tip, the officers went to Welsh's home without a warrant, entered without consent, and arrested him for driving while intoxicated—a nonjailable traffic offense under state law. 466 U. S., at 742–743. Our opinion first noted our precedent holding that hot pursuit of a fleeing felon justifies an officer's warrantless entry. *Id.,* at 750 (citing *United States* v. *Santana*, 427 U. S. 38, 42–43 (1976)). But we rejected the suggestion that the hot pursuit exception applied: "there was no immediate or continuous pursuit of [Welsh] from the scene of a crime." 466 U. S., at 753. We went on to conclude that the officers' entry violated the Fourth Amendment, finding it "important" that "there [was] probable cause to believe that only a minor offense . . . ha[d] been committed." *Ibid.* In those circumstances, we said, "application of the exigent-circumstances exception in the context of a home entry should rarely be sanctioned." *Ibid.* But we did not lay down a categorical rule for all cases involving minor offenses, saying only that a warrant is "usually" required. *Id.*, at 750.

In *Johnson*, police officers broke into Michael Johnson's fenced yard in search of another person (Steven Smith) whom they were attempting to apprehend on five misdemeanor arrest warrants. 256 F. 3d, at 898–900. The Ninth Circuit was clear that this case, like *Welsh*, did not involve hot pursuit: "the facts of this case simply are not covered by the 'hot pursuit' doctrine" because Smith had escaped from the police 30 minutes prior and his where-

abouts were unknown. 256 F. 3d, at 908. The court held that the officers' entry required a warrant, in part because Smith was wanted for only misdemeanor offenses. Then, in a footnote, the court said: "In situations where an officer is truly in hot pursuit and the underlying offense is a felony, the Fourth Amendment usually yields [to law enforcement's interest in apprehending a fleeing suspect]. See [*Santana*, *supra*, at 42–43]. However, in situations where the underlying offense is only a misdemeanor, law enforcement must yield to the Fourth Amendment in all but the 'rarest' cases. *Welsh*, [*supra*, at 753]." *Johnson*, *supra*, at 908, n. 6.

In concluding—as it must have—that Stanton was "plainly incompetent," *al-Kidd*, 563 U. S., at ___ (slip op., at 12), the Ninth Circuit below read *Welsh* and the footnote in *Johnson* far too broadly. First, both of those cases cited *Santana* with approval, a case that *approved* an officer's warrantless entry while in hot pursuit. And though *Santana* involved a felony suspect, we did not expressly limit our holding based on that fact. See 427 U. S., at 42 ("The only remaining question is whether [the suspect's] act of retreating into her house could thwart an otherwise proper arrest. We hold that it could not"). Second, to repeat, neither *Welsh* nor *Johnson* involved hot pursuit. *Welsh*, *supra*, at 753; *Johnson*, *supra*, at 908. Thus, despite our emphasis in *Welsh* on the fact that the crime at issue was minor—indeed, a mere nonjailable civil offense—nothing in the opinion establishes that the seriousness of the crime is equally important *in cases of hot pursuit*. Third, even in the portion of *Welsh* cited by the Ninth Circuit below, our opinion is equivocal: We held not that warrantless entry to arrest a misdemeanant is never justified, but only that such entry should be rare. 466 U. S., at 753.

That is in fact how two California state courts have read *Welsh*. In both *People* v. *Lloyd*, 216 Cal. App. 3d 1425,

1430, 265 Cal. Rptr. 422, 425 (1989), and *In re Lavoyne M.*, 221 Cal. App. 3d 154, 159, 270 Cal. Rptr. 394, 396 (1990), the California Court of Appeal refused to limit the hot pursuit exception to felony suspects. The court stated in *Lloyd*: "Where the pursuit into the home was based on an arrest set in motion in a public place, the fact that the offenses justifying the initial detention or arrest were misdemeanors is of no significance in determining the validity of the entry without a warrant." 216 Cal. App. 3d, at 1430, 265 Cal. Rptr., at 425. It is especially troubling that the Ninth Circuit would conclude that Stanton was plainly incompetent—and subject to personal liability for damages—based on actions that were lawful according to courts in the jurisdiction where he acted. Cf. *al-Kidd*, *supra*, at ___ (KENNEDY, J., concurring) (slip op., at 2–4).

Finally, our determination that *Welsh* and *Johnson* are insufficient to overcome Stanton's qualified immunity is bolstered by the fact that, even after *Johnson*, two different District Courts in the Ninth Circuit have granted qualified immunity precisely because the law regarding warrantless entry in hot pursuit of a fleeing misdemeanant is not clearly established. See *Kolesnikov* v. *Sacramento County*, No. S–06–2155, 2008 WL 1806193, *7 (ED Cal., Apr. 22, 2008) ("since *Welsh*, it has not been clearly established that there can never be warrantless home arrests in the context of a 'hot pursuit' of a suspect fleeing from the commission of misdemeanor offenses"); *Garcia* v. *Imperial*, No. 08–2357, 2010 WL 3834020, *6, n. 4 (SD Cal., Sept. 28, 2010). In *Garcia*, a case with facts similar to those here, the District Court distinguished *Johnson* as a case where "the officers were not in hot pursuit of the suspect, had not seen the suspect enter the neighbor's property, and had no real reason to think the suspect was there." 2010 WL 3834020, *6, n. 4. Precisely the same facts distinguish this case from *Johnson*: Stanton *was* in hot pursuit of Patrick, he *did* see Patrick enter Sims'

property, and he had every reason to believe that Patrick was just beyond Sims' gate. App. to Pet. for Cert. 6–7, 17.

To summarize the law at the time Stanton made his split-second decision to enter Sims' yard: Two opinions of this Court were equivocal on the lawfulness of his entry; two opinions of the State Court of Appeal affirmatively authorized that entry; the most relevant opinion of the Ninth Circuit was readily distinguishable; two Federal District Courts in the Ninth Circuit had granted qualified immunity in the wake of that opinion; and the federal and state courts of last resort around the Nation were sharply divided.

We do not express any view on whether Officer Stanton's entry into Sims' yard in pursuit of Patrick was constitutional. But whether or not the constitutional rule applied by the court below was correct, it was not "beyond debate." *al-Kidd*, *supra*, at ___ (slip op., at 9). Stanton may have been mistaken in believing his actions were justified, but he was not "plainly incompetent." *Malley*, 475 U. S., at 341.

The petition for certiorari and respondent's motion for leave to proceed *in forma pauperis* are 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.

SUPREME COURT OF THE UNITED STATES

MEGAN MAREK *v.* SEAN LANE, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL.

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

No. 13–136. Decided [November 4, 2013]

The petition for a writ of certiorari is denied.

Statement of CHIEF JUSTICE ROBERTS respecting the denial of certiorari.

In November 2007, respondent Facebook, Inc., released a program called "Beacon." It worked like this: Whenever someone visited the Web site of a participating company and performed a "trigger" activity, such as posting a comment or buying a product, the program would automatically report the activity and the user's personally identifiable information to Facebook—regardless of whether the user was a Facebook member. If the user was a Facebook member, Facebook would publish the activity on his member profile and broadcast it to everyone in his "friends" network. So rent a movie from Blockbuster.com, and all your friends would know the title. Or plan a vacation on Hotwire.com, and all your friends would know the destination. To prevent Facebook from posting a particular trigger activity, a member had to affirmatively opt out by clicking an icon in a pop-up window that appeared for about ten seconds after he performed the activity.

Beacon resulted in the dissemination of large amounts of information Facebook members allegedly did not intend to share, provoking a public outcry against Beacon and Facebook. Facebook responded about a month after Bea-

con's launch by changing the program's default setting from opt out to opt in, so that any given trigger activity would not appear on a member's profile unless the member explicitly consented. Facebook also allowed its members to disable Beacon altogether.

In August 2008, 19 individuals brought a putative class action lawsuit in the U. S. District Court for the Northern District of California against Facebook and the companies that had participated in Beacon, alleging violations of various federal and state privacy laws. The putative class comprised only those individuals whose personal information had been obtained and disclosed by Beacon during the approximately one-month period in which the program's default setting was opt out rather than opt in. The complaint sought damages and various forms of equitable relief, including an injunction barring the defendants from continuing the program.

In the end, the vast majority of Beacon's victims got neither remedy. The named plaintiffs reached a settlement agreement with the defendants before class certification. Although Facebook promised to discontinue the "Beacon" program itself, plaintiffs' counsel conceded at the fairness hearing in the District Court that nothing in the settlement would preclude Facebook from reinstituting the same program with a new name. See Tr. 18 (Feb. 26, 2010) (counsel for named plaintiffs) ("At the end of the day, we could not reach agreement with defendants regarding limiting their future actions as a corporation").

And while Facebook also agreed to pay $9.5 million, the parties allocated that fund in an unusual way. Plaintiffs' counsel were awarded nearly a quarter of the fund in fees and costs, while the named plaintiffs received modest incentive payments. The unnamed class members, by contrast, received no damages from the remaining $6.5 million. Instead, the parties earmarked that sum for a "*cy pres*" remedy—an "as near as" form of relief—because

distributing the $6.5 million among the large number of class members would result in too small an award per person to bother. The *cy pres* remedy agreed to by the parties entailed the establishment of a new charitable foundation that would help fund organizations dedicated to educating the public about online privacy. A Facebook representative would be one of the three members of the new foundation's board.

To top it off, the parties agreed to expand the settlement class barred from future litigation to include not just those individuals injured by Beacon during the brief period in which it was an opt-out program—the class proposed in the original complaint—but also those injured after Facebook had changed the program's default setting to opt in. Facebook thus insulated itself from all class claims arising from the Beacon episode by paying plaintiffs' counsel and the named plaintiffs some $3 million and spending $6.5 million to set up a foundation in which it would play a major role. The District Court approved the settlement as "fair, reasonable, and adequate." Fed. Rule Civ. Proc. 23(e)(2); see *Lane* v. *Facebook, Inc.*, Civ. No. C 08–3845, 2010 WL 9013059 (ND Cal., Mar. 17, 2010).

Petitioner Megan Marek was one of four unnamed class members who objected to the settlement. Her challenge focused on a number of disconcerting features of the new Foundation: the facts that a senior Facebook employee would serve on its board, that the board would enjoy nearly unfettered discretion in selecting fund recipients, and that the Foundation—as a new entity—necessarily lacked a proven track record of promoting the objectives behind the lawsuit. She also criticized the overall settlement amount as too low. The District Court rebuffed these objections, as did a divided panel of the Ninth Circuit on appeal. *Lane* v. *Facebook, Inc.*, 696 F. 3d 811 (2012). A petition for rehearing en banc was denied, over the dissent of six judges. *Lane* v. *Facebook, Inc.*, 709 F. 3d 791 (2013).

I agree with this Court's decision to deny the petition for certiorari. Marek's challenge is focused on the particular features of the specific *cy pres* settlement at issue. Granting review of this case might not have afforded the Court an opportunity to address more fundamental concerns surrounding the use of such remedies in class action litigation, including when, if ever, such relief should be considered; how to assess its fairness as a general matter; whether new entities may be established as part of such relief; if not, how existing entities should be selected; what the respective roles of the judge and parties are in shaping a *cy pres* remedy; how closely the goals of any enlisted organization must correspond to the interests of the class; and so on. This Court has not previously addressed any of these issues. *Cy pres* remedies, however, are a growing feature of class action settlements. See Redish, Julian, & Zyontz, Cy Pres Relief and the Pathologies of the Modern Class Action: A Normative and Empirical Analysis, 62 Fla. L. Rev. 617, 653–656 (2010). In a suitable case, this Court may need to clarify the limits on the use of such remedies.