(ORDER LIST: 564 U.S.)

MONDAY, JUNE 27, 2011

CERTIORARI -- SUMMARY DISPOSITIONS

10-82 UNITED STATES V. GONZALEZ, RICARDO

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Ninth Circuit for further consideration in light of *Davis* v. *United States*, 564 U.S. ___ (2011). Justice Kagan took no part in the consideration or decision of this motion and this petition.

10-1007 KENTUCKY V. VALESQUEZ, REYES

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the Court of Appeals of Kentucky for further consideration in light of *Davis* v. *United States*, 564 U.S. ___ (2011).

10-1087 THOROGOOD, STEVEN J., ET AL. V. SEARS, ROEBUCK & CO.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Seventh Circuit for further consideration in light of *Smith* v. *Bayer Corp.*, 564 U.S. ___ (2011).

10-1091 COLORADO V. KEY, JEFFREY A.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the Court of

Appeals of Colorado for further consideration in light of *Davis* v. *United States*, 564 U.S. ___ (2011).

ORDERS IN PENDING CASES

10M115 CORSON, DAVID C. V. MATTOX, PAUL A., ET AL.

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

10M116 VERDUGO, FABIAN V. UNITED STATES

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

10M117 SAVICH, PAUL F. V. DOMRES, KARMEN

10M118 PAYNE, CHANIKKA D. V. FISCHER, COMM'R, NY DOC, ET AL.

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

10-768 AFTERMATH RECORDS, ET AL. V. F.B.T. PROD., LLC, ET AL.

The motion of respondents for attorneys' fees and expenses is denied.

10-10177 JONES, WILLIAM H. V. MERCK & COMPANY, INC.

10-10485 MATTHEWS, ROBERT R. V. SHINSEKI, SEC. OF VA

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until July 18, 2011, 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

10-224 NAT'L MEAT ASS'N V. HARRIS, ATT'Y GEN. OF CA, ET AL.

The motion of American Association of Swine Veterinarians, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is granted.

10-704 MESSERSCHMIDT, CURT, ET AL. V. MILLENDER, AUGUSTA, ET AL.

10-844 CARACO PHARMACEUTICAL, ET AL. V. NOVO NORDISK A/S, ET AL.

10-1016 COLEMAN, DANIEL V. COURT OF APPEALS OF MD, ET AL.

10-1121 KNOX, DIANNE, ET AL. V. SERVICE EMPLOYEES INT'L UNION

10-1195 MIMS, MARCUS D. V. ARROW FINANCIAL SERVICES, LLC

10-1219 KAPPOS, DAVID J. V. HYATT, GILBERT P.

The petitions for writs of certiorari are granted.

10-1259 UNITED STATES V. JONES, ANTOINE

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: "Whether the government violated respondent's Fourth Amendment rights by installing the GPS tracking device on his vehicle without a valid warrant and without his consent."

10-1261 CREDIT SUISSE SECURITIES, ET AL. V. SIMMONDS, VANESSA

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

10-1265 MARTEL, WARDEN V. CLAIR, KENNETH

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

10-1293 FCC, ET AL. V. FOX TELEVISION STATIONS, ET AL.

The petition for a writ of certiorari is granted limited to the following question: "Whether the Federal Communications Commission's current indecency-enforcement regime violates the First or Fifth Amendment to the United States Constitution." Justice Sotomayor took no part in the consideration or decision of this petition.

CERTIORARI DENIED

09-1254 VON SAHER, MAREI V. NORTON SIMON MUSEUM, ET AL.

09-1313 SALEH, HAIDAR M., ET AL. V. TITAN CORP., ET AL.

10-330 BROWN, GOV. OF CA, ET AL. V. RINCON BAND OF LUISENO, ET AL.

10-374 ZURESS, LISA M. V. DONLEY, SEC. OF AIR FORCE

10-638 WETHERILL, NANCY J. V. McHUGH, SEC. OF ARMY, ET AL.

10-735 PHILIP MORRIS USA INC., ET AL. V. JACKSON, DEANIA M.

10-786 SPAIN, ET AL. V. CASSIRER, CLAUDE

10-827 UNITED STATES, EX REL. SUMMERS V. LHC GROUP, INC.

10-885 WITT, ALEXIS V. UNITED STATES

10-920 OCHOA, ANA R. V. HOLDER, ATT'Y GEN.

10-940 GOR, TUSHAR P. V. HOLDER, ATT'Y GEN.

10-1036 ZARNOW, DELORES A. V. WICHITA FALLS, TX, ET AL.

10-1084 FERGUSON, COREY V. UNITED STATES

10-1093 SMITH, JOSEPH, ET UX. V. GEORGIA

10-1102 ROSARIO, JOSEFA V. HOLDER, ATT'Y GEN.

10-1158 NETTLES, J. D. V. LEESBURG, FL, ET AL.

10-1166 GROSE, BEVERLY V. CORR. MED. SERVICES, ET AL.

10-1171 THOMAS, LINDA A. V. LA DEPT. OF SOCIAL SERVICES

10-1185 LIGON, JACK W. V. LaHOOD, SEC. OF TRANSPORTATION

10-1299 MILLER, JOSEPHINE S. V. PRAXAIR, INC., ET AL.

10-1301 BASS, HARRISTON L. V. NEVADA

10-1305 EVANS-MARSHALL, SHELLEY V. BD. OF EDUCATION, ET AL.

10-1306 COX, DALLAS V. MISSOURI

10-1308 JAEGER, DINA V. CELLCO PARTNERSHIP, ET AL.

10-1311 BLUE BELL CREAMERIES V. ROBERTS, RICHARD

10-1313 CLELLAN, JOHN V. OHIO

10-1317 MILES CHRISTI RELIGIOUS ORDER V. NORTHVILLE, MI, ET AL.

10-1319 JAKUBOWSKI, MARTIN V. CHRIST HOSPITAL, INC., ET AL.

10-1321 REYNOLDS, JAMES J. V. HOLDER, ATT'Y GEN.

10-1330 JONES, KENNEDY V. UNITED STATES, ET AL.

10-1381 SACKS, LINDA M. V. SACKS, DAVID, ET AL.

10-1397 COX, ALICE V. DeSOTO COUNTY, MS

10-1406 LEITCH, GORDON V. MERKLEY, JEFF

10-1419 PULLINS, SCOTT A. V. DISCIPLINARY COUNSEL

10-7013 LITTLEJOHN, MICHAEL A. V. WISCONSIN

10-7057 DEARBORN, DAVID A. V. WISCONSIN

10-8321 MELTON, LUKE L. V. UNITED STATES

10-8434 DAVIS, CHARLES R. V. HOBBS, DIR., AR DOC, ET AL.

10-8448 BOWES, KIMORN V. UNITED STATES

10-8800 VOGT, ROBERT P. V. NORTH CAROLINA

10-8876 JAUHARI, SABU A. V. UNITED STATES

10-8969) WILSON, KERN C. V. UNITED STATES
)
10-9194) HEINRICH, DURWANDA E. V. UNITED STATES

10-9090 PAYNE, REX A. V. UNITED STATES

10-9299 ARZOLA, ARSENIO V. UNITED STATES

10-9620 FARMER, TYLER G. V. UNITED STATES

10-9651 ABU-JIHAAD, HASSAN V. UNITED STATES

10-9727 HODGE, KENNETH V. OHIO

10-9873 STROMAN, MARK A. V. THALER, DIR., TX DCJ

10-10055 LAWLER, RACHEL Y., ET AL. V. UNITED STATES

10-10080 RIOS, JIMMY D. V. USDC WD NC

10-10091 HERNANDEZ, TONY J. V. NEOTTI, WARDEN, ET AL.

10-10100 McCALLEY, BRYSON V. CALIFORNIA

10-10101 McKAUGHAN, COY V. TENNESSEE

10-10102 PERKINS, DARIUS V. ILLINOIS

10-10109 McNEAL, TROY T. V. ADAMS, WARDEN, ET AL.

10-10110 McCUNE, MARK V. McCUNE, SIGRID

10-10111 TUCKER, NEIL V. LaCLAIRE, WARDEN

10-10112 WADE, BRADLEY V. GEORGIA

10-10121 SALINAS, GARY J. V. THALER, DIR., TX DCJ

10-10122 RAMIREZ, JORGE A. V. TEXAS

10-10124 ROCHA, MARCO V. CCCF ADMINISTRATION, ET AL.

10-10125 ROBINSON, DIANE V. HOUSTON, JULIAN T., ET AL.

10-10137 REID, TIMOTHY V. OHIO

10-10142 ROSE, SUSAN V. UTAH, ET AL.

10-10143 RHODES, BERNARD V. KNOWLES, WARDEN, ET AL.

10-10147 CROCK, THOMAS V. PENNSYLVANIA

10-10153 WILLIAMS, ABE V. MARTEL, WARDEN, ET AL.

10-10155 BOOK, ETHAN V. MENDOZA, ROBERT, ET AL.

10-10162 ANDREWS, ANTONIO A. V. MISSOURI

10-10164 BROWN, TYREE W. V. ILLINOIS CENTRAL RAILROAD CO.

10-10167 WHITLOW, CHARLES, ET UX. V. CUBILLO, PEDRO P.

10-10170 CHEESEMAN, ROBERT V. GARRISON, RANDOLPH L., ET AL.

10-10175 OLIVO, JESUS V. TEXAS

10-10178 JOHNSON, WILLIAM E. V. TEXAS

10-10182 McCREARY, CARNELL V. GRANHOLM, JENNIFER, ET AL.

10-10186 JAMES, PIERRE V. REDNOUR, DAVID

10-10187 WILLIAMS, JEROME A. V. HOOKS, WARDEN

10-10191 OYENIK, RONALD E. V. SCHAFF, THOMAS, ET AL.

10-10193 MARTINEZ, CHRISTINA V. TEXAS

10-10199 DUELL, RICHARD V. CONWAY, SUPT., ATTICA

10-10201 RUSSELL, TIMOTHY V. CALIFORNIA

10-10204 ST. JOHN, STEPHEN M. V. HOLDER, ATT'Y. GEN.

10-10205 DENNIS, SHEILA V. NORTH MIAMI, FL, ET AL.

10-10209 WILLIAMS, REGINA V. PRUDDEN, WARDEN

10-10211 McCARTHY, PATRICK V. SCOFIELD, ALISON, ET AL.

10-10228 BRESTLE, GARY C. V. UNITED STATES

10-10245 BRADLEY, TERRY J. V. TERRELL, WARDEN

10-10291 HATTON, DARRELL D. V. VA EMPLOY. COMMISSION

10-10306 KING, ADRIAN V. SHERRY, WARDEN

10-10328 POWELL, TYRONE V. CALIFORNIA, ET AL.

10-10365 GRAY, MALCOLM L. V. COX, JAMES G., ET AL.

10-10385 BEAN, JAMES V. ILLINOIS

10-10424 WILLARD, TIKILA V. HICKSON, WARDEN, ET AL.

10-10461 JARVIS, DEREK N. V. ENTERPRISE FLEET SERVICES

10-10535 BAHENA, ANTONIO V. CALIFORNIA

10-10540 WATSON, EDWARD V. CLARKE, DIR., VA DOC

10-10567 SAWYER, JEROME V. STEWARD, WARDEN

10-10614 SUMPTER, VINCENT V. UNITED STATES

10-10618 SMEAD, MARK E. V. OHIO

10-10622 DADI, PATRICIA E., ET VIR V. DANZIG, RICHARD A.

10-10634 CANNON, AMESHEO D. V. UNITED STATES

10-10645 BROOKS, JASON S. V. UNITED STATES

10-10653 JOHNSON, ALBERT L. V. U.S. PAROLE COMMISSION

10-10654 KELLER, JOHN J. V. UNITED STATES

10-10657 DANIELS, MARK J. V. UNITED STATES

10-10658 CHANDLER, BRANDON L. V. UNITED STATES

10-10660 COCKERHAM, MELISSA V. UNITED STATES

10-10661 DELGADO, LAZARO V. UNITED STATES

10-10663 MENDOZA-MENDOZA, DARIO V. UNITED STATES

10-10664 BAHENA-BAHENA, ARMANDO V. UNITED STATES

10-10665 BRISENO-MARIN, PEDRO V. UNITED STATES

10-10667 BETEMIT, ALBERT V. UNITED STATES

10-10669 SCHUETT, CLIFFORD J. V. UNITED STATES

10-10671 McDONALD, CURTIS V. UNITED STATES

10-10680 PIERCE, ANTONIO V. UNITED STATES

10-10685 ARNOLD, TIFFANY V. UNITED STATES

10-10687 VAUGHT, DAVID V. UNITED STATES

10-10708 WADDELL, REGINALD A. V. UNITED STATES

10-10739 POLLARD, MELVIN V. YOST, WARDEN

10-10746 ACREY, MICHAEL D. V. UNITED STATES

10-10759 GLADNEY, WILLIAM L. V. UNITED STATES

10-10764 SMITH, TIMOTHY D. V. UNITED STATES

10-10766 DUCKETT, ERVIN A. V. UNITED STATES

10-10769 McCUTCHEN, ANTHONY D. V. UNITED STATES

10-10771 AGUIRRE, ALEJANDRO Y. V. UNITED STATES

10-10772 BLOOD, GIOVANNI D. V. UNITED STATES

10-10773 AGUILAR-ARRAIZA, JOSE L. V. UNITED STATES

The petitions for writs of certiorari are denied.

10-537 OSAGE NATION V. IRBY, CONSTANCE, ET AL.

10-627 NEW YORK, NY V. PERMANENT MISSION OF INDIA

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

10-1049) LARSON, JOHN, ET AL. V. UNITED STATES
)
10-1061) RUBLE, RAYMOND J. V. UNITED STATES

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

10-1147) WHITE & CASE LLP V. UNITED STATES
)
10-1176) NOSSAMAN LLP, ET AL. V. UNITED STATES

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

10-1173 SERGEANTS BENEVOLENT, ET AL. V. ELI LILLY AND COMPANY

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

10-1218 SIMMONDS, VANESSA V. CREDIT SUISSE SECURITIES, 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.

10-1249 TROPP, RICHARD A. V. CORPORATION OF LLOYD'S

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

10-1302 PUIATTI, CARL V. BUSS, SEC., FL DOC

The motion of Center for Constitutional Rights, et al. for leave to file a brief as *amici curiae* is granted. The motion of Florida Capital Resource Center for leave to file a brief as *amicus curiae* is granted. The petition for a for a writ of certiorari is denied.

10-1303 HEYDT-BENJAMIN, AVA V. HEYDT-BENJAMIN, THOMAS

The motion of Professor Linda D. Elrod, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

10-10108 BURNETT, EVERETT A. V. SPERRY, DONNA, 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.

10-10158 WILLIAMS, THELMA V. WRIGHT, JUDGE, USDC ED AR, ET AL

10-10159 WILLIAMS, THELMA V. JOHNSON, LT., ET AL.

10-10160 WILLIAMS, THELMA V. CROUCH, ET AL.

10-10181 McCREARY, CARNELL V. WERTANEN, RICKY, ET AL.

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

10-10699 RAY, FRED 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.

HABEAS CORPUS DENIED

10-10822 IN RE NIVEEN ISMAIL

10-10843 IN RE JAMES HARMON, III

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

10-10173 IN RE TERRY G. PARNELL

The petition for a writ of mandamus is denied.

10-10138 IN RE SUSAN ROSE

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

REHEARINGS DENIED

09-10053 MITCHELL, DENNIS V. UNITED STATES

10-1098 THREATT, KENIKA M. V. DONOVAN, SEC. OF HUD

10-9000 LEWIS, RONALD V. RICCI, ADM'R, NJ, ET AL.

10-9032 GUYTON, DENNIS V. HUNT, SCOTT

10-9061 LEE, JAY H. V. FEMA, ET AL.

10-9252 TAFARI, INJAH V. WEINSTOCK, DANIEL, ET AL.

10-9277 HAMMER, NANCY V. FOREST HIGHLANDS

10-9486 PONTON, DONNELL V. AFSCME, AFL-CIO, ET AL.

10-9896 NORWOOD, MARILYN M. V. UNIV. OF AR, BD. OF TRUSTEES

The petitions for rehearing are denied.

10-9732 HAQUE, SERAJUL V. IMMIGRATION & CUSTOMS

10-9737 HAQUE, SERAJUL V. DEPT. OF HOMELAND SEC., ET AL.

The petitions for rehearing are denied. Justice Kagan took no part in the consideration or decision of these petitions.

ATTORNEY DISCIPLINE

D-2598 IN THE MATTER OF DISCIPLINE OF WAYNE R. BRYANT

Wayne R. Bryant, of Cherry Hill, New Jersey, 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-2599 IN THE MATTER OF DISCIPLINE OF PAUL H. KING

Paul H. King, of La Union, Philippines, 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-2600 IN THE MATTER OF DISCIPLINE OF PHILIP M. KING

Philip M. King, of Mercer Island, Washington, 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-2601 IN THE MATTER OF DISCIPLINE OF STEPHEN D. CRAMER

Stephen D. Cramer, of Federal Way, Washington, 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-2602 IN THE MATTER OF DISCIPLINE OF PAUL C. DROZ

Paul C. Droz, of Mesquite, Nevada, 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-2603 IN THE MATTER OF DISCIPLINE OF MICHAEL R. LUONGO

Michael R. Luongo, of Margale City, New Jersey, 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-2604 IN THE MATTER OF DISCIPLINE OF WILLIAM R. CHAMBERS

William R. Chambers, of Scottsdale, Arizona, 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.

SUPREME COURT OF THE UNITED STATES

UNITED STATES *v.* JUVENILE MALE

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

No. 09–940 Decided June 27, 2011

PER CURIAM.

The Court of Appeals in this case held that the requirements of the Sex Offender Registration and Notification Act (SORNA), 42 U. S. C. §16901 *et seq*., violate the *Ex Post Facto* Clause of the Constitution, Art. I, §9, cl. 3, when applied to juveniles adjudicated as delinquent before SORNA's enactment. We conclude that the Court of Appeals had no authority to enter that judgment because it had no live controversy before it.

I

Respondent Juvenile Male was 13 years old when he began sexually abusing a 10-year-old boy on the Fort Belknap Indian Reservation in Montana. The abuse continued for approximately two years, until respondent was 15 and his victim 12. In 2005, respondent was charged in the District of Montana with delinquency under the Federal Juvenile Delinquency Act, 18 U. S. C. §5031 *et seq*. Respondent pleaded "true" to charges that he knowingly engaged in sexual acts with a child under 12, which would have been a federal crime had respondent been an adult. See §§2241(c), 1153(a). The court sentenced respondent to two years of juvenile detention, followed by juvenile supervision until his 21st birthday. Respondent was to spend the first six months of his post-confinement supervision in a prerelease center. See *United States* v. *Juvenile Male*, 560 U. S. ___, ___ (2010) *(per curiam)* (slip op., at 1).

In 2006, while respondent remained in juvenile deten-

tion, Congress enacted SORNA. 120 Stat. 590. Under SORNA, a sex offender must "register, and keep the registration current, in each jurisdiction" where the offender resides, is employed, or attends school. 42 U. S. C. §16913(a). This registration requirement extends to certain juveniles adjudicated as delinquent for serious sex offenses. §16911(8). In addition, an interim rule issued by the Attorney General mandates that SORNA's requirements apply retroactively to sex offenders convicted before the statute's enactment. 72 Fed. Reg. 8897 (2007) (codified at 28 CFR pt. 72 (2010)); see 42 U. S. C. §16913(d).[1]

In July 2007, the District Court determined that respondent had failed to comply with the requirements of his prerelease program. The court revoked respondent's juvenile supervision, imposed an additional 6-month term of detention, and ordered that the detention be followed by supervision until respondent's 21st birthday. 560 U. S., at ___ (slip op., at 1–2). At the Government's urging, and over respondent's objection, the court also imposed a "special conditio[n]" of supervision requiring respondent to register and keep current as a sex offender. *Id.*, at ___ (slip op., at 2) (internal quotation marks omitted); see Pet. for Cert. 9 (noting the Government's argument in the District Court that respondent should be required to register under SORNA "'at least until'" his release from juvenile supervision on his 21st birthday).

On appeal to the Ninth Circuit, respondent challenged this "special conditio[n]" of supervision. He requested that the Court of Appeals "reverse th[e] portion of his sentence

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[1] On December 29, 2010, the Attorney General finalized the interim rule. See 75 Fed. Reg. 81849. In *Reynolds* v. *United States*, No. 10–6549, this Court granted certiorari on the question whether sex offenders convicted before the enactment of SORNA have standing to challenge the validity of the Attorney General's interim rule. 562 U. S. ___ (2011); Pet. for Cert. in *Reynolds*, p. *i*. *Reynolds* is slated to be heard next Term.

requiring Sex Offender Registration and remand with instructions that the district court . . . strik[e] Sex Offender Registration as a condition of juvenile supervision." Opening Brief for Defendant-Appellant in No. 07–30290 (CA9), p. 25. Then, in May 2008, with his appeal still pending in the Ninth Circuit, respondent turned 21, and the juvenile-supervision order requiring him to register as a sex offender expired. 560 U. S., at ___ (slip op., at 2).

Over a year after respondent's 21st birthday, the Court of Appeals handed down its decision. 581 F. 3d 977 (CA9 2009), amended, 590 F. 3d 924 (2010). No party had raised any issue of mootness in the Ninth Circuit, and the Court of Appeals did not address the issue *sua sponte*. The court's opinion discussed only the merits and concluded that applying SORNA to juvenile delinquents who committed their offenses "before SORNA's passage violates the Ex Post Facto Clause." *Id.*, at 927. On that basis, the court vacated the District Court's condition of supervision requiring sex-offender registration and reporting. *Id.*, at 942. The United States petitioned for a writ of certiorari.

While that petition was pending, this Court entered a *per curiam* opinion in this case certifying a preliminary question of Montana law to the Montana Supreme Court. 560 U. S. ___ (2010). The opinion noted that a "threshold issue of mootness" might prevent us from reviewing the decision below on the merits. *Id.*, at ___ (slip op., at 2). We explained that, because respondent is "no longer . . . subject" to the District Court's "sex-offender-registration conditions," respondent must "show that a decision invalidating" those conditions "would be sufficiently likely to redress 'collateral consequences adequate to meet Article III's injury-in-fact requirement.'" *Id.*, at ___ (slip op., at 2–3) (quoting *Spencer* v. *Kemna*, 523 U. S. 1, 14 (1998)). We noted that by the time of the Ninth Circuit's decision, "respondent had become registered as a sex offender in

Montana." 560 U. S., at ___ (slip op., at 3) (internal quotation marks omitted). Thus, "[p]erhaps the most likely potential 'collateral consequenc[e]' that might be remedied by a judgment in respondent's favor is the requirement that respondent remain registered as a sex offender under Montana law." *Ibid.* In order to ascertain whether a decision invalidating the District Court's registration conditions would enable respondent to remove his name from the Montana sex-offender registry, the Court certified the following question to the Montana Supreme Court:

> "Is respondent's duty to remain registered as a sex offender under Montana law contingent upon the validity of the conditions of his now-expired federal juvenile-supervision order that required him to register as a sex offender, or is the duty an independent requirement of Montana law that is unaffected by the validity or invalidity of the federal juvenile-supervision conditions?" *Id.*, at ___ (slip op., at 3) (citations omitted).

The Montana Supreme Court has now responded to our certified question. See *United States* v. *Juvenile Male*, ___ P. 3d ___, 2011 WL 2162807 (2011). Its answer is that respondent's "state law duty to remain registered as a sex offender is not contingent upon the validity of the conditions of his federal supervision order, but is an independent requirement of Montana law." *Id.*, at ___, 2011 WL 2162807,*1.

II

It is a basic principle of Article III that a justiciable case or controversy must remain "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) (internal quotation marks omitted). "[T]hroughout the

litigation," the party seeking relief "'must have suffered, or be threatened with, an actual injury traceable to the defendant and likely to be redressed by a favorable judicial decision.'" *Spencer*, *supra*, at 7 (quoting *Lewis* v. *Continental Bank Corp.*, 494 U. S. 472, 477 (1990)).

In criminal cases, this requirement means that a defendant wishing to continue his appeals after the expiration of his sentence must suffer some "continuing injury" or "collateral consequence" sufficient to satisfy Article III. See *Spencer*, 523 U. S., at 7–8. When the defendant challenges his underlying *conviction*, this Court's cases have long presumed the existence of collateral consequences. *Id.*, at 8; see *Sibron* v. *New York*, 392 U. S. 40, 55–56 (1968). But when a defendant challenges only an expired *sentence*, no such presumption applies, and the defendant must bear the burden of identifying some ongoing "collateral consequenc[e]" that is "traceable" to the challenged portion of the sentence and "likely to be redressed by a favorable judicial decision." See *Spencer*, *supra*, at 7, 14.

At the time of the Ninth Circuit's decision in this case, the District Court's order of juvenile supervision had expired, and respondent was no longer subject to the sex-offender-registration conditions that he sought to challenge on appeal. 560 U. S., at ___ (slip op., at 2). As a result, respondent's challenge was moot before the Ninth Circuit unless he could "show that a decision invalidating" the District Court's order would likely redress some collateral consequence of the registration conditions. *Id.*, at ___ (slip op., at 2–3) (citing *Spencer*, *supra*, at 14).

As we noted in our prior opinion, one "potential collateral consequence that might be remedied" by an order invalidating the registration conditions "is the requirement that respondent remain registered" under Montana law. 560 U. S., at ___ (slip op., at 3) (internal quotation marks and brackets omitted). But as the Montana Supreme Court has now clarified, respondent's "state law

duty to remain registered as a sex offender is not contingent upon the validity of the conditions of his federal supervision order," 2011 WL 2162807, *1, and continues to apply regardless of the outcome in this case. True, a favorable decision in this case might serve as a useful precedent for respondent in a hypothetical lawsuit challenging Montana's registration requirement on *ex post facto* grounds. But this possible, indirect benefit in a future lawsuit cannot save *this* case from mootness. See *Camreta* v. *Greene*, 563 U. S. ___, ___ (2011) (slip op., at 16); *Commodity Futures Trading Comm'n* v. *Board of Trade of Chicago*, 701 F. 2d 653, 656 (CA7 1989) (Posner, J.) ("[O]ne can never be certain that findings made in a decision concluding one lawsuit will not some day . . . control the outcome of another suit. But if that were enough to avoid mootness, no case would ever be moot").

Respondent also argues that this case "cannot be considered moot in any practical sense" because, under current law, respondent may have "an independent duty to register as a sex offender" under SORNA itself. Brief in Opposition 6.[2] But the duty to register under SORNA is not a *consequence*—collateral or otherwise—of the District Court's special conditions of supervision. The statutory duty to register is, as respondent notes, an obligation that exists "independent" of those conditions. That continuing obligation might provide grounds for a pre-enforcement challenge to SORNA's registration requirements. It does not, however, render the current controversy regarding the validity of respondent's sentence any less moot.

Respondent further argues that this case falls within

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[2] See 42 U. S. C. §16911(8) (SORNA applicable if the juvenile was "14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in section 2241 of title 18)"); 72 Fed. Reg. 8897 (codified at 28 CFR pt. 72) (SORNA's requirements extend to sex offenders convicted before the statute's enactment).

the established exception to mootness for disputes that are "'capable of repetition, yet evading review.'" *Id.*, at 8 (quoting *Weinstein* v. *Bradford*, 423 U. S. 147, 148–149 (1975) *(per curiam)*). This exception, however, applies only where "(1) the challenged action [is] in its duration too short to be fully litigated prior to cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party [will] be subject to the same action again." *Spencer*, *supra*, at 17 (internal quotation marks omitted). At the very least, respondent cannot satisfy the second of these requirements. He has now turned 21, and he will never again be subject to an order imposing special conditions of juvenile supervision. See, *e.g.*, *DeFunis* v. *Odegaard*, 416 U. S. 312 (1974) *(per curiam)*. The capable-of-repetition exception to mootness thus does not apply, and the Ninth Circuit lacked the authority under Article III to decide this case on the merits.

The petition for a writ of certiorari and respondent's motion to proceed *in forma pauperis* are granted. The judgment of the Court of Appeals is vacated, and the case is remanded with instructions to dismiss the appeal.

It is so ordered.

JUSTICE GINSBURG, JUSTICE BREYER, and JUSTICE SOTOMAYOR would remand the case to the Ninth Circuit for that court's consideration of mootness in the first instance.

JUSTICE KAGAN took no part in the consideration or decision of this case.

SUPREME COURT OF THE UNITED STATES

MATTHEW SHERIDAN DERBY

10–8373 *v.*

UNITED STATES

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

KEITH JOHNSON

10–8607 *v.*

UNITED STATES

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

ROY L. SCHMIDT

10–8768 *v.*

UNITED STATES

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

SHERMAN ALAN TURNER

10–8885 *v.*

UNITED STATES

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

Nos. 10–8373, 10–8607, 10–8768 and 10–8885. Decided June 27, 2011

The petitions for writs of certiorari are denied.

JUSTICE SOTOMAYOR took no part in the consideration or decision of No. 10–8607.

JUSTICE SCALIA, dissenting from denial of certiorari.

Before us are petitions for certiorari by criminal defendants asking us to decide whether four more of the "vast variety of . . . criminal offenses" that we have not yet addressed, see *Sykes* v. *United States*, *ante*, at 2–4, 7 (SCALIA, J., dissenting), are crimes of violence under the residual provision of the Armed Career Criminal Act (ACCA). See 18 U. S. C. §924(e)(2)(B)(ii). They are:

- *Derby* v. *United States*, No. 10–8373. Relying on its decision in *United States* v. *Mayer*, 560 F. 3d 948 (2009), the Ninth Circuit held that Oregon's first-degree burglary statute, Ore. Rev. Stat. §164.225 (2009), falls within ACCA's residual provision. In *Mayer*, the Ninth Circuit conceded that Oregon's statute does not qualify as the enumerated offense of generic "burglary" under ACCA because it applies to unlawful entries into "booths, vehicles, boats, and aircraft," 560 F. 3d, at 959, and not just buildings and structures. See *Taylor* v. *United States*, 495 U. S. 575, 598 (1990). Nevertheless, it held that Oregon's statute falls within the residual provision, because burglaries under that statute lead to a "risk of a physical confrontation." 560 F. 3d, at 962; but see *id.,* at 952 (Kozinski, C. J., dissenting from denial of rehearing en banc) (noting that "Oregon prosecutes as burglars people who pose *no* risk of injury to anyone," such as an individual who "enter[ed] public telephone booths to steal change from coin boxes").
- *Johnson* v. *United States*, No. 10–8607. The Second Circuit, over a dissent, held that the Connecticut offense of "rioting at a correctional institution," Conn. Gen. Stat. §53a–179b(a) (2011), which punishes a defendant who "incites, instigates, organizes, connives at, causes, aids, abets, assists or takes part in any disorder, disturbance, strike, riot

or other organized disobedience of the rules and regulations of [a correctional] institution," falls within ACCA's residual provision. In response to the defendant's argument that the statute punishes activities such as "'inciting or participating in a hunger strike'" or "'refusal to work at a prison job,'" the court reasoned that even "hypothetical acts of 'passive disobedience' . . . involve deliberate and purposeful conduct." 616 F. 3d 85, 90 (2010). It also held that such activities were risky because "prisons are like powder kegs, where even the slightest disturbance can have explosive consequences." *Id.,* at 94.

- *Schmidt* v. *United States*, No. 10–8768. The Fifth Circuit held that the federal offense of theft of a firearm from a licensed dealer, 18 U. S. C. §922(u), falls within ACCA's residual provision. It held that this offense is "inherently dangerous" because it involves "stealing from a person who probably either possesses or has easy access to firearms," and because "stolen firearms are more likely to be used in connection with illegal and inherently harmful activities than are lawfully possessed guns." 623 F. 3d 257, 264 (CA5 2010).
- *Turner* v. *United States*, No. 10–8885. Relying on its decision in *United States* v. *Jarmon*, 596 F. 3d 228 (2010), the Fourth Circuit held that ACCA's residual provision covers the Virginia offense of larceny from the person, Va. Code Ann. §18.2–95(i) (Lexis 2009), defined as theft of over $5 in money or goods from another person—in other words, pickpocketing. In *Jarmon*, the court justified its apparent view that Oliver Twist was a violent felon by noting that larceny "requires the offender to make purposeful, aggressive moves to part the victim from his or her property, creating a . . . risk of vio-

lent confrontation" similar to the risk of violent confrontation during burglaries. 596 F. 3d, at 232.

How we would resolve these cases if we granted certiorari would be a fine subject for a law-office betting pool. No one knows for sure. Certainly our most recent decision interpreting ACCA's residual clause, *Sykes* v. *United States*, *ante*, p. 1, would be of no help. The "rule" we announced there, as far as I can tell, is as follows: A court must compare the degree of risk of the crime in question with the degree of risk of ACCA's enumerated offenses (burglary, extortion, arson, and crimes involving the use of explosives) as a "beginning point," *ante*, at 6–7; look at the statistical record, which is not "dispositive" but sometimes confirms "commonsense conclusion[s]," *ante,* at 8; and check whether the crime is "purposeful, violent, and aggressive," unless of course the crime is among the unspecified "many cases" in which that test is "redundant with the inquiry into risk," *ante,* at 11. And of course given our track record of adding a new animal to our bestiary of ACCA residual-clause standards in each of the four successive cases we have thus far decided, see *ante,* at 2–4 (SCALIA, J., dissenting), who knows what new beasties our fifth, sixth, seventh, and eighth tries would produce? Surely a perfectly fair wager.

If it is uncertain how this Court will apply *Sykes* and the rest of our ACCA cases going forward, it is even more uncertain how our lower-court colleagues will deal with them. Conceivably, they will simply throw the opinions into the air in frustration, and give free rein to their own feelings as to what offenses should be considered crimes of violence—which, to tell the truth, seems to be what we have done. (Before throwing the opinions into the air, however, they should check whether littering—or littering in a purposeful, violent, and aggressive fashion—is a felony in their jurisdiction. If so, it may be a violent felony under ACCA; or perhaps not.)

Since our ACCA cases are incomprehensible to judges, the statute obviously does not give "person[s] of ordinary intelligence fair notice" of its reach. *United States* v. *Batchelder*, 442 U. S. 114, 123 (1979) (internal quotation marks omitted). I would grant certiorari, declare ACCA's residual provision to be unconstitutionally vague, and ring down the curtain on the ACCA farce playing in federal courts throughout the Nation.