

(ORDER LIST: 558 U.S.)

MONDAY, NOVEMBER 2, 2009

CERTIORARI -- SUMMARY DISPOSITION

09-69 NORWOOD, ROBERT L. V. UNITED STATES

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 *Melendez-Diaz v. Massachusetts*, 557 U.S. __ (2009).

ORDERS IN PENDING CASES

09A265 GIANNONE, JONATHAN V. UNITED STATES

The application for bail addressed to Justice Sotomayor and referred to the Court is denied.

09M36 RISER, JEROME L. V. DEPT. OF TREASURY

09M37 BURNES, EARNEST L. V. UNITED STATES

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

09M38 IN RE ABDUL H. AL-GHIZZAWI

The motion for leave to proceed *in forma pauperis* without an affidavit of indigency executed by petitioner is granted. The motion for leave to file a petition for a writ of habeas corpus under seal is granted.

09M39 NITRO DISTRIBUTING, INC., ET AL. V. ALTICOR, INC., ET AL.

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

09M40 McCOY, JAMES V. ERCOLE, SUPT., GREEN HAVEN
09M41 BARNES, RICHIE D. V. HARRISON-BELK, CASSANDRA, ET AL.
09M42 MANNS, ANGELA V. UNIV. OF AR MED. CENTER, ET AL.

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

08-861 FREE ENTERPRISE FUND, ET AL. V. PUBLIC CO. OVERSIGHT BD., ET AL.

 The motion of the Solicitor General for divided argument is granted.

08-1134 UNITED STUDENT AID FUNDS, INC. V. ESPINOSA, FRANCISCO J.

 The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

08-1322 ASTRUE, COMM'R, SOCIAL SEC. V. RATLIFF, CATHERINE G.

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

08-1438 SOSSAMON, HARVEY L. V. TEXAS, ET AL.

 The Solicitor General is invited to file a brief in this case expressing the views of the United States.

08-1498) HOLDER, ATT'Y GEN., ET AL. V. HUMANITARIAN LAW PROJECT, ET AL.
)
09-89) HUMANITARIAN LAW PROJECT, ET AL. V. HOLDER, ATT'Y GEN., ET AL.

 The motion of the parties to amend the briefing schedule is granted. Petitioners in No. 09-89 will file an opening brief, not to exceed 18,000 words, on or before November 16, 2009.

 Petitioners in No. 08-1498 will file a response brief, not to exceed 18,000 words, on or before December 22, 2009.

 Petitioners in No. 09-89 will file a reply brief, not to exceed 12,000 words, on or before January 21, 2010. Petitioners in No. 08-1498 will file a reply brief, not to exceed 12,000 words, on

or before February 12, 2010.

09-34 PFIZER INC. V. ABDULLAHI, RABI, ET AL.

The Solicitor General is invited to file a brief in this case expressing the views of the United States. The Chief Justice and Justice Sotomayor took no part in the consideration or decision of this petition.

09-109 CARDINAL, GERALD W. V. METRISH, WARDEN

09-115 CHAMBER OF COMMERCE, ET AL. V. CRISS CANDELARIA, ET AL.

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

09-5371 MCCARTHY, THOMAS M. V. VILSACK, SEC. OF AGRIC., ET AL.

09-6083 PRYOR, HENDERSON R. V. WOLFE, ALAN M., ET AL.

09-6103 AUGUSTIN, PIERRE R. V. CHASE HOME FINANCE LLC

09-6241 VADDE, SRINIVAS V. V. GEORGIA

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until November 23, 2009, 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

08-998 HAMILTON, JAN V. LANNING, STEPHANIE K.

The petition for a writ of certiorari is granted limited to the following question: Whether, in calculating the debtor's "projected disposable income" during the plan period, the bankruptcy court may consider evidence suggesting that the debtor's income or expenses during that period are likely to be different from her income or expenses during the pre-filing period.

08-1457 NEW PROCESS STEEL, L.P. V. NLRB

09-223 LEVIN, RICHARD A. V. COMMERCE ENERGY, INC., ET AL.

The petitions for writs of certiorari are granted.

CERTIORARI DENIED

08-1418 GROSDIDIER, CAMILLE, ET AL. V. BROADCASTING BD. OF GOV.

08-10337 BISBY, JERRY L. V. CRITES, ASST. WARDEN, ET AL.

08-10666 YOST, JOHN V. WEST VIRGINIA

08-10723 N. I. V. ORANGE COUNTY SOCIAL SERVICES

08-10827 MUSICK, GARY V. UNITED STATES

08-10845 OGUNDE, OLUDARE V. VIRGINIA

08-11065 GUTIERREZ, ALFRED A. V. CALIFORNIA

09-3 DAEWOO ENGINEERING & CONSTR. V. UNITED STATES

09-77 MARTINEZ-RODRIGUEZ, SANDRA L. V. HOLDER, ATT'Y GEN.

09-88 BILTMORE FOREST BROADCASTING FM V. UNITED STATES

09-95 GRENADA STAMPING AND ASSEMBLY V. NLRB

09-117 APOTEX, INC., ET AL. V. SANOFI-SYNTHELABO, ET AL.

09-202 WARD, JOSEPH M. V. TRANS UNION, LLC

09-212 LENHAM, ROBERT H. V. DISABLED AMERICAN VETERANS

09-215 RASPANTI, ROY A. V. OFFICE OF DISCIPLINARY COUNSEL

09-218 MCCRORY, JAMES E. V. CAN DO, INC., ET AL.

09-228 MARTINEZ, DANIEL G., ET UX. V. MASSERI, DORDANE, ET AL.

09-230 AMORRORTU, BACILIO A. V. PERU

09-236 VENTIMIGLIA, VINCENT M. V. ST. LOUIS, C.O.G., INC., ET AL.

09-237 RODRIGUEZ, ISIDORO V. USCA DC

09-246 BRIDGEPORT ROMAN CATHOLIC V. NEW YORK TIMES CO., ET AL.

09-248 MOHAWK INDUSTRIES, INC. V. WILLIAMS, SHIRLEY, ET AL.

09-251 SAFFRAN, ELLIOT S. V. NOVASTAR MORTGAGE, INC.

09-254 AMERICAN INSURANCE CO., ET AL. V. ASTENJOHNSON, INC.

09-258 ARNOLD, EDWARD H. V. KPMG LLP, ET AL.

09-260 WAYNE-DALTON CORP. V. AMARR CO.

09-262 USI MIDATLANTIC, INC., ET AL. V. WILLIAM A. GRAHAM CO.

09-267 BAZARGANI, TAWOOS V. SNYDER, KENNETH, ET AL.

09-279 ROBERTSON, TOMMY B. V. MICHIGAN

09-282 DAVIS, GRANT L., ET AL. V. TILZER, JEROME S., ET AL.

09-283 REEVES, ROGER V. DSI SECURITY SERVICES, ET AL.

09-284 INDEPENDENCE NEWS, INC., ET AL. V. CHARLOTTE, NC

09-298 BLUM, KENNETH L. V. FAA, ET AL.

09-299 MICHIGAN V. SHAFIER, HARROLD E.

09-320 CHAPMAN, ROBERT, ET AL. V. CASNER, MICHAEL L., ET AL.

09-334 HEIMERMANN, SCOTT A. V. McCAUGHTRY, GARY R., ET AL.

09-336 RX.COM, INC. V. MEDCO HEALTH SOLUTIONS, ET AL.

09-354 VILLARREAL, NOEL V. TEXAS

09-366 CURRY, TRISTAN V. ALASKA

09-378 AKINS, VINCE V. UNITED STATES

09-5016 BARRETT, KEITH M. V. UNITED STATES

09-5043 HOVIND, KENT E. V. UNITED STATES

09-5070 AVILA, RIGOBERTO V. THALER, DIR., TX DCJ

09-5089 GATEWOOD, KENNARD V. OUTLAW, WARDEN

09-5144 RISLEY, BILLY R. V. THALER, DIR., TX DCJ

09-5164 CRUZ, DAVID V. UNITED STATES

09-5242 JONES, CHARLES V. ILLINOIS

09-5285 JOHNSON, TIMOTHY H. V. NV DOC, ET AL.

09-5321 COLLIER, ETTA M. V. SEARS, ROEBUCK AND CO.

09-5347 THARP, ROBERT V. UNITED STATES

09-5533 CASTRO-COELLO, FRANCISCO V. UNITED STATES

09-5546 LERMA-VELEZ, MARCELINO V. UNITED STATES

09-5550 LOPEZ-LEON, CONSTANTINO V. UNITED STATES
09-5589 ERAZO-VILLATORO, EDWIN M. V. UNITED STATES
09-5619 ELDRIDGE, GERALD V. THALER, DIR., TX DCJ
09-5674 FUTCH, JOHN R. V. DEWEY, KEITH, ET AL.
09-5714 O'DWYER, ASHTON R. V. NELSON, JOHN, ET AL.
09-5886 OWENS, MICHAEL W. V. VIRGINIA, ET AL.
09-5981 REED, MARK A. V. HOFBAUER, WARDEN
09-6009 COOK, DAMON B. V. ADAMS, WARDEN
09-6036 ROBENSON, LOUIS V. McNEIL, SEC., FL DOC, ET AL.
09-6050 ROPER, WILLIAM V. FARWELL, WARDEN, ET AL.
09-6055 JUSTICE, JOHN D. V. KING, TERRY
09-6068 CUTAIA, THOMAS J. V. FLORIDA
09-6071 MAISANO, DALE F. V. RYAN, DIR., AZ DOC
09-6072 LANGOSH, STEPHEN J. V. CALIFORNIA
09-6081 NICELEY, MARC V. KENTUCKY
09-6084 WILLIAMS, JEFFREY V. McNEIL, SEC., FL DOC
09-6086 WILLIAMS, NEIL J. V. McBRIDE, WARDEN
09-6099 JONES, JAMES L. V. YATES, WARDEN
09-6102 KENDRICK, SEAN V. FRANK, MATTHEW J., ET AL.
09-6105 BORTHWELL, JEROME V. JACKSON, WARDEN
09-6111 SMITH, KEVIN V. OZMINT, JON, ET AL.
09-6118 RONE, JIMMY E. V. MICHIGAN
09-6127 HAWTHORNE, RICKEY V. CARUSO, DIR., MI DOC, ET AL.
09-6130 GUMBS, PERRY N. V. HOLDER, ATT'Y GEN., ET AL.
09-6132 RIOS, RENO F. V. CATE, SEC., CA DOC, ET AL.
09-6134 CARROLL, ELMER L. V. McNEIL, SEC., FL DOC, ET AL.
09-6135 CAIN, STANFORD V. JOHNSON, DIR., VA DOC
09-6144 PEDROSO, ANGEL V. LOUISIANA

09-6146 ABRAHAM, SAMUEL P. V. HEINEMANN, MOSES
09-6147 AMASON, ALLEN J. V. THALER, DIR., TX DCJ
09-6148 SCOTT, JAMES V. FLORIDA
09-6149 LOPEZ, ADRIAN V. McKUNE, WARDEN, ET AL.
09-6153 HARRIS, GILBERT V. ILLINOIS
09-6156 CHAVEZ, JUAN C. V. FLORIDA
09-6160 FLEITAS, CARLOS V. FLORIDA
09-6166 JUDD, KEITH R. V. NEW MEXICO
09-6168 WALSH, RORY M. V. UNITED STATES, ET AL.
09-6169 THEISS, GABRIEL V. FLORIDA
09-6170 WEISER, LYNNE L. V. THALER, DIR., TX DCJ
09-6173 HIMMELBERGER, KRISTIN V. AYERS, WARDEN
09-6177 BROWN, JILLIAN L. V. AM. INST. FOR RESEARCH, INC.
09-6184 DAVIE, RODERICK V. MITCHELL, WARDEN
09-6185 JONES, ANNAMARIE V. CALIFORNIA
09-6194 DOYLE, MICHAEL V. RITTER, GOV. OF CO, ET AL.
09-6197 NEWMAN, TERRY L. V. CALIFORNIA
09-6201 TILTON, MICHAEL E. V. CATE, SEC., CA DOC, ET AL.
09-6202 THOMAS, PARIS V. ILLINOIS
09-6203 MEREDITH, LYNNE V. ERATH, ANDREW, ET AL.
09-6204 GRAYSON, DEAN V. STEVENSON, WARDEN
09-6209 HANNON, PATRICK C. V. McNEIL, SEC., FL DOC
09-6215 LOPEZ, HERMINIO V. KENNEDY, CHARLOTTE R., ET AL.
09-6216 MARTIN, LARRY V. CALIFORNIA
09-6225 BLAKENEY, ROGER M. V. BRANKER, WARDEN
09-6226 BERNARD, KENDRA D. V. CALIFORNIA
09-6227 HARLEY, THOMAS V. BEIOH, DOCTOR, ET AL.
09-6236 HEARNE, JOHN W. V. DAVIS, WARDEN

09-6237 S. B., ET UX. V. J. L.

09-6244 THOMAS, JASON L. V. HOREL, WARDEN

09-6248 BROWN, NORMAN V. SAMANO

09-6249 ANSEL, MATTHEW V. SUPERIOR COURT OF CA, ET AL.

09-6250 ASHIPA, OLUDAYO V. OHIO

09-6256 WICK, ERIC J. V. PROSPER, WARDEN

09-6257 FLOWERS, DAMONE E. V. PHELPS, WARDEN, ET AL.

09-6258 GRAHAM, CHARLES C. V. MISSOURI

09-6261 TAYLOR, RICHARD W. V. MINNESOTA

09-6265 BLIE, RICHARD V. ARTUS, SUPT., CLINTON

09-6266 HARDY, GREGORY V. SMITH, WARDEN

09-6267 BIBBS, JUAREZ V. THALER, DIR., TX DCJ

09-6270 DAVIS, BRYAN V. KNOWLES, M., ET AL.

09-6272 CARTER, GLENN V. GAETZ, WARDEN

09-6274 MILLER, JOHN A. V. SC DEPT. OF PROBATION

09-6276 PEREZ, DAVID P. V. COLORADO

09-6281 LaFAVORS, HENRY J. V. McNEIL, SEC., FL DOC, ET AL.

09-6282 DERRICKSON, RODNEY V. DIST. ATT'Y OF DELAWARE CTY.

09-6283 ARTIS, MICHAEL A. V. NEWPORT NEWS SHIPBUILDING

09-6285 BROWN, ALEXANDER V. PHILADELPHIA, PA

09-6294 COX, CLEVELAND V. ILLINOIS

09-6297 J. M. B. V. NEW JERSEY

09-6299 GARCIA, MARIO F. V. CALIFORNIA

09-6304 SNOW, RICHARD R. V. KANSAS

09-6311 MENDEZ, MICHAEL V. KNOWLES, WARDEN

09-6339 LEWIS, BRIAN J. V. UNITED STATES

09-6341 CARGYLE S. V. PRINCE GEORGE'S COUNTY CHILD

09-6363 ARMSTRONG, GARY V. KERESTES, SUPT., MAHANoy, ET AL.

09-6378 HUTCHINSON, MICHAEL V. MAINE
09-6396 GARCELL, RYAN G. V. NORTH CAROLINA
09-6417 SMITH, ARTHUR L. V. RICHARDS, HENRY
09-6420 DeNICTOLIS, MICHAEL, ET AL. V. CLARKE, COMM'R, MA DOC
09-6436 ALMOND, DWAYNE V. POLLARD, WARDEN, ET AL.
09-6437 YODER, GARY V. BREWER, GOV. OF AZ, ET AL.
09-6440 GONZALEZ, ENRIQUE R. V. UNITED STATES
09-6449 WILLIAMS, KEVIN V. ROZUM, SUPT., SOMERSET, ET AL.
09-6512 SMITH, JAMES E. V. WEBER, WARDEN
09-6527 BALL, DANNY L. V. HOUSTON, WARDEN
09-6535 PETERSON, PHILLIP V. ROE, WARDEN
09-6537 TAYLOR, TYRON V. PURKETT, SUPT., EASTERN
09-6540 ASBELL, JOHNNY L. V. McNEIL, SEC., FL DOC, ET AL.
09-6552 JONES, JELA D. V. CARLSON, WARDEN
09-6558 ELLIS, ROBERT J. V. SHEARIN, WARDEN, ET AL.
09-6562 ELIZARES, CALVIN V. THOMAS, WARDEN, ET AL.
09-6572 WHEELER, THERESA V. MILLER, COURTNEY
09-6574 BOYD, WILLIE E. V. SHERROD, WARDEN
09-6576 ALBRIGHT-LAZZARI, KIMBERLY V. CONNECTICUT
09-6581 CORRAL, DAVID A. V. UNITED STATES
09-6584 BOWMAN, MELVIN V. COLORADO
09-6601 TROTTER, ADAM V. GATES, SEC. OF DEFENSE
09-6604 EVANS, DEONTA V. UNITED STATES
09-6607 CAMPBELL, GERALD L. V. UNITED STATES
09-6608 CAO, ULISES V. UNITED STATES
09-6626 CURRIE, WILLIAM V. UNITED STATES
09-6635 MORSE, DANA P. V. MAINE
09-6638 BRYCE, EWAN V. MARTINEZ, WARDEN

09-6640	WALKER, RODERICK V. UNITED STATES
09-6643	McGHEE, CLYDE V. UNITED STATES
09-6644	VAZQUEZ, LUIS V. UNITED STATES
09-6646	WALLS, FELIX V. UNITED STATES
09-6652	DAUBON, HERDEL R. V. UNITED STATES
09-6653	DOLAMORE, MARTIN L. V. UNITED STATES
09-6655	MONROE, JULIAN D. V. UNITED STATES
09-6656	DUNCAN, JAMES J. V. UNITED STATES
09-6657	DOUBLIN, LARRY W. V. UNITED STATES
09-6660	MORALES-PITONES, GUILLERMO V. UNITED STATES
09-6661	YATES, PAUL V. UNITED STATES
09-6663	SLINGER, MELVIN V. RYAN, DIR., AZ DOC, ET AL.
09-6667	ELLIS, MARCUS T. V. UNITED STATES
09-6668	MERCADO, MOISES V. V. UNITED STATES
09-6670	CARRILLO-PALACIOS, JOSE G. V. UNITED STATES
09-6671	CROTO, SEAN V. UNITED STATES
09-6678	HARDIMON, DEMOND J. V. UNITED STATES
09-6680	HUBER, ROSEMARY V. PAROLE COMMISSION
09-6681	HAYNES, DERICK D. V. UNITED STATES
09-6685	BLANCO, RAMON V. UNITED STATES
09-6687	CARTER, TONY M. V. UNITED STATES
09-6688	MARTINEZ, LUPE V. UNITED STATES
09-6691	SALDARRIAGA-PALACIO, WILDER V. UNITED STATES
09-6700	SANTANA, JOSE V. TRANI, WARDEN
09-6702	BURGIE, ERIC C. V. ARKANSAS
09-6704	BALENTINE, JOHN L. V. TEXAS
09-6705	WAGONER, JIMMY V. UNITED STATES
09-6706	R. T. V. N. G. S. C., ET AL.

09-6710	ROBINSON, RUSSELL V. UNITED STATES
09-6713	SIMEK, GARY D. V. UNITED STATES
09-6714	SUITT, MICHAEL V. UNITED STATES
09-6717	JOHNSON, ROBERT E. V. UNITED STATES
09-6719	LEWIS, WILLIAM D. V. UNITED STATES
09-6720	KNIGHT, WADE V. KAMINSKI, JONATHAN, ET AL.
09-6722	ORTIZ, MARIA V. UNITED STATES
09-6725	WILLIS, DALE V. UNITED STATES
09-6727	SCAIFE, MARK V. UNITED STATES
09-6728	SURRATT, ROMELLE M. V. UNITED STATES
09-6731	DODDS, BRIAN V. UNITED STATES
09-6736	ARONJA-INDA, JORGE V. UNITED STATES
09-6737	ARELLANO-POCHOS, JUAN V. UNITED STATES
09-6739	KEEN, DAVID V. McNEIL, SEC., FL DOC, ET AL.
09-6743	HOLMES, JOSEPH L. V. UNITED STATES
09-6745	GONZALEZ-RAMIREZ, FERNANDO V. UNITED STATES
09-6746	MAYLE, DAVID V. SABOL, WARDEN
09-6747	MARTINEZ, BENITO V. UNITED STATES
09-6749	NASH, PHILLIP V. UNITED STATES
09-6753	YOUNG, REGINALD V. UNITED STATES
09-6757	JIMENEZ-ALVARADO, CRISPIN V. UNITED STATES
09-6759	KINCHION, TIMOTHY D. V. UNITED STATES
09-6762	BURNEY, DARRELL V. UNITED STATES
09-6763	SCOTT, ANTONIO D. V. UNITED STATES
09-6766	MOMAH, CHINEDU V. UNITED STATES
09-6770	HURT, NATHANIEL V. UNITED STATES
09-6778	GUTIERREZ, LEONEL M. V. UNITED STATES
09-6779	GARCIA, ARMANDO V. UNITED STATES

09-6781 JEAN-CHARLES, JEFF V. UNITED STATES
 09-6783 BOYD, CALVIN M. V. UNITED STATES
 09-6787 BRITO, RAMON V. UNITED STATES
 09-6799 BARIAN, ZACHARY P. V. UNITED STATES
 09-6800 BREWER, DANIEL W. V. UNITED STATES
 09-6804 HAMANI, WALI V. UNITED STATES
 09-6807 CHUNG, KEVIN V. UNITED STATES
 09-6808 COLTRANE, CARLTON V. UNITED STATES
 09-6809 DE LA GARZA-VALLES, REFUGIO J. V. UNITED STATES
 09-6810 CELEDON, LUIS V. UNITED STATES
 09-6813 ROSS, SPECK A. V. UNITED STATES
 09-6814 RINICK, WILLIAM V. UNITED STATES
 09-6815 BROWN, TERRY L. V. UNITED STATES
 09-6816 JONES, PRESTON V. UNITED STATES
 09-6819 SANCHEZ-RAMIREZ, COSME V. UNITED STATES
 09-6820 WARFIELD, EUGENE V. UNITED STATES
 09-6824 HUMBERT, ERIC V. UNITED STATES
 09-6827 DHARNI, SUNDEEP V. UNITED STATES
 09-6831 LACEN-BERRIOS, GUSTAVO V. UNITED STATES
 09-6837) SEALED PETITIONER V. UNITED STATES
)
 09-6838) SEALED PETITIONERS V. UNITED STATES
 09-6840 CARNEY, RAVEL S. V. UNITED STATES
 09-6841 ROBERSON, GARY V. UNITED STATES
 09-6844 BROOKS, VERNON V. UNITED STATES
 09-6847 REYNA, MOISES R. V. UNITED STATES
 09-6856 BLANKS, OTIS L. V. UNITED STATES
 09-6859 BROWN, DEMETRIUS V. UNITED STATES
 09-6860 ALEJANDRE-ALCARAZ, PEDRO V. UNITED STATES

09-6869 MORRIS, MAURICE V. UNITED STATES

09-6872 VIGIL, FELIPE R. V. UNITED STATES

09-6873 MONTOYA-CARMONA, LUIS F. V. UNITED STATES

The petitions for writs of certiorari are denied.

08-1415 FILEBARK, JOSEPH J., ET AL. V. TRANSPORTATION DEPT., ET AL.

The motion of National Treasury Employees Union, et al., for leave to file a brief as *amici curiae* out of time is granted. The petition for a writ of certiorari is denied.

08-10169 ORTIZ, MARCOS V. THALER, DIR., TX DCJ, ET AL.

08-10844 NORTON, RICHARD L. V. NORRIS, OFFICER, ET AL.

08-10942 TIBBS, JAMES I. V. McWHORTER, WILLIAM, 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.

08-10982 BASARDH, YASIN M. V. GATES, SEC. OF DEFENSE, ET AL.

The petition for a writ of certiorari before judgment is denied.

08-11023 WHEELER, GARY L. V. McNEIL, SEC., FL DOC, 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.

09-28 EASTERDAY, JACK E. V. UNITED STATES

09-49 LAZARENKO, PAVEL I. V. UNITED STATES

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

09-74 SMITH, WARDEN V. MASON, MAURICE A.

The motion of respondent for leave to proceed *in forma*

pauperis is granted. The petition for a writ of certiorari is denied.

09-104 AD HOC COMM. OF KENTON COUNTY V. DELTA AIR LINES, INC., ET AL.

The motion of Professor George W. Kuney for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this motion and this petition.

09-141 BENNETT, JULIE M. V. VERIZON WIRELESS

09-188 FISHER, JOSEPH V. V. PENN TRAFFIC CO., ET AL.

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

09-216 McNEIL, SEC., FL DOC, ET AL. V. ASAY, MARK J.

09-234 McNEIL, SEC., FL DOC V. THOMAS, WILLIAM G.

The motions of respondents for leave to proceed *in forma pauperis* are granted. The petitions for writs of certiorari are denied.

09-261 WUBAYEH, DESSIE, ET AL. V. NEW YORK, NY, ET AL.

09-321 GOTTLIEB, ALLEN B. V. SEC

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

09-5377 PIGGIE, CLYDE V. ROBERTSON, AMANDA, ET AL.

09-5437 CRUTCHER, BYRON E. V. USDC NV

09-5577 RICHARDSON, BERNARD R. V. JOHNSON, DIR., VA DOC

09-5591 TIBBS, JAMES I. V. THALER, DIR., TX DCJ

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.

09-6075 SAVINON, CARLOS V. KHAHAIFA, SUPT., ORLEANS

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

09-6192 HARRELL, DAVID 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*). Justice Stevens dissents. See *id.*, at 4, and cases cited therein.

09-6224 BASCIANO, VINCENT V. MARTINEZ, WARDEN

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

09-6228 JACKSON, JOSEPH M. V. PROVINCE, WARDEN

09-6234 CLUCK, MARY L. V. WASHINGTON

09-6536 NADDI, TOUFIC B. V. HERNANDEZ, WARDEN, 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.

09-6647 SIMMONS, HASAN 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.

09-6675 NOSTER, JOHN L. V. UNITED STATES

The motion of petitioner to defer consideration of the petition for a writ of certiorari is denied. The petition for a writ of certiorari is denied.

09-6684 HOWARD, GREGORY T. V. USDC OH, 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.

09-6817 MARTINEZ, VICTOR V. UNITED STATES

09-6825 KOPP, JAMES C. V. UNITED STATES

09-6858 ANDERSON, MARVIN V. UNITED STATES

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

HABEAS CORPUS DENIED

09-6773 IN RE COLLEEN FULLERBLACK

09-6802 IN RE PAUL GRINKER

09-6899 IN RE LEROY SINGLETON

09-6980 IN RE GERALD LESTER

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

09-6157 IN RE CHARLES McCORVEY

09-6268 IN RE ROOSEVELT CARTER

09-6434 IN RE TOMMIE H. TELFAIR

09-6776 IN RE DANIEL GARRAUD

The petitions for writs of mandamus are denied.

08-10694 IN RE JULIAN ROCHESTER

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

09-5102 IN RE GARY L. WHEELER

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.

09-5226 IN RE RUDI RIVAS

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

09-6188 IN RE CHARLES W. ALPINE

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.

PROHIBITION DENIED

09-6435 IN RE TOMMIE H. TELFAIR

The petition for a writ of prohibition is denied.

Statement of STEVENS, J.

SUPREME COURT OF THE UNITED STATES

UNITED STATES *v.* JAMES FORD SEALE

ON CERTIFIED QUESTION BY THE UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT

No. 09–166. Decided November 2, 2009

The question certified by the United States Court of Appeals for the Fifth Circuit is dismissed.

Statement of JUSTICE STEVENS, with whom JUSTICE SCALIA joins, respecting the dismissal of the certified question.

This certificate presents us with a pure question of law that may well determine the outcome of a number of cases of ugly racial violence remaining from the 1960s. The question is what statute of limitations applies to a prosecution under 18 U. S. C. §1201 commenced in 2007 for a kidnaping offense that occurred in 1964.

James Ford Seale was found guilty of violating §1201, a provision that does not include its own limitations period. Title 18 U. S. C. §3281 provides that “any offense punishable by death” may be prosecuted “at any time without limitation,” whereas §3282(a) imposes a 5-year period of limitations for all other offenses “[e]xcept as otherwise expressly provided by law.” In 1964 a violation of §1201 was a capital offense when the victim was harmed, and since 1994 a violation of §1201 has been a capital offense when the kidnaping results in the loss of life. But for more than two decades in between, Seale’s crime was not punishable by death.

Several developments accounted for this. In 1968 this Court held that the death penalty provision in the old §1201 was unconstitutional because it applied “only to those defendants who assert the right to contest their guilt before a jury,” *United States v. Jackson*, 390 U. S. 570, 581, and in 1972 we cast significant doubt on the constitu-

Statement of STEVENS, J.

tionality of death penalty laws nationwide, *Furman v. Georgia*, 408 U. S. 238 (*per curiam*). Following *Furman*, Congress repealed the death penalty clause of §1201, see Act for the Protection of Foreign Officials and Official Guests of the United States, Pub. L. 92–539, §201, 86 Stat. 1072, which had the effect of changing the applicable statute of limitations from §3281 to §3282.

In this case, the District Court held that the 1972 repeal did not retroactively change the character of a violation of §1201 as a capital offense within the meaning of §3281—and therefore that the prosecution of Seale could go forward—but a panel of the Court of Appeals reversed. 542 F. 3d 1033 (CA5 2008). In response to the Government’s petition for rehearing en banc, the full court vacated the panel decision and, by an equally divided 9-to-9 vote, affirmed the District Court’s ruling on the limitations defense. 570 F. 3d 650 (CA5 2009) (*per curiam*); see also *id.*, at 651 (DeMoss, J., dissenting) (noting the affirmation’s “nominal” nature in light of the deadlock). Following the procedure authorized by Congress in 28 U. S. C. §1254(2) and by this Court’s Rule 19, a majority of the members of the en banc court voted to certify this question of law to us for decision.

The question is narrow, debatable, and important. I recognize that the question reaches us in an interlocutory posture, as Seale appealed his conviction on numerous grounds, and that “[i]t is primarily the task of a Court of Appeals to reconcile its internal difficulties,” *Wisniewski v. United States*, 353 U. S. 901, 902 (1957) (*per curiam*). Yet I see no benefit and significant cost to postponing the question’s resolution. A prompt answer from this Court will expedite the termination of this litigation and determine whether other similar cases may be prosecuted. In these unusual circumstances, certification can serve the interests not only of legal clarity but also of prosecutorial economy and “the proper administration and expedition of

Statement of STEVENS, J.

judicial business.” *Ibid.*

The certification process has all but disappeared in recent decades. The Court has accepted only a handful of certified cases since the 1940s and none since 1981; it is a newsworthy event these days when a lower court even tries for certification. Section 1254(2) and this Court’s Rule 19 remain part of our law because the certification process serves a valuable, if limited, function. We ought to avail ourselves of it in an appropriate case. In my judgment, this case should be briefed and set for argument.