

(ORDER LIST: 568 U.S.)

MONDAY, NOVEMBER 26, 2012

CERTIORARI -- SUMMARY DISPOSITIONS

11-438 LIBERTY UNIVERSITY, ET AL. V. GEITHNER, SEC. OF TREASURY

The petition for rehearing is granted. The order entered June 29, 2012, denying the petition for a writ of certiorari is vacated. 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 Fourth Circuit for further consideration in light of *National Federation of Independent Business v. Sebelius*, 567 U.S. ____ (2012).

12-6687 DEANE, JEROMY B. 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 Fourth Circuit for further consideration in light of *Dorsey v. United States*, 567 U.S. ____ (2012).

ORDERS IN PENDING CASES

12A364 IN RE ERIC FLORES

The application to file a petition for a writ of mandamus in excess of the word limits addressed to The Chief Justice and referred to the Court is denied.

12M44 COOPER, JOHNNIE V. ILLINOIS LOTTERY CONTROL BOARD

12M45 WHITE, MARY E. V. NJ DEPT. OF HUMAN SERVICES

12M46 WHEELER-WHICHARD, JOHNATHAN V. ROACH, JOHN, ET AL.

12M47 RANDLE, TAHLIAH V. HOUSE OF BRIDES

12M48 AMER, ADEEB N. V. UNITED STATES

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

12M49 GIBBS, CURTIS A. V. THOMAS, WARDEN

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

12M50 KINCAID, ESTRELLA, ET VIR V. SMITH, SUSAN K.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

11-9540 DESCAMPS, MATTHEW R. V. UNITED STATES

The motion of petitioner for leave to file volume II of the joint appendix under seal is granted.

11-10628 DANIEL, BRENDAN A. V. OPM

11-10955 BOOK, ETHAN V. BYSIEWICZ, SUSAN, ET AL.

11-11003 TORREFRANCA, DELMO F. V. RYAN, DIR., AZ DOC, ET AL.

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

12-5140 MONTGOMERY, MAURICE V. CA WORKER'S COMP. APPEALS BD.

The motion to substitute Judith K. Montgomery as petitioner in place of Maurice E. Montgomery, Deceased, is granted.

12-5247 SANDERS, LETICIA V. ASTRUE, COMM'R, SOCIAL SEC.

12-5419 JONES, WALLACE C. V. FLORIDA

12-5651 KEMPPAINEN, GORDON K. V. TEXAS

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

12-6269 IN RE NACHIAPPAN S. MUTHUKUMAR

12-6314 BORG, BRETT D. V. MINNESOTA

12-6322 PARHAM, ELNORA V. HSBC MORTGAGE CORP., ET AL.
 12-6398 CONTI, MICHAEL L. V. TEXAS
 12-6554 EMERSON, JACQUELYN M., ET VIR V. ALY, AL S., ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until December 17, 2012, 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

11-1371 CALIFORNIA TABLE GRAPE COMM'N V. DELANO FARMS COMPANY, ET AL.
 11-1552 US FIRE INSURANCE CO., ET AL. V. ALEXANDER, LOUVINIA M., ET AL.
 11-9353 PEREZ, JORGE J. V. UNITED STATES
 11-9661 HERNANDEZ-RODRIGUEZ, FORTUNATO V. UNITED STATES
 11-9705 QUIROZ-HERNANDEZ, SERGIO C. V. UNITED STATES
 11-9724 ZUNIGA-ALCALA, OSCAR V. UNITED STATES
 11-10499 CASTILLO-QUINTANAR, LUIS E. V. UNITED STATES
 11-10715 KERNS, JASON A. V. BD. OF COMMISSIONERS, ET AL.
 11-10718 MARTIN, PHILIP V. TEXAS
 11-10953 RUSSELL, ORAL R. V. UNITED STATES
 11-11137 HAMPTON, BOBBY L. V. CAIN, WARDEN
 12-49 TUCKER, LARRY E. V. CIR
 12-80 McMANAMAN, KEVIN V. UNITED STATES
 12-95 CORDOVA-SOTO, GABRIELA V. HOLDER, ATT'Y GEN.
 12-166) BARANWAL, AKHIL V. UNITED STATES
)
 12-428) CHEBSSI, GEUNNET V. UNITED STATES
)
 12-5261) LaCOUR, JUDE V. UNITED STATES
)
 12-6353) TOBIN, CHRISTOPHER V. UNITED STATES
 12-224 MATATALL, BLAKE V. HERMIZ, YOUSIF

12-232 SOLANA BEACH SCH. DIST., ET AL. V. KA. D., ET AL.
12-267 GENEVA-ROTH VENTURES, INC. V. EDWARDS, AKEALA
12-272 R.J. REYNOLDS TOBACCO, ET AL. V. CLAY, FINNA
12-274 APEX 1 PROCESSING, INC. V. EDWARDS, AKEALA
12-310 LALLIER, THORNTON E. V. SUPREME COURT OF MA, ET AL.
12-317 BLAKE MARINE GROUP, INC. V. ADAMS OFFSHORE LTD.
12-318 ALVAREZ, ANITA V. ACLU OF ILLINOIS
12-319 JENKINS, T. L. V. BRYANT, H. J., ET AL.
12-320 BUNIFF, JOHN L. V. CAIN, WARDEN
12-324 HART, DENNIS V. PENSKE TRUCK LEASING CO.
12-327 ALPHAS COMPANY, INC. V. DAN TUDOR & SONS SALES, INC.
12-346 KULPINSKY, JOSH R. V. TEXAS
12-350 PARENT, JOHN V. NEW YORK, ET AL.
12-353 HENRIQUES GROUP, ET AL. V. BANKERS LENDING SERVICES, ET AL.
12-354 GORDON, ALISON, ET AL. V. WEHRLE, DAVID
12-359 PARKS, ALLAN V. MBNA AMERICA BANK N.A.
12-360 HERRERA, GUILLERMO V. CHURCHILL MCGEE, LLC, ET AL.
12-361 C. M. H. V. D. M., ET UX.
12-362 EASTSIDE EXHIBITION CORP. V. 210 EAST 86TH STREET CORP.
12-364 DONOHUE, JACQUELINE S. V. DONOHUE, MICHAEL H.
12-365 HOUSTON, LEONARD W. V. DOW LOHNES PLLC, ET AL.
12-367 DEL MARCELLE, LEWIS D. V. BROWN COUNTY CORP., ET AL.
12-369 NORITA, NICANOR, ET AL. V. NORTHERN MARIANA ISLANDS
12-374 SCHOLASTIC BOOK CLUBS, INC. V. ROBERTS, RICHARD H.
12-376 FURRY, JOHN V. V. MICCOSUKEE TRIBE, ET AL.
12-380 STEELE, JONATHAN V. TUCKER, SEC., FL DOC, ET AL.
12-383 BRYANT, RAMON L. V. MICHIGAN
12-388 ADIELE, ODEMELAM F. V. HOLDER, ATT'Y GEN.

12-392 GILBERT, CHARLES R. V. BANGS, GARY
12-394 BRODIE, KHARII W. V. ROSEN, JONATHAN, ET AL.
12-404 STRADER, GARY V. DEPT. OF AGRICULTURE
12-412 DUBUC, DENNIS, ET UX. V. GREEN OAK, MI, ET AL.
12-426 PAYNE, JEFFREY C. V. WHOLE FOODS MARKET GROUP
12-432 VOGEL, WILLIAM M. V. EVANS, WARDEN
12-443 NUNLEY, TERRY V. MICHIGAN
12-450 MULERO, MARILYN V. THOMPSON, WARDEN
12-474 SCOTT, BRANDEN M. V. UNITED STATES
12-475 JUNKIN, GREGORY R. V. FLORIDA
12-476 MARTINO, RICHARD V. UNITED STATES
12-479 LOVE, TYSHAUNT V. PENNSYLVANIA
12-480 MANN, SANGEETA V. UNITED STATES
12-483 WATERS, JESSE W. V. UNITED STATES
12-487 RANN, STEVEN R. V. ATCHISON, WARDEN
12-490 WILLIS, DAVID V. UNITED STATES
12-5027 O'BAY, RODNEY M. V. UNITED STATES
12-5032 REYES, LORETO M. V. UNITED STATES
12-5119 WHITE, GARY L. V. UNITED STATES
12-5125 SHERROD, CURTIS L. V. JOHNSON, ARTHUR, ET AL.
12-5182 HOOD, RONNIE F. V. NORTH CAROLINA
12-5263 MARLOWE, BRIAN L. V. FABIAN, JOAN, ET AL.
12-5309 LEWIS, FRANK W. V. UNITED STATES
12-5354 MCGOWEN, ROGER W. V. THALER, DIR., TX DCJ
12-5412 HARRIS, PAMELA V. QCA HEALTH PLAN, INC.
12-5592 DOVER, RAWLE C. V. HOLDER, ATT'Y GEN.
12-5689 GLADDEN, WARREN K. V. BRYSON, SEC. OF COMMERCE
12-5690 GLADDEN, WARREN K. V. VILSACK, SEC. OF AGRICULTURE

12-5901 NICOLAISON, WAYNE C. V. MINNESOTA
12-5937 BEEMAN, GARY D. V. UNITED STATES
12-5962 WHITE, THOMAS W. V. NAPOLITANO, SEC. OF HOMELAND
12-5978 MINORA-ESCARCEGA, CONRADO V. UNITED STATES
12-6262 REDDY, KRISHNA V. GILBERT MEDICAL TRANSCRIPTION
12-6267 JOHNSON, ANTHONY W. V. HEDGPETH, WARDEN
12-6274 FOGLE, JAMES V. NEW YORK
12-6283 MANGRAM, ANDRE V. VIRGINIA
12-6289 MEILLEUR, LESLIE M. V. STRONG, DOUGLAS, ET AL.
12-6294 JAWORSKI, MICHAEL T. V. TUCKER, SEC., FL DOC
12-6296 AHLUWALIA, HARPAL V. AYERS, WARDEN, ET AL.
12-6297 ALLEN, EDWARD V. CLEMENTS, EXEC. DIR., CO DOC
12-6298 ANDRADE-PAROMO, LEONARDO V. FRANKE, SUPT., TWO RIVERS
12-6303 ALLEN, EDWARD V. ZAVARAS, ARISTEDES, ET AL.
12-6307 ROMERO, CARLOS L. V. WILLIAMS, WARDEN, ET AL.
12-6309 WILLIAMS, KIRK D. V. CALIFORNIA
12-6310 SHOEMAKER, MICHAEL V. LeBLANC, SEC., LA DOC, ET AL.
12-6313 BALLARD, CHRISTOPHER V. LONG, WARDEN
12-6315 ALBARRAN, BENITO O. V. ALABAMA
12-6324 SMALL, BRUCE L. V. TUCKER, SEC., FL DOC
12-6326 SMITH, MICHAEL S. V. VIRGINIA
12-6329 RICHARDSON, SYLVESTER V. RAY, WARDEN, ET AL.
12-6345 McNAC, CALVIN E. V. THALER, DIR., TX DCJ
12-6347 JACKSON, CLARENCE J. V. BARROW, WARDEN
12-6351 RICHARDSON, LENIR V. MOUNT VERNON REC. CENTER, ET AL.
12-6356 MAZZA, MARK V. PUBLIC UTILITY COMMISSION
12-6359 CLEMONS, ASHANTI V. INDIANA
12-6365 HOLLAND, IDALIA V. MONROE COUNTY CHILDRENS SERVICES

12-6370 TRUJILLO, JOHN G. V. PLOUGHE, WARDEN, ET AL.
12-6372 THOMPSON, TRAVIS R. V. GONZALEZ, WARDEN
12-6376 RUSS, OTHLONE V. TUCKER, SEC., FL DOC
12-6377 ROGERS, CHRISTOPHER V. KERNS, WARDEN
12-6379 LUEVANO, JAIME V. SUPREME COURT OF U.S., ET AL.
12-6380 SOLIS, RICARDO V. CALIFORNIA
12-6381 SHARP, LARRY V. CAIN, WARDEN
12-6387 TRAVILLION, JAMAR L. V. DIFENDERFER, WILLIAM H., ET AL.
12-6392 BYSE, RICKY L. V. GEORGIA
12-6399 O'DIAH, AROR A. V. HEREFORD INSURANCE CO., ET AL.
12-6402 HOFFMAN, MICHAEL V. FL DOC
12-6404 FREISINGER, JOHN J. V. KEITH, WARDEN, ET AL.
12-6406 JONES, HARRY V. FLORIDA
12-6410 POOLE, MICHAEL A. V. FLORIDA
12-6413 LAMB, MICHAEL T. V. MENDOZA, WARDEN, ET AL.
12-6415 STEIN, STEVEN E. V. FLORIDA
12-6418 WILLIAMS, FRANKLIN L. V. DARDEN, RICHARD M.
12-6419 WILLIAMS, FRANKLIN L. V. DANFORTH, WARDEN
12-6422 GILMORE, ALLAN T. V. VALENZUELA, WARDEN, ET AL.
12-6423 ALANA, METKEL V. CLARKE, DIR., VA DOC
12-6427 ARIEGWE, KINGSLEY V. MONTANA
12-6429 ANTONETTI, JOSEPH V. COX, WARDEN, ET AL.
12-6430 ASHFORD, KENNETH W. V. WENEROWICZ, WARDEN, ET AL.
12-6434 DRANE, LEONARD M. V. GEORGIA
12-6442 PEW, ALFONSO P. V. FOLINO, SUPT., GREENE, ET AL.
12-6443 PEREZ, CRISTINO V. DEXTER, WARDEN
12-6447 FRANKLIN, GREGORY A. V. SCRIBNER, WARDEN, ET AL.
12-6470 AMOS, LOWELL E. V. RENICO, WARDEN

12-6479 SAMONTE, LAEL V. HAWAII
12-6513 SPENCER, MICHAEL E. V. KIRKLAND, WARDEN
12-6523 C. F. V. WV DEPT. OF HEALTH, ET AL.
12-6538 CUNNINGHAM, BENJAMIN V. UNITED STATES
12-6557 DOBBS, TIMOTHY E. V. MICHIGAN
12-6566 WATKINS, KY'RON V. HOBBS, DIR., AR DOC
12-6569 SMITH, ROBERT L. V. MISSISSIPPI
12-6589 LEINWEBER, MIKHIEL J. V. CATE, SEC., CA DOC, ET AL.
12-6606 McCLAIN, CLAUDE V. DAVIS, WARDEN, ET AL.
12-6613 SISNEY, CHARLES E. V. REISCH, SEC., SD DOC, ET AL.
12-6616 WALLS, JOSEPH M. V. LITTLE, MICHAEL, ET AL.
12-6642 PATTON, AARON J. V. MAINE
12-6643 McBRIDE, JOHN H. V. CALIFORNIA
12-6646 MERRIETT, JASON R. V. ARIZONA
12-6661 RICHARDSON, HOMER L. V. UNITED STATES
12-6666 KWASNIK, MAREK A. V. MAINE
12-6676 THAMES, DOUGLAS V. CHAPMAN, ARVIL, ET AL.
12-6692 NANCE, JIMMIE V. FLORIDA
12-6694 ROLAN, FLORENCIO V. COLEMAN, SUPT., FAYETTE, ET AL.
12-6698 WOODWARD, DAVID L. V. CLINE, WARDEN, ET AL.
12-6706 BOOKER, WILLIE J. V. GODINEZ, DIR., IL DOC
12-6742 NOYAKUK, BEN V. TURNBULL, CRAIG
12-6774 HAMILTON, DONTA V. UNITED STATES
12-6787 HAMPTON, DANIEL E. V. UNITED STATES
12-6792 ELFGEEH, ABAD V. UNITED STATES
12-6803 McCREARY, LARRY M. V. UNITED STATES
12-6810 RAMIREZ-SALAZAR, LUCIANO V. OUTLAW, WARDEN
12-6814 SOLIS, RENE V. UNITED STATES

12-6816 SUAREZ, MAHER C. V. FELKER, WARDEN
12-6820 JAMES, BRADLEY M. V. UNITED STATES
12-6821 JOHNSON, RONALD L. V. UNITED STATES
12-6827 BARLOW, TERRENCE V. UNITED STATES
12-6829 ERVIN, ROCHELLE D. V. UNITED STATES
12-6837 DAVIS, HENRY V. UNITED STATES
12-6845 McINTYRE, TERRY D. V. MCKUNE, WARDEN, ET AL.
12-6848 PRY SOCK, JOSEPH V. UNITED STATES
12-6849 STAFFORD, TIOMBE N. V. UNITED STATES
12-6855 BERGRIN, PAUL W. V. UNITED STATES
12-6856 ALFONSO, DONALD V. UNITED STATES
12-6860 JACKSON, JOHNNY V. UNITED STATES
12-6862 SAQUELLA, MICHAEL R. V. UNITED STATES
12-6863 SHINEFIELD, MICHAEL L. V. UNITED STATES
12-6865 PRIETO, THOMAS V. UNITED STATES
12-6867 DWYER, JAMES M. V. UNITED STATES
12-6868 DIAMREYAN, OKPAKO M. V. UNITED STATES
12-6869 CARDENAS, GABRIEL V. UNITED STATES
12-6871 CIACCI, MICHAEL K. V. UNITED STATES
12-6872 CIACCI, MICHAEL K. V. UNITED STATES
12-6873 CIACCI, MICHAEL K. V. UNITED STATES
12-6876 MOORE, OPIO D. V. UNITED STATES
12-6881 STRACCIALINI, MORENO V. UNITED STATES
12-6887 MOORE, KEVIN D. V. HOLLINGSWORTH, WARDEN
12-6891 MARSH, DONALD H. V. UNITED STATES
12-6893 CLARK, DANNY D. V. UNITED STATES
12-6895 CARTER, ORLANDO V. UNITED STATES
12-6896 COLEMAN, G. B. V. UNITED STATES

12-6909 BARAHONA, RAUL H. V. UNITED STATES
12-6911) BARRANDEY, RAQUEL N. V. UNITED STATES
)
12-6915) RUBIO, MOISES Q. V. UNITED STATES
12-6921 RANDLEMAN, DEAN A. V. UNITED STATES
12-6937 ROBINSON, KEVIN D. V. UNITED STATES
12-6941 VASQUEZ-CHAVEZ, GUILLERMO E. V. UNITED STATES
12-6945 CARPENTER, TERENCE S. V. UNITED STATES

The petitions for writs of certiorari are denied.

11-11102 GAREY, EDDIE M. 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.

12-82 THALER, DIR., TX DCJ V. MCGOWEN, ROGER W.

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

12-111 JEFFERSON, WILLIAM J. 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.

12-331 SAMSON, KELLY, ET AL. V. BAINBRIDGE ISLAND, WA

The motion of Pacific Legal Foundation, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

12-339 PICTURE PATENTS LLC, ET AL. V. AEROPOSTALE, INC., ET AL.

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

12-351 CUMMINGS, GEORGE W., ET AL. V. DOUGHTY, JOE

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

12-358 SNYDER, MARGE, ET AL. V. NY EDUCATION DEPT., ET AL.

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

12-504 HARVEST INSTITUTE FREEDMEN V. UNITED STATES, ET AL.

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

12-5739 MIZUKAMI, GLENN K. V. EDWARDS, DONNA C., ET AL.

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

12-6292 SANDERS, JEFFREY V. DETROIT POLICE DEPT., ET AL.

12-6412 MARIAN, TEODOR V. SOCORRO ELECTRIC, ET AL.

12-6530 SMITH, ADRIAN M. V. HOLDER, ATT'Y GEN., 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*).

12-6833 BETANCORT-SALAZAR, ARNULFO 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.

12-6836 CUMMINS, YVONNE V. YUMA, AZ, 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.

12-6883 UDEH, HYACINTH V. UNITED STATES

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

12-6892 SOLANO-MORETA, JORGE J. V. UNITED STATES

12-6894 DeGLACE, CARLOS V. JARVIS, WARDEN

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

HABEAS CORPUS DENIED

12-6900 IN RE KEVIN P. BOODY

12-6903 IN RE JARMAL A. JOYNER

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

12-6362 IN RE CARLOS J. AVENA

The petition for a writ of mandamus is denied.

12-316 IN RE JOAN C. LIPIN

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

REHEARINGS DENIED

11-1452 HULIHAN, SHARON V. CIRCLE K STORES
11-1466 MISSOURI TITLE LOANS, INC. V. BREWER, BEVERLY
11-1504 KOCH, VICKI V. DEL CITY, OK, ET AL.
11-1527 UNDER SEAL V. UNDER SEAL, ET AL.
11-9692 RANA, GENE S. V. DEPT. OF ARMY
11-9998 ALLUMS, JOHN E. V. PHILLIPS, LANCE, ET AL.
11-10041 THOMAS, MELVIN, ET UX. V. LOVELESS, TRANZIE, ET AL.
11-10050 GUILLION, SHELITA W. V. CADE, JUDGE, ETC.
11-10057 LITTLE, OBIOMA V. TOMMY GUNS GARAGE, INC.
11-10203 JONES, DONALD V. UNION CITY, GA
11-10270 RUPPERT, JAMES K. V. ARAGON, PHIL
11-10311 DeROUEN, BERNICE M. V. FALLS CTY. SHERIFF'S DEPARTMENT
11-10324 BLACKMON, THEODORE V. HOREL, WARDEN
11-10350 RIETHMILLER, ANNAMARIE D. V. FLORIDA
11-10490 DIEHL, DON V. PENNSYLVANIA
11-10511 BRUNSON, ALBERT V. USDC ND AL
11-10581 THOMAS, VINCENT V. PA BD. OF PROBATION, ET AL.
11-10595 IN RE ERIC TOWNSEL
11-10603 HIGGINS, JOHN V. CONSOLIDATED RAIL CORP., ET AL.
11-10611 IN RE SHARON V. GALLOWAY
11-10632 DELFIN, TONY F. V. SHINSEKI, SEC. OF VA
11-10732 BRIDGMON, JAMES L. V. OHIO
11-10737 MELROSE, VALERIE V. NYS DEPT. OF HEALTH
11-10790 BAMBIC, DAVID F. V. WOOD, CATHERINE M.
11-10814 IN RE LINDA L. SHELTON
11-10819 SELENSKY, LINDA C. V. ALABAMA
11-10856 MARLOW, ROBERT B. V. SUPREME COURT OF TN, ET AL.

11-10912 BAEZ, DOMINGO V. UNITED STATES
11-10927 SINGLETON, MICHAEL A. V. EAGLETON, WARDEN
11-10940 JAMES, MASALA M. V. CALIFORNIA
11-11062 IN RE WASHINGTON Y. KIM
11-11080 DAVIS, SABRINA D. V. KIA MOTORS OF AMERICA, ET AL.
11-11086 KELLEY, MICHAEL V. UNITED STATES
11-11097 ISMAY, J. RANDALL V. UNITED STATES
11-11152 WRIGHT, MARINO A. V. MSPB
12-20 COULTER, JEAN E. V. KELLY, ATT'Y GEN. OF PA, ET AL.
12-58 GONZALEZ, MANUEL J. V. DEPT. OF HOMELAND SECURITY
12-75 WALTNER, STEVEN T., ET UX. V. UNITED STATES
12-91 VETA, JEFFREY N. V. RYAN, DIR., AZ DOC, ET AL.
12-92 J. C. V. BUTLER CTY. CHILDREN AND YOUTH
12-103 LESKINEN, LAURA V. HALSEY, CAROLYN A., ET AL.
12-120 GEORGE, JODY K. V. DONAHOE, POSTMASTER GEN., ET AL.
12-121 HARMAN, MILLARD B. V. BUNCH, DAVID A., ET AL.
12-196 CAREY, DIANE T. V. RYAN, JOHN J.
12-5056 KORDENBROCK, PAUL V. BROWN, J. MICHAEL, ET AL.
12-5114 HARVEY, EDWARD A. V. UNITED STATES
12-5148 YANG, NENG POR V. NUTTER, TERRY, ET AL.
12-5175 GORBEY, MICHAEL S. V. WEST VIRGINIA, ET AL.
12-5180 HONESTO, PETER J. V. ADAMS, WARDEN, ET AL.
12-5202 FALCON, GARY A. V. UNITED STATES
12-5212 WOODFIN, KENNETH W. V. CLARKE, DIR., VA DOC
12-5233 WILLIAMS, ROBERT V. CITY UNIV. OF NY
12-5245 SMART, ROBERT D. V. WILSON, ATT'Y GEN. OF SC, ET AL.
12-5277 MAURELLO, ARTHUR J. V. UNITED STATES
12-5288 MUTHUKUMAR, NACHIAPPAN S. V. DESS, GREGORY, ET AL.

12-5328 HAND, MARIAN L. V. DIR., OWCP, DEPT. OF LABOR
12-5343 DOWELL, JACK V. GARCIA, WARDEN
12-5391 BUTLER, MARY E. V. SHINSEKI, SEC. OF VA, ET AL.
12-5395 ARAFAT, NASRA M. V. STATE FARM INSURANCE CO., ET AL.
12-5502 DE LA ROSA, RAMONA V. NY CITY POLICE DEPT., ET AL.
12-5504 ZELEKE, YOSEFE Y. V. OBAMA, PRESIDENT OF U.S., ET AL.
12-5505 ZELEKE, YOSEFE Y. V. NASA HEADQUARTERS
12-5509 SPIVEY, GLEN D. V. FLORIDA
12-5512 ZELEKE, YOSEFE Y. V. ZENAWI, MELES
12-5548 WILLIAMS, FRANKLIN L. V. UNITED STATES
12-5586 GREGORY, HERBERT E. V. MSPB
12-5613 ADKINS, EBRAHIM V. JOHNSON, J. LEE, ET AL.
12-5718 IN RE NACHIAPPAN S. MUTHUKUMAR
12-5723 MARTINEZ, JORGE A. V. UNITED STATES
12-5791 BUCZEK, SHANE C. V. UNITED STATES

The petitions for rehearing are denied.

11-10049 HONESTO, PETER J. V. FOGEL, JUDGE, USDC ND CA, ET AL.

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

12-5270 CARDONA, JOSE C. V. UNITED STATES

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

12-5332 STEELE, SAMUEL B. V. TURNER BROADCASTING, ET AL.

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

12-5370 FRANKEL, MARTIN V. UNITED STATES

The petition for rehearing is denied. Justice Sotomayor and Justice Kagan took no part in the consideration or decision of

this petition.

ATTORNEY DISCIPLINE

D-2685 IN THE MATTER OF DISBARMENT OF WILLIAM F. CONOUR

William F. Conour, of Indianapolis, Indiana, having been suspended from the practice of law in this Court by order of August 13, 2012; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that William F. Conour is disbarred from the practice of law in this Court.

D-2686 IN THE MATTER OF DISBARMENT OF TRENT WILLIAM MAHLER

Trent William Mahler, of Milnor, North Dakota, having been suspended from the practice of law in this Court by order of August 13, 2012; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Trent William Mahler is disbarred from the practice of law in this Court.

D-2687 IN THE MATTER OF DISBARMENT OF DON EUGENE SIEGELMAN

Don Eugene Siegelman, of Birmingham, Alabama, having been suspended from the practice of law in this Court by order of August 13, 2012; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Don Eugene Siegelman is disbarred from the practice of law in this Court.

D-2688 IN THE MATTER OF DISBARMENT OF GARY S. LAWRENCE

Gary S. Lawrence, of Southport, North Carolina, having been

suspended from the practice of law in this Court by order of August 13, 2012; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Gary S. Lawrence is disbarred from the practice of law in this Court.

D-2689

IN THE MATTER OF DISBARMENT OF JESSE H. INGRAM

Jesse H. Ingram, of Columbia, Maryland, having been suspended from the practice of law in this Court by order of August 13, 2012; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Jesse H. Ingram is disbarred from the practice of law in this Court.

D-2691

IN THE MATTER OF DISBARMENT OF MARK LAWRENCE GITOMER

Mark Lawrence Gitomer, of Reisterstown, Maryland, having been suspended from the practice of law in this Court by order of August 31, 2012; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Mark Lawrence Gitomer is disbarred from the practice of law in this Court.

D-2698

IN THE MATTER OF DISCIPLINE OF JEFFREY P. OSMOND

Jeffrey P. Osmond, of Sayre, 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-2699

IN THE MATTER OF DISCIPLINE OF STEVEN USHER TEITELBAUM

Steven Usher Teitelbaum, of Albany, New York, 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

NITRO-LIFT TECHNOLOGIES, L. L. C. *v.* EDDIE LEE
HOWARD ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF OKLAHOMA

No. 11–1377. Decided November 26, 2012

PER CURIAM.

State courts rather than federal courts are most frequently called upon to apply the Federal Arbitration Act (FAA), 9 U. S. C. §1 *et seq.*, including the Act’s national policy favoring arbitration. It is a matter of great importance, therefore, that state supreme courts adhere to a correct interpretation of the legislation. Here, the Oklahoma Supreme Court failed to do so. By declaring the noncompetition agreements in two employment contracts null and void, rather than leaving that determination to the arbitrator in the first instance, the state court ignored a basic tenet of the Act’s substantive arbitration law. The decision must be vacated.

* * *

This dispute arises from a contract between petitioner Nitro-Lift Technologies, L. L. C., and two of its former employees. Nitro-Lift contracts with operators of oil and gas wells to provide services that enhance production. Respondents Eddie Lee Howard and Shane D. Schneider entered a confidentiality and noncompetition agreement with Nitro-Lift that contained the following arbitration clause:

“Any dispute, difference or unresolved question between Nitro-Lift and the Employee (collectively the “Disputing Parties”) shall be settled by arbitration by a single arbitrator mutually agreeable to the Disputing Parties in an arbitration proceeding conducted in

Per Curiam

Houston, Texas in accordance with the rules existing at the date hereof of the American Arbitration Association.” Pet. for Cert. 5.

After working for Nitro-Lift on wells in Oklahoma, Texas, and Arkansas, respondents quit and began working for one of Nitro-Lift’s competitors. Claiming that respondents had breached their noncompetition agreements, Nitro-Lift served them with a demand for arbitration. Respondents then filed suit in the District Court of Johnston County, Oklahoma, asking the court to declare the noncompetition agreements null and void and to enjoin their enforcement. The court dismissed the complaint, finding that the contracts contained valid arbitration clauses under which an arbitrator, and not the court, must settle the parties’ disagreement.

The Oklahoma Supreme Court retained respondents’ appeal and ordered the parties to show cause why the matter should not be resolved by application of Okla. Stat., Tit. 15, §219A (West 2011), which limits the enforceability of noncompetition agreements. Nitro-Lift argued that any dispute as to the contracts’ enforceability was a question for the arbitrator. It relied for support—as it had done before the trial court—upon several of this Court’s cases interpreting the FAA, and noted that under *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U. S. 440, 446 (2006), “this arbitration law applies in both state and federal courts.” Record in No. 109,003 (Okla.), p. 273.

The Oklahoma Supreme Court was not persuaded. It held that despite the “[U.S.] Supreme Court cases on which the employers rely,” the “existence of an arbitration agreement in an employment contract does not prohibit judicial review of the underlying agreement.” 2011 OK 98, ¶15, n. 20, ¶16, 273 P. 3d 20, 26, n. 20, 27. For that proposition, the court relied on the “exhaustive overview of the United States Supreme Court decisions construing the Federal Arbitration Act” in *Bruner v. Timberlane Manor*

Per Curiam

Ltd. Partnership, 2006 OK 90, 155 P. 3d 16, which found Supreme Court jurisprudence “not to inhibit our review of the underlying contract’s validity.” 273 P. 3d, at 26. Finding the arbitration clauses no obstacle to its review, the court held that the noncompetition agreements were “void and unenforceable as against Oklahoma’s public policy,” expressed in Okla. Stat., Tit. 15, §219A. 273 P. 3d, at 27.

The Oklahoma Supreme Court declared that its decision rests on adequate and independent state grounds. *Id.*, at 23–24, n. 5. If that were so, we would have no jurisdiction over this case. See *Michigan v. Long*, 463 U. S. 1032, 1037–1044 (1983). It is not so, however, because the court’s reliance on Oklahoma law was not “independent”—it necessarily depended upon a rejection of the federal claim, which was both “properly presented to” and “addressed by” the state court. *Howell v. Mississippi*, 543 U. S. 440, 443 (2005) (*per curiam*) (quoting *Adams v. Robertson*, 520 U. S. 83, 86 (1997) (*per curiam*)). Nitro-Lift claimed that the arbitrator should decide the contract’s validity, and raised a federal-law basis for that claim by relying on Supreme Court cases construing the FAA. “[A] litigant wishing to raise a federal issue can easily indicate the federal law basis for his claim in a state-court petition or brief . . . by citing in conjunction with the claim the federal source of law on which he relies or a case deciding such a claim on federal grounds” *Howell, supra*, at 444 (quoting *Baldwin v. Reese*, 541 U. S. 27, 32 (2004); emphasis added). The Oklahoma Supreme Court acknowledged the cases on which Nitro-Lift relied, as well as their relevant holdings, but chose to discount these controlling decisions. Its conclusion that, despite this Court’s jurisprudence, the underlying contract’s validity is purely a matter of state law for state-court determination is all the more reason for this Court to assert jurisdiction.

Per Curiam

The Oklahoma Supreme Court’s decision disregards this Court’s precedents on the FAA. That Act, which “declare[s] a national policy favoring arbitration,” *Southland Corp. v. Keating*, 465 U. S. 1, 10 (1984), provides that a “written provision in . . . a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction . . . shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.” 9 U. S. C. §2. It is well settled that “the substantive law the Act created [is] applicable in state and federal courts.” *Southland Corp.*, *supra*, at 12; see also *Buckeye*, *supra*, at 446. And when parties commit to arbitrate contractual disputes, it is a mainstay of the Act’s substantive law that attacks on the validity of the contract, as distinct from attacks on the validity of the arbitration clause itself, are to be resolved “by the arbitrator in the first instance, not by a federal or state court.” *Preston v. Ferrer*, 552 U. S. 346, 349 (2008); see also *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U. S. 395 (1967). For these purposes, an “arbitration provision is severable from the remainder of the contract,” *Buckeye*, *supra*, at 445, and its validity is subject to initial court determination; but the validity of the remainder of the contract (if the arbitration provision is valid) is for the arbitrator to decide.

This principle requires that the decision below be vacated. The trial court found that the contract contained a valid arbitration clause, and the Oklahoma Supreme Court did not hold otherwise. It nonetheless assumed the arbitrator’s role by declaring the noncompetition agreements null and void. The state court insisted that its “[own] jurisprudence controls this issue” and permits review of a “contract submitted to arbitration where one party assert[s] that the underlying agreement [is] void and unenforceable.” 273 P. 3d, at 26. But the Oklahoma

Per Curiam

Supreme Court must abide by the FAA, which is “the supreme Law of the Land,” U. S. Const., Art. VI, cl. 2, and by the opinions of this Court interpreting that law. “It is this Court’s responsibility to say what a statute means, and once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law.” *Rivers v. Roadway Express, Inc.*, 511 U. S. 298, 312 (1994). Our cases hold that the FAA forecloses precisely this type of “judicial hostility towards arbitration.” *AT&T Mobility LLC v. Concepcion*, 563 U. S. ___, ___ (2011) (slip op., at 8).

The state court reasoned that Oklahoma’s statute “addressing the validity of covenants not to compete, must govern over the more general statute favoring arbitration.” 273 P. 3d, at 26, n. 21. But the ancient interpretive principle that the specific governs the general (*generalia specialibus non derogant*) applies only to conflict between laws of equivalent dignity. Where a specific statute, for example, conflicts with a general constitutional provision, the latter governs. And the same is true where a specific state statute conflicts with a general federal statute. There is no general-specific exception to the Supremacy Clause, U. S. Const. Art. VI, cl. 2. “[W]hen state law prohibits outright the arbitration of a particular type of claim, the analysis is straightforward: The conflicting rule is displaced by the FAA.” *Marmet Health Care Center, Inc. v. Brown*, 565 U. S. ___, ___–___ (2012) (*per curiam*) (slip op., at 3–4) (quoting *AT&T Mobility LLC, supra*, at ___–___ (slip op., at 6–7)). Hence, it is for the arbitrator to decide in the first instance whether the covenants not to compete are valid as a matter of applicable state law. See *Buckeye*, 546 U. S., at 445–446.

For the foregoing reasons, the petition for certiorari is granted. The judgment of the Supreme Court of Oklahoma is vacated, and the case is remanded for proceedings not inconsistent with this opinion.

It is so ordered.

BREYER, J., dissenting

SUPREME COURT OF THE UNITED STATESJOHN JOSEPH DELLING *v.* IDAHOON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF IDAHO

No. 11–1515. Decided November 26, 2012

The petition for a writ of certiorari is denied.

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

The law has long recognized that criminal punishment is not appropriate for those who, by reason of insanity, cannot tell right from wrong. See 4 W. Blackstone, Commentaries on the Laws of England 24–25 (1769); *M’Naghten’s Case*, 10 Cl. & Fin. 200, 8 Eng. Rep. 718 (1843). The insanity defense in nearly every State incorporates this principle. See *Clark v. Arizona*, 548 U. S. 735, 750–752 (2006) (noting that all but four States recognize some version of the insanity defense); R. Bonnie, A. Coughlin, J. Jeffries, & P. Low, *Criminal Law* 604 (3d ed. 2010) (same). If a defendant establishes an insanity defense, he is not criminally liable, though the government may confine him civilly for as long as he continues to pose a danger to himself or to others by reason of his mental illness. *Jones v. United States*, 463 U. S. 354, 370 (1983).

Idaho and a few other States have modified this traditional insanity defense. Indeed, Idaho provides that “[m]ental condition shall not be a defense to any charge of criminal conduct.” Idaho Code §18–207(1) (Lexis 2004). Another provision of the same statute provides, however, that the above restriction is not “intended to prevent the admission of expert evidence on the issue of any state of mind which is an element of the offense.” §18–207(3). And the Idaho courts have made clear that prosecutors are “still required to prove beyond a reasonable doubt that a

BREYER, J., dissenting

defendant had the mental capacity to form the necessary intent.” 152 Idaho 122, 125, 267 P. 3d 709, 712 (2011) (quoting *State v. Card*, 121 Idaho 425, 430, 825 P. 2d 1081, 1086 (1991)). Thus, in Idaho, insanity remains relevant to criminal liability, but only in respect to intent. Insanity continues to have relevance at sentencing as well. A court must “receiv[e]” evidence of mental condition at sentencing and, if mental condition proves to be a “significant factor,” must consider a string of issues deemed relevant to punishment, including, notably, “[t]he capacity of the defendant to appreciate the wrongfulness of his conduct.” Idaho Code §19–2523 (Lexis 2004). In addition, if the court imposes a prison sentence on a person who “suffers from any mental condition requiring treatment,” Idaho law appears to mandate that “the defendant shall receive treatment” in an appropriate facility. See §18–207(2).

Still, the step that Idaho has taken is significant. As that State’s courts recognize, it “‘may allow the conviction of persons who may be insane by some former insanity test or medical standard, but who nevertheless have the ability to form intent and to control their actions.’” 152 Idaho, at 125, 267 P. 3d, at 712. That is, the difference between the traditional insanity defense and Idaho’s standard is that the latter permits the conviction of an individual who knew *what* he was doing, but had no capacity to understand that it was wrong.

To illustrate with a very much simplified example: Idaho law would distinguish the following two cases. *Case One*: The defendant, due to insanity, believes that the victim is a wolf. He shoots and kills the victim. *Case Two*: The defendant, due to insanity, believes that a wolf, a supernatural figure, has ordered him to kill the victim. In *Case One*, the defendant does not know he has killed a human being, and his insanity negates a mental element necessary to commit the crime. Cf. *Clark, supra*, at 767–768 (offering a similar example of how mental illness may

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rebut *mens rea*). In *Case Two*, the defendant has intentionally killed a victim whom he knows is a human being; he possesses the necessary *mens rea*. In both cases the defendant is unable, due to insanity, to appreciate the true quality of his act, and therefore unable to perceive that it is wrong. But in Idaho, the defendant in *Case One* could defend the charge by arguing that he lacked the *mens rea*, whereas the defendant in *Case Two* would not be able to raise a defense based on his mental illness. Much the same outcome seems likely to occur in other States that have modified the insanity defense in similar ways. For example, in *State v. Bethel*, 276 Kan. 456, 459, 66 P. 3d 840, 843 (Kan. 2003), the prosecution and defense agreed that under a similar Kansas statute, evidence that a schizophrenic defendant’s “mental state precluded him from understanding the difference between right and wrong or from understanding the consequences of his actions . . . does not constitute a defense to the charged crimes.”

The American Psychiatric Association tells us that “severe mental illness can seriously impair a sufferer’s ability rationally to appreciate the wrongfulness of conduct.” Brief for American Psychiatric Association et al. as *Amici Curiae* 15. And other *amici* tell us that those seriously mentally ill individuals often possess the kind of mental disease that *Case Two* describes—that is to say, they know that the victim is a human being, but due to mental illness, such as a paranoid delusion, they wrongly believe the act is justified. Brief for 52 Criminal Law and Mental Health Law Professors 10. In view of these submissions, I would grant the petition for certiorari to consider whether Idaho’s modification of the insanity defense is consistent with the Fourteenth Amendment’s Due Process Clause.