
PRELIMINARY PRINT—ORDERS

VOLUME 593 U. S. PART 1

PAGES 901–1001

OFFICIAL REPORTS
OF
THE SUPREME COURT

APRIL 5 THROUGH MAY 21, 2021

Page Proof Pending Publication

REBECCA A. WOMELDORF

REPORTER OF DECISIONS



NOTICE: This preliminary print is subject to formal revision before the bound volume is published. Users are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, pio@supremecourt.gov, of any typographical or other formal errors.

REPORTER'S NOTE

The next page is purposely numbered 901. The numbers between 309 and 901 were intentionally omitted, in order to make it possible to publish the orders with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

Page Proof Pending Publication

ORDERS FOR APRIL 5 THROUGH
MAY 21, 2021

APRIL 5, 2021

Certiorari Granted—Vacated and Remanded

No. 20–197. BIDEN, PRESIDENT OF THE UNITED STATES, ET AL. v. KNIGHT FIRST AMENDMENT INSTITUTE AT COLUMBIA UNIVERSITY ET AL. C. A. 2d Cir. Certiorari granted, judgment vacated, and case remanded with instructions to dismiss the case as moot. See *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950). Reported below: 928 F.3d 226.

JUSTICE THOMAS, concurring.

When a person publishes a message on the social media platform Twitter, the platform by default enables others to republish (retweet) the message or respond (reply) to it or other replies in a designated comment thread. The user who generates the original message can manually “block” others from republishing or responding.

Donald Trump, then President of the United States, blocked several users from interacting with his Twitter account. They sued. The Second Circuit held that the comment threads were a “public forum” and that then-President Trump violated the First Amendment by using his control of the Twitter account to block the plaintiffs from accessing the comment threads. *Knight First Amdt. Inst. at Columbia Univ. v. Trump*, 928 F.3d 226 (2019). But Mr. Trump, it turned out, had only limited control of the account; Twitter has permanently removed the account from the platform.

Because of the change in Presidential administration, the Court correctly vacates the Second Circuit’s decision. See *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950). I write separately to note that this petition highlights the principal legal difficulty that surrounds digital platforms—namely, that applying old doctrines to new digital platforms is rarely straightforward. Respondents have a point, for example, that some aspects of

Mr. Trump's account resemble a constitutionally protected public forum. But it seems rather odd to say that something is a government forum when a private company has unrestricted authority to do away with it.

The disparity between Twitter's control and Mr. Trump's control is stark, to say the least. Mr. Trump blocked several people from interacting with his messages. Twitter barred Mr. Trump not only from interacting with a few users, but removed him from the entire platform, thus barring *all* Twitter users from interacting with his messages.¹ Under its terms of service, Twitter can remove any person from the platform—including the President of the United States—"at any time for any or no reason." Twitter Inc., User Agreement (effective June 18, 2020).

This is not the first or only case to raise issues about digital platforms. While this case involves a suit against a public official, the Court properly rejects today a separate petition alleging that digital platforms, not individuals on those platforms, violated public accommodations laws, the First Amendment, and antitrust laws. Pet. for Cert., O. T. 2020, No. 20–969. The petitions highlight two important facts. Today's digital platforms provide avenues for historically unprecedented amounts of speech, including speech by government actors. Also unprecedented, however, is the concentrated control of so much speech in the hands of a few private parties. We will soon have no choice but to address how our legal doctrines apply to highly concentrated, privately owned information infrastructure such as digital platforms.

I

On the surface, some aspects of Mr. Trump's Twitter account resembled a public forum. A designated public forum is "property that the State has opened for expressive activity by part or all of the public." *International Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U. S. 672, 678 (1992). Mr. Trump often used the account to speak in his official capacity. And, as a governmental official, he chose to make the comment threads on his account publicly accessible, allowing any Twitter user—other than those whom he blocked—to respond to his posts.

Yet, the Second Circuit's conclusion that Mr. Trump's Twitter account was a public forum is in tension with, among other things,

¹ At the time, Mr. Trump's Twitter account had 89 million followers.

our frequent description of public forums as “government-controlled spaces.” *Minnesota Voters Alliance v. Mansky*, 585 U. S. 1, 11 (2018); accord, *Pleasant Grove City v. Summum*, 555 U. S. 460, 469 (2009) (“government property and . . . government programs”); *Arkansas Ed. Television Comm’n v. Forbes*, 523 U. S. 666, 677 (1998) (“government properties”). Any control Mr. Trump exercised over the account greatly paled in comparison to Twitter’s authority, dictated in its terms of service, to remove the account “at any time for any or no reason.” Twitter exercised its authority to do exactly that.

Because unbridled control of the account resided in the hands of a private party, First Amendment doctrine may not have applied to respondents’ complaint of stifled speech. See *Manhattan Community Access Corp. v. Halleck*, 587 U. S. 802, 812 (2019) (a “private entity is not ordinarily constrained by the First Amendment”). Whether governmental use of private space implicates the First Amendment often depends on the government’s control over that space. For example, a government agency that leases a conference room in a hotel to hold a public hearing about a proposed regulation cannot kick participants out of the hotel simply because they express concerns about the new regulation. See *Southeastern Promotions, Ltd. v. Conrad*, 420 U. S. 546, 547, 555 (1975). But government officials who informally gather with constituents in a hotel bar can ask the hotel to remove a pesky patron who elbows into the gathering to loudly voice his views. The difference is that the government controls the space in the first scenario, the hotel, in the latter. Where, as here, private parties control the avenues for speech, our law has typically addressed concerns about stifled speech through other legal doctrines, which may have a secondary effect on the application of the First Amendment.

A

If part of the problem is private, concentrated control over online content and platforms available to the public, then part of the solution may be found in doctrines that limit the right of a private company to exclude. Historically, at least two legal doctrines limited a company’s right to exclude.

First, our legal system and its British predecessor have long subjected certain businesses, known as common carriers, to special regulations, including a general requirement to serve all com-

ers. Candeub, *Bargaining for Free Speech: Common Carriage, Network Neutrality, and Section 230*, 22 *Yale J. L. & Tech.* 391, 398–403 (2020) (Candeub); see also Burdick, *The Origin of the Peculiar Duties of Public Service Companies*, Pt. 1, 11 *Colum. L. Rev.* 514 (1911). Justifications for these regulations have varied. Some scholars have argued that common-carrier regulations are justified only when a carrier possesses substantial market power. Candeub 404. Others have said that no substantial market power is needed so long as the company holds itself out as open to the public. *Ibid.*; see also *Ingate v. Christie*, 3 *Car. & K.* 61, 63, 175 *Eng. Rep.* 463, 464 (N. P. 1850) (“[A] person [who] holds himself out to carry goods for everyone as a business . . . is a common carrier”). And this Court long ago suggested that regulations like those placed on common carriers may be justified, even for industries not historically recognized as common carriers, when “a business, by circumstances and its nature, . . . rise[s] from private to be of public concern.” See *German Alliance Ins. Co. v. Lewis*, 233 U.S. 389, 411 (1914) (affirming state regulation of fire insurance rates). At that point, a company’s “property is but its instrument, the means of rendering the service which has become of public interest.” *Id.*, at 408.

This latter definition of course is hardly helpful, for most things can be described as “of public interest.” But whatever may be said of other industries, there is clear historical precedent for regulating transportation and communications networks in a similar manner as traditional common carriers. Candeub 398–405. Telegraphs, for example, because they “resemble[d] railroad companies and other common carriers,” were “bound to serve all customers alike, without discrimination.” *Primrose v. Western Union Telegraph Co.*, 154 U.S. 1, 14 (1894).²

In exchange for regulating transportation and communication industries, governments—both State and Federal—have sometimes given common carriers special government favors. Candeub 402–407. For example, governments have tied restrictions on a carrier’s ability to reject clients to “immunity from certain

²This Court has been inconsistent about whether telegraphs were common carriers. Compare *Primrose*, 154 U.S., at 14, with *Moore v. New York Cotton Exchange*, 270 U.S. 593, 605 (1926). But the Court has consistently recognized that telegraphs were at least analogous enough to common carriers to be regulated similarly. *Primrose*, 154 U.S., at 14.

types of suits”³ or to regulations that make it more difficult for other companies to compete with the carrier (such as franchise licenses). *Ibid.* By giving these companies special privileges, governments place them into a category distinct from other companies and closer to some functions, like the postal service, that the State has traditionally undertaken.

Second, governments have limited a company’s right to exclude when that company is a public accommodation. This concept—related to common-carrier law—applies to companies that hold themselves out to the public but do not “carry” freight, passengers, or communications. See, *e. g.*, *Civil Rights Cases*, 109 U.S. 3, 41–43 (1883) (Harlan, J., dissenting) (discussing places of public amusement). It also applies regardless of the company’s market power. See, *e. g.*, 78 Stat. 243, 42 U.S.C. § 2000a(a).

B

Internet platforms of course have their own First Amendment interests, but regulations that might affect speech are valid if they would have been permissible at the time of the founding. See *United States v. Stevens*, 559 U.S. 460, 468 (2010). The long history in this country and in England of restricting the exclusion right of common carriers and places of public accommodation may save similar regulations today from triggering heightened scrutiny—especially where a restriction would not prohibit the company from speaking or force the company to endorse the speech. See *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 684 (1994) (O’Connor, J., concurring in part and dissenting in part); *PruneYard Shopping Center v. Robins*, 447 U.S. 74, 88 (1980). There is a fair argument that some digital platforms are sufficiently akin to common carriers or places of accommodation to be regulated in this manner.

1

In many ways, digital platforms that hold themselves out to the public resemble traditional common carriers. Though digital

³Telegraphs, for example, historically received some protection from defamation suits. Unlike other entities that might retransmit defamatory content, they were liable only if they knew or had reason to know that a message they distributed was defamatory. Restatement (Second) of Torts § 581 (1976); see also *O’Brien v. Western Union Tel. Co.*, 113 F.2d 539, 542 (CA1 1940).

instead of physical, they are at bottom communications networks, and they “carry” information from one user to another. A traditional telephone company laid physical wires to create a network connecting people. Digital platforms lay information infrastructure that can be controlled in much the same way. And unlike newspapers, digital platforms hold themselves out as organizations that focus on distributing the speech of the broader public. Federal law dictates that companies cannot “be treated as the publisher or speaker” of information that they merely distribute. 110 Stat. 137, 47 U. S. C. § 230(c).

The analogy to common carriers is even clearer for digital platforms that have dominant market share. Similar to utilities, today’s dominant digital platforms derive much of their value from network size. The Internet, of course, is a network. But these digital platforms are networks within that network. The Facebook suite of apps is valuable largely because 3 billion people use it. Google search—at 90% of the market share—is valuable relative to other search engines because more people use it, creating data that Google’s algorithm uses to refine and improve search results. These network effects entrench these companies. Ordinarily, the astronomical profit margins of these platforms—last year, Google brought in \$182.5 billion total, \$40.3 billion in net income—would induce new entrants into the market. That these companies have no comparable competitors highlights that the industries may have substantial barriers to entry.

To be sure, much activity on the Internet derives value from network effects. But dominant digital platforms are different. Unlike decentralized digital spheres, such as the e-mail protocol, control of these networks is highly concentrated. Although both companies are public, one person controls Facebook (Mark Zuckerberg), and just two control Google (Larry Page and Sergey Brin). No small group of people controls e-mail.

Much like with a communications utility, this concentration gives some digital platforms enormous control over speech. When a user does not already know exactly where to find something on the Internet—and users rarely do—Google is the gatekeeper between that user and the speech of others 90% of the time. It can suppress content by deindexing or downlisting a search result or by steering users away from certain content by manually altering autocomplete results. Grind, Schechner, McMillan, & West, *How Google Interferes With Its Search Algo-*

rithms and Changes Your Results, Wall Street Journal, Nov. 15, 2019. Facebook and Twitter can greatly narrow a person's information flow through similar means. And, as the distributor of the clear majority of e-books and about half of all physical books,⁴ Amazon can impose cataclysmic consequences on authors by, among other things, blocking a listing.

It changes nothing that these platforms are not the sole means for distributing speech or information. A person always could choose to avoid the toll bridge or train and instead swim the Charles River or hike the Oregon Trail. But in assessing whether a company exercises substantial market power, what matters is whether the alternatives are comparable. For many of today's digital platforms, nothing is.

If the analogy between common carriers and digital platforms is correct, then an answer may arise for dissatisfied platform users who would appreciate not being blocked: laws that restrict the platform's right to exclude. When a platform's unilateral control is reduced, a government official's account begins to better resemble a "government-controlled spac[e]." *Mansky*, 585 U. S., at 11; see also *Southeastern Promotions*, 420 U. S., at 547, 555 (recognizing that a private space can become a public forum when leased to the government). Common-carrier regulations, although they directly restrain private companies, thus may have an indirect effect of subjecting government officials to suits that would not otherwise be cognizable under our public-forum jurisprudence.

This analysis may help explain the Second Circuit's intuition that part of Mr. Trump's Twitter account was a public forum. But that intuition has problems. First, if market power is a predicate for common carriers (as some scholars suggest), nothing in the record evaluates Twitter's market power. Second, and more problematic, neither the Second Circuit nor respondents have identified any regulation that restricts Twitter from removing an account that would otherwise be a "government-controlled space."

2

Even if digital platforms are not close enough to common carriers, legislatures might still be able to treat digital platforms like

⁴ As of 2018, Amazon had 42% of the physical book market and 89% of the e-book market. Day & Gu, *The Enormous Numbers Behind Amazon's Market Reach*, Bloomberg, Mar. 27, 2019.

places of public accommodation. Although definitions between jurisdictions vary, a company ordinarily is a place of public accommodation if it provides “lodging, food, entertainment, or other services to the public . . . in general.” Black’s Law Dictionary 20 (11th ed. 2019) (defining “public accommodation”); accord, 42 U. S. C. § 2000a(b)(3) (covering places of “entertainment”). Twitter and other digital platforms bear resemblance to that definition. This, too, may explain the Second Circuit’s intuition. Courts are split, however, about whether federal accommodations laws apply to anything other than “physical” locations. Compare, *e. g.*, *Doe v. Mutual of Omaha Ins. Co.*, 179 F. 3d 557, 559 (CA7 1999) (Title III of the Americans with Disabilities Act (ADA) covers websites), with *Parker v. Metropolitan Life Ins. Co.*, 121 F. 3d 1006, 1010–1011 (CA6 1997) (en banc) (Title III of the ADA covers only physical places); see also 42 U. S. C. §§ 2000a(b)–(c) (discussing “physica[l] locat[i]ons”).

Once again, a doctrine, such as public accommodation, that reduces the power of a platform to unilaterally remove a government account might strengthen the argument that an account is truly government controlled and creates a public forum. See *Southeastern Promotions*, 420 U. S., at 547, 555. But no party has identified any public accommodation restriction that applies here.

II

The similarities between some digital platforms and common carriers or places of public accommodation may give legislators strong arguments for similarly regulating digital platforms. “[I]t stands to reason that if Congress may demand that telephone companies operate as common carriers, it can ask the same of” digital platforms. *Turner*, 512 U. S., at 684 (opinion of O’Connor, J.). That is especially true because the space constraints on digital platforms are practically nonexistent (unlike on cable companies), so a regulation restricting a digital platform’s right to exclude might not appreciably impede the platform from speaking. See *id.*, at 675, 684 (noting restrictions on one-third of a cable company’s channels but recognizing that regulation may still be justified); *PruneYard*, 447 U. S., at 88. Yet Congress does not appear to have passed these kinds of regulations. To the contrary, it has given digital platforms “immunity from certain types

of suits,” Candeub 403, with respect to content they distribute, 47 U. S. C. § 230, but it has not imposed corresponding responsibilities, like nondiscrimination, that would matter here.

None of this analysis means, however, that the First Amendment is irrelevant until a legislature imposes common carrier or public accommodation restrictions—only that the principal means for regulating digital platforms is through those methods. Some speech doctrines might still apply in limited circumstances, as this Court has recognized in the past.

For example, although a “private entity is not ordinarily constrained by the First Amendment,” *Halleck*, 587 U. S., at 809, 812, it is if the government coerces or induces it to take action the government itself would not be permitted to do, such as censor expression of a lawful viewpoint. *Ibid.* Consider government threats. “People do not lightly disregard public officers’ thinly veiled threats to institute criminal proceedings against them if they do not come around.” *Bantam Books, Inc. v. Sullivan*, 372 U. S. 58, 68 (1963). The government cannot accomplish through threats of adverse government action what the Constitution prohibits it from doing directly. See *ibid.*; *Blum v. Yaretsky*, 457 U. S. 991, 1004–1005 (1982). Under this doctrine, plaintiffs might have colorable claims against a digital platform if it took adverse action against them in response to government threats.

But no threat is alleged here. What threats would cause a private choice by a digital platform to “be deemed . . . that of the State” remains unclear. *Id.*, at 1004.⁵ And no party has

⁵Threats directed at digital platforms can be especially problematic in the light of 47 U. S. C. § 230, which some courts have misconstrued to give digital platforms immunity for bad-faith removal of third-party content. *Malwarebytes, Inc. v. Enigma Software Group USA, LLC*, 592 U. S. 1013, 1018–1019 (2020) (THOMAS, J., statement respecting denial of certiorari). This immunity eliminates the biggest deterrent—a private lawsuit—against caving to an unconstitutional government threat.

For similar reasons, some commentators have suggested that immunity provisions like § 230 could potentially violate the First Amendment to the extent those provisions pre-empt state laws that protect speech from private censorship. See Volokh, *Might Federal Preemption of Speech-Protective State Laws Violate the First Amendment? The Volokh Conspiracy*, Reason, Jan. 23, 2021. According to that argument, when a State creates a private right and a federal statute pre-empts that state law, “the federal statute is the source of the power and authority by which any private rights are lost

April 5, 2021

593 U. S.

sued Twitter. The question facing the courts below involved only whether a government actor violated the First Amendment by blocking another Twitter user. That issue turns, at least to some degree, on ownership and the right to exclude.

* * *

The Second Circuit feared that then-President Trump cut off speech by using the features that Twitter made available to him. But if the aim is to ensure that speech is not smothered, then the more glaring concern must perforce be the dominant digital platforms themselves. As Twitter made clear, the right to cut off speech lies most powerfully in the hands of private digital platforms. The extent to which that power matters for purposes of the First Amendment and the extent to which that power could lawfully be modified raise interesting and important questions. This petition, unfortunately, affords us no opportunity to confront them.

Certiorari Dismissed

No. 20–7266. MARTIN *v.* CAPRON ET AL. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. JUSTICE BARRETT took no part in the consideration or decision of this motion and this petition.

No. 20–7267. MARTIN *v.* CAPRON ET AL. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. JUSTICE BARRETT took no part in the consideration or decision of this motion and this petition.

Miscellaneous Orders

No. D–3074. IN RE DISCIPLINE OF MORGAN. Charles L. Morgan, Jr., of Charlotte, N. C., 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.

or sacrificed.” *Railway Employees v. Hanson*, 351 U.S. 225, 232 (1956); accord, *Skinner v. Railway Labor Executives’ Assn.*, 489 U.S. 602, 614–615 (1989).

593 U. S.

April 5, 2021

No. D-3075. *IN RE DISCIPLINE OF HOFFMAN*. Mark A. Hoffman, of Lederach, Pa., 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.

No. D-3076. *IN RE DISCIPLINE OF SARDELLA*. Albert Michael Sardella, of Coatesville, Pa., 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.

No. D-3077. *IN RE DISCIPLINE OF ADGES*. Michael Charles Adges, of Garden City, N. Y., 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.

No. D-3078. *IN RE DISCIPLINE OF CARO*. Richard P. Caro, of Santa Rosa Beach, Fla., 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.

No. D-3079. *IN RE DISCIPLINE OF FASANARO*. Michael F. Fasanaro, of Virginia Beach, Va., 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.

No. D-3080. *IN RE DISCIPLINE OF KAUFMAN*. Kenneth Steven Kaufman, of Potomac, Md., 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.

No. 20M67. *LYNN v. SAUL, COMMISSIONER OF SOCIAL SECURITY*. Motion for leave to file petition for writ of certiorari under seal denied.

No. 19-251. *AMERICANS FOR PROSPERITY FOUNDATION v. RODRIQUEZ, ACTING ATTORNEY GENERAL OF CALIFORNIA*; and

No. 19-255. *THOMAS MORE LAW CENTER v. RODRIQUEZ, ACTING ATTORNEY GENERAL OF CALIFORNIA*. C. A. 9th Cir. [Cer-

April 5, 2021

593 U. S.

tiorari granted *sub nom.* in No. 19–251, *Americans for Prosperity Foundation v. Becerra*; in No. 19–255, *Thomas More Law Center v. Becerra*, 592 U. S. 1162.] Motion of petitioners for divided argument denied. Motion of petitioners for enlargement of time for oral argument, and motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted, and the time is allotted as follows: 30 minutes for petitioners, 10 minutes for the Acting Solicitor General, and 30 minutes for respondent.

No. 20–37. BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. *v.* GRESHAM ET AL.; and BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. *v.* PHILBRICK ET AL. C. A. D. C. Cir. [Certiorari granted *sub nom.* *Azar v. Gresham*; *Azar v. Philbrick*, 592 U. S. 1121.]; and

No. 20–38. ARKANSAS *v.* GRESHAM ET AL. C. A. D. C. Cir. [Certiorari granted, 592 U. S. 1121.] Upon consideration of the motion of petitioners to vacate the judgments of the Court of Appeals and remand, to remove the cases from the March 2021 argument calendar, and to hold further briefing in abeyance, these cases are held in abeyance pending further order of the Court.

No. 20–255. MAHANAY AREA SCHOOL DISTRICT *v.* B. L., A MINOR, BY AND THROUGH HER FATHER, LEVY, ET AL. C. A. 3d Cir. [Certiorari granted, 592 U. S. 1162.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 20–334. CITY OF SAN ANTONIO, TEXAS, ON BEHALF OF ITSELF AND ALL OTHER SIMILARLY SITUATED TEXAS MUNICIPALITIES *v.* HOTELS.COM, L. P., ET AL. C. A. 5th Cir. [Certiorari granted, 592 U. S. 1162.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 20–440. MINERVA SURGICAL, INC. *v.* HOLOGIC, INC., ET AL. C. A. Fed. Cir. [Certiorari granted, 592 U. S. 1162.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 20–472. HOLLYFRONTIER CHEYENNE REFINING, LLC, ET AL. *v.* RENEWABLE FUELS ASSN. ET AL. C. A. 10th Cir. [Certiorari granted, 592 U. S. 1163.] Motion of the Acting Solicitor General for divided argument granted.

593 U. S.

April 5, 2021

No. 20–772. *WATERFRONT COMMISSION OF NEW YORK HARBOR v. MURPHY, GOVERNOR OF NEW JERSEY, ET AL.* C. A. 3d Cir.; and

No. 20–1034. *GOLAN v. SAADA.* C. A. 2d Cir. The Acting Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 20–5904. *TERRY v. UNITED STATES.* C. A. 11th Cir. [Certiorari granted, 592 U. S. 1163.] Motions of the Acting Solicitor General for leave to file a brief out of time and for divided argument granted.

No. 20–1052. *IN RE BAYLOR;*

No. 20–7013. *IN RE WINDSOR;* and

No. 20–7346. *IN RE DIEHL.* Petitions for writs of mandamus denied.

Certiorari Granted

No. 20–826. *BROWN, ACTING WARDEN v. DAVENPORT.* C. A. 6th Cir. Certiorari granted. Reported below: 964 F. 3d 448.

Certiorari Denied

No. 19–1461. *DALBERISTE v. GLE ASSOCIATES, INC.* C. A. 11th Cir. Certiorari denied.

No. 20–83. *JONES ET AL. v. KALBAUGH.* C. A. 10th Cir. Certiorari denied. Reported below: 807 Fed. Appx. 826.

No. 20–551. *VORIS v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 964 F. 3d 864.

No. 20–753. *CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION v. YAKIMA COUNTY, WASHINGTON, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 963 F. 3d 982.

No. 20–872. *DAVIS v. CARROLL ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 805 Fed. Appx. 958.

No. 20–952. *CONSTRUCTION COST DATA, L. L. C., ET AL. v. GORDIAN GROUP, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 814 Fed. Appx. 860.

No. 20–969. *FREEDOM WATCH, INC., ET AL. v. GOOGLE INC. ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 816 Fed. Appx. 497.

April 5, 2021

593 U. S.

No. 20–1015. *ORTIZ v. WALSH*. Ct. Sp. App. Md. Certiorari denied. Reported below: 246 Md. App. 779 and 790.

No. 20–1020. *OKORO v. TEXAS*. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 20–1024. *YOUNG v. EDELEN ET AL.* Sup. Ct. Ky. Certiorari denied.

No. 20–1025. *FRANCISCO VEGA v. MOODY, ATTORNEY GENERAL OF FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 20–1037. *BOWLING v. ROACH*. C. A. 5th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 901.

No. 20–1064. *JONES v. U. S. BANK N. A., AS TRUSTEE FOR RESIDENTIAL ASSET SECURITIES CORP., ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 828 Fed. Appx. 127.

No. 20–1068. *SHOPHAR v. JOHNSON COUNTY, KANSAS, ET AL.* Sup. Ct. Kan. Certiorari denied.

No. 20–1073. *DOE ET AL. v. HAALAND ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 973 F. 3d 591.

No. 20–1108. *PONTILER S. A. v. OPI PRODUCTS INC. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 824 Fed. Appx. 523.

No. 20–1135. *JONES ET AL. v. LAFFERTY ET AL.* Sup. Ct. Conn. Certiorari denied. Reported below: 336 Conn. 332, 246 A. 3d 429.

No. 20–1139. *JONES v. McDONOUGH, SECRETARY OF VETERANS AFFAIRS*. C. A. Fed. Cir. Certiorari denied. Reported below: 964 F. 3d 1374.

No. 20–1153. *DEVINE v. ABSOLUTE ACTIVIST VALUE MASTER FUND LTD. ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 826 Fed. Appx. 876.

No. 20–1164. *BOYD v. JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 824 Fed. Appx. 111.

No. 20–1189. *HARDIN v. INDIANA*. Sup. Ct. Ind. Certiorari denied. Reported below: 148 N. E. 3d 932.

593 U. S.

April 5, 2021

No. 20–1191. *SINGLETERY v. NELSEN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 809 Fed. Appx. 195.

No. 20–1211. *SYNKLOUD TECHNOLOGIES, LLC v. ADOBE, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 823 Fed. Appx. 929.

No. 20–1222. *DALESSIO v. UNIVERSITY OF WASHINGTON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 121.

No. 20–1228. *JAYE v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA.* C. A. 8th Cir. Certiorari denied.

No. 20–1232. *IBSA INSTITUT BIOCHIMIQUE, S. A., ET AL. v. TEVA PHARMACEUTICALS USA, INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 966 F. 3d 1374.

No. 20–1249. *DUBIN v. OFFICE OF DISCIPLINARY COUNSEL.* Sup. Ct. Haw. Certiorari denied.

No. 20–6294. *SEALEY v. FORD, WARDEN.* C. A. 11th Cir. Certiorari denied. Reported below: 954 F. 3d 1338.

No. 20–6507. *BERRY ET AL. v. WELLS FARGO BANK, N. A., ET AL.* C. A. 5th Cir. Certiorari denied.

No. 20–6604. *GRANT v. CITY OF ROANOKE, VIRGINIA.* C. A. 4th Cir. Certiorari denied. Reported below: 810 Fed. Appx. 236.

No. 20–6891. *KNIGHT v. FLORIDA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 958 F. 3d 1035.

No. 20–6899. *HUDSON v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 20–6965. *MILLER v. DUNN.* Ct. App. Tex., 5th Dist. Certiorari denied.

No. 20–6970. *MAXWELL v. OHIO.* Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2020-Ohio-3027.

No. 20–6990. *SMITH v. ARIZONA.* Sup. Ct. Ariz. Certiorari denied. Reported below: 250 Ariz. 69, 475 P. 3d 558.

April 5, 2021

593 U. S.

No. 20–7003. *KUDLA v. MINNESOTA*. Ct. App. Minn. Certiorari denied.

No. 20–7011. *SAISI v. MURRAY ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 822 Fed. Appx. 47.

No. 20–7014. *BRUZZONE v. INTEL CORP. ET AL.* C. A. 9th Cir. Certiorari denied.

No. 20–7016. *BRUINS v. WHITMAN, ASSOCIATE WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 20–7017. *BEYER v. TEXAS*. Ct. App. Tex., 6th Dist. Certiorari denied.

No. 20–7022. *REYES TRUJILLO v. HOUSTON, ACTING WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 20–7023. *PARKER v. APPLE INC.* C. A. Fed. Cir. Certiorari denied.

No. 20–7027. *KYNAST v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 308 So. 3d 109.

No. 20–7074. *NAVE v. VANIHEL, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 20–7097. *SWEAT v. CITY OF LAS CRUCES, NEW MEXICO, ET AL.* Sup. Ct. N. M. Certiorari denied.

No. 20–7098. *NICOLAS REYES v. GEORGIA*. Sup. Ct. Ga. Certiorari denied. Reported below: 309 Ga. 660, 847 S. E. 2d 194.

No. 20–7105. *HARRIS v. UNIVERSITY OF ARIZONA POLICE DEPARTMENT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 815 Fed. Appx. 196.

No. 20–7127. *PONTEFRACCT v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied.

No. 20–7133. *REED v. PAYNE, DIRECTOR, ARKANSAS DIVISION OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 20–7134. *SHUHAIBER v. ILLINOIS DEPARTMENT OF CORRECTIONS*. C. A. 7th Cir. Certiorari denied. Reported below: 980 F. 3d 1167.

593 U. S.

April 5, 2021

No. 20–7136. *STANFORD v. PARAMO, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 20–7152. *HOOK v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 150 N. E. 3d 1102.

No. 20–7169. *NUNLEY v. BROWN*. C. A. 7th Cir. Certiorari denied.

No. 20–7172. *CONSTANTIN v. FLORIDA*. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 301 So. 3d 449.

No. 20–7173. *DEPAULA v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 302 So. 3d 835.

No. 20–7175. *ELKINS v. GUINN ET AL.* C. A. 7th Cir. Certiorari denied.

No. 20–7257. *KNOX v. MAGERA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 813 Fed. Appx. 111.

No. 20–7265. *LINDSEY v. ILLINOIS*. Sup. Ct. Ill. Certiorari denied. Reported below: 2020 IL 124289, 181 N. E. 3d 1.

No. 20–7288. *CAM v. OREGON*. Ct. App. Ore. Certiorari denied.

No. 20–7306. *MADRID v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 823 Fed. Appx. 282.

No. 20–7319. *JOHNSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 820 Fed. Appx. 199.

No. 20–7322. *COFFEE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 20–7324. *TRAYWICKS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 889.

No. 20–7325. *TODD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 825 Fed. Appx. 313.

No. 20–7333. *MARTINEZ v. WARDEN, FEDERAL CORRECTIONAL INSTITUTION COLEMAN-LOW*. C. A. 11th Cir. Certiorari denied.

No. 20–7336. *TILLMAN v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 247 So. 3d 523.

April 5, 2021

593 U. S.

No. 20–7340. *WELSHANS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 803 Fed. Appx. 626.

No. 20–7362. *BRAYE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 653.

No. 20–7363. *BUTLER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 602.

No. 20–7365. *BROUNT, AKA BRUNT v. FROSH, ATTORNEY GENERAL OF MARYLAND*. C. A. 4th Cir. Certiorari denied. Reported below: 805 Fed. Appx. 239.

No. 20–7369. *HICKMON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 824 Fed. Appx. 302.

No. 20–7381. *WILKERSON v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 966 F. 3d 828.

No. 20–7383. *ZAMORA-SUAREZ, AKA MONCADA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–7385. *KAETZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 20–7388. *DE LA TORRE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 822 Fed. Appx. 306.

No. 20–7389. *UDOH v. DOOLEY, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 20–7390. *UDOH v. KNUTSON, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 20–7393. *COLEMAN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–7398. *JOKHOO v. VELAQUEZ-AGUILU, ASSISTANT UNITED STATES ATTORNEY*. C. A. 4th Cir. Certiorari denied. Reported below: 824 Fed. Appx. 187.

No. 20–7399. *CLANCY v. AUSTIN, SECRETARY OF DEFENSE*. C. A. 10th Cir. Certiorari denied. Reported below: 837 Fed. Appx. 630.

No. 20–7402. *BROWNRIDGE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

593 U. S.

April 5, 2021

No. 20–7412. *GARDNER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–7416. *HERMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 894.

No. 20–7422. *LITTLE v. CROMWELL*. C. A. 7th Cir. Certiorari denied.

No. 20–7423. *CRUZ v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 977 F. 3d 998.

No. 20–7425. *CRAIG v. MATEVOUSIAN, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7430. *TORRES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 834 Fed. Appx. 382.

No. 19–1388. *SMALL v. MEMPHIS LIGHT, GAS AND WATER*. C. A. 6th Cir. Certiorari denied. Reported below: 952 F. 3d 821.

JUSTICE GORSUCH, with whom JUSTICE ALITO joins, dissenting.

For over a decade, Jason Small worked as an electrician at Memphis Light, Gas & Water. Then an on-the-job injury forced him into a new role as a dispatcher. This job came with a different schedule and mandatory overtime duties. Sometimes the new hours conflicted with Mr. Small's religious obligations, like worship services on Sunday mornings. So Mr. Small asked his employer to place him on reduced pay temporarily while he sought reassignment to a different position with a more conducive schedule. The company had a history of offering this same accommodation to other employees, including those removed from their positions for unsatisfactory job performance. But when it came to Mr. Small, the company balked.

That left Mr. Small to make the dispatcher role work as best he could. For a period, things went smoothly enough. Mr. Small even used his vacation days when necessary to attend church. Eventually, though, a problem arose. Mr. Small asked to use some of his vacation time on Good Friday. At first, the company agreed. Then it backtracked, canceling his vacation request. When Mr. Small went to church anyway, the company suspended him for two days without pay.

In response, Mr. Small filed suit seeking a ruling that the company's conduct violated Title VII. That federal statute prohibits

discrimination on the basis of race, color, religion, sex, and national origin, and requires employers to afford requested religious accommodations unless doing so would impose an “undue hardship” on them. 78 Stat. 253, 255, as amended, 86 Stat. 103, 42 U. S. C. §§ 2000e(j), 2000e–2(a). At no point in the litigation did anyone suggest that Mr. Small’s requested accommodation—reduced pay while he sought reassignment—would have imposed a significant hardship on his employer. Yet both the district court and Sixth Circuit rejected Mr. Small’s claim all the same.

The courts explained that *Trans World Airlines, Inc. v. Hardison*, 432 U. S. 63 (1977), tied their hands. There, this Court dramatically revised—really, undid—Title VII’s undue hardship test. *Hardison* held that an employer does not need to provide a religious accommodation that involves “more than a *de minimis* cost.” *Id.*, at 84. So Mr. Small’s requested accommodation might not have imposed a significant hardship on his employer. The company may extend poorly performing employees the very same relief Mr. Small sought. But the company had no obligation to provide Mr. Small his requested accommodation because doing so would have cost the company something (anything) more than a trivial amount. See *Small v. Memphis Light, Gas & Water*, 952 F. 3d 821, 825 (CA6 2020) (*per curiam*).

Now, Mr. Small asks us to hear his case and I would grant his petition for review. *Hardison*’s *de minimis* cost test does not appear in the statute. The Court announced that standard in a single sentence with little explanation or supporting analysis. Neither party before the Court had even argued for the rule. *Patterson v. Walgreen Co.*, 589 U. S. 1229 (2020) (ALITO, J., concurring in denial of certiorari). Justice Marshall highlighted all these problems at the time, noting in dissent that the *de minimis* cost test cannot be reconciled with the “plain words” of Title VII, defies “simple English usage,” and “effectively nullif[ies]” the statute’s promise. *Hardison*, 432 U. S., at 88, 89, 93, n. 6 (Marshall, J., dissenting).

Nor has time been kind to *Hardison*. In the intervening years, Congress has adopted additional civil rights laws using the “undue hardship” standard. And when applying each of those laws, courts are far more demanding. The Americans with Disabilities Act of 1990 (ADA) requires a covered employer to accommodate an employee’s “known physical or mental limitations” unless doing so would impose an “undue hardship.” 104 Stat. 332, 42 U. S. C.

§ 12112(b)(5)(A). The Uniformed Services Employment and Re-employment Rights Act (USERRA) obliges an employer to restore a returning United States service member to his prior role unless doing so would cause an “undue hardship.” 38 U.S.C. §§ 4303(10), 4313(a)(1)(B), (a)(2)(B). And the Affordable Care Act (ACA) provides that a covered employer must provide a nursing mother with work breaks unless doing so would impose an “undue hardship.” 124 Stat. 577, 29 U.S.C. § 207(r)(3). Under all three statutes, an employer must provide an accommodation unless doing so would impose “significant difficulty or expense” in light of the employer’s financial resources, the number of individuals it employs, and the nature of its operations and facilities. See ADA, 42 U.S.C. § 12111(10)(A) (added 1990); USERRA, 38 U.S.C. § 4303(15) (added 1994); ACA, 29 U.S.C. § 207(r)(3) (added 2010); cf. 11 U.S.C. § 523(a)(8); 28 U.S.C. § 1869(j).

With these developments, Title VII’s right to religious exercise has become the odd man out. Alone among comparable statutorily protected civil rights, an employer may dispense with it nearly at whim. As this case illustrates, even subpar employees may wind up receiving more favorable treatment than highly performing employees who seek only to attend church. And the anomalies do not end there. Under the ADA, an employer may be required to alter the snack break schedule for a diabetic employee because doing so would not pose an undue hardship. *Spit-eri v. AT & T Holdings, Inc.*, 40 F. Supp. 3d 869, 878 (ED Mich. 2014). Yet, thanks to *Hardison*, at least one court has held that it would be an undue hardship to require an employer to shift a meal break for Muslim employees during Ramadan. *EEOC v. JBS USA, LLC*, 339 F. Supp. 3d 1135, 1181 (Colo. 2018). With *Hardison*, uneven results like these have become increasingly commonplace. See Brief for Muslim Advocates et al. as *Amici Curiae* 21–22 (collecting examples).

Not even Mr. Small’s employer tries to defend this state of affairs. The company candidly acknowledges that *Hardison* “very likely is not the best possible gloss” on Title VII’s language. Brief in Opposition 23. Two of the three judges on the panel below agreed, writing separately to explain their view that *Hardison* “rewr[ote] [the] statute.” *Small*, 952 F. 3d, at 826–829 (Thapar, J., joined by Kethledge, J., concurring). Yet, today, this Court refuses even to entertain the question. It’s a struggle to see why.

April 5, 2021

593 U. S.

Maybe the most charitable explanation for the Court's inaction has to do with issue preservation. But if that's the worry, there is no reason for it. Both the district court and the court of appeals expressly passed on the question whether Mr. Small's employer violated Title VII by denying his requested accommodation. That is all our precedent demands. *United States v. Williams*, 504 U. S. 36, 41–43 (1992). The district court ruled that “placing Mr. Small back in the reassignment pool on reduced pay to wait for a job with hours more in line with [his] religious obligations would . . . place more than a de minimis burden on” the company. App. to Pet. for Cert. 35a. For that reason, the court said, the company “sufficiently satisfied its obligation to demonstrate [an] undue hardship.” *Ibid.* While two members of the Sixth Circuit panel assigned to Mr. Small's case doubted *Hardison*, none doubted what it required. Because his requested accommodation involved “more than [a] de minimis” cost, the court held, the company didn't have to provide it. *Small*, 952 F. 3d, at 825 (*per curiam*) (citing circuit precedent following *Hardison*).

I cannot see what more we could reasonably require. Mr. Small insisted that his requested accommodation would not cause an undue hardship under Title VII. Both the district court and court of appeals rejected the argument relying expressly on *Hardison*. There is no barrier to our review and no one else to blame. The only mistake here is of the Court's own making—and it is past time for the Court to correct it.

No. 20–733. *RICKMON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 952 F. 3d 876.

No. 20–1018. *LOUISIANA REAL ESTATE APPRAISERS BOARD v. FEDERAL TRADE COMMISSION*. C. A. 5th Cir. Motion of Federation of State Medical Boards for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 976 F. 3d 597.

No. 20–1067. *ROSAS v. ADVOCATE HEALTH & HOSPITALS CORP., DBA ADVOCATE CHRIST MEDICAL CENTER, ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 803 Fed. Appx. 952.

593 U. S.

April 5, 8, 14, 16, 2021

No. 20–1134. *MYERS v. NEAL*, SUPERINTENDENT, INDIANA STATE PRISON. C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 975 F. 3d 611.

No. 20–7015. *BURTON v. BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 818 Fed. Appx. 564.

Rehearing Denied

No. 20–6263. *ABDULRAZZAK v. FLUKE*, WARDEN, ET AL., 592 U. S. 1185. Petition for rehearing denied.

APRIL 8, 2021

Miscellaneous Order

No. 20A126. *REEVES*, GOVERNOR OF MISSISSIPPI, ET AL. *v.* *WILLIAMS*, ON BEHALF OF HER MINOR CHILD J. E., ET AL. Application to recall and stay the mandate of the United States Court of Appeals for the Fifth Circuit, presented to JUSTICE ALITO, and by him referred to the Court, denied without prejudice to a renewed application after the remaining grounds for dismissal currently on remand to the District Court have been fully resolved.

APRIL 14, 2021

Miscellaneous Orders. (For the Court’s orders prescribing amendments to the Federal Rules of Appellate Procedure, see 593 U. S. 1055; and amendments to the Federal Rules of Bankruptcy Procedure, see 593 U. S. 1065.

APRIL 16, 2021

Miscellaneous Orders

No. 19–1039. *PENNEAST PIPELINE Co., LLC v. NEW JERSEY ET AL.* C. A. 3d Cir. [Certiorari granted, 592 U. S. 1243.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 20–543. *YELLEN*, SECRETARY OF THE TREASURY *v.* *CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION ET AL.* C. A. D. C. Cir. [Certiorari granted *sub nom.* *Mnuchin v. Confederated Tribes of the Chehalis Reservation*, 592 U. S. 1163]; and

April 16, 19, 2021

593 U. S.

No. 20–544. ALASKA NATIVE VILLAGE CORP. ASSN., INC., ET AL. *v.* CONFEDERATED TRIBES OF THE CHEHALIS RESERVATION ET AL. C. A. D. C. Cir. [Certiorari granted, 592 U.S. 1163.] Motion of the Acting Solicitor General for divided argument granted. Motion of Ute Indian Tribe of the Uintah and Ouray Reservation for divided argument denied.

APRIL 19, 2021

Certiorari Granted—Vacated and Remanded

No. 20–308. LA BOOM DISCO, INC. *v.* DURAN. C. A. 2d Cir. Reported below: 955 F. 3d 279; and

No. 20–723. PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY *v.* ALLAN ET AL. C. A. 6th Cir. Reported below: 968 F. 3d 567. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Facebook, Inc. v. Duguid*, 592 U. S. 395 (2021).

No. 20–740. BOGNET ET AL. *v.* DEGRAFFENREID, ACTING SECRETARY OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari granted, judgment vacated, and case remanded with instructions to dismiss the case as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950). Reported below: 980 F. 3d 336.

Certiorari Dismissed

No. 20–7025. ALLEN *v.* HUDSON. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. Reported below: 832 Fed. Appx. 234.

No. 20–7067. PENNINGTON-THURMAN *v.* SANSONE GROUP DDR LLC. Ct. App. Mo., Eastern Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. As 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*). Reported below: 613 S. W. 3d 424.

No. 20–7092. WATFORD *v.* PFISTER ET AL. (Reported below: 811 Fed. Appx. 374); and WATFORD *v.* JEFFREYS ET AL. (829 Fed.

593 U. S.

April 19, 2021

Appx. 132). C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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 BARRETT took no part in the consideration or decision of this motion and this petition.

Miscellaneous Orders

No. 20M68. HUTCHINSON *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 20–609. GANNETT CO., INC., ET AL. *v.* QUATRONE. C. A. 4th Cir. The Acting Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 20–6366. RILEY *v.* DELAWARE. Sup. Ct. Del. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [592 U.S. 1165] denied. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 20–7116. DEL PINO ALLEN *v.* BOARD OF TRUSTEES OF MIAMI DADE COLLEGE. Dist. Ct. App. Fla., 3d Dist.;

No. 20–7162. AGUILAR ET AL. *v.* SPECIALIZED LOAN SERVING, LLC, ET AL. C. A. 9th Cir.; and

No. 20–7234. BARRETT *v.* PAE GOVERNMENT SERVICES, INC., ET AL. C. A. 4th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until May 10, 2021, within which to pay the docketing fees required by this Court's Rule 38(a).

No. 20–1282. IN RE DERY;

No. 20–1304. IN RE TWEED;

No. 20–1342. IN RE RADCLIFF;

No. 20–7575. IN RE ROBINSON; and

No. 20–7584. IN RE GRAHAM. Petitions for writs of habeas corpus denied.

No. 20–7517. IN RE SMITH. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8.

April 19, 2021

593 U. S.

No. 20–1230. IN RE SYDNOR;
No. 20–1290. IN RE OGUNJOBI;
No. 20–7045. IN RE BROOKS; and
No. 20–7510. IN RE ENGLISH. Petitions for writs of mandamus denied.

No. 20–1112. IN RE ARUNACHALAM. Petition for writ of mandamus denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 20–7170. IN RE PRASAD. Petition for writ of mandamus denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

Certiorari Granted

No. 20–637. HEMPHILL *v.* NEW YORK. Ct. App. N. Y. Certiorari granted. Reported below: 35 N. Y. 3d 1035, 150 N. E. 3d 356.

Certiorari Denied

No. 20–418. GLASSER *v.* HILTON GRAND VACATIONS Co., LLC. C. A. 11th Cir. Certiorari denied. Reported below: 948 F. 3d 1301.

No. 20–479. SHINN *v.* BAKER. C. A. 9th Cir. Certiorari denied. Reported below: 798 Fed. Appx. 137.

No. 20–674. UZODINMA *v.* GARLAND, ATTORNEY GENERAL. C. A. 8th Cir. Certiorari denied. Reported below: 951 F. 3d 960.

No. 20–768. SERRANO *v.* UNITED STATES CUSTOMS AND BORDER PROTECTION ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 975 F. 3d 488.

No. 20–782. HOLLOWAY *v.* GARLAND, ATTORNEY GENERAL, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 948 F. 3d 164.

No. 20–812. FOLAJTAR *v.* GARLAND, ATTORNEY GENERAL, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 980 F. 3d 897.

No. 20–877. KING *v.* PRIDMORE ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 961 F. 3d 1135.

No. 20–941. ATKINS ET AL. *v.* WILLIAMS, MEDICAL DIRECTOR, TENNESSEE DEPARTMENT OF CORRECTION. C. A. 6th Cir. Certiorari denied. Reported below: 972 S. W. 3d 734.

593 U. S.

April 19, 2021

No. 20–948. *KOBE v. BUSCEMI ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 821 Fed. Appx. 180.

No. 20–963. *WALTON v. VIRGINIA INTERNATIONAL TERMINALS, LLC.* Sup. Ct. Va. Certiorari denied.

No. 20–975. *OWENS v. STIRLING, DIRECTOR, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 967 F. 3d 396.

No. 20–1054. *VALAMBHIA ET AL. v. UNITED REPUBLIC OF TANZANIA ET AL.* C. A. D. C. Cir. Certiorari denied. Reported below: 964 F. 3d 1135.

No. 20–1071. *WEST VIRGINIA EX REL. YURISH ET AL. v. FAIRCLOTH, JUDGE, CIRCUIT COURT OF WEST VIRGINIA, 23D JUDICIAL CIRCUIT, ET AL.* Sup. Ct. App. W. Va. Certiorari denied. Reported below: 243 W. Va. 537, 847 S. E. 2d 810.

No. 20–1072. *THOMPSON ET AL. v. DEWINE, GOVERNOR OF OHIO, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 976 F. 3d 610.

No. 20–1074. *LINSANGAN v. TAIJERON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 527.

No. 20–1075. *REICHARD ET AL. v. BROWN, CHAPTER 13 TRUSTEE.* C. A. 9th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 812.

No. 20–1076. *SE PROPERTY HOLDINGS, LLC, AS SUCCESSOR BY MERGER TO VISION BANK v. GADDY.* C. A. 11th Cir. Certiorari denied. Reported below: 977 F. 3d 1051.

No. 20–1082. *GARDNER v. MGLEJ.* C. A. 10th Cir. Certiorari denied. Reported below: 974 F. 3d 1151.

No. 20–1085. *STAFNE v. ZILLY, JUDGE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 820 Fed. Appx. 594.

No. 20–1091. *SCHULZ v. TOWN BOARD OF THE TOWN OF QUEENSBURY ET AL.* Ct. App. N. Y. Certiorari denied. Reported below: 24 N. Y. 3d 1177, 146 N. E. 3d 528.

No. 20–1096. *FETNER v. HOTEL STREET CAPITAL, LLC, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 866.

April 19, 2021

593 U. S.

No. 20–1097. *HAN v. YANGRAI CHO*. C. A. 9th Cir. Certiorari denied. Reported below: 804 Fed. Appx. 864.

No. 20–1098. *HOUTHOOFD v. PARISH, WARDEN*. Ct. App. Mich. Certiorari denied.

No. 20–1102. *HANNA v. LITTLE LEAGUE BASEBALL, INC.* Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied. Reported below: 53 Cal. App. 5th 871, 267 Cal. Rptr. 3d 845.

No. 20–1104. *TESORIERO v. CARNIVAL CORP., DBA CARNIVAL CRUISE LINE*. C. A. 11th Cir. Certiorari denied. Reported below: 965 F. 3d 1170.

No. 20–1115. *GRANTON v. WASHINGTON STATE LOTTERY*. C. A. 9th Cir. Certiorari denied.

No. 20–1117. *FETNER v. WILMINGTON SAVINGS FUND SOCIETY ET AL.* (Reported below: 801 Fed. Appx. 188); and *FETNER v. HOTEL STREET CAPITAL, LLC, ET AL.* (801 Fed. Appx. 189). C. A. 4th Cir. Certiorari denied.

No. 20–1118. *GRUNDSTEIN v. LAMOILLE SUPERIOR DOCKET ENTRIES/ORDERS ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 821 Fed. Appx. 46.

No. 20–1122. *FLEURY v. MASSACHUSETTS*. App. Ct. Mass. Certiorari denied. Reported below: 97 Mass. App. 1123, 147 N. E. 3d 1113.

No. 20–1124. *LEATHERWOOD v. BRAGGS, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 363.

No. 20–1126. *SANTOS MARTILLO ET AL. v. UNKNOWN DEFENDANTS*. App. Ct. Mass. Certiorari denied. Reported below: 97 Mass. App. 1120, 145 N. E. 3d 918.

No. 20–1133. *TRANTOS v. DEUTSCHE BANK NATIONAL TRUST CO., AS TRUSTEE FOR MORGAN STANLEY ABS CAPITAL I INC. TRUST 2004–HE4, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004–HE4, ET AL.* C. A. 1st Cir. Certiorari denied.

No. 20–1136. *CAPOTE v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied.

No. 20–1140. *DEBOSE v. UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 811 Fed. Appx. 547.

593 U. S.

April 19, 2021

No. 20–1155. *NELSON v. MINNESOTA*. Sup. Ct. Minn. Certiorari denied. Reported below: 947 N. W. 2d 31.

No. 20–1160. *WEST VENTURES L. P., FKA SLEIMAN VENTURES, L. P., ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 428.

No. 20–1166. *SHOPHAR ET UX. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 838 Fed. Appx. 328.

No. 20–1178. *PACIFIC CHOICE SEAFOOD CO. ET AL. v. RAIMONDO, SECRETARY OF COMMERCE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 976 F. 3d 932.

No. 20–1182. *TAPIA-FELIX v. GARLAND, ATTORNEY GENERAL*. C. A. 9th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 691.

No. 20–1225. *WINSTON ET AL. v. WALSH*. C. A. 11th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 448.

No. 20–1237. *BROWN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 823 Fed. Appx. 97.

No. 20–1239. *SMITH v. OHIO*. Ct. App. Ohio, 1st App. Dist., Hamilton County. Certiorari denied.

No. 20–1260. *CASTILLO, AKA MORENO VELASQUEZ v. GARLAND, ATTORNEY GENERAL*. C. A. 9th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 795.

No. 20–1269. *RENFROE ET AL. v. PARKER ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 974 F. 3d 594.

No. 20–1270. *STAFNE v. BANK OF NEW YORK MELLON*. C. A. 9th Cir. Certiorari denied. Reported below: 824 Fed. Appx. 536.

No. 20–1274. *WERN v. SOUTH CAROLINA COMMISSION ON LAWYER CONDUCT*. Sup. Ct. S. C. Certiorari denied. Reported below: 431 S. C. 643, 849 S. E. 2d 898.

No. 20–1280. *COTROPIA v. CHAPMAN*. C. A. 5th Cir. Certiorari denied. Reported below: 978 F. 3d 282.

No. 20–1281. *DREDD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 833 Fed. Appx. 79.

April 19, 2021

593 U. S.

No. 20–1283. *TEMPONERAS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 320.

No. 20–1289. *NETSCOUT SYSTEMS, INC., ET AL. v. PACKET INTELLIGENCE LLC*. C. A. Fed. Cir. Certiorari denied. Reported below: 965 F. 3d 1299.

No. 20–1300. *TORRES LUQUE, ET AL. v. COMMISSIONER OF INTERNAL REVENUE*. C. A. 9th Cir. Certiorari denied. Reported below: 809 Fed. Appx. 395.

No. 20–1301. *MCNEIL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 812 Fed. Appx. 515.

No. 20–1314. *RICHARDSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 820 Fed. Appx. 225.

No. 20–1319. *MANUEL SOLORZANO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 832 Fed. Appx. 276.

No. 20–1321. *LEE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–6054. *TRIBUE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 929 F. 3d 1326.

No. 20–6260. *JOHNSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 954 F. 3d 1106.

No. 20–6498. *BARKSDALE v. DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 20–6563. *STALLWORTH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 809 Fed. Appx. 179.

No. 20–6599. *DOMINGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 812 Fed. Appx. 244.

No. 20–6640. *PERRYMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 965 F. 3d 424.

No. 20–6754. *TARPLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 813 Fed. Appx. 976.

No. 20–6773. *SMITH v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 813 Fed. Appx. 981.

593 U. S.

April 19, 2021

No. 20–6780. *AGUILAR v. SPECIALIZED LOAN SERVICING, LLC, ET AL.* Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 20–6791. *PENN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 969 F. 3d 450.

No. 20–6871. *GREEN v. NEW YORK.* App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 179 App. Div. 3d 1516, 118 N. Y. S. 3d 853.

No. 20–7038. *MARTINEZ v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 811 Fed. Appx. 396.

No. 20–7051. *ZAVALIDROGA v. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK.* C. A. 2d Cir. Certiorari denied.

No. 20–7053. *MANUEL TORRES v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied.

No. 20–7056. *MEHDIPOUR v. COYLE, JUDGE, ET AL.* Sup. Ct. Okla. Certiorari denied.

No. 20–7060. *MOSIER v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied.

No. 20–7061. *TOMLIN v. ISHEE.* C. A. 4th Cir. Certiorari denied. Reported below: 830 Fed. Appx. 111.

No. 20–7075. *PARNELL v. CHEN ET AL.* (Reported below: 824 Fed. Appx. 891); and *PARNELL v. MARTINEZ ET AL.* (821 Fed. Appx. 866). C. A. 9th Cir. Certiorari denied.

No. 20–7084. *HILL v. GOOGLE LLC ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 244 A. 3d 211.

No. 20–7093. *TURNER v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 20–7104. *BADKIN v. LOCKHEED CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 822 Fed. Appx. 617.

No. 20–7111. *LOPEZ-VANEGAS v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 227 A. 3d 413.

No. 20–7117. *TROY-McKOY v. MOUNT SINAI BETH ISRAEL.* App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 182 App. Div. 3d 524, 123 N. Y. S. 3d 111.

April 19, 2021

593 U. S.

No. 20–7123. *HEDDLESTEN v. CROW, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS*. C. A. 10th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 663.

No. 20–7131. *ELKINS v. SHOOP, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7139. *ANDERSON v. COLORADO*. Ct. App. Colo. Certiorari denied.

No. 20–7143. *HEYANGJING SHI ET AL. v. MASH*. Ct. App. N. Y. Certiorari denied. Reported below: 35 N. Y. 3d 949, 147 N. E. 3d 1154.

No. 20–7144. *XUE JIE HE v. HAIRONG XUE*. Ct. App. N. Y. Certiorari denied. Reported below: 35 N. Y. 3d 967, 147 N. E. 3d 1165.

No. 20–7145. *HARRIS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 964 F. 3d 718.

No. 20–7147. *ANGEL ACOSTA v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 20–7149. *GADDY v. DUCART, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 802 Fed. Appx. 300.

No. 20–7151. *HEJAZI v. HARROLD, SHERIFF, LANE COUNTY, OREGON*. C. A. 9th Cir. Certiorari denied.

No. 20–7153. *FORBES v. SEAWORLD ENTERTAINMENT, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 847.

No. 20–7155. *SCOTT v. ROBINSON, WARDEN* (two judgments). C. A. 6th Cir. Certiorari denied.

No. 20–7158. *RAMIREZ v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 20–7159. *SMITH v. ALABAMA ET AL.* C. A. 11th Cir. Certiorari denied.

No. 20–7161. *ARTIS v. OHIO*. Ct. App. Ohio, 3d App. Dist., Logan County. Certiorari denied. Reported below: 2020-Ohio-4018.

593 U. S.

April 19, 2021

No. 20–7165. JACKSON *v.* JOSIAH, AS TRUSTEE. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 20–7176. DAVIS *v.* SHINN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 711.

No. 20–7178. TURNER *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2020–00047 (La. 9/29/20), 301 So. 3d 1158.

No. 20–7179. VIERA *v.* FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 810.

No. 20–7192. SMITH *v.* STEIN ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 982 F. 3d 229.

No. 20–7193. STUART *v.* BRNOVICH, ATTORNEY GENERAL OF ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 20–7203. FRANCIS *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 20–7221. CANNON *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 818 Fed. Appx. 276.

No. 20–7241. GOSSELIN *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 486 Mass. 256, 158 N. E. 3d 8.

No. 20–7260. HOPKINS *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 277 So. 3d 112.

No. 20–7262. STILLS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 229 A. 3d 388.

No. 20–7274. GRIFFIS *v.* PARISH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 20–7275. HERRON *v.* INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 20–7289. CAMPBELL *v.* BOTTLING GROUP, LLC. C. A. 2d Cir. Certiorari denied. Reported below: 814 Fed. Appx. 630.

April 19, 2021

593 U. S.

No. 20–7295. *SAUCEDA v. SHINN*, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY, ET AL. C. A. 9th Cir. Certiorari denied.

No. 20–7310. *JOHNSON v. JOHNSON*, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 20–7320. *LASKOWSKI v. WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES*. Ct. App. Wash. Certiorari denied. Reported below: 12 Wash. App. 2d 806, 460 P. 3d 697.

No. 20–7343. *WILLIAMS v. UTAH*. Ct. App. Utah. Certiorari denied. Reported below: 2020 UT App 67, 462 P. 3d 832.

No. 20–7345. *LEWIS v. LEGRAND*, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 20–7361. *AYERS v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 20–7364. *BALDWIN v. CLARK*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 20–7367. *BOSTIC v. INCH*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 20–7370. *BRADFORD v. PERRY*, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 20–7372. *OCKERT v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 338.

No. 20–7380. *WYATT v. SUTTON*, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 838 Fed. Appx. 266.

No. 20–7384. *TOLIVER v. ADNER*. C. A. 2d Cir. Certiorari denied. Reported below: 836 Fed. Appx. 68.

No. 20–7395. *WILLS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 20–7400. *BARTLETT v. VALENTINE*, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 20–7404. *SMITH v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 967 F. 3d 1196.

593 U. S.

April 19, 2021

No. 20–7408. *NAPPER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 978 F. 3d 118.

No. 20–7409. *PENA-GARCIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 825 Fed. Appx. 222.

No. 20–7415. *GRIFFIN v. NEW YORK*. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 188 App. Div. 3d 1701, 136 N. Y. S. 3d 619.

No. 20–7417. *PACE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–7418. *JENNINGS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 813 Fed. Appx. 252.

No. 20–7419. *JOHNSON v. MACKELBURG, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 818 Fed. Appx. 293.

No. 20–7421. *LEVINE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 909.

No. 20–7428. *MARONES v. FORD, ATTORNEY GENERAL OF NEVADA, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 20–7438. *STEGAWSKI v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7439. *LUIS SUAREZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 830 Fed. Appx. 612.

No. 20–7441. *RUDENKO v. SHANLEY, SUPERINTENDENT, COXSACKIE CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 20–7444. *BRUCE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 977 F. 3d 1112.

No. 20–7446. *RIVERA ARREOLA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 690.

No. 20–7448. *JOHNSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 837 Fed. Appx. 373.

No. 20–7449. *NUNEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 20–7451. *JENNER v. COLORADO DEPARTMENT OF CORRECTIONS ET AL.* Ct. App. Colo. Certiorari denied.

April 19, 2021

593 U. S.

No. 20–7452. *LUCAS v. SOCIAL SECURITY ADMINISTRATION*. C. A. 4th Cir. Certiorari denied. Reported below: 823 Fed. Appx. 176.

No. 20–7453. *JACKSON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 833 Fed. Appx. 23.

No. 20–7456. *AYALA-SOLORIO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 825 Fed. Appx. 227.

No. 20–7457. *MORRIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7458. *RAJPUT v. TERRELL ET AL.*; and *RAJPUT v. FOGG*. Sup. Ct. Va. Certiorari denied.

No. 20–7459. *ROSARIO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 837 Fed. Appx. 117.

No. 20–7461. *KENDRICK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 825 Fed. Appx. 77.

No. 20–7465. *ASUNCION v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 974 F. 3d 929 and 819 Fed. Appx. 571..

No. 20–7468. *FEAZELL v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 20–7469. *HERNANDEZ-AYALA v. BAKER, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 20–7471. *PEREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 20–7472. *MILNER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 20–7473. *OBREGON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 834 Fed. Appx. 117.

No. 20–7475. *JESSIE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 826 Fed. Appx. 410.

No. 20–7476. *RAMOS CABRERA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 837 Fed. Appx. 981.

593 U. S.

April 19, 2021

No. 20–7477. *JABBAR v. GRAHAM, JUDGE, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO*. C. A. 6th Cir. Certiorari denied.

No. 20–7483. *MEDEL-GUADALUPE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 987 F. 3d 424.

No. 20–7486. *GUZMAN-MERCED v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 984 F. 3d 18.

No. 20–7488. *HAMPTON v. WILLIAMS, WARDEN*. C. A. 5th Cir. Certiorari denied. Reported below: 812 Fed. Appx. 243.

No. 20–7489. *FORMICA v. CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied. Reported below: 823 Fed. Appx. 178.

No. 20–7493. *LUIS SANCHEZ v. HOLBROOK ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 342.

No. 20–7494. *SIMMONS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 20–7496. *SPRIGGS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 825 Fed. Appx. 125.

No. 20–7498. *ALMEIDA-OLIVAS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 20–7501. *ARROYO-HERNANDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 821 Fed. Appx. 396.

No. 20–7503. *JONES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 833 Fed. Appx. 528.

No. 20–7507. *FAELLA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 819 Fed. Appx. 844.

No. 20–7508. *CAMPBELL v. BROWN, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 813 Fed. Appx. 142.

No. 20–7509. *LEON DEL ANGEL v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 837 Fed. Appx. 475.

No. 20–7516. *PORTILLO v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 981 F. 3d 181.

April 19, 2021

593 U. S.

No. 20–7519. *SALWAN v. HIRSHFELD, ACTING UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE*. C. A. Fed. Cir. Certiorari denied. Reported below: 825 Fed. Appx. 862.

No. 20–7521. *LEWIS v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 185 App. Div. 3d 415, 127 N. Y. S. 3d 33.

No. 20–7524. *BYRD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 838 Fed. Appx. 762.

No. 20–7529. *MOORE v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 20–7546. *SHUMPERT v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 20–7551. *BOLZE v. WARDEN, FEDERAL CORRECTIONAL INSTITUTION COLEMAN*. C. A. 6th Cir. Certiorari denied.

No. 20–7552. *ALVAREZ-REYES v. CAIN, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION*. C. A. 9th Cir. Certiorari denied.

No. 20–7556. *McKNIGHT v. JOHNSON ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 839 Fed. Appx. 130.

No. 20–7567. *COLE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–8. *DEUTSCHE BANK TRUST COMPANY AMERICAS ET AL. v. ROBERT R. MCCORMICK FOUNDATION ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 946 F. 3d 66.

No. 20–209. *GADELHAK v. AT&T SERVICES, INC.* C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 950 F. 3d 458.

No. 20–363. *WHATLEY v. WARDEN, GEORGIA DIAGNOSTIC AND CLASSIFICATION PRISON*. C. A. 11th Cir. Certiorari denied. Reported below: 927 F. 3d 1150.

593 U. S.

SOTOMAYOR, J., dissenting

JUSTICE SOTOMAYOR, dissenting.

A jury sentenced petitioner Frederick R. Whatley to death the morning after watching him reenact a murder while wearing unnecessary leg irons and manacles. When the State called Whatley to the stand during the sentencing proceeding, his attorney waved away the prosecutor's concerns about the visible shackles, then sat silent when the prosecutor handed Whatley a fake gun and asked him to reenact the murder for which he had just been convicted. Defense counsel's unreasonable failure to object to Whatley's shackling was plainly prejudicial under this Court's precedent. I would grant the petition, summarily reverse, and remand for a new sentencing proceeding.

I

Following Whatley's conviction for robbing and killing the owner of a Georgia bait shop and liquor store, the State asked the jury to impose a sentence of death. The sentencing proceeding involved just one day of evidence. The State relied on two, conceded statutory aggravating circumstances: Whatley committed the murder (1) during an armed robbery, Ga. Code Ann. § 17-10-30(b)(2) (Supp. 2019), and (2) after having "escaped from [a] place of lawful confinement," § 17-10-30(b)(9), because he had walked away from a halfway house to which he had been paroled a few months earlier. The State further showed that Whatley had prior convictions for forging a check, threatening a man with a shotgun and taking his wallet, and simple assault. Finally, the State elicited testimony from a sheriff's deputy that Whatley once wondered aloud whether he would miss the Super Bowl while in custody. Electronic Case Filing in *Whatley v. Upton*, No. 3:09-cv-00074, Doc. 7-9 (ND Ga., July 28, 2009), pp. 15, 22 (ECF). This, the State argued, proved Whatley felt no remorse for his crimes. ECF Doc. 7-11, at 31.

Defense counsel called a number of Whatley's friends and family, followed by Whatley himself. Whatley had worn shackles throughout the guilt phase, but the court took care to ensure the jury did not see the restraints. See, e.g., ECF Doc. 7-5, at 110, 135-138. When defense counsel called Whatley to testify at sentencing, the prosecutor sensibly asked if the court needed to "take the jury out before he takes the stand" in light of the "chains" and "shackles on him." Defense counsel waved off the prosecutor's concern. "Well, he's convicted now," he shrugged, referencing

the jury's earlier guilty verdict. The trial court echoed that conclusion: "He's been convicted." ECF Doc. 7–9, at 106. The court never found that the restraints were even necessary, much less that there was no way to hide them from the jury.

Whatley hobbled to the witness stand. His leg irons and cuffs were in plain view. He testified for several hours in those restraints. Among other things, Whatley contested the State's version of the shooting for which he had been convicted. The State claimed that Whatley tried to execute the witnesses to his crime after the storeowner gave him the money, shooting the owner in the chest and nearly shooting an employee but hitting the counter instead. The storeowner, mortally wounded, pulled his own gun. Whatley ran, and the two exchanged shots in the parking lot before the owner died. Whatley, however, testified that the storeowner pulled a gun immediately after giving him the money, and Whatley reflexively fired a single shot that hit the counter before running away. The owner gave chase, and Whatley killed him during the shootout outside.

On cross-examination, the prosecutor asked Whatley to "step down" from the witness box to demonstrate his version of events. The prosecutor handed Whatley a "toy pistol," noting, "Now, this is not the type of gun you had that day. I hope you'll understand why I don't want to give you a real gun." ECF Doc. 7–10, at 13. He told Whatley to "show this jury how you held a gun on [the victim] and told him to give you that money. Now, you go ahead and show them. You pretend I'm [the victim]. You pull the gun on me and show them how you did it." *Id.*, at 14. With no objection from his attorney, Whatley reenacted the armed robbery and shooting, shuffling around the courtroom with shackles on his legs and waving the gun around with cuffs on his wrists. The prosecutor maintained a running commentary. See *ibid.* ("Show me how you pointed it at him"); *id.*, at 15 ("I want you to point the gun at me just like you did him that day"). He ended his cross-examination shortly thereafter. *Id.*, at 19. Defense counsel never objected.

The next morning, the prosecutor argued in closing that the jury should sentence Whatley to death primarily because he posed a severe threat of future violence. See, *e. g.*, ECF Doc. 7–11, at 20 ("[I]f you think that a guard gets between him and life and he won't kill a guard, you'd better think again"). The court gave

no curative instruction about Whatley's shackling. The jury deliberated for 90 minutes before recommending the death penalty.

On direct appeal, the Georgia Supreme Court found that Whatley forfeited his claim that his visible shackling violated his due process rights because his lawyer affirmatively waived any objection despite the prosecutor's stated concerns. *Whatley v. State*, 270 Ga. 296, 302, 509 S. E. 2d 45, 52 (1998).

Whatley then filed a state habeas petition, arguing that his trial attorney's failure to object to his unnecessary shackling constituted ineffective assistance of counsel. The Georgia Supreme Court rejected the petition. *Whatley v. Terry*, 284 Ga. 555, 571–572, 668 S. E. 2d 651, 663 (2008). While acknowledging that unnecessary shackling is presumptively prejudicial when an objection is properly preserved, the court held that defendants retain their burden to show prejudice when they claim trial counsel was ineffective for failing to object. *Ibid.* The court summarily concluded that Whatley had not made that showing. *Ibid.*

Whatley filed a federal habeas petition, arguing that the state court's denial of his ineffective-assistance claim was contrary to and an unreasonable application of clearly established federal law. The Eleventh Circuit disagreed. 927 F. 3d 1150, 1184–1187 (2019). The court explained at length why Whatley was not entitled to a presumption of prejudice, and then determined in one short paragraph that Whatley's "violent criminal history" and failure to "turn things around," together with the crimes at issue, rendered the shackling "trivial." *Id.*, at 1187.

Judge Jordan dissented. In his view, the state court's ruling might have been reasonable "had the shackles merely been visible to the jury when Mr. Whatley walked to the witness box. Or if the trial court had given a curative instruction to the jury about the restraints. Or if Mr. Whatley was not forced to reenact the murder in front of the jury while the prosecutor played the role of the victim. Or if the prosecutor had not explicitly made Mr. Whatley's future dangerousness a key theme in favor of his request for death." *Id.*, at 1193. But with these facts taken together, prejudice was "undeniable." *Ibid.*

II

To succeed on an ineffective-assistance-of-counsel claim, Whatley must show that his counsel's deficient performance prejudiced

him. *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984). Prejudice means a “reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.*, at 694. Because Georgia requires unanimity to impose a capital sentence, Whatley need only show a reasonable probability that one juror would have voted against the death penalty absent his counsel’s deficiency.¹ See *Wiggins v. Smith*, 539 U.S. 510, 537 (2003). However, relief is only available under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) if the state court’s conclusion that any deficiency was not prejudicial “was contrary to, or involved an unreasonable application of, clearly established Federal law.” 28 U.S.C. § 2254(d)(1). Under this standard, federal courts do not defer to a “state-court decision that correctly identifies the governing legal rule but applies it unreasonably to the facts of a particular prisoner’s case.” *Williams v. Taylor*, 529 U.S. 362, 407–408 (2000).

III

A

This Court long ago recognized that “no person should be tried while shackled . . . except as a last resort,” in part because “the sight of shackles . . . might have a significant effect on the jury’s feelings about the defendant.” *Illinois v. Allen*, 397 U.S. 337,

¹Georgia argued in state court that “counsel should not be regarded as having performed deficiently by failing to object to the shackling, because the practice had not yet been established as unconstitutional.” *Whatley v. Terry*, 284 Ga. 555, 571, 668 S. E. 2d 651, 663 (2008). The Georgia Supreme Court all but rejected that argument, as it “had already strongly suggested in dictum that it was unconstitutional to place visible shackles on a death penalty defendant during the sentencing phase without a showing of particular need.” *Ibid.*, and n. 38 (citing *Moon v. State*, 258 Ga. 748, 755, 375 S. E. 2d 442, 449 (1988)). Given its conclusion on prejudice, however, the court simply assumed deficiency. 284 Ga., at 571, 668 S. E. 2d, at 663. The State wisely does not raise this issue here. In addition to state-court decisions, this Court had several times emphasized the prejudicial nature of shackling, well before the trial in this case. See *Illinois v. Allen*, 397 U.S. 337, 344 (1970); *Holbrook v. Flynn*, 475 U.S. 560, 568–569 (1986). Indeed, the prosecutor himself suggested that the court excuse the jury so Whatley could take the stand outside their presence, thus hiding his chains. ECF Doc. 7–9, at 106. Certainly, a reasonable defense attorney would not have taken it upon himself to overrule the prosecutor’s objection to the defendant’s unfair treatment.

344 (1970). “Shackling” is “the sort of inherently prejudicial practice that . . . should be permitted only where justified by an essential state interest specific to each trial.” *Holbrook v. Flynn*, 475 U.S. 560, 568–569 (1986).

In 2005, this Court held that needless, visible shackling at sentencing likewise violates a capital defendant’s right to due process under the Fifth and Fourteenth Amendments. *Deck v. Missouri*, 544 U.S. 622, 633 (2005). In that case, Carman Deck was visibly “shackled with leg irons, handcuffs, and a belly chain” during his capital sentencing, over his attorney’s objection and with no finding of specific need. *Id.*, at 625. This Court explained in no uncertain terms that shackling is highly likely to be prejudicial at a capital sentencing:

“The Court has stressed the acute need for reliable decision-making when the death penalty is at issue. The appearance of the offender during the penalty phase in shackles, however, almost inevitably implies to a jury, as a matter of common sense, that court authorities consider the offender a danger to the community—often a statutory aggravator and nearly always a relevant factor in jury decisionmaking, even where the State does not specifically argue the point. It also almost inevitably affects adversely the jury’s perception of the character of the defendant. And it thereby inevitably undermines the jury’s ability to weigh accurately all relevant considerations—considerations that are often unquantifiable and elusive—when it determines whether a defendant deserves death.” *Id.*, at 632–633 (citations and internal quotation marks omitted).

Because these prejudicial effects “‘cannot be shown from a trial transcript,’” the Court in *Deck* further held that “where a court, without adequate justification, orders the defendant to wear shackles that will be seen by the jury, the defendant need not demonstrate actual prejudice to make out a due process violation.” *Id.*, at 635. The burden instead rests on the State to prove the shackling harmless. *Ibid.*

B

To be sure, *Deck* does not require reviewing courts to presume prejudice when the defendant fails to object to his shackling at trial. This Court has not decided to what extent such a presump-

tion applies on collateral review, in the context of an ineffective-assistance-of-counsel claim. Cf. *Weaver v. Massachusetts*, 582 U. S. 286, 302 (2017). Both the Georgia Supreme Court and Eleventh Circuit held that the *Deck* presumption does not apply to ineffective-assistance-of-counsel claims. 284 Ga., at 571–572, 668 S. E. 2d, at 663; 927 F. 3d, at 1184–1187. That was not a clearly erroneous application of federal law.

What was clearly unreasonable, however, was to ignore entirely the ways in which visible shackling is likely to distort the outcome of a capital sentencing proceeding. As *Deck* explains, reasonable jurors confronted with a defendant in chains will assume court officials have determined those chains were necessary to prevent the defendant from trying to escape or attack the lawyers, the judge, or even the jurors. Chains paint a defendant as an immediate threat. Jurors faced with a defendant in shackles will find it more difficult to consider the defendant as a whole person and to weigh mitigating evidence impartially. If jurors think the court does not trust a capital defendant to avoid violence at his own sentencing proceeding, with his life on the line, they are unlikely to trust him to do so while serving a life sentence with no hope of parole. “In these ways, the use of shackles can be a thumb on death’s side of the scale.” *Deck*, 544 U. S., at 633 (alteration and internal quotation marks omitted).

Absent a presumption, this may not matter in some cases. Other facts may overwhelmingly suggest a defendant’s future dangerousness, or the circumstances surrounding the shackling may indicate it likely did not matter. Reasonable jurists faithfully applying *Strickland* in light of the observations in *Deck* might then disagree about whether counsel’s failure to object may have caused prejudice. Under AEDPA, federal courts should defer to state-court decisions finding no prejudice in such cases.

That is not what happened here. For the grand finale of his cross-examination, the prosecutor handed Whatley a fake gun and had him reenact the murder, with the prosecutor playing the victim. Whatley’s chains clanked and rattled with every move, constantly reminding the jury that the court apparently believed he might do more than just pretend to kill someone in the courtroom if left unrestrained. Leaving nothing to implication, the prosecutor remarked, “I hope you’ll understand why I don’t want to give you a real gun.” ECF Doc. 7–10, at 13.

593 U. S.

April 19, 2021

The prosecutor hammered this point home at length in closing. “Frederick Whatley,” he told the jury, “is going to kill somebody else unless you execute him.” ECF Doc. 7–11, at 17. Prison was “only going to make him smarter and meaner.” *Id.*, at 27. “[D]o you think he won’t kill a guard if that guard stands between him and freedom? He will be a threat until the day he is executed.” *Ibid.* “This man should be given the death penalty because he is dangerous, he has had a history of violence, he’s never going to get any better than what you’ve seen right now.” *Id.*, at 28.

Whatley’s chains, fresh in the jury’s mind from the previous afternoon’s spectacle, powerfully corroborated the prosecutor’s argument. It is hard to imagine a more prejudicial example of needless shackling.

On the other hand, Whatley’s criminal history was relatively minor and largely from his teenage years. The statutory aggravators in his case were less serious than in many other capital cases.² The State’s only evidence of lack of remorse was that Whatley likes football. The evidence at the sentencing proceeding also showed that Whatley’s mother abandoned him, he never knew his father, and he was experiencing homelessness when he committed this crime. Whatley’s friends and family testified to his redeeming qualities and begged the jury to show mercy. If Whatley had testified free of chains, it is reasonably probable that at least one juror would have done so.

On these facts, defense counsel’s failure to object to Whatley’s unnecessary shackling renders his death sentence not only unreliable, but unconstitutional. The only way to conclude otherwise is to disregard this Court’s clear precedent about the likely effect of visible, unnecessary shackling. Because I would not allow the State to put Frederick Whatley to death based on such a constitutionally flawed sentencing proceeding, I respectfully dissent.

No. 20–902. *FLICK v. GARLAND*, ATTORNEY GENERAL. C. A. 11th Cir. Motion of Firearms Policy Coalition et al. for leave to

² See, e.g., Ga. Code Ann. § 17–10–30(b)(7) (authorizing the death penalty for those who commit murders that involve “torture, depravity of mind, or an aggravated battery”); § 17–10–30(b)(11) (authorizing the death penalty for those who commit murder and have prior convictions for “rape, aggravated sodomy, aggravated child molestation, or aggravated sexual battery”).

April 19, 2021

593 U. S.

file brief as *amici curiae* granted. Certiorari denied. Reported below: 812 Fed. Appx. 974.

No. 20–982. *BROWN v. POLK COUNTY, WISCONSIN, ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 965 F. 3d 534.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

Petitioner Sharon Lynn Brown asks this Court to decide what degree of suspicion the Fourth Amendment requires to justify the physically penetrative cavity search of a pretrial detainee. While Brown was in pretrial detention, officials at Polk County Jail directed a male doctor to insert a speculum into her vagina, spread it open, and shine a flashlight inside to search for contraband. The doctor did the same to Brown’s anus. The Court of Appeals for the Seventh Circuit held that mere reasonable suspicion justified this search. That is, for example, the same degree of suspicion required for police to stop someone on the street and ask a few, brief questions. See *Terry v. Ohio*, 392 U.S. 1, 21–22 (1968). Brown argues this much more invasive search required probable cause and a warrant or exigent circumstances. Those are, by comparison, the same prerequisites for police to draw blood from an unconscious motorist to determine his blood alcohol content. See *Mitchell v. Wisconsin*, 588 U.S. 840, 857 (2019).

This petition raises an important question. Nonetheless, I agree with the Court’s decision to deny certiorari, as “further consideration of the substantive and procedural ramifications of the problem by other courts will enable us to deal with the issue more wisely at a later date.” *McCray v. New York*, 461 U.S. 961, 962 (1983) (Stevens, J., statement respecting denial of certiorari).

It bears emphasis, however, that the degree of suspicion required for a search should be substantially informed by the availability of less intrusive alternatives. This Court does not lightly permit an entire category of warrantless, invasive searches when less offensive options exist. Particularly searches of those who have not been convicted of any crime. The courts below considered no such alternatives before holding that reasonable suspicion alone justified this degrading search into Brown’s vagina and anus. Future courts presumably will not do the same.

I

In May 2017, police arrested Brown for shoplifting and took her to Wisconsin's Polk County Jail. The jail's written policy at the time permitted officials to direct medical personnel to perform "an inspection and penetration of the anal or vaginal cavity . . . by means of an instrument, apparatus, or object, or in any other manner" whenever they had "reasonable grounds" to believe a detainee was concealing "weapons, contraband, or evidence," or otherwise "believe[d] that the safety and security of the jail would benefit" from such a search. Electronic Case Filing in No. 3:18-cv-00391, Doc. 12-1 (WD Wis.), pp. 1, 6 (ECF). At least one correctional officer, respondent Steven Hilleshiem, sought permission for penetrative vaginal and anal searches "any time one inmate sa[id] another inmate ha[d] contraband on their person in a body cavity." ECF Doc. 14, p. 6, Tr. 19. He generally would not investigate the tipster's source, determine her reputation for honesty, or seek any other indicia of reliability. *Id.*, at 5-6, Tr. 17-19. In his view, the tip alone provided "reasonable grounds." *Id.*, at 7, Tr. 23. The jail administrator, respondent Wes Revels, similarly needed only Hilleshiem's word to approve a search. ECF Doc. 19, pp. 7-8, Tr. 22-23, 26-28.

A day after Brown's arrest, two inmates told jail staff that Brown was hiding drugs in her body. Hilleshiem contacted Revels, who authorized a cavity search.¹ Brown was taken to the hospital, where a male doctor performed an ultrasound that revealed no foreign objects. The doctor then inserted a speculum into her vagina, spread open the vaginal walls, and shined his headlamp inside. He did the same to her anus. He found no contraband.

Brown testified that, when the doctor removed the speculum from her anus, "I immediately started crying. I couldn't stop. I cried myself to sleep. I cried all the way back to the jail. I cried the whole time I was getting dressed." ECF Doc. 17, p. 32, Tr. 121. When she returned to the jail, she "asked to stay in the holding cell because [she] couldn't quit crying." *Ibid.*, Tr. 124. This trauma left Brown with anxiety and depression. She slept just three hours a night. *Id.*, at 15, Tr. 55. She experienced

¹ Because it is irrelevant to the question presented, there is no need to address whether these tips in fact provided reasonable suspicion.

flashbacks and feared leaving the house, terrified the police would pull her over and send her back to jail. *Id.*, at 15, Tr. 53; *id.*, at 17, Tr. 62–63. Nearly two years later, Brown was still afraid of being alone in a room with a man. Even her own brother. *Id.*, at 16–17, Tr. 59–61.

Brown sued Polk County, Hilleshiem, Revels, and others, alleging that they violated her Fourth Amendment right to be free from unreasonable searches. The District Court granted respondents’ motion for summary judgment, concluding that a penetrative cavity search of a pretrial detainee requires only reasonable suspicion. The Seventh Circuit agreed. “[G]iven the heft of the security interest at stake,” it reasoned, “the invasion to [Brown’s] privacy was not so . . . grea[t] that it pushes the threshold suspicion requirement into probable cause.” 965 F. 3d 534, 540 (2020).

II

The Seventh Circuit nowhere considered whether something less intrusive than “prying open [Brown’s] vagina and anus” was sufficient to ensure jail security. *Id.*, at 541. That was error. The necessity of a search and its extent cannot be determined in a vacuum. It must instead “be judged in light of the availability of . . . less invasive alternative[s].” *Birchfield v. North Dakota*, 579 U. S. 438, 474 (2016). When such an option exists, the State must offer a “satisfactory justification for demanding the more intrusive alternative.” *Ibid.* See also *Florida v. Royer*, 460 U. S. 491, 500 (1983) (“[T]he investigative methods employed should be the least intrusive means reasonably available to verify or dispel the officer’s suspicion”).

This Court has thus held, for example, that the availability of a breath test to determine a suspect’s blood alcohol content makes a blood draw for that purpose unreasonable, absent a warrant or exigent circumstances. *Birchfield*, 579 U. S., at 474. Two Members of this Court have underscored the importance of considering less intrusive alternatives in the context of searching pretrial detainees. See *Florence v. Board of Chosen Freeholders of County of Burlington*, 566 U. S. 318, 341–342 (2012) (ALITO, J., concurring) (“[A]dmission to the general jail population, with the concomitant humiliation of a strip search, may not be reasonable” for those who will soon be released, “particularly if an alternative procedure is feasible,” such as separating “minor offenders from the general population”); *id.*, at 340 (ROBERTS, C. J., concurring)

(emphasizing that “there was apparently no alternative” to housing the arrestee with the general population).

This is a sensible rule, particularly where, as here, the State seeks a categorical exception to the Fourth Amendment’s warrant requirement. If courts permit extraordinarily intrusive searches of pretrial detainees without a warrant, correctional officers may abandon less invasive, but more burdensome, practices. Likewise, if officers are free to decide for themselves if they have the requisite degree of suspicion, some may cross the line, even if in perfectly good faith.² See *Brinegar v. United States*, 338 U.S. 160, 182 (1949) (Jackson, J., dissenting) (“We must remember that the extent of any privilege of search and seizure without warrant which we sustain, the officers interpret and apply themselves and will push to the limit”). The consequences will be borne by both the innocent and the guilty.

Consider Polk County Jail. Its official policy was to perform penetrative searches of pretrial detainees’ vaginal and anal cavities based on mere reasonable suspicion. In practice, both Hilleshiem and Revels believed that even the barest accusations met that standard, with no corroboration needed. But see, *e.g.*, *Alabama v. White*, 496 U.S. 325, 330 (1990) (“[I]f a tip has a relatively low degree of reliability, more information will be required to establish the requisite quantum of suspicion”). Anyone could have suffered the indignity of this practice. “If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.” *Atwater v. Lago Vista*, 532 U.S. 318, 354 (2001). Meanwhile, “criminal laws have grown so exuberantly and come to cover so much previously innocent conduct that almost anyone can be arrested for something.” *Nieves v. Bartlett*, 587 U.S. 391, 412 (2019) (GORSUCH, J., concurring in part and dissenting in part). An unbuckled seatbelt, a noisy muffler, an unleashed dog: Any one of countless petty misdemeanors might land you in jail. See *Florence*, 566 U.S., at 346–347 (BREYER, J., dissenting). Polk County did not distinguish between detainees. An unverified charge

²That said, “the authority which we concede to conduct searches and seizures without [a] warrant may be exercised by the most unfit and ruthless officers as well as by the fit and responsible.” *Brinegar v. United States*, 338 U.S. 160, 182 (1949) (Jackson, J., dissenting).

April 19, 2021

593 U. S.

from a stranger with unknown motives could send anyone to the hospital for a penetrative search, just like Brown.³

Given the degrading nature of the search in this case, less invasive possibilities abound. The court below did not address the option of a solely visual search, see *id.*, at 322, or multiple visual searches over time. Prison officials could order an X ray or transabdominal ultrasound, as occurred here. They could isolate the detainee and investigate further to obtain probable cause. They could await a monitored bowel movement. See *United States v. Montoya de Hernandez*, 473 U. S. 531, 534–535, 541, and n. 4 (1985) (upholding prolonged detention of a traveler at the border reasonably suspected of smuggling contraband in her body); *United States v. Booker*, 728 F. 3d 535, 547 (CA6 2013) (discussing Customs and Border Patrol policy to first “attempt an x-ray,” then “engage in a monitored bowel movement,” and “only engage in an involuntary body cavity search after obtaining a court order”). There are likely many other less invasive options worth considering.

Some of these searches would be, to different degrees, less effective than that performed here. As discussed above, this is not the case to decide whether a penetrative cavity search is necessarily unreasonable in light of these potential alternatives. Going forward, however, courts must consider less intrusive possibilities before categorically allowing warrantless searches. This obligation weighs particularly heavily for dehumanizing searches of pretrial detainees like that which Brown endured here.

No. 20–1008. STATE FARM LIFE INSURANCE CO. *v.* VOGT. C. A. 8th Cir. Motion of American Council of Life Insurers for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 963 F. 3d 753.

³ People of color disproportionately bear these burdens. Brown is a member of the Fond du Lac Band of Lake Superior Chippewa. ECF Doc. 17, p. 17. Native American people are vastly overrepresented in Wisconsin jails and prisons. See Brief for National Alliance To End Sexual Violence et al. as *Amici Curiae* 12–13. Native American women, meanwhile, “experience sexual violence at higher rates than any other population in the United States.” *Id.*, at 14. Consequently, “non-consensual body cavity searches are more likely to traumatize and retraumatize” Native American women and their communities. *Ibid.*

593 U. S.

April 19, 2021

No. 20–1086. *STEPHENS v. DOW CHEMICAL CO.* Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 20–1107. *MELVIN v. FEDERAL EXPRESS CORP.* C. A. 11th Cir. Motion of Jobs With Justice for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 814 Fed. Appx. 506.

No. 20–7148. *FAWLEY v. JABLONSKI ET AL.* C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 827 Fed. Appx. 805.

No. 20–7437. *RAMSEY v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 830 Fed. Appx. 584.

No. 20–7467. *CARVER v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

Rehearing Denied

No. 19–8413. *POPE v. DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS*, 591 U. S. 1007;

No. 20–607. *DREVALEVA v. ALAMEDA HEALTH SYSTEM*, 592 U. S. 1174;

No. 20–732. *WYCHE v. OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION*, 592 U. S. 1235;

No. 20–758. *REYNOLDS v. U. S. BANK N. A.*, 592 U. S. 1264;

No. 20–781. *UNITED STATES EX REL. CONCILIO DE SALUD INTEGRAL DE LOIZA, INC., ET AL. v. J. C. REMODELING, INC., ET AL.*, 592 U. S. 1265;

No. 20–863. *AKEVA L. L. C. v. NIKE, INC., ET AL.*, 592 U. S. 1267;

No. 20–909. *RANDHAWA v. BANK OF NEW YORK MELLON, FKA BANK OF NEW YORK*, 592 U. S. 1303;

No. 20–932. *FRANKLIN v. LAUGHLIN ET AL.*, 592 U. S. 1303;

No. 20–942. *BUIE v. DEPARTMENT OF LABOR, ADMINISTRATIVE REVIEW BOARD*, 592 U. S. 1310;

April 19, 23, 2021

593 U. S.

- No. 20–978. *METAXAS v. UNITED STATES*, 592 U. S. 1269;
No. 20–5504. *MARTIN v. CAPRON ET AL.*, 592 U. S. 1028;
No. 20–5532. *GOLDEN v. UNITED STATES*, 592 U. S. 1128;
No. 20–5594. *LUCY v. ESTATE OF FOX*, 592 U. S. 1079;
No. 20–6139. *ALVARADO v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*, 592 U. S. 1182;
No. 20–6325. *DELIMA v. WALMART STORES ARKANSAS, LLC*, 592 U. S. 1221;
No. 20–6413. *SHEPARD v. DEPARTMENT OF VETERANS AFFAIRS ET AL.*, 592 U. S. 1311;
No. 20–6423. *LEE v. AT&T SERVICES, INC., ET AL.*, 592 U. S. 1190;
No. 20–6501. *RILEY v. MEEHAN*, 592 U. S. 1272;
No. 20–6525. *ARANOFF v. ARANOFF*, 592 U. S. 1272;
No. 20–6961. *PFOFF v. UNITED STATES*, 592 U. S. 1285; and
No. 20–6976. *DOCTOR v. UNITED STATES*, 592 U. S. 1285. Petitions for rehearing denied.
- No. 20–302. *DOTSON v. UNITED STATES*, 592 U. S. 1003;
No. 20–976. *PENNY v. LINCOLN’S CHALLENGE ACADEMY*, 592 U. S. 1306; and
No. 20–6487. *JOHNSTON v. UNITED STATES*, 592 U. S. 1225. Petitions for rehearing denied. JUSTICE BARRETT took no part in the consideration or decision of these petitions.
- No. 20–5989. *KARNOFEL v. SUPERIOR WATERPROOFING, INC.*, 592 U. S. 1152. Motion for leave to file petition for rehearing denied.

APRIL 23, 2021

Miscellaneous Order

- No. 19–251. *AMERICANS FOR PROSPERITY FOUNDATION v. RODRIQUEZ, ACTING ATTORNEY GENERAL OF CALIFORNIA*; and
No. 19–255. *THOMAS MORE LAW CENTER v. RODRIQUEZ, ACTING ATTORNEY GENERAL OF CALIFORNIA*. C. A. 9th Cir. [Certiorari granted *sub nom.* in No. 19–251, *Americans for Prosperity Foundation v. Becerra*; in No. 19–255, *Thomas More Law Center v. Becerra*, 592 U. S. 1162.] Motion of Thomas More Law Center to file reply brief out of time granted.

593 U. S.

APRIL 26, 2021

Certiorari Granted—Vacated and Remanded. (See also *Alaska v. Wright*, 593 U. S. 152 (2021) (*per curiam*).)

No. 20–746. *SOUTH BAY UNITED PENTECOSTAL CHURCH ET AL. v. NEWSOM, GOVERNOR OF CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Tandon v. Newsom*, 593 U. S. 61 (2021) (*per curiam*).

Certiorari Dismissed

No. 20–7201. *ALFRED v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. Reported below: 809 Fed. Appx. 737.

Miscellaneous Orders

No. 20A150. *TEXAS ET AL. v. COOK COUNTY, ILLINOIS, ET AL. D. C. N. D. Ill.* In 2019, the Department of Homeland Security promulgated through notice and comment a rule defining the term “public charge.” The District Court in this case vacated the rule nationwide, but that judgment was stayed pending DHS’ appeal to the United States Court of Appeals for the Seventh Circuit. On March 9, 2021, following the change in Presidential administration, DHS voluntarily dismissed that appeal, thereby dissolving the stay of the District Court’s judgment. And on March 15, DHS relied on the District Court’s now-effective judgment to remove the challenged rule from the Code of Federal Regulations without going through notice and comment rulemaking. Shortly after DHS had voluntarily dismissed its appeal, a group of States sought leave to intervene in the Court of Appeals. When that request was denied, the States filed an application for leave to intervene in this Court and for stay of the District Court’s judgment. The States argue that DHS has prevented enforcement of the rule while insulating the District Court’s judgment from review. The States also contend that DHS has rescinded the rule without following the requirements of the Administrative Procedure Act. We deny the application, without prejudice to the States raising these and other arguments before the District

April 26, 2021

593 U. S.

Court, whether in a motion for intervention or otherwise. After the District Court considers any such motion, the States may seek review, if necessary, in the Court of Appeals, and in a renewed application in this Court. JUSTICE BARRETT took no part in the consideration or decision of this application.

No. 20M70. *ZEGEYE v. WELLS FARGO BANK, N. A.*; and

No. 20M72. *MONTANA DEPARTMENT OF PUBLIC SERVICE REGULATION v. MTSUN, LLC*. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 20M71. *KING v. KLEM ET AL.* Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 153, Orig. *TEXAS v. CALIFORNIA*. Motion for leave to file bill of complaint denied. [For earlier order herein, see 590 U. S. 991.]

JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting.

Suppose the following occurred. A Texan and a Californian are involved in a traffic accident in California. The Texan tries to sue the Californian in federal district court and invokes the “diversity” jurisdiction conferred by 28 U. S. C. § 1332(a)(1), which provides that “[t]he district courts shall have original jurisdiction of all civil actions . . . between . . . citizens of different States” where the amount in controversy exceeds \$75,000. Suppose the district court refuses to allow the filing of the complaint and explains: “I know that the Constitution and a federal statute give me jurisdiction over diversity cases, and I know that the Framers of the Constitution and the Congress that enacted the statute thought that diversity jurisdiction was important because it provides a neutral forum for out-of-state parties. But in my opinion, that’s not really so important anymore, and if I have to handle diversity suits, I won’t have the time I need to deal with more important matters. Therefore, in the exercise of my discretion, I am ordering that the complaint not be accepted for filing.” Suppose a court of appeals affirmed this decision and the case came before us. What would we do?

We would reverse in the blink of an eye. We might also wag a finger at the lower courts and remind them that a federal court’s obligation to hear and decide cases within its jurisdiction is “vir-

tually unflagging.” *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976); see also, e.g., *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 126 (2014); *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, 77 (2013). We might emphasize that federal courts do not have free-wheeling discretion to spurn categories of cases that they don’t like.

If this is how we would respond to this imaginary Texan versus Californian tort suit, how can we refuse to allow the filing of the complaint in this case? The State of Texas wishes to sue the State of California and invokes our “original and exclusive jurisdiction of all controversies between two or more States.” 28 U.S.C. §1251(a); see also U.S. Const., Art. III, §2, cl. 2. Can we justify our refusal to entertain Texas’s suit on essentially the same ground that we would reject out of hand in the hypothetical diversity case just described, that is, on the ground that our original jurisdiction no longer seems as important as it was when the Constitution was adopted, and that a proliferation of original cases would crowd out more important matters on our appellate docket? See *Illinois v. Milwaukee*, 406 U.S. 91, 93–94 (1972); *Ohio v. Wyandotte Chemicals Corp.*, 401 U.S. 493, 497–499 (1971). It is not easy to see how the refusal to entertain Texas’s suit can be justified on that ground—particularly since our rejection of Texas’s complaint leaves the State in a more difficult position than our imaginary Texas motorist. That person could at least file suit in a state court, but if our jurisdiction under §1251(a) is truly exclusive, the State is left without *any* judicial forum. Cf. *Franchise Tax Bd. of Cal. v. Hyatt*, 587 U.S. 230, 245 (2019) (noting “inability of one State to hale another into its courts without the latter’s consent”).

In fairness to the Court, what it does in this case—claiming the discretion to refuse to entertain Texas’s suit—is consistent with a practice the Court has followed for the past 45 years. But in all that time, the Court has never provided a convincing justification for the practice. In *Cohens v. Virginia*, 6 Wheat. 264 (1821), Chief Justice Marshall’s opinion for the Court famously proclaimed: “We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the constitution.” *Id.*, at 404.

The Court has stepped back a bit from this categorical pronouncement—but only a bit. See, e.g., *Sprint Communications*,

Inc., 571 U.S., at 77. The Court has repeatedly stressed that a federal court is *almost always* obligated to entertain a case over which it has jurisdiction. *Ibid.* Instances in which this is not required are the rare exception.

The Court's practice regarding original jurisdiction cases, however, has expanded far beyond anything that might be called an exception. Indeed, commentators have written that the practice has made our original jurisdiction "almost as discretionary as [our] certiorari jurisdiction over appellate cases." S. Shapiro, K. Geller, T. Bishop, E. Hartnett, & D. Himmelfarb, *Supreme Court Practice* 639 (10th ed. 2013) (hereinafter Stern & Gressman).

I

How did the Court come to adopt a practice that seems so inconsistent with the principle the *Cohens* Court thought self-evident? Like many a questionable habit, the practice developed incrementally. For the first 150 years after the adoption of the Constitution, the Court never refused to permit the filing of a complaint in a case falling within its original jurisdiction.¹ See Stern & Gressman 634; Stevenson, *Exclusive Original Jurisdiction of the United States Supreme Court: Does It Still Exist?* 1982 B. Y. U. L. Rev. 727, 729. The first whisper of the notion that the Court might decline to exercise its original jurisdiction appeared in *Louisiana v. Texas*, 176 U.S. 1 (1900). There, the Court held that the case did not actually constitute a dispute between two States, but it added that the Court's jurisdiction to hear such suits "is of so delicate and grave a character that it was not contemplated that it would be exercised save when the necessity was absolute." *Id.*, at 15.

Another 39 years would go by before the Court took the next step toward its current practice, and when it took that step, it did so in a roundabout way. In *Massachusetts v. Missouri*, 308 U.S. 1 (1939), the dispute concerned the two States' right to impose state inheritance taxes on securities held in trusts that had been created by a Massachusetts decedent but were adminis-

¹ The Court did not accept every case filed during that period, of course—it rejected some for lack of standing and on account of other justiciability defects. See, e.g., *Louisiana v. Texas*, 176 U.S. 1, 24 (1900) (Harlan, J., concurring in result) (arguing Article III did not bestow jurisdiction over cases testing the constitutionality of "local statutes or regulations that do not affect the property or the powers of the complaining State in its sovereign or corporate capacity"); see generally Stern & Gressman 622–634.

tered in Missouri by Missouri trustees. Noting that there were ample funds in the trusts to pay the taxes imposed by both States, the Court first held the dispute was not really between two States and that therefore the controversy did not fall within the Court's exclusive original jurisdiction. *Id.*, at 15–17. The Court then turned to Massachusetts's fallback argument that its claim could be understood as one against Missouri citizens and that therefore the claim at least fell within the Court's non-exclusive original jurisdiction over cases between a State and a citizen of another State. The Court expressed doubt that the bill could be read to assert such a claim and only then turned to the question whether the Court would be obligated to entertain the claim if the bill could be interpreted that way. The Court observed that a court is not always required to entertain a suit within its jurisdiction when the suit may be brought in another forum; that the suit at hand was not necessary for Massachusetts's "protection" because Massachusetts could apparently bring its suit in a Missouri court; and that entertaining suits like this one would potentially impose an "enormous burden" and "might seriously interfere with the discharge by th[e] Court of its duty in deciding cases and controversies appropriately brought before it." *Id.*, at 18–19.

In *Wyandotte Chemicals Corp.*, 401 U.S. 493, the Court returned to the question of declining to exercise its non-exclusive original jurisdiction. The Court acknowledged that "it may initially have been contemplated that this Court would always exercise its original jurisdiction when properly called upon to do so." *Id.*, at 497. But the Court opined that changes in the American legal system had rendered that view "untenable, as a practical matter." *Ibid.* "What gives rise to the necessity for recognizing [the] discretion" to decline to entertain original-jurisdiction cases, the Court explained, was "pre-eminently the diminished societal concern in our function as a court of original jurisdiction and the enhanced importance of our role as the final federal appellate court." *Id.*, at 499.

The next year, the Court said in dicta that it would exercise the same discretion in cases within its exclusive original jurisdiction: "We construe 28 U.S.C. § 1251(a)(1), as we do Art. III, § 2, cl. 2, to honor our original jurisdiction but to make it obligatory only in appropriate cases." *Illinois v. Milwaukee*, 406 U.S., at 93. The Court provided little justification for this assertion. In the next sentence, the Court noted that an important factor in

determining whether a case is “appropriate” is “the availability of another forum where there is jurisdiction over the named parties,” *ibid.*, but it is hard to see how this factor has a bearing on the refusal to exercise exclusive jurisdiction. And in the final sentence devoted to the subject, the Court gave this explanation: “We incline to a sparing use of our original jurisdiction so that our increasing duties with the appellate docket will not suffer.” *Id.*, at 93–94.

The dicta in *Illinois v. Milwaukee* became a holding in *Arizona v. New Mexico*, 425 U. S. 794 (1976) (*per curiam*), where, for the first time, the Court declined to exercise its exclusive jurisdiction in a controversy between two States. See *id.*, at 796–797. While the state parties could not litigate in any other federal court, the Court justified its decision by observing that the “issues tendered” were already being litigated in a pending state-court action. *Id.*, at 797.

Since that time, the Court has repeatedly declined to exercise its exclusive original jurisdiction in state-versus-state cases, relying on the rationales provided in these earlier decisions. See, e. g., *Wyoming v. Oklahoma*, 502 U. S. 437 (1992); *Louisiana v. Mississippi*, 488 U. S. 990 (1988); *Texas v. New Mexico*, 462 U. S. 554 (1983); *California v. Texas*, 457 U. S. 164 (1982) (*per curiam*). Justices have written separately to question whether we really have discretion to decline to hear such cases. See *Arizona*, 425 U. S., at 798–799 (Stevens, J., concurring); *California v. West Virginia*, 454 U. S. 1027 (1981) (Stevens, J., dissenting); *Louisiana*, 488 U. S., at 990 (White, J., dissenting); *Nebraska v. Colorado*, 577 U. S. 1211 (2016) (THOMAS, J., joined by ALITO, J., dissenting); *Arizona v. California*, 589 U. S. 1199 (2020) (same). And scholars have criticized the practice. See, e. g., R. Fallon, J. Manning, D. Meltzer, & D. Shapiro, *Hart and Wechsler’s The Federal Courts and the Federal System* 275 (7th ed. 2015); Shapiro, *Jurisdiction and Discretion*, 60 N. Y. U. L. Rev. 543, 561, 576 (1985); Stevenson, 1982 B. Y. U. L. Rev., at 747–748. But the Court has not relented.

II

The practice of refusing to permit the filing of a complaint in cases that fall within our original jurisdiction is questionable, and that is especially true when, as in this case, our original jurisdictional is exclusive. As the history recounted above reveals, the Court adopted this practice without ever providing a convincing

justification. The principal reason provided—that entertaining all suits between two States would crowd out consideration of more important matters on our appellate docket—rests on a dubious factual premise and, in any event, is essentially indistinguishable from the justification given by the imaginary district court judge with a distaste for diversity cases. And the suggestion in *Louisiana v. Texas*, 176 U.S., at 15, that we should hesitate to entertain suits between two States because they are of a “delicate and grave” character seems exactly backwards. It is precisely because these disputes have a “delicate and grave” character that they were placed exclusively in our hands. See *The Federalist* No. 81, p. 487 (C. Rossiter ed. 1961) (A. Hamilton) (“In cases in which a State might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal”); *California v. Arizona*, 440 U.S. 59, 65–66 (1979). Unlike the regional courts of appeals, the federal district courts, and the state courts, we are not tied to any region or State and were therefore entrusted with the responsibility of adjudicating cases where the suspicion of local bias may run high. Cf. *The Federalist* No. 80 (A. Hamilton); *Chisholm v. Georgia*, 2 Dall. 419, 475 (1793). The present case is just such a suit.

III

This case involves a dispute between our two most populous States. In 2016, the California Legislature enacted a law, AB 1887, that prohibits state-funded or state-sponsored travel to any State whose laws fail to meet specified standards regarding discrimination on the basis of sexual orientation, gender identity, or gender expression. See Cal. Govt. Code Ann. §11139.8 (West). The law authorizes the California attorney general to identify States that should be subject to the ban, §11139.8(e)(1), and as of the date of the filing of Texas’s motion, 11 States had been targeted: Alabama, Iowa, Kansas, Kentucky, Mississippi, North Carolina, Oklahoma, South Carolina, South Dakota, Tennessee, and Texas. According to press releases issued by California Attorney General Becerra and the State’s website, 9 of the 11 States were subjected to the ban because of laws or practices designed to protect religious liberty.² Iowa was placed on the list because it

² See California Will Restrict State-Funded and State-Sponsored Travel to South Carolina (Apr. 2, 2019), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-california-will-restrict-state-funded-and-state-0>; California

won't provide Medicaid coverage for gender-reassignment surgery. See California Will Restrict State-Funded and State-Sponsored Travel to Iowa (Sept. 13, 2019), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-california-will-restrict-state-funded-and-state-1>. Travel to North Carolina was banned because the State enacted a law requiring state agencies to maintain separate-sex bathrooms and changing facilities and that prohibited certain local antidiscrimination ordinances. See North Carolina Remains on List of Restricted States (Apr. 12, 2017), <https://oag.ca.gov/news/press-releases/attorney-general-xavier-becerra-north-carolina-remains-list-restricted-states>. Several of the States placed on California's list have retaliated by imposing similar restrictions on state-funded or state-sponsored travel to California. See Press Release, Office of Okla. Governor, Stitt Issues Executive Order Banning State-Funded Travel to California (Jan. 23, 2020), [https://www.governor.ok.gov/articles/press_releases/stitt-issues-executive-order-banning-state-funded-;](https://www.governor.ok.gov/articles/press_releases/stitt-issues-executive-order-banning-state-funded-) A. Sher, Legislators Strike Back at California Ban on State-Funded Travel to Volunteer State, *Chattanooga Times Free Press*, Mar. 16, 2018, 2018 WLNR 8221967.

In seeking to file its complaint, Texas argues that this is precisely the type of dispute for which our exclusive original jurisdiction was designed. Texas writes that “the model case for [the] invocation of [our] original jurisdiction is a dispute between States of such seriousness that it would amount to *casus belli* if the States were fully sovereign.” Brief in Support of Motion for Leave To File Bill of Complaint 15 (quoting *Texas v. New Mexico*, 462 U. S., at 571, n. 18; first alteration in original). Texas notes that economic sanctions have often roiled international relations and have sometimes led to war. Brief in Support of Motion 15–18. And Texas reminds us that the Founders were well aware

Will Restrict State-Funded and State-Sponsored Travel to Oklahoma (June 1, 2018), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-california-will-restrict-state-funded-and-state>; Alabama, Kentucky, South Dakota and Texas Added to List of Restricted State Travel (June 22, 2017), <https://oag.ca.gov/news/press-releases/attorney-general-becerra-alabama-kentucky-south-dakota-and-texas-added-list>; Cal. Dept. of Justice, Frequently Asked Questions (FAQs)—AB 1887: Why Are the States on the Travel Prohibition List?, <https://www.oag.ca.gov/ab1887/faqs> (citing Kansas, Mississippi, and Tennessee laws).

593 U. S.

April 26, 2021

of the danger of economic warfare between States. See *id.*, at 15–16 (citing *The Federalist* No. 7 (A. Hamilton)).

The Republic of Texas was an independent nation for 10 years (1836–1846), and the California Republic claimed a similar status for a brief time in 1846. If they were independent nations today, it is entirely possible that their dispute would be the source of considerable international tension. As sovereign nations, they might resolve their dispute by diplomacy, by submitting it to international arbitration, or by self-help measures. When they entered the Union, these two behemoths relinquished the full measure of sovereign power that they once possessed, see *Franchise Tax Bd.*, 587 U. S., at 245–247, but they acquired the right to have their disputes with other States adjudicated by the Nation’s highest court.

The Court now denies Texas that right. It will not even permit the filing of Texas’s bill of complaint. This understanding of our exclusive original jurisdiction should be reexamined. At a minimum, we should note probable jurisdiction and receive briefing and argument on the question. Texas raises novel constitutional claims, arguing that California’s travel ban violates the Privileges and Immunities Clause, U. S. Const., Art. IV, § 2, cl. 1, the Commerce Clause, Art. I, § 8, cl. 3, and the Equal Protection Clause, Amdt. 14, § 1. I express no view regarding any of those claims, but I respectfully dissent from the Court’s refusal even to permit the filing of Texas’s complaint.

No. 20–429. AMERICAN MEDICAL ASSN. ET AL. *v.* BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.;

No. 20–454. BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. *v.* MAYOR AND CITY COUNCIL OF BALTIMORE; and

No. 20–539. OREGON ET AL. *v.* BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 9th Cir. [Certiorari granted *sub nom.* in No. 20–429, *American Medical Assn. v. Cochran*; in No. 20–454, *Cochran v. Mayor and City Council of Baltimore*; in No. 20–539, *Oregon v. Cochran*, 592 U. S. p. 1262.] The Acting Solicitor General is directed to file a letter brief addressing the following question: Whether the Government intends to continue to enforce the challenged rule and regulations outside the State of Maryland until the completion of notice and

April 26, 2021

593 U. S.

comment; and, if further litigation is brought against the challenged rule and regulations outside of Maryland, how the Government would intend to respond. Brief, not to exceed three pages, is to be filed by Monday, May 3, 2021. Nonfederal parties and proposed intervenors may submit any responses in letter briefs, not to exceed three pages each, by Monday, May 10, 2021.

No. 20–994. VOLKSWAGEN GROUP OF AMERICA, INC., ET AL. *v.* ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY, FLORIDA, ET AL. C. A. 9th Cir. The Acting Solicitor General is invited to file a brief in this case expressing the views of the United States. JUSTICE BREYER took no part in the consideration of this petition.

No. 20–7599. TUCKER *v.* McDONOUGH, SECRETARY OF VETERANS AFFAIRS. C. A. 3d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until May 17, 2021, within which to pay the docketing fee required by this Court’s Rule 38(a).

No. 20–7211. IN RE DALE;

No. 20–7597. IN RE PEEL; and

No. 20–7603. IN RE RUTHERFORD. Petitions for writs of mandamus denied.

No. 20–1145. IN RE ARUNACHALAM. Petition for writ of mandamus denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

Certiorari Granted

No. 20–804. HOUSTON COMMUNITY COLLEGE SYSTEM *v.* WILSON. C. A. 5th Cir. Certiorari granted. Reported below: 955 F. 3d 490.

No. 20–827. UNITED STATES *v.* HUSAYN, AKA ZUBAYDAH, ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 938 F. 3d 1123.

No. 20–843. NEW YORK STATE RIFLE & PISTOL ASSN., INC., ET AL. *v.* CORLETT, SUPERINTENDENT OF NEW YORK STATE POLICE, ET AL. C. A. 2d Cir. Certiorari granted limited to the following question: “Whether the State’s denial of petitioners’ applications for concealed-carry licenses for self-defense violated the Second Amendment.” Reported below: 818 Fed. Appx. 99.

593 U. S.

April 26, 2021

Certiorari Denied

No. 19–1194. JIAHAO KUANG ET AL. *v.* DEPARTMENT OF DEFENSE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 778 Fed. Appx. 418.

No. 20–748. PHI AIR MEDICAL, LLC *v.* TEXAS MUTUAL INSURANCE CO. ET AL. Sup. Ct. Tex. Certiorari denied. Reported below: 610 S. W. 3d 839.

No. 20–819. MAI *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 952 F. 3d 1106.

No. 20–837. BAKOR *v.* GARLAND, ATTORNEY GENERAL. C. A. 8th Cir. Certiorari denied. Reported below: 958 F. 3d 732.

No. 20–889. SHERWIN-WILLIAMS CO. *v.* DELAWARE COUNTY, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 968 F. 3d 264.

No. 20–907. SFR INVESTMENTS POOL 1, LLC *v.* FEDERAL HOME LOAN MORTGAGE CORPORATION ET AL. (Reported below: 810 Fed. Appx. 589); and BOURNE VALLEY COURT TRUST *v.* WELLS FARGO BANK, N. A. (810 Fed. Appx. 492). C. A. 9th Cir. Certiorari denied.

No. 20–908. SFR INVESTMENTS POOL 1, LLC *v.* M&T BANK ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 963 F. 3d 854.

No. 20–953. ELLIS *v.* LIBERTY LIFE ASSURANCE COMPANY OF BOSTON. C. A. 10th Cir. Certiorari denied. Reported below: 958 F. 3d 1271.

No. 20–1132. MOORE ET AL. *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 20–1146. SMITH *v.* PACERMONITOR, LLC, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 821 Fed. Appx. 940.

No. 20–1147. SMALLWOOD *v.* LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 20–1150. HAYNES ET AL. *v.* CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS HEALTH AND WELFARE FUND ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 966 F. 3d 655.

April 26, 2021

593 U. S.

No. 20–1156. *OLEFSKY v. ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2020 IL App (1st) 191059–U.

No. 20–1169. *HAYNES ET AL. v. WORLD WRESTLING ENTERTAINMENT, INC.* C. A. 2d Cir. Certiorari denied. Reported below: 827 Fed. Appx. 3.

No. 20–1226. *VAUGHN v. ARKANSAS.* Sup. Ct. Ark. Certiorari denied. Reported below: 2020 Ark. 313, 608 S. W. 3d 569.

No. 20–1264. *FUSION IV PHARMACEUTICALS, INC., DBA AXIA PHARMACEUTICAL, ET AL. v. SODERGREN.* C. A. 9th Cir. Certiorari denied. Reported below: 809 Fed. Appx. 438.

No. 20–1278. *JOHNSON ET UX. v. JPMORGAN CHASE BANK, N. A.* Ct. App. Ariz. Certiorari denied.

No. 20–1292. *PARTS GALORE L. L. C. ET AL. v. HARRISON.* C. A. 6th Cir. Certiorari denied. Reported below: 826 Fed. Appx. 517.

No. 20–1296. *SKIPPER v. A&M DOCKSIDE REPAIR, INC., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 1.

No. 20–1338. *LI LI v. J. C. PENNEY CO., INC.* C. A. 5th Cir. Certiorari denied.

No. 20–1341. *SMILOWITZ v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 974 F. 3d 155.

No. 20–1344. *MAEHR v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 822 Fed. Appx. 780.

No. 20–1350. *GO NEW YORK TOURS, INC. v. GRAY LINE NEW YORK TOURS, INC., ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 831 Fed. Appx. 584.

No. 20–1361. *HEISLER, INDIVIDUALLY AND AS THE EXECUTRIX OF THE SUCCESSION OF HEISLER v. GIROD LOANCo, LLC* (three judgments). Sup. Ct. La. Certiorari denied. Reported below: 2020–00643 (La. 1/20/21), 308 So. 3d 1162 (first judgment); 2020–01130 (La. 1/20/21), 308 So. 3d 1163 (second judgment); 2020–01324 (La. 1/20/21), 308 So. 3d 1163 (third judgment).

593 U. S.

April 26, 2021

No. 20–1366. *GOMEZ-ARZATE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 981 F. 3d 832.

No. 20–1371. *POSEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–6359. *YBABEN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 809 Fed. Appx. 253.

No. 20–6374. *BROWN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 811 Fed. Appx. 818.

No. 20–6668. *ZAMARRIPA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 20–6756. *WALLACE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 20–6799. *CHANTHAKOUMMANE v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 20–6876. *TOLLETTE v. FORD, WARDEN*. C. A. 11th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 361.

No. 20–7184. *WAGNER v. SCARBOROUGH ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 143.

No. 20–7191. *SHULER v. LASSITER ET AL.* C. A. 4th Cir. Certiorari denied.

No. 20–7196. *RASNICK v. DICKENSON COUNTY DEPARTMENT OF SOCIAL SERVICES*. Sup. Ct. Va. Certiorari denied.

No. 20–7212. *DAVENPORT v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 20–7219. *WESTBROOK v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 20–7222. *CORMIER v. RIVERSIDE COUNTY DISTRICT ATTORNEY ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 834 Fed. Appx. 419.

No. 20–7225. *RIGSBY v. COLORADO*. Sup. Ct. Colo. Certiorari denied. Reported below: 471 P. 3d 1068.

No. 20–7227. *CONNER v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 146 N. E. 3d 343.

April 26, 2021

593 U. S.

No. 20–7236. *BOYD v. RADTKE, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 20–7239. *HUNG LINH HOANG v. MADDEN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 20–7245. *KERR v. COLLIER, JUDGE, COURT OF COMMON PLEAS OF OHIO, HENRY COUNTY* (Reported below: 159 Ohio St. 3d 319, 2020-Ohio-457, 150 N. E. 3d 909); and *KERR v. KERR BUILDINGS, INC.* (157 Ohio St. 3d 1562, 2020-Ohio-313, 138 N. E. 3d 1154). Sup. Ct. Ohio. Certiorari denied.

No. 20–7248. *PAGE v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 20–7249. *MILES v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2020 IL App (1st) 171258, 161 N. E. 3d 1021.

No. 20–7261. *REDMOND v. UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT*. C. A. 5th Cir. Certiorari denied.

No. 20–7264. *SONNENBERG v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied. Reported below: 799 Fed. Appx. 260.

No. 20–7271. *BOYCE v. OHIO*. Ct. App. Ohio, 2d App. Dist., Clark County. Certiorari denied. Reported below: 2020-Ohio-3573.

No. 20–7315. *OWENS v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 162 Ohio St. 3d 596, 2020-Ohio-4616, 166 N. E. 3d 1142.

No. 20–7331. *MARTIN v. VANIHEL, WARDEN* (two judgments). C. A. 7th Cir. Certiorari denied.

No. 20–7332. *LASTER v. GEORGIA ET AL.* C. A. 11th Cir. Certiorari denied.

No. 20–7334. *CARR v. SAUL, COMMISSIONER OF SOCIAL SECURITY*. C. A. 5th Cir. Certiorari denied.

No. 20–7347. *TARVER v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied.

593 U. S.

April 26, 2021

No. 20–7401. *BRANDON v. FORSHEY, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7431. *WINT, BY AND THROUGH HIS NEXT FRIEND, WINT v. BRADSHAW, SHERIFF, PALM BEACH COUNTY, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 842 Fed. Appx. 468.

No. 20–7442. *SHALASH v. GRAY, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7454. *MANUEL v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 308 So. 3d 599.

No. 20–7492. *ROUNDTREE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 825 Fed. Appx. 136.

No. 20–7505. *GASKINS v. WEST VIRGINIA*. Sup. Ct. App. W. Va. Certiorari denied.

No. 20–7511. *ESPINOZA v. MONTGOMERY, ACTING WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 217.

No. 20–7543. *REAL-ALOMAR v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 20–7544. *DOMINGUEZ v. WILLIAMS ET AL.* C. A. 9th Cir. Certiorari denied.

No. 20–7547. *MARTINEZ v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 832 Fed. Appx. 432.

No. 20–7548. *LUSTER v. TRATE, WARDEN*. C. A. 3d Cir. Certiorari denied. Reported below: 836 Fed. Appx. 78.

No. 20–7554. *JORDAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 820 Fed. Appx. 227.

No. 20–7563. *UDOH v. DOOLEY, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 20–7564. *UDOH v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA*. C. A. 8th Cir. Certiorari denied.

No. 20–7580. *GARCIA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

April 26, 2021

593 U. S.

No. 20–7586. *BLOUGH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 832 Fed. Appx. 961.

No. 20–7591. *PERALES-PEREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 208.

No. 20–7593. *CLARKE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 979 F. 3d 82.

No. 20–7594. *WILLIAMS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 834 Fed. Appx. 6.

No. 20–7598. *THOMAS v. NICKLAUS, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 20–7608. *KAZEEM v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 803 Fed. Appx. 144.

No. 20–7619. *POWERS v. SCOTT*. C. A. 7th Cir. Certiorari denied.

No. 20–7624. *MARTIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 823 Fed. Appx. 225.

No. 20–7635. *BIRON v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 20–7636. *BARNES v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 20–7639. *HARRIS v. PACHECO, WARDEN*. C. A. 10th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 331.

No. 20–7640. *GARNER v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7652. *COLTON v. TERRIS, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–1137. *CALIFORNIA PARENTS FOR THE EQUALIZATION OF EDUCATIONAL MATERIALS v. TORLAKSON ET AL.* C. A. 9th Cir. Motion of Shree Shakti Mandir of Atlanta et al. for leave to file brief as *amici curiae* granted. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this motion and this petition. Reported below: 973 F. 3d 1010.

No. 20–1259. *PROTECT OUR PARKS, INC., ET AL. v. CITY OF CHICAGO, ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied.

593 U. S.

April 26, 27, 2021

JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 971 F. 3d 722.

No. 20–1352. *MILES v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 836 Fed. Appx. 678.

No. 20–7233. *BUMPHUS v. UNIQUE PERSONNEL CONSULTANTS ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 805 Fed. Appx. 427.

No. 20–7629. *MARTIN v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

Rehearing Denied

No. 20–752. *DAVIS v. CALIFORNIA*, 592 U. S. 1264;

No. 20–756. *BAYLOR v. ETO, FKA BAYLOR*, 592 U. S. 1264;

No. 20–766. *ARCHER v. WINN DIXIE STORES, INC., ET AL.*, 592 U. S. 1264;

No. 20–771. *DEBERA P. v. MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES*, 592 U. S. 1265;

No. 20–820. *JACKSON v. WELLS FARGO HOME MORTGAGE*, 592 U. S. 1266;

No. 20–931. *HILLIER v. CENTRAL INTELLIGENCE AGENCY ET AL.*, 592 U. S. 1303;

No. 20–5764. *BERRYMAN v. WONG, WARDEN*, 592 U. S. 1270;

No. 20–6041. *PERRY v. UNITED STATES*, 592 U. S. 1110;

No. 20–6796. *SANCHEZ v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.*, 592 U. S. 1281;

No. 20–6801. *PALACIO v. SULLIVAN*, 592 U. S. 1281; and

No. 20–7292. *STASZAK v. UNITED STATES*, 592 U. S. 1357. Petitions for rehearing denied.

No. 20–7115. *CARTER v. LAWRENCE, WARDEN*, 592 U. S. 1314. Petition for rehearing denied. JUSTICE BARRETT took no part in the consideration or decision of this petition.

APRIL 27, 2021

Miscellaneous Order

No. 20A160. *ROLLS-ROYCE PLC v. SERVOTRONICS, INC.* D. C. S. C. Application for stay, presented to THE CHIEF JUSTICE, and

April 27, 29, May 3, 2021

593 U. S.

by him referred to the Court, denied. JUSTICE ALITO took no part in the consideration or decision of this application.

APRIL 29, 2021

Dismissal Under Rule 46

No. 20–1460. CRUZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari dismissed under this Court’s Rule 46.1. Reported below: 974 F. 3d 320.

MAY 3, 2021

Appointment of Marshal

It is ordered that Gail A. Curley be appointed Marshal of this Court, effective June 21, 2021.

Certiorari Granted—Vacated and Remanded

No. 19–250. OKLAHOMA *v.* JOHNSON. Ct. Crim. App. Okla. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Jones v. Mississippi*, 593 U. S. 98 (2021). Reported below: 2019 OK CR 9, 457 P. 3d 1089.

No. 19–507. PUBLISHERS BUSINESS SERVICES, INC., ET AL. *v.* FEDERAL TRADE COMMISSION. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *AMG Capital Management, LLC v. FTC*, 593 U. S. 67 (2021). Reported below: 748 Fed. Appx. 735.

No. 19–720. UNITED STATES *v.* BRIONES. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Jones v. Mississippi*, 593 U. S. 98 (2021). Reported below: 929 F. 3d 1057.

No. 19–1208. YANEZ-PENA *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir. Reported below: 952 F. 3d 239;

No. 19–1234. BUN CCHAY CHEAT *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir.;

No. 19–1300. JIAN CHEN *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir. Reported below: 791 Fed. Appx. 597;

No. 19–1316. GARCIA-ROMO *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir. Reported below: 940 F. 3d 192;

593 U. S.

May 3, 2021

No. 20–45. KHAYTEKOV *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir. Reported below: 794 Fed. Appx. 497;

No. 20–179. HERNANDEZ-MALDONADO *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir.;

No. 20–268. ARGUETA-AYALA *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir.;

No. 20–517. FIGUEROA-DIAZ *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir. Reported below: 812 Fed. Appx. 278;

No. 20–709. FUENTES-ANGEL *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir.;

No. 20–832. NUNEZ CASTRO *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir.;

No. 20–1021. NAVARRETE-LOPEZ *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir. Reported below: 826 Fed. Appx. 412;

No. 20–1070. RICO OLVERA *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir. Reported below: 802 Fed. Appx. 862; and

No. 20–6152. LUQUIN-CORONEL *v.* GARLAND, ATTORNEY GENERAL. C. A. 6th Cir. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Niz-Chavez v. Garland*, 593 U. S. 155 (2021).

Certiorari Dismissed

No. 20–7263. ROBINSON *v.* YEE. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8.

No. 20–7323. MORETTI *v.* BOROUGH OF PARAMUS, NEW JERSEY. Super. Ct. N. J., App. Div. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. As 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 ALITO took no part in the consideration or decision of this motion and this petition.

Miscellaneous Orders

No. 20M73. QUINTANA *v.* MULHERON, WARDEN, ET AL.; and

May 3, 2021

593 U. S.

No. 20M75. KUNKLE *v.* SHAPIRO, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 20M74. UNDER SEAL *v.* VIRGINIA BOARD OF MEDICINE. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record denied.

No. 20–891. AMERICAN AXLE & MANUFACTURING, INC. *v.* NEAPCO HOLDINGS LLC ET AL. C. A. Fed. Cir.; and

No. 20–905. INDEPENDENT SCHOOL DISTRICT NO. 283 *v.* E. M. D. H., A MINOR, BY AND THROUGH HER PARENTS AND NEXT FRIENDS, L. H. ET AL. C. A. 8th Cir. The Acting Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 20–7715. IN RE DECARO. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court’s Rule 39.8. As 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*).

No. 20–7354. IN RE ROBINSON. Petition for writ of mandamus denied.

Certiorari Denied

No. 17–1511. NEWTON *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 19–62 (La. App. 5 Cir. 4/23/20), 297 So. 3d 190.

No. 19–399. GARCIA *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2019 ND 103, 925 N. W. 2d 442.

No. 20–356. GARLAND, ATTORNEY GENERAL *v.* BANUELOS-GALVIZ. C. A. 10th Cir. Certiorari denied. Reported below: 953 F. 3d 1176.

No. 20–397. GARLAND, ATTORNEY GENERAL *v.* PORTILLO MARTINEZ. C. A. 10th Cir. Certiorari denied. Reported below: 811 Fed. Appx. 493.

593 U. S.

May 3, 2021

No. 20–554. *SMITH v. MCKINNEY, WARDEN, ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 954 F. 3d 1075.

No. 20–855. *MARYLAND SHALL ISSUE, INC., ET AL. v. HOGAN, GOVERNOR OF MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 963 F. 3d 356.

No. 20–861. *FRY v. RAND CONSTRUCTION CORP.* C. A. 4th Cir. Certiorari denied. Reported below: 964 F. 3d 239.

No. 20–866. *ALLEN ET AL. v. WELLS FARGO & CO. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 967 F. 3d 767.

No. 20–881. *TRAN ET AL. v. CITY OF HOLMES BEACH, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 911.

No. 20–923. *GARLAND, ATTORNEY GENERAL v. ACOSTA-PENA* (Reported below: 812 Fed. Appx. 796); *GARLAND, ATTORNEY GENERAL v. ARTUR* (819 Fed. Appx. 618); *GARLAND, ATTORNEY GENERAL v. MORENO-LOPEZ* (818 Fed. Appx. 824); *GARLAND, ATTORNEY GENERAL v. JIMENEZ JUAREZ* (821 Fed. Appx. 930); and *GARLAND, ATTORNEY GENERAL v. MAGANA ARIAS* (821 Fed. Appx. 933). C. A. 10th Cir. Certiorari denied.

No. 20–989. *CITY OF NEWARK, NEW JERSEY v. FRATERNAL ORDER OF POLICE, NEWARK LODGE No. 12.* Sup. Ct. N. J. Certiorari denied. Reported below: 244 N. J. 75, 236 A. 3d 965.

No. 20–999. *LLOYD INDUSTRIES, INC. v. WATSON.* C. A. 3d Cir. Certiorari denied. Reported below: 816 Fed. Appx. 709.

No. 20–1002. *COX v. WILSON.* C. A. 10th Cir. Certiorari denied. Reported below: 971 F. 3d 1159.

No. 20–1012. *GUENTHER v. LOCKHEED MARTIN CORP. ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 972 F. 3d 1043.

No. 20–1014. *ORGANIC CANNABIS FOUNDATION, LLC, DBA ORGANICANN HEALTH CENTER v. COMMISSIONER OF INTERNAL REVENUE*; and

No. 20–1031. *NORTHERN CALIFORNIA SMALL BUSINESS ASSISTANTS, INC. v. COMMISSIONER OF INTERNAL REVENUE.* C. A. 9th Cir. Certiorari denied. Reported below: 962 F. 3d 1082.

May 3, 2021

593 U. S.

No. 20–1152. *LUNA ET AL. v. U. S. BANK N. A.* C. A. 8th Cir. Certiorari denied. Reported below: 821 Fed. Appx. 672.

No. 20–1157. *YANEY v. SUPERIOR COURT OF CALIFORNIA, RIVERSIDE COUNTY, ET AL.* Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 20–1168. *MARCUS & MILLICHAP REAL ESTATE INVESTMENT SERVICES OF NEVADA, INC., ET AL. v. CHANDRA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 822 Fed. Appx. 597.

No. 20–1171. *MADISON v. OHIO.* Sup. Ct. Ohio. Certiorari denied. Reported below: 160 Ohio St. 3d 232, 2020-Ohio-3735, 155 N. E. 3d 867.

No. 20–1176. *TRUSTEES OF THE THOMAS E. PROCTOR HEIRS TRUST v. KETA GAS & OIL CO. ET AL.* Super. Ct. Pa. Certiorari denied. Reported below: 225 A. 3d 1140.

No. 20–1185. *EDWARDS v. SOLOMON & SOLOMON P. C.* C. A. 11th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 425.

No. 20–1186. *DYNASTY GROUP, INC. v. SMITH, TRUSTEE FOR BANKRUPTCY ESTATE OF HERITAGE REAL ESTATE INVESTMENT CORP.* Sup. Ct. Ala. Certiorari denied.

No. 20–1188. *THOMASON v. BENEFICIAL FINANCIAL I INC.* Sup. Ct. Idaho. Certiorari denied.

No. 20–1192. *FOUSE ET UX. v. SARATOGA PARTNERS L. P. ET AL.* Sup. Ct. Pa. Certiorari denied. Reported below: 662 Pa. 200, 238 A. 3d 1198.

No. 20–1194. *LOPEZ v. CORONA POLICE DEPARTMENT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 816 Fed. Appx. 113.

No. 20–1196. *MCCLELLAN v. OHIO.* Ct. App. Ohio, 4th App. Dist., Highland County. Certiorari denied.

No. 20–1201. *EISENBERG v. SWAIN.* Ct. App. D. C. Certiorari denied. Reported below: 233 A. 3d 13.

No. 20–1208. *AGHA-KHAN v. PACIFIC COMMUNITY MORTGAGE, INC., ET AL.* C. A. 9th Cir. Certiorari denied.

593 U. S.

May 3, 2021

No. 20–1217. *LAK v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 807 Fed. Appx. 730.

No. 20–1235. *BURGOYNE, LLC v. CHICAGO TERMINAL RAILROAD CO. ET AL.* App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2020 IL App (1st) 190098, 169 N. E. 3d 815.

No. 20–1243. *BURK v. DUCEY, GOVERNOR OF ARIZONA, ET AL.* Sup. Ct. Ariz. Certiorari denied.

No. 20–1245. *VASQUEZ v. MASSACHUSETTS.* Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 485 Mass. 405, 150 N. E. 3d 723.

No. 20–1256. *FRENCH v. UNITED STATES*; and

No. 20–7661. *RUSSELL v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 977 F. 3d 114.

No. 20–1268. *SUAREZ v. AANONSEN.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 306 So. 3d 294.

No. 20–1271. *BLANTON v. McDONOUGH, SECRETARY OF VETERANS AFFAIRS.* C. A. Fed. Cir. Certiorari denied. Reported below: 823 Fed. Appx. 958.

No. 20–1308. *WHITE v. SUPER GASOLINE, INC., ET AL.* Sup. Ct. Va. Certiorari denied.

No. 20–1359. *SUPERAMA CORP., INC., DBA USA SUMO v. TOKYO BROADCASTING SYSTEM TELEVISION, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 830 Fed. Appx. 821.

No. 20–1360. *HUBBARD v. STATE BAR OF CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 20–1382. *GETTINGER ET AL. v. PICARD ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 976 F. 3d 184.

No. 20–1393. *KEEHN v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 824 Fed. Appx. 922.

No. 20–1421. *BALLERSTEIN ET AL. v. MCHATTEN ET AL.* Sup. Jud. Ct. Me. Certiorari denied.

No. 20–5686. *HULSEY v. SAUL, COMMISSIONER OF SOCIAL SECURITY.* C. A. 9th Cir. Certiorari denied. Reported below: 794 Fed. Appx. 659.

May 3, 2021

593 U. S.

No. 20–6407. *GOMEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 810 Fed. Appx. 338.

No. 20–6428. *HERRON v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 762 Fed. Appx. 25.

No. 20–6664. *LEPE MORAN v. GARLAND, ATTORNEY GENERAL*. C. A. 9th Cir. Certiorari denied. Reported below: 960 F. 3d 1158.

No. 20–6679. *DORTLEY v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 303 So. 3d 931.

No. 20–6914. *PETERSEN v. ALABAMA*. Ct. Crim. App. Ala. Certiorari denied.

No. 20–6957. *CENTOFANTI v. NEVEN, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 820 Fed. Appx. 555.

No. 20–7258. *HORN v. FEDERAL NATIONAL MORTGAGE ASSOCIATION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 826 Fed. Appx. 298.

No. 20–7279. *VUE v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 20–7281. *WRIGHT v. CARDENAS ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 811 Fed. Appx. 612.

No. 20–7293. *SAFFORD v. FLORIDA*. Dist. Ct. App. Fla., 2d Dist. Certiorari denied.

No. 20–7297. *STURGIS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 246 Md. App. 788.

No. 20–7298. *BUNN v. WISCONSIN*. Ct. App. Wis. Certiorari denied. Reported below: 2020 WI App 70, 394 Wis. 2d 524, 950 N. W. 2d 694.

No. 20–7299. *ADKISSON v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 136 Nev. 774, 466 P. 3d 1289.

No. 20–7303. *BARRERA v. NEWSOME ET AL.* C. A. 6th Cir. Certiorari denied.

No. 20–7308. *KELSEY v. NEW YORK*. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 174 App. Div. 3d 962, 107 N. Y. S. 3d 150.

593 U. S.

May 3, 2021

No. 20–7309. *MALDONADO v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 237 A. 3d 1079.

No. 20–7311. *MATTHEWS v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 2019–01636 (La. 8/14/20), 307 So. 3d 1038.

No. 20–7316. *LUIS MORALES v. SHERMAN, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 20–7317. *CHESTER v. CAIN, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 20–7318. *KLINGER v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 20–7321. *DOUGLAS v. SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY*. C. A. 9th Cir. Certiorari denied.

No. 20–7328. *MATIAS-MARTINEZ v. WILLIAMS, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 883.

No. 20–7329. *KNIGHT v. NEBRASKA*. Ct. App. Neb. Certiorari denied. Reported below: 28 Neb. App. —.

No. 20–7335. *CARR v. GONZALEZ, SHERIFF, HARRIS COUNTY, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 830 Fed. Appx. 739.

No. 20–7337. *THURLOW v. EDMARK, WARDEN*. C. A. 1st Cir. Certiorari denied.

No. 20–7338. *TARVER v. SHAPIRO, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 20–7344. *DAVIS v. SHINN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY*. C. A. 9th Cir. Certiorari denied. Reported below: 821 Fed. Appx. 892.

No. 20–7350. *DEVORE v. OHIO*. Ct. App. Ohio, 5th App. Dist., Richland County. Certiorari denied. Reported below: 2020-Ohio-4668.

No. 20–7374. *ALEXANDER v. HEADLEY, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

May 3, 2021

593 U. S.

No. 20–7429. *DAVIS v. SHINN*, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY, ET AL. C. A. 9th Cir. Certiorari denied.

No. 20–7450. *PATEL v. REGENTS OF THE UNIVERSITY OF CALIFORNIA*. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied.

No. 20–7464. *LONG v. OHIO*. Ct. App. Ohio, 6th App. Dist., Wood County. Certiorari denied. Reported below: 2020-Ohio-4090, 157 N. E. 3d 362.

No. 20–7499. *BREWER, AKA GREEN v. POLLARD*, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 20–7500. *BROWN v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 300 So. 3d 332.

No. 20–7561. *POCOPANNI v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 304 So. 3d 760.

No. 20–7562. *KAMME O v. TEXAS A&M UNIVERSITY AND SYSTEM ET AL.* C. A. 5th Cir. Certiorari denied.

No. 20–7570. *FRAZIER v. SLATERY*, ATTORNEY GENERAL OF TENNESSEE, ET AL. C. A. 6th Cir. Certiorari denied.

No. 20–7572. *HOLDEN v. NEVADA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 20–7582. *GREEN v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 20–7628. *JOHNSON v. MISSISSIPPI*. Ct. App. Miss. Certiorari denied. Reported below: 311 So. 3d 1161.

No. 20–7632. *HIXON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 838 Fed. Appx. 961.

No. 20–7633. *ALFORD v. INCH*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 20–7647. *MUHO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 978 F. 3d 1212.

No. 20–7655. *BERSHAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 845 Fed. Appx. 37.

593 U. S.

May 3, 2021

No. 20–7656. *MONSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7657. *MACLLOYD v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7659. *SORIANO NUNEZ v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 835 Fed. Appx. 655.

No. 20–7663. *WATSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 852 Fed. Appx. 164.

No. 20–7699. *HORN v. FLORIDA*. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 303 So. 3d 1285.

No. 19–825. *FEDERAL TRADE COMMISSION v. CREDIT BUREAU CENTER, LLC, ET AL.* C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 937 F. 3d 764.

No. 20–559. *DOE v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 815 Fed. Appx. 592.

JUSTICE THOMAS, dissenting.

Petitioner alleges that she was raped by a fellow cadet while she was a student at the U. S. Military Academy at West Point. She sued the United States under the Federal Tort Claims Act, claiming that West Point’s sexual assault policies were inadequate to protect students from sexual violence. Under the plain text of the Act, petitioner’s status as a West Point cadet should have posed no bar to litigation. But 70 years ago, this Court made the policy judgment that members of the military should not be able to sue for injuries incident to military service. See *Feres v. United States*, 340 U. S. 135 (1950). Relying on *Feres*, the Second Circuit held that sovereign immunity barred petitioner’s claims, even if she could have brought these same claims had she been a civilian contractor employed by West Point instead of a student.

As I have previously explained, this approach has little justification. The Act “renders the United States liable to *all* persons, including servicemen, injured by the negligence of Government employees.” *Lanus v. United States*, 570 U. S. 932 (2013) (THOMAS, J., dissenting from denial of certiorari) (quoting *United States v. Johnson*, 481 U. S. 681, 693 (1987) (Scalia, J., dissenting));

see also *Daniel v. United States*, 587 U. S. 1020, 1020–1021 (2019) (THOMAS, J., dissenting from denial of certiorari). Emphasizing its breadth, the law contains a narrow carve out for military-related claims: those “arising out of . . . combatant activities . . . during time of war.” 28 U. S. C. § 2680(j). This single military exception involving “combatant activities” clearly does not apply here. And, other than this specific exception, the law does not “preclud[e] . . . suits brought by servicemen”—at least not because of their military status. *Lanus*, 570 U. S., at 932. *Feres* was wrongly decided; and this case was wrongly decided as a result.

We should grant certiorari to correct this error. The *Feres* Court’s foray into judicial legislating has been met with “‘widespread, almost universal criticism.’” *Johnson*, 481 U. S., at 700 (Scalia, J., dissenting). And it is easy to see why. Under our precedent, if two Pentagon employees—one civilian and one a servicemember—are hit by a bus in the Pentagon parking lot and sue, it may be that only the civilian would have a chance to litigate his claim on the merits. Cf. *Frankel v. United States*, 810 Fed. Appx. 176, 180–182 (CA4 2020) (*per curiam*) (*Feres* barred claim of servicemember who was struck by a vehicle); *Newton v. Lee*, 677 F. 3d 1017, 1030 (CA10 2012) (*Feres* does not bar claim by “a purely civilian employee of the military”). Nothing in the text of the Act requires this disparate treatment. Nor is there any background rule that federal bus drivers owe a greater duty of care toward workers who are civilian than those who are military.

At a minimum, we should take up this case to clarify the scope of the immunity we have created. Without any statutory text to serve as a guide, lower courts are understandably confused about what counts as an injury “incident” to military service. One might be surprised to learn, for example, that *Feres* sometimes bars claims of a drunken servicemember who drowns, except when it does not. Compare *Morey v. United States*, 903 F. 2d 880, 881 (CA1 1990), with *Dreier v. United States*, 106 F. 3d 844, 845–846 (CA9 1996). Or, to discover that *Feres* apparently forecloses a claim for a servicemember’s injury while waterskiing because the recreational boat belonged to the military, but not for an injury while attending a rugby event caused by a servicemember’s negligent operation of an Army van. Compare *McConnell v. United States*, 478 F. 3d 1092, 1093–1094 (CA9 2007), with *Whitley v. United States*, 170 F. 3d 1061, 1068–1070 (CA11 1999).

593 U. S.

May 3, 2021

And like Judge Chin in dissent, one might be concerned to find out that a student's *rape* is considered an injury incident to military service. See *Doe v. Hagenbeck*, 870 F. 3d 36, 51, 58–62 (CA2 2017) (“[I]n my view Doe’s injuries did not arise ‘incident to military service’”). But that is exactly what the court held below. See 815 Fed. Appx. 592, 595 (CA2 2020).

Perhaps the Court is hesitant to take up this issue at all because it would require fiddling with a 70-year-old precedent that is demonstrably wrong. But if the *Feres* doctrine is so wrong that we cannot figure out how to rein it in, then the better answer is to bid it farewell. There is precedent for that approach. See, e. g., *Trump v. Hawaii*, 585 U. S. 667, 710 (2018) (overruling *Korematsu v. United States*, 323 U. S. 214 (1944)); *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U. S. 877, 882 (2007) (overruling *Dr. Miles Medical Co. v. John D. Park & Sons Co.*, 220 U. S. 373 (1911)); *Lapides v. Board of Regents of Univ. System of Ga.*, 535 U. S. 613, 623 (2002) (overruling *Ford Motor Co. v. Department of Treasury of Ind.*, 323 U. S. 459 (1945)); *Exxon Corp. v. Central Gulf Lines, Inc.*, 500 U. S. 603, 612 (1991) (overruling *Minturn v. Maynard*, 17 How. 477 (1855)); *Malloy v. Hogan*, 378 U. S. 1, 2, 6 (1964) (overruling *Twining v. New Jersey*, 211 U. S. 78 (1908)); *Brown v. Board of Education*, 347 U. S. 483, 494–495 (1954) (overruling *Plessy v. Ferguson*, 163 U. S. 537 (1896)); *Erie R. Co. v. Tompkins*, 304 U. S. 64, 79–80 (1938) (overruling *Swift v. Tyson*, 16 Pet. 1 (1842)).

We should follow it.

No. 20–1165. ARUNACHALAM *v.* CITIGROUP, INC., ET AL. C. A. Fed. Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 20–1267. BYERS *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 805 Fed. Appx. 7.

No. 20–7626. MILLER *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 953 F. 3d 804.

Rehearing Denied

No. 19–8650. CAMPBELL *v.* MARYLAND, 592 U. S. 1169;

No. 20–849. P. F. *v.* J. S. ET AL., 592 U. S. 1303;

May 3, 17, 2021

593 U. S.

No. 20–6477. *ARDANEH v. MASSACHUSETTS*, 592 U. S. 1272;
No. 20–6497. *BRIDGES v. GRAY, WARDEN*, 592 U. S. 1272;
No. 20–6617. *IN RE ROMAIN*, 592 U. S. 1261; and
No. 20–6829. *BUTTERCASE v. NEBRASKA*, 592 U. S. 1282. Petitions for rehearing denied.

No. 19–8736. *CLARK v. WASHINGTON*, 592 U. S. 939; and
No. 20–6595. *BROCKINGTON v. SALEM UNITED METHODIST CHURCH ET AL.*, 592 U. S. 1274. Motions of petitioners for leave to file petitions for rehearing denied.

MAY 17, 2021

Dismissal Under Rule 46

No. 20–429. *AMERICAN MEDICAL ASSN. ET AL. v. BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.*;

No. 20–454. *BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. v. MAYOR AND CITY COUNCIL OF BALTIMORE*; and

No. 20–539. *OREGON ET AL. v. BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.* C. A. 9th Cir. [Certiorari granted *sub nom.* in No. 20–429, *American Medical Assn. v. Cochran*; in No. 20–454, *Cochran v. Mayor and City Council of Baltimore*; in No. 20–539, *Oregon v. Cochran*, 592 U. S. 1262.] The Government has filed a letter brief representing that it will continue enforcing the challenged rule and regulations outside the State of Maryland for as long as they remain operative. If further litigation is brought against the challenged rule and regulations outside of Maryland, the Government represents that it will either oppose that litigation on threshold grounds or seek to hold the litigation in abeyance pending completion of notice and comment. In light of the Government’s representations, motions for leave to intervene are denied, and writs of certiorari in Nos. 20–429, 20–454, and 20–539 dismissed under this Court’s Rule 46.1. If the Government fails to enforce the challenged rule and regulations outside of Maryland prior to the completion of notice and comment, or if litigation is brought against the challenged rule and regulations outside of Maryland, any aggrieved party may file an application in this Court after seeking relief in the appropriate District Court and Court of Appeals. JUSTICE THOMAS, JUSTICE ALITO, and JUSTICE GORSUCH would grant the motions for leave to intervene and deny the stipulations to dismiss the petitions.

593 U. S.

May 17, 2021

Certiorari Granted—Vacated and Remanded

No. 20–1047. ALABAMA ET AL. *v.* ALABAMA STATE CONFERENCE OF THE NAACP ET AL. C. A. 11th Cir. Certiorari granted, judgment vacated, and case remanded with instructions to dismiss the case as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950). Reported below: 949 F. 3d 647.

Certiorari Dismissed

No. 20–7445. ALLEN *v.* SUNTRUST BANK ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. Reported below: 832 Fed. Appx. 820.

No. 20–7550. BACCUS *v.* SOUTH CAROLINA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8. As 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*). Reported below: 823 Fed. Appx. 207.

No. 20–7693. WILKINS, AKA BROWN *v.* JOKSCH ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8.

Miscellaneous Orders.

No. 20A156. VINKOV *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA. D. C. C. D. Cal. Application for stay, addressed to JUSTICE BARRETT and referred to the Court, denied.

No. 20M76. BIZZARRO *v.* FIRST NATIONAL BANK. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 20M77. O’NEAL *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

May 17, 2021

593 U. S.

No. 20–807. *LEDURE v. UNION PACIFIC RAILROAD CO.* C. A. 7th Cir. The Acting Solicitor General is invited to file a brief in this case expressing the views of the United States. JUSTICE BARRETT took no part in the consideration or decision of this petition.

No. 20–7821. *IN RE TOTH*; and

No. 20–7833. *IN RE WRIGHT*. Petitions for writ of habeas corpus denied.

No. 20–1266. *IN RE MOORE ET AL.*;

No. 20–7518. *IN RE STONE*;

No. 20–7753. *IN RE JOHNSON*; and

No. 20–7789. *IN RE CIACCI*. Petitions for writs of mandamus denied.

No. 20–7481. *IN RE VAIDYANATHAN*. Petition for writ of mandamus denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 20–7733. *IN RE SPENCER*. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8.

No. 20–1297. *IN RE RILEY*; and

No. 20–7352. *IN RE RUDOLPH*. Petitions for writs of mandamus and/or prohibition denied.

Certiorari Granted

No. 20–1009. *SHINN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY v. MARTINEZ RAMIREZ* (Reported below: 937 F. 3d 1230); and *SHINN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY, ET AL. v. JONES* (943 F. 3d 1211). C. A. 9th Cir. Certiorari granted.

No. 20–1143. *BADGEROW v. WALTERS ET AL.* C. A. 5th Cir. Certiorari granted. Reported below: 975 F. 3d 469.

No. 19–1392. *DOBBS, STATE HEALTH OFFICER OF THE MISSISSIPPI DEPARTMENT OF HEALTH, ET AL. v. JACKSON WOMEN'S HEALTH ORGANIZATION ET AL.* C. A. 5th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 945 F. 3d 265.

593 U. S.

May 17, 2021

Certiorari Denied

No. 20–101. *HARRIS v. MARYLAND*. Ct. Sp. App. Md. Certiorari denied. Reported below: 242 Md. App. 655, 219 A. 3d 1.

No. 20–718. *REYES-ROMERO v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 959 F. 3d 80.

No. 20–745. *LECHUGA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 820 Fed. Appx. 261.

No. 20–773. *KHAN ET AL. v. MERIT MEDICAL SYSTEMS INC. ET AL.*; and

No. 20–1363. *MERIT MEDICAL SYSTEMS, INC. v. KHAN ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 825 Fed. Appx. 762.

No. 20–791. *EGLISE BAPTISTE BETHANIE DE FT. LAUDERDALE, INC., ET AL. v. SEMINOLE TRIBE OF FLORIDA ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 824 Fed. Appx. 680.

No. 20–895. *SELDIN, INDIVIDUALLY AND AS TRUSTEE OF THE SELDEN 2002 IRREVOCABLE TRUST, DATED OCTOBER 9, 1993, ET AL. v. ESTATE OF SILVERMAN ET AL.* Sup. Ct. Neb. Certiorari denied. Reported below: 305 Neb. 185, 939 N. W. 2d 768.

No. 20–937. *ANDREWS v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 243 N. J. 447, 234 A. 3d 1254.

No. 20–1048. *MOORE v. GARLAND, ATTORNEY GENERAL*. C. A. 2d Cir. Certiorari denied. Reported below: 819 Fed. Appx. 11.

No. 20–1061. *DANTZLER, INC., ET AL. v. S2 SERVICES PUERTO RICO, LLC, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 958 F. 3d 38.

No. 20–1095. *HAWS v. IDAHO*. Sup. Ct. Idaho. Certiorari denied. Reported below: 167 Idaho 471, 472 P. 3d 576.

No. 20–1110. *SANDOZ INC. ET AL. v. IMMUNEX CORP. ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 964 F. 3d 1049.

No. 20–1116. *SEWARD v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 967 F. 3d 57.

May 17, 2021

593 U. S.

No. 20–1130. *ERICSSON INC. ET AL. v. TCL COMMUNICATION TECHNOLOGY HOLDINGS LTD. ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 955 F. 3d 1317.

No. 20–1159. *VERMONT NATIONAL TELEPHONE CO. v. VERMONT DEPARTMENT OF TAXES.* Sup. Ct. Vt. Certiorari denied. Reported below: 2020 VT 83, 213 Vt. 421, 250 A. 3d 567.

No. 20–1213. *MIGNOTT ET AL. v. GARDINER.* Ct. App. Ga. Certiorari denied.

No. 20–1219. *CURRY v. MACKENZIE.* Sup. Ct. Ohio. Certiorari denied. Reported below: 160 Ohio St. 3d 1484, 2020-Ohio-5454, 158 N. E. 3d 612.

No. 20–1221. *RAMON OCHOA v. RUBIN.* Ct. Civ. App. Okla. Certiorari denied.

No. 20–1231. *SMITH v. FLORIDA AGRICULTURAL AND MECHANICAL UNIVERSITY BOARD OF TRUSTEES.* C. A. 11th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 434.

No. 20–1234. *BAPTISTE ET AL. v. MASSACHUSETTS EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES ET AL.* App. Ct. Mass. Certiorari denied. Reported below: 97 Mass. App. 110, 143 N. E. 3d 1052.

No. 20–1236. *ANDERSON v. CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* Sup. Ct. Va. Certiorari denied.

No. 20–1242. *ENDENCIA v. ARCE.* App. Ct. Ill., 2d Dist. Certiorari denied.

No. 20–1248. *KINZY ET AL. v. FIRST TENNESSEE BANK, N. A.* App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2020 IL App (2d) 180799–U.

No. 20–1251. *ANDERSON v. HARBOR BANK OF MARYLAND.* C. A. 4th Cir. Certiorari denied. Reported below: 818 Fed. Appx. 259.

No. 20–1253. *STRINGER v. STORESONLINE, INC., ET AL.* Sup. Ct. Miss. Certiorari denied.

No. 20–1254. *RAO v. MIDLAND TRUST CO.* App. Ct. Ill., 1st Dist. Certiorari denied.

593 U. S.

May 17, 2021

No. 20–1257. *JENSEN v. WEST JORDAN CITY, UTAH*. C. A. 10th Cir. Certiorari denied. Reported below: 968 F. 3d 1187.

No. 20–1265. *MOORE ET AL. v. MARTIN-BRAGG*. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 20–1273. *OLSTOWSKI v. PETROLEUM ANALYZER CO. L. P.* C. A. 5th Cir. Certiorari denied. Reported below: 969 F. 3d 210.

No. 20–1275. *VESUVIUS USA CORP. ET AL. v. PHILLIPS*. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2020-Ohio-3285.

No. 20–1277. *MEYER v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 20–1291. *WPEM, LLC v. SOTI INC.* C. A. Fed. Cir. Certiorari denied. Reported below: 837 Fed. Appx. 773.

No. 20–1299. *CLARK v. CITY OF WILLIAMSBURG, KANSAS*. C. A. 10th Cir. Certiorari denied. Reported below: 844 Fed. Appx. 4.

No. 20–1303. *PAPPAS v. LORINTZ ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 832 Fed. Appx. 8.

No. 20–1310. *MCCANN v. WOLD ET AL.* Sup. Ct. Mont. Certiorari denied. Reported below: 402 Mont. 425, 472 P. 3d 1204.

No. 20–1316. *FLING v. UNITED STATES POSTAL SERVICE ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 20–1329. *TRAYVILLA ET AL. v. JAPAN AIRLINES ET AL.* App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 178 App. Div. 3d 746, 111 N. Y. S. 3d 224.

No. 20–1335. *A. P. v. VERMONT*. Sup. Ct. Vt. Certiorari denied. Reported below: 2020 VT 86, 213 Vt. 291, 246 A. 3d 399.

No. 20–1355. *JOHNSON v. YELLEN, SECRETARY OF THE TREASURY*. C. A. 7th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 603.

No. 20–1368. *ROLLO-CARLSON, AS TRUSTEE FOR FLACKUS-CARLSON, DECEASED v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 971 F. 3d 768.

May 17, 2021

593 U. S.

No. 20–1408. *FERNANDEZ v. WHARTON SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA ET AL.* C. A. 3d Cir. Certiorari denied.

No. 20–1411. *STARLINE TOURS OF HOLLYWOOD, INC. v. EHM PRODUCTIONS, INC., DBA TMZ, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 818 Fed. Appx. 773.

No. 20–1414. *UBER TECHNOLOGIES, INC., ET AL. v. RAZAK ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 951 F. 3d 137 and 979 F. 3d 192.

No. 20–1416. *NESKE ET AL., INDIVIDUALLY AND AS PARENTS AND NATURAL GUARDIANS OF A. N. v. NEW YORK CITY DEPARTMENT OF EDUCATION.* C. A. 2d Cir. Certiorari denied. Reported below: 824 Fed. Appx. 81.

No. 20–1418. *CIRINO v. OCWEN LOAN SERVICING LLC ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 815 Fed. Appx. 204.

No. 20–1422. *76 ORINDA v. MORALES.* C. A. 9th Cir. Certiorari denied. Reported below: 830 Fed. Appx. 209.

No. 20–1423. *GRUNDSTEIN v. VERMONT BOARD OF BAR EXAMINERS.* Sup. Ct. Vt. Certiorari denied. Reported below: 2020 VT 102, 213 Vt. 528, 251 A. 3d 30.

No. 20–1427. *PACHECO PACHECO v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 977 F. 3d 764.

No. 20–1428. *NOERGAARD v. NOERGAARD.* Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied. Reported below: 57 Cal. App. 5th 841, 271 Cal. Rptr. 3d 905.

No. 20–1439. *LOYD v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 20–1441. *BEECHER v. NEW JERSEY;* and

No. 20–1442. *STOVEKEN v. NEW JERSEY.* Super. Ct. N. J., App. Div. Certiorari denied. Reported below: 464 N. J. Super. 86, 234 A. 3d 309.

No. 20–1445. *FOREMAN v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied. Reported below: 613 S. W. 3d 160.

No. 20–1449. *PERSAUD v. UNITED STATES.* C. A. 6th Cir. Certiorari denied.

593 U. S.

May 17, 2021

No. 20–1463. *MORTGAGE INVESTORS CORP. ET AL. v. UNITED STATES EX REL. BIBBY ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 987 F. 3d 1340.

No. 20–1470. *JEFFREY v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 175 A. 3d 382.

No. 20–1478. *SAUL, COMMISSIONER OF SOCIAL SECURITY v. PROBST ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 980 F. 3d 1015.

No. 20–6387. *WOODARD v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 626.

No. 20–6626. *MASALMANI v. MICHIGAN.* Sup. Ct. Mich. Certiorari denied. Reported below: 505 Mich. 1090, 943 N. W. 2d 359.

No. 20–6743. *DUSSARD v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 967 F. 3d 149.

No. 20–6808. *TRAFICANTE v. UNITED STATES.* C. A. 2d Cir. Certiorari denied. Reported below: 966 F. 3d 99.

No. 20–6822. *BERRYMAN v. DAVIS, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 954 F. 3d 1222.

No. 20–6837. *OWENS v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 815 Fed. Appx. 818.

No. 20–6840. *DARRINGTON v. UNITED STATES.* C. A. 8th Cir. Certiorari denied.

No. 20–6841. *JONES v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 962 F. 3d 1290.

No. 20–6923. *ABBATE v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 970 F. 3d 601.

No. 20–6972. *JENKINS v. DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied. Reported below: 963 F. 3d 1248.

No. 20–7030. *LOVE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied.

No. 20–7071. *RUSSELL v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS*

May 17, 2021

593 U. S.

DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 378.

No. 20–7205. *FRANQUI v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 301 So. 3d 152.

No. 20–7228. *POOLER v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 302 So. 3d 744.

No. 20–7312. *PARKER v. PICKENS ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 833 Fed. Appx. 656.

No. 20–7351. *SHAW v. SACRAMENTO COUNTY SHERIFF’S DEPARTMENT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 810 Fed. Appx. 553.

No. 20–7356. *SPIVEY v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 20–7357. *JOHNSON v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 20–7358. *HARRIS v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 136 Nev. 817, 468 P. 3d 375.

No. 20–7371. *MARSH v. FLEMING, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 805 Fed. Appx. 238.

No. 20–7373. *PAYNE v. ARIZONA*. Super. Ct. Ariz., Pima County. Certiorari denied.

No. 20–7375. *WOOTEN v. PARKER, SHERIFF, HOWARD COUNTY, TEXAS, ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 830 Fed. Appx. 443.

No. 20–7376. *MARTIN v. OHIO*. C. A. 6th Cir. Certiorari denied.

No. 20–7379. *CORUJO MERCADO v. FLORIDA*. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 303 So. 3d 1242.

No. 20–7391. *TURNER v. GRAY, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7392. *WOODFORK v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

593 U. S.

May 17, 2021

No. 20–7396. *CALHOUN v. WALMART STORES EAST, LP.* C. A. 11th Cir. Certiorari denied. Reported below: 818 Fed. Appx. 899.

No. 20–7397. *KING v. WINN, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 20–7403. *LUNA v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied.

No. 20–7407. *SOLAR-SOMOHANO v. COCA-COLA CO. ET AL.* C. A. Fed. Cir. Certiorari denied.

No. 20–7411. *JACKSON v. BEREAN ET AL.* C. A. 6th Cir. Certiorari denied.

No. 20–7420. *KILMAN v. WILLIAMS, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 396.

No. 20–7424. *DOUGLAS v. SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY.* C. A. 9th Cir. Certiorari denied.

No. 20–7426. *WILLIAMS v. OHIO.* Ct. App. Ohio, 7th App. Dist., Columbiana County. Certiorari denied. Reported below: 2020-Ohio-4430.

No. 20–7432. *LUCIEN v. TEXAS.* Ct. App. Tex., 10th Dist. Certiorari denied.

No. 20–7433. *CHAUDRON v. TEXAS.* Ct. App. Tex., 7th Dist. Certiorari denied.

No. 20–7434. *DAWES v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 20–7435. *KNICKERBOCKER v. WISCONSIN ET AL.* C. A. 7th Cir. Certiorari denied.

No. 20–7436. *KNIGHT v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 306 So. 3d 953.

No. 20–7440. *SALAZAR v. TEXAS.* Ct. Crim. App. Tex. Certiorari denied.

No. 20–7443. *SALU ET AL. v. MIRANDA ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 830 Fed. Appx. 341.

May 17, 2021

593 U. S.

No. 20–7455. *JONES v. MONTANA*. Sup. Ct. Mont. Certiorari denied. Reported below: 398 Mont. 309, 459 P. 3d 841.

No. 20–7462. *KIRKLAND v. OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 160 Ohio St. 3d 389, 2020-Ohio-4079, 157 N. E. 3d 716.

No. 20–7463. *JACKSON v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 309 So. 3d 205.

No. 20–7466. *BURGETT v. GENERAL STORE NO. TWO INC. ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 826 Fed. Appx. 579.

No. 20–7470. *RAMON GUERRERO v. NEVADA*. Ct. App. Nev. Certiorari denied. Reported below: 136 Nev. 816, 459 P. 3d 240.

No. 20–7478. *LEWIS v. SOUTHERN CONNECTICUT STATE UNIVERSITY ET AL.* C. A. 2d Cir. Certiorari denied.

No. 20–7485. *COOPER v. CHAPMAN, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 970 F. 3d 720.

No. 20–7512. *COX v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied. Reported below: 307 Neb. 762, 985 N. W. 2d 395.

No. 20–7513. *JONES v. NEW YORK CITY POLICE DEPARTMENT ET AL.* C. A. 2d Cir. Certiorari denied.

No. 20–7534. *TIJERINO-SEVILLA v. GARLAND, ATTORNEY GENERAL*. C. A. 11th Cir. Certiorari denied. Reported below: 840 Fed. Appx. 416.

No. 20–7539. *JAMES v. CAMPBELL, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7557. *NORA v. OFFICE OF LAWYER REGULATION*. Sup. Ct. Wis. Certiorari denied. Reported below: 2020 WI 70, 393 Wis. 2d 359, 945 N. W. 2d 559.

No. 20–7565. *UDOH v. GARLAND, ATTORNEY GENERAL*. C. A. 8th Cir. Certiorari denied. Reported below: 835 Fed. Appx. 895.

No. 20–7566. *CHAILLA ET VIR v. SAUL, COMMISSIONER OF SOCIAL SECURITY, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 838 Fed. Appx. 653.

593 U.S.

May 17, 2021

No. 20–7569. *HUNT v. FLORIDA*. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 305 So. 3d 536.

No. 20–7573. *HARRIS v. NEBRASKA*. Ct. App. Neb. Certiorari denied. Reported below: 29 Neb. App. —.

No. 20–7585. *BOWSER v. KANSAS*. Sup. Ct. Kan. Certiorari denied. Reported below: 312 Kan. 289, 474 P. 3d 744.

No. 20–7587. *BRANDON v. SAUL, COMMISSIONER OF SOCIAL SECURITY*. C. A. 9th Cir. Certiorari denied. Reported below: 821 Fed. Appx. 857.

No. 20–7607. *BURRIS v. MASON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOEY, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 20–7623. *DRAKE v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 239 A. 3d 72.

No. 20–7625. *ROSS v. MYRICK ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 817 Fed. Appx. 499.

No. 20–7641. *HAWKINS v. SHOOP, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7644. *HANSEN v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 20–7664. *GREEN v. CHAPMAN, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7672. *GARCIA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 840.

No. 20–7673. *SLITER-MATIAS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 837 Fed. Appx. 910.

No. 20–7675. *STROMING v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 838 Fed. Appx. 624.

No. 20–7677. *FUENTES-MORALES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 926.

No. 20–7679. *LUCAS, AKA MADRON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 836 Fed. Appx. 142.

May 17, 2021

593 U. S.

No. 20–7680. *BEASLEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 832 Fed. Appx. 314.

No. 20–7684. *GLENN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7689. *WILMORE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 20–7697. *BERCKMANN v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 971 F. 3d 999.

No. 20–7702. *SMITH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 833 Fed. Appx. 516.

No. 20–7703. *ROBINSON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 187.

No. 20–7705. *SERRANO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7707. *LEDFORD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 834 Fed. Appx. 12.

No. 20–7708. *CASTRO ORELLANA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 832 Fed. Appx. 923.

No. 20–7709. *HENRY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 842 Fed. Appx. 809.

No. 20–7716. *MOSLEY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 805 Fed. Appx. 164.

No. 20–7723. *DAVIS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 980 F. 3d 1089.

No. 20–7726. *DAVIS v. MUSSELWHITE, WARDEN*. C. A. 8th Cir. Certiorari denied.

No. 20–7728. *SMEATON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 20–7729. *ROSE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 815 Fed. Appx. 788.

No. 20–7730. *BROOKS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 841 Fed. Appx. 346.

593 U.S.

May 17, 2021

No. 20–7737. *FLEMING v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7738. *GRANT v. UNITED STATES*. Ct. App. D. C. Certiorari denied.

No. 20–7743. *MILLIRON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 984 F. 3d 1188.

No. 20–7744. *PRICE v. DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 247 A. 3d 687.

No. 20–7745. *MYLES v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7746. *ANGEL MENDOZA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 825 Fed. Appx. 507.

No. 20–7755. *VEASEY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 843 Fed. Appx. 555.

No. 20–7764. *CARTER v. WINN, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 20–7767. *ELLISON v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 827 Fed. Appx. 310.

No. 20–7773. *JAIYEOLA v. TOYOTA MOTOR CORP. ET AL.* C. A. 6th Cir. Certiorari denied.

No. 20–7775. *SPANN v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 984 F. 3d 711.

No. 20–7779. *SHRADER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 822 Fed. Appx. 241.

No. 20–7784. *GOINS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 828 Fed. Appx. 324.

No. 20–7785. *GRAHAM v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 20–7786. *MCCASKILL v. INCH, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. Sup. Ct. Fla. Certiorari denied.

No. 20–7793. *LIRA ESTRADA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 72.

May 17, 2021

593 U. S.

No. 20–7795. *HUTCHINSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 831 Fed. Appx. 195.

No. 20–7801. *HERMAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 20–7803. *HALL v. DELAWARE*. Sup. Ct. Del. Certiorari denied. Reported below: 242 A. 3d 1085.

No. 20–7807. *CLARK v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 20–7838. *VARGAS v. KOENIG, WARDEN*. C. A. 9th Cir. Certiorari denied. Reported below: 829 Fed. Appx. 796.

No. 20–701. *CALVERT v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

Petitioner James Calvert was convicted in Texas of murdering his ex-wife. At sentencing, the State called David Logan, a former corrections officer. Logan testified in detail about an incident in which an inmate stabbed him in the eye with a pencil, leaving him blind in that eye. The State introduced a medical scan showing that the pencil traveled four inches into Logan's brain before coming to rest against an artery. Logan was unsure why the inmate attacked him, but testified that if an inmate “‘has it on his mind to hurt you, there's nothing you can do.’” 2019 WL 5057268, *58 (Tex. Crim. App. 2019).

You may be asking what Calvert had to do with this gruesome incident. The answer is nothing. The State nonetheless argued that Logan's testimony and brain scan were admissible because they revealed “an inmate's opportunity for violence within the penitentiary.” 164 Record 20. “Do you think they can be controlled in the pen, these inmates?” the State rhetorically asked the jury in its closing argument. 171 *id.*, at 128. “Then you tell me why David Logan got a pencil stabbed into his brain.” *Ibid.* “Because of what happened to [Logan],” the State argued, Calvert “should get the death penalty.” 164 *id.*, at 19. At the jury's recommendation, the trial court sentenced Calvert to death.

Calvert appealed. He argued that admission of the evidence about the inmate's attack on Logan violated his right to individu-

alized sentencing under the Eighth Amendment.¹ See *Woodson v. North Carolina*, 428 U.S. 280, 303 (1976) (plurality opinion) (capital sentencing proceedings must “allow the particularized consideration of relevant aspects of the [defendant’s] character and record”). The Texas Court of Criminal Appeals disagreed, holding that “[t]he individualized sentencing requirement is satisfied when the jury is able to consider and give full effect to a defendant’s mitigating evidence.” 2019 WL 5057268, *59. That requirement was satisfied here, the court concluded, because Calvert was not “prevented from presenting relevant mitigating evidence.” *Ibid.*

Calvert now asks this Court to grant certiorari.² In my view, Calvert raises a serious argument that the State’s reliance on a graphic instance of violence by an unrelated inmate to prove that he posed a future danger deprived him of his right to an individualized sentencing.

Despite this weighty question, I do not dissent from the decision to deny Calvert’s petition, because I agree that his claim does not meet the Court’s traditional criteria for granting certiorari. See this Court’s Rule 10. The legal question Calvert presents is complex and would benefit from further percolation in the lower courts prior to this Court granting review. Certainly, the law is not clear enough to warrant this Court summarily

¹ Calvert also argued that admission of the evidence about the inmate’s attack on Logan violated the Texas Rules of Evidence. The Texas Court of Criminal Appeals agreed, but found the error harmless “because the State presented considerable admissible evidence of [Calvert’s] future dangerousness and the prison conditions in which he would be confined.” 2019 WL 5057268, *59 (2019).

² Calvert raises another claim based on courtroom deputies administering a 50,000-volt electric shock to him because of his failure to follow the court’s rule that he stand when addressing the court. While the Texas Court of Criminal Appeals agreed with Calvert that the incident violated due process, it denied relief, concluding that the error was not structural because it occurred outside of the presence of the jury and did not affect Calvert’s presumption of innocence or ability to participate in his defense at trial. *Id.*, at *9–*11. Although it may be appropriate for this Court to defer to the lower court’s factbound prejudice determination, I underscore how astonishing it is for a court to direct deputies to shock a defendant during trial. If there could ever be an excuse for such violence, enforcing courtroom decorum would not be it.

May 17, 2021

593 U. S.

reversing the Texas Court of Criminal Appeals, as Calvert requests. See *Kansas v. Carr*, 577 U. S. 108, 123 (2016) (declining to “shoehorn . . . into the Eighth Amendmen[t]” a claim that the jury considered evidence that “clouded [its] consideration of mitigating evidence,” and suggesting such claims should be brought under the Due Process Clause); see also *Sears v. Upton*, 561 U. S. 945, 946 (2010) (*per curiam*) (summarily reversing because constitutional error was “plain from the face of the state court’s opinion”).

I write separately to emphasize that the denial of Calvert’s petition should not be construed as a rejection of his claim on the merits.³ Nor does the denial of certiorari suggest the Court approves of the State’s tactics. As the court below recognized, the gruesome attack on Officer Logan “had no connection” to Calvert. 2019 WL 5057268, *58. Indeed, the State introduced no evidence that Calvert “had attempted to attack or physically injure anyone” while incarcerated. *Ibid.* The State asked the jury to sentence Calvert to death in part because of a different person’s violent conduct that had nothing to do with Calvert. It succeeded. Although this case does not meet this Court’s traditional criteria for certiorari, it still stands as a grim reminder that courts should rigorously scrutinize how States prove that a person should face the ultimate penalty. Juries must have a clear view of the “uniquely individual human beings” they are sentencing to death, *Woodson*, 428 U. S., at 304 (plurality opinion), not one tainted by irrelevant facts about other people’s crimes. The Constitution and basic principles of justice require nothing less.

No. 20–888. *ALI v. BIDEN, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE GORSUCH and JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 959 F. 3d 364.

No. 20–1004. *COLLIER v. DALLAS COUNTY HOSPITAL DISTRICT, DBA PARKLAND HEALTH & HOSPITAL SYSTEM.* C. A. 5th Cir. Motion of Howard University School of Law Human and Civil

³ In addition to Calvert’s Eighth Amendment claim, the State’s conduct here may implicate due process. The introduction of irrelevant evidence can “so infec[t] the sentencing proceeding with unfairness as to render the jury’s imposition of the death penalty a denial of due process.” *Romano v. Oklahoma*, 512 U. S. 1, 12 (1994). The Court’s decision today should not be viewed as a rejection of the merits of that potential claim, either.

593 U. S.

May 17, 2021

Rights Clinic for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 827 Fed. Appx. 373.

No. 20–1069. JANSSEN PHARMACEUTICALS, INC., ET AL. *v.* A. Y. ET AL. Super. Ct. Pa. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 224 A. 3d 1.

No. 20–1227. WHITEHEAD *v.* NETFLIX, INC., ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 830 Fed. Appx. 967.

No. 20–1247. DIX *v.* EDELMAN FINANCIAL SERVICES, LLC, ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE BARRETT took no part in the consideration or decision of this petition. Reported below: 978 F. 3d 507.

No. 20–1317. MACINTYRE *v.* JPMORGAN CHASE BANK, N. A. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 827 Fed. Appx. 812.

No. 20–6448. DAVIS *v.* QUAY, WARDEN. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 818 Fed. Appx. 147.

No. 20–6484. TYLER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 956 F. 3d 116.

No. 20–7694. ESCOBAR DE JESUS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

Rehearing Denied

No. 19–8464. MITCHELL *v.* UNITED STATES, 590 U. S. 983;

No. 20–959. THIGPEN *v.* BOARD OF TRUSTEES OF THE LOCAL 807 LABOR-MANAGEMENT PENSION FUND, 592 U. S. 1319;

No. 20–972. IBEABUCHI *v.* EGGLESTON, DIRECTOR OF OPERATION, ET AL., 592 U. S. 1319;

No. 20–1228. JAYE *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF IOWA, 593 U. S. 915;

No. 20–5814. WEBB *v.* LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 592 U. S. 1116;

May 17, 19, 20, 2021

593 U. S.

No. 20–6007. *WRIGHT v. UNITED STATES*, 592 U. S. 1093;
No. 20–6039. *MCBRIDE v. LUMPKIN*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 592 U. S. 1180;
No. 20–6138. *WALKER v. KELLEY*, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, 592 U. S. 1153;
No. 20–6161. *BRUNSON v. UNITED STATES*, 592 U. S. 1271;
No. 20–6361. *DAVIS v. INCH*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., 592 U. S. 1222;
No. 20–6395. *GRIFFITH v. NEW YORK*, 592 U. S. 1222;
No. 20–6440. *TOSCANO v. ADAM ET AL.*, 592 U. S. 1190;
No. 20–6510. *FORD v. BUDDE*, 592 U. S. 1238;
No. 20–6673. *DIEHL v. UNITED STATES*, 592 U. S. 1240;
No. 20–6735. *MCCLUNG ET AL. v. ESTEVEZ*, 592 U. S. 1321;
No. 20–6751. *WALDREP v. SHINN*, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY, ET AL., 592 U. S. 1305;
No. 20–6881. *DOUGLAS v. ZIMMERMAN ET AL.*, 592 U. S. 1322;
No. 20–6882. *ZOU v. LINDE ENGINEERING NORTH AMERICA, INC.*, 592 U. S. 1322; and
No. 20–6999. *BOUNCHANH v. WASHINGTON STATE HEALTH CARE AUTHORITY ET AL.*, 592 U. S. 1324. Petitions for rehearing denied.

No. 20–5808. *IN RE LIVERMAN*, 592 U. S. 1104. Motion for leave to file petition for rehearing denied.

No. 20–6835. *HAMILTON v. REAGLE*, WARDEN, 592 U. S. 1313. Petition for rehearing denied. JUSTICE BARRETT took no part in the consideration or decision of this petition.

MAY 19, 2021

Certiorari Denied

No. 20–8037 (20A166). *JONES v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

MAY 20, 2021

Dismissal Under Rule 46

No. 20–1484. *SFPP, L. P. v. FEDERAL ENERGY REGULATORY COMMISSION ET AL.* C. A. D. C. Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 967 F. 3d 788.

593 U.S.

MAY 21, 2021

Dismissal Under Rule 46

No. 20–892. ARIOSIA DIAGNOSTICS, INC., ET AL. *v.* ILLUMINA, INC., ET AL. C. A. Fed. Cir. Certiorari dismissed under this Court’s Rule 46.1. Reported below: 967 F. 3d 1319.

Page Proof Pending Publication