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*PRELIMINARY PRINT—ORDERS*

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THE SUPREME COURT

APRIL 12 THROUGH MAY 21, 2024

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REBECCA A. WOMELDORF

REPORTER OF DECISIONS



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#### REPORTER'S NOTE

Orders commencing with April 12, 2024, begin with page 1109. The preceding orders in 601 U. S., from October 2, 2023, through April 9, 2024, were reported in Part 1, at 801–1108. These page numbers are the same as they will be in the bound volume, thus making the *permanent* citations available upon publication of the preliminary prints of the United States Reports.

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April 12, 15, 2024

APRIL 12, 2024

*Miscellaneous Orders*

No. 23–175. CITY OF GRANTS PASS, OREGON *v.* JOHNSON ET AL., ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED. C. A. 9th Cir. [Certiorari granted, 601 U. S. 994.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae*, for divided argument, and for enlargement of time for oral argument granted.

No. 23–726. MOYLE, SPEAKER OF THE IDAHO HOUSE OF REPRESENTATIVES, ET AL. *v.* UNITED STATES; and

No. 23–727. IDAHO *v.* UNITED STATES. C. A. 9th Cir. [Certiorari granted, 601 U. S. 965.] Motion of petitioners in No. 23–726 for divided argument denied.

APRIL 15, 2024

*Certiorari Granted—Vacated and Remanded*

No. 22–734. GOMEZ-VARGAS *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir.;

No. 22–1038. GONZALEZ-RIVAS *v.* GARLAND, ATTORNEY GENERAL. C. A. 8th Cir. Reported below: 53 F. 4th 1129;

No. 23–26. BECERRA ORTIZ *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir.;

No. 23–44. GARCIA-PASCUAL *v.* GARLAND, ATTORNEY GENERAL. C. A. 8th Cir. Reported below: 62 F. 4th 1096; and

No. 23–75. URIBE OSORIO *v.* GARLAND, ATTORNEY GENERAL. C. A. 10th Cir. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Wilkinson v. Garland*, 601 U. S. 209 (2024).

No. 22–7658. SANTIBANEZ-SANCHEZ *v.* GARLAND, ATTORNEY GENERAL. C. A. 5th Cir.; and

No. 23–5673. MARTINEZ *v.* CLARK, WARDEN, ET AL. C. A. 9th Cir. Reported below: 36 F. 4th 1219. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Wilkinson v. Garland*, 601 U. S. 209 (2024).

*Certiorari Dismissed*

No. 23–6649. DAVIS *v.* SIMS, JUDGE, SEVENTH DIVISION, PULASKI COUNTY CIRCUIT COURT, ET AL. C. A. 8th Cir. Motion

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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*).

No. 23–6700. *GREEN v. WALT DISNEY CO.* 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.

No. 23–6929. *WILMORE v. UNITED STATES.* 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. 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*).

#### *Miscellaneous Orders*

No. 23A763. *LABRADOR, ATTORNEY GENERAL OF IDAHO v. POE, BY AND THROUGH HER PARENTS AND NEXT FRIENDS, POE ET AL., ET AL.* Application for stay, presented to JUSTICE KAGAN, and by her referred to the Court, granted. The December 26, 2023, order of the United States District Court for the District of Idaho, case No. 1:23–cv–269, is stayed, except as to the provision to the plaintiffs of the treatments they sought below, pending the disposition of the appeal in the United States Court of Appeals for the Ninth Circuit and disposition of a petition for writ of certiorari, if such a writ is timely sought. Should certiorari be denied, this stay shall terminate automatically. In the event certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court. JUSTICE KAGAN would deny the application for stay.

JUSTICE GORSUCH, with whom JUSTICE THOMAS and JUSTICE ALITO join, concurring.

Early in the litigation below, the district court issued a preliminary injunction. Ordinarily, injunctions like these may go no fur-

ther than necessary to provide interim relief to the parties. In this case, however, the district court went much further, prohibiting a State from enforcing any aspect of its duly enacted law against anyone. Today, the Court stays the district court's injunction to the extent it applies to nonparties, which is to say to the extent it provides "universal" relief. That is a welcome development.

## I

To appreciate the significance of the Court's ruling, some background helps. In 2023, Idaho adopted the Vulnerable Child Protection Act. The law sought to regulate a number of "'practices upon a child for the purpose of attempting to alter the . . . child's sex.'" 709 F. Supp. 3d 1169, 1179 (Idaho 2023). Those practices range from "surgeries that sterilize or mutilate" a child's genitals to the supply of "[p]uberty-blocking medication." *Ibid.* Idaho claimed that its law aimed to protect children from treatments that can cause "lasting harm and irreversible damage." *Id.*, at 1199 (internal quotation marks omitted). The law's provisions were scheduled to take effect January 1, 2024.

Before that could happen, two children and their parents sued Idaho's attorney general and a local prosecutor in federal district court. The children and their parents alleged that, without access to puberty blockers and estrogen, the two minor plaintiffs would likely suffer serious mental health problems. Decl. of P. Poe in No. 1:23-cv-269 (D Idaho), ECF Doc. 32-2, ¶¶14, 19, 22; Decl. of J. Doe, ECF Doc. 32-4, ¶¶14, 16, 23-24. Shortly after filing suit, the plaintiffs asked the district court to issue a preliminary injunction.

The district court agreed to do so. But instead of enjoining state officials from enforcing the law with respect to the plaintiffs and the drug treatments they sought, the district court entered a universal injunction. 709 F. Supp. 3d, at 1199-1200. That is, the court prohibited the defendants from enforcing "any provision" of the law under any circumstances during the life of the parties' litigation. *Id.*, at 1200. Among other things, this meant Idaho could not enforce its prohibition against surgeries to remove or alter children's genitals, even though no party before the court had sought access to those surgeries or demonstrated that Idaho's prohibition of them offended federal law. The court's order promised to suspend Idaho's law indefinitely, too, as this

litigation (like many today) may take years to reach final judgment.

Idaho responded by appealing the district court's preliminary injunction decision to the Ninth Circuit. The State also asked the Ninth Circuit to stay the preliminary injunction during the pendency of the appeal. At the least, the State argued, the court of appeals should stay the universal aspect of the district court's injunction so that at least some portions of its duly enacted law might finally take effect.

After the Ninth Circuit denied Idaho's stay request in a brief unreasoned order, the State proceeded here. Before us, the State does not challenge the preliminary injunction to the extent it ensures the two minor plaintiffs in this case continued access to their drug treatments. That aspect of the district court's order will remain in place pending appeal. The State asks us to stay the preliminary injunction only to the extent it bars Idaho from enforcing any aspect of its law against any person anywhere in the State.

## II

Stay motions and other requests for interlocutory relief are nothing new or particularly remarkable. In truth, they are perhaps "as old as the judicial system of the [N]ation." *Scripps-Howard Radio, Inc. v. FCC*, 316 U. S. 4, 17 (1942). Every federal court in this country has within its "traditional" toolkit the power to pause temporarily its own order or one of a lower court or issue other forms of interim relief. *Id.*, at 9; see 28 U. S. C. §1651(a); this Court's Rule 23.1; Fed. Rule App. Proc. 8(a). Often, judges at all levels of the federal judiciary resolve motions for interlocutory relief in brief orders like the one the Court issues today and the Ninth Circuit did below. Judges have proceeded this way throughout the Nation's history. Indeed, many courts could not efficiently manage their dockets otherwise. Cf. *Wilson v. Sellers*, 584 U. S. 122, 139 (2018) (GORSUCH, J., dissenting) ("[A] busy appellate court sometimes may not see the profit in devoting its limited resources to explaining the error [or] alternative basis for affirming . . . so it issues a summary affirmance instead").

Just as familiar are the rules that govern stay applications. This Court, like every other federal court, is "guided" by the same "sound . . . principles." *Nken v. Holder*, 556 U. S. 418, 434 (2009) (internal quotation marks omitted); see *Trump v. Interna-*

*tional Refugee Assistance Project*, 582 U.S. 571, 580 (2017) (*per curiam*); *id.*, at 584 (THOMAS, J., concurring in part and dissenting in part). We ask (1) whether the stay applicant has made a strong showing that it is likely to succeed on the merits, (2) whether it will suffer irreparable injury without a stay, (3) whether the stay will substantially injure other parties interested in the proceedings, and (4) where the public interest lies. *Nken*, 556 U.S., at 434. A court’s ““discretion”” to enter a stay is thus not left up to its mere ““inclination, but to its judgment”” regarding each of these time-tested considerations. *Ibid.* (quoting *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 139 (2005), in turn quoting *United States v. Burr*, 25 F. Cas. 30, 35 (No. 14,692d) (CC Va. 1807) (Marshall, C. J.)).

Applying that traditional stay test here yields a ready answer. Start with the first question: whether Idaho has shown it is likely to succeed on the merits. This Court has long held that a federal court’s authority to fashion equitable relief is ordinarily constrained by the rules of equity known “‘at the time of the separation of’” this country from Great Britain. *Grupo Mexicano de Desarrollo, S. A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 318 (1999); see *Guaranty Trust Co. v. New York*, 326 U.S. 99, 105 (1945); *Boyle v. Zacharie & Turner*, 6 Pet. 648, 658 (1832). Under those rules, this Court has said, a federal court may not issue an equitable remedy “more burdensome to the defendant than necessary to [redress]” the plaintiff’s injuries. *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979); see *Gill v. Whitford*, 585 U.S. 48, 68 (2018) (“[A] ‘remedy must . . . be limited to the inadequacy that produced the injury in fact that the plaintiff has established’”); *Rhode Island v. Massachusetts*, 12 Pet. 657, 718 (1838); *Department of Homeland Security v. New York*, 589 U.S. 1173, 1175 (2020) (*DHS*) (GORSUCH, J., concurring in grant of stay); *United States v. Texas*, 599 U.S. 670, 693 (2023) (GORSUCH, J., concurring in judgment); S. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 Harv. L. Rev. 417, 425–428 (2017).

The district court’s universal injunction defied these foundational principles. It did not just vindicate the plaintiffs’ access to the drug treatments they sought. It purported to bar the enforcement of “any provision” of the law against anyone. 709 F. Supp. 3d, at 1200. The district court issued this sweeping relief even though, by its own admission, the plaintiffs had failed to “engage” with other provisions of Idaho’s law that

don't presently affect them—including the law's provisions prohibiting the surgical removal of children's genitals. *Id.*, at 1199. In choosing such an extraordinary remedy, the district court clearly strayed from equity's traditional bounds.

The remaining stay factors—the relative harms to the parties and the public interest—point to the same conclusion. Members of this Court have long held that, “[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.” *Maryland v. King*, 567 U. S. 1301, 1303 (2012) (ROBERTS, C. J., in chambers) (quoting *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 434 U. S. 1345, 1351 (1977) (Rehnquist, J., in chambers)). Likewise, this Court has held that “[t]here is always a public interest in prompt execution” of the law, absent a showing of its unconstitutionality. *Nken*, 556 U. S., at 436.

Both considerations favor Idaho. The district court purported to bar the State from bringing into effect portions of a statute that no party has shown, and no court has held, likely offensive to federal law. The district court's order promised to run for the life of this lawsuit, thus preventing Idaho from executing any aspect of its law for years. Meanwhile, the plaintiffs face no harm from the partial stay the State requests. Even with it, the district court's preliminary injunction will operate to prevent state authorities from taking any action to interfere with their ability to access the particular drug treatments they seek.

### III

The dissent disputes none of this. It does not question that Idaho is entitled to relief under this Court's traditional stay test. Instead, it laments the number of requests for interim relief this Court has recently faced in “high-profile” cases. *Post*, at 1130 (JACKSON, J., dissenting from grant of stay). To deter future applications of that sort, the dissent proposes adding to our traditional stay test new factors alien to our precedents and historic equitable practice. Respectfully, however, the dissent's proposals miss the mark.

*First*, the dissent suggests that we should refuse to intervene when both a district court and a court of appeals have refused a party's request for interim relief. *Post*, at 1130–1131. But the dissent does not explain how this system of upside-down precedent works, where the Supreme Court is somehow bound to follow lower court

decisions. Of course, no one questions that the Court should (as it does) afford due respect to the work of our lower court colleagues. See, e.g., *Little v. Reclaim Idaho*, 591 U.S. 1060, 1063 (2020) (ROBERTS, C. J., concurring in grant of stay). But the dissent does not explain why due respect should be replaced with abject deference, or how the rule it proposes would allow us to discharge faithfully our own obligation to assess fairly and independently the cases that come to us. Nor, for that matter, does the dissent attempt to reconcile its proposed new rule with the fact that, over the last 12 months, this Court has (repeatedly) granted interim relief to the federal government in the face of contrary lower court rulings.<sup>1</sup>

Perhaps sensing these problems and convinced of the correctness of this Court's recent interventions, the dissent ultimately fashions itself an escape hatch. Tucked away in a footnote, the dissent adds that it does not mean to suggest that the "burden" of overcoming adverse lower court decisions "can never be carried." *Post*, at 1131, n. 1. But if that's true, when does the dissent believe we should intervene, and when not? And why was it appropriate for this Court to override lower court decisions in so many other recent cases but it is inappropriate to do the same here? The dissent never says. So much for the added clarity and "restraint" it hopes to bring to our law. *Post*, at 1135.

*Second*, the dissent suggests that, before granting relief, we should ask whether a case is "certworthy." *Post*, at 1132. But it isn't clear how that would help matters either. In the past, various individual Justices faced with requests for interlocutory relief in chambers, sometimes while the Court stood in recess, considered whether four Justices would likely agree to take up the dispute. That practice may be understandable. But when hearing many stay requests, this one included, we sit as a full Court. And here, a majority has decided that this case is worthy of the Court's attention.

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<sup>1</sup>See, e.g., *Murthy v. Missouri*, 601 U.S. 888 (2023) (overriding a lower court order prohibiting the government from coercing or encouraging social media companies to censor private speech); *Garland v. Blackhawk Mfg. Group, Inc.*, 601 U.S. 883 (2023) (setting aside a lower court order prohibiting the government from enforcing its regulation restricting the sale of ghost guns); *FDA v. Alliance for Hippocratic Medicine*, 598 U.S. 1253 (2023) (countermanding a lower court order staying the Food and Drug Administration's approval of mifepristone, an abortion drug).

It has done so, too, for good reason. This case poses a question about the propriety of universal injunctive relief—a question of great significance that has been in need of the Court’s attention for some time. *DHS*, 589 U. S., at 1175 (opinion of GORSUCH, J.); *Griffin v. HM Florida-ORL, LLC*, 601 U. S. 924, 925–926 (2023) (statement of KAVANAUGH, J.). This case also implicates an apparent circuit split, as courts of appeals have disagreed about whether district courts may issue the sort of sweeping relief the district court issued here when faced with laws very much like Idaho’s. See, e. g., *Brandt v. Rutledge*, 47 F. 4th 661, 672 (CA8 2022); *L. W. v. Skrmetti*, 83 F. 4th 460, 489–490 (CA6 2023). Even applying the dissent’s proposed standard for relief, then, this case would seem to satisfy it.<sup>2</sup>

*Third*, the dissent suggests that the Court should exercise more “caution” and “restraint” in cases like this one, where a party does not challenge the entry of a preliminary injunction but asks us to address only the scope of the remedy it provides. *Post*, at 1130, 1133–1134. But if “caution” and “restraint” are our watchwords, why would a party’s request for narrower rather than broader relief “counsel against our intervention”? *Post*, at 1130. Do we really want to incentivize parties to seek more sweeping relief in order to enhance their chances of success in this Court? And how does

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<sup>2</sup>The dissent seeks to downplay the “certworthiness” of this case by recasting the universal aspect of the district court’s order as an “incidenta[l]” feature designed to protect the plaintiffs’ anonymity. See *post*, at 1131, n. 2, 1132, and n. 3. But labeling universal relief incidental does not make it so. The district court faced two plaintiffs seeking access to certain specific treatments, yet it issued an order applicable to all potential nonparties and all regulated treatments. There was nothing incidental about it. Tellingly, too, the district court nowhere paused to address the adequacy of less intrusive (and truly incidental) measures to protect the plaintiffs’ anonymity—for example, a sealed order, shared with pertinent state authorities and the plaintiffs’ physicians, guaranteeing them access to the particular treatments they seek. Today, the Court supplies a much-needed reminder that courts cannot so easily sidestep the traditional equitable rule that the relief a federal court may issue “must . . . be limited to the inadequacy that produced the injury in fact that the plaintiff has established.” *Gill v. Whitford*, 585 U. S. 48, 68 (2018) (internal quotation marks omitted). In doing so, the Court does not, as the dissent suggests, “ignor[e]” the district court’s reason for granting universal relief. *Post*, at 1132, n. 3. Rather, the Court recognizes that “aspect of the District Court’s decision” for what it is—an unpersuasive departure from our precedents. *Ibid*.

it serve “caution” and “restraint” for this Court to allow lower courts to transgress foundational remedial principles more readily than foundational liability principles? Especially when pursuing that course would mean (as it does here) that a single federal judge may erroneously suspend the operation of a law adopted by the people’s elected representatives for years on end? Once more, the dissent offers no answers.

*Fourth*, the dissent contends that we should exercise special “caution” when considering whether to intervene in “high-profile case[s].” *Post*, at 1130. But by any measure, a great deal of caution is already baked into the *Nken* analysis. To warrant this Court’s intervention, an applicant seeking a stay must make a “‘strong showing’” on the merits, demonstrate an “‘irreparable’” harm, and persuade the Court that the public interest warrants intervention. *Nken*, 556 U. S., at 434. The dissent does not explain why these traditional cautionary notes are insufficient.

Nor does it explain why we should reserve an added new measure of caution for “high profile” matters alone. I would have thought that, as judges, we should neither deliberately seek out nor evade “high-profile” disputes, but afford all litigants who come before us their lawful due. Even taking the dissent’s test on its own terms, too, my colleagues fail to explain why this case qualifies for special caution as “high profile” but so many others in the last 12 months did not. Does anyone really think that this Court’s recent interventions—in cases involving ghost guns, allegations of government censorship, and abortion access—were warranted because the laws at issue there were less “high-profile” than Idaho’s? See n. 1, *supra*.<sup>3</sup>

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<sup>3</sup>The dissent chides me for neglecting to mention that the State stamped the word “**EMERGENCY**” on the front cover of its stay application. *Post*, at 1133. But it is not obvious what point the dissent is trying to make. *Post*, at 1133, n. 4. In its recent stay applications, the federal government hasn’t always affixed a similar stamp on its papers. See, e.g., Application in No. 23A302, *Garland v. Blackhawk Mfg. Group, Inc.* (Oct. 5, 2023); Application in No. 23A243, *Murthy v. Missouri* (Sept. 14, 2023); Application in No. 22A902, *FDA v. Alliance for Hippocratic Medicine* (Apr. 14, 2023). Should we have denied those applications on that basis? In truth, every applicant for interim relief believes its case qualifies as an “emergency.” Our traditional stay test helps us evaluate those assertions by focusing our attention on factors such as irreparable harm, the balance of equities, and the public interest. The dissent does not explain what additional value an “emergency” test would provide or what neutral principle would guide our

## IV

None of this is to suggest the dissent is without a point. Perhaps the Court has seen a rise in the number of applications for interim relief. But if so, it seems to me that this trend is not the result of (nor does it justify tinkering with) this Court's precedents and traditional equitable standards. Instead, at least part of the problem may be attributable to a *departure* from those precedents and standards in the lower courts. In recent years, certain district courts across the country have not contented themselves with issuing equitable orders that redress the injuries of the plaintiffs before them, but have sought instead to govern an entire State or even the whole Nation from their courtrooms. Today, Idaho is on the receiving end of one of these universal injunctions, but lately it has often been the federal government.<sup>4</sup>

As best I can tell, universal injunctions are a relatively new phenomenon. By some accounts, universal injunctions against the federal government during President Franklin D. Roosevelt's tenure—those 12 eventful years covering the Great Depression, the New Deal, and most of World War II—were virtually unknown. See Bray, 131 Harv. L. Rev., at 434–435. Others have pointed to a single example of a “nation-wide” decree during that period, but there the Court *reversed* the lower court's “sweeping” ruling for lack of standing. *Perkins v. Lukens Steel Co.*, 310 U. S. 113, 117, 120–121 (1940). Even as late as President Barack Obama's administration, some estimate that lower courts issued only about 19 universal injunctions against the federal government over the course of eight years. See Dept. of Justice, J. Rosen, Opening Remarks at Forum on Nationwide Injunctions

analysis. Nor, for that matter, does the dissent square its proposed new “emergency” test with its other proposals. Take the dissent's preference for avoiding high-profile cases. See *post*, at 1130, 1133. Does the dissent mean to suggest that we should grant relief only in “emergencies,” but only so long as they also keep a low profile?

<sup>4</sup>Many of this Court's recent orders granting interim relief were the product of a different and unrelated problem: the profound “intrusions on civil liberties” governments attempted in response to COVID-19. *Arizona v. Mayorkas*, 598 U. S. 1293, 1296 (2023) (statement of GORSUCH, J.). And, “[n]ot surprisingly,” the number of requests for interim relief in this Court “has shrunk in the years since COVID-19.” *Post*, at 1128, n. 5 (KAVANAUGH, J., concurring in the grant of stay).

and Federal Regulatory Programs (Feb. 12, 2020). Since then, however, universal injunctions have proliferated. By one count, lower courts issued 55 universal injunctions during the first three years of President Donald Trump’s administration. *Ibid.* And if the last 12 months are any indication, it seems that trend has continued apace during the administration of President Joseph R. Biden, Jr. See, *e.g.*, n. 1, *supra* (citing examples).

A rising number of universal injunctions virtually guarantees that a rising number of “high-profile” cases will find their way to this Court. Just consider this case. Idaho does not challenge the district court’s injunction to the extent it addresses the plaintiffs’ asserted injuries. The State seeks relief here only because and to the extent the district court prevented it from enforcing any aspect of its duly enacted law against anyone—all without any showing that other provisions in the statute violate federal law or the rights of any current party. As in so many other recent cases, the district court’s universal injunction effectively transformed a limited dispute between a small number of parties focused on one feature of a law into a far more consequential referendum on the law’s every provision as applied to anyone.

What’s worse, universal injunction practice is almost by design a fast and furious business. Normally, parties spend “their time methodically developing arguments and evidence” before proceeding to a trial and final judgment limited to the persons and claims at hand. *DHS*, 589 U. S., at 1175 (opinion of GORSUCH, J.). If they seek relief for a larger group of persons, they must join those individuals to the suit or win class certification. In universal-injunction practice, none of that is necessary. Just do a little forum shopping for a willing judge and, at the outset of the case, you can win a decree barring the enforcement of a duly enacted law against anyone. Once that happens, the affected government (state or federal) will often understandably feel bound to seek immediate relief from one court and then the next, with the finish line in this Court. After all, if the government does not act promptly, it can expect a law that the people’s elected representatives have adopted as necessary and appropriate to their present circumstances will remain ineffectual for years on end. In all these ways, universal injunctions circumvent normal judicial processes and “tend to force judges into making rushed, high-stakes, low-information decisions” at all levels. *Id.*, at 1176.

Today, the Court takes a significant step toward addressing the problem. It does so not by reworking our precedents and traditional equitable practices, but by enforcing them. It focuses directly on a root cause of the recent proliferation of interlocutory litigation in “high profile” matters, sets aside a district court’s universal injunction, and in the process reminds lower courts of the foundational rule that any equitable remedy they issue must not be “more burdensome to the defendant than necessary to [redress]” the plaintiff’s injuries. *Califano*, 442 U. S., at 702.

Lower courts would be wise to take heed. Retiring the universal injunction may not be the answer to everything that ails us. But it will lead federal courts to become a little truer to the historic limits of their office; promote more carefully reasoned judicial decisions attuned to the facts, parties, and claims at hand; allow for the gradual accretion of thoughtful precedent at the circuit level; and reduce the pressure on governments to seek interlocutory relief in this Court. A return to a more piecemeal and deliberative judicial process may strike some as inefficient. It may promise less power for the judge and less drama and excitement for the parties and public. But if any of that makes today’s decision wrong, it makes it wrong in the best possible ways, for “good judicial decisions are usually tempered by older virtues.” *DHS*, 589 U. S., at 1176 (opinion of GORSUCH, J.).

JUSTICE KAVANAUGH, with whom JUSTICE BARRETT joins, concurring.

A Federal District Court in Idaho preliminarily enjoined Idaho from enforcing its new Vulnerable Child Protection Act. The U. S. Court of Appeals for the Ninth Circuit declined to stay the injunction. Idaho then filed an emergency application in this Court for a partial stay of the injunction. The Court today grants Idaho’s emergency application. I agree with the Court’s decision.

I add this concurring opinion to explain how this Court typically resolves emergency applications in cases like this—namely, in cases where a party has sought to enjoin enforcement of a new state or federal law in the often years-long period until a final decision on the merits.

Traditionally, one important factor when this Court decides an emergency application involving a new law is likelihood of success on the merits. The likelihood of success on the merits factor can

pose difficulty, however, because it can require the Court to assess the merits of important cases earlier and more quickly than is ordinarily preferable, and to do so without the benefit of full merits briefing and oral argument. But when resolving emergency applications involving significant new laws, this Court often cannot avoid that difficulty. It is not ideal, but it is reality. Given that reality, the Court must then determine the best processes for analyzing likelihood of success on the merits in emergency cases.

## I

Here is how the issue typically arises. After a new federal statute, federal regulation, or state law has been enacted, an adversely affected party who contends that the new law violates the Constitution or federal law may seek a pre-enforcement preliminary injunction in federal district court. A preliminary injunction prevents the government from enforcing its new law pending the eventual decision on the merits. If the district court grants a preliminary injunction, the government may promptly seek a stay in the court of appeals. Or if the district court denies a preliminary injunction, the plaintiff may promptly seek an injunction in the court of appeals.

The party that loses in the court of appeals may then seek emergency relief in this Court. The losing party may argue, for example, that a consequential new law has been mistakenly enjoined or mistakenly green-lighted by the lower courts, and ask this Court to grant relief.

When an emergency application comes to this Court, we must decide it—grant or deny. The Court has no authority to reject or turn away emergency filings without deciding them.

It is critical to appreciate the significance of the decision that this Court is being asked to make in emergency cases involving new laws. Keep in mind how much time it takes for the litigation process to run its course and reach a final merits ruling in the district court, court of appeals, and potentially this Court—often one to three years or even longer. The final merits decision, when it occurs, will of course be important. But the interim status of the law—that is, whether the law is enforceable during the several years while the parties wait for a final merits ruling—*itself* raises a separate question of extraordinary significance to the parties and the American people. And *that* is the question

this Court often must address when deciding emergency applications involving new laws.<sup>1</sup>

Consider a few examples. Suppose that a State enacts a new online defamation law. Do communications and media companies have to alter their editorial policies and posting practices to comply with that new speech law during the several years while its constitutionality under the First Amendment is being litigated on the merits? Or suppose that EPA issues major new environmental regulations. Do businesses have to restructure their operations or build new facilities to comply with the new regulations during the multiyear period while the legality of the regulations is being challenged in court? Cf. *West Virginia v. EPA*, 577 U. S. 1126 (2016) (enjoining Clean Power Plan pending review by the Court of Appeals and Supreme Court).

In those emergency cases, the plaintiffs—including individuals and businesses—often will suffer irreparable harm if the relevant government officials *are not enjoined* from enforcing the law during that multiyear period. But on the flip side, other parties—including the Federal Government, the States, or other individuals and businesses—often will suffer irreparable harm if the relevant government officials *are enjoined* from enforcing the law during that multiyear period.

If the moving party has not demonstrated irreparable harm, then this Court can avoid delving into the merits. But not infrequently—especially with important new laws—the harms and equities are very weighty on both sides. In those cases, this Court has little choice but to decide the emergency application by assessing likelihood of success on the merits. Courts historically have relied on likelihood of success as a factor because, if the harms and equities are sufficiently weighty on both sides, the best and fairest way to decide whether to temporarily enjoin a law pending the final decision is to evaluate which party is most likely to prevail in the end.<sup>2</sup>

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<sup>1</sup>The Court also receives emergency applications in other contexts, such as capital cases, election-law cases, and a smorgasbord of other matters. But a distinct difficulty arises when we consider emergency applications involving the enforcement of new federal or state laws. This opinion uses “laws” as shorthand to include regulations and executive policies as well.

<sup>2</sup>This Court has used different formulations of the factors for granting emergency relief. All formulations basically encompass (1) likelihood of success on the merits (or a fair prospect of success); (2) certworthiness; (3) the

The merits issues raised in emergency applications involving new laws can be consequential and difficult. And those applications can require this Court to assess the merits on a tight timeline—without the benefit of many reasoned lower-court opinions, full merits briefing, and oral argument. It is worth noting that this difficulty is not unique to this Court—lower courts must also deal with applications for interim relief that can require them to assess the merits on a tight timeline.

That scenario is not always optimal for orderly judicial decision-making. So various suggestions have been made to eliminate or reduce the need for this Court to address likelihood of success on the merits when resolving emergency applications involving new laws. Some suggestions have force; others are questionable. As I see it, none completely eliminates the need for this Court to make those calls.

*First*, some suggest that this Court, when receiving an emergency application involving a new law, should adopt a default posture of deference to the court of appeals' ruling on a stay or injunction, especially when the court of appeals has not disturbed the district court's ruling on whether to grant or deny an injunction. See, *e. g.*, *post*, p. 1130 (JACKSON, J., dissenting from grant of stay). Under that view, this Court should deny most emergency applications in cases involving new laws, regardless of whether an injunction against enforcement of the law was ultimately upheld or denied by the court of appeals.

I respectfully disagree with that suggestion. Again, whether a new federal or state law can be enforced during the several years before a final ruling on the merits can *itself* be an important national question. And this Court has a responsibility to resolve major questions of national importance. So a default policy of off-loading to lower courts the final word on whether to greenlight or block major new laws for the several years until a final ruling on the merits would amount to an abdication of this Court's proper role. Moreover, given the possibility that different courts of appeals might reach different conclusions on whether to enjoin

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harms to the parties; and (4) the equities and public interest. See, *e. g.*, *Hollingsworth v. Perry*, 558 U. S. 183, 190 (2010) (*per curiam*). For present purposes, I will treat likelihood of success as equivalent to a fair prospect of success. If there is any meaningful difference among the common formulations of the emergency-relief factors (which I tend to doubt), those distinctions can be explored if necessary in a future case.

the enforcement of a new law for the several years pending final review, a deferential approach could lead to substantial uncertainty and disuniformity that become untenable in cases involving nationwide government programs or national businesses.

I would therefore not adopt a default position where the Court always (or almost always) denies emergency applications involving new laws. Rather, the Court needs some way to evaluate when to grant relief. And one of the traditional, tried-and-true factors has been likelihood of success on the merits.

*Second*, one might reasonably think that this Court, when dealing with an emergency application, should simply try to “preserve the status quo.” Sounds attractive in theory. But in practice, difficulties emerge when trying to define the status quo. Is the status quo the situation on the ground *before* enactment of the new law? Or is the status quo the situation *after* enactment of the new law, but before any judicial injunction? Or is the status quo the situation after any district court ruling on a preliminary injunction? Or is the status quo the situation after a court of appeals ruling on a stay or injunction?

There is no good blanket answer to the question of what the status quo is. Each conception of the status quo is defensible, but there is no sound or principled reason to pick one over another as a rule to apply in all cases involving new laws.

And even if we could settle on one definition of the status quo, applying that one definition consistently across the range of emergency applications would lead to very troubling results. Suppose, for example, that the status quo is defined to mean the status before enactment of the new law. If courts applied that rule across the board, some plainly constitutional and democratically enacted laws would effectively be blocked for several years pending the final decision on the merits. Or suppose instead that the status quo is defined as the status after the new law is in place. In that case, some plainly unconstitutional or otherwise illegal laws would nonetheless remain in effect and be enforced against individuals and businesses for several years pending the final decision on the merits.

I doubt that anyone would tolerate such an inequitable and scattershot approach. So even if we could define the status quo in theory in a principled way across all cases, a blanket rule of “preserving the status quo” in application would not be suitable for this Court’s emergency docket. That is yet another reason

why the Court throughout its history has relied on likelihood of success on the merits as an essential factor in determining when to grant emergency relief in individual cases.

*Third*, JUSTICE BARRETT has emphasized that the Court can and should take care to focus on certworthiness when considering emergency applications. *Doe v. Mills*, 595 U. S. 1029 (2021) (BARRETT, J., concurring in denial of application for injunctive relief). If the underlying merits issue would not warrant this Court's review when the case returned to the Court on the merits docket, then we should deny the application and leave the question of interim relief to the court of appeals. I fully agree with JUSTICE BARRETT's important insight. Emphasizing certworthiness as a threshold consideration helps to prevent parties from using "the emergency docket to force the Court to give a merits preview in cases that it would be unlikely to take." *Ibid.*

Of course, the certworthiness factor is, by definition, only a partial cure for the issue here: Although emphasizing that factor reduces the number of emergency applications involving new laws where we have to assess the merits, some of the most significant and difficult emergency applications will readily clear the certworthiness bar. And in those cases, we may still have to assess likelihood of success on the merits.

*Fourth*, some suggest that the Court should prohibit so-called nationwide and statewide injunctions—injunctions that prevent enforcement of a law against persons other than the plaintiffs. The theory is that eliminating nationwide and statewide injunctions by district courts will in turn reduce the number of emergency applications involving new laws that make it to this Court, or at least reduce the number of applications where this Court needs to assess the merits.

As I see it, prohibiting nationwide or statewide injunctions may turn out to be the right rule as a matter of law regardless of its impact on this Court's emergency docket. See *ante*, at 1112–1114, 1120 (GORSUCH, J., concurring in grant of stay). More to the point for present purposes, I agree that such a rule could somewhat reduce the number of emergency applications that make it to this Court and require the Court to assess the merits.

To begin with, the government party might not seek immediate appellate (or Supreme Court) review of a preliminary injunction that is confined to one or a few individual parties. And an emer-

gency application to this Court where the issue concerns only a few individual parties may not clear the certworthiness bar.<sup>3</sup>

That said, a rule prohibiting nationwide or statewide injunctions would not eliminate the need for this Court to assess the merits of some emergency applications involving new laws. For one, there is ongoing debate about whether any such rule would apply to Administrative Procedure Act cases involving new federal regulations, given the text of the APA. See *Griffin v. HM Florida-ORL, LLC*, 601 U. S. 924, 925, n. 1 (2023) (statement of KAVANAUGH, J., respecting denial of application for stay); 5 U. S. C. § 706(2). But put that caveat aside for now.

Even if a district court enjoins a new federal statute or state law only as to the particular plaintiffs, that injunction could still have widespread effect. For example, the plaintiff might be a State, or the plaintiff might be an association that has many members, or the plaintiffs might file a class action for classwide injunctive relief under Rule 23(b) of the Federal Rules of Civil Procedure. So even if district court injunctions are confined to the plaintiffs, there still will be emergency applications with nationally important effects that come to this Court and clear the certworthiness bar, thereby still requiring this Court to assess the merits.

Moreover, the effects of a rule prohibiting nationwide or statewide injunctions on this Court's emergency docket can be diminished by vertical *stare decisis*. The general discussion of the scope of district court injunctions often overlooks the important role of the court of appeals. Even when district court injunctions are limited to the plaintiffs, the losing party in the district court's preliminary injunction proceeding may promptly seek an injunction or stay in the court of appeals. And any ensuing decision by the court of appeals to grant or deny injunctive relief could then have precedential effect—formally, when there is a precedential opinion, or perhaps informally, when there is not—on other district courts in that circuit when other parties seek similar injunctive relief. After all, with any consequential new law, many different parties may seek preliminary injunctions in separate proceedings in the district courts within a circuit.

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<sup>3</sup>The scope of the injunction may affect evaluation not only of certworthiness but also of the harms to the government defendant and other affected parties.

As a result, the ruling *by the court of appeals* on an emergency application for a stay or injunction in a discrete case (or cases) can often determine whether the new law continues to be enforced across the entire circuit. And in those circumstances, the losing party in the court of appeals may seek relief in this Court and point out that the court of appeals decision may have broader circuitwide impact—and is therefore different from just a single district court ruling involving a few plaintiffs. Put simply, when a court of appeals ruling on an emergency stay or injunction could affect enforcement of a significant new law throughout the circuit, that broader impact may sometimes make the case significant enough to clear the certworthiness bar in this Court.

With any consequential new federal law, moreover, it is likely that different parties will seek preliminary injunctions in multiple circuits. And what happens if different courts of appeals reach different results? For example, what if a major new federal law regulating social media companies, or immigration, or energy producers, or healthcare, or securities markets is enforceable in one circuit but not in another for the several years pending final review on the merits? That disuniformity could often be highly problematic. Again, an emergency application to this Court in those circumstances could clear the certworthiness bar, meaning that we may still have to consider likelihood of success when deciding it.

In short, a rule limiting the scope of district court injunctions may be correct as a matter of law, even apart from its effects on this Court's emergency docket. And the result of a rule against nationwide or statewide injunctions may be to somewhat reduce the number of emergency applications involving new laws where this Court must assess likelihood of success on the merits. But that rule would not eliminate the need for this Court to sometimes decide important emergency applications involving new laws by assessing likelihood of success on the merits.<sup>4</sup>

## II

As the discussion so far has sought to illustrate, this Court cannot avoid evaluation of the merits in at least *some* emergency applications involving consequential new laws.

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<sup>4</sup> Here, the State's application seeks a stay primarily because of the scope of the injunction. That issue is itself certworthy, and I believe that the State has a likelihood of success on that issue.

If I am correct about that basic reality, another important question concerns this Court's processes. What process should this Court employ for assessing likelihood of success on the merits with respect to an emergency application, particularly in cases involving important new federal or state laws? Given the extraordinary significance of the question whether a consequential new law can be enforced during the several years while merits litigation is ongoing, the Court should use as many tools as feasible and appropriate to make the most informed and best decision. Sometimes that might mean taking more time (if available), ordering supplemental briefing, or inviting *amicus* briefs. In certain circumstances, moreover, the Court might benefit from oral argument or may even grant certiorari before judgment.

Especially in recent years, the Court has employed many of those tools to help the Court better decide important emergency applications. See, *e.g.*, *Biden v. Nebraska*, 600 U.S. 477 (2023) (Court granted certiorari before judgment and expedited oral argument after receiving emergency application involving federal student loan forgiveness program); *National Federation of Independent Business v. OSHA*, 595 U.S. 109 (2022) (*per curiam*) (Court granted expedited oral argument after receiving emergency application involving OSHA vaccine mandate); *Biden v. Missouri*, 595 U.S. 87 (2022) (*per curiam*) (same, for emergency application involving CMS vaccine mandate). And I believe that the Court should continue to be flexible in employing appropriate procedures so as to best decide important emergency applications.

A related question is whether the Court should issue opinions—that is, opinions for the Court as distinct from separate concurring or dissenting opinions—to publicly explain our grounds for granting or denying an emergency application involving an important new law. Opinions for the Court can sometimes be appropriate in order to explain our reasoning, as in the vaccine mandate cases, for example. See *ibid.*<sup>5</sup> That said, an opinion for the Court ad-

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<sup>5</sup> During the COVID-19 pandemic, the Court sometimes found it important to issue opinions on COVID-19-related legal questions, in part because of the widespread assumption that the pandemic would largely be over before any final ruling on the merits in the court system. Therefore, the emergency docket during the COVID-19 pandemic in essence *was* the merits docket as to certain COVID-19-related issues. Not surprisingly, this Court's emergency docket, while still robust, has shrunk in the years since COVID-19.

dressings likelihood of success on the merits for an emergency application can sometimes come at a cost. A written opinion by this Court assessing likelihood of success on the merits at a preliminary stage can create a lock-in effect because of the opinion's potential vertical precedential effect (*de jure* or *de facto*), which can thereby predetermine the case's outcome in the proceedings in the lower courts and hamper percolation across other lower courts on the underlying merits question. (Of course, that can happen to a lesser degree even when the Court simply issues a bare-bones order granting or denying relief.) So in my view, issuing opinions for the Court with respect to emergency applications may sometimes be appropriate, but we should exercise appropriate caution before doing so.

\* \* \*

Although the volume of cases challenging new laws and coming to this Court on the emergency docket is a relatively recent development, this Court's emergency docket—and the difficulties associated with it—are not new. The emergency docket has always existed, and both the Court and even individual Justices acting in chambers have made a plethora of important decisions for the Nation in an emergency posture. See, *e.g.*, *West Virginia v. EPA*, 577 U.S. 1126 (2016) (temporarily enjoining Clean Power Plan); *Purcell v. Gonzalez*, 549 U.S. 1 (2006) (*per curiam*) (vacating injunction pending appeal regarding state voter ID law); *Rubin v. United States*, 524 U.S. 1301 (1998) (Rehnquist, C. J., in chambers) (denying stay pending certiorari of order enforcing subpoenas to Secret Service agents regarding observations of the President); *Schlesinger v. Holtzman*, 414 U.S. 1321 (1973) (Marshall, J., in chambers) (staying District Court's injunction that ordered a halt to bombing in Cambodia); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 584, 589 (1952) (after expedited oral argument, affirming District Court's preliminary injunction that proscribed seizure of steel mills by government); cf. *Rosenberg v. United States*, 346 U.S. 273, 283–285 (1953) (vacating stay of execution of the Rosenbergs).

In my view, the Court can potentially reduce the number of emergency applications involving new laws where the Court has to assess likelihood of success on the merits. But this Court is responsible for resolving questions of national importance, even when they arise on the emergency docket. Fulfilling that respon-

sibility will sometimes require us to assess likelihood of success on the merits in emergency cases involving new laws, as the Court has in the past.

JUSTICE JACKSON, with whom JUSTICE SOTOMAYOR joins, dissenting.

When a party asks this Court to “sideste[p] the ordinary judicial process” and intervene at an atypical juncture, our default should be “restraint.” *Barr v. East Bay Sanctuary Covenant*, 588 U. S. 942, 945–946 (2019) (SOTOMAYOR, J., dissenting from grant of stay). We do not have to address every high-profile case percolating in lower courts, and there are usually many good reasons not to do so. Few applicants can meet our threshold requirement of “an exceptional need for immediate relief,” by showing that they will suffer not just substantial harm but an “irreversible injury . . . occurring during the appeals process that cannot be later redressed.” *Louisiana v. American Rivers*, 596 U. S. 919, 920 (2022) (KAGAN, J., dissenting). Even when an applicant establishes that highly unusual line-jumping justification, we still must weigh the serious dangers of making consequential decisions “on a short fuse without benefit of full briefing and oral argument.” *Doe v. Mills*, 595 U. S. 1029 (2021) (BARRETT, J., concurring in denial of application for injunctive relief). Without adequate caution, our decisions risk being not only “unreasoned,” but unreasonable. *Whole Woman’s Health v. Jackson*, 594 U. S. 975, 982 (2021) (KAGAN, J., dissenting from denial of application for injunctive relief).

This case presents numerous reasons for exercising restraint. As explained in Part I, *infra*, the State of Idaho’s emergency application asks us to override the decisions of two lower courts based on an issue not clearly implicated and under circumstances where the State does not contest that its law should remain enjoined as likely unconstitutional, at least as applied to the plaintiffs. As described in Part II, even if today’s application actually involved a “universal injunction,” the emergency docket would not be the place to address the open and challenging questions that that issue raises. I respectfully dissent.

## I

Three interdependent reasons counsel against our intervention. First of all, the applicant seeks displacement of the decisions of

both “the District Court and . . . a unanimous panel of the Court of Appeals.” *Beame v. Friends of the Earth*, 434 U.S. 1310, 1312 (1977) (Marshall, J., in chambers). A Federal District Court determined that a never-before-in-effect Idaho law is likely unconstitutional, and that court issued a preliminary injunction that temporarily blocks the law’s enforcement while it considers the merits of the challengers’ legal claims. Wishing to enforce the challenged law during the course of the litigation, the State asked for a stay pending appeal. But both the District Court and the Ninth Circuit denied that request. Our respect for lower court judges—no less committed to fulfilling their constitutional duties than we are and much more familiar with the particulars of the case—normally requires an applicant seeking an emergency stay from this Court after two prior denials to carry “an especially heavy burden.” See *Edwards v. Hope Medical Group for Women*, 512 U.S. 1301, 1302 (1994) (Scalia, J., in chambers) (internal quotation marks omitted).<sup>1</sup>

Second, the State has not come close to carrying its heavy burden in this case. No party disputes that, assuming all of the other stay factors were met, Idaho needs to show “a reasonable probability that this Court will grant certiorari” in order to obtain an emergency stay. *Maryland v. King*, 567 U.S. 1301, 1302 (2012) (ROBERTS, C. J., in chambers) (internal quotation marks omitted); see also Emergency Application for Stay 29–32; Response in Opposition 19–24; Reply Brief 14–15.<sup>2</sup> Idaho maintains

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<sup>1</sup>The concurrence seems perplexed by the idea that lower court decisions about interim relief deserve our respect. See *ante*, at 1114–1115 (opinion of GORSUCH, J.) (hereinafter concurrence). In its telling, that “upside-down” suggestion leaves this Court either powerless to correct mistakes or hopelessly inconsistent when we do. *Ibid.* But to say that a party bears an especially heavy burden is not to say that burden can never be carried. See *Little v. Reclaim Idaho*, 591 U.S. 1060 (2020) (ROBERTS, C. J., joined by, *inter alios*, GORSUCH, J., concurring in grant of stay) (“No one has overlooked that the State bears an ‘especially heavy burden’ in justifying a stay pending its appeal to the Ninth Circuit[,] . . . [b]ut in my view that burden has been met”). Even when two lower courts deny relief, an applicant can still prevail in this Court under our traditional emergency stay factors. The heavier burden, though, has long served as a sobering reminder that, after two prior levels of review, interim relief has consistently been deemed unwarranted.

<sup>2</sup>While the concurrence appears to attribute the certworthiness consideration to this dissent, see *ante*, at 1115–1116, it is standard practice for this Court to assess certworthiness when evaluating an emergency application. See,

that this case is certworthy because it raises the question whether a district court can issue an injunction that grants relief directed to all potentially impacted nonparties—a so-called “universal injunction.” The only problem: That’s not what the District Court did here. Far from attempting to grant relief to parties not before it, the District Court expressly stated that, “[i]n the absence of class certification, injunctive relief generally should be limited to the named plaintiffs.” 709 F. Supp. 3d 1169, 1199 (Idaho 2023). Then, ultimately, the District Court settled on issuing a statewide preliminary injunction for a party-centered, fact-specific reason: because it found that doing so was necessary to protect the particular plaintiffs before the court, including two minors proceeding under pseudonyms, against action by the State it deemed likely unconstitutional. *Id.*, at 1199–1200. Any error by the District Court as to the necessity of the preliminary relief it has chosen raises, at best, a factbound question, not a certworthy issue.<sup>3</sup>

Third, and finally, Idaho seeks emergency relief without contesting that its law should be preliminarily enjoined as likely unconstitutional, at least as applied to the plaintiffs before the District Court. See *ante*, at 1112 (opinion of GORSUCH, J.). The State takes this litigating position while defending a statute that regulates access to gender-affirming medical care for transgender children. That is a serious and consequential matter, which, indeed, raises the profile of this case and the stakes of our intervention, for the law at issue here will have a significant practical impact on everyone it affects. The constitutional questions around this law are

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*e.g.*, *Doe v. Mills*, 595 U.S. 1029 (2021) (BARRETT, J., concurring in denial of application for injunctive relief); *Little*, 591 U.S., at 1060–1061 (opinion of ROBERTS, C. J.); *Hollingsworth v. Perry*, 558 U.S. 183, 190 (2010) (*per curiam*).

<sup>3</sup>The concurrence all but ignores this key aspect of the District Court’s decision. See *ante*, at 1111–1112. But even the most ardent critics of “universal injunctions” acknowledge that, in providing relief to the parties before a court, an injunction may incidentally benefit nonparties. See, *e.g.*, *United States v. Texas*, 599 U.S. 670, 693 (2023) (GORSUCH, J., concurring in judgment); *Trump v. Hawaii*, 585 U.S. 667, 717 (2018) (THOMAS, J., concurring). We might ultimately disagree in this case about whether the District Court’s determination about the necessary scope of relief to protect the plaintiffs qualifies as an abuse of discretion. See *ante*, at 1116, n. 2. But any such debate would not transform the State’s case-specific, fact-intensive request for error correction into a certworthy issue.

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JACKSON, J., dissenting

significant as well because statutes like this one raise new and complex issues. Unlike in myriad other emergency cases, however, the State is not seeking interim relief based on any errors by the lower courts with respect to consequential merits questions. Contra, *ante*, at 1116–1118.

Instead, in a troubling bid for this Court's early intervention, the State asks us to wade into the middle of ongoing lower court proceedings to weigh in on a single query concerning only one aspect of a preliminary determination by the District Court: whether the temporary relief that the District Court has afforded pending its review of the merits sweeps too broadly. In my view, we should resist being conscripted into service when our involvement amounts to micromanaging the lower courts' exercise of their discretionary authority in the midst of active litigation. This Court is not compelled to rise and respond every time an applicant rushes to us with an alleged emergency, and it is especially important for us to refrain from doing so in novel, highly charged, and unsettled circumstances. Here, where the State does not even seek relief from the District Court's determination that the law is likely unconstitutional as to at least some of the individuals it will impact, caution is especially warranted.

## II

JUSTICE GORSUCH's concurrence demonstrates the perils of treating this application any other way. Conspicuously minimized in that opinion is the word that appears, bolded and capitalized, on the cover of the State's application: "**EMERGENCY**." The concurrence proceeds, instead, to treat the State's application as a run-of-the-mill motion for interim relief, just as any court might dispose of such a motion on its regular docket. See *ante*, at 1112. From the standpoint of an interest in taming our emergency docket, that is folly.<sup>4</sup>

What is more, in resolving this particular application, the concurrence reaches out to address an unsettled remedial issue that, by the concurrence's own assessment, is of profound significance

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<sup>4</sup>This is not to say that the traditional stay factors do not matter, or that this Court can only entertain an application that is labeled as an "emergency." See *ante*, at 1117–1118, n. 3. Rather, my point is that not every alleged error made by a lower court judge warrants this Court's immediate intervention and correction in real time, while the lower court's proceedings are pending.

for the functioning of our government. See *ante*, at 1118. It appears, then, that if the concurrence is right that “universal injunctions . . . ‘tend to force judges into making rushed, high-stakes, low-information decisions,’” the majority has taken the bait. *Ante*, at 1119.

To be clear, though, the Court has not decided the propriety of “universal injunctions.” Whether federal courts have the power to issue “universal injunctions” is “an important question that could warrant our review in the future,” not a foregone conclusion dictated by our precedent. *Griffin v. HM Florida-ORL, LLC*, 601 U. S. 924, 925 (2023) (KAVANAUGH, J., statement respecting denial of application for stay); see also, *e. g.*, *Department of Homeland Security v. New York*, 589 U. S. 1173, 1176 (2020) (GORSUCH, J., concurring in grant of stay) (framing “underlying equitable and constitutional questions raised by . . . nationwide injunctions” as ones “we might at an appropriate juncture take up”). After today, that question remains.

Nor does history offer an easily discernible answer. As one leading scholar candidly admits, “traditional equity lacked the sharply defined rule” that the concurrence would claim the Court adopted today. S. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 Harv. L. Rev. 417, 421 (2017). And other leading scholars are actively debating what lessons can be gleaned from the historical record. See A. Frost, *In Defense of Nationwide Injunctions*, 93 N. Y. U. L. Rev. 1065, 1080–1090 (2018) (offering an account of “universal injunctions” consistent with Article III and American courts’ traditional equitable powers); see also M. Sohoni, *The Lost History of the “Universal” Injunction*, 133 Harv. L. Rev. 920, 1008 (2020) (expressing concern that, in debate over the limits of federal courts’ equitable powers, “we risk allowing selectively crafted conceptions of historical tradition to run away with us”).

Simply put, the questions raised by “universal injunctions” are contested and difficult. I would not attempt to take them on in this emergency posture, even in a case that actually raised the issue. We do not have full adversarial briefing, the benefits of oral argument, or even a final opinion from the Court of Appeals. To the extent we can draw any lesson from the lower courts at this point, it is that, “when faced with laws very much like Idaho’s,” determining the appropriate bounds of equitable relief and the propriety of “universal injunctions” is not straightforward.

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*Ante*, at 1116 (citing *Brandt v. Rutledge*, 47 F. 4th 661, 672 (CA8 2022); *L. W. v. Skrmetti*, 83 F. 4th 460, 489–490 (CA6 2023)).

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All that said, I see some common ground. I agree that our emergency docket seems to have become increasingly unworkable. See *ante*, at 1118. I share the concern that courts heed the limits of their power. See *ante*, at 1119–1120. And surely all could benefit from “more carefully reasoned judicial decisions attuned to the facts, parties, and claims at hand,” not to mention “a more . . . deliberative judicial process.” *Ante*, at 1120. With respect, though, I worry that we may be too eager to find fault in everyone but ourselves.

This Court will almost certainly have a chance to consider the entirety of this case soon, whoever prevails below. In the meantime, it is far better for all concerned to let the lower courts proceed unfettered by our intervention. We can, and usually should, wait to provide our assessment in the ordinary course—when it is our turn to do so. Put differently, whenever this Court must determine whether to exercise its discretionary power to intervene in pending cases on an emergency basis, I firmly believe we must proceed with both reason and restraint. Because the majority demonstrates neither today, I respectfully dissent.

No. 23A829 (23–986). *RUED ET AL. v. HATCHER, JUDGE, HENNEPIN COUNTY, MINNESOTA, ET AL.* C. A. 8th Cir. Application for writ of injunction, addressed to JUSTICE THOMAS and referred to the Court, denied.

No. 23M71. *VILLAMONTE v. UNITED STATES*; and

No. 23M76. *ING v. TUFTS UNIVERSITY*. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 23M72. *CANTRELL v. O’MALLEY, COMMISSIONER OF SOCIAL SECURITY*;

No. 23M73. *JAMERSON v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*;

No. 23M74. *MSCHF PRODUCT STUDIO, INC. v. VANS, INC., ET AL.*;

No. 23M75. *NAYEE v. ADMINISTRATOR, NEW JERSEY STATE PRISON ET AL.*;

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No. 23M77. JANAS *v.* DEPARTMENT OF VETERANS AFFAIRS ET AL.; and

No. 23M78. JACOB *v.* INDECK POWER EQUIPMENT CO. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 23M79. WOODS *v.* ARIZONA ET AL.; and

No. 23M80. LUNDQUIST *v.* IDAHO. Motions for leave to proceed as veterans denied.

No. 23–6035. IN RE MACDONALD. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 999] denied. JUSTICE BARRETT took no part in the consideration or decision of this motion.

No. 23–6201. GREEN *v.* GENERAL MILLS WORLD HEADQUARTERS ET AL. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1012] denied.

No. 23–6667. TOWNSEND *v.* ESTERS ET AL. C. A. 6th Cir.; and

No. 23–7018. ASH *v.* BUTTIGIEG, SECRETARY OF TRANSPORTATION, ET AL. C. A. 10th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until May 6, 2024, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

No. 23–6997. IN RE ROPE;

No. 23–7067. IN RE STRATTON. Petitions for writs of habeas corpus denied.

No. 23–887. IN RE MISQUITH;

No. 23–890. IN RE ZAREH;

No. 23–6678. IN RE WAGONER;

No. 23–6693. IN RE WALDON;

No. 23–6699. IN RE CRAIN;

No. 23–6778. IN RE JACKSON; and

No. 23–6811. IN RE GARCIA. Petitions for writs of mandamus denied.

No. 23–6762. IN RE MACDONALD. 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.

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No. 23–889. IN RE JOLLEY; and

No. 23–6719. IN RE DELAROSA. Petitions for writs of mandamus and/or prohibition denied.

No. 23–6760. IN RE MACDONALD. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of prohibition dismissed. See this Court’s Rule 39.8.

*Certiorari Denied*

No. 22–617. BYSTRON *v.* GARLAND, ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied.

No. 23–452. MICHIGAN *v.* VEACH. Sup. Ct. Mich. Certiorari denied. Reported below: 512 Mich. 851, 993 N. W. 2d 216.

No. 23–481. TEMPLE OF 1001 BUDDHAS ET AL. *v.* CITY OF FREMONT, CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 23–485. MUNERA-GOMEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 70 F. 4th 22.

No. 23–500. GIMENEZ *v.* FRANKLIN COUNTY, WASHINGTON, ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 1 Wash. 3d 629, 530 P. 3d 994.

No. 23–541. DONNELLON, DEPUTY, ET AL. *v.* JORDAN. C. A. 10th Cir. Certiorari denied. Reported below: 73 F. 4th 1162.

No. 23–552. AMBASSADOR ANIMAL HOSPITAL, LTD. *v.* ELANCO ANIMAL HEALTH INC. ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 74 F. 4th 829.

No. 23–577. NORFOLK SOUTHERN RAILWAY Co. *v.* SURFACE TRANSPORTATION BOARD ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 72 F. 4th 297.

No. 23–618. MARCO MEDINA *v.* COLORADO. Sup. Ct. Colo. Certiorari denied. Reported below: 535 P. 3d 82.

No. 23–625. BOAM *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 69 F. 4th 601.

No. 23–629. GORDON *v.* MAY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 23–635. NELSON *v.* LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVI-

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SION. C. A. 5th Cir. Certiorari denied. Reported below: 72 F. 4th 649.

No. 23–638. *RAVENELL v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 66 F. 4th 472.

No. 23–725. *FRIEDLANDER, SECRETARY OF THE KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES, ET AL. v. TRUESDELL ET AL.*; and

No. 23–844. *TRUESDELL ET AL. v. FRIEDLANDER, SECRETARY OF THE KENTUCKY CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 80 F. 4th 762.

No. 23–734. *ROSE, ADMINISTRATRIX OF THE ESTATE OF HOLMAN, DECEASED v. PSA AIRLINES, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 80 F. 4th 488.

No. 23–755. *CLYDE, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE U. S. HOUSE OF REPRESENTATIVES, ET AL. v. MCFARLAND, SERGEANT AT ARMS OF THE U. S. HOUSE OF REPRESENTATIVES, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 23–812. *ARIZONA ET AL. v. BROWN*. C. A. 9th Cir. Certiorari denied. Reported below: 82 F. 4th 863.

No. 23–836. *ALI-HASAN v. ST. PETER'S HEALTH PARTNERS MEDICAL ASSOCIATES, P. C., ET AL.* C. A. 2d Cir. Certiorari denied.

No. 23–837. *CAMPBELL v. GARLAND, ATTORNEY GENERAL, ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–840. *HOME SERVICES OF AMERICA, INC., ET AL. v. BURNETT ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 75 F. 4th 975.

No. 23–841. *EVANS ET AL. v. CITY OF ANN ARBOR, MICHIGAN, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 23–843. *MILLER v. GRUENBERG, CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 23–848. *PATIENCE v. JACKSON ET AL.* C. A. 5th Cir. Certiorari denied.

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No. 23–854. *NO CASINO IN PLYMOUTH ET AL. v. NATIONAL INDIAN GAMING COMMISSION ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–856. *MAGGITT v. MAGGITT.* Super. Ct. Pa. Certiorari denied.

No. 23–858. *STEWART v. SENTINEL INSURANCE CO. LTD. ET AL.* C. A. 6th Cir. Certiorari denied.

No. 23–860. *HOLTAN ET AL. v. NIETERS.* C. A. 8th Cir. Certiorari denied. Reported below: 83 F. 4th 1099.

No. 23–869. *LAND v. EDENFIELD, SHERIFF OF JACKSON COUNTY, FLORIDA, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 85 F. 4th 1121.

No. 23–901. *FRANK v. LEE, LARAMIE COUNTY CLERK, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 84 F. 4th 1119.

No. 23–911. *HARRIS v. MONROE COUNTY PUBLIC LIBRARY BOARD OF TRUSTEES ET AL.* C. A. 11th Cir. Certiorari denied.

No. 23–915. *PLEASANT VIEW BAPTIST CHURCH ET AL. v. BESHEAR.* C. A. 6th Cir. Certiorari denied. Reported below: 78 F. 4th 286.

No. 23–930. *DURINGER LAW GROUP PLC ET AL. v. BROWN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 86 F. 4th 1251.

No. 23–950. *LINDELL ET AL. v. UNITED STATES ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 82 F. 4th 614.

No. 23–951. *BLAKE v. GAMBOA, WARDEN.* C. A. 9th Cir. Certiorari denied.

No. 23–956. *BRACKEN ET AL. v. CITY OF KETCHUM, IDAHO, ET AL.* Sup. Ct. Idaho. Certiorari denied. Reported below: 172 Idaho 803, 537 P. 3d 44.

No. 23–960. *INDEPENDENCE-ALLIANCE PARTY OF MINNESOTA v. SIMON, MINNESOTA SECRETARY OF STATE.* C. A. 8th Cir. Certiorari denied. Reported below: 87 F. 4th 872.

No. 23–962. *OXNARD MANOR, LP, DBA OXNARD MANOR HEALTHCARE CENTER, ET AL. v. SIGALA ET AL.* C. A. 9th Cir. Certiorari denied.

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No. 23–963. *MORANCY v. SALOMON*. Ct. App. Fla., 6th Dist. Certiorari denied. Reported below: 375 So. 3d 288.

No. 23–964. *HANIK v. HANIK*. Sup. Ct. Wash. Certiorari denied.

No. 23–967. *BORGES-SILVA v. REGAN, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY*. C. A. D. C. Cir. Certiorari denied.

No. 23–979. *FIELDS v. FORSHEY, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 23–983. *HARDING v. GOOGLE LLC*. C. A. 11th Cir. Certiorari denied.

No. 23–985. *STOYANOV v. DEL TORO, SECRETARY OF THE NAVY, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 23–991. *CITY OF LONG BEACH, NEW YORK, ET AL. v. BENNY*. C. A. 2d Cir. Certiorari denied.

No. 23–996. *NORRIS ET AL. v. STANLEY ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 73 F. 4th 431.

No. 23–1015. *SEABROOK v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 23–1019. *McLAIN v. McDONOUGH, SECRETARY OF VETERANS AFFAIRS*. C. A. 11th Cir. Certiorari denied.

No. 23–1032. *TOPOLEWSKI v. URS HOLDINGS, INC., ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–1047. *HSU CONTRACTING, LLC v. HOLTON-ARMS SCHOOL, INC.* App. Ct. Md. Certiorari denied.

No. 23–5951. *LOVE v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 23–6110. *FLOWERS v. THORNELL, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY*. C. A. 9th Cir. Certiorari denied.

No. 23–6230. *MORRIS v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 23–6250. *SPAETH v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 69 F. 4th 1190.

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No. 23–6278. *RACLIFF v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6338. *FISHMAN v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 39 N. Y. 3d 1154, 211 N. E. 3d 1126.

No. 23–6481. *KOLHOFF v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–6642. *POYDRAS v. LOUISIANA*. Ct. App. La., 3d Cir. Certiorari denied.

No. 23–6646. *ALBRECHT v. ALBRECHT*. Sup. Ct. N. H. Certiorari denied. Reported below: 176 N. H. 106, 306 A. 3d 1266.

No. 23–6647. *ETCHISONBROWN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6650. *GUZMAN v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 73 F. 4th 1251.

No. 23–6654. *RAY v. QUISENBERRY ET AL.* C. A. 10th Cir. Certiorari denied.

No. 23–6657. *CRUZ v. NEW YORK*. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 213 App. Div. 3d 465, 183 N. Y. S. 3d 88.

No. 23–6658. *JOHNSON, AKA KNUCKLES v. MAY, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 23–6664. *SINDACO v. FLORIDA*. Sup. Ct. Fla. Certiorari denied.

No. 23–6666. *COLE v. COLORADO*. Sup. Ct. Colo. Certiorari denied.

No. 23–6668. *LINCOLN, AKA LINICOMN v. HARRIS COUNTY SHERIFF’S OFFICE ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–6669. *S. C. ET VIR v. TEXAS DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES*. Ct. App. Tex., 12th Dist. Certiorari denied.

No. 23–6671. *FORD v. NORTHAM, FORMER GOVERNOR OF VIRGINIA, ET AL.* C. A. 4th Cir. Certiorari denied.

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No. 23–6679. *WILLIAMS v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–6682. *KELLEY v. KELLEY*. Sup. Ct. N. H. Certiorari denied.

No. 23–6684. *RIDLEY v. WILLIAMS, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 23–6691. *SHAMPINE v. EAST CLEVELAND BOARD OF EDUCATION ET AL.* C. A. 6th Cir. Certiorari denied.

No. 23–6698. *HARRIS v. WATSON ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–6704. *LINDSEY v. BARKER, JUDGE, UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA*. C. A. 7th Cir. Certiorari denied.

No. 23–6705. *LOVETT v. TEXAS*. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 23–6706. *OHIO EX REL. RARDEN v. COURT OF COMMON PLEAS OF OHIO, BUTLER COUNTY, ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 174 Ohio St. 3d 88, 2023-Ohio-3742, 234 N. E. 3d 399.

No. 23–6708. *VLOUTIS v. DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT*. C. A. D. C. Cir. Certiorari denied.

No. 23–6710. *AKERMAN v. DOIRON*. C. A. D. C. Cir. Certiorari denied.

No. 23–6713. *PHAM v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 23–6717. *HORNE v. JONES ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–6718. *DOAK v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–6720. *REMSSEN ET AL. v. NEWSOM, GOVERNOR OF CALIFORNIA, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 23–6726. *BATTLE v. CREEL ET AL.* C. A. 4th Cir. Certiorari denied.

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No. 23–6731. *GONZALEZ v. ENGLEWOOD LOCK & SAFE, INC.* C. A. 10th Cir. Certiorari denied.

No. 23–6736. *CHIN-YOUNG v. DEPARTMENT OF THE ARMY; CHIN-YOUNG v. MERIT SYSTEMS PROTECTION BOARD; and CHIN-YOUNG v. DEPARTMENT OF THE ARMY.* C. A. Fed. Cir. Certiorari denied.

No. 23–6737. *WAINWRIGHT v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 23–6744. *FISHER v. LARSEN, MAGISTRATE JUDGE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI.* C. A. 8th Cir. Certiorari denied.

No. 23–6745. *WILSON v. FAIRHAVEN POLICE DEPARTMENT ET AL.* C. A. 1st Cir. Certiorari denied.

No. 23–6746. *PEREZ v. HIJAR, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 23–6752. *WHAREN v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 23–6758. *JOHNSON v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 23–6765. *HANNOLD v. SALAMON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–6771. *CHANG ET AL. v. FARMERS INSURANCE CO., INC., ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–6772. *COLE v. DISTRICT COURT.* Sup. Ct. Colo. Certiorari denied.

No. 23–6773. *SMITH v. MOUNT SINAI HOSPITAL ET AL.* C. A. 2d Cir. Certiorari denied.

No. 23–6775. *REDFEARN v. RANKINS, WARDEN.* C. A. 10th Cir. Certiorari denied.

No. 23–6782. *R. R. v. WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES, CHILD PROTECTIVE SERVICES, ET AL.* Sup. Ct. App. W. Va. Certiorari denied.

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No. 23–6812. *HAMIDI v. IQBAL*. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 23–6813. *HAMIDI v. IQBAL*. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 23–6828. *LEVERING v. NEBRASKA*. Sup. Ct. Neb. Certiorari denied.

No. 23–6838. *WARNER v. MONTANA*. Sup. Ct. Mont. Certiorari denied. Reported below: — Mont. —, 530 P. 3d 848.

No. 23–6839. *JOHNSON v. NEVADA*. Sup. Ct. Nev. Certiorari denied. Reported below: 139 Nev. —, 531 P. 3d 599.

No. 23–6843. *CRENSHAW v. FLORIDA*. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 373 So. 3d 876.

No. 23–6847. *BELL v. WASHINGTON, DIRECTOR, MICHIGAN DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 23–6875. *OBEGINSKI v. JOHNSON*. C. A. 11th Cir. Certiorari denied.

No. 23–6897. *NAVA v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–6902. *AKARD v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 23–6904. *SENECA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6905. *HARRIS v. SCHACHTER ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–6906. *THORNTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–6907. *THOMAS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6908. *CHRISTY v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 23–6909. *HOLLAND v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

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No. 23–6915. *QUIROGA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–6916. *SMITH v. BEASLEY, WARDEN*. C. A. 11th Cir. Certiorari denied.

No. 23–6919. *PEREZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–6930. *WILLIAMSON v. PAYNE, DIRECTOR, ARKANSAS DIVISION OF CORRECTION*. C. A. 8th Cir. Certiorari denied.

No. 23–6931. *TILLERY v. HOOPER, WARDEN*. Sup. Ct. La. Certiorari denied. Reported below: 2023–00666 (La. 11/21/23), 373 So. 3d 459.

No. 23–6934. *FREEMAN v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 23–6936. *AGUILLEN-SERVIN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6940. *MARRARA ET AL. v. MURPHY ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–6941. *MARTINEZ-MUNOZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6942. *GRANDA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–6943. *KERLIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–6945. *COSBY v. UNITED STATES*. C. A. 7th Cir. Certiorari denied.

No. 23–6949. *MADRID-PAZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6950. *FLEMING v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–6951. *BARRON-BAUTISTA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6952. *BRIFIL v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

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No. 23–6953. *MASON v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 84 F. 4th 1152.

No. 23–6957. *KELLY v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 23–6965. *OROZCO-BARRON v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 72 F. 4th 945.

No. 23–6969. *ANTONIO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–6971. *ANTONIUS, AKA SEALED DEFENDANT, ET AL. v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 73 F. 4th 82.

No. 23–6973. *PICHON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6974. *DAMASO-SIXTOS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6977. *COLEMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6978. *GALLARDO GRANADOS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6979. *IVORY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6980. *MURPHY v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 23–6982. *TELAMY v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 23–6983. *MICHELOTTI v. KNUDSEN, ATTORNEY GENERAL OF MONTANA*. C. A. 9th Cir. Certiorari denied.

No. 23–6987. *HILTON v. AKERS, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 23–6989. *MCLEAN v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 23–6990. *PUTNAM v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

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No. 23–6992. *AVILA-GONZALEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–6996. *ANDERSON v. LONG, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 23–6998. *SLAUGHTER v. WHITE*. C. A. 9th Cir. Certiorari denied.

No. 23–7001. *WHITFIELD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7002. *WALI v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7003. *WISE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7013. *KOKINDA v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7014. *FORD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7021. *HENDERSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 80 F. 4th 207.

No. 23–7022. *MOLINA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7023. *CALHOUN v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 376 So. 3d 583.

No. 23–7026. *VALENCIA-AYALA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7028. *BOESCH v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 368 So. 3d 454.

No. 23–7031. *GREGORY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7032. *GREGORY v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7035. *GARCIA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 23–7036. *DAIGLE v. KALLIS, WARDEN*. C. A. 7th Cir. Certiorari denied.

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No. 23–7046. *CONLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 89 F. 4th 815.

No. 23–7047. *LEWIS v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 90 F. 4th 651.

No. 23–7049. *RODGERS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–373. *MCKESSON v. DOE*. C. A. 5th Cir. Certiorari denied. Reported below: 71 F. 4th 278.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

Earlier in this case, the Fifth Circuit held that petitioner DeRay Mckesson, the leader of a Black Lives Matter protest in Baton Rouge, Louisiana, could be liable under a negligence theory for serious injuries sustained by a police officer when an unidentified individual attending that protest threw a hard object that hit the officer in the face. 945 F. 3d 818, 828–829 (2019). In so holding, the Fifth Circuit rejected Mckesson’s argument that the First Amendment barred his liability in these circumstances absent a showing of intent to incite violence. *Id.*, at 832. Judge Willett dissented, explaining that the majority’s theory of “[n]egligent protest” liability against a protest leader for the violent act of a rogue assailant . . . clash[ed] head-on with constitutional fundamentals.” *Id.*, at 846 (opinion concurring in part and dissenting in part).

This Court vacated the Fifth Circuit’s judgment and remanded for certification of the underlying state-law questions to the Louisiana Supreme Court, recognizing that there would be no need to reach the constitutional question on which the panel had divided if Louisiana law did not provide for negligence liability in these circumstances. See *Mckesson v. Doe*, 592 U.S. 1, 4–6 (2020) (*per curiam*). The Court explained that “certification would ensure that any conflict in this case between state law and the First Amendment is not purely hypothetical.” *Id.*, at 6.

When the Louisiana Supreme Court took up the question and concluded that state law did allow the claim, the Fifth Circuit once again had to answer the constitutional question. See 71 F. 4th 278, 282 (2023). The same divided panel then reaffirmed its prior holding that Mckesson could be liable in negligence to the officer, again rejecting Mckesson’s argument that the First Amendment precluded the imposition of negligence liability in

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these circumstances. See *id.*, at 295–297. Judge Willett again dissented on this point, arguing that, under this Court’s decision in *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982), “a protest leader’s simple negligence is far too low a threshold for imposing liability for a third party’s violence.” 71 F. 4th, at 306 (opinion concurring in part and dissenting in part). A negligence theory of liability for protest leaders, the dissent pointed out, “would have enfeebled America’s street-blocking civil rights movement, imposing ruinous financial liability against citizens for exercising core First Amendment freedoms.” *Id.*, at 313.

Less than two weeks after the Fifth Circuit issued its opinion, this Court decided *Counterman v. Colorado*, 600 U.S. 66 (2023). In *Counterman*, the Court made clear that the First Amendment bars the use of “an objective standard” like negligence for punishing speech, *id.*, at 78, 79, n. 5, and it read *Claiborne* and other incitement cases as “demand[ing] a showing of intent,” 600 U.S., at 81. The Court explained that “the First Amendment precludes punishment [for incitement], whether civil or criminal, unless the speaker’s words were ‘intended’ (not just likely) to produce imminent disorder.” *Id.*, at 76 (citing *Claiborne*, 458 U.S., at 927–929, among other cases). Although the Court determined that a less-demanding recklessness standard was sufficient to punish speech as a “true threat,” it emphasized that an objective standard like negligence would violate the First Amendment. See 600 U.S., at 82.

Mckesson now asks this Court to “grant certiorari and confirm that *Claiborne* forecloses negligent-protest liability.” Pet. for Cert. 15. Because this Court may deny certiorari for many reasons, including that the law is not in need of further clarification, its denial today expresses no view about the merits of Mckesson’s claim. Although the Fifth Circuit did not have the benefit of this Court’s recent decision in *Counterman* when it issued its opinion, the lower courts now do. I expect them to give full and fair consideration to arguments regarding *Counterman*’s impact in any future proceedings in this case.

No. 23–488. *SANDS v. BRADLEY, WARDEN*. C. A. 9th Cir. Certiorari denied. JUSTICE KAVANAUGH would grant the petition for writ of certiorari. Reported below: 69 F. 4th 1059.

No. 23–814. *VISA INC. ET AL. v. NATIONAL ATM COUNCIL, INC., ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE KAVA-

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NAUGH took no part in the consideration or decision of this petition.

No. 23–919. *DiCroce v. McNeil Nutritionals, LLC, et al.* C. A. 1st Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 82 F. 4th 35.

No. 23–5038. *Michaels v. Davis, Warden, et al.* C. A. 9th Cir. Certiorari denied. Reported below: 51 F. 4th 904.

JUSTICE JACKSON, dissenting.

“A confession is like no other evidence.” *Arizona v. Fulminante*, 499 U.S. 279, 296 (1991). It is not a mere recitation of facts, equivalent to a string of discrete witness statements or pieces of circumstantial evidence. Rather, “a full confession in which the defendant discloses the motive for and means of the crime” can also provide indelible intangible information about the defendant that can have a “profound impact . . . upon the jury.” *Ibid.* Each and every mannerism—the way the defendant speaks or laughs about a horrific act, his pauses or intonations when describing gruesome details, his gestures or body language when recounting his rationale—might be significant to a jury tasked with deciding his fate. Consequently, this Court has long held that courts must “exercise extreme caution” when determining whether the admission at trial of an illegally obtained confession constitutes a harmless error. *Ibid.*

In this capital case, the Ninth Circuit failed to exercise the required degree of caution. The divided panel assessed a 2½-hour illegally obtained confession filled with disturbing details of a horrific crime like it was a compilation of factual information—no different from evidence introduced by other means. That was legal error. Therefore, I would grant the petition and summarily reverse the Ninth Circuit’s decision as to the penalty phase, in order to facilitate a reassessment that involves the necessary rigor.

\* \* \*

Petitioner Kurt Michaels killed JoAnn Clemmons, his girlfriend’s mother. Shortly after the killing, Michaels was arrested and questioned by the police. Officers advised Michaels of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), and, in

the subsequent interview, he selectively invoked his right not to answer any questions about the incident. But the police continued to question Michaels even after he had invoked his *Miranda* rights. The resulting 2½-hour taped confession was admitted at both the guilt and penalty phases of his trial, and Michaels was convicted of murder and sentenced to death.

There is no dispute, at this stage of the litigation, that Michaels's constitutional rights were violated. The only question is whether the improper admission of Michaels's confession was harmless error. This Court made crystal clear in *Fulminante* that, for the purpose of harmless-error analysis, wrongfully admitted confessions cannot be treated like other evidence. 499 U.S., at 296. But the panel majority did just that here; inattentive to the uniquely prejudicial nature of confession evidence, it conducted a harmless-error review that involved, essentially, matching up the disturbing details from the confession with discrete pieces of evidence that broadly supported similar propositions, as if the confession was simply a collection of cumulative facts.

A few examples suffice to illustrate this legal error. Throughout the 2½-hour confession, Michaels described the crime in gruesome detail, with his mannerisms and callousness on full display. The panel majority ignored the powerfully demonstrative nature of the confession, concluding it was harmless simply and solely because other witness testimony corroborated the basic facts that Michaels's confession asserted. The panel nowhere considered the *level* of detail that Michaels provided, or the uniquely prejudicial nature of hearing *him* describe the crime in such specific, horrific detail. See 51 F. 4th 904, 968 (CA9 2022) (Berzon, J., dissenting). Similarly, the panel discounted the potential effect on the jury of watching Michaels repeatedly laughing about disturbing details of the crime when the videotaped confession was unlawfully introduced. See *id.*, at 968–969. Instead, the panel concluded that, because other witnesses had testified that Michaels showed no remorse, the wrongful admission of his striking and unsettling responses did not have “a ‘substantial and injurious effect or influence’” on the jury. *Id.*, at 945, 947 (quoting *Brecht v. Abrahamson*, 507 U.S. 619, 623 (1993)). But the gulf between a witness saying the defendant is not remorseful and a videotape of the defendant laughing about the crime is vast. By treating

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them as identical—and not appearing to grapple at all with the qualitative difference that a taped confession makes—the majority failed to apply the harmless-error standard properly.

To be clear: The heinous nature of the crime Michaels committed was fully established at trial, and this opinion is not meant to diminish that. But the Fifth Amendment protects everyone, guilty and innocent alike. I write because courts must be careful to safeguard the rights that our Constitution protects, even when (and perhaps especially when) evaluating errors made in cases stemming from a terrible crime. See *Spano v. New York*, 360 U. S. 315, 320–321 (1959) (“[L]ife and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves”).

When an unconstitutionally obtained confession is wrongly presented to a jury, our case law is clear that rather than treating that evidence as equivalent to a compilation of other, far less weighty means of proof, courts must carefully evaluate the confession as a whole: how much detail it contained; the tangible and intangible information it communicated; the effect of the *entire* confession, not just pieces of it; and how it interacted with the other evidence presented at trial to potentially impact the specific jury deliberations at issue.\* Because the Ninth Circuit majority disregarded this mandate with respect to assessing the penalty phase of this case, I would summarily reverse.

No. 23–5682. *COMPTON v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 666 S. W. 3d 685.

JUSTICE SOTOMAYOR, with whom JUSTICE JACKSON joins, dissenting.

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\*This is not to say that the introduction of an illegally obtained confession can never be harmless. Here, for example, there is presently no dispute that the admission of Michaels’s confession was harmless as to the guilt phase of trial because the error likely did not “‘substantial[ly] . . . influence’” the jury’s guilty verdict in light of other overwhelming evidence of Michaels’s guilt. *Brecht v. Abrahamson*, 507 U. S. 619, 639 (1993) (alterations in original). Even at the penalty phase of a capital case, a short wrongfully admitted confession that contains little substantive or emotional information might turn out to be harmless. But the wrongful introduction of Michaels’s 2½-hour graphic confession is a different thing entirely, and its potential impact on the jury’s penalty phase deliberations needed to be properly assessed.

“The Constitution forbids striking even a single prospective juror for a discriminatory purpose.” *Flowers v. Mississippi*, 588 U.S. 284, 303 (2019). A pattern of strikes against jurors with the same race or sex suggests that a prosecutor is striking jurors based on impermissible stereotypes about those protected characteristics rather than the juror’s individual views. “More powerful than these bare statistics, however, are side-by-side comparisons of [jurors with certain protected characteristics] who were struck and [jurors without those characteristics] allowed to serve.” *Miller-El v. Dretke*, 545 U.S. 231, 241 (2005). “If a prosecutor’s proffered reason for striking a [female] panelist applies just as well to an otherwise-similar [male] who is permitted to serve, that is evidence tending to prove purposeful discrimination.” *Ibid.* A prosecutor may claim that he is striking a woman based on her hesitation to impose the death penalty. When the prosecutor fails to strike a man who has expressed even greater hesitancy, however, it indicates that the woman was struck based on unconstitutional stereotypes about women rather than objective facts.

In this capital case, prosecutors used 13 of their 15 peremptory strikes on women. They offered only one justification in each case: the woman’s views on the death penalty. In reviewing the challenged jurors, the Texas Court of Criminal Appeals (TCCA) failed to conduct a side-by-side comparison. Instead, it tested the prosecution’s justification in the aggregate, looking to the women’s views on capital punishment as a group instead of individually. That legal error hid the best indication of discriminatory purpose. Under a side-by-side comparison, it is clear that at least one woman struck by the State had more favorable views on the death penalty than at least one man the State did not strike. I would summarily vacate the decision below and remand for the TCCA to apply the proper comparative analysis.

## I

## A

Dillion Gage Compton was charged with capital murder for the death of a prison guard. After *voir dire*, there were 42 qualified venirepersons for a 12-person jury. Of those 42 potential jurors, 23 were women and 19 were men, making the initial pool 55% women. The State used 13 of its 15 strikes on women. After

both sides submitted their strikes, the 12-person jury consisted of only four women and eight men, or 33% women.

Compton challenged the State's peremptory strikes based on *J. E. B. v. Alabama ex rel. T. B.*, 511 U.S. 127 (1994), arguing that the State had discriminated based on gender. In response, the prosecutor explained he was "certainly focused almost single-han[dedly] on the issue of the death penalty." 21 Tr. 16 (Sept. 25, 2018). The defense objected that the "gender basis has not been explained to the Court sufficiently." *Id.*, at 18. The trial court denied the challenge.

After trial, the jury convicted Compton of capital murder. The trial court sentenced him to death.

## B

On appeal, Compton again challenged the State's peremptory strikes under *J. E. B.* Compton identified four female potential jurors struck by the State for whom the record allegedly did not support the State's rationale. He identified three male potential jurors who expressed views on the death penalty as or less favorable than the struck women. The State defended its views on the death-penalty rationale for each struck woman but never compared their views with those of the men it did not strike. Thus, it did not respond to Compton's comparative argument that the State had retained men with similar views on the death penalty to the struck women.

In evaluating the *J. E. B.* challenge, the TCCA determined that Compton had made a prima facie showing of bias under the first step of *Batson v. Kentucky*, 476 U.S. 79 (1986). Under the second step, the court reasoned that the State had provided a gender-neutral reason for the strikes: that "each individual . . . expressed more concern, hesitation, or opposition to imposing the death penalty than those venirepersons the State chose not to strike." 666 S. W. 3d 685, 711 (Tex. Crim. App. 2023).

In examining whether that reason was pretextual under the third step, the TCCA found the "statistical evidence . . . concerning." *Ibid.* It noted that the State's use of 13 of 15 peremptory strikes against women combined with "the fact that only four women made it onto the jury despite the panel having more women than men does raise concerns." *Ibid.*

The court then purported to examine "[s]ide-by-side comparisons of stricken and accepted venirepersons." *Ibid.* It declined

to “engag[e] in an exhaustive comparative analysis of each prospective juror.” *Ibid.* Despite claiming to “[c]ompar[e] [the male] venirepersons to the female venirepersons struck by the State,” *id.*, at 712, the TCCA failed to examine individually the four female potential jurors identified by Compton as having favorable views on the death penalty.<sup>1</sup> Instead, it conducted its analysis entirely in the aggregate. It concluded that “the State was, in fact, focused on death-penalty issues and struck *most* of the female venirepersons based on their responses” that indicated reservations about the death penalty. *Id.*, at 711 (emphasis added). The TCCA reasoned by bullet point that:

- “*Most* of the State-stricken female venirepersons rated themselves a three or four on a scale of one-to-six when asked about their support for the death penalty;
- “*Most* said they were generally opposed to the death penalty except in a few cases, or that they were neutral on the appropriateness of the death penalty;
- “*Nearly all* disagreed that the death penalty ‘gives the criminal what they deserve;’
- “*Nearly all* expressed some favorable views about the option of life without parole, the possibility of rehabilitation, religious redemption, and/or the fact that life without parole forces offenders to live with the consequences of their crimes;
- “*Nearly all* agreed that life without parole could be an adequate punishment for capital murder;
- “*Some, but not all*, emphasized a defendant’s background and upbringing as relevant factors in assessing whether the death penalty versus life without parole was appropriate.” *Id.*, at 711–712 (emphasis added).

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<sup>1</sup>The TCCA knew how to conduct a side-by-side comparison. Compton also challenged three strikes based on *Batson v. Kentucky*, 476 U.S. 79 (1986), arguing that the State discriminated based on race. The State struck one Black man, one Black woman, and one Hispanic man. The resulting 12-person jury included 1 Hispanic man and 11 white people. The TCCA conducted side-by-side comparisons of the struck jurors and three unstruck white male comparators. See 666 S. W. 3d, at 700–710. It inexplicably failed to do so for the *J. E. B.* challenge, which required equally scrupulous consideration.

The TCCA held that “[c]omparatively speaking, the venirepersons—men and women—who were not struck by the State *generally* expressed more favorable views towards the death penalty and less favorable views towards the life-without-parole option and mitigating evidence than did the female venirepersons described above.” *Id.*, at 712 (emphasis added). It distinguished the three male comparators not struck by the State as “*overall* favorable for the State’s preferred punishment.” *Ibid.* (emphasis added). It rejected Compton’s *J. E. B.* claim and affirmed the trial court’s judgment of conviction and sentence of death.

## II

This Court has repeatedly emphasized that the “Constitution forbids striking even a single prospective juror for a discriminatory purpose.” *Flowers*, 588 U. S., at 303; *Foster v. Chatman*, 578 U. S. 488, 499 (2016); *Snyder v. Louisiana*, 552 U. S. 472, 478 (2008). Challenges to jury selection based on unconstitutional proxies like race, see *Batson*, 476 U. S., at 96, or gender, see *J. E. B.*, 511 U. S., at 128, exist to protect the equal protection rights of “potential jurors, as well as [defendants], . . . to jury selection procedures that are free from state-sponsored group stereotypes,” *ibid.* These challenges guard against prosecutorial bias: not only the perception that a prospective juror might favor a defendant because they share a protected characteristic, but that a prospective juror might hold a particular view because of a stereotype based on race or gender. See *id.*, at 141–142; *Batson*, 476 U. S., at 104–105 (Marshall, J., concurring).

The third step of this Court’s test in particular protects against impermissible stereotypes by checking the State’s proffered reason against its other decisions. “If a prosecutor’s proffered reason for striking a [female] panelist applies just as well to an otherwise-similar [male] who is permitted to serve, that is evidence tending to prove purposeful discrimination to be considered at *Batson*’s third step.” *Dretke*, 545 U. S., at 241.

Here, the TCCA failed to conduct that important side-by-side comparison of struck female jurors against male jurors permitted to serve. Before the trial court, the TCCA, and this Court, the State offered only one reason for striking these women: their hesitations about imposing the death penalty. If a struck female panelist’s views on the death penalty were more favorable than an otherwise-similar man permitted to serve, that would be strong

evidence of invidious discrimination under *Batson*'s third step. Yet the TCCA evaluated the strikes only in the aggregate, reasoning that "most" or "nearly all" struck women expressed views less favorable toward the death penalty than the men permitted to serve. That analysis directly contradicts the principle that striking even one prospective juror for a discriminatory reason violates the Constitution.

Considering only one example in this record suggests that the prosecutor's proffered reason was pretextual. V. P., a female juror struck by the prosecutors, strongly supported capital punishment. V. P. rated herself a five out of six in terms of her support for the death penalty. She endorsed punishment as more important than rehabilitation and agreed that capital punishment was "absolutely justified" and "just and necessary." 14 Record 5912. She was "concern[ed]" about life in prison instead of the death penalty because sometimes the prisoner could "continu[e] to do harm to others while in prison." *Id.*, at 5914. When questioned about mitigation during *voir dire*, she said that reading the mitigation special issues made her angry, because "some people use just whatever—you know, they blame—I don't like the blame game." 17 Tr. 180 (Sept. 17, 2018).

In contrast, the State did not strike a male prospective juror who expressed less favorable views of the death penalty. That prospective juror, P. K., wrote that he was opposed to the death penalty except in some cases, and that he would be "very conflicted" about returning a verdict of death, underlining "very" for emphasis. 12 Record 5252, 5256. He agreed that "[c]apital punishment is not necessary in modern civilization" and embraced the idea that "[e]xecution of criminals is a disgrace to civilized society." *Id.*, at 5257. He thought that Texas used the death penalty "too often." *Id.*, at 5261.

This case illustrates the hazards of analysis by aggregate. The TCCA may have been right that most of the struck women expressed less favorable views on the death penalty than most of the men permitted to serve. When the State, however, extends a reason true of many female potential jurors to another female potential juror not based on what she says, but based on the fact that she is a woman, it crosses the line into invidious discrimination. Just because most female potential jurors had hesitations about the death penalty does not mean that V. P. did.

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The State never offered any justification other than female potential jurors' views on the death penalty for its strikes.<sup>2</sup> The TCCA erred when it allowed the views of other female prospective jurors to infect its assessment of the State's justification for V. P.'s strike.

\* \* \*

"America's trial judges operate at the front lines of American justice." *Flowers*, 588 U.S., at 302. They bear "the primary responsibility to enforce *Batson* and prevent . . . discrimination from seeping into the jury selection process." *Ibid.* That responsibility requires scrutinizing the prosecutor's proffered reason for a peremptory strike by comparing any struck juror challenged by the defense with a retained juror who does not share the same protected characteristic. When a court conducts a *Batson* or *J. E. B.* inquiry not based on individual comparisons but by aggregate, it too runs the risk of generalizing based on impermissible stereotypes. I would summarily vacate the decision below and remand for the TCCA to correct its legally erroneous analysis with respect to the *J. E. B.*-challenged jurors. I respectfully dissent.

No. 23–5950. *CLARK v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 76 F. 4th 206.

No. 23–6954. *THOMAS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. See 28 U.S.C. § 455(b)(3) and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

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<sup>2</sup>In the State's brief before the TCCA, it emphasized that V. P. "was struck by the State and the defense." Brief for Appellee in No. AP–77,087, p. 47. A strike by the defense, however, is irrelevant to a *Batson* or *J. E. B.* inquiry, which focuses "solely on evidence concerning the prosecutor's exercise of peremptory challenges." *Batson*, 476 U.S., at 96; see also *Miller-El v. Dretke*, 545 U.S. 231, 255, n. 14 (2005) ("[Defendant's] shuffles are flatly irrelevant to the question whether prosecutors' shuffles revealed a desire to exclude blacks"). Indeed, it makes sense that Compton sought to exclude a juror like V. P. who expressed such pro-death penalty views. Moreover, this evidence of potential bias against V. P. could have informed the challenges against the three other struck women Compton identified.

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No. 23–6994. *REYNOLDS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. See 28 U. S. C. § 455(b)(3) and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

*Rehearing Denied*

- No. 22–7871. *IN RE BOWE*, 601 U. S. 1015;  
No. 22–7888. *THOMAS, NKA AMEN EL v. MINNESOTA*, 601 U. S. 842;  
No. 23–486. *POWELL ET AL. v. WHITMER, GOVERNOR OF MICHIGAN, ET AL.*, 601 U. S. 1019;  
No. 23–588. *MIRANDA v. O’MALLEY, COMMISSIONER OF SOCIAL SECURITY*, 601 U. S. 1020;  
No. 23–609. *SALGUERO v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, ET AL.*, 601 U. S. 1021;  
No. 23–610. *SALGUERO v. CALIFORNIA*, 601 U. S. 1021;  
No. 23–647. *KING v. META PLATFORMS, INC., FKA FACEBOOK, INC.*, 601 U. S. 1022;  
No. 23–663. *MCDUFF v. UNITED STATES*, 601 U. S. 1023;  
No. 23–673. *IN RE HILL*, 601 U. S. 1017;  
No. 23–680. *IN RE SALGUERO*, 601 U. S. 1017;  
No. 23–5897. *MACK v. J. M. SMUCKERS CO. ET AL.*, 601 U. S. 982;  
No. 23–6009. *AUSTIN v. AMERICAN BUILDING Co.*, 601 U. S. 1001;  
No. 23–6026. *REHWALD v. PENNSYLVANIA ET AL.*, 601 U. S. 955;  
No. 23–6126. *ENGLISH v. PARCEL EXPRESS, INC.*, 601 U. S. 1027;  
No. 23–6163. *AARONOFF v. OLSON*, 601 U. S. 1027;  
No. 23–6228. *WILLIAMS v. LANE ET AL.*; and *WILLIAMS v. VESS*, 601 U. S. 1029;  
No. 23–6369. *CYR v. HARPE, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS*, 601 U. S. 1056; and  
No. 23–6432. *MARTINEZ v. CALIFORNIA*, 601 U. S. 1036. Petitions for rehearing denied.  
  
No. 23–6246. *IN RE KNOWLES*, 601 U. S. 1017. Petition for rehearing denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

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*Dismissal Under Rule 46*

No. 23–506. OCCIDENTAL EXPLORATION & PRODUCTION Co. v. ANDES PETROLEUM ECUADOR LTD. C. A. 2d Cir. Certiorari dismissed under this Court’s Rule 46.

*Certiorari Dismissed*

No. 23–6877. FOLK v. FEDERAL BUREAU OF PRISONS ET AL. C. A. 3d 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. 23M81. IN RE JOLLEY. Motion for leave to proceed as a veteran granted.

No. 23M82 (23–6450). DIZON v. VECTRUS SYSTEMS CORP. Motion for leave to proceed as a veteran denied.

No. 23M83. GOMEZ RODRIGUEZ v. UNITED STATES. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 23–6852. GRESHAM v. O’MALLEY, COMMISSIONER OF SOCIAL SECURITY. C. A. 11th Cir.; and

No. 23–7090. MENDES v. KIRSHENBAUM & KIRSHENBAUM, ATTORNEYS AT LAW, INC. Super. Ct. R. I., Providence County. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until May 13, 2024, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

No. 23–7104. IN RE KNOWLES. 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. THE CHIEF JUSTICE took no part in the consideration or decision of this motion and this petition.

No. 23–6792. IN RE MACDONALD; and

No. 23–6819. IN RE NELSON-ROGERS. Petitions for writs of mandamus denied.

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*Certiorari Granted*

No. 23–621. LACKEY, COMMISSIONER OF THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES *v.* STINNIE ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 77 F. 4th 200.

No. 23–852. GARLAND, ATTORNEY GENERAL, ET AL. *v.* VANDERSTOK ET AL. C. A. 5th Cir. Certiorari granted. Reported below: 86 F. 4th 179.

*Certiorari Denied*

No. 23–120. UNITED STATES SOCCER FEDERATION, INC. *v.* RELEVANT SPORTS, LLC, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 61 F. 4th 299.

No. 23–427. DOMINO’S PIZZA, LLC *v.* CARMONA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 73 F. 4th 1135.

No. 23–460. C. K. SALES CO., LLC, ET AL. *v.* CANALES ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 67 F. 4th 38.

No. 23–606. MENDOZA-LINARES *v.* GARLAND, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 51 F. 4th 1146.

No. 23–612. CASCINO ET AL. *v.* NELSON, TEXAS SECRETARY OF STATE. C. A. 5th Cir. Certiorari denied.

No. 23–655. WARFIELD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 53 F. 4th 1160.

No. 23–659. JEAN-BAPTISTE *v.* WESTSIDE DONUT HUNTINGTON VENTURES LLC. C. A. 2d Cir. Certiorari denied.

No. 23–768. VANDA PHARMACEUTICALS INC. *v.* TEVA PHARMACEUTICALS USA, INC., ET AL. C. A. Fed. Cir. Certiorari denied.

No. 23–776. ISRAELIT *v.* ENTERPRISE SERVICES LLC. C. A. 4th Cir. Certiorari denied. Reported below: 78 F. 4th 647.

No. 23–833. GREENBERG *v.* LEHOCKY, BOARD CHAIR OF THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 81 F. 4th 376.

No. 23–883. KINGSLEY *v.* LANGE. Sup. Ct. La. Certiorari denied. Reported below: 2022–01794 (La. 2/14/23), 355 So. 3d 617.

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No. 23–885. *GADDY v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–894. *GARMONG v. MAUPIN, COX & LEGOY*. C. A. 9th Cir. Certiorari denied.

No. 23–897. *INGRAM v. ARTIS, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 23–902. *DUNCAN v. CITY OF MENTOR, OHIO*. Sup. Ct. Ohio. Certiorari denied. Reported below: 2023-Ohio-3115.

No. 23–920. *BOWEN v. ADIDAS AMERICA, INC., ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 84 F. 4th 166.

No. 23–923. *KARUPAIYAN v. VAISSIE ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–955. *MILLER v. GRUENBERG, CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 23–1001. *GOLDEN v. SAMSUNG ELECTRONICS AMERICA, INC.* C. A. Fed. Cir. Certiorari denied.

No. 23–1021. *LAKE ET AL. v. FONTES, ARIZONA SECRETARY OF STATE, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 83 F. 4th 1199.

No. 23–1057. *JOHNSON v. TEPPER*. Ct. App. Tex., 7th Dist. Certiorari denied.

No. 23–5946. *WARE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 69 F. 4th 830.

No. 23–6305. *HUNT v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 82 F. 4th 129.

No. 23–6747. *MILLER v. NORMAN*. C. A. 8th Cir. Certiorari denied.

No. 23–6761. *FEIFEI GU v. JIMENEZ*. C. A. 2d Cir. Certiorari denied.

No. 23–6764. *MORRIS v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

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No. 23–6779. *JACOB v. COTTON, CHAIRPERSON, NEBRASKA BOARD OF PAROLE, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 23–6787. *MEANS v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 23–6788. *FOWLER v. PENNSYLVANIA.* Super. Ct. Pa. Certiorari denied. Reported below: 299 A. 3d 908.

No. 23–6806. *HARP v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 23–6807. *DAMREN v. FLORIDA.* Sup. Ct. Fla. Certiorari denied.

No. 23–6810. *MOSLEY v. WHITE, WARDEN.* C. A. 4th Cir. Certiorari denied.

No. 23–6814. *AKERMAN v. COURT OF APPEALS OF VIRGINIA ET AL.* Sup. Ct. Va. Certiorari denied.

No. 23–6815. *AKERMAN v. VIRGINIA STATE CORPORATION COMMISSION ET AL.* Sup. Ct. Va. Certiorari denied.

No. 23–6816. *RESPER v. YESCARE CORP., FKA CORIZON HEALTH, INC., ET AL.* C. A. 4th Cir. Certiorari denied.

No. 23–6832. *LEVENS v. LOUISIANA INSURANCE GUARANTY ASSOCIATION ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–6835. *STANFORD v. JANVEY ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–7008. *MARTIN v. PAYNE, DIRECTOR, ARKANSAS DIVISION OF CORRECTION.* C. A. 8th Cir. Certiorari denied.

No. 23–7009. *SIMPSON v. SIMPSON.* Ct. App. Ariz. Certiorari denied.

No. 23–7020. *REID v. DEJOY, POSTMASTER GENERAL.* C. A. 4th Cir. Certiorari denied.

No. 23–7054. *YOUNG v. KING PHARMACEUTICALS INC. ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–7055. *LYON v. UNITED STATES.* C. A. 5th Cir. Certiorari denied.

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No. 23–7056. *BROOKS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7058. *PALMER v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 23–7061. *HOGAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7064. *FOLK v. WARDEN, FEDERAL CORRECTIONAL INSTITUTION, ALLENWOOD*. C. A. 3d Cir. Certiorari denied.

No. 23–7065. *CARMODY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7071. *ABERANT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7072. *AKERMAN v. AUSTIN, SECRETARY OF DEFENSE, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 23–7075. *HICKS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7078. *TAYLOR v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7084. *KUDLA v. BLACK, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 23–424. *AMAZON.COM, INC., ET AL. v. MILLER ET AL.* C. A. 9th Cir. Certiorari denied. JUSTICE KAVANAUGH would grant the petition for writ of certiorari.

No. 23–924. *CASTRO v. FONTES, ARIZONA SECRETARY OF STATE, ET AL.* C. A. 9th Cir. Certiorari before judgment denied.

*Rehearing Denied*

No. 23–714. *FRANKLIN v. BWD PROPERTIES 2, LLC, ET AL.*, 601 U. S. 1066;

No. 23–5896. *RICHARDSON v. UNITED STATES*, 601 U. S. 952;

No. 23–6241. *MARTINEZ v. HOOKS, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY*, 601 U. S. 1030;

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No. 23–6317. WEST, ON BEHALF OF WEST *v.* GARNET HILL REHABILITATION AND SKILLED CARE, 601 U. S. 1032; and

No. 23–6574. BAKER *v.* JEA, 601 U. S. 1078. Petitions for rehearing denied.

No. 23–5516. JOHNSON ET AL. *v.* VICTORIA FIRE & CASUALTY Co., 601 U. S. 909. Motion for leave to file petition for rehearing denied.

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*Certiorari Dismissed*

No. 23–7073. MILLER *v.* HARRIS, CLERK, SUPREME COURT OF THE UNITED STATES. 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. 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*).

*Miscellaneous Orders*

No. 23A843. NAVARRO *v.* UNITED STATES. C. A. D. C. Cir. Application for release pending appeal addressed to JUSTICE GORSUCH and referred to the Court, denied.

No. D–3135. IN RE DISCIPLINE OF BOYUK. Walter Charles Boyuk, of St. Clairesville, Ohio, 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–3136. IN RE DISCIPLINE OF ABBOTT. Richard L. Abbott, of Wilmington, Del., 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–3137. IN RE DISCIPLINE OF ENGLISBY. Denis Charles Englisby, of Chesterfield, Va., is suspended from the practice of

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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. 23M84. *IN RE WRIGHT*. Motion for leave to proceed as a veteran denied.

No. 23M85. *VELASQUEZ v. UNITED STATES*. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 23M86. *MAYS v. UNITED STATES*. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 23–6903. *ALBRIGHT v. ROBERTS, VOLUSIA COUNTY TAX COLLECTOR, ET AL.* Dist. Ct. App. Fla., 5th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until May 20, 2024, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

No. 23–7177. *IN RE MCCAULEY*. Petition for writ of habeas corpus denied.

No. 23–949. *IN RE ERLANSON*. Petition for writ of mandamus denied.

No. 23–6844. *IN RE GOUCH-ONASSIS*. 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. 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*).

*Certiorari Granted*

No. 23–365. *MEDICAL MARIJUANA, INC., ET AL. v. HORN*. C. A. 2d Cir. Certiorari granted. Reported below: 80 F. 4th 130.

No. 23–583. *BOUARFA v. MAYORKAS, SECRETARY OF HOMELAND SECURITY, ET AL.* C. A. 11th Cir. Certiorari granted. Reported below: 75 F. 4th 1157.

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No. 23–677. ROYAL CANIN U. S. A., INC., ET AL. *v.* WULLSCHLEGER ET AL. C. A. 8th Cir. Certiorari granted. Reported below: 75 F. 4th 918.

No. 23–713. BUFKIN *v.* McDONOUGH, SECRETARY OF VETERANS AFFAIRS (Reported below: 75 F. 4th 1368); and THORNTON *v.* McDONOUGH, SECRETARY OF VETERANS AFFAIRS. C. A. Fed Cir. Certiorari granted.

*Certiorari Denied*

No. 22–231. DAVIS *v.* LEGAL SERVICES ALABAMA, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 19 F. 4th 1261.

No. 23–401. CAREY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 23–568. BARTLETT ET AL. *v.* BAASIRI ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 81 F. 4th 28.

No. 23–626. MUSK *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 2d Cir. Certiorari denied.

No. 23–648. BRINKER INTERNATIONAL, INC. *v.* STEINMETZ, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 73 F. 4th 883.

No. 23–664. BENNING *v.* OLIVER, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 71 F. 4th 1324.

No. 23–708. MARK, INDIVIDUALLY AND AS PARENT AND NATURAL GUARDIAN OF T. B. M. ET AL., MINORS, ET AL. *v.* REPUBLIC OF SUDAN ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 77 F. 4th 892.

No. 23–717. ALVARADO ET AL. *v.* AUSTIN, SECRETARY OF DEFENSE, ET AL. C. A. 4th Cir. Certiorari denied.

No. 23–779. FORSYTHE *v.* McDONOUGH, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied.

No. 23–785. PHH MORTGAGE CORP. *v.* GUTHRIE. C. A. 4th Cir. Certiorari denied. Reported below: 79 F. 4th 328.

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No. 23–802. *BEMBURY v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied. Reported below: 677 S. W. 3d 385.

No. 23–893. *WALKER v. ARKANSAS*. Ct. App. Ark. Certiorari denied. Reported below: 2023 Ark. App. 295, 669 S. W. 3d 243.

No. 23–906. *GALLOP v. CAMERON BAY HOMEOWNER’S ASSN.* Sup. Ct. Va. Certiorari denied.

No. 23–917. *WITZEMAN v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–932. *BRANDT v. CARACCILO*. C. A. 4th Cir. Certiorari denied.

No. 23–938. *WHEELER ET AL. v. ORANGE COUNTY, CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–940. *ROSELLINI v. NEW JERSEY OFFICE OF ATTORNEY ETHICS*. Sup. Ct. N. J. Certiorari denied. Reported below: 256 N. J. 30, 304 A. 3d 675.

No. 23–946. *GOSSAGE v. REALITY HOMES, INC., ET AL.* Ct. App. Wash. Certiorari denied. Reported below: 25 Wash. App. 2d 1013.

No. 23–957. *BISHOP ET AL. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied.

No. 23–965. *YIM v. NATIONAL INSTITUTES OF HEALTH*. C. A. 3d Cir. Certiorari denied.

No. 23–977. *DEAN v. D. L. EVANS BANK*. Sup. Ct. Idaho. Certiorari denied. Reported below: 173 Idaho 20, 538 P. 3d 793.

No. 23–981. *ARCHITECTS & ENGINEERS FOR 9/11 TRUTH ET AL. v. RAIMONDO, SECRETARY OF COMMERCE, ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 23–984. *DIXON v. CHARLES SCHWAB & Co., INC.* C. A. 8th Cir. Certiorari denied.

No. 23–1011. *JAMES ET AL. v. HEGAR, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITIES AS COMPTROLLER OF TEXAS, CHAIRMAN OF THE TEXAS TREASURY SAFEKEEPING TRUST COMPANY, AND ADMINISTRATOR OF TEXAS UNCLAIMED PROPERTY FUNDS,*

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ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 86 F. 4th 1076.

No. 23–1055. DOUGLASS *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 23–1058. SCHULZ ET AL. *v.* NEW YORK ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 40 N. Y. 3d 1004, 221 N. E. 3d 785.

No. 23–1078. WILLIAMS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 23–6568. OUAZIZ *v.* CITY OF JERSEY CITY, NEW JERSEY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 23–6805. PADMANABHAN *v.* CAMBRIDGE HEALTH COMMISSION. App. Ct. Mass. Certiorari denied. Reported below: 102 Mass. App. 1121, 211 N. E. 3d 1066.

No. 23–6826. JACKSON *v.* McDOWELL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 23–6833. KARR *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 23–6848. SMITH *v.* HARRY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CAMP HILL, ET AL. C. A. 3d Cir. Certiorari denied.

No. 23–6859. SMART *v.* LAMANNA. C. A. 2d Cir. Certiorari denied.

No. 23–6860. BINNS *v.* AMERICAN GENERAL LIFE & ACCIDENT INSURANCE CO., AIG, ET AL. C. A. 9th Cir. Certiorari denied.

No. 23–6861. FORD *v.* MARCENO, SHERIFF, LEE COUNTY, FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 23–6865. ONYIEGO *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 23–6867. BRUCE *v.* BANK OF AMERICA, N. A. C. A. 4th Cir. Certiorari denied.

No. 23–6872. WENTWORTH *v.* MISSION VISTA HIGH SCHOOL AND PERSONNEL ET AL. C. A. 9th Cir. Certiorari denied.

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No. 23–6873. *PICKENS v. BUSS, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 23–6874. *MITCHELL v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–6879. *BURRUS v. WASHINGTON*. Ct. App. Wash. Certiorari denied.

No. 23–6883. *McMINN v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–6887. *BRENDA B. v. TENNESSEE DEPARTMENT OF CHILDREN’S SERVICES*. Ct. App. Tenn. Certiorari denied.

No. 23–6913. *THOMPSON v. ALLARD, CHIEF JUDGE, COURT OF APPEALS OF ALASKA, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–6922. *KOHN v. STATE BAR OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 87 F. 4th 1021.

No. 23–6928. *WALKER v. SCIENTIFIC ALLOYS CORP. ET AL.* C. A. 4th Cir. Certiorari denied.

No. 23–6984. *OTTAH v. VERIFONE SYSTEM INC.* C. A. Fed. Cir. Certiorari denied.

No. 23–7080. *VAUGHN v. FLANNERY ET AL.* C. A. 8th Cir. Certiorari denied.

No. 23–7081. *MAKERE v. EARLY, ADMINISTRATIVE LAW JUDGE*. C. A. 11th Cir. Certiorari denied.

No. 23–7096. *OYEKUNLE-BUBU v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 74 F. 4th 756.

No. 23–7097. *CROSBY v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7099. *WALLS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 23–7100. *MERRITT v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 85 F. 4th 102.

No. 23–7106. *MORGAN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

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No. 23–7107. *MELANCON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7109. *GARCIA-HEREDIA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7111. *THOMAS v. ALABAMA LAW ENFORCEMENT AGENCY, DRIVER LICENSE DIVISION, ET AL.* Sup. Ct. Ala. Certiorari denied.

No. 23–7121. *HERNANDEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 23–7122. *ALEXANDER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7123. *ISHO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7125. *JIMENEZ PASTRANA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7126. *PEREZ v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7133. *HINES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7141. *MOLINEAUX v. AMES, SUPERINTENDENT, MOUNT OLIVE CORRECTIONAL COMPLEX*. C. A. 4th Cir. Certiorari denied.

No. 23–966. *STILLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition.

*Rehearing Denied*

No. 23–584. *SNYDER v. CALIFORNIA*, 601 U. S. 1020;

No. 23–709. *JOHNSON v. ILLINOIS*, 601 U. S. 1024;

No. 23–766. *ORA v. HOLLYWOOD CHAMBER OF COMMERCE*, 601 U. S. 1075;

No. 23–808. *JOE v. SUPREME COURT OF CALIFORNIA*, 601 U. S. 1075;

No. 23–6229. *CARY v. WILLIAMS, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL.*, 601 U. S. 1029;

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No. 23–6293. *HAWKINS v. VANDERGRIFF, WARDEN*, 601 U. S. 1031; and

No. 23–6457. *GRIGG v. BENSON*, 601 U. S. 1077. Petitions for rehearing denied.

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*Miscellaneous Order*

No. 23A925. *FREE SPEECH COALITION ET AL. v. PAXTON, ATTORNEY GENERAL OF TEXAS*. C. A. 5th Cir. Application for stay, presented to JUSTICE ALITO, and by him referred to the Court, denied.

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*Certiorari Dismissed*

No. 23–7051. *LARSON v. SCHMIDT, COMMISSIONER, ALASKA DEPARTMENT OF CORRECTIONS, ET AL.* Ct. App. Alaska. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8.

*Miscellaneous Orders*

No. 23M87. *HILL v. LIFE LINE SCREENING OF AMERICA, LLC*;  
No. 23M88. *KIMBRELL v. BANK OF AMERICA, N. A., ET AL.*;  
No. 23M89. *ABERRA v. CITY OF NEW YORK, NEW YORK*;  
No. 23M92. *MILLER v. SALLAZ, SUPERINTENDENT, LAKIN CORRECTIONAL CENTER AND JAIL*; and

No. 23M93. *WILSON v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL.* Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 23M90. *CHRUSTOWSKI v. NAACP ET AL.* Motion for leave to file petition for writ of certiorari under seal denied.

No. 23M91. *E. R. v. COLORADO, IN THE INTEREST OF S. M ET AL., CHILDREN*. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 23–689. *CITY OF LOS ANGELES, CALIFORNIA, ET AL. v. M. A. R., A MINOR, BY AND THROUGH HIS GUARDIAN AD LITEM, BARRAGAN, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO RIVERA, ET AL.* C. A. 9th Cir. Motion of petitioners to hold the petition in abeyance granted.

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No. 23–6200. *GREEN v. LG ELECTRONICS USA ET AL.* C. A. 3d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1012] denied.

No. 23–6613. *ALLEN v. ALLEN ET AL.* Sup. Ct. N. C. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1103] denied.

No. 23–6614. *ALLEN v. ALLEN ET AL.* Sup. Ct. N. C. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1103] denied.

No. 23–6734. *HOLMES v. MILGRAM, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION.* C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1073] denied.

No. 23–6863. *BILBRO v. EDUCATION PROFESSIONAL STANDARDS BOARD.* Ct. App. Ky.;

No. 23–7005. *CHAN v. HEALEY, GOVERNOR OF MASSACHUSETTS, ET AL.* C. A. 1st Cir.;

No. 23–7218. *SHANNON v. CHERRY CREEK SCHOOL DISTRICT ET AL.* C. A. 10th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until June 3, 2024, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

No. 23–6970. *ALLEN ET AL. v. L3HARRIS TECHNOLOGIES, INC.* C. A. 4th Cir. Motion of petitioner Kathy Allen for leave to proceed *in forma pauperis* denied. Petitioner is allowed until June 3, 2024, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court. Certiorari as to petitioner Jay Allen denied.

No. 23–7195. *IN RE TOLIVER*;

No. 23–7199. *IN RE DICKEY*;

No. 23–7251. *IN RE JONES*;

No. 23–7259. *IN RE RIGAL*; and

No. 23–7274. *IN RE SWIFT.* Petitions for writs of habeas corpus denied.

No. 23–941. *IN RE FIRST CHOICE WOMEN’S RESOURCE CENTERS, INC.*;

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No. 23–982. *IN RE MARBLEY*;  
No. 23–6927. *IN RE THOMAS*; and  
No. 23–7194. *IN RE FLETE-GARCIA*. Petitions for writs of mandamus denied.

No. 23–1006. *IN RE BAYLOR*. Petition for writ of mandamus and/or prohibition denied.

*Certiorari Denied*. (See also No. 23–6970, 601 U. S. 1173.)

No. 23–323. *GAMBOA v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. *Certiorari* denied.

No. 23–631. *GREENLAW ET AL. v. UNITED STATES*. C. A. 5th Cir. *Certiorari* denied. Reported below: 84 F. 4th 325.

No. 23–669. *MASSACHUSETTS COASTAL RAILROAD LLC ET AL. v. MARSH*. Sup. Jud. Ct. Mass. *Certiorari* denied. Reported below: 492 Mass. 641, 214 N. E. 3d 388.

No. 23–675. *OFFICIAL COMMITTEE OF ASBESTOS CLAIMANTS v. BESTWALL LLC ET AL.*; and

No. 23–702. *ESSERMAN, AS FUTURE CLAIMS REPRESENTATIVE v. BESTWALL LLC ET AL.* C. A. 4th Cir. *Certiorari* denied. Reported below: 71 F. 4th 168.

No. 23–722. *DIAZ ET AL. v. POLANCO ET AL.* (Reported below: 76 F. 4th 918); *DIAZ ET AL. v. HAMPTON ET AL.* (83 F. 4th 754); and *DIAZ ET AL. v. HARRIS ET AL.*; and

No. 23–842. *POLANCO ET AL. v. DIAZ ET AL.* Reported below: 76 F. 4th 918. C. A. 9th Cir. *Certiorari* denied.

No. 23–729. *KIVITI ET AL. v. BHATT*. C. A. 4th Cir. *Certiorari* denied. Reported below: 80 F. 4th 520.

No. 23–891. *SACKS v. TEXAS SOUTHERN UNIVERSITY ET AL.* C. A. 5th Cir. *Certiorari* denied. Reported below: 83 F. 4th 340.

No. 23–899. *AHMED v. OAK MANAGEMENT CORP.* Sup. Ct. Conn. *Certiorari* denied. Reported below: 348 Conn. 152, 302 A. 3d 850.

No. 23–943. *RUSSELL v. PAXTON, ATTORNEY GENERAL OF TEXAS, ET AL.* C. A. 5th Cir. *Certiorari* denied.

No. 23–958. *MOON ET AL. v. GREER*. C. A. 10th Cir. *Certiorari* denied. Reported below: 83 F. 4th 1283.

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No. 23–968. *KNEZOVICH ET AL. v. UNITED STATES ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 82 F. 4th 931.

No. 23–973. *TARUM, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LINDSAY, ET AL. v. STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.* C. A. 9th Cir. Certiorari denied.

No. 23–974. *RIDDLE v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION.* C. A. 5th Cir. Certiorari denied.

No. 23–978. *LOAN PHUONG v. CONG VAN NGUYEN.* Sup. Ct. Va. Certiorari denied.

No. 23–986. *RUED ET AL. v. HATCHER, JUDGE, HENNEPIN COUNTY, MINNESOTA, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 23–988. *HOLDER v. YOUNG ET AL.* App. Ct. Md. Certiorari denied.

No. 23–989. *MURPHY v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA.* C. A. 3d Cir. Certiorari denied.

No. 23–990. *PREWITT v. YAZOO COUNTY, MISSISSIPPI.* C. A. 5th Cir. Certiorari denied.

No. 23–993. *KLEIDMAN v. COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, ET AL.* Sup. Ct. Cal. Certiorari denied.

No. 23–994. *MARCHMAN v. AMERIHOMES MORTGAGE CO.* Ct. App. Ga. Certiorari denied.

No. 23–998. *JERUSALEM v. LOUISIANA DEPARTMENT OF STATE ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–1000. *WATERS, ON BEHALF OF WATERS v. BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES.* C. A. 6th Cir. Certiorari denied. Reported below: 80 F. 4th 782.

No. 23–1005. *REDD-OYEDELE v. SANTA CLARA COUNTY OFFICE OF EDUCATION ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–1009. *CARPENTER v. VILSACK, SECRETARY OF AGRICULTURE, ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 23–1018. *JEAN-BAPTISTE v. CITY OF NEW YORK, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 23–1024. *COUNTRY MUTUAL INSURANCE CO. v. SUDHOLT ET AL.* C. A. 7th Cir. Certiorari denied. Reported below: 83 F. 4th 621.

No. 23–1025. *D. L. MARKHAM DDS, MSD, INCORPORATED 401(K) PLAN, ET AL. v. VARIABLE ANNUITY LIFE INSURANCE CO.* C. A. 5th Cir. Certiorari denied. Reported below: 88 F. 4th 602.

No. 23–1029. *MORALES-CARDOSO v. GARLAND, ATTORNEY GENERAL.* C. A. 5th Cir. Certiorari denied.

No. 23–1031. *SACKS v. TEXAS SOUTHERN UNIVERSITY ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–1035. *DEBOSE v. UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA.* C. A. 11th Cir. Certiorari denied.

No. 23–1042. *GASKIN ET AL. v. MAY ET AL.* C. A. D. C. Cir. Certiorari denied.

No. 23–1043. *ANARIBA v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 23–1080. *MOSLER ET AL. v. GERACE ET AL.* Sup. Ct. V. I. Certiorari denied. Reported below: 78 V. I. 649.

No. 23–1082. *SLITER-MATIAS v. UNITED STATES.* C. A. 3d Cir. Certiorari denied.

No. 23–1086. *TETER v. UNITED STATES TRUSTEE.* C. A. 6th Cir. Certiorari denied. Reported below: 90 F. 4th 493.

No. 23–1089. *CORONAVIRUS REPORTER ET AL. v. APPLE INC.* C. A. 9th Cir. Certiorari denied. Reported below: 85 F. 4th 948.

No. 23–1092. *DONAHUE v. PENNSYLVANIA* (two judgments). Super. Ct. Pa. Certiorari denied. Reported below: 296 A. 3d 590 (first judgment) and 593 (second judgment).

No. 23–1098. *COLE v. FOXMAR, INC., DBA EDUCATION AND TRAINING RESOURCES.* C. A. 2d Cir. Certiorari denied.

No. 23–1100. *JONES v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

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No. 23–1101. *FERGUSON v. OWEN*. C. A. D. C. Cir. Certiorari denied.

No. 23–1102. *DAVIS v. CITY OF APOPKA, FLORIDA*. C. A. 11th Cir. Certiorari denied. Reported below: 78 F. 4th 1326.

No. 23–1106. *AKERMAN v. UNITED STATES*. C. A. Armed Forces. Certiorari denied. Reported below: 84 M. J. 165.

No. 23–1114. *HAYS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 90 F. 4th 904.

No. 23–1115. *ING v. TUFTS UNIVERSITY*. C. A. 1st Cir. Certiorari denied.

No. 23–1118. *IKORONGO TEXAS LLC ET AL. v. BUMBLE TRADING LLC*. C. A. Fed. Cir. Certiorari denied.

No. 23–1124. *HAWKINS ET AL. v. OHIO DEPARTMENT OF NATURAL RESOURCES*. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied. Reported below: 2023-Ohio-3493.

No. 23–5835. *FINNELL v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–5996. *PACE v. EMMONS, WARDEN*. C. A. 11th Cir. Certiorari denied.

No. 23–6161. *HERRERA PASTRAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–6276. *HILL v. SHOOP, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 81 F. 4th 560.

No. 23–6451. *GREEN v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 23–6621. *AYALA-GARCIA ET AL. v. UNITED STATES*. C. A. 10th Cir. Certiorari denied.

No. 23–6648. *MENDONCA v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 88 F. 4th 144.

No. 23–6692. *REYNOLDS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 86 F. 4th 332.

No. 23–6738. *MASHBURN v. HAMM, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied. Reported below: 80 F. 4th 1292.

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No. 23–6776. *INGRAM v. WARDEN, HOLMAN CORRECTIONAL FACILITY*. C. A. 11th Cir. Certiorari denied. Reported below: 80 F. 4th 1304.

No. 23–6858. *SESSION v. GIANNOTTI ET AL.* C. A. 5th Cir. Certiorari denied.

No. 23–6885. *RENDON v. SKINNER, DIRECTOR, IOWA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 8th Cir. Certiorari denied.

No. 23–6890. *WHITE v. CALIFORNIA*. Sup. Ct. Cal. Certiorari denied.

No. 23–6898. *CASTILLO v. HARPER ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–6911. *MOORE v. DURAND ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–6914. *MILLER v. WILCOT ET AL.* C. A. 8th Cir. Certiorari denied.

No. 23–6917. *THOMPSON v. PLATKIN, ATTORNEY GENERAL OF NEW JERSEY, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–6918. *A. S., A MINOR v. PALMDALE SCHOOL DISTRICT*. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied. Reported below: 94 Cal. App. 5th 1091, 312 Cal. Rptr. 3d 810.

No. 23–6920. *MORROW v. METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, ET AL.* C. A. 6th Cir. Certiorari denied.

No. 23–6921. *EASON v. RAOUL, ATTORNEY GENERAL OF ILLINOIS, ET AL.* C. A. 7th Cir. Certiorari denied.

No. 23–6923. *GORHAM v. LAVINE ET AL.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 376 So. 3d 781.

No. 23–6924. *WILLIS v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 23–6925. *EL-AMIN v. LOUISIANA*. Sup. Ct. La. Certiorari denied. Reported below: 2023–01047 (La. 1/24/24), 377 So. 3d 690.

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No. 23–6926. *TIGER v. WILLIAMS, WARDEN*. C. A. 10th Cir. Certiorari denied.

No. 23–6932. *THOMAS v. HOOPER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 23–6933. *HUY TRONG TRAN v. CAMPBELL, WARDEN*. C. A. 9th Cir. Certiorari denied.

No. 23–6938. *GARCIA v. WOLCOTT, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied.

No. 23–6946. *INKO-TARIAH v. LAMBERTH ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 306 A. 3d 1204.

No. 23–6947. *VELARDE v. BIDEN, PRESIDENT OF THE UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 23–6948. *WANJIKU v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–6955. *KISSNER v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 23–6956. *WILBANKS v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 23–6958. *THARJIATH v. MINNESOTA*. Ct. App. Minn. Certiorari denied.

No. 23–6959. *ELLISON v. BLUDWORTH, WARDEN, ET AL.* Sup. Ct. Mont. Certiorari denied. Reported below: — Mont. —, 539 P. 3d 1176.

No. 23–6961. *SMITH v. HENLEY, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–6962. *ROBBINS v. WETZEL, FORMER SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 23–6964. *CANTRELL v. DEPARTMENT OF VETERANS AFFAIRS*. C. A. 7th Cir. Certiorari denied.

No. 23–6972. *KERR v. LENZ ET AL.* C. A. 6th Cir. Certiorari denied.

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No. 23–6981. *DAVIS v. ANSARI ET AL.* C. A. 10th Cir. Certiorari denied.

No. 23–6991. *PEACE v. WISCONSIN.* Ct. App. Wis. Certiorari denied.

No. 23–7004. *THOMAS v. FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 377 So. 3d 1139.

No. 23–7006. *PORTER v. AXELON, INC., ET AL.* Sup. Ct. Ky. Certiorari denied.

No. 23–7010. *HERRERA FLORES v. GARLAND, ATTORNEY GENERAL.* C. A. 9th Cir. Certiorari denied.

No. 23–7033. *TAYLOR v. CALIFORNIA.* Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 23–7038. *THURMAN v. RUG DOCTOR.* C. A. 8th Cir. Certiorari denied.

No. 23–7044. *OGLE v. HOCKING COUNTY COMMON PLEAS COURT ET AL.* Sup. Ct. Ohio. Certiorari denied. Reported below: 173 Ohio St. 3d 118, 2023-Ohio-3534, 227 N. E. 3d 1202.

No. 23–7062. *THOMAS v. NEWTON, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied.

No. 23–7076. *VILLAVICENCIO v. TERLECKY.* C. A. 6th Cir. Certiorari denied.

No. 23–7089. *LEWIS v. MISSISSIPPI.* Ct. App. Miss. Certiorari denied. Reported below: 374 So. 3d 529.

No. 23–7093. *QUINN v. OHIO.* Ct. App. Ohio, 6th App. Dist., Lucas County. Certiorari denied. Reported below: 2023-Ohio-1300.

No. 23–7113. *BUTLER v. UNITED STATES.* C. A. 4th Cir. Certiorari denied.

No. 23–7114. *MARSCHALL v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 82 F. 4th 774.

No. 23–7129. *JONES v. ELLER, WARDEN.* C. A. 6th Cir. Certiorari denied.

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No. 23–7132. *O’LEAR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 90 F. 4th 519.

No. 23–7134. *JACKSON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7135. *MARTINEZ, AKA HUSSAIN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7143. *ORDONEZ-DOMINGUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7144. *HUSKEY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 90 F. 4th 651.

No. 23–7145. *LEWIS v. UNITED STATES* (Reported below: 90 F. 4th 288); and *SCOTT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7146. *OCHOA-LEYVA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7147. *CRUZ-RAMIREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7156. *SHIELDS v. UNITED STATES*. C. A. 6th Cir. Certiorari denied.

No. 23–7157. *DIXON v. HOOPER, WARDEN*. C. A. 5th Cir. Certiorari denied.

No. 23–7160. *CARRASCO v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7161. *HOMAN v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7163. *MELKONIAN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7164. *CASS v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist., Div. 1. Certiorari denied.

No. 23–7173. *BARLOW v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 83 F. 4th 773.

No. 23–7178. *TITUS v. SCHENSE*. Ct. App. Neb. Certiorari denied. Reported below: 32 Neb. App. —.

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No. 23–7179. *JONES v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7181. *DAY v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7182. *WRAY v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 90 F. 4th 651.

No. 23–7184. *SANSONE v. UNITED STATES*. C. A. 1st Cir. Certiorari denied. Reported below: 90 F. 4th 1.

No. 23–7185. *NORTHERN v. TEGELS, WARDEN*. Ct. App. Wis. Certiorari denied.

No. 23–7190. *SWINGTON v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7196. *CARSON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 88 F. 4th 633.

No. 23–7203. *BLASKO v. BOYDEN, ACTING UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF CALIFORNIA*. C. A. 9th Cir. Certiorari denied.

No. 23–7204. *HAGINS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied.

No. 23–7205. *JOSELIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7213. *BLANKS v. UNITED STATES*. C. A. 8th Cir. Certiorari denied.

No. 23–7215. *HUESTON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 90 F. 4th 897.

No. 23–7217. *RUIZ CHUTA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 23–7220. *SCOTT v. UNITED STATES*; and

No. 23–7221. *SCOTT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7222. *CONTRERAS SILVA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 92 F. 4th 547.

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No. 23–7223. *CARTER v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–7225. *HOYLE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7226. *VILLAMONTE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 23–7229. *JACKSON v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–7234. *BELL v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA*. C. A. D. C. Cir. Certiorari denied.

No. 23–7235. *WILLIAMS v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 23–1081. *STAFINIAK ET AL. v. KIRSCHNER, AS TRUSTEE OF THE NWHI LITIGATION TRUST, ET AL.* C. A. 2d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 87 F. 4th 130.

No. 23–5618. *SANDOVAL v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied. Reported below: 665 S. W. 3d 496.

JUSTICE JACKSON, with whom JUSTICE SOTOMAYOR joins, dissenting.

Criminal defendants have a “fundamental righ[t]” “to personal presence at all critical stages of the trial.” *Rushen v. Spain*, 464 U. S. 114, 117 (1983) (*per curiam*). We have long held that *voir dire*—the moment that “represents jurors’ first introduction” to the facts of a case—is one such stage. *Gomez v. United States*, 490 U. S. 858, 873–874 (1989). In this capital case, however, the Texas Court of Criminal Appeals (TCCA) determined that a defendant had no due process right to attend “special venire” proceedings held prior to *voir dire*, during which a judge preevaluated potential jurors who were summonsed specifically for that case and given information about the defendant and the allegations against him. The TCCA’s ruling raises a significant and certworthy question about whether criminal defendants have a due process right to be present in such circumstances. In my view, the answer is yes, and this Court should have granted the petition for certiorari to furnish that important holding.

## I

Petitioner Gustavo Tijerina Sandoval was charged in Texas with capital murder. Under Texas law, prospective jurors are typically first assembled into a general, non-case-specific jury pool; only after members of that pool are individually qualified for service based on certain statutory criteria are they then assigned to specific cases for *voir dire*. See *Jasper v. State*, 61 S. W. 3d 413, 422–423 (Tex. Crim. App. 2001). In capital cases, however, Texas trial courts may summon a “special venire”—a panel of prospective jurors who are called for a particular trial. Tex. Code Crim. Proc. Ann., Art. 34.01 (Vernon 2006).

That is what happened here. Prospective jurors were mailed a summons along with a detailed questionnaire that included case-specific information such as the parties’ identities, the facts of the alleged offense, and the State’s intention to seek the death penalty. From February to May 2018, the trial court then summoned three special venires to prequalify potential jurors for this case. During those proceedings, the judge explained the statutory prerequisites for jury service and described grounds for exemption from service. She also had colloquies with the potential jurors and disqualified many of them.

Tijerina Sandoval was not present for any of those qualification hearings. 665 S. W. 3d 496, 509–510 (Tex. Crim. App. 2022). Moreover, most of the exchanges between the prospective jurors and the court troublingly took place entirely off the record, without any recording or transcription, leaving little trace of what was said, who was excused, or why. *Id.*, at 510.

After being subsequently tried and convicted, Tijerina Sandoval maintained on appeal that it was legal error for the trial court to hold the special venire qualification proceedings outside of his presence. *Id.*, at 511. But the TCCA disagreed, concluding that “[w]hether the prospective juror is assigned first to the central jury room or to a special venire, a preliminary inquiry into his general qualifications, excuses, and exemptions is not the sort of proceeding that needs to be conducted in the defendant’s presence” in order to comport with due process. *Id.*, at 511–512.

## II

The TCCA’s categorical distinction between a “preliminary inquiry” into juror qualifications in the context of a special venire, on the one hand, and standard *voir dire* proceedings, on the other,

stands in deep tension with a criminal defendant's "right to personal presence at all critical stages of the trial." *Rushen*, 464 U. S., at 117; see *United States v. Gagnon*, 470 U. S. 522, 526 (1985) (*per curiam*). The baseline is well established: A "defendant has a due process right to be present at a proceeding 'whenever his presence has a relation, reasonably substantial, to the fulness of his opportunity to defend against the charge.'" *Id.*, at 526 (quoting *Snyder v. Massachusetts*, 291 U. S. 97, 105–106 (1934)). This Court has also already determined that *voir dire* proceedings qualify as such a moment. *Gomez*, 490 U. S., at 873. *Voir dire* is typically the point in which prospective jurors are made privy "to the substantive factual and legal issues in a case," *id.*, at 874, and it "is the primary means by which a court may enforce a defendant's right to be tried by a jury free from . . . predisposition about the defendant's culpability," *id.*, at 873. And, because the "atmosphere of the *voir dire* . . . may persist throughout the trial," a defendant's pretrial opportunity to "scrutinize" the "gestures and attitudes of all participants to ensure the jury's impartiality" is essential to the fairness of the entire proceeding. *Id.*, at 875.

To be sure, we have also distinguished between *voir dire* and a mere "administrative empanelment process" that occurs before jurors have been assigned to a case or told anything about it on the grounds that the latter does not ordinarily carry the same significant implications for the fairness of the trial. *Id.*, at 874. Thus, at bottom, the legal question here is whether Texas's "special venire" qualification sessions are sufficiently similar to standard *voir dire* proceedings to implicate the defendant's due process right to be present.

I believe that they are. Just as with *voir dire*, "a fair and just hearing would be thwarted by" a defendant's absence from the special venire proceedings. *Snyder*, 291 U. S., at 108. To start, even before they arrived at the courthouse, the potential jurors in this case had already been informed of the parties' identities, the allegations against Tijerina Sandoval, and the fact that the State sought the death penalty—critical facts about this case in particular. Then, on the day they were brought in for questioning, the prospective jurors came before the judge, where they could react to that case-related information in the context of the court's assessment of their qualifications and ability to serve. Texas's special venire hearings thus shared many of the key quali-

ties that make the defendant's presence at *voir dire* proceedings constitutionally indispensable. See *Gomez*, 490 U. S., at 873–875.

Moreover, given this reality, it is simply not the case that Tijerina Sandoval “could have done nothing” and would not “have gained anything by attending” these special venire proceedings. *Gagnon*, 470 U. S., at 527. Because most of these proceedings took place off the record, there is no full account of what was said. But what is known of the facts here plainly demonstrates why Tijerina Sandoval's presence might have mattered.

In one of the few transcribed special venire exchanges, one prospective juror stated: “In this case, I feel uncomfortable.” 50 Reporter's Record in No. AP–77,081 (Tex. Crim. App.), p. 20. It is entirely possible that that particular juror was predisposed to look unfavorably at the facts of the case or at Tijerina Sandoval himself. But the defense could not follow up on that comment, since Tijerina Sandoval was not present for those prequalification proceedings and was thus presumably unaware of that remark. There is no evidence that the trial court informed Tijerina Sandoval of this panel member's comment before *voir dire*. Nor is it clear whether that juror was ever asked to explain the reasons for the stated discomfort, either during the special venire proceedings or subsequently during *voir dire*. It is also indisputable that a prospective juror's discomfort “[i]n this case” is the kind of information that defense counsel would have probed at length in subsequent questioning, because such an inquiry might result in the juror's disqualification for cause—saving the defendant a valuable peremptory strike.

The fact that Texas's special venire process is available only in capital cases, which often receive abnormally extensive media coverage, makes matters worse. In those circumstances, it is all the more likely that those prospective jurors who are called for a special venire prequalification process may have seen reporting on the case and formed opinions before trial. Such media coverage might also lead prospective jurors to reveal a “predisposition about the defendant's culpability” at the earliest opportunity—*i.e.*, during the special venire proceedings. *Gomez*, 490 U. S., at 873.

Again, this case further illustrates the point. During Tijerina Sandoval's trial, the judge expressly noted that “the media has had [this case] publicized so much.” 58 Reporter's Record in No. AP–77,081 (Tex. Crim. App.), p. 35. And, indeed, some of

the prospective jurors disclosed on their questionnaires that they had seen media coverage about the case. That pretrial coverage was often highly prejudicial, suggesting, for instance, that Tijerina Sandoval might have been associated with Mexican cartels. Yet, Tijerina Sandoval was not present during the court's initial vetting of the prospective jurors, despite their likely exposure to this coverage and preexisting knowledge of the case.

\* \* \*

Because this Court has already recognized the due process right of a defendant to be present at *voir dire*, it seems to me self-evident that a defendant's presence for the first court appearance of prospective jurors assembled specifically for his case likewise bears on "the fullness of his opportunity to defend against the charge." *Snyder*, 291 U.S., at 105–106. But here, without even the benefit of a full record of the exchanges between the trial court and prospective jurors, the TCCA held categorically that a defendant in Tijerina Sandoval's position had no right to be present during the court's preliminary assessment of the jury pool. 665 S. W. 3d, at 511–512.

Other state and federal courts have held otherwise. They have recognized a defendant's right to be present during preliminary proceedings where potential jurors have been exposed to the facts of a case or are subject to being excused for case-specific reasons.\* For present purposes, that means the lower courts diverge as to whether a criminal defendant has a due process right to attend proceedings like the qualification hearings here. That debate involves an issue of clear constitutional and practical significance that this Court should have granted certiorari to resolve. Therefore, I respectfully dissent.

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\*See, e.g., *United States v. Bordallo*, 857 F. 2d 519, 522–523 (CA9 1988) (right to presence applied in pre-*voir dire* proceedings where "prospective jurors knew which specific case they would hear, and some were excused due to factors related to" the case); *State v. Irby*, 170 Wash. 2d 874, 880–884, 246 P. 3d 796, 799–801 (2011) (right applied when judge exchanged email with counsel about excusing jurors, who had filled out questionnaires about that case, based on their "general qualifications" and "their fitness to serve as jurors in this particular case"); *State v. Wilson*, 323 Ore. 498, 504–505, 918 P. 2d 826, 830–831 (1996) (right applied to pre-*voir dire* preliminary orientation during which potential jurors filled out lengthy questionnaires and were informed of the facts of the case and the parties' identities).

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*Rehearing Denied*

- No. 23–116. CALDWELL *v.* ANTHONY ET AL., 601 U. S. 873;  
No. 23–740. GOLDEN *v.* QUALCOMM, INC., 601 U. S. 1074;  
No. 23–746. NIKOLENKO *v.* NIKOLENKO, 601 U. S. 1074;  
No. 23–780. MISQUITH *v.* ST. MARY’S MEDICAL CENTER, 601 U. S. 1097;  
No. 23–904. GOLDEN *v.* UNITED STATES, 601 U. S. 1098;  
No. 23–5321. REAVES *v.* LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, ET AL., 601 U. S. 875;  
No. 23–5735. FRENCH *v.* SALAMON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, 601 U. S. 979;  
No. 23–6001. JACKSON *v.* TEXAS, 601 U. S. 996;  
No. 23–6064. KIMBROUGH *v.* OKLAHOMA, 601 U. S. 1002;  
No. 23–6069. SAINTVIL *v.* UNITED STATES, 601 U. S. 1076;  
No. 23–6111. REMSEN ET AL. *v.* SHAFFER ET AL., 601 U. S. 988;  
No. 23–6160. HENDERSON *v.* POUNDS, WARDEN, 601 U. S. 1077;  
No. 23–6208. SCOTT *v.* MIAMI DADE COUNTY, FLORIDA, ET AL., 601 U. S. 1028;  
No. 23–6222. JOHNSON *v.* BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL., 601 U. S. 1029;  
No. 23–6234. ROBINSON *v.* COMPASS GROUP USA, INC., 601 U. S. 1003;  
No. 23–6354. EASTERLING *v.* MISSISSIPPI, 601 U. S. 1033;  
No. 23–6407. WOODS *v.* DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT ET AL., 601 U. S. 1057;  
No. 23–6534. JACKSON *v.* FLORIDA, 601 U. S. 1058;  
No. 23–6677. SANCHEZ *v.* THORNELL, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY, ET AL., 601 U. S. 1070; and  
No. 23–6685. WOODS *v.* RAY, WARDEN, 601 U. S. 1079. Petitions for rehearing denied.

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*Miscellaneous Order*

- No. 23A994. ROBINSON ET AL. *v.* CALLAIS ET AL.; and  
No. 23A1002. LANDRY, SECRETARY OF STATE OF LOUISIANA, ET AL. *v.* CALLAIS ET AL. D. C. W. D. La. Applications for stay, presented to JUSTICE ALITO, and by him referred to the Court, granted. See *Purcell v. Gonzalez*, 549 U. S. 1 (2006) (*per curiam*).

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The April 30, 2024, order of the United States District Court for the Western District of Louisiana, case No. 3:24-cv-00122, is stayed pending the timely docketing of the appeal in this Court. Should the jurisdictional statement be timely filed, this order shall remain in effect pending this court's action on the appeal. If the appeal is dismissed, or the judgment affirmed, this order shall terminate automatically. In the event jurisdiction is noted or postponed, this order will remain in effect pending the sending down of the judgment of this Court. JUSTICE SOTOMAYOR and JUSTICE KAGAN would deny the applications for stay.

JUSTICE JACKSON, dissenting.

These emergency applications arise from a complex series of cases about what district lines Louisiana voters should use to select their Congressional Representatives. Over more than two years of litigation, separate groups of voters have challenged Louisiana's congressional maps, first for violating §2 of the Voting Rights Act and now for violating the Equal Protection Clause of the Constitution. The Louisiana Legislature, two Governors, civil rights organizations, voters, and jurists at every level of our federal system have weighed in on these challenges. That careful scrutiny is fitting: The question of how to elect representatives consistent with our shared commitment to racial equality is among the most consequential we face as a democracy.

The question before us today, though, is far more quotidian: When does Louisiana need a new map for the November 2024 election? Redistricting raises unique and unusual timeliness concerns, with important deadlines weeks and even months before an election. The three-judge District Court in this action, after holding a full merits trial and finding the current map unconstitutional, scheduled the imposition of a remedial map for no later than June 4. In doing so, it rejected the State's argument that the real deadline for settling on a map is May 15. The State now renews those arguments before us, asserting that waiting any longer will result in irreparable harm, namely, "election chaos." Emergency Application in No. 23A1002, p. 19. The Court appears to credit the State's arguments, relying on the so-called *Purcell* principle that courts making changes to election procedures close to an election must consider the possibility of "voter confusion." *Purcell v. Gonzalez*, 549 U. S. 1, 4–5 (2006) (*per curiam*).

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In my view, *Purcell* has no role to play here. There is little risk of voter confusion from a new map being imposed this far out from the November election. In fact, we have often denied stays of redistricting orders issued as close or closer to an election. See *Merrill v. Milligan*, 595 U. S. 1197, 1211 (2022) (KAGAN, J., dissenting from grant of applications for stays) (collecting cases). Of course, administrative difficulties may occur if a new map is imposed late in an election cycle. But, as the Fifth Circuit noted in rejecting similar *Purcell* arguments by the State in advance of the 2022 election, “[i]f time presses too seriously, the District Court has the power appropriately to extend’ . . . deadline[s] and other ‘time limitations imposed by state law.’” *Robinson v. Ardoin*, 37 F. 4th 208, 230 (2022) (*per curiam*) (quoting *Sixty-seventh Minnesota State Senate v. Beens*, 406 U. S. 187, 201, n. 11 (1972) (*per curiam*)).

Rather than wading in now, I would have let the District Court’s remedial process run its course before considering whether our emergency intervention was warranted.\* Therefore, I respectfully dissent.

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*Certiorari Dismissed*

No. 23–7011. *COLLIER v. SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY, ET AL.* Sup. Ct. Cal. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court’s Rule 39.8.

No. 23–7228. *WOODS v. ARIZONA 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.

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\*In a separate application, intervenors from the earlier Voting Rights Act litigation allege that they will face irreparable harm if subjected to another election under a map that likely violates §2. See Emergency Application in No. 23A994, p. 40. That harm is serious, but it was, at the time of these emergency filings, highly contingent. The District Court has not yet selected a remedial map, and, were it not for this Court’s intervention, it may have selected a map that complies with both §2 and the Equal Protection Clause. I would have waited until after the remedial process concluded (when it would have been clearer if the intervenors’ faced irreparable harm) to consider their arguments.

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*Miscellaneous Orders*

No. 23A781. *CRAWFORD v. WARDEN OF LIEBER CORRECTIONAL INSTITUTION*. C. A. 4th Cir. Application for writ of injunction, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. 23A870. *SROUR v. CITY OF NEW YORK, NEW YORK, ET AL.* C. A. 2d Cir. Application to vacate stay, addressed to JUSTICE THOMAS and referred to the Court, denied.

No. 23A871. *SHEKAR v. PHH MORTGAGE GROUP*. Sup. Ct. Ill. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. 23A901. *GORDON v. NEWSOM, GOVERNOR OF CALIFORNIA, ET AL.* C. A. 9th Cir. Application for stay, addressed to JUSTICE ALITO and referred to the Court, denied.

No. 23M94. *COLLINS v. UNITED STATES*. C. A. 4th Cir. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 23M95. *HASSAN v. MCDONOUGH, SECRETARY OF VETERANS AFFAIRS*; and *HASSAN v. MCDONOUGH, SECRETARY OF VETERANS AFFAIRS*. Motion for leave to proceed as a veteran denied.

No. 22–7466. *GLOSSIP v. OKLAHOMA*. Motion of petitioner for leave to file a supplemental volume of the joint appendix under seal granted. JUSTICE GORSUCH took no part in the consideration or decision of this motion.

No. 23–1162. *KEEFER ET AL. v. BIDEN, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. 3d Cir. Motion of petitioners to expedite consideration of petition for writ of certiorari before judgment denied.

No. 23–6409. *CARAFFA v. ARIZONA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1065] denied.

No. 23–6508. *BRUNSON v. NORTH CAROLINA*. Gen. Ct. Justice, Super. Ct. Div., Cumberland County. Motion of petitioner

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for reconsideration of order denying leave to proceed *in forma pauperis* [601 U. S. 1095] denied.

No. 23–7063. *GIVEY v. DEPARTMENT OF JUSTICE ET AL.* C. A. 3d Cir.; and

No. 23–7249. *GANDY v. HEGAR, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS.* Sup. Ct. Tex. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until June 10, 2024, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

No. 23–6167. *IN RE CARTER*; and

No. 23–7310. *IN RE HOLLOWAY.* Petitions for writs of habeas corpus denied.

No. 23–7337. *IN RE FEREBEE.* 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.

No. 23–1104. *IN RE MILLER*; and

No. 23–6846. *IN RE GAYLES-ZANDERS.* Petitions for writs of mandamus denied.

#### *Certiorari Denied*

No. 23–474. *HEARST NEWSPAPERS, L. L. C., ET AL. v. MARTINELLI.* C. A. 5th Cir. Certiorari denied. Reported below: 65 F. 4th 231.

No. 23–601. *JOHN ET AL. PARENTS ET AL. v. MONTGOMERY COUNTY BOARD OF EDUCATION ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 78 F. 4th 622.

No. 23–788. *HOPE MEDICAL ENTERPRISES, INC., DBA HOPE PHARMACEUTICALS v. FAGRON COMPOUNDING SERVICES, LLC, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–874. *IMPOSSIBLE X LLC v. IMPOSSIBLE FOODS INC.* C. A. 9th Cir. Certiorari denied. Reported below: 80 F. 4th 1079.

No. 23–1008. *MURRAY-NOLAN v. RUBIN ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 92 F. 4th 193.

No. 23–1012. *SAHM v. SELECT PORTFOLIO SERVICING, INC.* C. A. 9th Cir. Certiorari denied.

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No. 23–1017. THIELMAN ET AL. *v.* GRIFFIN-VALADE, OREGON SECRETARY OF STATE, ET AL. C. A. 9th Cir. Certiorari denied.

No. 23–1036. DODD *v.* DOTSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied.

No. 23–1040. SMITH *v.* ENTREPRENEUR MEDIA, INC. C. A. 9th Cir. Certiorari denied.

No. 23–1046. NOE *v.* BERKLEY ET AL. C. A. 10th Cir. Certiorari denied.

No. 23–1048. KELLYWOOD *v.* THORNELL, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY. C. A. 9th Cir. Certiorari denied.

No. 23–1051. GREAT AMERICAN INSURANCE Co. *v.* CRYSTAL SHORES OWNERS ASSN., INC. Sup. Ct. Ala. Certiorari denied.

No. 23–1052. SEIRUS INNOVATIVE ACCESSORIES, INC. *v.* COLUMBIA SPORTSWEAR NORTH AMERICA, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 80 F. 4th 1363.

No. 23–1053. BOHON ET AL. *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 92 F. 4th 1121.

No. 23–1054. BOARDMAN *v.* SERVICE EMPLOYEES INTERNATIONAL UNION, AKA SEIU, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 89 F. 4th 596.

No. 23–1064. LEONOR *v.* SABATKA-RINE, ASSISTANT DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES. Ct. App. Neb. Certiorari denied. Reported below: 32 Neb. App. —.

No. 23–1065. EATON *v.* MONTANA SILVERSMITHS. C. A. 9th Cir. Certiorari denied.

No. 23–1074. PLOTKIN *v.* MONTGOMERY COUNTY PUBLIC SCHOOLS. C. A. 4th Cir. Certiorari denied.

No. 23–1128. MCINNIS ELECTRIC Co. *v.* BRASFIELD & GORRIE, LLC, ET AL. Sup. Ct. Miss. Certiorari denied.

No. 23–6131. VAQUERANO CANAS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 81 F. 4th 86.

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No. 23–6187. *GREEN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 23–6643. *PEPE v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 81 F. 4th 961.

No. 23–6721. *HEIDLER v. EMMONS, WARDEN*. C. A. 11th Cir. Certiorari denied.

No. 23–6967. *CHEN v. VASAN, COMMISSIONER, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 23–6975. *GRAHAM v. OHIO*. Ct. App. Ohio, 11th App. Dist., Portage County. Certiorari denied. Reported below: 2023-Ohio-2728.

No. 23–6985. *NAYAK v. SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY, ET AL.* Ct. App. Cal., 1st App. Dist., Div. 1. Certiorari denied.

No. 23–6986. *SINGH v. CALIFORNIA*. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 23–6988. *SHIER v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2022 IL App (1st) 1210302–U.

No. 23–6993. *AKINS v. DIXON, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS*. C. A. 11th Cir. Certiorari denied.

No. 23–6995. *STROUS v. SUPERIOR COURT OF CALIFORNIA, YUMA COUNTY*. C. A. 9th Cir. Certiorari denied.

No. 23–6999. *BEST v. DOTSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied.

No. 23–7000. *ESCOBEDO v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 23–7007. *TYSON v. LEE ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 305 A. 3d 766.

No. 23–7012. *LOWERY v. OKLAHOMA*. Ct. Crim. App. Okla. Certiorari denied.

No. 23–7015. *HALE-EL v. CLAPS, SHERIFF, ADAMS COUNTY, COLORADO, ET AL.* C. A. 10th Cir. Certiorari denied.

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No. 23–7016. *STOCKMAN v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist., Div. 1. Certiorari denied.

No. 23–7017. *HAZARI v. SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 23–7019. *KIRBY v. DOTSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Certiorari denied.

No. 23–7024. *BEVEL v. FLORIDA*. Sup. Ct. Fla. Certiorari denied. Reported below: 376 So. 3d 587.

No. 23–7025. *WYRE v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 23–7027. *STANCU v. HYATT CORP./HYATT REGENCY DALLAS*. C. A. 5th Cir. Certiorari denied.

No. 23–7037. *KING v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 23–7039. *WEBB v. LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*. C. A. 5th Cir. Certiorari denied.

No. 23–7040. *HOUBBADI v. KENNEDY LAW FIRM, PLLC, ET AL.* Ct. App. Tenn. Certiorari denied.

No. 23–7045. *MCBRATNIE v. RETTIG ET AL.* C. A. 6th Cir. Certiorari denied.

No. 23–7070. *THORNOCK ET UX. v. BEDFORD COUNTY, VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 23–7102. *KOONS v. THORNELL, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, REHABILITATION AND REENTRY*. C. A. 9th Cir. Certiorari denied.

No. 23–7103. *EASON v. COOK COUNTY CORRECTIONAL FACILITY ET AL.* C. A. 7th Cir. Certiorari denied.

No. 23–7105. *BARRETT v. KENTUCKY*. Ct. App. Ky. Certiorari denied.

No. 23–7115. *HINKLE v. KENTUCKY*. Sup. Ct. Ky. Certiorari denied.

No. 23–7131. *GUY v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied. Reported below: 679 S. W. 3d 632.

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No. 23–7138. *BRICENO v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 23–7168. *PLATO v. INDIANA*. Ct. App. Ind. Certiorari denied. Reported below: 217 N. E. 3d 1279.

No. 23–7193. *MALOID v. TEXAS*. Ct. Crim. App. Tex. Certiorari denied.

No. 23–7247. *FAIR v. NEW JERSEY*. Sup. Ct. N. J. Certiorari denied. Reported below: 256 N. J. 213, 307 A. 3d 1126.

No. 23–7254. *JOHNSON v. OHIO*. Ct. App. Ohio, 6th App. Dist., Lucas County. Certiorari denied.

No. 23–7276. *SMITH v. ROBEY, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 23–720. *KHADR v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. JUSTICE JACKSON took no part in the consideration or decision of this petition. See 28 U. S. C. § 455 and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior judicial service). Reported below: 67 F. 4th 413.

No. 23–863. *BIANCHI ET AL. v. BROWN, ATTORNEY GENERAL OF MARYLAND, ET AL.* C. A. 4th Cir. Certiorari before judgment denied.

No. 23–6591. *GREEN v. U. S. BANK N. A.* C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* granted. The order entered March 25, 2024 [601 U. S. 1095] vacated. Certiorari denied.

*Rehearing Denied*

No. 23–759. *MADDOX v. MARYLAND PAROLE COMMISSION ET AL.*, 601 U. S. 1025;

No. 23–786. *MYERS v. MYERS ET AL.*, 601 U. S. 1103;

No. 23–892. *BROCK v. DEPARTMENT OF TRANSPORTATION*, 601 U. S. 1104;

No. 23–912. *ADKINS v. RITZ-CARLTON HOTEL CO., L. L. C.*, 601 U. S. 1104;

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No. 23–6076. PEDRAZA *v.* LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 601 U. S. 997;

No. 23–6414. IN RE RAIMONDO, 601 U. S. 1065; and

No. 23–6426. NYAMUSEVYA *v.* CITIMORTGAGE, INC., ET AL., 601 U. S. 1067. Petitions for rehearing denied.

No. 23–735. SHICKS *v.* INDIANA DEPARTMENT OF CHILD SERVICES ET AL., 601 U. S. 1055. Motion for leave to file petition for rehearing with supplemental appendix under seal granted. Petition for rehearing denied.

No. 23–6136. LEFTWICH *v.* STATE FARM INSURANCE CO. ET AL., 601 U. S. 1027. Motion for leave to file petition for rehearing denied.

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*Dismissal Under Rule 46*

No. 23–7057. TINNIN *v.* INDIANA. Ct. App. Ind. Certiorari dismissed under this Court’s Rule 46. Reported below: 224 N. E. 3d 939.

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