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JUNE 27 THROUGH OCTOBER 3, 2025

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REBECCA A. WOMELDORF

REPORTER OF DECISIONS

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Reporter's Note

Orders commencing with June 27, 2025, begin with page 923. The preceding orders in 606 U. S., from June 20 through June 25, 2025, were reported in Part 1, at 901. 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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June 27, 2025

Miscellaneous Order

No. 24–109. Louisiana *v.* Callais et al.; and

No. 24–110. Robinson et al. *v.* Callais et al. Appeals from D. C. W. D. La. These cases are restored to the calendar for reargument. In due course, the Court will issue an order scheduling argument and specifying any additional questions to be addressed in supplemental briefing.

Justice Thomas, dissenting.

I respectfully dissent from the Court's decision to set these consolidated cases for reargument. Congress requires this Court to exercise jurisdiction over constitutional challenges to congressional redistricting, and we accordingly have an obligation to resolve such challenges promptly. That resolution is particularly critical here, as these cases highlight the intractable conflict between this Court's interpretation of §2 of the Voting Rights Act of 1965 (VRA), 52 U. S. C. §10301, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution. The Constitution is supreme over statutes, *Marbury* v. *Madison*, 1 Cranch 137, 178 (1803), and no intervening developments will change that. I thus see no reason to avoid deciding these cases now. In doing so, I would make clear that where this Court's interpretation of §2 breaches the Constitution's equal protection guarantee, the Constitution controls.

Page Proof Pending Publication

I

These consolidated cases involve a constitutional challenge to Louisiana's most recent congressional districting map, Senate Bill 8 (SB8). The State passed SB8 in response to a District Court order that required Louisiana to create an additional majority-black district to avoid "vote dilution" and comply with §2 of the VRA. See *Robinson* v. *Ardoin*, 605 F. Supp. 3d 759 (MD La. 2022). The Fifth Circuit vacated that order prior to SB8's enactment. See *Robinson* v. *Ardoin*, 86 F. 4th 574, 600 (2023). Nevertheless, because of the vacated order, two of SB8's six congressional districts are majority-black—roughly tracking the proportion of black Louisianans statewide—while the State's previous map included only one such district.

The plaintiffs here sued to enjoin Louisiana's use of SB8, alleging that the congressional map's second majority-black district amounted to an unconstitutional racial gerrymander. Because the plaintiffs challenged "the constitutionality of the apportionment of congressional districts," a "district court of three judges" was convened to hear the suit. 28 U. S. C. § 2284(a). Observing that SB8's "second majority-minority district . . . stretches some 250 miles from Shreveport in the northwest corner of the state to Baton Rouge in southeast Louisiana, slicing through metropolitan areas to scoop up pockets of predominantly Black populations from Shreveport, Alexandria, Lafayette, and Baton Rouge," the court concluded that the map effected a racial gerrymander that "violates the Equal Protection Clause." *Callais* v. *Landry*, 732 F. Supp. 3d 574, 582, 588 (WD La. 2024).[1] The State and intervenor-appellants appealed directly to this Court. See § 1253 (providing right to "appeal to the Supreme Court" from an order granting a preliminary injunction in any action "heard and determined by a district court of three judges"). Despite the cases having been fully briefed and argued, the Court today punts without explanation.

II

Page Proof Pending Publication

We should have decided these cases this Term. These are the only cases argued this Term in which our jurisdiction is mandatory. See *ibid.* That an Act of Congress requires that we decide these cases should have prompted us to resolve them expeditiously.[2]

These cases also warrant immediate resolution because, due to our Janus-like election-law jurisprudence, States do not know how to draw maps that "survive both constitutional and VRA review."

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[1] The three-judge court also drew support for its conclusion from "statements made by key political figures . . . , all of whom expressed that the primary purpose guiding SB8 was to create a second majority-Black district due to the *Robinson* litigation." 732 F. Supp. 3d, at 604; see also, *e. g., id.*, at 587 (SB8's sponsor professing that " 'we all know why we're here. We were ordered to draw a new Black district, and that's what I've done' ").

[2] In 1976, Congress substantially curtailed its earlier, expansive use of three-judge courts. See §§ 1–3, 90 Stat. 1119. But, the amendments nevertheless expressly retained three-judge courts with a right of direct review to this Court for constitutional challenges to States' redistricting maps, see 28 U. S. C. § 2284, signaling Congress's understanding that these cases are uniquely important and should receive "expedited Supreme Court correction, if necessary." M. Solimine, The Three-Judge District Court in Voting Rights Litigation, 30 U. Mich. J. L. Reform 79, 84 (1996).

Brief for Appellant in No. 24–109, p. 53. As Louisiana recognizes, the question whether it can demonstrate that SB8 complies with the Constitution in this suit is intertwined with the legitimacy of the *Robinson* court's §2 ruling in prior litigation. See Tr. of Oral Arg. 28 (counsel for Louisiana stating that the Court "can't assess the legality of [Louisiana's] map" under the Equal Protection Clause without also analyzing the §2 ruling in "the *Robinson* litigation"). The State's reliance on the *Robinson* District Court's previous §2 ruling complicates its constitutional defense, however, because this Court's §2 jurisprudence is broken beyond repair. Most relevant here, the Court has construed §2 to require race-based districting under circumstances that do not remotely approximate the racial discrimination that such districting is supposed to remedy.

Although the Court has long recognized that its VRA jurisprudence and the Equal Protection Clause are in tension, see, *e.g.*, *Abbott* v. *Perez*, 585 U.S. 579, 587 (2018), its recent decision in *Allen* v. *Milligan*, 599 U.S. 1 (2023), has placed the VRA in direct conflict with the Constitution. The *Milligan* Court blessed the plaintiffs' effort to use §2 of the VRA to achieve "a 'proportional allocation of political power according to race'" through the creation of a second majority-black congressional district in Alabama. *Id.*, at 55–56 (THOMAS, J., dissenting). In doing so, the Court effectively established the following rule for §2: "If voting is racially polarized in a jurisdiction, and if there exists any more or less reasonably configured districting plan that would enable the minority group to constitute a majority in a number of districts roughly proportional to its share of the population, then the jurisdiction must ensure that its districting plan includes that number of majority-minority districts 'or something quite close.'" *Id.*, at 81.

Page Proof Pending Publication

Under the *Milligan* Court's construction of the statute, it is difficult to see how §2 imposes any real barrier to a district court providing a race-based remedy. Racial polarization in voting "continues to exist in most areas" and is "relatively easy to establish." R. Greenwood & N. Stephanopoulos, Voting Rights Federalism, 73 Emory L. J. 299, 311 (2023).[3] Nor is there any meaning-

[3] The *Milligan* plaintiffs' racial-polarization expert confirmed that, to the best of his knowledge, actionable racially polarized voting "has only been found to exist where whites tend to vote for Republicans." *Milligan* v. *Allen*, No. 2:21–cv–1530 (ND Ala., Jan. 18, 2022), ECF Doc. 105–2, p. 230.

ful hurdle to creating illustrative maps with additional majority-minority districts; modern computing power makes this task all but perfunctory, and, on the logic of at least the *Milligan* plurality, such districts can be " 'reasonably configured' " even if they are "palpable racial gerrymanders" that a State could never enact in the first instance. *Milligan*, 599 U. S., at 59 (THOMAS, J., dissenting).[4]

In effect, the upshot of *Milligan* is that whenever a State feasibly *can* create an additional majority-minority district, it *must* do so—at least up to the point of racial proportionality—even though the conditions triggering racialized redistricting are utterly divorced from the sort of "specific, identified instances of past discrimination" that this Court demands to justify a race-based remedy. *Students for Fair Admissions, Inc.* v. *President and Fellows of Harvard College*, 600 U. S. 181, 207 (2023); see also, *e.g.*, *Gratz* v. *Bollinger*, 539 U. S. 244, 270 (2003) ("Racial classifications are simply too pernicious to permit any but the most exact connection between justification and classification" (internal quotation marks and alteration omitted)). That interpretation of §2 runs roughshod over our admonition that "[r]acial classifications with respect to voting carry particular dangers" and "deman[d] close judicial scrutiny," *Shaw* v. *Reno*, 509 U. S. 630, 657 (1993), and plainly "is not congruent and proportional to any provisions of the Reconstruction Amendments," *Milligan*, 599 U. S., at 81 (THOMAS, J., dissenting).

Page Proof Pending Publication

These cases put the Court to a choice: It may permit patent racial gerrymandering under the auspices of §2 compliance, or it may admit that, as the Court has construed the statute, a violation of §2 is insufficient to justify a race-based remedy. That decision should be straightforward. Nevertheless, the Court demurs.

The Court's interpretation of §2 already "immerse[s] the federal courts in a hopeless project of weighing questions of political theory," *Holder* v. *Hall*, 512 U. S. 874, 892 (1994) (THOMAS, J., concurring in judgment); that the political theory may have partisan valence is cause for further concern.

[4] The *Robinson* plaintiffs may have taken such an approach here. One of their mapmaking experts, William Cooper, is the same expert who drew racially gerrymandered maps in *Milligan* and "treated 'the minority population in and of itself' as the paramount community of interest in his plans." *Milligan*, 599 U. S., at 58 (THOMAS, J., dissenting). In the *Robinson* litigation, Cooper "freely admitted" that he deliberately drew maps with two majority-minority districts. *Robinson* v. *Ardoin*, 37 F. 4th 208, 222 (CA5 2022).

* * *

For over three decades, I have called for "a systematic reassessment of our interpretation of § 2." *Holder* v. *Hall*, 512 U. S. 874, 892 (1994) (opinion concurring in judgment). The Court's decision in *Milligan* is the latest and most damaging "installment in the 'disastrous misadventure' of this Court's voting rights jurisprudence." *Alabama Legislative Black Caucus* v. *Alabama*, 575 U. S. 254, 294 (2015) (THOMAS, J., dissenting). I am hopeful that this Court will soon realize that the conflict its § 2 jurisprudence has sown with the Constitution is too severe to ignore. Because the Court declines to reach that conclusion today and instead inexplicably schedules these cases for reargument, I respectfully dissent.

JUNE 30, 2025

Certiorari Granted—Reversed and Remanded. (See *Goldey* v. *Fields*, 606 U. S. 942 (2025) (*per curiam*).)

Certiorari Granted—Vacated and Remanded

Page Proof Pending Publication

No. 23–402. OKLAHOMA ET AL. *v.* UNITED STATES ET AL. C. A. 6th Cir. Petition for rehearing granted. The order entered June 24, 2024, [602 U. S. 1038] denying petition for writ of certiorari is vacated. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *FCC* v. *Consumers' Research*, 606 U. S. 656 (2025). Reported below: 62 F. 4th 221.

No. 23–1230. GROWTH ENERGY ET AL. *v.* CALUMET SHREVEPORT REFINING, L. L. C., ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *EPA* v. *Calumet Shreveport Refining, L. L. C.*, 605 U. S. 627 (2025). Reported below: 86 F. 4th 1121.

No. 23–1341. NUCLEAR REGULATORY COMMISSION ET AL. *v.* FASKEN LAND AND MINERALS, LTD., ET AL.; and

No. 23–1352. HOLTEC INTERNATIONAL *v.* NUCLEAR REGULATORY COMMISSION ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *NRC* v. *Texas*, 605 U. S. 665 (2025).

No. 23–7678. MARTINEZ ET AL. *v.* BONDI, ATTORNEY GENERAL (Reported below: 86 F. 4th 561); and MARROQUIN-ZANAS *v.* BONDI, Attorney General. C. A. 4th Cir. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and case remanded for further consideration in light of *Riley* v. *Bondi*, 606 U. S. 259 (2025).

No. 23–7845. Jackson *v.* United States. C. A. 6th Cir.; and

No. 24–5016. Medina *v.* United States. C. A. 5th Cir. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Hewitt* v. *United States*, 606 U. S. 419 (2025).

No. 24–11. Miranda Sanchez *v.* Bondi, Attorney General. C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Riley* v. *Bondi*, 606 U. S. 259 (2025).

No. 24–90. Crouch, Cabinet Secretary of the West Virginia Department of Health and Human Resources, et al. *v.* Anderson, Individually and on Behalf of All Others Similarly Situated; and

Page Proof Pending Publication

No. 24–99. Folwell, State Treasurer of North Carolina, et al. *v.* Kadel et al. C. A. 4th Cir. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *United States* v. *Skrmetti*, 605 U. S. 495 (2025). Reported below: 100 F. 4th 122.

No. 24–420. Walmsley et al. *v.* Federal Trade Commission et al. C. A. 8th Cir. Motion of Cato Institute for leave to file brief as *amicus curiae* denied. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *FCC* v. *Consumers' Research*, 606 U. S. 656 (2025). Reported below: 117 F. 4th 1032.

No. 24–429. Federal Trade Commission et al. *v.* National Horsemen's Benevolent and Protective Assn. et al.;

No. 24–433. Horseracing Integrity & Safety Authority, Inc., et al. *v.* National Horsemen's Benevolent and Protective Assn. et al.;

No. 24–465. Texas et al. *v.* Black et al.;

No. 24–472. National Horsemen's Benevolent and Protective Assn. et al. *v.* Horseracing Integrity and Safety Authority, Inc., et al.; and

No. 24–489. Gulf Coast Racing, L. L. C., et al. *v.* Horseracing Integrity & Safety Authority, Inc., et al. C. A. 5th Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *FCC* v. *Consumers' Research*, 606 U. S. 656 (2025). Reported below: 107 F. 4th 415.

No. 24–437. Oklahoma *v.* Department of Health and Human Services et al. C. A. 10th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Medina* v. *Planned Parenthood South Atlantic*, 606 U. S. 357 (2025). Reported below: 107 F. 4th 1209.

No. 24–631. Hamso, Individually and in Her Official Capacity as Medical Director of the Idaho Division of Medicaid *v.* M. H. et al. C. A. 9th Cir.; and

No. 24–801. Stitt, Governor of Oklahoma, et al. *v.* Fowler et al. C. A. 10th Cir. Reported below: 104 F. 4th 770. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *United States* v. *Skrmetti*, 605 U. S. 495 (2025).

Page Proof Pending Publication

No. 24–5456. Durrell *v.* United States. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Esteras* v. *United States*, 606 U. S. 185 (2025).

No. 24–6727. Wood *v.* Patton, Assistant Attorney General of Texas. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Gutierrez* v. *Saenz*, 606 U. S. 305 (2025). Justice Thomas would deny the petition for writ of certiorari. Reported below: 130 F. 4th 516.

Miscellaneous Orders

No. 24M97. DeFrance *v.* United States; and

No. 24M98. SAP SE et al. *v.* Teradata Corp. et al. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 24–983. Havana Docks Corp. *v.* Royal Caribbean Cruises, Ltd., et al. C. A. 11th Cir.; and

No. 24–1068. Monsanto Co. *v.* Durnell. Ct. App. Mo., Eastern Dist. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 24–1030. Parker-Hannifin Corp. et al. *v.* Johnson et al. C. A. 6th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Justice Alito took no part in the consideration of this petition.

No. 24–7098. Peterson *v.* Staples the Office Superstore, LLC. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until July 21, 2025, 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. 24–7383. In re Blake. Petition for writ of habeas corpus denied.

No. 24–1216. In re Micron Technology, Inc., et al.;

No. 24–7099. In re Doe; and

No. 24–7215. In re Varieur. Petitions for writs of mandamus denied.

Page Proof Pending Publication

Certiorari Granted

No. 24–171. Cox Communications, Inc., et al. *v.* Sony Music Entertainment et al. C. A. 4th Cir. Certiorari granted. Reported below: 93 F. 4th 222.

No. 24–345. FS Credit Opportunities Corp. et al. *v.* Saba Capital Master Fund, Ltd., et al. C. A. 2d Cir. Certiorari granted.

No. 24–777. Urias-Orellana et al. *v.* Bondi, Attorney General. C. A. 1st Cir. Certiorari granted. Reported below: 121 F. 4th 327.

No. 24–783. Enbridge Energy, LP, et al. *v.* Nessel, Attorney General of Michigan, on Behalf of the People of the State of Michigan. C. A. 6th Cir. Certiorari granted. Reported below: 104 F. 4th 958.

No. 24–1056. Rico *v.* United States. C. A. 9th Cir. Certiorari granted.

No. 23–1209. M & K Employee Solutions, LLC, et al. *v.* Trustees of the IAM National Pension Fund. C. A. D. C.

Cir. Certiorari granted* limited to the following question: "Whether 29 U. S. C. § 1391's instruction to compute withdrawal liability 'as of the end of the plan year' requires the plan to base the computation on the actuarial assumptions to which its actuary subscribed at the end of the year, or allows the plan to use different actuarial assumptions that were adopted after the end of the year." Reported below: 92 F. 4th 316.

No. 24–621. National Republican Senatorial Committee et al. *v.* Federal Election Commission et al. C. A. 6th Cir. Motion of Democratic National Committee et al. for leave to intervene granted. Certiorari granted. Reported below: 117 F. 4th 389.

Certiorari Denied

No. 23–466. L. W., by and Through Her Parents and Next Friends, Williams et al., et al. *v.* Skrmetti, Attorney General and Reporter for Tennessee, et al. C. A. 6th Cir. Certiorari denied.

No. 23–492. Doe et al. *v.* Kentucky ex rel. Coleman, Attorney General of Kentucky. C. A. 6th Cir. Certiorari denied.

Page Proof Pending Publication

No. 23–1213. Mulready, as Insurance Commissioner of Oklahoma, et al. *v.* Pharmaceutical Care Management Assn. C. A. 10th Cir. Certiorari denied.

No. 23–1360. Fiehler *v.* Mecklenburg et al. Sup. Ct. Alaska. Certiorari denied.

No. 24–86. Career Counseling, Inc., dba Snelling Staffing Services *v.* Amerifactors Financial Group, LLC. C. A. 4th Cir. Certiorari denied.

No. 24–181. Sony Music Entertainment et al. *v.* Cox Communications, Inc., et al. C. A. 4th Cir. Certiorari denied.

No. 24–277. Borochov et al. *v.* Islamic Republic of Iran et al. C. A. D. C. Cir. Certiorari denied.

No. 24–350. Port of Tacoma et al. *v.* Puget Soundkeeper Alliance. C. A. 9th Cir. Certiorari denied.

No. 24–732. Children's Health Defense *v.* Meta Platforms, Inc., et al. C. A. 9th Cir. Certiorari denied.

*[Reporter's Note: For amendment of this order, see 606 U. S. 958].

No. 24–871. B. W., a Minor, By Next Friend M. W. et al., Formerly Known Herein as Doe *v.* Austin Independent School District. C. A. 5th Cir. Certiorari denied.

No. 24–881. Georgia Association of Club Executives, Inc. *v.* Georgia et al. Sup. Ct. Ga. Certiorari denied.

No. 24–943. Rabadi *v.* Drug Enforcement Administration et al. C. A. 9th Cir. Certiorari denied.

No. 24–952. South Point Energy Center LLC *v.* Arizona Department of Revenue et al. Ct. App. Ariz. Certiorari denied.

No. 24–957. Stenger *v.* United States. C. A. 2d Cir. Certiorari denied.

No. 24–960. CoinMarketCap OpCo, LLC, et al. *v.* Cox. C. A. 9th Cir. Certiorari denied.

No. 24–961. Environmental Protection Agency et al. *v.* Kentucky et al. C. A. 6th Cir. Certiorari denied.

No. 24–968. Moore *v.* United States. C. A. 3d Cir. Certiorari denied.

Page Proof Pending Publication

No. 24–972. Bell et al. *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 24–982. ExxonMobil Corp. et al. *v.* Environment Texas Citizen Lobby, Inc., et al. C. A. 5th Cir. Certiorari denied.

No. 24–996. Harvey et al. *v.* Bayhealth Medical Center, Inc. C. A. 3d Cir. Certiorari denied.

No. 24–1025. Crowe et al. *v.* State Bar of Oregon et al. C. A. 9th Cir. Certiorari denied.

No. 24–1034. Sneed *v.* Raybon, Warden. C. A. 11th Cir. Certiorari denied.

No. 24–1074. Entergy Arkansas, LLC *v.* Webb, Chairman of the Arkansas Public Service Commission, et al. C. A. 8th Cir. Certiorari denied.

No. 24–1096. Hall *v.* Davis et al. C. A. 6th Cir. Certiorari denied.

No. 24–1105. Kushner *v.* Sunday, Attorney General of Pennsylvania, et al. C. A. 3d Cir. Certiorari denied.

No. 24–1108. McCarthy et al. *v.* Intercontinental Exchange, Inc., et al. C. A. 9th Cir. Certiorari denied.

No. 24–1109. Hansen *v.* Tesla, Inc., et al. C. A. 9th Cir. Certiorari denied.

No. 24–1111. Peterson *v.* Dixon, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 24–1115. Walker et al. *v.* Chasteen, as Clerk for the Circuit Court of Will County and as a Representative of All Clerks of the Circuit Courts of All Counties in Illinois, et al. Sup. Ct. Ill. Certiorari denied.

No. 24–1118. Dongmei Li *v.* Peck et al. C. A. 2d Cir. Certiorari denied.

No. 24–1123. Caldwell *v.* City of Providence, Rhode Island, et al. C. A. 1st Cir. Certiorari denied.

No. 24–1136. Prey *v.* Franciscan University of Steubenville et al. Certiorari denied.

Page Proof Pending Publication

No. 24–1139. Flarity *v.* Washington. Ct. App. Wash. Certiorari denied.

No. 24–1181. McLeay *v.* Stewart, Acting Under Secretary of Commerce for Intellectual Property and Acting Director, United States Patent and Trademark Office. C. A. Fed. Cir. Certiorari denied.

No. 24–1203. Jakits *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 24–1218. Alig et al. *v.* Rocket Mortgage, LLC, et al. C. A. 4th Cir. Certiorari denied.

No. 24–1220. Uhlenbrock *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–1225. Small *v.* Allianz Life Insurance Company of North America; and Moriarty, Individually, as Successor-In-Interest to Moriarty, Decedent, on Behalf of the Estate of Moriarty *v.* American General Life Insurance. C. A. 9th Cir. Certiorari denied.

No. 24–6057. Aparicio *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 24–6405. Joseph *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–6452. Nordvold *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 24–6459. Shephard *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 24–6476. Doss *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 24–6497. Collette *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–6621. Brown *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 24–6666. Anderson *v.* United States. C. A. 8th Cir. Certiorari denied.

Page Proof Pending Publication

No. 24–6693. Thompson *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–6731. Hemphill *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–6772. Dominguez *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–6847. Emery *v.* Missouri. Sup. Ct. Mo. Certiorari denied.

No. 24–6875. Bates *v.* Florida. Sup. Ct. Fla. Certiorari denied.

No. 24–6941. Reynolds *v.* Hamm, Commissioner, Alabama Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 24–7057. Penn *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 24–7073. I. M. *v.* Illinois (two judgments). App. Ct. Ill., 2d Dist. Certiorari denied.

No. 24–7074. Angel Ortiz *v.* Texas. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 24–7080. Stewart *v.* Cooley, Warden. C. A. 5th Cir. Certiorari denied.

No. 24–7081. Galluzzo *v.* Edwards, Champaign County Treasurer. Ct. App. Ohio, 2d App. Dist., Champaign County. Certiorari denied.

No. 24–7085. Atkins *v.* Bousch, Warden. Ct. Crim. App. Tenn. Certiorari denied.

No. 24–7086. Brown *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 24–7088. Fletcher *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 24–7089. Garcia *v.* Rankins, Warden. C. A. 10th Cir. Certiorari denied.

Page Proof Pending Publication

No. 24–7096. Calhoun *v.* Louisiana. Sup. Ct. La. Certiorari denied.

No. 24–7097. Taylor *v.* City of Sacramento, California, et al. C. A. 9th Cir. Certiorari denied.

No. 24–7102. Armstrong *v.* United States Federal Government et al. C. A. 7th Cir. Certiorari denied.

No. 24–7125. Wilson *v.* Department of Interior et al. C. A. 8th Cir. Certiorari denied.

No. 24–7129. Richard *v.* Winn, Warden, et al. C. A. 6th Cir. Certiorari denied.

No. 24–7145. Rieber *v.* Hamm, Commissioner, Alabama Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 24–7182. Riddick *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 24–7217. Dean *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7271. Chevez-Solano *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7272. Barragan Leon *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 24–7273. Golshan *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 24–7275. Mireles *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7277. Mims *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 24–7278. Moss *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 24–7289. Saldana Rodriguez *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7290. Curry *v.* United States. C. A. 5th Cir. Certiorari denied.

Page Proof Pending Publication

No. 24–7295. Biro *v.* Dotson, Director, Virginia Department of Corrections. C. A. 4th Cir. Certiorari denied.

No. 24–7296. Hylton *v.* United States. C. A. D. C. Cir. Certiorari denied.

No. 24–7297. Flores *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7300. Nanez-Lopez *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7303. Lavender *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7304. Windham *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 24–7305. Joseph *v.* United States. C. A. 10th Cir. Certiorari denied.

No. 24–7307. Ardon-Amaya *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7314. Missouri ex rel. Weinhaus *v.* Adams, Warden. Sup. Ct. Mo. Certiorari denied.

No. 24–7315. Watson *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 24–7316. Yepson-Cortez *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7318. Swick *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7320. Vicente Fonseca *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 24–7323. Owens *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 24–7327. Gilowski *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7330. Bruce *v.* United States. C. A. 10th Cir. Certiorari denied.

Page Proof Pending Publication

No. 24–7332. Johnson *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 24–7334. Hill *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 24–7335. Harris *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 24–7340. Bazile *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 24–7367. Leners *v.* Schelhaas, Interim Attorney General of Wyoming, et al. C. A. 10th Cir. Certiorari denied.

No. 24–355. MacRae *v.* Mattos et al. C. A. 1st Cir. Certiorari denied. Reported below: 106 F. 4th 122.

Statement of Justice Thomas respecting the denial of certiorari.

Hanover Public Schools and two of its officials (collectively, respondents) fired petitioner Kari MacRae for her pre-employment political expression on the social-media platform TikTok. Through her personal account, MacRae had "liked, shared, posted, or reposted" six memes—images or other items that are " 'spread widely online' "—expressing her views that immigration laws should be enforced, that an individual's sex is immutable, and that society should be racially color-blind. 106 F. 4th 122, 126–128, and n. 1 (CA1 2024). After her firing, MacRae sued respondents for "retaliating against her for exercising her First Amendment rights." *Id.*, at 130. But, the District Court granted summary judgment to respondents, and the First Circuit affirmed, finding that MacRae had not established a protected First Amendment interest under this Court's framework for public-employee speech. Because her petition for a writ of certiorari does not squarely challenge the First Circuit's application of that framework, I agree with our decision to deny it. I write separately, however, to raise serious concerns about the First Circuit's approach.

Our precedents establish that "the First Amendment protects a public employee's right, in certain circumstances, to speak as a citizen addressing matters of public concern." *Garcetti* v. *Ceballos*, 547 U. S. 410, 417 (2006). Although "[g]overnment employers, like private employers, need a significant degree of control over their employees' words and actions," they can regulate their employees' private speech about "matters of public concern" only to the extent "necessary . . . to operate efficiently and effectively." *Id.*, at 418–419. Under the so-called *Pickering-Garcetti* framework, whether such speech is protected turns on a balancing test, wherein the employee's speech interest is weighed against the government's interest as an employer in avoiding workplace disruption. See *Garcetti*, 547 U. S., at 419; *Pickering* v. *Board of Ed. of Township High School Dist. 205, Will Cty.*, 391 U. S. 563, 568 (1968).

Page Proof Pending Publication

This case turns on the balancing component of the *Pickering-Garcetti* framework. All agree that MacRae's TikTok posts qualify as speech on matters of public concern, but the First Circuit concluded that the balance of interests favored respondents. That court first discounted the value of MacRae's speech interest because her posts, which are reproduced below, at times spoke in what the court described as a "mocking, derogatory, and disparaging manner." (See Figures 1 and 2.) 106 F. 4th, at 137; see Pet. for Cert. 7 (reproducing posts).

Figure 1. Kari MacRae TikTok posts

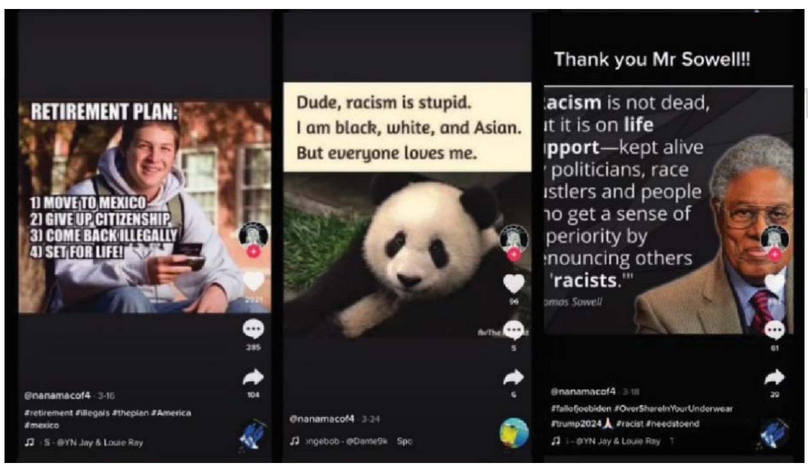

Figure 2. Kari MacRae TikTok posts

In contrast, the First Circuit explained that respondents—who fired MacRae out of "concer[n] about the potential negative impact [her] social media posts would have on staff and students"—had a "'strong'" interest in avoiding disruption, and that they made a "reasonable prediction of disruption." 106 F. 4th, at 130, 137–138. The court pointed to factors such as the public attention and news coverage MacRae had received in light of her position on a neighboring town's school board, as well as the fact that at least some Hanover students and staff were aware of her posts. *Id.*, at 139–141. It also cited the fact that "some of her TikTok posts (at least arguably) conflicted with the District's belief of '[e]nsur[ing] a safe learning environment based on respectful relationships' and Core Value of '[r]espect[ing] . . . human differences,'" "given the potential to perceive some of her posts as transphobic, homophobic, or racist." *Id.*, at 139–140. The First Circuit concluded that, on balance, the risk of disruption outweighed MacRae's interest.

The First Circuit's analysis strikes me as deeply flawed. To start, I do not see how the tone of MacRae's posts can bear on the weight of her First Amendment interest. "Speech on matters of public concern is at the heart of the First Amendment's protection." *Snyder* v. *Phelps*, 562 U. S. 443, 451–452 (2011) (internal quotation marks and alterations omitted). And, "[t]he inappropriate or controversial character of a statement is irrelevant to the question whether it deals with a matter of public concern." *Rankin* v. *McPherson*, 483 U. S. 378, 387 (1987). "[H]umor, satire, and even personal invective can make a point about a matter of public concern." *De Ritis* v. *McGarrigle*, 861 F. 3d 444, 455 (CA3 2017) (internal quotation marks omitted). Accordingly, we have declined to "affor[d] less than full First Amendment protection" even for speech that we have deemed "particularly hurtful," such as the picketing signs used by the Westboro Baptist Church. *Snyder*, 562 U. S., at 454–456; see *id.*, at 454 (listing, among other Westboro signs, placards reading, "'God Hates the USA/Thank God for 9/11,'" "'God Hates Fags,'" and "'Thank God for Dead Soldiers'").[1] Against this backdrop, I do not see how the First Circuit could discount the First Amendment value of MacRae's comparatively mild posts, all of which reflected positions that represent "by no means an isolated segment of public opinion."

Page Proof Pending Publication

[1] Although *Snyder* was not a *Pickering-Garcetti* case, we grounded our analysis in case law from the public-employer context. See 562 U. S., at 451–455. And, our *Pickering-Garcetti* cases have not treated the tone or style of an employee's speech as bearing on its First Amendment value. Cf. *Rankin*, 483 U. S., at 379–380, 386–387 (recognizing, without qualification, that a "remar[k], after hearing of an attempt on the life of the President, 'If they go for him again, I hope they get him,'" "dealt with a matter of public concern").

Noble v. *Cincinnati and Hamilton Cty. Public Library*, 112 F. 4th 373, 382 (CA6 2024).

The First Circuit's analysis of respondents' countervailing interest in avoiding disruption is similarly questionable. Although this Court has "consistently . . . given substantial weight to government employers' reasonable predictions of disruption," the key word here is "reasonable." *United States* v. *Treasury Employees*, 513 U. S. 454, 492 (1995) (Rehnquist, C. J., dissenting). The First Circuit accordingly should have discarded factors whose disruptive potential was purely speculative, such as the fact that " 'some students and staff . . . were aware of' [MacRae's] posts" or that "students [were overheard] discussing her social media activity." 106 F. 4th, at 139–140.

Even worse, the First Circuit compounded its reliance on speculative factors with consideration of illicit ones. We have made clear that the core First Amendment principle of viewpoint neutrality applies in the *Pickering-Garcetti* context as elsewhere. See *Rankin*, 483 U. S., at 384 ("Vigilance is necessary to ensure that public employers do not use authority over employees to silence discourse . . . simply because superiors disagree with the content of employees' speech"). Yet, the First Circuit cited an arguable conflict between MacRae's posts and institutional expressions of viewpoint such as Hanover's "Core Value of '[r]espect[ing] . . . human differences' " as evidence of potential disruption. 106 F. 4th, at 139. It undermines core First Amendment values to allow a government employer to adopt an institutional viewpoint on the issues of the day and then, when faced with a dissenting employee, portray this disagreement as evidence of disruption. And, the problem is exacerbated in the case of an employee such as MacRae, who expressed her views only outside the workplace and before her employment.

Page Proof Pending Publication

Whatever the proper weight of respondents' interest in minimizing disruption, the First Circuit failed to conduct a proper balancing inquiry because it improperly discounted MacRae's First Amendment interest. To its credit, that court recognized that "[t]he government employer's interest must be proportional to the value of the employee's speech." *Id.*, at 136; see *Connick* v. *Myers*, 461 U. S. 138, 152 (1983) ("[A] stronger showing may be necessary if the employee's speech more substantially involved matters of public concern"). But, because the court viewed MacRae's interest as "weigh[ing] less than it normally would," it did not hold respondents to their full burden. 106 F. 4th, at 137.

This case is the latest in a trend of lower court decisions that have misapplied our First Amendment precedents in cases involving controversial political speech. See, *e. g.*, *L. M.* v. *Town of Middleborough*, 605 U. S. 949, 954–960 (2025) (Alito, J., joined by Thomas, J., dissenting from denial of certiorari). And, a concerning number of these cases have arisen in the context of the *Pickering-Garcetti* framework. See, *e. g.*, *Kennedy* v. *Bremerton School Dist.*, 586 U. S. 1130, 1132–1133 (2019) (statement of Alito, J., respecting denial of certiorari) (explaining how "the Ninth Circuit's understanding of the free speech rights of public school teachers is troubling"); *Porter* v. *Board of Trustees of N. C. State Univ.*, 72 F. 4th 573, 586, 595 (CA4 2023) (Richardson, J., dissenting). If left unchecked, this number will likely increase: In many cases, government employers may find it convenient to attempt to "restric[t] . . . disfavored or unpopular speech in the name of preventing disruption." *Dodge* v. *Evergreen School Dist. #114*, 56 F. 4th 767, 786 (CA9 2022). But, the *Pickering-Garcetti* framework plainly forbids using "the guise of protecting administrative interests" to "disfavor any particular view." 56 F. 4th, at 785–787; cf. *Mahmoud* v. *Taylor*, 606 U. S. 522, 591 (2025) (Thomas, J., concurring) (recognizing, in the free-exercise context, that school claims of disruption must be scrutinized to avoid "giv[ing] schools a playbook for evading the First Amendment").

Page Proof Pending Publication

Lower courts are bound to apply the *Pickering-Garcetti* framework as we have articulated it.[2] I have serious concerns about how the First Circuit applied it here. But, rather than raise these broader issues, MacRae's petition focuses on the discrete question whether the framework's balancing test applies at all in the context of a public employee's "unrelated, preemployment speech." Pet. for Cert. i. Because I agree with the Court that this question does not independently warrant review, I concur in the denial of certiorari. In an appropriate case, I would make

[2] This obligation does not mean that the *Pickering-Garcetti* framework is necessarily correct as a matter of original meaning. Given that the historical rule was that "a public employee had no right to object to [employer-imposed] restrict[ions on] the exercise of constitutional rights," there is good reason to think it may not be. *Connick* v. *Myers*, 461 U. S. 138, 143 (1983). But, "unless and until this Court revisits it, [the *Pickering-Garcetti* framework] is binding precedent that lower courts must faithfully apply." *L. M.* v. *Town of Middleborough*, 605 U. S. 949 (2025) (Thomas, J., dissenting from denial of certiorari).

clear that public employers cannot use *Pickering-Garcetti* balancing generally or unsupported claims of disruption in particular to target employees who express disfavored political views.

No. 24–435. GHP Management Corp. et al. *v.* City of Los Angeles, California, et al. C. A. 9th Cir. Certiorari denied.

Justice Thomas, with whom Justice Gorsuch joins, dissenting.

During the COVID–19 pandemic, the city of Los Angeles enacted an eviction moratorium that " 'effectively preclude[d] residential evictions.' " 2022 WL 17069822, *1 (CD Cal., Nov. 17, 2022). Among other restrictions, this policy barred landlords from evicting tenants "due to COVID-related nonpayment of rent." *Ibid.* Petitioners—13 owners of Los Angeles apartment buildings and their shared management company—sued the city, arguing that the moratorium effected a *per se* physical taking, in violation of the Takings Clause's prohibition on takings of "private property . . . for public use, without just compensation." U. S. Const., Amdt. 5. I would grant review of the question whether a policy barring landlords from evicting tenants for the nonpayment of rent effects a physical taking under the Takings Clause.

Page Proof Pending Publication

This question is the subject of an acknowledged Circuit split. The Eighth and Federal Circuits have held that a bar on evictions for the nonpayment of rent qualifies as a physical taking, while the Ninth Circuit has held that it does not. Compare *Darby Development Co.* v. *United States*, 112 F. 4th 1017, 1034–1035 (CA Fed. 2024), and *Heights Apartments, LLC* v. *Walz*, 30 F. 4th 720, 733 (CA8 2022), with 2024 WL 2795190, *1 (CA9, May 31, 2024). In issuing the decision below, the Ninth Circuit expressly acknowledged this split. See *ibid.*, n. 2.

This Circuit split stems from confusion about how to reconcile two of our precedents. The Ninth Circuit treated as controlling this Court's decision in *Yee* v. *Escondido*, 503 U. S. 519 (1992), which held that a statute did not effect a physical taking when it allowed mobile home owners to evict tenants only after an onerous delay. *Id.*, at 527–528. The *Yee* Court explained that "[t]he government effects a physical taking only where it *requires* the landowner to submit to the physical occupation of his land," whereas the landlord petitioners in *Yee* had voluntarily contracted with their tenants and were accordingly subject to laws "regulat[ing their] *use* of their land by regulating the relationship between landlord and tenant." *Ibid.* Thus, in the Ninth Circuit's view, the Los Angeles eviction moratorium did not "effect a taking" because petitioners had already "opened their property to occupation by tenants." 2024 WL 2795190, *1.

By contrast, the Eighth and Federal Circuits looked to our more recent decision in *Cedar Point Nursery* v. *Hassid*, 594 U. S. 139 (2021). There, we held that a law requiring agricultural employers to allow labor organizers onto their property constituted a physical taking because it "appropriate[d] for the enjoyment of third parties the owners' right to exclude." *Id.*, at 149. And, the Eighth and Federal Circuits reasoned, if "forcing property owners to occasionally let union organizers on their property infringes their right to exclude," it follows that "forcing them to house non-rent-paying tenants (by removing their ability to evict)" does too. *Darby*, 112 F. 4th, at 1035; accord, *Heights Apartments*, 30 F. 4th, at 733.

Because "[w]e created this confusion," we have an obligation to fix it. *Gee* v. *Planned Parenthood of Gulf Coast, Inc.*, 586 U. S. 1057, 1059 (2018) (Thomas, J., dissenting from denial of certiorari). That obligation is particularly strong here, as there is good reason to think that the Ninth Circuit erred. Under the logic of *Cedar Point*, and our Takings Clause doctrine more generally, an eviction moratorium would plainly seem to interfere with a landlord's right to exclude. See *Alabama Assn. of Realtors* v. *Department of Health and Human Servs.*, 594 U. S. 758, 765 (2021) (*per curiam*) ("[P]reventing [landlords] from evicting tenants who breach their leases intrudes on one of the most fundamental elements of property ownership—the right to exclude"). Nor does *Yee* dictate otherwise: Although the statute there constrained landlords' right to evict, it was not "an outright prohibition on evictions for nonpayment of rent." *Darby*, 112 F. 4th, at 1035; see 503 U. S., at 527–528.

Finally, this issue is important and recurring. Given the sheer number of landlords and tenants, any evictionmoratorium statute stands to affect countless parties. And, the end of the COVID–19 pandemic has not diminished the importance of this issue. Municipalities continue to enact eviction moratoria in the wake of other emergencies. See, *e. g.*, San Diego Cty., Cal., Ordinance No. 10936, § 2 (N. S.) (2025) (codified at San Diego Cty., Cal., Code of Regulatory Ordinances tit. 3, div. 1, ch. 5, § 31.503); Statement of Proceedings for the Public Hearing Meeting of the Board of

Page Proof Pending Publication

Supervisors of the Cty. of Los Angeles 7–8 (Feb. 25, 2025), https://file.lacounty.gov/SDSInter/bos/sop/1178834_022525.pdf. Even if it were otherwise, we would do well to clarify our case law now, rather than in the heat of the next national emergency.

* * *

This case meets all of our usual criteria for granting certiorari, and it does not contain any impediments that would hamper our review. The Court nevertheless denies certiorari, leaving in place confusion on a significant issue, and leaving petitioners without a chance to obtain the relief to which they are likely entitled. I respectfully dissent.

No. 24–520. Connell *v.* Central Intelligence Agency. C. A. D. C. Cir. Certiorari denied. Justice Gorsuch took no part in the consideration or decision of this petition.

No. 24–728. Iowa Pork Producers Assn. *v.* Bonta, Attorney General of California, et al. C. A. 9th Cir. Certiorari denied. Justice Kavanaugh would grant the petition for writ of certiorari.

Page Proof Pending Publication

No. 24–922. Harper *v.* Faulkender, Acting Commissioner of Internal Revenue Service, et al. C. A. 1st Cir. Motion of Professor Adam J. MacLeod for leave to file brief as *amicus curiae* granted. Certiorari denied.

No. 24–938. American Airlines Group Inc. *v.* United States et al. C. A. 1st Cir. Certiorari denied. Justice Kavanaugh would grant the petition for writ of certiorari.

No. 24–1026. Oregon *v.* Committee to Recall Dan Holladay et al. C. A. 9th Cir. Certiorari denied. Justice Kavanaugh would grant the petition for writ of certiorari.

No. 24–1200. Kaetz *v.* United States. C. A. 3d Cir. Certiorari denied. Justice Thomas took no part in the consideration or decision of this petition.

No. 24–6410. Wiggins *v.* United States. C. A. 3d Cir. Certiorari denied.

Statement of Justice Sotomayor, with whom Justice Barrett joins, respecting the denial of certiorari.

This case implicates a split among the Courts of Appeals over the proper definition of a "controlled substance offense" under § 4B1.2(b) of the Federal Sentencing Guidelines. United States Sentencing Commission, Guidelines Manual § 4B1.2(b) (Nov. 2024) (USSG). The Circuits have reached different conclusions on whether such offenses must involve a prohibited drug under state law, federal law, or either. See *Guerrant* v. *United States*, 595 U. S. 1158, 1158–1159 (2022) (statement of Sotomayor, J., respecting denial of certiorari) (collecting cases).

Three years ago, I urged the Sentencing Commission to "resume its important function in our criminal justice system," including by resolving that conflict. *Id.*, at 1159. At the time, the Commission could not do so because it lacked a quorum of voting members. Just months later, however, the Commission regained a quorum, enabling it to amend the Guidelines. See Commission Regains a Quorum for the First Time in Three Years, Enabling it To Amend Federal Sentencing Guidelines, Issue Sentencing Policy (Aug. 5, 2022), https://www.ussc.gov/about/news/press-releases/august-5-2022. Yet while the Commission has since acknowledged the split, see, *e. g.*, 87 Fed. Reg. 60439 (2022), it has not resolved it. Nor, it seems, does it plan to do so in the 2025–2026 amendment cycle. See Federal Register Notice of Proposed 2025–2026 Priorities (June 9, 2025), https://www.ussc.gov/policymaking/federal-register-notices/federal-register-notice-proposed-2025-2026-priorities.

Page Proof Pending Publication

In the meantime, the disagreement among the Circuits over the proper definition of a "controlled substance of-fense" has not only persisted, but deepened. See, *e. g.*, *United States* v. *Dubois*, 94 F. 4th 1284, 1294–1296 (CA11 2024) (holding that a state-law drug offense counts); *United States* v. *Lewis*, 58 F. 4th 764 (CA3 2023) (same); *United States* v. *Minor*, 121 F. 4th 1084, 1089–1090 (CA5 2024) (holding that state-law offense counts only if it is a categorical match for a federal offense); *United States* v. *House*, 31 F. 4th 745, 752–753 (CA9 2022) (same). This issue is an important one: Whether the term "controlled substance offense" refers to a "controlled substance" under state or federal law (or both) can determine whether certain defendants will qualify as a "career offende[r]" under the Guidelines, see USSG § 4B1.1(a), and therefore "face dramatically higher sentencing ranges for their crime of conviction," *Guerrant*, 595 U. S., at 1158. So long as the split persists, two defendants whose criminal histories include identical drug offenses and who commit the same federal crime will be subject to significantly different sentencing ranges based solely on geography. Yet in our federal system, a defendant's location should not determine the severity of his punishment.

It remains "the responsibility of the Sentencing Commission to address this division to ensure fair and uniform application of the Guidelines." *Id.*, at 1159 (citing *Braxton* v. *United States*, 500 U. S. 344, 348 (1991)). If the Commission does not intend to resolve the split, it should provide an explanation so that this Court can decide whether to address the issue and restore uniformity.

No. 24–6586. Black *v.* Tennessee. Ct. Crim. App. Tenn. Certiorari denied.

Statement of Justice Sotomayor respecting the denial of certiorari.

This case presents important constitutional questions about the way Tennessee instructs juries in voluntary manslaughter cases. Because the court below did not grapple with those questions, I concur in the denial of certiorari. I write separately to highlight the constitutional flaws in Tennessee's approach to manslaughter instructions, and to encourage the Tennessee Supreme Court to resolve them in the first instance.

Page Proof Pending Publication

A night out with a group of friends ended in tragedy when petitioner Landon Black fatally shot Brandon Lee during an altercation in the parking lot of a sports bar. At Black's trial for murder, the prosecution and defense dissected the relationships between the people present at the bar that night. Each sought to answer a basic question: What motivated Black to shoot Lee, a total stranger? The prosecution, pursuing a first-degree murder conviction, argued that Black had originally planned to shoot someone else, a man who had "'humiliated and insulted'" him inside the bar. 2024 WL 2320284, *9 (Tenn. Crim. App., May 22, 2024). When Black saw Lee, the prosecution said, he decided "[w]ithin seconds" to shoot him instead. *Ibid.* The defense, meanwhile, argued that Lee, "who had just snorted cocaine, approached the car aggressively with his gun in his right hand," causing Black to shoot him "because he was in fear for his life." *Ibid.*

To allow the jury to decide between these rival theories of the case, the trial court instructed it on three different offenses: first-degree murder (requiring premeditation), second-degree murder (a voluntary killing without premeditation), and voluntary manslaughter (a killing driven by a state of passion caused by adequate provocation). Those instructions would have been unremarkable, except that two peculiar features of Tennessee law caused a significant problem. If the jury followed its instructions, it could never convict Black of voluntary manslaughter.

First, consider the elements of Tennessee second-degree murder and manslaughter. To obtain a conviction for second-degree murder, the State must establish an unlawful and voluntary (knowing) killing. See Tenn. Code Ann. § 39–13–210(a) (2018); 2024 WL 2320284, *26. To obtain a manslaughter conviction, the prosecution must prove those same two elements, plus a third: that the defendant acted "in a state of passion induced by adequate provocation" (*i. e.*, "provocation sufficient to lead a reasonable person" to act irrationally). See § 39–13–211(a) (Cum. Supp. 2024); 2024 WL 2320284, *26. Consequently, the prosecution must prove an additional element to obtain a manslaughter conviction, even though manslaughter is a less serious offense than second-degree murder.* Compare § 39–13–211(b) ("Voluntary manslaughter is a Class B felony") with § 39–13–210(c)(1) ("Second degree murder is a Class A felony").

Page Proof Pending Publication

Second, Tennessee courts instruct the jury to consider each offense in order of seriousness, beginning with the charged offense. Here is that instruction as it was given to Black's jury:

> "'In reaching your verdict, you shall, first, consider the offense charged in the Presentment. If you unanimously find a defendant guilty of that offense beyond a reasonable doubt, you shall return a verdict of guilty for that offense. If you

*This transformation of the state-of-passion question from a traditional defense (raised by the defendant and disproved by the prosecution) into an element of the offense appears to have come about accidentally, by way of a line of dictum in *State* v. *Williams*, 38 S. W. 3d 532 (Tenn. 2001). There, the Tennessee Supreme Court remarked that "[c]omparing the revised second degree murder and voluntary manslaughter statutes, the essential element that now distinguishes these two offenses . . . is whether the killing was committed 'in a state of passion produced by adequate provocation.' " *Id.*, at 538. That comment in turn "has led any number of panels" of the Tennessee Court of Criminal Appeals "to conclude that 'a state of passion produced by adequate provocation' is an 'essential element' of the offense of voluntary manslaughter." *State* v. *Donaldson*, 2022 WL 1183466, *22 (Tenn. Crim. App., Apr. 21, 2022).

unanimously find the defendant not guilty of that offense or have a reasonable doubt of the defendant's guilt of that offense, you shall then proceed to consider whether or not the defendant is guilty of the next lesser-included offense in order from greatest to least within that Count of the Presentment. *You shall not proceed to consider any lesser-included offense until you have first made a unanimous determination that the defendant is not guilty of the immediately-preceding greater offense* or you unanimously have a reasonable doubt of the defendant's guilt of that offense.' " Pet. for Cert. 7 (emphasis added).

These two instructions, taken together, mean that no jury instructed on both second-degree murder and manslaughter could ever reach a manslaughter verdict. If a jury finds a killing to be knowing and unlawful, it has found all the necessary elements for a second-degree murder conviction. At that point, the jury "shall not proceed to consider" the lesser included offense of manslaughter, *ibid.*, meaning it will never consider whether the killing was provoked.

Page Proof Pending Publication

That is just what happened in Black's case. The jury rejected the first-degree murder charge, reached the second-degree murder question on its verdict form, and found that Black's killing had been knowing and unlawful. The instructions then prohibited the jury from continuing to the next lesser included offense. The jury thus convicted Black of second-degree murder.

That result raises serious federal constitutional questions. Half a century ago, this Court held "that the Due Process Clause requires the prosecution to prove beyond a reasonable doubt the *absence* of the heat of passion on sudden provocation when the issue is properly presented in a homicide case." *Mullaney* v. *Wilbur*, 421 U. S. 684, 704 (1975) (emphasis added). Drawing on *Mullaney*, Black argued below that it was error to treat " 'state of passion' as an essential element of the offense that the State must prove beyond a reasonable doubt," because " 'state of passion' is actually a defense to second degree murder that, if fairly raised by the proof, must be disproved by the State beyond a reasonable doubt." 2024 WL 2320284, *28 (describing Black's argument); see also App. to Brief in Opposition 120, 148–149 (Black's briefing before the Tennessee Court of Criminal Appeals). Notwithstanding *Mullaney*, the court held that the State was not required to establish the absence of a state of passion beyond a reasonable doubt, apparently because it felt bound by state law. 2024 WL 2320284, *28–*29. Whatever Tennessee law says about manslaughter, however, the court below was not free to disregard *Mullaney*.

So too, "the Constitution guarantees criminal defendants 'a meaningful opportunity to present a complete defense.'" *Crane* v. *Kentucky*, 476 U. S. 683, 690 (1986) (quoting *California* v. *Trombetta*, 467 U. S. 479, 485 (1984)). Here, Tennessee's jury instructions made it legally impossible for Black to succeed on a critical element of his defense: the argument that Lee's threatening approach with a gun in his hand constituted adequate provocation. It is hard to imagine that a set of jury instructions rendering it legally impossible for the jury to accept a legitimate defense could pass muster under the Due Process Clause. See *State* v. *Humphrey*, 2005 WL 2043778, *14–*15 (Tenn. Crim. App., Aug. 24, 2005) (Tipton, J., concurring) (warning that sequential jury instruction on manslaughter could violate the Due Process Clause); *Edge* v. *State*, 261 Ga. 865, 867, 414 S. E. 2d 463, 466 (1992) (invalidating conviction because a similar "'sequential' charge eliminate[d] the jury's full consideration of voluntary manslaughter" by preventing it from "go[ing] on to consider evidence of provocation or passion").

Page Proof Pending Publication

The Tennessee Court of Criminal Appeals has acknowledged that the State's present approach to manslaughter is a source of endless confusion. See *State* v. *Donaldson*, 2022 WL 1183466, *22, *24 (Tenn. Crim. App., Apr. 21, 2022) (decrying "[c]onfusion about the passion/provocation construct" and "ask[ing], as other panels have done since as early as 2004, that our supreme court address this issue"). Indeed, it has been clear for years that the instructions used in this case are wholly unworkable.

One problem, illustrated here, is that Tennessee treats voluntary manslaughter as a "lesser-included offense" of second-degree murder. *State* v. *Wilson*, 92 S. W. 3d 391, 396 (Tenn. 2002). Ordinarily, one offense can be a lesser included offense of another only if its elements are a subset of the more serious crime. *Schmuck* v. *United States*, 489 U. S. 705, 716 (1989) (adopting this "elements" approach). Yet here the opposite is true: The elements of second-degree murder (the more serious offense) are a subset of the elements of manslaughter (the lesser included offense). The Tennessee Supreme Court has thus far declined to explain how courts should square that doctrinal circle. It is hard to see how they could.

Tennessee's manslaughter instructions have led "to absurd results" disadvantaging the State, as well. *Donaldson*, 2022 WL 1183466, *23. Treating provocation as an element means that, even if the State has established a voluntary killing, "a reviewing court has no choice but to reverse" the conviction if the State has not also established provocation. *Ibid.* For example, in *State* v. *Lumpkin*, 2020 WL 7682239, *2 (Tenn. Crim. App., Dec. 23, 2020), the defendant shot his victim in the head in the course of a robbery. "No evidence," however, suggested "that the perpetrator who shot the victim in the head acted in a state of 'passion,' produced by 'adequate provocation.'" *Id.*, at *6. Thus, even though the evidence "would have supported" a second-degree murder conviction, the court felt itself bound to invalidate the conviction for manslaughter. *Ibid.*; see also *State* v. *Benesch*, 2017 WL 3670196, *18–*19 (Tenn. Crim. App., Aug. 25, 2017) (modifying manslaughter conviction for similar reasons). Those cases, like this one, make plain that Tennessee's approach to manslaughter is untenable. Accord, *Donaldson*, 2022 WL 1183466, *22–*24.

Page Proof Pending Publication

The State defends the judgment below on the ground that Black forfeited his federal arguments. The record suggests the contrary. See App. to Brief in Opposition 120, 148–149. Nevertheless, by focusing on the ongoing state-law dispute over the elements of manslaughter, the court below appears to have overlooked Blacks' constitutional claims entirely. I thus concur in the Court's denial of certiorari. Given the serious constitutional problems with Tennessee's manslaughter instructions, however, I join the Tennessee Court of Criminal Appeals in encouraging the Tennessee Supreme Court to reconsider its approach. *Donaldson*, 2022 WL 1183466, *24. If that court does not, this Court should consider the constitutionality of Tennessee's manslaughter instructions in an appropriate case.

No. 24–6676. Mercado *v.* Dixon, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied. Justice Sotomayor would grant the petition for writ of certiorari.

Rehearing Granted. (See Oklahoma et. al. v. United States et. al., 606 U. S. 927.)

Rehearing Denied

No. 23–456. Consumers' Research et al. *v.* Federal Communications Commission et al., 602 U. S. 1021;

No. 23–743. Consumers' Research et al. *v.* Federal Communications Commission et al., 602 U. S. 1022.

No. 24–6557. Rosado *v.* United States, 604 U. S. 1217;

No. 24–6561. Scott *v.* Pennsylvania, 604 U. S. 1260; and

No. 24–6673. Romero *v.* Meta Platforms Inc. et al., 604 U. S. 1271. Petitions for rehearing denied.

July 1, 2025

Miscellaneous Order

No. 24–621. National Republican Senatorial Committee et al. *v.* Federal Election Commission et al. C. A. 6th Cir. [Certiorari granted, 606 U. S. 931.] Roman Martinez, Esq., of Washington, D. C. is invited to brief and argue this case as *amicus curiae* in support of the judgment below.

July 3, 2025

Page Proof Pending Publication

Dismissal Under Rule 46

No. 24–7190. Jones *v.* Thornell, Director, Arizona Department of Corrections. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46.

Miscellaneous Orders

No. 24A1153. Department of Homeland Security et al. *v.* D. V. D. et al. C. A. 1st Cir. On April 18, 2025, the District Court for the District of Massachusetts preliminarily enjoined the Government from removing "any alien" to a "country not explicitly provided for on the alien's order of removal" without following certain procedures designed to enable the alien to seek relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U. N. T. S. 113. No. 25–cv–10676, ECF Doc. 64, pp. 46–47. The District Court later found that the Government had violated that injunction by failing to provide six class members a "meaningful opportunity" to assert CAT claims before such removal. ECF Doc. 118, p. 1. On May 21, the District Court issued an "order on remedy," directing the Government to follow specified procedures with respect to those individuals, tailored to the circumstances. ECF Doc. 119. The Government sought a stay of the April 18 injunction before our Court.

On June 23, we stayed the April 18 preliminary injunction pending disposition of any appeal and petition for writ of certiorari. Later that day, however, the District Court issued a minute order stating that the May 21 remedial order "remain[ed] in full force and effect," "notwithstanding" our stay of the preliminary injunction. ECF Doc 176. The only authority it cited was the dissent from the stay order.

The Government has moved for "an order clarifying" our stay. Motion for Clarification. It argues that the stay of the April 18 preliminary injunction divests the May 21 remedial order of enforceability. Respondents argue that the District Court correctly understood the May 21 order to remain in effect—despite our stay of the preliminary injunction it purported to enforce—because the May 21 order effectively operates as a remedy for civil contempt.

The motion for clarification is granted. Our June 23 order stayed the April 18 preliminary injunction in full. The May 21 remedial order cannot now be used to enforce an injunction that our stay rendered unenforceable. See *Nken* v. *Holder*, 556 U. S. 418, 428 (2009) (explaining that a reviewing court's stay order "divest[s]" the district court "order of enforceability"). Even if we accepted respondents' characterization of the May 21 order, such a remedy would serve to "coerce" the Government into "compliance" and would be unenforceable given our stay of the underlying injunction. *United States* v. *Mine Workers*, 330 U. S. 258, 303 (1947); see *id.*, at 295 ("The right to remedial relief falls with an injunction which events prove was erroneously issued and *a fortiori* when the injunction or restraining order was beyond the jurisdiction of the court." (citations and footnote omitted)).

Despite the dissent's provocative language, see *post*, at 958 (opinion of Sotomayor, J.), a claim that a lower court has failed to give effect to an order of this Court is properly addressed here. *General Atomic Co.* v. *Felter*, 436 U. S. 493, 497 (1978) (*per curiam*) ("A litigant who . . . has obtained judgment in this Court after a lengthy process of litigation, involving several layers of courts, should not be required to go through that entire process again to obtain execution of the judgment of this Court."); see

Page Proof Pending Publication

United States v. *Fossatt*, 21 How. 445, 446 (1859). "Assuming as we do" that the District Court will now conform its order to our previous stay and cease enforcing the April 18 injunction through the May 21 remedial order, we have no occasion to reach the Government's order requests for relief. Cf. *Deen* v. *Hickman*, 358 U. S. 57, 58 (1958) (*per curiam*). If the Government wishes to seek additional relief in aid of the execution of our mandate, it may do so through mandamus. See *In re Sanford Fork & Tool Co.*, 160 U. S. 247, 255 (1895) (explaining that any matter "disposed of by" decree of this Court must be carried "into execution, according to the mandate," by the courts below).

JUSTICE KAGAN, concurring.

I voted to deny the Government's previous stay application in this case, and I continue to believe that this Court should not have stayed the District Court's April 18 order enjoining the Government from deporting non-citizens to third countries without notice or a meaningful opportunity to be heard. See *Department of Homeland Security* v. *D. V. D.*, 606 U. S. 901, 908–915 (2025) (SOTOMAYOR, J., dissenting). But a majority of this Court saw things differently, and I do not see how a district court can compel compliance with an order that this Court has stayed. See *United States* v. *Mine Workers*, 330 U. S. 258, 294–295 (1947); *Worden* v. *Searls*, 121 U. S. 14, 24–26 (1887). Because continued enforcement of the District Court's May 21, 2025 order would do just that, I vote to grant the Government's motion for clarification.

Page Proof Pending Publication

JUSTICE SOTOMAYOR, with whom JUSTICE JACKSON joins, dissenting.

The United States may not deport noncitizens to a country where they are likely to be tortured or killed. International and domestic law guarantee that basic human right. In this case, the Government seeks to nullify it by deporting noncitizens to potentially dangerous countries without notice or the opportunity to assert a fear of torture. Because the Fifth Amendment, immigration law, federal regulations, and this Court's precedent unambiguously prohibit such no-notice deportations, see *Department of Homeland Security* v. *D. V. D.*, 606 U. S. 901, 912–915 (2025) (SOTOMAYOR, J., dissenting), a Federal District Court issued a classwide preliminary injunction barring the Government from removing noncitizens without notice and adequate process.

The Government appealed, and pending its appeal repeatedly violated the District Court's order. See *id.*, at 902–908. Meanwhile, the Government sought an emergency stay of the injunction from this Court. In its briefing, the Government took a kitchen-sink approach, arguing that the District Court lacked jurisdiction to grant classwide injunctive relief, that it also lacked jurisdiction over individual plaintiffs' claims under the Due Process Clause, and that the plaintiffs were not entitled to notice or a hearing before their removal. Without citing any of these arguments, or indeed providing any legal justification, this Court granted the Government its requested stay.

Now, the Government returns for more. At issue in its latest filing is a month-old remedial order, which the District Court issued after the Government attempted illegally to deport eight class members to South Sudan. The remedial order required the Government to provide those noncitizens, whom it is currently holding in Djibouti, with the process to which the Constitution and federal law entitled them: adequate notice and an opportunity to be heard. No. 25–cv–10676 (D Mass., May 21, 2025), ECF Doc. 119. Following this Court's unreasoned stay of the original preliminary injunction, the District Court issued a minute order explaining that its remedial order (which the Government did not appeal, and whose validity this Court therefore did not consider) remained in effect. ECF Doc. 176. Rather than complying with the remedial order, the Government immediately returned to this Court, purporting to seek "clarification" of the stay.

Page Proof Pending Publication

What the Government wants to do, concretely, is send the eight noncitizens it illegally removed from the United States from Djibouti to South Sudan, where they will be turned over to the local authorities without regard for the likelihood that they will face torture or death. Because " 'the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings," *Trump* v. *J. G. G.*, 604 U. S. 670, 673 (2025) (*per curiam*), the Government's no-notice removals are undoubtedly illegal, see *D. V. D.*, 606 U. S., at 912–915 (SOTOMAYOR, J., dissenting). In simple terms, the Government requests that the Court remove an obstacle to its achieving those unlawful ends. That obstacle, again, is the District Court's remedial order, which it issued to resolve the Government's violations of the preliminary injunction this Court later stayed. The Government now asks this Court to hold that the stay invalidated the remedial order.

In substance, of course, the Government's new request for relief has nothing to do with clarification, so this Court has no business considering its merits now. The Court's Rules make plain where the Government should have pressed its argument about the nature and validity of the remedial order: before the lower courts. See this Court's Rule 23(3) ("Except in the most extraordinary circumstances, an application for a stay will not be entertained unless the relief requested was first sought in the appropriate court or courts below"); cf. *A. A. R. P.* v. *Trump*, 604 U. S. 1251, 1253 (2025) (ALITO, J., dissenting) (emphasizing need to comply with Rule 23, and criticizing this Court for granting relief when it was "doubtful" that the applicants' request to the lower courts had been adequate). The Government undisputedly did not comply with that Rule.

Litigants may alternatively seek an "extraordinary writ," such as an injunction, even without complying with Rule 23. See this Court's Rule 20(1). Yet that relief is available only if it would "aid . . . the Court's appellate jurisdiction." *Ibid.* Far from maintaining our jurisdiction, vacating the District Court's remedial order risks doing the opposite: destroying jurisdiction over the noncitizens the Government intends to deport without notice or process. The Government thus plainly cannot satisfy Rule 20's requirements, either. Finally, even the majority does not believe that the Government is entitled to mandamus relief.

Page Proof Pending Publication

Although Members of today's majority have previously insisted that "this Court should follow established procedures" when granting emergency relief, *A. A. R. P.*, 604 U. S., at 1254 (ALITO, J., dissenting), the Court now ignores its Rules to grant the Government its desired "clarification" immediately. The majority suggests (relying on an argument the Government did not make) that a remedy for civil contempt is not enforceable when the underlying injunction has been stayed.[1] *Ante*, at 953. Perhaps

[1] To be clear, even the majority today does not dispute that "[v]iolations of an order are punishable as criminal contempt even though the order is set aside on appeal, . . . or though the basic action has become moot." *United States* v. *Mine Workers*, 330 U. S. 258, 294 (1947) (citing *Worden* v. *Searls*, 121 U. S. 14 (1887), and *Gompers* v. *Bucks Stove & Range Co.*, 221 U. S. 418 (1911)). Civil contempt orders in turn "may . . . be employed for either or both of two purposes: to coerce the defendant into compliance with the court's order, and to compensate the complainant for losses sustained." 330

that should be the rule, but the question appears to be a matter of first impression in this Court. In support of its view, the majority cites a single line of dictum in *United States* v. *Mine Workers*, 330 U. S. 258 (1947), which says that the right to remedial relief for civil contempt "falls with an injunction which events prove was erroneously issued." *Id.*, at 295. "Preliminary injunctions, however, do not conclusively resolve legal disputes," and neither do temporary stay orders. See *Lackey* v. *Stinnie*, 604 U. S. 192, 200 (2025). Accordingly, this Court's stay certainly did not "prove" that the District Court's injunction was "erroneously issued." *Mine Workers*, 330 U. S., at 295.[2]

Given that the majority can muster no more than a sentence of 80-year-old dictum in support of today's holding, the District Court can hardly be faulted for reaching a contrary conclusion. The District Court, moreover, had only moments to decide the question, for (unlike this Court) it realized that the lives and safety of eight noncitizens were at stake. Any suggestion that the District Court failed to carry " 'into execution' " this Court's mandate (which said no more than that the Government's application was "granted") is patently inappropriate. Cf. *ante*, at 954. That the Government accuses the District Court, whose orders it has consistently ignored, of "unprecedented defiance" is more extraordinary still. Motion for Clarification 1. Even now, the Government seeks to defy this Court's clear holdings that it must afford noncitizens with due process of law before removing them.

In the end, the majority ignores the Court's Rules for seeking emergency relief and creates new law on civil contempt, all to allow the Government to circumvent the appellate process with

Page Proof Pending Publication

U. S., at 303–304. The majority appears to construe the District Court's order as serving the former purpose. See *ante*, at 953.

[2] After first adopting the Government's characterization of its request as one for "clarification," see *ante*, at 953, the majority later appears to justify its premature intervention by treating it as a request for mandamus relief, see *ante*, at 953 ("[A] claim that a lower court has failed to give effect to an order of this Court is properly addressed here"). Even the majority, however, does not believe that mandamus relief is warranted. Its reliance on *General Atomic Co.* v. *Felter*, 436 U. S. 493 (1978) (*per curiam*) explains why. There, a District Court disobeyed a clear instruction "specifically addressed" in this Court's opinion. *Id.*, at 496. Here, this Court did not see fit to provide the District Court with any instructions.

respect to an order it continues to defy. In so doing, the Court focuses on dictum in *Mine Workers* at the cost of discarding that case's central message: " 'An injunction duly issuing out of a court of general jurisdiction . . . and served upon persons made parties therein . . . must be obeyed by them however erroneous the action of the court may be.' " 330 U. S., at 293–294.

For all that, moreover, the majority does not actually clarify its prior decision. The majority says it expects "that the District Court will now conform its order to our previous stay," *ante,* at 954, but it refuses to explain what such conformity would involve. As a result, today's order not only excuses (once again) the Government's undisguised contempt for the Judiciary; it also leaves the District Court without any guidance about how this litigation should proceed. The District Court cannot adjudicate plaintiffs' serious due process claims on their merits without ensuring, by way of injunctive relief, its jurisdiction over the case. Yet this Court refuses to explain what injunctive relief, if any, it believes the District Court can issue.

Perhaps the majority hopes that, in light of its contentless stay order, the District Court will simply give up on adjudicating this case. But if this Court wishes to permit the Government to flout the fundamental rights guaranteed by the Due Process Clause, it cannot avoid accountability for that lawlessness by tasking the lower courts with inventing a rationale. The Court's continued refusal to justify its extraordinary decisions in this case, even as it faults lower courts for failing properly to divine their import, is indefensible.

Page Proof Pending Publication

* * *

"In a democracy, power implies responsibility. The greater the power that defies law the less tolerant can this Court be of defiance. As the Nation's ultimate judicial tribunal, this Court, beyond any other organ of society, is the trustee of law and charged with the duty of securing obedience to it." *Mine Workers*, 330 U. S., at 312 (Frankfurter, J., concurring in judgment). This Court continues to invert those principles. Today's order clarifies only one thing: Other litigants must follow the rules, but the administration has the Supreme Court on speed dial. Respectfully, I dissent.

No. 23–1209. M & K Employee Solutions, LLC, et al. *v.* Trustees of the IAM National Pension Fund. C. A. D. C.

Cir. [Certiorari granted, 606 U. S. 930–931.] The order granting the petition for writ of certiorari is amended as follows. Certiorari granted limited to the following question: "Whether 29 U. S. C. § 1391's instruction to compute withdrawal liability 'as of the end of the plan year' requires the plan to base the computation on the actuarial assumptions most recently adopted before the end of the year, or allows the plan to use different actuarial assumptions that were adopted after, but based on information available as of, the end of the year."

No. 24–808. Coney Island Auto Parts Unlimited, Inc. *v.* Burton, Chapter 7 Trustee for Vista-Pro Automotive, LLC. C. A. 6th Cir. [Certiorari granted, 605 U. S. 1001.] Motion of petitioner to dispense with printing joint appendix granted.

Certiorari Granted

No. 24–38. Little, Governor of Idaho, et al. *v.* Hecox et al. C. A. 9th Cir. Certiorari granted. Reported below: 104 F. 4th 1061.

Page Proof Pending Publication

No. 24–43. West Virginia et al. *v.* B. P. J., by Her Next Friend and Mother, Jackson. C. A. 4th Cir. Certiorari granted. Reported below: 98 F. 4th 542.

No. 24–993. Olivier *v.* City of Brandon, Mississippi, et al. C. A. 5th Cir. Certiorari granted.

No. 24–1021. Galette *v.* New Jersey Transit Corporation. Sup. Ct. Pa.; and

No. 24–1113. New Jersey Transit Corporation et al. *v.* Colt et al. Ct. App. N. Y. Certiorari granted limited to the following question: "Whether the New Jersey Transit Corporation is an arm of the State of New Jersey for interstate sovereign immunity purposes." Cases consolidated, and a total of one hour is allotted for oral argument. Reported below: No. 24–1113, 43 N. Y. 3d 463, 264 N. E. 3d 774.

Certiorari Denied

No. 24–745. Montana et al. *v.* Planned Parenthood of Montana et al. Sup. Ct. Mont. Certiorari denied. Reported below: 417 Mont. 457, 554 P. 3d 153.

Statement of JUSTICE ALITO, with whom JUSTICE THOMAS joins, respecting the denial of certiorari.

Montana's Parental Consent for Abortion Act generally requires physicians to obtain consent from parents before performing an abortion on a minor. See Mont. Code Ann. §§ 50–20–501 to 50–20–511 (2023). Planned Parenthood of Montana filed a lawsuit in Montana state court, seeking to enjoin enforcement of the law. It asserted that the law was inconsistent with Montana's State Constitution. In the proceedings below, the State of Montana argued that the law satisfied state constitutional standards because, among other things, it promoted the right of parents to make decisions concerning the care, custody, and control of their children. See Appellants' Opening Brief in No. DA 23–0272, pp. 36–37. The State cited a decision of this Court on the rights of parents as support for its argument based on state law, but it did not expressly argue that a holding against it on the state constitutional question would infringe the federal constitutional rights of parents. *Ibid.* Similarly, the Supreme Court of Montana, while citing our decision in *Troxel* v. *Granville*, 530 U. S. 57 (2000), did not expressly hold that the rights of minors under Montana law took precedence over the federal constitutional rights of parents. See 417 Mont. 457, 485–486, 554 P. 3d 153, 171 (2024).

Page Proof Pending Publication

After the State Supreme Court struck down the parental consent requirement, the State filed a petition for certiorari in which it asked us to decide "[w]hether a parent's fundamental right to direct the care and custody of his or her children includes a right to know and participate in decisions concerning their minor child's medical care, including a minor's decision to seek an abortion." Pet. for Cert. i. But because of the way this case was litigated below, it provides a poor vehicle for deciding that question. It is therefore especially important that the denial of review is not read by interested parties or other courts as a rejection of the argument that the petition asks us to decide.

JULY 8, 2025

Miscellaneous Order

No. 24A1174. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES ET AL. C. A. 9th Cir. The application for stay presented to JUStice Kagan and by her referred to the Court is granted. The May 22, 2025 preliminary injunction entered by the United States District Court for the Northern District of California, case No. 3:25–cv–3698, is stayed 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.

The District Court's injunction was based on its view that Executive Order No. 14210, 90 Fed. Reg. 9669 (2025), and a joint memorandum from the Office of Management and Budget and Office of Personnel Management implementing that Executive Order are unlawful. Because the Government is likely to succeed on its argument that the Executive Order and Memorandum are lawful—and because the other factors bearing on whether to grant a stay are satisfied—we grant the application. We express no view on the legality of any agency RIF and Reorganization Plan produced or approved pursuant to the Executive Order and Memorandum. The District Court enjoined further implementation or approval of the plans based on its view about the illegality of the Executive Order and Memorandum, not on any assessment of the plans themselves. Those plans are not before this Court.

Page Proof Pending Publication

Justice Sotomayor, concurring.

I agree with Justice Jackson that the President cannot restructure federal agencies in a manner inconsistent with congressional mandates. See *post*, at 971–972. Here, however, the relevant Executive Order directs agencies to plan reorganizations and reductions in force "consistent with applicable law," App. to Application for Stay 2a, and the resulting joint memorandum from the Office of Management and Budget and Office of Personnel Management reiterates as much. The plans themselves are not before this Court, at this stage, and we thus have no occasion to consider whether they can and will be carried out consistent with the constraints of law. I join the Court's stay because it leaves the District Court free to consider those questions in the first instance.

JUSTICE JACKSON, dissenting.

Under our Constitution, Congress has the power to establish administrative agencies and detail their functions. Thus, over the past century, Presidents who have attempted to reorganize the Federal Government have first obtained authorization from Congress to do so. The President sharply departed from that settled practice on February 11, 2025, however, by allegedly arrogating this power to himself. With no mention of congressional buy-in, the President's Executive Order No. 14210 mandates a "critical transformation" of the Federal Government, to be accomplished by "eliminat[ing] or consolidat[ing]" existing agencies and ordering agency heads to "promptly undertake preparations to initiate large-scale reductions in force." 90 Fed. Reg. 9669, 9670.

This unilateral decision to "transfor[m]" the Federal Government was quickly challenged in federal court. As relevant here, the District Judge thoroughly examined the evidence, considered applicable law, and made a reasoned determination that Executive Branch officials should be enjoined from implementing the mandated restructuring until this legal challenge to the President's authority to undertake such action could be litigated. But that temporary, practical, harm-reducing preservation of the status quo was no match for this Court's demonstrated enthusiasm for greenlighting this President's legally dubious actions in an emergency posture.

Page Proof Pending Publication

The Court has now stayed the District Court's preliminary injunction—authorizing implementation of Executive Order No. 14210, and all the harmful upheaval that edict entails, while the lower courts evaluate its lawfulness. In my view, this was the wrong decision at the wrong moment, especially given what little this Court knows about what is actually happening on the ground.

To be specific: What is at issue here is whether Executive Order No. 14210 effects a massive restructuring of the Federal Government (the likes of which have historically required Congress's approval), on the one hand, or minor workforce reductions consistent with existing law, on the other. One needs *facts* to answer that critical question, and the District Court not only issued such preliminary findings based on actual evidence, it is also the tribunal best positioned to make that determination, at least initially. Put differently, from its lofty perch far from the facts or the evidence, this Court lacks the capacity to fully evaluate, much less responsibly override, reasoned lower court factfinding about what this challenged executive action actually entails. I respectfully dissent because, in addition to the Government's failure to show the exigency or irreparable harm that is required for emergency relief, this Court could not possibly *know* in this posture whether the Government is likely to succeed on the merits with respect to such a fact-dependent dispute. So it should have left well enough alone.

I

This is not the first time that a President has wanted to restructure the Federal Government. Even the most cursory examination of history readily reveals that, over the past century, Presidents have worked *with* Congress—rather than around it—when seeking to significantly reorganize the agencies that constitute the Executive Branch.

Aside from prior wartime-specific grants of reorganization authority, Congress first gave general reorganization authority to President Hoover in the 1930s. S. Rep. No. 115–381, p. 4 (2018) (detailing history of interactions between Congress and the President concerning reorganizations). At that time, Congress delegated specific authority to the President to transfer agencies between departments, consolidate agencies, and change the functions of agencies. *Ibid.*, and n. 18 (citing Legislative Appropriations Act for Fiscal Year 1933, §§ 401, 403, 47 Stat. 413).

Page Proof Pending Publication

Since then, Congress has considered similar requests for reorganization authority, and it has granted such authority (for limited time periods) to eight more Presidents, including Presidents Franklin D. Roosevelt, Eisenhower, Kennedy, Nixon, Carter, and Reagan. S. Rep. No. 115–381, at 4. Far from fully ceding to Presidents' unfettered discretion to reorganize the Executive Branch, Congress has, in fact, "amended, extended, narrowed, or reactivated [its] government reorganization authority 16 times under both Republican and Democratic administrations." *Ibid.*

The many reorganization Acts that Congress has passed since 1932 vary in the degree of discretion conferred. But all have given Congress a say before the President has implemented any proposed plans to reorganize agencies' structures. *Ibid.* Pursuant to that process, as of the last time Congress expressly granted this reorganization authority, "presidents [had] submitted 126 reorganization proposals to Congress, of which 93 were implemented and 33 were affirmatively rejected by Congress." *Id.*, at 5.

To understand the nature of these reorganization Acts, consider the last one Congress enacted. The Reorganization Act of 1984 allowed President Reagan to make significant changes to the structure of agencies based upon a finding that such changes were necessary to carry out specified policies. 5 U. S. C. § 901(a). Congress defined "reorganization" to include (1) "the transfer of the whole or a part of an agency," (2) "the abolition of all or a part of the functions of an agency," (3) "the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof," (4) "the consolidation or coordination of part of an agency or the functions thereof with another part of the same agency or the functions thereof," (5) "the authorization of an officer to delegate any of his functions," and (6) "the abolition of the whole or a part of an agency." § 903(a). Under the 1984 law, President Reagan was required to submit his reorganization plans to Congress, which could request further information about those plans. § 903(b). This latest reorganization Act expired in 1984, and Congress has not renewed it since. § 905(b).

Page Proof Pending Publication

Congress has not only granted presidential requests for reorganization authority; it has also rejected such requests at times. For instance, in 2012, President Obama asked Congress to reauthorize a modified version of the 1984 Reorganization Act for two years. S. Rep. No. 115–381, at 6. President Obama indicated that he planned to consolidate several business and trade agencies. *Ibid.* But Congress never passed the proposed legislation. *Ibid.* President George W. Bush and President Trump (in his first term) also unsuccessfully sought reorganization authority from Congress. H. Hogue, Congressional Research Service Report to Congress, Presidential Reorganization Authority 32–33 (2012); H. R. 6787, 115th Cong., 2d Sess. (2018); S. 3137, 115th Cong., 2d Sess. (2018).

To be sure, historical precedent exists for a President to direct smaller-scale workforce reductions without first obtaining congressional authorization. In 1993, for example, President Clinton issued an executive order to reduce the size of the federal workforce by requiring agencies to eliminate four percent of their full-time positions over three years. Exec. Order No. 12839, 58 Fed.

Reg. 8515 (1993). That order did not mandate reductions in force or reorganizations, however. Instead, the workforce reduction was to be achieved "through attrition or early out programs established at the discretion of the department and agency heads." *Ibid.* And President Clinton also later obtained congressional authorization for his plans. See Federal Workforce Restructuring Act of 1994, 108 Stat. 111.

Historical practice thus confirms that, while Presidents possess some discretion to reduce federal employment, they may not fundamentally restructure the Federal Government all on their own. Administrative agencies are created by statute and funded by Congress; therefore, Presidents have traditionally worked with Congress to effect significant alterations of those statutory structures. This history is crucial to understand, because it establishes the "status quo" when it comes to the relative roles of Congress and the President in reorganizing the Federal Government.

II

Given this background, one might have expected this President, like his predecessors, to obtain congressional authorization before launching the dramatic structural overhaul that Executive Order No. 14210 directs. That order mandates that nearly all federal agencies "promptly undertake preparations to initiate large-scale reductions in force (RIFs)" and agency reorganizations. 90 Fed. Reg. 9670. And, as I previously noted, the order does not mandate pre-implementation authorization by Congress. Instead, it requires agencies to submit "RIF and Reorganization Plans" to the Office of Management and Budget (OMB). *Ibid.*

Page Proof Pending Publication

The Directors of OMB and the Office of Personnel Management (OPM) have issued a Memorandum (Feb. 26, 2025) pursuant to Executive Order No. 14210 instructing department and agency heads to submit reorganization plans for review by OMB, OPM, and the Department of Government Efficiency. As justification for this directive, the Memorandum points to the President's promise "to sweepingly reform the federal government." App. to Application for Stay 4a (App.). The Memorandum also directs agency heads to prioritize reducing full-time employment positions, so as to achieve "maximum elimination of functions that are not statutorily mandated," and to cut "components and positions that are non-critical." *Id.*, at 5a. And while the Memorandum does require agencies to consider planning for some degree of eventual congressional engagement, the executive action itself does not rest on any grant of reorganization authority by Congress. Nor could it, as Congress has not granted such authority to the President.[1]

Unions, nonprofits, and local governments filed this lawsuit challenging what they allege to be a dramatic plan to dismantle the Federal Government without congressional authorization. At the preliminary-relief stage, the District Court's task was to focus on how "to preserve the relative positions of the parties until a trial on the merits can be held, and to balance the equities as the litigation moves forward." *Lackey* v. *Stinnie*, 604 U. S. 192, 200 (2025) (internal quotation marks and citation omitted). Moreover, and notably, the central question the District Court faced was primarily one of fact: Was the President actually engaging in mere reductions in force consistent with existing law, as the Government asserted? Or were the plaintiffs right that the President was really attempting to fundamentally reorganize the structure of the Government? If the latter, historical precedent confirms that preserving the status quo would mean temporarily preventing the President from unilaterally doing what his predecessors only did after receiving specific authorization from Congress.

Page Proof Pending Publication

The District Court received extensive evidence from the plaintiffs and scant submissions from the Government, and it carefully reviewed everything before it, as I describe in Part III–A, *infra*. In a detailed 55-page opinion that focuses on the standard factors for preliminary injunctive relief, the court then explained its fact-based conclusion: "[T]he role of a district court is to examine the evidence, and at this stage of the case the evidence discredits the

[1] As I understand the present situation, a specific proposal to extend reorganization authority to this President exists, see Reorganizing Government Act of 2025, H. R. 1295, 119th Cong., 1st Sess. (2025), but it has yet to be enacted. Some Members of Congress also proposed extending reorganization authority to the President through the recently passed domestic policy bill, but the final legislation did not do so. Compare Senate Committee on Homeland Security and Governmental Affairs, Draft Reconciliation Bill Text § 90107 (June 12, 2025), https://www.paul.senate.gov/wp-content/uploads/2025/06/MDM25B50.pdf (proposing extension of explicit reorganization authority), with H. R. 1, 119th Cong., 1st Sess. § 90103 (2025) (appropriating funds for "finding budget and accounting efficiencies in the executive branch" but making no reference to reorganization authority).

executive's position and persuades the Court that plaintiffs are likely to succeed on the merits of their suit." App. 12a.

Notably, based on the evidence presented, the District Court specifically found that several federal agencies were in the process of rapidly implementing reorganizations and large-scale reductions in force. *Ibid.* It also found that proposed changes appeared to "intentionally or negligently flout the tasks Congress has assigned" to the agencies at issue. *Ibid.* And the District Court further determined that if it did not pause this restructuring in the interim (while the litigation is ongoing), then many "agencies will not be able to do what Congress has directed them to do." *Ibid.*

To forestall this significant harm, the court enjoined the President's restructuring mandate for the duration of the lawsuit "[t]o preserve the status quo and protect the power of the legislative branch." *Id.*, at 14a. The Ninth Circuit then declined to upset that temporary injunction during the appeal. *Id.*, at 69a.

III

Instead of directing its attention and resources to fully litigating the merits of the challenge to its authority in the courts below, the Government rushed up the chain of review, seeking an emergency stay of the District Court's preliminary injunction from us. We thus faced the question whether to override the judgments of the two courts below by allowing the President to proceed *immediately* with implementing his restructuring plans. To answer "no" to that question is simply to preserve the status quo while the lower courts expeditiously decide the lawfulness of the President's order. To answer "yes"—as the Court now does—is to allow an apparently unprecedented and congressionally unsanctioned dismantling of the Federal Government to continue apace, causing irreparable harm before courts can determine whether the President has the authority to engage in the actions he proposes.

Page Proof Pending Publication

A

As I see the choice before us, the Court's merits-focused approach to granting this stay is particularly problematic because the District Court's decision to issue an injunction was based on *findings of fact*. It is not this Court's role to swoop in and second-guess a lower court's factual findings, especially when that court has made well-reasoned, preliminary judgments on a developing record. But that is precisely what the majority does in granting this stay.

As I previewed above, the District Court extensively examined the evidence the parties presented, which included 68 sworn declarations from plaintiffs (totaling more than 1,400 pages) and a single declaration from the Government. *Id.*, at 13a, 88a. The court also completed an *in camera* review of several proposed agency reorganization plans (plans that the Government did not submit in its application to this Court). Based on its review of all of this evidence, the District Court found that the plaintiffs were likely to succeed in showing that the challenged Executive Order and Memorandum seek to effect a fundamental transformation of the Federal Government, rather than mere reductions in force consistent with existing statutory authority. Still, despite this factbound determination and the extensive factfinding that supports it, the Court now cavalierly concludes (in just one line) that "the Government is likely to succeed on its argument that the Executive Order and Memorandum are lawful." *Ante*, at 961.

To be clear: Today's merits dispute is *not* about the President's ability to unilaterally restructure the Federal Government—no one argues that it is lawful for him to do so. Instead, the President insists that his Administration's actions in carrying out the Executive Order and Memorandum are an exercise of existing executive-branch authority to make staffing decisions, not a fundamental reorganization of the Federal Government. Application for Stay 5–6. So, the merits question for purposes of interim relief is whether that is likely true.

Page Proof Pending Publication

The District Court considered that issue and found the consistent-with-law language in the Executive Order and Memorandum to be inconsistent with the factual record. App. 49a–51a; see also *supra*, at 966–967, and n. 2, *infra*. For instance, the court highlighted plans to terminate more than half of many agencies' staff and to "practically wipe out" entire agencies. App. 50a. And those plans were not outliers; rather, according to the District Court, they appear to reflect the whole point of this executive action.[2] The District Court's preliminary factfinding was

[2] Due to the Government's refusal to disclose nearly all agency reorganization plans (except for four that the District Court reviewed *in camera*), App. 20a, 46a, the details remain murky in this preliminary posture. But the Government concedes that—as of May 16—about 40 reductions in force were already in progress across 17 agencies. *Id.*, at 18a. Moreover, the exten-

vital to its conclusion that plaintiffs are likely to succeed in showing that the challenged executive action amounts to a wholesale Government reorganization. Thus, the majority's rejection of that determination—*i.e.*, its passing reference to the lawfulness of the Executive Order and Memorandum—must rest on a conclusion that the District Court was *wrong* about the facts of what is really happening to agencies and their employees pursuant to this executive action.

That approach is plainly inconsistent with this Court's traditional role. District courts are far better suited than appellate courts (this one especially) to evaluate facts on the ground. See *Anderson* v. *Bessemer City,* 470 U. S. 564, 574–575 (1985) (explaining that trial judges' expertise in making factual determinations warrants deference on appeal). Accordingly, Federal Rule of Civil Procedure 52(a)(6) establishes that a trial court's factual findings "must not be set aside unless clearly erroneous." And this Court has, historically, acknowledged its own limitations, citing the "well-settled rule" that "factual findings are reviewable only for clear error," "with a serious thumb on the scale" supporting the district court's evaluation of evidence. *U. S. Bank N. A.* v. *Village at Lakeridge, LLC*, 583 U. S. 387, 394 (2018).

Page Proof Pending Publication

What is more, deference toward lower court factfinding should be at its peak at this extremely early stage of the litigation process—when what we are considering is an application for an emergency stay of a preliminary injunction. Even when deciding the actual appeal of a preliminary injunction (still down the road), "this Court may only consider whether issuance of the injunction constituted an abuse of discretion." *Brown* v. *Chote*, 411 U. S. 452, 457 (1973).

The clear-error review that governs factual findings (see Fed. Rules Civ. Proc. 52(a)(2), (6)) and the deference owed to a district

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sive (and unrebutted) record demonstrates that those planned personnel changes are massive. The District Court cited multiple examples to illustrate this point, including proposed reductions in force of approximately 93 percent of employees at the National Institute for Occupational Safety and Health, nearly half the workforce at the Department of Energy, and more than half the workforce of the National Oceanic and Atmospheric Association. *Id.*, at 18a, 50a. Also in evidence were proposed cuts of 70 percent of the staff at the Department of Labor's headquarters and 83,000 workers at the Department of Veterans Affairs, just to name a few. *Id.*, at 18a; see also *id.*, at 82a (Ninth Circuit recitation of agencies proposing to eliminate more than 85 percent of their workforces).

court's issuance of preliminary relief weigh heavily against intervening to override the reasoned, fact-based judgments of the lower courts. Add to that the requirement that an applicant for emergency relief make not just a showing, but a "'*strong*'" one, "'that he is likely to succeed on the merits,'" *Nken* v. *Holder*, 556 U. S. 418, 434 (2009) (emphasis added), and it is no wonder that this Court has long considered stays to be "extraordinary" relief. Cf. *Graves* v. *Barnes*, 405 U. S. 1201, 1203 (1972) (Powell, J., in chambers) (explaining that this Court grants stays pending appeal "only in extraordinary circumstances" because a "lower court judgment, entered by a tribunal that was closer to the facts . . . is entitled to a presumption of validity"). Together, these deferential standards should make it the truly rare occasion that this Court uses its emergency docket to overrule district courts' fact-based, preliminary determinations on the merits. That also makes perfect sense in light of quickly developing records and lower courts that are far better acquainted with those facts.

But, today, this Court once again ignores all of this while casually discarding 55 pages of evidence-based lower court reasoning. On what grounds does the majority deviate from the District Court's fact-based findings here? Has it found that the court below clearly erred with respect to its assessment of the evidence? Has it opted to simply ignore the well-settled deferential standards of review? Has it made its own factual findings about the nature, scope, and extent of the Government's reorganization activities? All of these possibilities are problematic. And because the Court provides no explanation for its likelihood-of-success conclusion, the answers to these crucial questions are also anyone's guess.[3]

Page Proof Pending Publication

[3] The Court does observe that the specific reorganization plans are not yet before it. *Ante*, at 961. But that suggests that the Court is in a position to assess the lawfulness of this executive action (for now) by ignoring what the Government is actually doing. The District Court's careful, sensible, and detailed consideration of what is happening in the real world belies that assumption; indeed, it ably demonstrates that the likelihood of success on the merits of the legal claims at issue here can only be determined relative to facts, no matter how much the majority maneuvers to get around them. If every (or nearly every) reorganization plan seeks to gut federal agencies—as the evidence indicates so far—then the whole executive action is unlawful, not just each individual plan.

B

The Court's disregard for the District Court's factfinding (and also, apparently, for the applicable standards of review) would be troubling enough when viewed through a mere procedural lens. But it is all the more puzzling, and ultimately disheartening, given the extraordinary risk of harm that today's ruling immediately unleashes.

No one seriously disputes that, if implemented, Executive Order No. 14210 will lead to enormous real-world consequences. This executive action promises mass employee terminations, widespread cancellation of federal programs and services, and the dismantling of much of the Federal Government as Congress has created it. As the Ninth Circuit concluded, the statutory shortfalls likely to result from implementation of this Executive Order will be immensely painful to the general public, and the plaintiffs, in the interim, causing harm that includes "proliferat[ing] food-borne disease," perpetuating "hazardous environmental conditions," "eviscerat[ing] disaster loan services for local businesses," and "drastically reduc[ing] the provision of healthcare and other services to our nation's veterans." App. 94a. Preventing those kinds of calamities is just a small slice of the work that federal employees do to carry out Congress's statutory mandates—work that the Executive Order immediately imperils if implemented.

Page Proof Pending Publication

Consider the harms to democracy, too, if it turns out that the plaintiffs and the lower courts are right that the President is unilaterally changing the structure of the Federal Government. What one person (or President) might call bureaucratic bloat is a farmer's prospect for a healthy crop, a coal miner's chance to breathe free from black lung, or a preschooler's opportunity to learn in a safe environment. The details of the programs that this executive action targets are the product of policy choices that Congress has made—a representative democracy at work. While the President no doubt has the authority to manage the Executive Branch, our system does not allow the President to rewrite laws on his own under the guise of that authority.

"The President's power, if any, to issue [an executive] order must stem either from an act of Congress or from the Constitution itself." *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579, 585 (1952). This constraint on the President is protective of democracy, not an impediment to it. That is, although the President is an elected representative with a claim on the popular will, so too are the People's representatives in Congress—and our Constitution gives *them* the power to make laws. If a President runs roughshod over the carefully crafted statutes that authorize and animate the Federal Government (as the District Court's preliminary findings show to be likely happening here), he discards and disables the democratic system that created those laws.

It is the duty of judges to safeguard that system. Particularly when a President "takes measures incompatible with the expressed or implied will of Congress," his claim to power "must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system." *Id.*, at 637–638 (R. Jackson, J., concurring). But, today, the Court exercises neither caution nor scrutiny, especially compared to the reasoned decisions issued by the courts below. With scant justification, the majority permits the immediate and potentially devastating aggrandizement of one branch (the Executive) at the expense of another (Congress), and once again leaves the People paying the price for its reckless emergency-docket determinations.

* * *

Page Proof Pending Publication

Given the fact-based nature of the issue in this case and the many serious harms that result from allowing the President to dramatically reconfigure the Federal Government, it was eminently reasonable for the District Court to maintain the status quo while the courts evaluate the lawfulness of the President's executive action. At bottom, this case is about whether that action amounts to a structural overhaul that usurps Congress's policymaking prerogatives—and it is hard to imagine deciding that question in any meaningful way *after* those changes have happened. Yet, for some reason, this Court sees fit to step in now and release the President's wrecking ball at the outset of this litigation.

In my view, this decision is not only truly unfortunate but also hubristic and senseless. Lower court judges have their fingers on the pulse of what is happening on the ground and are indisputably best positioned to determine the relevant facts—including those that underlie fair assessments of the merits, harms, and equities. I see no basis to conclude that the District Court erred—let alone clearly so—in finding that the President is attempting to fundamentally restructure the Federal Government. Therefore, I would not disrupt the lower courts' preservation of the status quo. Instead, I would leave intact their protection of the historical relationship between Congress and the President, preventing irreparable harm to the plaintiffs and the public while the Judiciary does the critical work of evaluating this exercise of power.

July 9, 2025

Miscellaneous Order

No. 24A1269. Uthmeier, Attorney General of Florida, et al. *v.* Florida Immigrant Coalition et al. C. A. 11th Cir. Application for stay, presented to Justice Thomas, and by him referred to the Court, denied.

July 14, 2025

Miscellaneous Order

No. 24A1203. McMahon, Secretary of Education et al. *v.* New York et al. C. A. 1st Cir. Application for stay, presented to Justice Jackson, and by her referred to the Court, granted. The May 22, 2025, preliminary injunction entered by the United States District Court for the District of Massachusetts, case No. 1:25–cv–10601, is stayed pending disposition of the appeal in the United States Court of Appeals for the First Circuit and disposition of a petition for writ of certiorari, if such 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.

Page Proof Pending Publication

Justice Sotomayor, with whom Justice Kagan and Justice Jackson join, dissenting.

This case arises out of the President's unilateral efforts to eliminate a Cabinet-level agency established by Congress nearly half a century ago: the Department of Education. As Congress mandated, the Department plays a vital role in this Nation's education system, safeguarding equal access to learning and channeling billions of dollars to schools and students across the country each year.

Only Congress has the power to abolish the Department. The Executive's task, by contrast, is to "take Care that the Laws be faithfully executed." U. S. Const., Art. II, §3. Yet, by executive fiat, the President ordered the Secretary of Education to "take all necessary steps to facilitate the closure of the Department." Exec. Order No. 14242, 90 Fed. Reg. 13679 (2025). Consistent with that Executive Order, Secretary Linda McMahon gutted the Department's work force, firing over 50 percent of its staff overnight. In her own words, that mass termination served as "the first step on the road to a total shutdown" of the Department. Dept. of Ed., Press Release (Mar. 11, 2025); *infra*, at 978.

When the Executive publicly announces its intent to break the law, and then executes on that promise, it is the Judiciary's duty to check that lawlessness, not expedite it. Two lower courts rose to the occasion, preliminarily enjoining the mass firings while the litigation remains ongoing. Rather than maintain the status quo, however, this Court now intervenes, lifting the injunction and permitting the Government to proceed with dismantling the Department. That decision is indefensible. It hands the Executive the power to repeal statutes by firing all those necessary to carry them out. The majority is either willfully blind to the implications of its ruling or naive, but either way the threat to our Constitution's separation of powers is grave. Unable to join in this misuse of our emergency docket, I respectfully dissent.

Page Proof Pending Publication

I

A

Federal involvement in education is not a modern phenomenon. For over 150 years, the Federal Government has played a critical role in supplementing and supporting the education provided by States, localities, and private institutions. See S. Tiedt, The Role of the Federal Government in Education 19–24 (1966). In 1979, Congress enacted the Department of Education Organization Act to "strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual." § 102(1), 93 Stat. 670. In service of that goal, the Act integrated the Federal Government's educational programs into a new Cabinet-level agency called the Department of Education. § 201, *id.*, at 671.

Congress tasked the agency with administering a broad range of educational programs. For example, the Department runs the federal student financial-aid system, see, *e. g.*, 20 U. S. C. § 1071 *et seq.*; § 1087a *et seq.*; federal grants for higher education institutions, see, *e. g.*, §§ 1022a, 1057; federal work-study programs, see § 1087–51 to § 1087–58; and federal funding for kindergarten through 12th grade, see, *e. g.*, § 6301 *et seq.* The scale of these efforts is vast: In June 2025, the Department reported awarding over $120 billion a year in federal student aid to over 13 million students.[1] In 2020–2021, the Federal Government distributed over $100 billion in funding directly to public schools, representing around 11 percent of all funding for public elementary and secondary schools across the country.[2]

Congress has also charged the Department with ensuring equal access to education. See § 3402. The Department's Office of Civil Rights, for example, enforces several antidiscrimination laws as to federally funded educational programs, see §§ 3413, 3441(a)(3), including Title VI, 42 U. S. C. § 2000d *et seq.* (prohibiting discrimination on the basis of race, color, and national origin); Title IX, 20 U. S. C. §§ 1681–1689 (prohibiting discrimination on the basis of sex); and Title II of the Americans with Disabilities Act, 42 U. S. C. §§ 12101–12103 (prohibiting discrimination on the basis of disability). The Department additionally administers the Individuals with Disabilities Education Act (IDEA), which funds and supports special education services for more than 7 million students with disabilities.[3] Tens of millions of low-income families, too, rely on financial assistance programs administered by the Department under Title I of the Elementary and Secondary Education Act.[4] Put simply, schools and students in every State rely on federal programs established by Congress and run by the Department.

Page Proof Pending Publication

Congress has prohibited the Secretary of Education from "aboli[shing] organizational entities established" in the Department's organic statute. 20 U. S. C. § 3473(a)(2). As for statutory entities "transferred to the Department," the Secretary may only "consolidate, alter, or discontinue" a subset of entities specifically identi-

[1] See Dept. of Ed., Federal Student Aid (June 27, 2025), https://www.ed.gov/about/ed-offices/fsa/federal-student-aid.

[2] See App. to Application for Stay of Injunction 7a (App.); National Center for Education Statistics, Public School Revenue Sources (May 2024), https://nces.ed.gov/programs/coe/indicator/cma.

[3] See 20 U. S. C. §§ 3441(a)(2)(H), 1400–1482; National Association of Elementary School Principals, Funding Falls Short for Students With Disabilities (Nov. 20, 2023), https://www.naesp.org/blog/funding-falls-short-for-students-with-disabilities.

[4] See ESEA Network, About Title I, https://www.eseanetwork.org/about/titlei.

fied, after providing Congress with 90 days' advance notice and a "statement of the action proposed . . . and the facts and circumstances relied upon in support of such proposed action." §§ 3473(b)(1)(A)–(L), (b)(2).

B

Administrations have taken different positions on the Department's value and its proper role in the Nation's system of education over the years. Presidents Carter and Clinton, for instance, made investing in it a priority. See Remarks at the Bill Signing Ceremony for the Department of Education Organization Act, Public Papers of the Presidents, James E. Carter, Jr., Vol. 2, Oct. 17, 1979, pp. 1955–1956 (1980); R. Riley, The Role of the Federal Government in Education, 17 St. Louis U. Pub. L. Rev. 29, 38–39, 43 (1997) (recounting President Clinton's initiatives). President Reagan, by contrast, submitted a proposal to Congress that would have abolished the Department, see State of the Union Address, 128 Cong. Rec. 159 (1982), though he ultimately withdrew the proposal after it garnered little support in Congress.[5] Until now, however, Presidents have recognized they lack the unilateral authority to eradicate a Department that Congress has tasked with fulfilling statutory duties.

Page Proof Pending Publication

Undeterred by these limits on executive authority, President Trump has made clear that he intends to close the Department without Congress's involvement. During his campaign, Trump repeatedly asserted that he planned to " 'clos[e] up the Department of Education' " and " 'sen[d] all education and education work . . . back to the states' " " 'early in the administration.' "[6] Following the election, Trump continued that refrain: "[Y]ou can do a lot of things without Congress," he told the press, including a "virtual closure of [the] Department of Education."[7] After tak-

[5] See Associated Press, Reagan Says He Won't Seek End to Education Dept. Now, N. Y. Times, Jan. 30, 1985, https://www.nytimes.com/1985/01/30/us/reagan-says-he-won-t-seek-end-to-education-dept-now.html.

[6] S. Mphofe, Trump calls to 'Disband' the Department of Education, Fox5 DC (Nov. 13, 2024) (reporting on Sept. 2023 statements); see No. 25–cv–10677, ECF Doc. 1, p. 13 (Original Complaint); see also *ibid.* (collecting Trump's promises to " 'eliminate the federal Department of Education' " on the campaign trail).

[7] 2024 Person of the Year Interview With Time, Time, Dec. 12, 2024, https://time.com/7201565/person-of-the-year-2024-donald-trump-transcript; see Original Complaint 13.

ing office, President Trump described the Department as a " 'big con job' " and reiterated that he would " 'like to close it immediately.' "[8]

When nominating Linda McMahon to lead the Department, President Trump announced that he had directed McMahon to " 'put herself out of a job.' "[9] Consistent with that directive, on her first day as Secretary of the Department, McMahon issued a memorandum explaining that she would lead the Department's "final mission" and fulfill the President's "campaign promises." App. to State Respondents Opposition to Application to Stay Injunction 58–59 (State Respondents' App.) (capitalization deleted).

On March 11, 2025, about a week into her tenure, McMahon announced a "reduction in force" that would eliminate "nearly 50% of the Department's workforce," slashing the number of employees from 4,133 to 2,183. *Id.*, at 64 (March 11 Directive).[10] The terminations eliminated whole offices and teams within the Department. To take just a few examples, the Directive terminated the entire Office of English Language Acquisition,[11] which Congress tasked with administering the Department's "bilingual education programs," 20 U. S. C. § 3420; all employees within the Office of the General Counsel that specialize in K–12 education funding and IDEA grants; 7 of 12 regional divisions of the Office of Civil Rights; most of the Federal Student Aid office responsible for certifying schools so that their students can receive federal financial aid; and the entire unit of the Office of Special Education and Rehabilitative Services charged with providing technical assistance and guidance on complying with the IDEA. Many of the affected offices and functions can be "consolidate[d], alter[ed],

Page Proof Pending Publication

[8] No. 25–cv–10601 (D Mass.), ECF Doc. 71–9, p. 3 (M. Bender, Trump Is Said to Be Preparing Order That Aims to Eliminate Education Dept., N. Y. Times, Mar. 6, 2025, https://www.nytimes/com/2025/03/06/us/politics/trump-education-department-executive-order.html). All ECF citations are to No. 25–cv–10601 (D Mass.) unless otherwise specified.

[9] Z. Wolf, Trump and Musk Are Moving to Smother These Three Pieces of the Government, CNN, Feb. 5. 2025, https://www.cnn.com/2025/02/05/politics/donald-trump-elon-musk-agencies; see ECF Doc. 1, p. 3).

[10] Approximately 600 of these employees took buy outs offered by the Department. State Respondents' App. 65.

[11] Only the Deputy Assistant Secretary, who had previously served in a leadership (*i.e.*, nonstaff) role, and one employee, who had already announced her intention to retire at the end of the month, were left in place. See ECF Doc. 71–60, p. 4, ¶9.

or discontinu[ed]" only by Congress. § 3473(a). As for the offices the Secretary could lawfully "discontinue," she failed to provide the requisite 90-day notice and report to Congress. § 3473(b).

The March 11 Directive offered competing explanations for the mass terminations. It touted the initiative as "part of the [Department's] final mission." State Respondents' App. 64. Yet it also claimed the initiative reflected a " 'commitment to efficiency' " and asserted that the Department would "continue to deliver on all statutory programs that fall under the agency's purview." *Ibid.* The Department did not explain how terminating half of the agency's work force overnight would improve efficiency, nor how it would be able to continue carrying out its statutory functions.

The reason for that silence soon became apparent. In statements to the press, McMahon confirmed the reduction in force was "the first step on the road to a total shutdown" of the Department, as directed by the President.[12] Similarly, when asked during a congressional hearing whether the Department had conducted "an actual analysis to determine what the effects of [the reduction in force] would be" on the Department's ability to carry out its statutory functions, McMahon responded, "No." Hearing on FY 2026 Dept. of Ed. Budget Request before the Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Subcommittee on Appropriations, 199th Cong., 1st Sess., Congressional Quarterly Tr. 55 (June 3, 2025).

Page Proof Pending Publication

Internal developments leading up to the mass firings reflected that disregard for the Department's statutory duties. Certain units within the Department, for instance, were told to prepare a list of statutorily required tasks, but the due date for those reports was March 13, 2025, two days *after* the Department carried out the mass terminations. State Respondents' App. 237. Terminated employees also reported being immediately "locked out" of most "work systems and documents" on March 11, 2025, making it impossible to hand off existing work to the remaining employees effectively. *Id.*, at 157; see also, *e. g.*, *id.*, at 240; ECF Doc. 71–54, p. 3; ECF Doc. 71–61, p. 4. Communications from

[12] Fox News, Education Secretary Says Department Took First Steps to Eliminate "Bureaucratic Bloat," at 1:15–1:18, Mar. 11, 2025, https://www.foxnews.com/video/6369901522112.

the Acting Secretary (whom McMahon had replaced), moreover, conveyed that "the Department as an agency was winding down, and would not exist moving forward," so the Department "would not be responsible for meeting the statutory functions [previously] performed" by the fired employees. ECF Doc. 124–1, p. 6.

On March 20, 2025, President Trump formalized his directive to shutter the Department by signing Executive Order No. 14242. 90 Fed. Reg. 13679. The order's operative section (titled "Closing the Department of Education and Returning Authority to the States" (italics omitted)), directed the Secretary to "take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities" "to the maximum extent appropriate and permitted by law." *Ibid.*

A day later, President Trump announced that the Department would transfer some of its statutory functions to other Government agencies (March 21 Transfer Order). Specifically, the Department would " 'immediately' " move the student loan portfolio to the Small Business Administration, while " 'special needs' " and " 'nutrition programs' " would be transferred to the Department of Health and Human Services.[13]

Page Proof Pending Publication

C

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Following the March 11 Directive and the resulting mass termination of Department employees, a group of 20 States and the District of Columbia sued the Department in federal court. They argued that the reductions in force "effective[ly] dismantl[ed] the Department" and "incapacitat[ed] components of the Department responsible for performing functions mandated by statute." ECF Doc. 1, p. 2. According to the States, that unilateral executive action violated the Constitution's separation of powers, the Take Care Clause, and the Administrative Procedure Act. Later that month, a group of school districts and unions filed a similar suit challenging the March 11 Directive, as well as Executive Order No. 14242 and President Trump's March 21 Transfer Order. The

[13] App. 59a (quoting L. Cochran, Trump Says Student Loans Moving to SBA, 'Special Needs' to HHS, The Hill, Mar. 21, 2025, https://thehill.com/homenews/education/5207597-trump-student-loans-sba-specialneeds-disabled-students-hhs-mcmahon-kennedy).

District Court consolidated the cases, and both sets of plaintiffs sought preliminary injunctions to preserve the status quo while litigation remained ongoing.

Dozens of affidavits from Department officials and federal funding recipients, filed in support of the plaintiffs' preliminary injunction motions, described the mass termination's effects on schools and students across the Nation. School districts, one such affidavit averred, depend on timely disbursement of federal funds to pay teachers and to purchase materials and equipment throughout the academic year. Even short-term delays in funding can force school districts "to make cuts . . . to staff and programs, disrupting services for students and families." App. to Opposition of Somerville Public Schools et al. to Application for Stay 57a–58a. Indeed, by the time they filed suit, several States had already experienced delays related to federal reimbursements following the March 11 Directive. See App. 64a. Officials at schools and universities likewise attested that they rely on timely certifications from the Department to enroll students on federal financial aid. As a result of certification delays following the reduction in force, academic institutions have been or will be forced to turn away whole swaths of prospective students.

Page Proof Pending Publication

Scores of officials who worked at the Department also attested that the agency would no longer be able to carry out many of its statutorily mandated duties following the mass termination. See, *e. g.*, ECF Doc. 71–54, p. 4 (Title II of the Workforce Innovation and Opportunity Act functions); ECF Doc. 71–60, p. 5 (Title III of the Elementary and Secondary Education Act of 1965 functions); ECF Doc. 71–61, p. 5 (Federal Student Aid office functions); ECF Doc. 71–64, p. 5 (Education Sciences Reform Act functions); ECF Doc. 71–66, p. 2 (Office of General Counsel functions); see also ECF Doc. 71–46, p. 5 (Former Secretary of the Department attesting "the Department cannot meet its statutory obligations at the levels of staffing proposed by the Defendants").

The Government, for its part, submitted no evidence to rebut the factual record compiled by the plaintiffs. Nor did it argue that the Executive could singlehandedly abolish the Department. Instead, it asserted that the mass termination fell within the President's authority because it was simply part of an effort to "streamlin[e]" the Department. App. 118a.

2

The District Court granted the preliminary injunction motion. The court found that "the record abundantly reveals that Defendants' true intention is to effectively dismantle the Department without an authorizing statute," and that the terminations would prevent the Department from "carry[ing] out its statutory functions." *Id.*, at 2a–3a. That unilateral executive action, the District Court concluded, likely violated the separation of powers and the Take Care Clause. *Id.*, at 48a. The court further determined that the Department had acted arbitrarily and capriciously, in violation of the Administrative Procedure Act, by failing to provide a reasoned explanation for the terminations. *Id.*, at 60a. Accordingly, the District Court enjoined the Government from carrying out the March 11 Directive, Executive Order No. 14242, and the March 21 Transfer Order. It also ordered the Department to "reinstate federal employees" terminated pursuant to the March 11 Directive "to restore the Department to the status quo such that it is able to carry out its statutory functions." *Id.*, at 88a.

Page Proof Pending Publication

The First Circuit denied the Government's request to stay the District Court's preliminary injunction pending appeal. The Government, the First Circuit concluded, "d[id] not even attempt to engage with the District Court's record-based findings about the extent of the [reduction in force]," "the intent behind both it and the transfer of functions to shut down the Department," or "the disabling impact of those actions on the Department's ability to carry out statutorily assigned functions." *Id.*, at 163a. The First Circuit also noted that the plaintiffs faced serious irreparable harms from the "Department's inability to provide its statutorily mandated services." *Id.*, at 171a.

II

Rebuffed twice below, the Government now tries its hand at seeking emergency relief from this Court. Granting such relief is a matter of this Court's discretion, which we have previously exercised "only under extraordinary circumstances." *Ruckelshaus* v. *Monsanto Co.*, 463 U. S. 1315, 1316 (1983) (Blackmun, J., in chambers). An applicant bears an "especially heavy burden" to justify our intervention where, as here, the matter remains pending before the Court of Appeals, and two lower courts have already denied interim relief. *Packwood* v. *Senate Select Comm. on Ethics*, 510 U. S. 1319, 1320 (1994) (Rehnquist, C. J., in chambers). Ordinarily, the Court considers the applicant's likelihood of success on the merits of an appeal to this Court, the balance of the equities, and the likelihood of irreparable harm absent emergency intervention. See *Hollingsworth* v. *Perry*, 558 U. S. 183, 190 (2010) (*per curiam*); *Nken* v. *Holder*, 556 U. S. 418, 434 (2009).

A

1

The Government's arguments stumble from the start. In our constitutional order, Congress "makes laws" and the President " 'faithfully execute[s]' them." *Utility Air Regulatory Group* v. *EPA*, 573 U. S. 302, 327 (2014) (quoting U. S. Const., Art. II, § 3; alteration in original). "The Founders of this Nation entrusted the lawmaking power to the Congress alone," *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U. S. 579, 589 (1952), and "[t]here is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes." *Clinton* v. *City of New York*, 524 U. S. 417, 438 (1998).

Page Proof Pending Publication

The President thus lacks unilateral authority to close a Cabinet-level agency. Congress created the Department, and only Congress can abolish it. The President, too, may not refuse to carry out statutorily mandated functions assigned to the Department, for he must "take Care that the Laws be faithfully executed." Art. II, § 3.

Rather than contest these bedrock principles, the Government below contended that the mass terminations were not part of any planned closure, but instead simply intended to "cut bureaucratic bloat." App. 118a. The record unambiguously refutes that account. Indeed, as described above, neither the President nor Secretary McMahon made any secret of their intent to ignore their constitutional duties. President Trump repeatedly called for the immediate abolition of the Department both during his campaign and after taking office. See *supra*, at 976–977. He directed McMahon to " 'put herself out of a job' " on the day of her nomination, *supra*, at 977, and he formalized that mandate in an Executive Order, commanding McMahon to "facilitate the closure of the Department of Education," 90 Fed. Reg. 13679. Consistent with that directive, McMahon vowed to oversee the Department's "final mission." *Supra*, at 977. Rather than wait for legislative action to begin shuttering the Department, McMahon slashed the agency's work force in half, concededly without analyzing the effect of those terminations on the Department's statutorily mandated functions. See *supra*, at 977–978.

These actions had their desired effect: As the District Court expressly found, "the Department will not be able to carry out its statutory functions[,] and in some cases, is already unable to do so," as a result of the mass terminations. App. 3a. Mandatory statutory duties, including the administration of federal student aid programs, grants for K–12 education, IDEA, and English language programs, and the enforcement of civil rights laws, are all at risk or currently compromised, the District Court determined. See *supra*, at 977–978, 979–980; App. 3a, 22a–24a, 74a–75a, 79a–80a.

The record evidence credited by the District Court and unrebutted by the Government thus leads to one conclusion: The Executive has seized for itself the power to repeal federal law by way of mass terminations, in direct contravention of the Take Care Clause and our Constitution's separation of powers.

Page Proof Pending Publication

The Secretary, moreover, unquestionably exceeded Congress's statutory limits on her authority to reorganize the Department. Congress has barred the Secretary from "alter[ing]" functions assigned to the Department by its organic statute and from "abolish[ing] organizational entities" established by law. 20 U. S. C. § 3473(a). The Secretary's failure to preserve statutorily mandated functions, see App. 3a, contravened that statutory constraint. As for the limited subset of offices the Secretary may lawfully "discontinue," § 3473(b), moreover, she made no attempt to provide the requisite 90-day notice and report to Congress.[14]

[14] The Department additionally violated the Administrative Procedure Act by failing to provide a "reasoned explanation" for the mass terminations. *Department of Commerce* v. *New York*, 588 U. S. 752, 785 (2019). An agency fails to satisfy that requirement where it proffers only pretextual justifications for its decisions. See *ibid.* For the reasons explained, the agency's stated rationale for the mass terminations (to "curb inefficiency," Application to Stay Injunction 7; see App. 118a) is plainly pretextual. As this Court has said before, "[o]ur review is deferential, but we are 'not required to exhibit a naiveté from which ordinary citizens are free.'" *Department of Commerce*, 588 U. S., at 785. Only by ignoring the record and jettisoning common sense could a court accept the Government's efficiency rationale as a "genuine justificatio[n]" for the March 11 Directive. *Ibid.*

This is not to say the Executive may never lawfully streamline an agency's work force or restructure its discretionary components, in accordance with law. Cf. *Trump* v. *American Federation of Government Employees*, 606 U. S. 960, 961 (2025) (Sotomayor, J., concurring in grant of stay). Indeed, as to the Department, Congress has provided clear instructions about how an Executive may lawfully consolidate or discontinue certain specified offices within the agency. See § 3473(b). What the Executive Branch may not do, however, is usurp the power to repeal laws by firing all those necessary to carry them out.

2

Before this Court, the Government does not defend the lawfulness of its actions. Rather, in a now-familiar move, it presents a grab bag of jurisdictional and remedial arguments to support its bid for emergency relief. None justifies this Court's intervention.

The Government first contends that the plaintiffs failed to demonstrate an " 'actual or imminent' " harm fairly traceable to the March 11 Directive. Application to Stay Injunction 15 (quoting *FDA* v. *Alliance for Hippocratic Medicine*, 602 U. S. 367, 381 (2024)). Any harms to the plaintiffs from the Department's mass termination are simply " 'too speculative' " to support Article III standing, the Government says. Application to Stay Injunction 15.

Page Proof Pending Publication

That claim is belied by both the record and common sense. The plaintiff States, schools, and unions rely on a range of Department services that support their operations and allow them to receive federal funding. Dismantling those services has jeopardized funding streams and required schools to divert resources to fill the gaps, causing concrete monetary damages and operational harm to plaintiffs. Record evidence, moreover, supports the inference that slashing the Department's work force by half without any apparent plan to ensure that the Department continues to meet its statutory obligations will imminently cause (and in some cases has already caused) such a degradation in services.

Take, for instance, the federal student aid program. Under federal law, a college or university may participate in federal student aid programs only if it has a "program participation agreement" with the Department and meets eligibility standards. See 20 U. S. C. §§ 1094, 1099c, 1099c–1. When a school wants to accept students eligible for federal financial aid, it must receive an initial certification from the Department and then be recertified regularly. State Respondents' App. 156–157. If a school is due for (re)certification, even months-long delays in the certification process can hobble the school's ability to enroll students who depend on federal financial aid.

Unsurprisingly, the mass termination of Department employees, including most of the Department staff that handles certifications and recertifications, has already resulted in harms to institutions seeking to enroll students on financial aid. The State plaintiffs submitted affidavits showing that a technical college in Washington State, for instance, did not receive recertification for one of its campuses in time for the start of the spring 2025 semester. App. 71a; State Respondents' App. 133–136. Although, in the past, it took less than 7 weeks to approve recertification applications, the Department took 18.5 weeks to approve the application. See App. 71a. As a result, the school was forced to forgo admitting students eligible for federal financial aid, and the total enrollment for the term was less than one-fifth of the expected size, costing the college lost tuition funds. State Respondents' App. 135. That type of pocketbook harm is a prototypical Article III injury. See, *e.g.*, *Czyzewski* v. *Jevic Holding Corp.*, 580 U. S. 451, 464 (2017). Other schools run by the State plaintiffs undoubtedly share this experience.

Page Proof Pending Publication

That showing is sufficient for the lawsuit to proceed. See *Town of Chester* v. *Laroe Estates, Inc.*, 581 U. S. 433, 439 (2017) (recognizing that "[a]t least one plaintiff must have standing" to seek the requested relief for a case to proceed). But it is only one of several concrete examples of harm fairly traceable to the mass terminations. To mention just two more, the District Court detailed evidence of delays in federal funding attributable at least in part to the reduction in force. For instance, the New York State Education Department, which is "currently administering $15.7 billion in federal funding from the Department," has been "experiencing drawdow[n] delays" for certain federal funding reimbursements "since the [reduction in force] announcement." App. 64a. The New Jersey Department of Education, similarly, "received a notice to expect delays in connecting to a live help desk agent because of severe staffing restraints when attempting to view and withdraw federal funds to use for its programs and to pay vendors." *Ibid.* (internal quotation marks omitted). And the Illinois State Board of Education "has been unable to access certain categories of funding since March 1, 2025," in the lead up to the reduction in force. *Ibid.*

The March 11 Directive, moreover, has led to the full closure of certain offices that provide critical services to plaintiffs. The Office of English Language Acquisition, for instance, has been "completely abolished and staff from [a separate office] are absorbing statutorily required work," *id.*, at 73a, despite statutory limits on the Secretary's ability to "discontinue" that office, see 20 U. S. C. § 3473(b)(1)(A). The District Court found that the "closure" of that office will "irreparably harm Plaintiffs' ability to serve their English language learners" by disrupting funding streams and creating delays in the provision of services, see App. 73a, and the Government offers no reason to believe that finding is clearly erroneous. The Government's standing argument thus provides no legitimate basis for the majority's decision to issue emergency relief.

The Government's remaining arguments are even less persuasive. The Government claims that the Civil Service Reform Act of 1978 divests the District Court of subject-matter jurisdiction over this suit because it channels claims regarding personnel decisions exclusively through the Merit System Protection Board and the Federal Labor Relations Authority. Application to Stay Injunction 8, 25–26 (citing 5 U. S. C. §§ 7105(a)(2), 7512, 7513(d), 7701). Plaintiffs, however, are not challenging individual employment decisions, nor are they suing for the benefit of individual Department employees. Rather, they are challenging the effective dismantling of the Department itself. Cf. *Axon Enterprise, Inc.* v. *FTC*, 598 U. S. 175, 189 (2023) (recognizing it would be "surprising" if challenges regarding "the structure or very existence of an agency" had to proceed through a specialized statutory review scheme designed for challenges to specific agency decisions, like "firing an employee").

The Government lastly challenges components of the District Court's remedial order. In particular, the Government contends the District Court lacked authority to order reinstatement of the fired employees and, alternatively, that the reinstatement order is overbroad because it is not adequately tailored to restore the particular Department functions upon which the plaintiffs rely. See Application to Stay Injunction 30–34. The Government, however, failed to raise the former argument before the District Court, and therefore forfeited it, as the First Circuit recognized.

Page Proof Pending Publication

See App. 166a. As to the latter argument, which the Government meaningfully raises for the first time here, the proper course is to leave questions of "whether a narrower injunction is appropriate" to the lower courts in the "first instance." *Trump* v. *CASA, Inc.*, 606 U. S. 831, 854 (2025). At bottom, the Government's late-raised remedial arguments cannot justify lifting the preliminary injunction in its entirety, as the majority does today. That ruling facilitates the Executive's power grab by permitting the mass terminations to go into effect wholesale, even as some narrower remedy may be appropriate.

B

The equities, too, cut against the Government. While " 'equity does not demand that its suitors shall have led blameless lives' " as to other matters, "it does require that they shall have acted fairly and without fraud or deceit as to the controversy in issue." *Precision Instrument Mfg. Co.* v. *Automotive Maintenance Machinery Co.*, 324 U. S. 806, 814–815 (1945) (citing *Keystone Driller Co.* v. *General Excavator Co.*, 290 U. S. 240, 245 (1933)). The Government has continued to press a plainly pretextual explanation for the mass firings in court, even as the Executive makes inconsistent statements to the public. See *supra*, at 982–983, and n. 14. That the majority sees fit to repay that obfuscation with emergency equitable relief is troubling.

Page Proof Pending Publication

The relative harms to the parties are also vastly disproportionate. While the Government will, no doubt, suffer pocketbook harms from having to pay employees that it sought to fire as the litigation proceeds, see App. 169a–170a, the harm to this Nation's education system and individual students is of a far greater magnitude. The Department is responsible for providing critical funding and services to millions of students and scores of schools across the country. Lifting the District Court's injunction will unleash untold harm, delaying or denying educational opportunities and leaving students to suffer from discrimination, sexual assault, and other civil rights violations without the federal resources Congress intended. The majority apparently deems it more important to free the Government from paying employees it had no right to fire than to avert these very real harms while the litigation continues. Equity does not support such an inequitable result.

* * *

The President must take care that the laws are faithfully executed, not set out to dismantle them. That basic rule undergirds our Constitution's separation of powers. Yet today, the majority rewards clear defiance of that core principle with emergency relief. Because I cannot condone such abuse of our equitable authority, I respectfully dissent.

July 15, 2025

Certiorari Denied

No. 25–5083 (25A45). Bell *v.* Florida. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

No. 25–5097 (25A57). Bell *v.* Dixon, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

Page Proof Pending Publication

July 21, 2025

Rehearing Denied

No. 22–6263. Moore *v.* Whitmer, Governor of Michigan, et al., 598 U. S. 1169;

No. 22–7907. Moore *v.* Morrison, Warden, 601 U. S. 843;

No. 24–799. Hanh Ho Tran *v.* Parkway Condominiums I Homeowners Assn. Inc., 605 U. S. 911;

No. 24–810. Kang *v.* Western Governors University, 604 U. S. 1242;

No. 24–1029. Harris *v.* Department of Transportation, Federal Motor Carrier Safety Administration, et al., 605 U. S. 934;

No. 24–5698. Moore *v.* South Carolina, 604 U. S. 1034;

No. 24–5956. Jordan *v.* Mississippi, 604 U. S. 1069;

No. 24–6153. Malena *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 604 U. S. 1131;

No. 24–6373. Goldsboro *v.* Florida, 604 U. S. 1216;

No. 24–6504. Slack *v.* Sampson, Warden, 604 U. S. 1217;

No. 24–6568. Wells *v.* Mecklenburg County Clerk of Probate Estates et al., 604 U. S. 1261;

No. 24–6602. Young-Trezvant *v.* Lone Star College System, 604 U. S. 1269;

No. 24–6640. Quintana *v.* Holzhaus, Individually and as Escrow Agent of Stewart Title Co., et al., 604 U. S. 1270;

No. 24–6721. In re Scott, 605 U. S. 903;

No. 24–6734. Taylor-Loper *v.* Sam's Club/Walmart Associates, Inc., et al., 605 U. S. 914;

No. 24–6742. Harris *v.* Pennsylvania et al., 605 U. S. 914;

No. 24–6869. Thomas *v.* Quicktrip Corp., 605 U. S. 970;

No. 24–6908. Goldsboro *v.* Florida, 605 U. S. 971;

No. 24–6914. Johnson *v.* Shewmaker, Warden, 605 U. S. 906;

No. 24–6927. Cobb *v.* Ohio, 605 U. S. 906; and

No. 24–7066. Garada *v.* District of Columbia Board of Medicine, 605 U. S. 936. Petitions for rehearing denied.

July 23, 2025

Miscellaneous Order

Page Proof Pending Publication

No. 25A11. Trump, President of the United States, et al. *v.* Boyle et al. C. A. 4th Cir. The application for stay presented to The Chief Justice and by him referred to the Court is granted. The application is squarely controlled by *Trump* v. *Wilcox*, 605 U. S. 922 (2025). Although our interim orders are not conclusive as to the merits, they inform how a court should exercise its equitable discretion in like cases. The stay we issued in *Wilcox* reflected "our judgment that the Government faces greater risk of harm from an order following a removed officer to continue exercising the executive power than a wrongfully removed officer faces from being unable to perform her statutory duty." *Id.*, at 923. The same is true on the facts presented here, where the Consumer Product Safety Commission exercises executive power in a similar manner as the National Labor Relations Board, and the case does not otherwise differ from *Wilcox* in any pertinent respect.

The June 13, 2025, order of the United States District Court for the District of Maryland, No. 8:25–cv–1628, ECF Doc. 25, is stayed pending the disposition of the appeal in the United States Court of Appeals for the Fourth Circuit and disposition of a petition for a 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 the Court.

Justice Kavanaugh, concurring.

I agree with the Court's decision to grant a stay in this case, as in *Trump* v. *Wilcox*, 605 U. S. 922 (2025). In addition to granting a stay, I would have granted certiorari before judgment in this case or in *Wilcox*.

When an emergency application turns on whether this Court will narrow or overrule a precedent, and there is at least a fair prospect (not certainty, but at least some reasonable prospect) that we will do so, the better practice often may be to both grant a stay and grant certiorari before judgment. In those unusual circumstances, if we grant a stay but do not also grant certiorari before judgment, we may leave the lower courts and affected parties with extended uncertainty and confusion about the status of the precedent in question. Moreover, when the question is whether to narrow or overrule one of this Court's precedents rather than how to resolve an open or disputed question of federal law, further percolation in the lower courts is not particularly useful because lower courts cannot alter or overrule this Court's precedents. In that situation, the downsides of delay in definitively resolving the status of the precedent sometimes tend to outweigh the benefits of further lower-court consideration.

Page Proof Pending Publication

So it is here. Therefore, I not only would have granted a stay but also would have granted certiorari before judgment.

Justice Kagan, with whom Justice Sotomayor and Justice Jackson join, dissenting.

Once again, this Court uses its emergency docket to destroy the independence of an independent agency, as established by Congress. Two months ago, in *Trump* v. *Wilcox*, the majority issued a stay allowing the President to discharge, without any cause, Democratic members of the National Labor Relations Board (NLRB) and the Merit Systems Protection Board (MSPB). See 605 U. S. 922, 923 (2025). Today, the same majority's stay permits the President to fire, again without cause, the Democratic members of the Consumer Product Safety Commission (CPSC). Congress provided that the CPSC, like the NLRB and MSPB, would operate as "a classic independent agency—a multi-member, bipartisan commission" whose members serve staggered terms and cannot be removed except for good reason. *Id.*, at 925 (KAGAN, J., dissenting from grant of application for stay); see 15 U. S. C. § 2053(a) (requiring "neglect of duty or malfeasance"). In Congress's view, that structure would better enable the CPSC to achieve its mission—ensuring the safety of consumer products, from toys to appliances—than would a single-party agency under the full control of a single President. The CPSC has thus operated as an independent agency for many decades, as the NLRB and MSPB also did. But this year, on its emergency docket, the majority has rescinded that status. By allowing the President to remove Commissioners for no reason other than their party affiliation, the majority has negated Congress's choice of agency bipartisanship and independence.

In doing so, the majority has also all but overturned *Humphrey's Executor* v. *United States*, 295 U. S. 602, 626 (1935), a near-century-old precedent of this Court. As I explained in *Wilcox*, we held in *Humphrey's* that independent agencies like the CPSC (and NLRB and MSPB) do not violate the Constitution's separation of powers. See 605 U. S., at 924–926 (dissenting opinion). In creating such "quasi-legislative or quasi-judicial bodies" to implement legislative directives, *Humphrey's* explained, Congress may "forbid their [members'] removal except for cause." 295 U. S., at 626, 629. Now, though, the opposite rule obtains: The majority, through its stays, has prevented Congress from prohibiting removals without cause. On the Court's emergency docket—which means "on a short fuse without benefit of full briefing and oral argument"—the majority has effectively expunged *Humphrey's* from the U. S. Reports. *Doe* v. *Mills*, 595 U. S. 1029 (2021) (BARRETT, J., concurring in denial of application for injunctive relief).

Page Proof Pending Publication

And it has accomplished those ends with the scantiest of explanations. The majority's sole professed basis for today's stay order is its prior stay order in *Wilcox*. But *Wilcox* itself was minimally (and, as I have previously shown, poorly) explained. See 605 U. S., at 926–929 (KAGAN, J., dissenting). It contained one sentence (ignored today) hinting at but not deciding the likelihood of success on the merits, plus two more respecting the "balance [of] the equities." *Id.*, at 923 (order); see *id.*, at 926–929 (KAGAN, J., dissenting). So only another under-reasoned emergency order undergirds today's. Next time, though, the majority will have two (if still under-reasoned) orders to cite. "Truly, this is 'turtles all the way down.'" *Rapanos* v. *United States*, 547 U. S. 715, 754 (2006) (plurality opinion). The majority rejects Congress's design of a whole class of agencies (except, as *Wilcox* somehow has it, the Federal Reserve) by layering nothing on nothing.

The result—an increase of executive power at the expense of legislative authority—does not stand alone. Just last week, this Court granted another stay allowing the President to ignore a federal statute. That decision permitted the President to push forward in dismantling the Department of Education, even though Congress created that agency and tasked it with performing vital functions. See *McMahon* v. *New York*, 606 U. S. 973 (2025) (Sotomayor, J., dissenting). If the majority had any valid basis for taking that action (relating, say, to the breadth of the District Court's preliminary injunction) it did not appear on the face of the Court's unreasoned order. See *id.*, at 973 (order); *id.*, at 986–987 (Sotomayor, J., dissenting). That order simply signaled that the President could carry on, even in the face of a conflicting statute. So too does this order, and with the same lack of care. The majority has acted on the emergency docket—with "little time, scant briefing, and no argument"—to override Congress's decisions about how to structure administrative agencies so that they can perform their prescribed duties. *Wilcox*, 605 U. S., at 927 (Kagan, J., dissenting). By means of such actions, this Court may facilitate the permanent transfer of authority, piece by piece by piece, from one branch of Government to another. Respectfully, I dissent.

Page Proof Pending Publication

July 24, 2025

Miscellaneous Order

No. 25A62. Turtle Mountain Band of Chippewa Indians et al. *v.* Howe, Secretary of State of North Dakota. C. A. 8th Cir. Application for stay, presented to Justice Kavanaugh and by him referred to the Court, granted. The issuance of the mandate of the United States Court of Appeals for the Eighth Circuit, case No. 23–3655, is stayed pending the filing and disposition of the petition for writ of certiorari, if such writ is timely sought. Should the petition for writ of certiorari be denied, this stay shall terminate automatically. In the event the petition for writ of certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court. Justice Thomas, Justice Alito, and Justice Gorsuch would deny the application.

July 25, 2025

Dismissal Under Rule 46

No. 24–7291. Moore et al. *v.* United States. C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46.

July 30, 2025

Certiorari Denied

No. 25–5194 (25A104). Zakrzewski *v.* Florida. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

August 1, 2025

Miscellaneous Order

No. 24–109. Louisiana *v.* Callais et al.; and

Page Proof Pending Publication

No. 24–110. Robinson et al. *v.* Callais et al. D. C. W. D. La. [Probable jurisdiction noted, 604 U. S. 1007.] Cases restored to the calendar for reargument. The parties are directed to file supplemental briefs addressing the following question raised on pages 36–38 of the Brief for Appellees: "Whether the State's intentional creation of a second majority-minority congressional district violates the Fourteenth or Fifteenth Amendments to the U. S. Constitution." Supplemental briefs for appellants are due on or before Wednesday, August 27, 2025. Supplemental brief for appellees is due on or before Wednesday, September 17, 2025. Reply briefs are due on or before 2 p.m., Friday, October 3, 2025. The time to file *amicus curiae* briefs is as provided for by this Court's Rule 37.3. Word limits and cover colors for the briefs should correspond to the provisions of Rule 33.1(g) pertaining to briefs on the merits rather than to the provision pertaining to supplemental briefs.

August 4, 2025

Certiorari Denied

No. 25–5129 (25A65). Black *v.* Tennessee. Sup. Ct. Tenn. Application for stay of execution of sentence of death, presented to JUSTICE KAVANAUGH, and by him referred to the Court, denied. Certiorari denied.

No. 25–5214 (25A118). BLACK *v.* TENNESSEE. Sup. Ct. Tenn. Application for stay of execution of sentence of death, presented to JUSTICE KAVANAUGH, and by him referred to the Court, denied. Certiorari denied.

No. 25–5261 (25A136). BLACK *v.* STRADA, COMMISSIONER, TENNESSEE DEPARTMENT OF CORRECTIONS, ET AL. Sup. Ct. Tenn. Application for stay of execution of sentence of death, presented to JUSTICE KAVANAUGH, and by him referred to the Court, denied. Certiorari denied.

No. 25–5262 (25A137). BLACK *v.* TENNESSEE. C. A. 6th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KAVANAUGH, and by him referred to the Court, denied. Certiorari denied.

AUGUST 11, 2025

Dismissal Under Rule 46

Page Proof Pending Publication

No. 24–413. DEPARTMENT OF EDUCATION ET AL. *v.* CAREER COLLEGES AND SCHOOLS OF TEXAS. C. A. 5th Cir. [Certiorari granted, 604 U. S. 1074.] Writ of certiorari dismissed under this Court's Rule 46.

AUGUST 14, 2025

Miscellaneous Order

No. 25A97. NETCHOICE, LLC *v.* FITCH, ATTORNEY GENERAL OF MISSISSIPPI. C. A. 5th Cir. Application to vacate stay, presented to JUSTICE ALITO, and by him referred to the Court, denied.

JUSTICE KAVANAUGH, concurring.

I concur in the Court's denial of NetChoice's application for interim relief because NetChoice has not sufficiently demonstrated that the balance of harms and equities favors it at this time. See Response in Opposition 37–39.

To be clear, NetChoice has, in my view, demonstrated that it is likely to succeed on the merits—namely, that enforcement of the Mississippi law would likely violate its members' First Amendment rights under this Court's precedents. See *Moody* v. *NetChoice, LLC*, 603 U. S. 707 (2024); *Brown* v. *Entertainment Merchants Assn.*, 564 U. S. 786 (2011); cf. *Free Speech Coalition, Inc.* v. *Paxton*, 606 U. S. 461 (2025). Given those precedents, it is no surprise that the District Court in this case enjoined enforcement of the Mississippi law and that seven other Federal District Courts have likewise enjoined enforcement of similar state laws. See No. 1:24–cv–170 (SD Miss., June 18, 2025); *NetChoice, LLC* v. *Yost*, 716 F. Supp. 3d 539 (SD Ohio 2024); *Computer & Communications Industry Assn.* v. *Paxton*, 747 F. Supp. 3d 1011 (WD Tex. 2024); *NetChoice, LLC* v. *Reyes*, 748 F. Supp. 3d 1105 (Utah 2024); *NetChoice, LLC* v. *Bonta*, 770 F. Supp. 3d 1164 (ND Cal. 2025); *NetChoice, LLC* v. *Griffin*, No. 5:23–cv–5105 (WD Ark., Mar. 31, 2025); *Computer & Communications Industry Assn.* v. *Uthmeier*, 826 F. Supp. 3d 1358 (ND Fla., June 3, 2025); *NetChoice* v. *Carr*, 789 F. Supp. 3d 1200 (ND Ga. 2025).

In short, under this Court's case law as it currently stands, the Mississippi law is likely unconstitutional. Nonetheless, because NetChoice has not sufficiently demonstrated that the balance of harms and equities favors it at this time, I concur in the Court's denial of the application for interim relief.

Page Proof Pending Publication

August 15, 2025

Dismissal Under Rule 46

No. 25–39. Doe et al. *v.* Seattle Police Department et al. Sup. Ct. Wash. Certiorari dismissed under this Court's Rule 46.

August 18, 2025

Miscellaneous Orders

No. D–3147. In re Discipline of Kohler. Anthony Edward Kohler, of Springfield, 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–3148. In re Discipline of Ranke. Carolyn Kaye Ranke, of Cleveland, Ohio, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–3149. In re Discipline of Amberly. Vincent Mark Amberly, of Leesburg, Va., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3150. In re Discipline of Nadeau. Justin P. Nadeau, of Rye, N. H., 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. 24–820. Rutherford *v.* United States; and
No. 24–860. Carter *v.* United States. C. A. 3d Cir. [Certiorari granted, 605 U. S. 1001.] Motions of petitioners to dispense with printing joint appendix granted.

Rehearing Denied

Page Proof Pending Publication

No. 24–894. Avery Bey *v.* Harper et al., 604 U. S. 1258;
No. 24–949. Navellier & Associates, Inc., et al. *v.* Securities and Exchange Commission, 605 U. S. 1002;
No. 24–973. Savage *v.* Henry County School District, 605 U. S. 911;
No. 24–1007. Ayers *v.* Markiewicz et al., 605 U. S. 933;
No. 24–1008. Rizzo *v.* Collins, Secretary of Veterans Affairs, 605 U. S. 933;
No. 24–1010. Weitzman *v.* Committee on Grievances for the United States District Court for the Southern District of New York, 605 U. S. 912;
No. 24–1065. Haase *v.* Deutsche Bank National Trust Co., 605 U. S. 969;
No. 24–1121. Carlborg *v.* United States, 606 U. S. 918;
No. 24–5735. Moore *v.* Weber, Warden, et al., 604 U. S. 1069;
No. 24–6564. Johnson *v.* Seagraves Compress, Trinity Co., 604 U. S. 1260;
No. 24–6653. Alexander *v.* Nance, Warden, 604 U. S. 1270;
No. 24–6746. In re Hoi, 605 U. S. 910;

No. 24–6769. Bacot, aka Price, aka Conerly *v.* Deutsche Bank National Trust Co., as Trustee for Ameriquest Mortgage Securities, Inc., Asset-Backed Pass-Through Certificates, Series 2005–R4, 605 U. S. 914–915;

No. 24–6802. Blea *v.* Rios, Warden, et al., 604 U. S. 1271;

No. 24–6804. White *v.* Office of Personnel Management, 605 U. S. 1002;

No. 24–6806. Lewis *v.* Wilmington Savings Fund Society, 605 U. S. 915;

No. 24–6902. In re Almedom,604 U. S. 1256;

No. 24–6906. Mack *v.* United States, 605 U. S. 935;

No. 24–6910. In re Greeman, 605 U. S. 967;

No. 24–6929. Carson *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 605 U. S. 1003;

No. 24–6937. Weimer *v.* Montana, 605 U. S. 916;

No. 24–6947. Goldsboro *v.* Florida, 605 U. S. 1003;

No. 24–6965. Malanga *v.* United States, 605 U. S. 906;

No. 24–6967. Crider *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 605 U. S. 1010; and

Page Proof Pending Publication

No. 24–7207. In re Simpson, 605 U. S. 1001. Petitions for rehearing denied.

August 19, 2025

Certiorari Denied

No. 25–5315 (25A174). Bates *v.* Dixon, Secretary, Florida Department of Corrections. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

No. 25–5370 (25A185). Bates *v.* Florida et al. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

No. 25–5379 (25A191). Bates *v.* DeSantis, Governor of Florida. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

August 21, 2025

Miscellaneous Order

No. 25A103. National Institutes of Health et al. *v.* American Public Health Association et al. C. A. 1st Cir. The application for stay presented to Justice Jackson and by her referred to the Court is granted in part and denied in part.

The application is granted as to the District Court's judgments vacating the Government's termination of various research-related grants. See *Department of Education* v. *California*, 604 U. S. 650 (2025) (*per curiam*). The Administrative Procedure Act's "limited waiver of [sovereign] immunity" does not provide the District Court with jurisdiction to adjudicate claims "based on" the research-related grants or to order relief designed to enforce any " 'obligation to pay money' " pursuant to those grants. *Id.*, at 651. And while the loss of money is not typically considered irreparable harm, that changes if the funds "cannot be recouped" and are thus "irrevocably expanded." *Philip Morris USA Inc.* v. *Scott*, 561 U. S. 1301, 1304 (2010) (Scalia, J., in chambers). The Government faces such harm here. The plaintiffs do not state that they will repay grant money if the Government ultimately prevails. Moreover, the plaintiffs' contention that they lack the resources to continue their research projects without federal funding is inconsistent with the proposition that they have the resources to make the Government whole for money already spent.

The application is otherwise denied.

Paragraphs 3 and 4 of the June 23, 2025 order of the United States District Court for the District of Massachusetts, case No. 1:25–cv–10787, and paragraph II of the June 23, 2025 order of the United States District Court for the District of Massachusetts, case No. 1:25–cv–10814, are stayed pending the disposition of the appeal in the United States Court of Appeals for the First Circuit and disposition of a petition for a 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 issuance of the judgment of the Court. The Government may raise its arguments as to the remainder of the District Court's judgments in the ordinary course.

The Chief Justice, Justice Sotomayor, Justice Kagan, and Justice Jackson would deny the application in full.

Page Proof Pending Publication

JUSTICE THOMAS, JUSTICE ALITO, JUSTICE GORSUCH, and JUSTICE KAVANAUGH would grant the application in full.

JUSTICE BARRETT, concurring.

In recent months, the National Institutes of Health has worked to align its funding with changed policy priorities mandated by a series of executive orders. See Exec. Order No. 14151, 90 Fed. Reg. 8339 (2025); Exec. Order No. 14168, 90 Fed. Reg. 8615 (2025); Exec. Order No. 14173, 90 Fed. Reg. 8633 (2025). NIH issued internal guidance documents describing those priorities: Going forward, the agency will not fund research related to DEI objectives, gender identity, or COVID–19. Nor will it continue the practice of awarding grants to researchers based on race. After review, NIH issued numerous decisions terminating existing grants, and various plaintiffs sued, challenging the guidance documents and their individual grant terminations under the Administrative Procedure Act. The District Court declared unlawful and vacated both the guidance and the individual terminations, and the First Circuit denied the Government's request for a stay. Both courts treated NIH's termination of grants and its issuance of guidance as distinct agency actions. The Government sought a stay from this Court.

Page Proof Pending Publication

As today's order states, the District Court likely lacked jurisdiction to hear challenges to the grant terminations, which belong in the Court of Federal Claims (CFC). See *Department of Education* v. *California*, 604 U. S. 650 (2025) (*per curiam*). In my view, however, the Government is not entitled to a stay of the judgments insofar as they vacate the guidance documents.

Plaintiffs frequently seek vacatur of internal agency guidance on arbitrary-and-capricious grounds in district court or directly in the D. C. Circuit. See, *e. g.*, *Ciox Health, LLC* v. *Azar*, 435 F. Supp. 3d 30 (DDC 2020) (challenge to HHS guidance); *POET Biorefining, LLC* v. *EPA*, 970 F. 3d 392 (CADC 2020) (challenge to EPA guidance). That the agency guidance discusses internal policies related to grants does not transform a challenge to that guidance into a claim "founded . . . upon" contract that only the CFC can hear. 28 U. S. C. § 1491(a)(1). So the District Court was likely correct to conclude that it had jurisdiction to entertain an APA challenge to the guidance, and it would be confusing for our disposition of this application to suggest that the CFC is the right forum for that claim.

THE CHIEF JUSTICE and JUSTICE JACKSON maintain that because the District Court is the right forum for the challenge to the guidance, it is necessarily also the right forum for the challenge to the grant terminations. *Post*, at 1002 (ROBERTS, C. J., concurring in part and dissenting in part); *post*, at 1017–1019 (JACKSON, J., concurring in part and dissenting in part). Both logic and law, however, support channeling challenges to the grant terminations and guidance to different forums. First, logic: Vacating the guidance does not reinstate terminated grants. If one simply flowed from the other, the District Court would have needed only to vacate the guidance itself. Cf. *Bowen* v. *Massachusetts*, 487 U. S. 879, 910 (1988) (one judgment vacating HHS decision). Here, by contrast, the District Court separately "vacated" the grant terminations and ordered the Government to pay plaintiffs sums due under the agreements "forthwith." App. to Application 160a. Second, law: Even if the guidance and grant terminations are linked, vacating the guidance does not necessarily void decisions made under it, as the First Circuit recognized. 145 F. 4th 39, 50 (CA1 2025); see also, *e. g.*, *D. A. M.* v. *Barr*, 486 F. Supp. 3d 404, 415 (DDC 2020) (vacatur does not necessarily "eras[e] from legal existence all *past* adjudications under the vacated rule"). The claims are legally distinct. And if the CFC has exclusive jurisdiction over the grant terminations, see *California*, 604 U. S., at 651, the plaintiffs cannot end-run that limit simply by packaging them with a challenge to agency guidance.[1]

Page Proof Pending Publication

Two-track litigation results from "[t]he jurisdictional scheme governing actions against the United States," which "often requires . . . plaintiffs to file two actions in different courts to obtain complete relief in connection with one set of facts." *United*

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[1] Nor is JUSTICE JACKSON correct to say that this approach leaves the plaintiffs without any prospect of relief. *Post*, at 1017–1019. Each forum has the authority to fully adjudicate the claims over which it has jurisdiction. If the CFC concludes that the Government breached a grant agreement, it may award relief to the grantee. If a district court decides that agency guidance violates the APA, it may vacate the guidance, preventing the agency from using it going forward. JUSTICE JACKSON's fundamental objection is to sending the grant-termination claims to the CFC, but *California* already addressed that question.

States v. *Tohono O'odham Nation*, 563 U. S. 307, 323 (2011) (Sotomayor, J., concurring in judgment); see also *ibid.* (stating that a claim seeking "to set aside agency action must proceed in district court, but a claim that the same agency action constitutes a taking of property requiring just compensation must proceed in the CFC"). True, plaintiffs cannot necessarily sue the government in two forums simultaneously. As Justice Jackson notes, 28 U. S. C. § 1500 bars CFC jurisdiction over claims pending in other courts when those claims arise from " 'substantially the same operative facts.' " *Post*, at 1018, n. 4. If the challenges to the guidance and grant terminations have the requisite factual overlap—and I am not sure that they do—the plaintiffs will have to proceed sequentially rather than simultaneously. But we have previously explained that the statutory scheme puts plaintiffs to precisely this choice, *Tohono O'odham Nation*, 563 U. S., at 316–317, and we have rejected the argument that it is unfair to require plaintiffs "to choose between partial remedies available in different courts," *id.*, at 316. Suits against the United States are "available by grace and not by right," and the relief available is subject to the conditions Congress sets. *Id.*, at 317. Because of those conditions, my preliminary judgment is that the plaintiffs' challenges to the grant terminations belong in the CFC, and their APA challenges to the guidance belong in district court.

Page Proof Pending Publication

Of course, whether claims about the guidance in this case will succeed is another question. It is not obvious, for instance, that NIH's guidance is final agency action. Yet the Government did not press this argument—or any other—in its stay application.[2] Instead, its application largely ignores the guidance, which suggests that this aspect of the judgments causes it no irreparable harm. The Government has therefore failed to show that it is entitled to a stay of the judgments insofar as they vacate the guidance. Of course, it remains free to challenge the District Court's vacatur of the guidance before the First Circuit.

[2] Citing stray references to the guidance, Justice Kavanaugh draws a different conclusion. *Post*, at 1005–1007 (opinion concurring in part and dissenting in part). I respectfully disagree with his reading of the filings. In my view, the Government plainly raised merits-based arguments regarding the *grant terminations*, not the guidance. See Application 29–34.

CHIEF JUSTICE ROBERTS, with whom JUSTICE SOTOMAYOR, JUSTICE KAGAN, and JUSTICE JACKSON join, concurring in part and dissenting in part.

In my view, the District Court's vacatur of the challenged directives distinguishes this case from *Department of Education* v. *California*, 604 U. S. 650 (2025) (*per curiam*). This relief—which has prospective and generally applicable implications beyond the reinstatement of specific grants—falls well within the scope of the District Court's jurisdiction under the Administrative Procedure Act, 5 U. S. C. § 701 *et seq.* And if the District Court had jurisdiction to vacate the directives, it also had jurisdiction to vacate the "Resulting Grant Terminations." App. to Application 148a–152a. The Government has neither contended that the terminations did not result from the directives, nor contested the District Court's conclusion that the directives constituted final agency action. To the contrary, it has taken the position that the District Court's two remedies are "inseparable," Reply 5, and that the directives set forth "a uniform policy" that was "implement[ed] . . . globally," Application 33. In such circumstances, the District Court was not "required . . . to split [the case] into two parts." *Bowen* v. *Massachusetts*, 487 U. S. 879, 911 (1988).

Page Proof Pending Publication

JUSTICE GORSUCH, with whom JUSTICE KAVANAUGH joins, concurring in part and dissenting in part.

Lower court judges may sometimes disagree with this Court's decisions, but they are never free to defy them. In *Department of Education* v. *California*, 604 U. S. 650 (2025) (*per curiam*), this Court granted a stay because it found the government likely to prevail in showing that the district court lacked jurisdiction to order the government to pay grant obligations. *California* explained that "suits based on 'any express or implied contract with the United States' " do not belong in district court under the Administrative Procedure Act (APA), but in the Court of Federal Claims under the Tucker Act. *Id.*, at 651 (quoting 28 U. S. C. § 1491(a)(1)). Rather than follow that direction, the district court in this case permitted a suit involving materially identical grants to proceed to final judgment under the APA. As support for its course, the district court invoked the "persuasive authority" of "the dissent[s] in *California*" and an earlier court of appeals decision *California* repudiated. *Massachusetts* v. *Kennedy*, 783 F. Supp. 3d 487, 498 (Mass. 2025). That was error.

"[U]nless we wish anarchy to prevail within the federal judicial system, a precedent of this Court must be followed by the lower federal courts no matter how misguided the judges of those courts may think it to be." *Hutto* v. *Davis*, 454 U. S. 370, 375 (1982) (*per curiam*).

In casting *California* aside, the district court stressed that the Court there granted only interim relief pending appeal and a writ of certiorari and did not issue a final judgment on the merits. 783 F. Supp. 3d, at 496. True enough. But this Court often addresses requests for interim relief—sometimes pending a writ of certiorari, as in *California*, and sometimes after a writ of certiorari is granted, as in *Mahmoud* v. *Taylor*, 606 U. S. 522 (2025), and *Free Speech Coalition, Inc.* v. *Paxton*, 606 U. S. 461 (2025). And either way, when this Court issues a decision, it constitutes a precedent that commands respect in lower courts.

Of course, decisions regarding interim relief are not necessarily "conclusive as to the merits" because further litigation may follow. *Trump* v. *Boyle*, 606 U. S. 989 (2025). But regardless of a decision's procedural posture, its "reasoning—its *ratio decidendi*"—carries precedential weight in "future cases." *Ramos* v. *Louisiana*, 590 U. S. 83, 104 (2020) (opinion of GORSUCH, J.); see also *Bucklew* v. *Precythe*, 587 U. S. 119, 136 (2019) ("[J]ust as binding as [a] holding is the reasoning underlying it"). And *California*'s reasoning was clear. There, the Court explained that "the APA's limited waiver of immunity does not extend to orders to enforce a contractual obligation to pay money . . . . Instead, the Tucker Act grants the Court of Federal Claims jurisdiction over suits based on any express or implied contract with the United States." 604 U. S., at 651 (internal quotation marks omitted). That reasoning binds lower courts as a matter of vertical *stare decisis*.

Page Proof Pending Publication

Moreover, even probabilistic holdings—such as *California*'s topline conclusion that "the Government is likely to succeed in showing the District Court lacked jurisdiction to order the payment of money under the APA," *id.*, at *ibid.*—must "inform how a [lower] court" proceeds "in like cases," *Boyle*, 606 U. S., at 989. If nothing else, the promise of our legal system that like cases are treated alike means that a lower court ought not invoke the "persuasive authority" of a dissent or a repudiated court of appeals decision to reach a different conclusion on an equivalent record. 783 F. Supp. 3d, at 498.

To be sure, beyond expressing mere disagreement with *California*, the district court also sought to distinguish it. But that effort failed too. This case, the district court asserted, is "somewhat different" from *California* because the "only claim" there concerned the denial of "previously awarded discretionary grants." 783 F. Supp. 3d, at 496 (internal quotation marks omitted). But the same holds true here. The only injury the district court sought to remedy in its judgments stems from the government's denial of previously awarded discretionary grants. Accordingly, *California* controls.

Perhaps sensing the problems with the district court's approach, the court of appeals tried to distinguish *California* in still two other ways. First, the court of appeals suggested that the district court had not invoked the APA to order the government to pay money in defiance of *California*, but instead invoked the APA only to vacate the government's decision to terminate respondents' grants. 145 F. 4th 39, 51 (CA1 2025). This Court's precedents, however, cannot be so easily circumvented. An order vacating the government's decision to terminate grants under the APA is in every meaningful sense an order requiring the government to pay those grants. Even the district court recognized as much, instructing the government that its "vacation of" the grant terminations should "result in forthwith . . . disbursement of funds" pursuant to the grants. App. 160a–161a. Second, the court of appeals asserted that, unlike in *California*, the claims here do not "depen[d] on the terms and conditions of the grant awards." 145 F. 4th, at 52. But that is also incorrect. In both cases, respondents' injury and alleged right to payment stem from the government's refusal to pay promised grants according to the terms and conditions that accompany them.[1]

Page Proof Pending Publication

[1] JUSTICE JACKSON's dissent suggests that individuals enjoy a free-floating "right" under the APA to ensure the government "engage[s] in reasoned decisionmaking." *Post*, at 1016, 1019. But that, too, is mistaken. To sue under the APA, a litigant must "suffe[r] legal wrong because of agency action." 5 U. S. C. § 702. And here, the alleged legal wrong the district court sought to remedy was the government's failure to pay promised grants, a point the dissent itself elsewhere acknowledges. See *post*, at 1016, n. 2 (observing that respondents' "injury and right to payment *actually* stem from the Government's allegedly arbitrary and capricious termination of their grant funding" (emphasis in original)).

For these reasons, I concur in the Court's decision to stay the district court's judgments vacating the grant terminations. If the district court's failure to abide by *California* were a one-off, perhaps it would not be worth writing to address it. But two months ago another district court tried to "compel compliance" with a different "order that this Court ha[d] stayed." *Department of Homeland Security* v. *D. V. D.*, 606 U. S. 952, 954 (2025) (KAGAN, J., concurring). Still another district court recently diverged from one of this Court's decisions even though the case at hand did not differ "in any pertinent respect" from the one this Court had decided. *Boyle*, 606 U. S., at 989. So this is now the third time in a matter of weeks this Court has had to intercede in a case "squarely controlled" by one of its precedents. *Ibid.* All these interventions should have been unnecessary, but together they underscore a basic tenet of our judicial system: Whatever their own views, judges are duty-bound to respect "the hierarchy of the federal court system created by the Constitution and Congress." *Hutto*, 454 U. S., at 375.[2]

JUSTICE KAVANAUGH, concurring in part and dissenting in part.

Page Proof Pending Publication

Like JUSTICES THOMAS, ALITO, and GORSUCH, I would grant the Government's application for an interim stay in full.

First, I agree with the Government (and the Court) that plaintiffs' claims challenging NIH's grant terminations likely belong in the Court of Federal Claims, not in federal district court. This Court previously indicated as much in the interim order in *Department of Education* v. *California*, 604 U. S. 650 (2025) (*per curiam*). The reason is straightforward: The core of plaintiffs' suit alleges

[2] I would also have stayed the remainder of the district court's judgments, which vacated internal agency guidance. The only injury that gave respondents standing to obtain that relief was the termination of pre-existing grants. See Application 25–26; Reply 4–5; *post*, at 1018 (JACKSON, J., concurring in part and dissenting in part). True, respondents in this case also asserted injuries from the guidance based on the government's alleged failure to process *new* grant applications. But the district court declined to pass on those allegations, and they therefore cannot provide a basis for the judgments. See Application 25–26; 786 F. Supp. 3d 237, 261 (Mass. 2025); App. to Respondent States' Opposition 105a–106a. So all claims on which the district court rendered judgment were "based on" respondents' contracts with the government, and those judgments were thus entered without jurisdiction. *California*, 604 U. S., at 651.

that the Government unlawfully terminated their grants. That is a breach of contract claim. And under the Tucker Act, such claims must be brought in the Court of Federal Claims, not federal district court. 28 U. S. C. § 1491(a)(1).

Second, I also agree with the Government that plaintiffs' challenge to NIH's guidance on grant terminations is likely unavailing. For starters, it is not evident that plaintiffs' challenge to the guidance is separable from their challenge to the grant terminations. But even if it is, plaintiffs are unlikely to succeed on the merits of their arbitrary and capricious challenge to the guidance, for reasons that the Government persuasively explained in its application to this Court. See Application 29–34; *id.*, at 31 ("The district court's principal objection was that the NIH never defined the term 'DEI.' . . . But there is no APA rule that agencies define every term in every internal guidance document, particularly when that guidance steers highly discretionary decisions over how to allocate limited agency resources"); *id.*, at 32 ("Here, the NIH's guidance described the Administration's general priorities on research funding and instructed implementation on a grant-by-grant basis"); *ibid.* ("Agency guidance documents do not need to come with glossaries just to avoid APA invalidation"); Reply Brief 11 ("Respondents echo . . . the district court's criticism of the guidance documents' failure to explicitly define DEI. Respondents ignore case law holding that grant criteria need not define terms with exacting precision").

Page Proof Pending Publication

Finally, the harms and equities are weighty on both sides. But in my view, they tilt toward the Government because plaintiffs have not represented that they would return the grant money if the Government were to ultimately prevail in the merits litigation.

JUSTICE JACKSON seems to suggest that we can avoid this significant (albeit interim) forum-channeling decision by simply denying the application. That is wrong. We have to decide the application. Denying the application in whole (as JUSTICE JACKSON and three others would do) would mean that the suit belongs for now in the Federal District Court or the First Circuit. Granting the application in whole (as I and three others would do) would mean that the suit belongs for now in the Court of Federal Claims. Granting in part and denying in part (as the Court's order does) means that the challenge to the grant terminations belongs for now in the Court of Federal Claims and the arbitrary and capricious claim belongs for now in the Federal District Court or the First Circuit. For this Court, there is no way to avoid deciding the application and thereby making that interim forum-channeling decision.

* * *

For those reasons, I would grant the Government's application for an interim stay in full.

JUSTICE JACKSON, concurring in part and dissenting in part.

This past spring, as March turned to April, the Court took a mere nine days to address a difficult and nuanced legal issue: whether a federal district court or the Court of Federal Claims has statutory jurisdiction over a claim that the Government violated the Administrative Procedure Act (APA), 5 U. S. C. § 706, by arbitrarily and capriciously terminating federal grants en masse. See *Department of Education* v. *California*, 604 U. S. 650 (2025) (*per curiam*). It chose the Court of Federal Claims. *Id.*, at 651. I viewed the Court's intervention then—in an emergency stay posture, while racing against a fast-expiring temporary restraining order—as "equal parts unprincipled and unfortunate." *Id.*, at 668 (JACKSON, J., dissenting).

Page Proof Pending Publication

As it turns out, the Court's decision was an even bigger mistake than I realized. The Court's reasoning in *California* was not only "at the least under-developed, and very possibly wrong," *id.*, at 653 (KAGAN, J., dissenting), but also evidently resolved more than the jurisdictional dispute over the particular education-related grants at issue in that case. Today's decision reveals *California*'s considerable wingspan: That case's *ipse dixit* now apparently governs all APA challenges to grant-funding determinations that the Government asks us to address in the context of an emergency stay application. A half paragraph of reasoning (issued without full briefing or any oral argument) thus suffices here to partially sustain the Government's abrupt cancellation of hundreds of millions of dollars allocated to support life-saving biomedical research.

For a cautionary tale about lawmaking on the emergency docket, look no further than this newest iteration. By today's order, an evenly divided Court neuters judicial review of grant terminations by sending plaintiffs on a likely futile, multivenue quest for complete relief. Neither party to the case suggested this convoluted procedural outcome, and no prior court has held that the law requires it. But, in the view of the deciding vote, *California* compels this conclusion. "So only another underreasoned emergency order undergirds today's." *Trump* v. *Boyle*, 606 U. S. 989 991–992 (2025) (KAGAN, J., dissenting from grant of application for stay).

The Court also lobs this grenade without evaluating Congress's intent or the profound legal and practical consequences of this ruling. Stated simply: With potentially life-saving scientific advancements on the line, the Court turns a nearly century-old statute aimed at remedying unreasoned agency decisionmaking into a gauntlet rather than a refuge. But we have no business erecting a novel jurisdictional barrier to judicial review—especially when it appears nowhere in the relevant statutes and makes little sense. Because the Government's application should have been denied in full, I respectfully dissent in part.

I

Some background helps to clarify the character of the governmental action the Court now bends over backward to accommodate.

Page Proof Pending Publication

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The National Institutes of Health (NIH) is the largest public funder of medical research in the world. Congress's express instructions have enabled that status: By statute, the NIH must "make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals" to contribute to the effort to diagnose, treat, and prevent "physical and mental diseases and impairments of man." 42 U. S. C. §§ 241(a), (a)(3).

Various statutory provisions shape the NIH's discretion in allocating these funds, including in ways that recognize the importance of science for the study, healing, and service of a diverse Nation. For instance, Congress requires the National Cancer Institute, an institute within the NIH, to fund "community-based programs designed to assist women who are members of medically underserved populations, low-income populations, or minority groups." § 285a–6(c)(1)(C). And it instructs another NIH-based institute, the National Institute on Minority Health and Health Disparities, to "make awards of grants . . . for the purpose of . . . supporting programs of excellence in biomedical and behavioral research training for individuals who are members of minority health disparity populations." § 285t–1(a); see also, *e. g.*, § 289a–2(a)(1) (requiring the NIH to ensure that women and members of minority groups are represented in the clinical research it supports).

Historically, the NIH has awarded multiyear grants pursuant to established statutory criteria and objectives. See, *e. g.*, 42 CFR § 52a.5 (2024). Also historically, the NIH's grant selection process has been rigorously scientific. See Brief for Association of American Medical Colleges (AAMC) et al. as *Amici Curiae* 5–8. Grant terminations, meanwhile, have been rare; according to testimony in this case, the NIH terminated fewer than six grants midstream in the 13 years from 2012 to January 20, 2025.

The NIH's implementation of its grantmaking obligations changed dramatically in February 2025, after the President signed a trio of executive orders instructing the Government to stop diversity, equity, and inclusion (DEI) initiatives, "gender ideology" promotion, and COVID–19 research.[1] In response, NIH leadership issued a series of directives ordering termination, en masse, of existing grants that the agency perceived as in tension with the new Administration's policies.

Page Proof Pending Publication

A frantic process followed. As detailed by the District Court, the NIH and its constituent institutes subsequently engaged in a "wholesale effort to excise grants in 8 categories over a period of less than 90 days." 791 F. Supp. 3d 119, 175 (Mass. 2025). When the dust settled, thousands of grants had been canceled, including those supporting research into suicide risk and prevention, HIV transmission, Alzheimer's, and cardiovascular disease.

B

1

The two informally consolidated cases now before the Court were brought by, first, a group of individual researchers, doctors, and unions who depend on NIH funding for their research; and, second, a coalition of 16 States, suing on behalf of their public universities. The plaintiffs sued in Federal District Court, arguing that the NIH had implemented the executive orders in a manner that violated the APA, the separation of powers, the

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[1] See Exec. Order No. 14151, 90 Fed. Reg. 8339 (2025); Exec. Order No. 14168, 90 Fed. Reg. 8615; Exec. Order No. 14173, 90 Fed. Reg. 8633.

Spending Clause, and the Constitution's prohibition against ultra vires action.

Handling the case with dispatch, the District Court initially analyzed what has become the Government's primary contention: that the APA claim is really a breach-of-contract suit, and that the Tucker Act, 28 U. S. C. § 1491, therefore channels the case to the Court of Federal Claims rather than the District Court. As it does here, the Government took inspiration from this Court's recent order in *California*. But the District Court concluded that *California* was "somewhat different," *Massachusetts* v. *Kennedy*, 783 F. Supp. 3d 487, 496 (Mass. 2025), such that *Bowen* v. *Massachusetts*, 487 U. S. 879 (1988), controlled and permitted the case to remain in district court.

The basic distinction, the court explained, is that while breach-of-contract actions for money damages go to the Claims Court, statutory actions to ensure compliance with federal law belong in district court. *California* could be conceived of as the former, insofar as it focused only on "sums awarded . . . in previously awarded discretionary grants." 783 F. Supp. 3d, at 496 (internal quotation marks omitted). By contrast, this action sought to prevent the NIH "from violating the statutory grant-making architecture created by Congress, replacing Congress' mandate with new policies that directly contradict that mandate, and exercising authority arbitrarily and capriciously"—wheelhouse APA contentions. *Id.*, at 499.

Page Proof Pending Publication

After dismissing some of the plaintiffs' claims, the District Court proceeded directly to a bench trial on the merits. At the trial's conclusion, the District Court reserved judgment on most claims but ruled on the one it was "confident in" after "a careful review": that the challenged directives and resulting terminations were arbitrary and capricious, and so had to be set aside under the APA. App. to Application 159a–160a (App.); see 5 U. S. C. § 706(2)(A).

The District Court laid out its factual findings and legal conclusions in a 103-page opinion. With respect to the arbitrariness allegation, the District Court explained, among other things, that "DEI"—the central concept the executive orders aimed to extirpate—was nowhere defined, leaving individual agency employees "to arrive at whatever conclusion [they] wishe[d]." 791 F. Supp. 3d, at 180, 182. That definitional void left them applying "circular and nonsensical boilerplate language," *id.*, at 181, to cancel grants without explanation or reason and in a manner that had "absolutely nothing to do with the promotion of science or research," *id.*, at 131. In place of science, meanwhile, came something more pernicious: The court found, as a factual matter, "an unmistakable pattern of discrimination against women's health issues" and "pervasive racial discrimination"—indeed, "palpable" racial discrimination of a sort the judge had "never seen" in 40 years on the bench. *Id.*, at 128, n. 5, App. 166a. The result was a policy of mass grant terminations that was "breathtakingly arbitrary and capricious." 791 F. Supp. 3d, at 179. So the District Court declared unlawful and vacated the challenged directives and the "resulting . . . terminations" of the plaintiffs' grants. App. 148a–152a (capitalization omitted).

2

After the District Court entered partial final judgment, the Government asked that court, and then the First Circuit, to stay that judgment pending appeal. Both courts declined. In response to the Government's primary argument—the Tucker Act one—the First Circuit issued an opinion that sought to "harmonize" this Court's decisions in *Bowen*, 487 U. S. 879; *Great-West Life & Annuity Ins. Co.* v. *Knudson*, 534 U. S. 204 (2002); and *California*, 604 U. S. 650. See 145 F. 4th 39, 50 (2025). It concluded that those decisions permitted the District Court to enter, as it had, " 'prospective relief' that will govern 'the rather complex ongoing relationshi[p]' between the [NIH] and grant recipients," especially because the District Court's determination did not depend on the terms of any contract. *Id.*, at 50–51 (quoting *Bowen*, 487 U. S., at 905).

Page Proof Pending Publication

The First Circuit's stay opinion also evaluated the relative harms and compared the balance of the equities to those in *California*. It concluded that these plaintiffs stood to lose more and the Government less: Unlike in *California*, these researchers lack the financial wherewithal to keep their programs running on their own—meaning a stay would euthanize animal subjects, terminate life-saving trials, and close community health clinics. And unlike in *California*, there is no fast-expiring temporary restraining order incentivizing a rushed drawdown of granted funds. Accordingly, the First Circuit declined to stay the District Court's partial judgment pending appeal.

C

The Government now asks us for a stay. To obtain one, the Government must make "a strong showing" that it will likely succeed on the merits, that it will be irreparably harmed absent a stay, and that the balance of the equities (including the public interest) favors a stay. See *Nken* v. *Holder*, 556 U. S. 418, 426 (2009) (internal quotation marks omitted). Because two lower courts have already denied stays, the Government bears "an especially heavy burden" to secure one from us. *Edwards* v. *Hope Medical Group for Women*, 512 U. S. 1301, 1302 (1994) (Scalia, J., in chambers) (internal quotation marks omitted).

Yet, today, without any such showing, this Court gives the Government much of what it asks for. It splits review of the grant terminations from review of the grant termination policy—thereby preserving the mirage of judicial review while eliminating its purpose: to remedy harms. The Court now holds that a plaintiff who maintains that the Government's midstream termination of promised grant funding was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U. S. C. § 706(2)(A), can file a claim in federal district court, seeking to set aside the unlawful agency guidance that caused it to lose its grant. But if it wants the improperly terminated grant funding restored, a lawsuit filed in district court will not suffice; apparently, for *that* remedy, the plaintiff has to bring another legal action in a different court. See *ante*, at 999–1001 (BARRETT, J., concurring in partial grant of application for stay).

Page Proof Pending Publication

It gets worse. From the logic (such as it is) of the Court's order, it appears that a plaintiff's pursuit of grant reinstatement in the Court of Federal Claims—where today's ruling shunts them—will be in vain, because the Tucker Act "impliedly forbids" that plainly appropriate relief. 5 U. S. C. § 702. And worse still, the viability of the initial district court action is also in doubt, since a plaintiff seeking invalidation of an unlawful grant termination policy standing alone (a posture that today's decision requires) might still flunk the APA's final-agency-action test. See *ante*, at 1001 (opinion of BARRETT, J.).

It would have been much simpler for the Court to just announce that, regardless of the plain text of the APA or what Congress intended to authorize, we no longer accept that the Government's grant-termination decisions are subject to arbitrary-and-capricious review or that vacatur of an arbitrary grant-termination decision is an available remedy. At least that would have been straightforward.

Instead, as I explain below, the Court obliquely rewrites both the plaintiffs' complaint and the APA. First, it forces the plaintiffs to allege that the agency has unlawfully breached a grant contract when their actual claim is the unlawful decisionmaking cause of action that the APA plainly authorizes. Then, the Court adopts a bifurcated, ultimately ineffectual approach to seeking complete relief for the disfigured claim it has created. Today's order thus effectively extinguishes district courts' power to "set aside" arbitrary grant terminations, as that remedial power necessarily involves the concomitant restoration of the unlawfully terminated grant funding.

Part II, below, explains why the Court's order is wrong with respect to both the merits of the underlying jurisdictional question and the claim-splitting procedure it adopts. Part III demonstrates that the remaining, nonmerits factors weigh heavily against the stay, which means today's error will have grave real-world consequences. Either way, the Government's emergency application should have been denied in full.

Page Proof Pending Publication

II

A

A majority of the Court rightly rejects the Government's front-line merits position: that this whole case belonged in the Court of Federal Claims. Had it prevailed, that view would have flatly contravened seven decades of administrative law and practice. See, *e. g.*, *Sharp* v. *Weinberger*, 798 F. 2d 1521, 1523 (CADC 1986) (Scalia, J.). It would have also carried astonishing implications—including, by the Government's own admission, that no court would have the power to vacate or enjoin a blatantly discriminatory grant-related policy, such as a blanket ban on federal grants to Black or Catholic researchers. See Reply 7–8.

Five Members of the Court reject that radical view today. So, district courts may still exercise jurisdiction over—and vacate—grant-related policies that contravene federal law, including the one here, which this District Court considered "breathtakingly arbitrary and capricious" and therefore set aside under the APA. 791 F. Supp. 3d, at 179.

From there, this case should have been easy. The sole legal conclusion the District Court reached concerned the arbitrary and capricious (*i. e.*, unlawful) nature of the challenged directives. And those directives were the undisputed basis for the plaintiffs' grant terminations. Thus, in the District Court's view, as in mine, the remedy for the unlawful grant-termination directives is obvious: invalidation of the policy and reinstatement of the plaintiffs' grants. Accord, *ante*, at 1002 (Roberts, C. J., concurring in part and dissenting in part). It is, after all, an "uncontroversial" feature of APA review "that, when a court with jurisdiction finds that the plaintiffs before it were harmed by an agency decision issued under an illegal rule, the court should vacate that wrongful decision as a remedy." *D. A. M.* v. *Barr*, 486 F. Supp. 3d 404, 416 (DC 2020).

The Court's order deviates dramatically from this ordinary, commonsense approach to APA review. Its chosen approach—splitting the directives from the grants—implies one of two things. Either the Court doubts that the grant terminations at issue here in fact resulted from the unlawful directives; or it doubts that plaintiffs who prevail in APA cases should see any benefit from their victory.

The Court's order does not own either implication—and for good reason. The District Court carefully reinstated (or, more precisely, declared unlawful the termination of) only those grants whose termination "result[ed]" from the directives. App. 148a–152a. The causal chain from policy to termination is a factual question, and we are given no basis upon which to second-guess the District Court's view. Cf. *Trump* v. *American Federation of Government Employees*, 606 U. S. 960, 967–970 (2025) (Jackson, J., dissenting from grant of application for stay). Indeed, not even the Government contests—instead, it emphasizes—the fit between directive and implementation. See, *e. g.*, Application 25–26; Reply 4–5 ("the guidance led to the termination of [the plaintiffs'] grants"); see also *ante*, at 1002 (opinion of Roberts, C. J.). I also do not take the Court to be revisiting, much less unsettling, the (recently reaffirmed) basic principle that a prevailing plaintiff should generally get to benefit from its victory. See, *e. g.*, *Franklin* v. *Gwinnett County Public Schools*, 503 U. S. 60, 76 (1992) (rejecting interpretation of a statute that would "leave petitioner remediless"); cf. *Trump* v. *CASA, Inc.*, 606 U. S. 831, 852 (2025) (courts should generally grant "complete relief to the plaintiffs before the court" (emphasis deleted)).

Page Proof Pending Publication

B

So there must be something different about *this* context—some reason that, normal remedial principles notwithstanding, a district court cannot order the restoration of a plaintiff's federal grants after it finds that those grants were terminated pursuant to an unlawful policy. For this, the Court turns to the Tucker Act. But the Tucker Act likely has nothing to say about this case. It certainly neither constructs the jurisdictional maze today's order sketches nor requires the result today's order presumes (*i. e.,* no relief for unlawfully short-changed grantee-plaintiffs).

The Government's jurisdictional argument lies, ironically, at the intersection of two sovereign-immunity waivers. The APA waives the Government's sovereign immunity from claims complaining of unlawful agency action and "seeking relief other than money damages." 5 U. S. C. § 702. The Tucker Act waives the Government's sovereign immunity from (as relevant here) money-damages claims "founded . . . upon any express or implied contract with the United States," and it sends such claims (again, as relevant here) to the Court of Federal Claims. 28 U. S. C. § 1491(a)(1); see *United States* v. *Mitchell*, 463 U. S. 206, 212 (1983). The Government does not dispute that the APA's waiver, by its terms, applies to the claims brought in this lawsuit—it does not, for instance, argue that these plaintiffs seek "money damages." See Application 21–22. So the question is not *whether* sovereign immunity has been waived but *which* waiver applies: the APA's or the Tucker Act's.

Page Proof Pending Publication

On this point, the APA itself offers guidance by means of two intersection-navigating provisions. First and foremost, the APA makes its cause of action available only if there is "no other adequate remedy in a court." 5 U. S. C. § 704. And, notably, the Government does not argue that district court review is unavailable for failure to meet this requirement. Nor could it reasonably do so, because the Court of Federal Claims is authorized to award only money damages for contract breaches, not reinstatement of grant funding improperly terminated in violation of federal law. By its plain terms, then, § 704 permits an APA lawsuit in district court seeking the otherwise unavailable remedy of grant reinstatement. See *Bowen*, 487 U. S., at 904–905.

Recognizing that *Bowen* forecloses a § 704-based argument, the Government points instead to § 702. This provision anticipates potential waiver overlap and withdraws the APA's immunity waiver when plaintiffs attempt to use the APA to obtain relief that "any other statute that grants consent to suit expressly or impliedly forbids." Section 702 thus "prevents plaintiffs from exploiting the APA's waiver to evade limitations on suit contained in other statutes." *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians* v. *Patchak*, 567 U. S. 209, 215 (2012).

But, of course, any statute that might preclude APA relief via § 704 (by providing an adequate alternative remedy) or § 702 (by forbidding the remedy sought) must be "addressed to the type of grievance" the APA claim asserts. See *id.*, at 220–221 (quoting H. R. Rep. No. 94–1656, p. 28 (1976)); *Maryland Dept. of Human Resources* v. *Department of Health and Human Servs.*, 763 F. 2d 1441, 1449 (CADC 1985). The relevant part of the Tucker Act is "addressed to" contract claims, which these are not.

These plaintiffs' legal claims have nothing at all to do with individual grant contracts, nor do the plaintiffs seek "past due sums" as relief. See *Maine Community Health Options* v. *United States*, 590 U. S. 296, 326–327 (2020). The plaintiffs do not argue that the Government shorted any of its contractual
Page Proof Pending Publication
obligations. Rather, they claim the Government flubbed its most basic statutory one: to engage in reasoned decisionmaking.[2] And they seek not damages for the Government's contract breach but a mandate that it comply with federal law over the course of the parties' "ongoing relationship." *Bowen*, 487 U. S., at 905.[3] The

[2] Thus, it mischaracterizes the plaintiffs' claims to construe them as being based on a contract breach. It is simply not true that the plaintiffs' "injury and alleged right to payment stem from the government's refusal to pay promised grants according to the terms and conditions that accompany them." *Ante*, at 1004 (GORSUCH, J., concurring in part and dissenting in part). Indeed, from these plaintiffs' perspective, the terms and conditions of the promised grants, and whether or not the Government complied with them, are entirely beside the point—regardless, the Government must act (make decisions, including the decision to cancel grants) in accordance with federal law. So, as the plaintiffs' complaints and arguments consistently maintain, their injury and right to payment *actually* stem from the Government's allegedly arbitrary and capricious termination of their grant funding in violation of the APA.

[3] See also, *e. g.*, *Transohio Sav. Bank* v. *Director, Office of Thrift Supervision*, 967 F. 2d 598, 610 (CADC 1992), abrogated on other grounds as recognized in *Perry Capital LLC* v. *Mnuchin*, 864 F. 3d 591, 620 (CADC 2017) ("The lesson . . . is straightforward: under § 702 and the Tucker Act, litigants

plaintiffs, in other words, "asser[t] a grievance altogether different from the kind the [Tucker Act] concerns." *Match-E-Be-Nash-She-Wish Band*, 567 U. S., at 216. And the grievance they assert is "a garden-variety APA claim," *id.*, at 220—which means it likely belongs in federal district court.

The analysis should end there. The Government's sole retort is that, in this context, a winning APA claim—setting aside the guidance and, consequently, vacating the resulting grant terminations—would obligate it to pay money to the plaintiffs. (This central tenet of the Government's argument, by the way, is apparently not shared by JUSTICE BARRETT, whose deciding vote causes a winning APA claim somehow to confer no financial benefit to the injured plaintiffs.) But we have long recognized that such a mere "by-product" of APA review does not send a case to the Court of Federal Claims. See *Bowen*, 487 U. S., at 910; accord, *California*, 604 U. S., at 651 ("[A] district court's jurisdiction 'is not barred by the possibility' that an order setting aside an agency's action may result in the disbursement of funds" (quoting *Bowen*, 487 U. S., at 910)); *Department of State* v. *AIDS Vaccine Advocacy Coalition*, 604 U. S. 1183, 1187 (2025) (ALITO, J., dissenting from denial of application to vacate order) ("*Bowen* simply recognized a basic reality of APA review: after a court sets aside an agency action, a natural consequence may be the release of funds to the plaintiff down the road").

Page Proof Pending Publication

Given all this, I would have concluded, at least in this preliminary posture, that the Tucker Act bears not at all on this case.

C

But whatever the Tucker Act might have to say about APA claims brought in cases like this one, it surely does not compel the bizarre claim-splitting regime the Court imposes today. After today's order, how are plaintiffs like these—federal grantees who believe their grants were terminated pursuant to an unlawful policy—to get complete relief? The Court does not say. The answer, it seems, is they cannot.

Such a grantee can operate like the plaintiffs here did, by filing an APA claim in district court challenging the policy under which

may bring common-law contract claims only as actions for money damages in the Claims Court, but they may bring statutory and constitutional claims for specific relief in the federal district court").

they lost their grants. Such a grantee can, like the plaintiffs here, win that claim and have the policy set aside as unlawful. And then—what? The district court that just set aside the unlawful policy apparently cannot "adjudicate claims 'based on' " the grant terminations that resulted from the policy (whatever that means after today) or "order relief designed to enforce any ' "obligation to pay money" ' pursuant to those grants." *Ante*, at 998 (order) (quoting *California*, 604 U. S., at 651). But, of course, it is the prospect of getting its wrongfully terminated grant money that brings the grantee to court in the first place. That prospect is also, one presumes, the only (or at least the primary) reason the grantee has Article III standing to sue at all.

Because past courts recognized the absurdity of such a result, we have already rejected the argument that the Tucker Act requires the District Court "to split" cases like this "into two parts." *Bowen*, 487 U. S., at 911. Rather, having struck down unlawful agency action, the District Court "also had the authority to grant the complete relief" that followed. *Ibid.*[4] Under the rule the Court announces today, however, *no* court can reinstate the plaintiffs' grants—apparently, the Tucker Act "impliedly forbids" it. 5 U. S. C. § 702. This novel reading of the Tucker Act undermines not only *Bowen*'s holding but also the basic remedial principles underlying it. Forget *complete* relief—the reasoning

Page Proof Pending Publication

[4] Not only does the Tucker Act not *require* splitting the case into two; 28 U. S. C. § 1500 likely *forbids* it. That provision precludes Claims Court jurisdiction over any claim that shares "substantially the same operative facts" with a claim pending in another court, even if the claims seek different relief. *United States* v. *Tohono O'odham Nation*, 563 U. S. 307, 317 (2011). So, besides the obvious inefficiency of recruiting two courts to do what one could, § 1500 likely precludes the sort of parallel-track litigation the Court seems to envision. See *ante*, at 1006–1007 (KAVANAUGH, J., concurring in part and dissenting in part) (explaining that today's order "means that the challenge to the grant terminations belongs for now in the Court of Federal Claims and the arbitrary and capricious claim belongs for now in the Federal District Court or the First Circuit"); see, *e. g.*, *Solenex, LLC* v. *United States*, 163 Fed. Cl. 128, 132–133 (2022). Perhaps the district court and Claims Court actions can proceed *seriatim* rather than simultaneously, assuming the statute of limitations does not run in the meantime. But *seriatim* actions would raise tricky questions of issue and claim preclusion. Cf. *Petro-Hunt, LLC* v. *United States*, 862 F. 3d 1370, 1385–1386 (CA Fed. 2017). The Court grapples with none of these complexities before sending plaintiffs through the labyrinth it has created.

of today's order might leave plaintiffs unable to obtain *any* effective relief at all.

To be specific: "Unlike the district courts, . . . the [Claims Court] has no general power to provide equitable relief against the Government or its officers." *United States* v. *Tohono O'odham Nation*, 563 U. S. 307, 313 (2011); see also *United States* v. *King*, 395 U. S. 1, 3 (1969) (Claims Court lacked jurisdiction over claim that was "not limited to actual, presently due money damages" but rather sought a declaratory judgment that governmental action "was legally wrong"). This means, it seems, that the Claims Court cannot reinstate unlawfully terminated grant funding—a distinct remedy from the money damages that JUSTICE BARRETT suggests are still available in the Claims Court. See *ante*, at 1000, n. 1. And while the Claims Court does have authority to award money damages for a breach of contract, it is not clear that it could do so here, where the right the plaintiffs seek to vindicate "is not a contract right" but a statutory one. See *Crowley Govt. Servs., Inc.* v. *General Servs. Admin.*, 38 F. 4th 1099, 1110 (CADC 2022).[5]

Page Proof Pending Publication

This result, it should be evident, is also impossible to reconcile with the Court's recent pronouncements. Not so long ago, the Court insisted that "the party-specific principles that permeate our understanding of equity" instruct courts to award "complete relief" to plaintiffs and no relief to nonplaintiffs. *CASA, Inc.*, 606 U. S., at 844, 851. Today's exercise of equity flips that proposition on its head. *Non*-plaintiffs might see some benefit from district courts' vacatur of unlawful directives because agencies will not be able to rely on them to cancel grants going forward. But the plaintiffs who filed the lawsuit will see none.

In a broader sense, however, today's ruling is of a piece with this Court's recent tendencies. "[R]ight when the Judiciary should be hunkering down to do all it can to preserve the law's constraints," the Court opts instead to make vindicating the rule of law and preventing manifestly injurious Government action as difficult as possible. *Id.*, at 941 (JACKSON, J., dissenting). This is Calvinball jurisprudence with a twist. Calvinball has only one

[5] The Claims Court can adjudicate statutory claims but only those derived from "money-mandating provisions." *Maine Community Health Options* v. *United States*, 590 U. S. 296, 324 (2020); *United States* v. *Navajo Nation*, 556 U. S. 287, 290 (2009). No one contends that the APA is such a provision.

rule: There are no fixed rules.[6] We seem to have two: that one, and this Administration always wins.[7]

III

This Court has an obligation to balance the equities before issuing the "extraordinary" relief of a stay pending appeal, *Graves* v. *Barnes*, 405 U. S. 1201, 1203 (1972) (Powell, J., in chambers), by " 'explor[ing] the relative harms to applicant and respondent, as well as the interests of the public at large,' " *Barnes* v. *E-Systems, Inc. Group Hospital Medical & Surgical Ins. Plan*, 501 U. S. 1301, 1305 (1991) (Scalia, J., in chambers) (quoting *Rostker* v. *Goldberg*, 448 U. S. 1306, 1308 (1980) (Brennan, J., in chambers)); see also *Nken*, 556 U. S., at 435. If the Court had bothered to do so here, the result would be plain.

At the threshold, before this Court even entertains the factors required for granting a stay application, it ought to ensure that the applicant faces the sort of true emergency that warrants our consideration of its request and the attendant interference with the standard review processes pending in the lower courts—what I have elsewhere called a "line-jumping justification." *Labrador* v. *Poe*, 601 U. S. 1110, 1130 (2024) (JACKSON, J., dissenting from grant of stay).[8] Here, the Government does not come close to offering

Page Proof Pending Publication

[6] See Oxford English Dictionary (2025), https://www.oed.com/dictionary/calvinball_n.

[7] JUSTICE BARRETT's separate opinion proves the point. It injects final agency action into the case as an additional potential barrier to relief, suggesting that the only challenge the order leaves open—the one to agency guidance—is in fact foreclosed by a doctrine the Government does not press. See *ante*, at 1001; see also *ante*, at 1005, n. 2 (opinion of GORSUCH, J.) (indicating that plaintiffs lack standing to pursue vacatur of the internal agency guidance).

[8] We do not *have* to decide this case—not in this posture, or, really, ever. But see *ante*, at 1006–1007 (opinion of KAVANAUGH, J.). We exercise an enormous amount of discretion even in the ordinary course. See Supreme Court Rule 10 ("Review on a writ of certiorari is not a matter of right, but of judicial discretion"). That discretion only expands when we are presented with a request for extraordinary relief: Intervention in this posture "is not a matter of right, but of discretion sparingly exercised." Supreme Court Rule 20. Thus, JUSTICE KAVANAUGH's suggestion that the Court has no choice but to decide the parties' relative interim status when an emergency application asks us to do so, see *ante*, at 1006–1007, comes from nowhere; no rule of Supreme Court procedure supports it. What is more, casting our role as compulsory when it comes to applications of this sort contradicts decades of prac-

any reason for us to intervene. Its asserted harm—its *only* asserted harm—is that it might have to keep paying out grants it has already committed to paying for the few months it will take to appeal the District Court's decision. Those payments are incremental, and the Government does not so much as represent their cadence; it gives zero information that would enable us to ascertain how much money is on the line in the coming months.

The Government fares no better under the traditional stay factors, even if this Court's attention were warranted. As it did in *California*, the Court concludes that the Government faces irreparable harm simply because the plaintiffs do not pinky-promise to reimburse the Government if the Government ultimately prevails. Whether or not that correctly states the law of irreparable harm, but see *Nken*, 556 U. S., at 433–434 (stay applicant bears burden), the gauge by which the Court is measuring harm seems significantly off.[9] The harm that the plaintiffs and the public will suffer from a stay plainly dwarfs the purportedly irreparable injury to the Government if a stay is denied. For the Government, the incremental expenditure of money is at stake. For the plaintiffs and the public, scientific progress itself hangs in the balance—along with the lives that progress saves.

Page Proof Pending Publication

Make no mistake: Per the evidence in front of the District Court, the forward march of scientific discovery will not only be halted—it will be reversed. Because "studies and researchers cannot be held in stasis," "there is no way to recover the lost time, research continuity, or training value once disrupted." 145

tice. "The opinions are legion in which individual Justices, reviewing such requests in chambers, declined to intervene—reiterating that 'such power should be used sparingly and only in the most critical and exigent circumstances.'" *Libby* v. *Fecteau*, 605 U. S. 919, 921 (2025) (JACKSON, J., dissenting from grant of application for injunction) (quoting *Williams* v. *Rhodes*, 89 S. Ct. 1, 2, 21 L. Ed. 2d 69 (1968) (Stewart, J., in chambers)).

[9] The Government promised grant money to the plaintiffs, and now it has changed its mind. These things happen. Whether the law permits the Government to terminate these grants in this manner is the nub of the instant dispute. Even if the Government is ultimately deemed entitled to do what it has done, why is it *harmed* (in any meaningful sense) if it cannot recover the previously promised grant payments that happen to issue while a court is deciding the lawfulness of its change of heart? Far from being injurious, one might think that those interim payments are a fair price to pay for the disruption the Government's choice to abruptly renege on its promises has caused.

F. 4th, at 55 (internal quotation marks omitted; emphasis deleted). Thus, yearslong studies will lose validity. Animal subjects will be euthanized. Life-saving medication trials will be abandoned. Countless researchers will lose their jobs. And community health clinics (providing, *inter alia*, preventative treatment for infectious diseases) will close. *Ibid.*

These harms extend well beyond the plaintiffs in this case. *Amici* collectively representing the vast majority of NIH grantees detail the devastating and irrevocable damage to the "symbiotic relationship" between the Government and the Nation's research community that an abrupt cessation of funding would cause, not to mention the harm to the global primacy of American science. Brief for AAMC et al. as *Amici Curiae* 3, 16–24. And, as Congress recognized when it made the NIH the world's largest public scientific funder, scientific advancement lifts all boats. The harm is not just to researchers who will lose their livelihoods; vulnerable members of our society will also lose the benefits of their research.

Notably, too, these considerations represent just the consequences of a stay *in this case.* But the Court evidently wishes to impose its cumbersome, multistep judicial-review process on any grantee that attempts to preserve its research advancements by filing a lawsuit (if indeed the Court envisions any path to full recovery for such grantees at all). So, take the aforementioned practical harms to the researchers, subjects, and institutions that have filed the instant lawsuits and multiply them—and again, and again, and again.

Page Proof Pending Publication

A stay seems like a modest step. But it is an equitable one, and equity ultimately aims to ensure fairness by reducing harm. With this deployment of our equitable powers, the Court permits precisely the sort of harm equitable discretion exists to prevent.

* * *

At a time when the Executive Branch is racing to terminate federal grants on a mass scale—and, according to too many courts to count, often unlawfully—this Court has now constructed a deeply inefficient and likely impotent scheme of judicial review for grant-related APA claims (at least until plenary review forces reconsideration). It has done so without bothering to assess whether Congress intended such a scheme, and in a manner that requires second-guessing the District Court's unchallenged factual findings, muddying basic legal principles, and unraveling valuable scientific research.

The approach the Court adopts today (which, again, no party advocated for) neither coheres legally nor operates practically. So, unfortunately, this newest entry in the Court's quest to make way for the Executive Branch has real consequences, for the law and for the public. Fortunately, at least for the law, this order is not the last word, as it is not "conclusive as to the merits." *Boyle*, 606 U. S., at 989. For the public's sake, one can only hope that affected grant recipients can find a way to maintain their research studies—and their legal claims—long enough to give the Court the chance to change its mind.

August 27, 2025

Certiorari Denied

No. 25–5440 (25A216). Windom *v.* Florida et al. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

Page Proof Pending Publication

August 28, 2025

Dismissal Under Rule 46

No. 24–7410. Woozencroft *v.* United States. C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46.

September 5, 2025

Miscellaneous Orders

No. 24A1166. Diaz Santiago *v.* Carrion Morales et al. C. A. 1st Cir. Application for stay, addressed to Justice Alito and referred to the Court, denied.

No. 25A26. Akerman *v.* Merit Systems Protection Board. C. A. Fed. Cir. Application for stay, addressed to Justice Kagan and referred to the Court, denied.

No. 25A111. Brannberg *v.* Jefferson County Public Schools et al. Sup. Ct. Colo. Application for stay, addressed to Justice Thomas and referred to the Court, denied.

No. D–3151. In re Discipline of Pisner. Gary Pisner, of Fairfax, Va., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3152. In re Discipline of Mangan. Patrick Francis Mangan, of Columbus, 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–3153. In re Discipline of Johnson. Bruce Allen Johnson, Jr., of Alexandria, Va., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3154. In re Discipline of Moody. James A. Moody, of Washington, D. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

Page Proof Pending Publication

No. D–3155. In re Discipline of Silverberg. Richard Joseph Silverberg, of Philadelphia, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 24–440. Berk *v.* Choy et al. C. A. 3d Cir. [Certiorari granted, 604 U. S. 1193.] Motion of respondents for divided argument denied.

No. 24–539. Chiles *v.* Salazar, Executive Director of the Colorado Department of Regulatory Agencies, et al. C. A. 10th Cir. [Certiorari granted, 604 U. S. 1193.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 24–557. Villarreal *v.* Texas. Ct. Crim. App. Tex. [Certiorari granted, 604 U. S. 1241.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 24–568. Bost et al. *v.* Illinois State Board of Elections et al. C. A. 7th Cir. [Certiorari granted, 605 U. S. 968.]

Motion of petitioners to dispense with printing joint appendix granted.

No. 24–924. Hencely *v.* Fluor Corp. et al. C. A. 4th Cir. [Certiorari granted, 605 U. S. 968.] Motion of petitioner to dispense with printing joint appendix granted.

No. 24–5438. Bowe *v.* United States. C. A. 11th Cir. [Certiorari granted, 604 U. S. 1096.] Motion of Stephanie N. O'Banion for leave to file brief as *amicus curiae* out of time denied.

No. 24–5774. Barrett *v.* United States. C. A. 2d Cir. Motion of the Solicitor General for divided argument granted.

Rehearing Denied

No. 24–913. Mohammed *v.* Universal Protection Service, LLC, dba Allied Universal Security Services, 604 U. S. 1272;

No. 24–1019. Kanam *v.* Burgum, Secretary of the Interior, et al., 605 U. S. 933;

No. 24–5835. Godbolt *v.* California, 604 U. S. 1085;

No. 24–6232. Burke *v.* Masters et al., 604 U. S. 1176;

Page Proof Pending Publication

No. 24–6394. In re Moslem et al., 605 U. S. 903;

No. 24–6724. Maltese *v.* Heastie, Speaker of the New York State Assembly, et al., 605 U. S. 913;

No. 24–6787. Reed *v.* Delaware, 605 U. S. 915;

No. 24–6890. Emanuel *v.* Dixon, Secretary, Florida Department of Corrections, 605 U. S. 916;

No. 24–6912. Talley et al. *v.* Horn et al. (two judgments), 605 U. S. 971;

No. 24–6926. Bankston, aka Lee *v.* Florida, 605 U. S. 906;

No. 24–6985. R. V. *v.* S. V., 605 U. S. 1011;

No. 24–6988. Lanier *v.* Burns et al., 605 U. S. 1011;

No. 24–7017. Antonio Cortez *v.* Texas, 606 U. S. 919;

No. 24–7063. Duck *v.* Payne, Director, Arkansas Division of Correction, 605 U. S. 1003;

No. 24–7086. Brown *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 606 U. S. 935;

No. 24–7164. Brown *v.* District Attorney of Philadelphia, Pennsylvania, et al., 605 U. S. 1012; and

No. 24–7383. In re Blake, 606 U. S. 930. Petitions for rehearing denied.

No. 24–1200. Kaetz *v.* United States, 606 U. S. 945. Petition for rehearing denied. Justice Thomas took no part in the consideration or decision of this petition.

September 8, 2025

Dismissal Under Rule 46

No. 25–5184. Caylor *v.* Florida. Sup. Ct. Fla. Certiorari dismissed under this Court's Rule 46.

Miscellaneous Order

No. 25A169. Noem, Secretary, Department of Homeland Security, et al. *v.* Vasquez Perdomo et al. C. A. 9th Cir. Application for stay, presented to Justice Kagan, and by her referred to the Court, granted. The July 11, 2025, order entered by the United States District Court for the Central District of California, case No. 2:25–cv–5605, is stayed pending 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 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.

Page Proof Pending Publication

Justice Kavanaugh, concurring.

I vote to grant the Government's application for an interim stay pending appeal of the District Court's injunction.

The Immigration and Nationality Act authorizes immigration officers to "interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States." 66 Stat. 233, 8 U. S. C. § 1357(a)(1). Immigration officers "may briefly detain" an individual "for questioning" if they have "a reasonable suspicion, based on specific articulable facts, that the person being questioned . . . is an alien illegally in the United States." 8 CFR § 287.8(b)(2) (2025); see *United States* v. *Brignoni-Ponce*, 422 U. S. 873, 884 (1975); *United States* v. *Arvizu*, 534 U. S. 266, 273 (2002). The reasonable suspicion inquiry turns on the "totality of the particular circumstances." *Brignoni-Ponce*, 422 U. S., at 885, n. 10; *Arvizu*, 534 U. S., at 273.

The Government estimates that at least 15 million people are in the United States illegally. Many millions illegally entered (or illegally overstayed) just in the last few years.

Illegal immigration is especially pronounced in the Los Angeles area, among other locales in the United States. About 10 percent of the people in the Los Angeles region are illegally in the United States—meaning about 2 million illegal immigrants out of a total population of 20 million.

Not surprisingly given those extraordinary numbers, U. S. immigration officers have prioritized immigration enforcement in the Los Angeles area. The Government sometimes makes brief investigative stops to check the immigration status of those who gather in locations where people are hired for day jobs; who work or appear to work in jobs such as construction, landscaping, agriculture, or car washes that often do not require paperwork and are therefore attractive to illegal immigrants; and who do not speak much if any English. If the officers learn that the individual they stopped is a U. S. citizen or otherwise lawfully in the United States, they promptly let the individual go. If the individual is illegally in the United States, the officers may arrest the individual and initiate the process for removal.

Immigration stops based on reasonable suspicion of illegal presence have been an important component of U. S. immigration enforcement for decades, across several presidential administrations. In this case, however, the District Court enjoined U. S. immigration officers from making investigative stops in the Los Angeles area when the stops are based on the following factors or combination of factors: (i) presence at particular locations such as bus stops, car washes, day laborer pickup sites, agricultural sites, and the like; (ii) the type of work one does; (iii) speaking Spanish or speaking English with an accent; and (iv) apparent race or ethnicity.[1]

Page Proof Pending Publication

The Government contends that the injunction will substantially hamper its efforts to enforce the immigration laws in the Los Angeles area. The Government has therefore asked this Court to stay the District Court's injunction.

To obtain a stay from this Court, the moving party must demonstrate a fair prospect that, if the District Court's decision were affirmed on appeal, this Court would grant certiorari and reverse. The moving party also must show a likelihood that it would suffer

[1] The Los Angeles area at issue here is the Central District of California, which includes the counties of Los Angeles, Ventura, Santa Barbara, San Luis Obispo, Orange, Riverside, and San Bernardino.

irreparable harm if a stay were not granted. Those two factors are the "most critical." *Nken* v. *Holder*, 556 U. S. 418, 434 (2009). Particularly in "close cases," the Court also considers the balance of harms and equities to the parties, including the public interest. *Hollingsworth* v. *Perry*, 558 U. S. 183, 190 (2010) (*per curiam*); see *Nken*, 556 U. S., at 435.

In my view, the Government has made a sufficient showing to obtain a stay pending appeal.

To begin with, given the significance of the issue to the Government's immigration enforcement efforts, this Court would likely grant certiorari if the Court of Appeals affirmed the District Court's injunction. See, *e. g.*, *United States* v. *Texas*, 599 U. S. 670 (2023); *Biden* v. *Texas*, 597 U. S. 785 (2022).

In addition, on two alternative grounds, the Government has demonstrated a fair prospect of reversal of the District Court's injunction.

First, under this Court's decision in *Los Angeles* v. *Lyons*, 461 U. S. 95 (1983), plaintiffs likely lack Article III standing to seek a broad injunction restricting immigration officers from making these investigative stops. In *Lyons*, the Court held that standing to obtain future injunctive relief does not exist merely because plaintiffs experienced past harm and fear its recurrence. What matters is the "*reality* of the threat of repeated injury," not "subjective apprehensions." *Id.*, at 107, n. 8. So too here.

Page Proof Pending Publication

Plaintiffs' standing theory largely tracks the theory rejected in *Lyons*. Like in *Lyons*, plaintiffs here allege that they were the subjects of unlawful law enforcement actions in the past—namely, being stopped for immigration questioning allegedly without reasonable suspicion of unlawful presence. And like in *Lyons*, plaintiffs seek a forward-looking injunction to enjoin law enforcement from stopping them without reasonable suspicion in the future. But like in *Lyons*, plaintiffs have no good basis to believe that law enforcement will unlawfully stop *them* in the future based on the prohibited factors—and certainly no good basis for believing that any stop of the plaintiffs is imminent. Therefore, they lack Article III standing: "Absent a sufficient likelihood" that the plaintiffs "will again be wronged in a similar way," they are "no more entitled to an injunction than any other citizen of Los Angeles; and a federal court may not entertain a claim by any or all citizens who no more than assert that certain practices of law enforcement officers are unconstitutional." *Id.*, at

111; see *Clapper* v. *Amnesty Int'l USA*, 568 U. S. 398 (2013); Application 16–22; Reply 4–9.[2]

Plaintiffs' standing theory is especially deficient in this case because immigration officers also use their experience to stop suspected illegal immigrants based on a variety of factors. So even if the Government had a policy of making stops based on the factors prohibited by the District Court, immigration officers might not rely *only* on those factors if and when they stop plaintiffs in the future.

Second, even if plaintiffs had standing, the Government has a fair prospect of succeeding on the Fourth Amendment issue. See *Brignoni-Ponce*, 422 U. S. 873; *Arvizu*, 534 U. S. 266; Application 22–30; Reply 9–14.

To stop an individual for brief questioning about immigration status, the Government must have reasonable suspicion that the individual is illegally present in the United States. See *Brignoni-Ponce*, 422 U. S., at 880–882; *Arvizu*, 534 U. S., at 273; *United States* v. *Sokolow*, 490 U. S. 1, 7 (1989). Reasonable suspicion is a lesser requirement than probable cause and "considerably short" of the preponderance of the evidence standard. *Arvizu*, 534 U. S., at 274. Whether an officer has reasonable suspicion depends on the totality of the circumstances. *Brignoni-Ponce*, 422 U. S., at 885, n. 10; *Arvizu*, 534 U. S., at 273. Here, those circumstances include: that there is an extremely high number and percentage of illegal immigrants in the Los Angeles area; that those individuals tend to gather in certain locations to seek daily work; that those individuals often work in certain kinds of jobs, such as day labor, landscaping, agriculture, and construction, that do not require paperwork and are therefore especially attractive to illegal immigrants; and that many of those illegally in the Los Angeles area come from Mexico or Central America and do not speak much English. Cf. *Brignoni-Ponce*, 422 U. S., at 884–885 (listing "[a]ny number of factors" that contribute to reasonable suspicion of illegal presence). To be clear, apparent ethnicity alone cannot furnish reasonable suspicion; under this Court's case law regard-

Page Proof Pending Publication

[2] To be clear, the plaintiffs have Article III standing to seek damages for any unlawful action taken against them. For standing purposes, *Lyons* distinguished between claims for damages and claims for broad forward-looking injunctive relief.

ing immigration stops, however, it can be a "relevant factor" when considered along with other salient factors. *Id.*, at 887.

Under this Court's precedents, not to mention common sense, those circumstances taken together can constitute at least reasonable suspicion of illegal presence in the United States. Importantly, reasonable suspicion means only that immigration officers may briefly stop the individual and inquire about immigration status. If the person is a U. S. citizen or otherwise lawfully in the United States, that individual will be free to go after the brief encounter. Only if the person is illegally in the United States may the stop lead to further immigration proceedings.

In short, given this Court's precedents, the Government has demonstrated a fair prospect of success both on standing and Fourth Amendment grounds. To conclude otherwise, this Court would likely have to overrule or significantly narrow two separate lines of precedents: the *Lyons* line of cases with respect to standing and the *Brignoni-Ponce* line of cases with respect to immigration stops based on reasonable suspicion. In this interim posture, plaintiffs have not made a persuasive argument for this Court to overrule or narrow either line of precedent, much less both of them.

Page Proof Pending Publication

The Government has also demonstrated that it would likely suffer irreparable harm if the District Court's injunction is not stayed. As the Court has indicated, "'"[a]ny time"'" that the Government is "'"enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury."'" *Trump* v. *CASA, Inc.*, 606 U. S. 831, 861 (2025) (quoting *Maryland* v. *King*, 567 U. S. 1301, 1303 (2012) (ROBERTS, C. J., in chambers)).

So it is in this case, particularly given the millions of individuals illegally in the United States, the myriad "significant economic and social problems" caused by illegal immigration, *Brignoni-Ponce*, 422 U. S., at 878, and the Government's efforts to prioritize stricter enforcement of the immigration laws enacted by Congress. Notably, moreover, the District Court's injunction threatens contempt sanctions against immigration officers who make brief investigative stops later found by the court to violate the injunction. The prospect of such after-the-fact judicial second-guessing and contempt proceedings will inevitably chill lawful immigration enforcement efforts.

On the two most critical factors, therefore, the Government has demonstrated that a stay is warranted.

Turning then to the balance of harms and equities: As with many other applications for interim relief to this Court, the harms and equities may appear weighty on both sides. In those circumstances, to borrow Justice Scalia's apt words from a different context, trying to determine whether one party's harms or equities outweigh another party's can be akin to "judging whether a particular line is longer than a particular rock is heavy." *Bendix Autolite Corp.* v. *Midwesco Enterprises, Inc.*, 486 U. S. 888, 897 (1988) (Scalia, J., concurring in judgment). Moreover, in a case like this involving government action, balancing the harms and equities can become especially difficult and policy-laden. That is because a court must balance the harms to the regulated and negatively affected parties not only against the harms to the Government as an institution, but also against the harms to the third parties who otherwise would *benefit* from the challenged government action. Cf. *Nken*, 556 U. S., at 436.[3]

Page Proof Pending Publication

In any event, the balance of harms and equities in this case tips in favor of the Government. The interests of individuals who are illegally in the country in avoiding being stopped by law

[3] There can be situations where, based on the record before this Court, it appears that a temporary injunction or stay would not impose much if any harm on the non-prevailing party in the interim period before a final judgment. See, *e. g., NetChoice, LLC* v. *Fitch*, 606 U. S. 994, 995 (2025) (KAVANAUGH, J., concurring in denial of application to vacate stay); Response in Opposition in *NetChoice, LLC* v. *Fitch*, No. 25A97, pp. 38–39. But especially in cases involving a significant new law or government action, the interim harms and equities are typically weighty on both sides. In those situations, as I have explained before, resolving the application therefore often will depend on this Court's assessment of likelihood of success on the merits. See *Labrador* v. *Poe*, 601 U. S. 1110, 1122 (2024) (KAVANAUGH, J., concurring in grant of stay) (when applicant has demonstrated irreparable harm and when the harms and equities are weighty on both sides, "this Court has little choice but to decide the emergency application by assessing likelihood of success on the merits"); *Trump* v. *CASA, Inc.*, 606 U. S. 831, 877 (2025) (KAVANAUGH, J., concurring) ("[I]n deciding applications for interim relief involving major new statutes or executive actions, we often have no choice but to make a preliminary assessment of likelihood of success on the merits; after all, in cases of that sort, the other relevant factors (irreparable harm and the equities) are often very weighty on both sides").

enforcement for questioning is ultimately an interest in evading the law. That is not an especially weighty legal interest.

To be sure, I recognize and fully appreciate that many (not all, but many) illegal immigrants come to the United States to escape poverty and the lack of freedom and opportunities in their home countries, and to make better lives for themselves and their families. And I understand that they may feel somewhat misled by the varying U. S. approaches to immigration enforcement over the last few decades. But the fact remains that, under the laws passed by Congress and the President, they are acting illegally by remaining in the United States—at least unless Congress and the President choose some other legislative approach to legalize some or all of those individuals now illegally present in the country. And by illegally immigrating into and remaining in the country, they are not only violating the immigration laws, but also jumping in front of those noncitizens who follow the rules and wait in line to immigrate into the United States through the legal immigration process. For those reasons, the interests of illegal immigrants in evading questioning (and thus evading detection of their illegal presence) are not particularly substantial as a legal matter.

Page Proof Pending Publication

Moreover, as for stops of those individuals who are legally in the country, the questioning in those circumstances is typically brief, and those individuals may promptly go free after making clear to the immigration officers that they are U. S. citizens or otherwise legally in the United States.

Finally, although the dissent emphasizes the force allegedly used by immigration officers, that is not the issue in this case. The District Court enjoined the Government from stopping individuals for questioning based on several enumerated factors. The injunction is silent as to the use of force. And it is not necessary for the injunction to address that use-of-force question because the Fourth Amendment's reasonableness standard continues to govern the officers' use of force and to prohibit excessive force.

To the extent that excessive force has been used, the Fourth Amendment prohibits such action, and remedies should be available in federal court. I agree with the dissent on that point. But to reiterate, this injunction against brief stops for questioning does not address the use-of-force issue.

In short, the balance of harms and equities favors the Government here.

Especially in an immigration case like this one, it is also important to stress the proper role of the Judiciary. The Judiciary does not set immigration policy or decide enforcement priorities. It should come as no surprise that some Administrations may be more laissez-faire in enforcing immigration law, and other Administrations more strict. Article III judges may have views on which policy approach is better or fairer. But judges are not appointed to make those policy calls. We merely ensure, in justiciable cases, that the Executive Branch acts within the confines of the Constitution and federal statutes. Just as this Court a few years ago declined to step outside our constitutionally assigned role to improperly *compel* greater Executive Branch enforcement of the immigration laws, see *United States* v. *Texas*, 599 U. S. 670; *Biden* v. *Texas*, 597 U. S. 785, we now likewise must decline to step outside our constitutionally assigned role to improperly *restrict* reasonable Executive Branch enforcement of the immigration laws. Consistency and neutrality are hallmarks of good judging, and in my view, we abide by those enduring judicial values in this case by granting the stay.

Page Proof Pending Publication

In sum, the Government has demonstrated a fair prospect of success on the merits and has met the other factors for an interim stay pending appeal of the District Court's injunction. I therefore vote to grant the Government's application.

JUSTICE SOTOMAYOR, with whom JUSTICE KAGAN and JUSTICE JACKSON join, dissenting.

In early June, the Government launched immigration enforcement raids across Los Angeles and its surrounding counties. During the raids, teams of armed and masked agents pulled up to car washes, tow yards, farms, and parks and began seizing individuals on sight, often before asking a single question.

A Federal District Court found that these raids were part of a pattern of conduct by the Government that likely violated the Fourth Amendment. Based on the evidence before it, the court held that the Government was stopping individuals based solely on four factors: (1) their apparent race or ethnicity; (2) whether they spoke Spanish or English with an accent; (3) the type of location at which they were found (such as a car wash or bus stop); and (4) the type of job they appeared to work. Concluding that stops based on these four factors alone, even when taken together, could not satisfy the Fourth Amendment's requirement of reasonable suspicion, the District Court temporarily enjoined the Government from continuing its pattern of unlawful mass arrests while it considered whether longer-term relief was appropriate.

Instead of allowing the District Court to consider these troubling allegations in the normal course, a majority of this Court decides to take the once-extraordinary step of staying the District Court's order. That decision is yet another grave misuse of our emergency docket. We should not have to live in a country where the Government can seize anyone who looks Latino, speaks Spanish, and appears to work a low wage job. Rather than stand idly by while our constitutional freedoms are lost, I dissent.

I

A

In early June, the Government launched "Operation At Large" in Los Angeles, deploying roving patrols of armed and masked immigration agents to local car washes, Home Depots, tow yards, bus stops, farms, recycling centers, churches, and parks. Over the course of the next month, the Government made nearly 2,800 immigration-related arrests and detained many more.

Page Proof Pending Publication

For instance, on June 9, immigration agents arrived at a tow yard in Montebello "carrying handguns" and "military-style rifle[s]." ECF Doc. 45–9, p. 6.[1] Jason Gavidia, a Latino U. S. citizen, was working on his car in the tow yard that day. A masked agent ordered Gavidia to " '[s]top right there' " and began asking him questions. *Ibid.* Agents then asked Gavidia whether he is "American at least three times"; three times, Gavidia affirmed that he is. *Ibid.* Unsatisfied, the agents asked Gavidia for the name of the hospital in which he was born, and when Gavidia could not immediately recall, the agents racked a rifle, took Gavidia's phone, "pushed [him] up against the metal gated fence, put [his] hands behind [his] back, and twisted [his] arm." *Id.*, at 6–7. Agents released Gavidia only after he offered up his REAL ID. That ID was never returned to him.

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[1] All ECF citations are to No. 25–cv–5605 (CD Cal., July 2, 3, 14, 17, 28, 2025, and Aug. 7, 2025) unless otherwise specified.

Less than 10 miles away in Whittier, immigration agents raided a car wash managed by U. S. citizen Jorge Viramontes. In the nine days between June 9 and 19, agents returned four times, each instance in the middle of the workday. On one occasion, an agent questioned Viramontes, asking if he is a citizen and requesting that he show his ID. Viramontes replied that he is a dual U. S. and Mexican citizen and supplied his California driver's license. The agent said the ID was insufficient, "grabbed [his] arm," escorted him to a vehicle, and drove him to a "warehouse area" for further questioning. ECF Doc. 45–4, p. 6. Agents detained Viramontes for 20 minutes while they made calls to verify his U. S. citizenship and examined his Mexican ID before eventually driving him back to work.

Other Operation At Large encounters have included even more force and even fewer questions. For example, agents pulled up in four unmarked cars to a bus stop in Pasadena; "the doors opened and men in masks with guns started running at" three Latino men who were having their morning coffee, waiting to be picked up for work. ECF Doc. 45–1, p. 5. In Glendale, nearly a dozen masked agents with guns "jumped out of . . . cars" at a Home Depot, and began "chasing" and "tackl[ing]" Latino day laborers without "identify[ing] themselves as ICE or police, ask[ing] questions, or say[ing] anything else." ECF Doc. 45–6, pp. 5–6. In downtown Los Angeles, agents "jumped out of a van, rushed up to [a tamale vendor], surrounded him, and handled him violently," all "[w]ithout asking . . . any questions." ECF Doc. 38–9, p. 7; see also, *e. g.*, ECF Doc. 45–14, p. 5 (masked agents with guns "ran out of the vehicles and rushed towards the workers" at a car wash); ECF Doc. 45–11, pp. 5–6 (three masked agents wearing bullet-proof vests got out of a car with "rifles" at a Home Depot and tear-gassed the crowd).

Page Proof Pending Publication

The operation has sparked "panic and fear" across Los Angeles and its surrounding areas. ECF Doc. 45–8, p. 10. Some have likened the detentions to "kidnapping[s]." ECF Doc. 45–2, p. 5; ECF Doc. 45–3, p. 5; ECF Doc. 45–7, p. 7. One Latino U. S. citizen "feel[s] like [he] need[s] to carry [his] passport for protection, in case federal agents stop [him] again." ECF Doc. 45–21, p. 5. Another Latino U. S. citizen similarly "worries that as a visibly Latino man, he could be detained" if he does not carry his passport, but "decided against [doing so] because he believes that as an American, he should not have to live like that in his own country." ECF Doc. 38–9, at 6. Many are "struggl[ing] to make ends meet" because they are "afraid to go to work." ECF Doc. 45–8, at 15; see ECF Doc. 45–13, p. 8. Others are "reluctant to attend school meetings" and "pick their children up from school" for fear of being detained. ECF Doc. 45–8, at 12.

B

1

Gavidia, Viramontes, three other individuals stopped during Operation At Large, and four associations filed this putative class action against Secretary of Homeland Security Kristi Noem and other senior federal immigration enforcement officials. As relevant, the plaintiffs allege that the Government has violated the Fourth Amendment by adopting a policy, pattern, or practice of stopping individuals without reasonable suspicion "based on nothing but broad profiles," including "apparent race and ethnicity." ECF Doc. 16, p. 13.[2] The plaintiffs then moved for a temporary restraining order (TRO) to prevent the Government from conducting further stops based solely on four factors: apparent race or ethnicity, speaking Spanish or speaking English with an accent, presence in a particular location (*e. g.*, bus stop, car wash, etc.), and the type of work one does. They argued that these four factors, even when taken together, cannot support reasonable suspicion of unlawful activity absent more specific information about the person being stopped or the location being searched.

Page Proof Pending Publication

The plaintiffs submitted 21 declarations describing dozens of seizures that occurred throughout the Central District in June and early July. The plaintiffs also submitted statements by federal officials regarding the Government's immigration enforcement efforts. For instance, in late May, White House Deputy Chief of Staff Stephen Miller reportedly told officers to "'just go out there and arrest illegal aliens,'" and directed them to target

[2] The five individual plaintiffs and three of the four associations (Los Angeles Worker Center Network, United Farm Workers of America, and the Coalition for Humane Immigrant Rights) brought the Fourth Amendment claim. The fourth organization, the Immigrant Defenders Law Center, brought claims concerning detainees' access to counsel and their conditions of confinement. Those claims are not before the Court.

"Home Depot" and "7-Eleven" stores.[3] Senior immigration officials also told agents to "'turn the creativity knob up to 11,'" to "'push the envelope,'" and that "'[i]f it involves handcuffs on wrists, it's probably worth pursuing.'"[4]

In opposition to the motion for a TRO, the Government submitted two declarations generally describing its operations. One stated that the Government's officers are "trained to consider the totality of the circumstances when determining whether reasonable suspicion exists" and that "[c]ertain types of businesses, including car washes, have been selected for encounters because past experiences have demonstrated that illegal aliens utilize and seek work at these locations." ECF Doc. 71–2, pp. 2–3.

2

The District Court granted the TRO on July 11. The court found that there was "ample evidence that seizures occurred based solely upon the four enumerated factors[,] either alone or in combination." App. to Application for Stay of TRO 100a (App.). Indeed, the Government submitted no evidence suggesting that its seizures to date were based on anything other than those four factors. The court further found that a "plethora of statements suggest[ed] approval or authorization" of the Government's pattern of relying solely on the four factors and that "there is a real and immediate threat that the conduct complained of will continue." *Id.*, at 96a. Thus, the court held that the plaintiffs had standing given the "high likelihood of recurrent injury." *Ibid.* The court then held that the seizures based solely on the four factors likely violated the Fourth Amendment because "'officer[s] cannot rely solely on generalizations that, if accepted, would cast suspicion on large segments of the law-abiding population.'" *Id.*, at 99a–100a (quoting *United States* v. *Manzo-Jurado*, 457 F. 3d 928, 935 (CA9 2006)). The court finally concluded that a district-wide injunction was necessary to provide the parties complete

Page Proof Pending Publication

[3] E. Findell, R. Simon, M. Hackman, & T. Parti, The White House Marching Orders That Sparked the L. A. Migrant Crackdown, The Wall Street Journal, June 9, 2025, https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877.

[4] J. Olivares, US Immigration Officers Ordered to Arrest More People Even Without Warrants, The Guardian, June 4, 2025, https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests.

relief because "given how th[e] enforcement actions appear to have been conducted, it would be a fantasy to expect that law enforcement could and would inquire whether a given individual was among the named . . . [p]laintiffs or the (putative) class before proceeding with a seizure." App. 97a.

Accordingly, the court entered a TRO providing in relevant part:

> "a. As required by the Fourth Amendment of the United States Constitution, Defendants shall be enjoined from conducting detentive stops in this District unless the agent or officer has reasonable suspicion that the person to be stopped is within the United States in violation of U. S. immigration law.
>
> "b. In connection with paragraph [a], Defendants may not rely solely on the factors below, alone or in combination, to form reasonable suspicion for a detentive stop, except as permitted by law: i. Apparent race or ethnicity; ii. Speaking Spanish or speaking English with an accent; iii. Presence at a particular location (e. g., bus stop, car wash, tow yard, day laborer pick up site, agricultural site, etc.); or iv. The type of work one does." *Id.*, at 111a (paragraph breaks omitted).

Page Proof Pending Publication

The Government appealed to the Ninth Circuit and moved for a stay pending appeal. In doing so, it submitted an additional declaration reiterating that officers are "trained that, under the Fourth Amendment . . . brief detention for questioning requires an immigration officer to have reasonable suspicion, based on specific, articulable facts, that the person being questioned is" undocumented. ECF Doc. 94–1, pp. 3–4. Nevertheless, the Ninth Circuit noted, the Government chose "not [to] dispute that these detentive stops have been based solely on the four enumerated factors" and "did not challenge the district court's findings that those stops are part of a pattern of conduct that has apparent official approval." App. 21a. Instead, the Government argued that the plaintiffs lacked Article III standing, that the TRO was inconsistent with the Fourth Amendment, and that the injunction exceeded what was necessary to provide the plaintiffs complete relief. The court rejected those arguments and, in large part, denied the Government's request to stay the District Court's TRO pending appeal.[5]

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[5] The Ninth Circuit granted a stay only as to the phrase, "except as permitted by law," which it found to be impermissibly vague. App. 37a–38a, 61a.

The parties then began briefing the appeal and the Government's opening brief was submitted on August 11. In the District Court, the plaintiffs filed motions for a preliminary injunction and class certification, which are set to be heard on September 24. In the meantime, the Government sought a stay in this Court pending further proceedings.

II

"A stay is an 'intrusion into the ordinary processes of administration and judicial review.'" *Nken* v. *Holder*, 556 U. S. 418, 427 (2009) (quoting *Virginia Petroleum Jobbers Assn.* v. *FPC*, 259 F. 2d 921, 925 (CADC 1958) (*per curiam*)). This Court will not grant one absent "extraordinary circumstances." *Ruckelshaus* v. *Monsanto Co.*, 463 U. S. 1315, 1316 (1983) (Blackmun, J., in chambers). The applicant bears "an especially heavy burden" where, as here, the matter remains pending before the Court of Appeals, and two lower courts have already denied such relief. *Packwood* v. *Senate Select Comm. on Ethics*, 510 U. S. 1319, 1320 (1994) (Rehnquist, C. J., in chambers). Ordinarily, the Court considers the applicant's likelihood of success on the merits, the likelihood of irreparable harm absent emergency intervention, and the balance of the equities. See *Nken*, 556 U. S., at 434; see also *Hollingsworth* v. *Perry*, 558 U. S. 183, 190 (2010) (*per curiam*).

Page Proof Pending Publication

A

The Government, and now the concurrence, has all but declared that all Latinos, U. S. citizens or not, who work low wage jobs are fair game to be seized at any time, taken away from work, and held until they provide proof of their legal status to the agents' satisfaction. As the District Court found, and the Government does not meaningfully contest, the present evidence reveals that the Operation At Large "seizures occurred based solely upon the four enumerated factors, either alone or in combination." App. 100a. The Government now asks this Court to bless that conduct, at least temporarily, by issuing a stay. The Government, however, has not demonstrated the necessary likelihood of success on the merits to warrant this Court's extraordinary intervention.

1

The Fourth Amendment "imposes limits on search-and-seizure powers in order to prevent arbitrary and oppressive interference by enforcement officials with the privacy and personal security of individuals." *United States* v. *Martinez-Fuerte*, 428 U. S. 543, 554 (1976). "[W]henever a police officer accosts an individual and restrains his freedom to walk away, he has seized that person, and the Fourth Amendment requires that seizure be reasonable." *United States* v. *Brignoni-Ponce*, 422 U. S. 873, 878 (1975) (internal quotation marks and citation omitted). As relevant here, officers may stop an individual "only if they are aware of specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion" that the individual "may be illegally in the country." *Id.*, at 884. This requires "more than an 'inchoate and unparticularized suspicion or "hunch"' of criminal activity." *Illinois* v. *Wardlow*, 528 U. S. 119, 123–124 (2000) (quoting *Terry* v. *Ohio*, 392 U. S. 1, 27 (1968)).

Critically, a set of facts cannot constitute reasonable suspicion if it "describe[s] a very large category of presumably innocent" people. *Reid* v. *Georgia*, 448 U. S. 438, 441 (1980) (*per curiam*). In *Brignoni-Ponce*, for example, the Court held that "Mexican ancestry" alone did not constitute reasonable suspicion to support stops by Border Patrol agents, even near the border, because "[l]arge numbers of native-born and naturalized citizens have the physical characteristics identified with Mexican ancestry." 422 U. S., at 886–887. So too in *Brown* v. *Texas*, 443 U. S. 47, 51–52 (1979), the Court held that standing in an alley in a "neighborhood frequented by drug users" did not rise to reasonable suspicion because that activity was "no different from the activity of other pedestrians in that neighborhood." See also *Kansas* v. *Glover*, 589 U. S. 376, 385, n. 1 (2020) (reiterating the need for "an individualized suspicion that a particular citizen was engaged in a particular crime" beyond just a "demographic profile" (internal quotation marks omitted)).

The Fourth Amendment thus prohibits exactly what the Government is attempting to do here: seize individuals based solely on a set of facts that "describe[s] a very large category of presumably innocent" people. *Reid*, 448 U. S., at 441. As the District Court correctly held, the four factors—apparent race or ethnicity, speaking Spanish or English with an accent, location, and type of work—are "no more indicative of illegal presence in the country than of legal presence." App. 105a. The factors also in no way reflect the kind of individualized inquiry the Fourth Amendment demands. See, *e. g.*, *Terry*, 392 U. S., at 21, n. 18 ("This demand

Page Proof Pending Publication

for specificity . . . is the central teaching of this Court's Fourth Amendment jurisprudence"); *United States* v. *Arvizu*, 534 U. S. 266, 277 (2002) (relying on particularized facts about the vehicle and its passengers to justify stop based on reasonable suspicion). Allowing the seizure of any Latino speaking Spanish at a car wash in Los Angeles tramples the constitutional requirement that officers "must have a particularized and objective basis for suspecting the particular person stopped of criminal activity." *United States* v. *Cortez*, 449 U. S. 411, 417–418 (1981).

The Government, joined by the concurrence, brushes aside this Court's precedent with an appeal to probability, arguing that the "high prevalence" of undocumented immigrants in the Central District "*should* enable agents to stop a relatively broad range of individuals." Application To Stay TRO 28. Without even a citation, the Government asserts that "10 percent of the population in the Central District" is unlawfully present, so it is "inevitable and unremarkable" that immigration officers would target any Latino person, or any person speaking accented English, or any person standing in a particular type of location, or any person working a low wage job in the greater Los Angeles area. *Ibid.* Never mind that nearly 47 percent of the Central District's population identifies as Hispanic or Latino. App. 45a; ECF Doc. 45–19, pp. 6–7. Never mind that over 37 percent of the population of Los Angeles County speaks Spanish at home, and over 55 percent speak a language other than English. App. 46a. "Of course, aggregate statistics . . . cannot substitute for the individualized suspicion that the Fourth Amendment requires." *Glover*, 589 U. S., at 390, n. (KAGAN, J., concurring).[6]

Page Proof Pending Publication

[6] The concurrence acknowledges that the Government cannot stop someone based solely on apparent ethnicity, but seems to suggest that combining an individual's ethnicity with any one of the other factors could add up to reasonable suspicion. See *ante*, at 1029–1030 (opinion of KAVANAUGH, J.). That ignores the obvious reality that ethnicity and language are often intertwined, so relying on only those two factors is no different than relying on ethnicity alone. (Even the Government does not go so far as to argue that relying solely on ethnicity and language would constitute reasonable suspicion.) From here, adding on the fact that someone appears to work a low paying job does little to move the needle either; the concurrence fails to explain how that fact helps an agent differentiate between someone who has legal status and someone who does not considering both kinds of individuals may work those jobs.

In fact, the Court rejected a similar argument levied by the Government in *Brignoni-Ponce*. There, the Government asserted that it could stop drivers of apparent Mexican ancestry in border areas because most undocumented immigrants in those areas are Mexican and most "leave the border area in private vehicles." 422 U. S., at 879. Unlike today, the Court there rightly rejected the Government's rationales because they would cover "a large volume of legitimate traffic as well." *Id.*, at 882. "[W]ithout any suspicion that a *particular* vehicle is carrying [undocumented] immigrants," the Government's broad, statistical approach to reasonable suspicion "would subject the residents of these and other areas to potentially unlimited interference with their use of the highways, solely at the discretion of Border Patrol officers." *Ibid.* (emphasis added). Rather, the Court found that reasonable suspicion required additional factors, particularly ones specific to a given vehicle or individual, such as "[t]he driver's behavior," whether the vehicle is "heavily loaded" or has "an extraordinary number of passengers," or whether the officer "observe[s] persons trying to hide." *Id.*, at 885. The holding and reasoning in *Brignoni-Ponce* clearly supports, rather than undermines, the District Court's injunction here. Contra, *ante*, at 1030 (KAVANAUGH, J., concurring in grant of application for stay).

Page Proof Pending Publication

Next, the Government moves beyond background demographics and argues that the four factors limited by the TRO could, in some hypothetical scenarios, give rise to reasonable suspicion. For example, the Government posits that if agents had intelligence that a workplace was "known to have hired 100" undocumented individuals "the prior week," immigration enforcement officials might well have reasonable suspicion to stop a person at that site. Application to Stay TRO 25. This argument fares no better than the first. As an initial matter, that proffered scenario falls outside the scope of the TRO. A seizure on those hypothetical facts would not rest solely on the four factors but would instead incorporate an additional probative fact: the intelligence about a particular employer's recent hiring decisions. App. 107a. Nothing in the TRO prevents the Government from conducting such a seizure.

In any event, Operation At Large bears little resemblance to the Government's hypothetical. The Government has provided no evidence showing that its seizures were based on credible intelligence about a *particular* employer at a *particular* location.

Indeed, the Government submitted no evidence about what facts its agents relied upon to conduct most of the seizures documented in the record. Rather, its declarations suggest that the Government generally targeted locations based on the "*types* of businesses" that, in the agents' generalized experiences, undocumented immigrants supposedly frequent. ECF Doc. 71–2, at 2 (emphasis added). That is plainly insufficient to give rise to a "particularized and objective basis for suspecting [a] particular person" under the Fourth Amendment. *Cortez*, 449 U. S., at 417–418.[7]

2

The Government and the concurrence also attack the named plaintiffs' standing to seek injunctive relief, relying heavily on the Court's decision in *Los Angeles* v. *Lyons*, 461 U. S. 95 (1983). *Lyons* does not bear the weight the Government and the concurrence place on it and provides no valid basis to justify the majority's intervention.

Our standing requirement ensures that each plaintiff has a " 'personal stake in the outcome.' " *Id.*, at 101 (quoting *Baker* v. *Carr*, 369 U. S. 186, 204 (1962)). In *Lyons*, the plaintiff had sought an injunction against the city of Los Angeles after a police officer applied a chokehold to him during a traffic stop, in violation of the department's policy and allegedly the Fourth Amendment. 461 U. S., at 97–98, 106, and n. 7, 110. The plaintiff lacked standing, the Court said, because he failed to establish a likelihood of recurrent injury. The Court cited a lack of evidence, for instance, that the "City ordered or authorized police officers to act in such [a] manner," *id.*, at 106, and emphasized that the District Court did not otherwise make a "finding that Lyons faced a real and

Page Proof Pending Publication

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[7] The concurrence gestures at the "proper role of the Judiciary" in immigration cases and cites the Immigration and Nationality Act and federal regulations which authorize immigration officers to question immigrants about their status. *Ante*, at 1033 (opinion of KAVANAUGH, J.). Neither that statute nor its implementing regulations authorize stops based solely on the four factors the Government relies upon. Of course, even if a theoretical statute did so, " 'no Act of Congress can authorize a violation of the Constitution' " and it remains the Judiciary's role to "decide whether the Fourth Amendment allows" the seizures at issue. *United States* v. *Brignoni-Ponce*, 422 U. S. 873, 877–878 (1975) (quoting *Almeida-Sanchez* v. *United States*, 413 U. S. 266, 272 (1973)).

imminent threat of again being illegally choked," *id.*, at 110; see also *id.*, at 106, n. 7.

The Government and the concurrence contend this is *Lyons* 2.0. In their view, the plaintiffs lack standing to seek prospective injunctive relief because they have similarly failed to establish a " 'real and immediate threat of repeated injury.' " 461 U. S., at 102 (quoting *O'Shea* v. *Littleton*, 414 U. S. 488, 496 (1974)). The Government and concurrence, however, ignore the record evidence and the District Court's factual findings that set this case far apart from *Lyons*.

To start, the record reflects the Government's systematic operation to target broad segments of the population based on race and ethnicity, language, location, and occupation. See App. 100a. Each individual plaintiff fits that profile and has already been seized based upon it. The plaintiffs are also almost certain to return to the location in which they were seized because they were seized while either at work or on their way to work. The record, including the Government's own declarations, further makes clear that a given location is likely to be targeted again and again. See ECF Doc. 45–5, p. 5 (one car wash visited four times in nine days); ECF Doc. 71–2, at 2; App. 96a, n. 26 (CBP Chief Patrol Agent Bovino stating his division " 'may well go back to MacArthur Park or other places in and around Los Angeles' "). In addition, the District Court found there to be a "plethora of statements suggesting approval or authorization" of those practices. *Id.*, at 96a. On this record, it is no surprise that the District Court made an "affirmativ[e] find[ing] that there is a real and immediate threat that the conduct complained of will continue." *Ibid.* The Government nowhere argues (and the concurrence does not even suggest) that any of the District Court's findings on this point are clearly erroneous.

Page Proof Pending Publication

These findings show that the plaintiffs, by doing nothing more than going to work every day, are likely to be seized by agents who are targeting their specific workplaces in accordance with the Government's practice. That reality stands in sharp contrast to the situation in *Lyons*, where the Court found it unlikely that Lyons would not only be pulled over by police again but that an officer would then violate department policy to apply a chokehold absent provocation. 461 U. S., at 105–108.

The concurrence instead contends that agents also "use their experience to stop suspected [undocumented] immigrants based on a variety of factors," so even if the plaintiffs were stopped again, it could be based on factors other than the four listed in the TRO. *Ante*, at 1029 (opinion of KAVANAUGH, J.). Hypothetically, they could. The evidence in this case, however, reveals that the Government is likely to continue relying solely on those four factors because that is what agents are currently authorized and instructed to do. See App. 100a–102a. At no point during this litigation has the Government suggested that it plans to change its operations. See *infra*, at 1047–1048 (describing the Government's intentions to continue its operations in light of the TRO). In fact, the Government filed this stay application so that it could continue relying solely on these four factors.

On this preliminary record, the individual plaintiffs have demonstrated that they face a "realisti[c] threa[t]" of being stopped again. *Lyons*, 461 U. S., at 106; see, *e. g.*, *303 Creative LLC* v. *Elenis*, 600 U. S. 570, 583 (2023) (plaintiff established a "credible threat" of future enforcement based on State's " 'history of past enforcement against nearly identical conduct' "); *Susan B. Anthony List* v. *Driehaus*, 573 U. S. 149, 164 (2014) ("[P]ast enforcement against the same conduct is good evidence that the threat of enforcement is not 'chimerical' " (quoting *Steffel* v. *Thompson*, 415 U. S. 452, 459 (1974))).

Page Proof Pending Publication

3

Finally, the Government challenges the scope of the ordered relief, arguing that the districtwide injunction violates this Court's recent holding in *Trump* v. *CASA, Inc.*, 606 U. S. 831, 837 (2025). But that is not a sufficient basis for the Court's intervention at this stage. The District Court found that a districtwide injunction was necessary to afford the named plaintiffs " 'complete relief,' " App. 97a, as *CASA* requires, 606 U. S., at 851. That relief was necessary, the District Court reasoned, because the very essence of the Government's pattern of conduct is to seize first and ask questions later. See, *e. g.*, ECF Doc. 45–6, at 5 (agents "jumped out of the cars" and "tackle[d]" people before asking questions); ECF Doc. 45–10, p. 5 (agents pulled up in a "fast and intimidating" way and masked agent "grabbed [a worker's] arm" before asking a question); ECF Doc. 45–14, at 5 (agents with guns "ran out of the vehicles and rushed towards the workers"). Given that pattern, which is amply supported by the record, the District Court found that "it would be a fantasy to expect that law enforcement could and would inquire whether a given individual was among the named . . . [p]laintiffs or the (putative) class before proceeding with a seizure." App. 97a. The Government, which must show that the District Court abused its discretion, did not provide a meaningful explanation about how it would change its conduct to identify the plaintiffs before effectuating a seizure. See *Ashcroft* v. *American Civil Liberties Union*, 542 U. S. 656, 664 (2004). In any event, and important to any proper consideration of the equities, see *infra*, at 1046–1049, the District Court will soon consider the plaintiffs' class-certification motion. See ECF Doc. 108, p. 10; ECF Doc. 140, p. 1 (hearing set for Sept. 24). That forthcoming decision is likely to affect the justification for and scope of any injunction, thereby obviating the remedial issue presented here. See *CASA*, 606 U. S., at 869 (KAVANAUGH, J., concurring) (explaining that courts may "award preliminary classwide relief that may, for example, be statewide, regionwide, or even nationwide").

B

An applicant must not only show a likelihood of success on the merits, but must also demonstrate that "the implementation of the judgment pending appeal will lead to irreparable harm." *Graves* v. *Barnes*, 405 U. S. 1201, 1203 (1972) (Powell, J., in chambers). In deciding whether to grant a stay, this Court, moreover, must "balance the equities" and "explore the relative harms to applicant and respondent, as well as the interests of the public at large." *Barnes* v. *E-Systems, Inc. Group Hospital Medical & Surgical Ins. Plan*, 501 U. S. 1301, 1305 (1991) (Scalia, J., in chambers, denying application for stay) (internal quotation marks omitted).[8]

Page Proof Pending Publication

[8] The concurrence quotes Justice Scalia's separate opinion in *Bendix Autolite Corp.* v. *Midwesco Enterprises, Inc.*, 486 U. S. 888, 897 (1988) (opinion concurring in judgment), to support the notion that balancing the equities in cases involving government action is "especially difficult." *Ante*, at 7 (opinion of KAVANAUGH, J.). Justice Scalia's opinion there critiqued the Court's use of a balancing test in the entirely separate Dormant Commerce Clause context. *Bendix Autolite Corp.*, 486 U. S., at 897. It went on to observe that the Court "sometimes make[s] similar balancing judgments in determining how far the needs of the State can intrude upon the liberties of [an] individual." *Ibid.* (internal quotation marks omitted). That type of balancing, Justice Scalia explained, is "of the essence of the courts' function as the nonpolitical branch," and much unlike the Court's weighing of "the governmental interests of a State against the needs of interstate commerce" in the

In this case, the Court yet again grants emergency relief to the Government when irreparable harm is sorely lacking. The Government's sole argument on this score is that the TRO "chills [its] enforcement efforts" and "deters officers from stopping suspects even when they have reasonable suspicion on other grounds." Application to Stay TRO 36. That misconstrues both the TRO and our standard for assessing irreparable harm. The TRO does not preclude the Government from enforcing its immigration laws, so long as in doing so it stops individuals based on additional facts on top of the four factors listed. In any event, the Government has only "offer[ed] a series of hypothetical" enforcement actions that, "it thinks, *might* be chilled"; it has not "provid[ed] concrete proof that 'harm is imminent.'" *Murthy* v. *Missouri*, 601 U. S. 888, 891 (2023) (ALITO, J., joined by THOMAS and GORSUCH, JJ., dissenting from grant of application for stay) (quoting *White* v. *Florida*, 458 U. S. 1301, 1302 (1982) (Powell, J., in chambers)). Of course, "such speculation does not establish irreparable harm." *Murthy*, 601 U. S., at 891 (opinion of ALITO, J.).

Moreover, the on-the-ground reality contradicts the Government's and the concurrence's claim of a chilling effect. Since the issuance of the TRO, Secretary of Homeland Security Kristi Noem has called the District Judge an "'idiot'" and vowed that "'none of [the Government's] operations are going to change.'"[9] The CBP Chief Patrol Agent in the Central District has stated that his division will "turn and burn" and "go even harder now,"[10] and has posted videos on social media touting his agents' continued efforts "[c]hasing, cuffing, [and] deporting" people at car washes.[11] See also ECF Doc. 128–6, pp. 5–6 (declaration describing July 21 incident in which two masked agents walked into a donut shop, grabbed two Latino men, and threw them to the ground or against

Dormant Commerce Clause context, which is a "task squarely within the responsibility of Congress." *Ibid.*

[9] NBC News, DHS Secretary Kristi Noem Calls California Judge an "Idiot" Over Immigration Detention Ruling, July 12, 2025, https://www.youtube.com/shorts/8iuX7h.

[10] NewsNation, Border Patrol Chief on California Raids: 'I'm Going to Go Harder': Exclusive, at 22:30–23:10, July 17, 2025, https://www.youtube.com/watch?v=Ne_Tmg2uaak.

[11] Commander Op At Large CA Gregory K. Bovino, X, Aug. 29, 2025, https://x.com/cmdropatlargeca/status/1961476023267044632?s=46.

Page Proof Pending Publication

a wall, all without asking any questions). Accordingly, there is no reason to credit the Government's assertion that it will suffer irreparable harm.[12]

Instead, it is the people of Los Angeles and the Central District who will suffer from this Court's grant of relief to the Government. Immigration agents are not conducting "brief stops for questioning," as the concurrence would like to believe. *Ante,* at 1032 (opinion of KAVANAUGH, J.). They are seizing people using firearms, physical violence, and warehouse detentions. Nor are undocumented immigrants the only ones harmed by the Government's conduct. United States citizens are also being seized, taken from their jobs, and prevented from working to support themselves and their families.

The concurrence relegates the interests of U. S. citizens and individuals with legal status to a single sentence, positing that the Government will free these individuals as soon as they show they are legally in the United States. *Ante,* at 1032 (opinion of KAVANAUGH, J.). That blinks reality. Two plaintiffs in this very case tried to explain that they are U. S. citizens; one was then pushed against a fence with his arms twisted behind his back, and the other was taken away from his job to a warehouse for further questioning. More fundamentally, it is the Government's burden to prove that it has reasonable suspicion to stop someone. The concurrence improperly shifts the burden onto an entire class of citizens to carry enough documentation to prove that they deserve to walk freely. The Constitution does not permit the creation of such a second-class citizenship status.

Page Proof Pending Publication

The equities therefore lie with the plaintiffs. Countless people in the Los Angeles area have been grabbed, thrown to the ground,

[12] The concurrence contends that " 'any time' that the Government is 'enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.' " *Ante,* at 1030 (opinion of KAVANAUGH, J.) (quoting CASA, 606 U. S., at 861, in turn quoting *Maryland* v. *King,* 567 U. S. 1301, 1303 (2012) (ROBERTS, C. J., in chambers)). At the outset, this TRO plainly does not enjoin the Government from effectuating any statute. No statute authorizes the Government to stop individuals based on these four factors alone. The concurrence instead appears to affirm the idea that "although *other* stay applicants must point to more than the annoyance of compliance with lower court orders they don't like, the Government can approach the courtroom bar with nothing more than that and obtain relief from this Court nevertheless." *Social Security Admin.* v. *State, County, and Municipal Employees,* 605 U. S. 993, 999–1000 (2025) (JACKSON, J., dissenting from grant of application for stay).

and handcuffed simply because of their looks, their accents, and the fact they make a living by doing manual labor. Today, the Court needlessly subjects countless more to these exact same indignities.

III

The Court's order is troubling for another reason: It is entirely unexplained. In the last eight months, this Court's appetite to circumvent the ordinary appellate process and weigh in on important issues has grown exponentially. See, *e. g.*, *Trump* v. *J. G. G.*, 604 U. S. 670 (2025) (*per curiam*); *Trump* v. *Wilcox*, 605 U. S. 922 (2025); *Noem* v. *Doe*, 605 U. S. 960 (2025); *United States* v. *Shilling*, 605 U. S. 907 (2025). Its interest in explaining itself, unfortunately, has not. See *Trump* v. *Boyle*, 606 U. S. 989, 991–992 (2025) (KAGAN, J., dissenting from grant of stay).

There may be good justification for issuing an unreasoned order in some circumstances. See *Labrador* v. *Poe*, 601 U. S. 1110, 1128–1129 (2024) (KAVANAUGH, J., concurring in grant of stay) (explaining how opinions on emergency applications "can sometimes come at a cost"). Yet, some situations simply cry out for an explanation, such as when the Government's conduct flagrantly violates the law, or when lower courts and litigants need guidance about the issues on which they should focus. Here, for instance, the District Court will soon convene a hearing on plaintiffs' motions for a preliminary injunction and class certification with the benefit of a more fulsome record on which to evaluate plaintiffs' claims. When it does so, it will have only a concurrence and a dissent from which to reason. Neither the District Court nor the parties will know whether the majority believed the key issue was standing, the merits, or the scope of relief, any one of which could have been the basis for the majority's order. See, *e. g.*, *McMahon* v. *New York*, 606 U. S 973 (2025) (similarly failing to state whether the basis of the Court's order was standing, merits, or scope of the remedy). For each of those complex issues, it will be anyone's guess whether the majority thought there were evidentiary deficiencies, legal errors, or a combination of both. This situation demands more.

* * *

The Fourth Amendment protects every individual's constitutional right to be "free from arbitrary interference by law officers." *Brignoni-Ponce*, 422 U. S., at 878. After today, that may

Page Proof Pending Publication

no longer be true for those who happen to look a certain way, speak a certain way, and appear to work a certain type of legitimate job that pays very little. Because this is unconscionably irreconcilable with our Nation's constitutional guarantees, I dissent.

September 9, 2025

Miscellaneous Order

No. 24–1287. Learning Resources, Inc., et al. *v.* Trump, President of the United States, et al. C. A. D. C. Cir.; and

No. 25–250. Trump, President of the United States, et al. *v.* V. O. S. Selections, Inc., et al. C. A. Fed. Cir. Certiorari before judgment in No. 24–1287 granted. Motion to expedite and petition for writ of certiorari in No. 25–250 granted. Cases consolidated, and a total of one hour is allotted for oral argument. Respondents in No. 24–1287 and petitioners in No. 25–250 shall file an opening brief on the merits on or before Friday, September 19, 2025. Any *amicus curiae* briefs in support or in support of neither party shall be filed on or before Tuesday, September 23, 2025. Petitioners in No. 24–1287 and respondents in No. 25–250 shall file response briefs on the merits on or before Monday, October 20, 2025. Any *amicus curiae* briefs in support shall be filed on or before Friday, October 24, 2025. A reply brief shall be filed by Thursday, October 30, 2025. Cases will be set for argument in the first week of the November 2025 argument session. Reported below: No. 25–250, 149 F. 4th 1312.

Page Proof Pending Publication

September 10, 2025

Miscellaneous Order

No. 25A234. South Carolina et al. *v.* Doe, by His Next Friends and Parents, Doe et al. C. A. 4th Cir. Application for stay of injunction pending appeal, presented to The Chief Justice, and by him referred to the Court, denied. The denial of the application is not a ruling on the merits of the legal issues presented in the litigation. Rather, it is based on the standards applicable for obtaining emergency relief from this Court. Motion for leave to file under seal with redacted copies for the public record granted. Justice Thomas, Justice Alito, and Justice Gorsuch would grant the application.

SEPTEMBER 12, 2025

Dismissal Under Rule 46

No. 24–6841. Brown *v.* Guerrero, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46.

SEPTEMBER 16, 2025

Certiorari Denied

No. 25–5605 (25A280). Pittman *v.* Florida. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

SEPTEMBER 19, 2025

Miscellaneous Order

No. 24–1113 (25A1287). New Jersey Transit Corporation et al. *v.* Colt et al. Ct. App. N. Y. Application for stay, presented to Justice Sotomayor, and by her referred to the Court, granted. The Court has already granted certiorari in this case on the sovereign immunity issue decided below, and the pending damages trial before the Supreme Court of the State of New York would be barred if New Jersey Transit Corporation were entitled to sovereign immunity from suit. Respondents, on the other hand, identify no tangible irreparable harm they would face if the trial were delayed until after this Court decides the pending case. The trial scheduled for September 15, 2025, in the Supreme Court of the State of New York, New York County, is therefore stayed pending issuance of the mandate of this Court in *New Jersey Transit Corporation et al.* v. *Colt et al.*, case No. 24–1113, and *Galette* v. *New Jersey Transit Corporation*, case No. 24–1021.

Page Proof Pending Publication

SEPTEMBER 22, 2025

Miscellaneous Orders

No. 25A264 (25–332). Trump, President of the United States, et al. *v.* Slaughter et al. C. A. D. C. Cir. Application for stay, presented to The Chief Justice, and by him referred to the Court, granted. The July 17, 2025, order of the

United States District Court for the District of Columbia, No. 25–cv–909, ECF Doc. 52, is stayed. The application is also treated as a petition for writ of certiorari before judgment, and the petition is granted. The parties are directed to brief and argue the following questions: "(1) Whether the statutory removal protections for members of the Federal Trade Commission violate the separation of powers and, if so, whether *Humphrey's Executor* v. *United States*, 295 U. S. 602 (1935), should be overruled. (2) Whether a federal court may prevent a person's removal from public office, either through relief at equity or at law." The Clerk is directed to establish a briefing schedule that will allow the case to be argued in the December 2025 argument session. The stay shall terminate upon the sending down of the judgment of this Court.

Justice Kagan, with whom Justice Sotomayor and Justice Jackson join, dissenting from the grant of the application for stay.

On top of granting certiorari before judgment in this case, the Court today issues a stay enabling the President to immediately discharge, without any cause, a member of the Federal Trade Commission (FTC). That stay, granted on our emergency docket, is just the latest in a series. Earlier this year, the same majority, by the same mechanism, permitted the President to fire without cause members of the National Labor Relations Board, the Merits Systems Protection Board, and the Consumer Product Safety Commission. See *Trump* v. *Wilcox*, 605 U. S. 922 (2025); *Trump* v. *Boyle*, 606 U. S. 989 (2025). Congress, as everyone agrees, prohibited each of those presidential removals. See, *e. g.*, 15 U. S. C. § 41 (barring the President from discharging FTC Commissioners except for "inefficiency, neglect of duty, or malfeasance in office"). Under the relevant statutes, the entities just listed are "classic independent agenc[ies]"—" 'multi-member, bipartisan commission[s]' whose members serve staggered terms and cannot be removed except for good reason." *Boyle*, 606 U. S., at 991 (Kagan, J., dissenting from grant of application for stay). Yet the majority, stay order by stay order, has handed full control of all those agencies to the President. He may now remove—so says the majority, though Congress said differently—any member he wishes, for any reason or no reason at all. And he may thereby extinguish the agencies' bipartisanship and independence.

I dissented from the majority's prior stay orders, and today do so again. Under existing law, what Congress said goes—as this

Page Proof Pending Publication

Court unanimously decided nearly a century ago. In *Humphrey's Executor* v. *United States*, 295 U. S. 602 (1935), we rejected a claim of presidential prerogative identical to the one made in this case. (Indeed, the suit emerged from a discharge at the very same agency.) Congress, we held, may restrict the President's power to remove members of the FTC, as well as other agencies performing "quasi-legislative or quasi-judicial" functions, without violating the Constitution. *Id.*, at 629. So the President cannot, as he concededly did here, fire an FTC Commissioner without any reason. To reach a different result requires reversing the rule stated in *Humphrey's*: It entails overriding rather than accepting Congress's judgment about agency design. The majority may be raring to take that action, as its grant of certiorari before judgment suggests. But until the deed is done, *Humphrey's* controls, and prevents the majority from giving the President the unlimited removal power Congress denied him. Because the majority's stay does just that, I respectfully dissent. Our emergency docket should never be used, as it has been this year, to permit what our own precedent bars. Still more, it should not be used, as it also has been, to transfer government authority from Congress to the President, and thus to reshape the Nation's separation of powers.

Page Proof Pending Publication

No. 24–482. Ellingburg *v.* United States. C. A. 8th Cir. [Certiorari granted, 604 U. S. 1241.] Motion of the Solicitor General for divided argument granted.

No. 24–568. Bost et al. *v.* Illinois State Board of Elections et al. C. A. 7th Cir. [Certiorari granted, 605 U. S. 968.] Motion of the Solicitor for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 24–872. Hamm, Commissioner, Alabama Department of Corrections *v.* Smith. C. A. 11th Cir. [Certiorari granted, 606 U. S. 1001.] Motion for leave to file volume III of the joint appendix with redactions granted.

No. 24–1287. Learning Resources, Inc., et al. *v.* Trump, President of the United States, et al. C. A. D. C. Cir.; and

No. 25–250. Trump, President of the United States, et al. *v.* V. O. S. Selections, Inc., et al. C. A. Fed. Cir. [Certiorari granted, 606 U. S. 1050.] Motion of the Solicitor General to dispense with printing joint appendix granted.

No. 24–5438. Bowe *v.* United States. C. A. 11th Cir. [Certiorari granted, 604 U. S. 1096.] Motion of the Solicitor General for divided argument and for enlargement of time for oral argument granted.

Certiorari Denied

No. 25–312. Harris *v.* Bessent, Secretary of the Treasury, et al. C. A. D. C. Cir. Certiorari before judgment denied.

No. 25–319. Wilcox *v.* Trump, President of the United States, et al. C. A. D. C. Cir. Certiorari before judgment denied.

September 25, 2025

Miscellaneous Order

No. 25–5712 (25A335). In re Milam. Application for stay of execution of sentence of death, presented to Justice Alito, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

September 26, 2025

Page Proof Pending Publication

Dismissal Under Rule 46

No. 25–46. Boat Santa Rita II, Inc. *v.* Aadland. C. A. 1st Cir. Certiorari dismissed under this Court's Rule 46.

Miscellaneous Order

No. 25A269. Department of State et al. *v.* AIDS Vaccine Advocacy Coalition et al. C. A. D. C. Cir. On September 3, the United States District Court for the District of Columbia entered a preliminary injunction directing the Executive to obligate roughly $10.5 billion of appropriated aid funding set to expire on September 30. Of that $10.5 billion, $4 billion was proposed to be rescinded in a "special message" transmitted pursuant to the Impoundment Control Act. See 2 U. S. C. § 681 *et seq.* After the District Court and the United States Court of Appeals for the District of Columbia Circuit denied stays of that order, the Government filed this application to stay the District Court's injunction. The application for stay presented to The Chief Justice and by him referred to the Court is granted. The Government, at this early stage, has made a sufficient showing that the Impoundment Control Act precludes respondents' suit, brought pursuant to the Administrative Procedure Act, to enforce the appropriations at issue here. The Government has also made a sufficient showing that mandamus relief is unavailable to respondents. And, on the record before the Court, the asserted harms to the Executive's conduct of foreign affairs appear to outweigh the potential harm faced by respondents. This order should not be read as a final determination on the merits. The relief granted by the Court today reflects our preliminary view, consistent with the standards for interim relief.

The District Court's September 3, 2025 order granting a preliminary injunction in case Nos. 1:25–cv–400 and 1:25–cv–402 is stayed as to the funding subject to the President's August 28 special message, pending the disposition of the Government's appeal in the United States Court of Appeals for the District of Columbia Circuit and disposition of a petition for a writ of certiorari, if such writ is timely sought. Should the petition for a writ of 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.

Page Proof Pending Publication

Justice Kagan, with whom Justice Sotomayor and Justice Jackson join, dissenting.

This emergency application raises novel issues fundamental to the relationship between the President and Congress. It arises from the refusal of the President and his officers to obligate and spend billions of dollars that Congress appropriated for foreign aid. Prospective beneficiaries of those funds challenged the decision to withhold them as an unlawful impoundment—essentially, a Presidential usurpation of Congress's power of the purse. The main legal question presented in this application involves the meaning and effect of a statute concerning impoundments: More specifically, the question is whether that statute precludes the beneficiaries' suit to make the Executive comply with appropriations laws. This Court, before today, has dealt with the statute only in passing; neither have lower courts much addressed it. Deciding the question presented thus requires the Court to work in uncharted territory. And, to repeat, the stakes are high: At issue is the allocation of power between the Executive and Congress over the expenditure of public monies.

As even that much suggests, this case is not a likely candidate for a grant of emergency relief. Per usual on our emergency docket, we have had to consider this application on a short fuse—less than three weeks. We have done so with scant briefing, no oral argument, and no opportunity to deliberate in conference. Because of how this case came to us, we likewise do not have the benefit of a pertinent court of appeals decision, much less a set of decisions expressing different views. In a few weeks' time—when we turn to our regular docket—we will decide cases of far less import with far more process and reflection. The Court today carries on regardless, staying the District Court's ruling that the Executive must obligate the disputed funds. To its credit, the majority emphasizes in its order that it has reached only a "preliminary view" of the issues raised, which should not be read as a "final determination on the merits." *Ante,* at 1055. But even at that, the majority goes too far. The Executive has not met our standard for emergency relief—the appropriately high bar we have erected because a stay like this one disrupts "the ordinary processes of administration and judicial review." *Nken* v. *Holder*, 556 U. S. 418, 427 (2009). The Executive has not "made a strong showing that [it] is likely to succeed on the merits." *Id.*, at 426. Nor has it shown that, in the absence of relief, it will suffer irreparable harm. We therefore should have denied this application, allowed the lower courts to go forward, and ensured that the weighty question presented here receives the consideration it deserves.

Page Proof Pending Publication

Begin with what is at issue. This case arose because the President and his officers do not want to spend all the foreign-aid funds Congress deemed proper. In 2024, Congress appropriated more than $30 billion for foreign assistance. See Further Consolidated Appropriations Act, 2024, Pub. L. No. 118–47, div F, tits. III–IV, 138 Stat. 740–750. But on his first day in office, the President froze all that funding pending a full-scale executive review. See Exec. Order No. 14169, 90 Fed. Reg. 8619 (2025). Organizations accustomed to receiving foreign-aid monies sued under the Administrative Procedure Act (APA), requesting that the District Court compel the obligation and expenditure of the funds Congress had appropriated. The controversy has significantly narrowed since that time, as the Executive has resumed making various obligations and grants. The remaining dispute concerns $4 billion of foreign-aid appropriations, which the President recently requested that Congress rescind. Congress has not acted on that request, thus leaving the appropriation intact. Under the

District Court's most recent order, the Executive must obligate the $4 billion before the end of the fiscal year (September 30), when it would otherwise become unavailable for spending. The stay the majority grants today suspends that court order. The effect is to prevent the funds from reaching their intended recipients—not just now but (because of their impending expiration) for all time.

The Executive's principal argument for a stay is that the Impoundment Control Act of 1974 (ICA), 2 U. S. C. § 681 *et seq.*, precludes the organizations from bringing this APA suit to enforce appropriations laws. The ICA, enacted after Congress waged war with President Nixon over impoundments, has two components. First, the Act sets up a way for a President to propose and Congress to consider changes in the funding levels that existing laws set. Briefly put, the President sends a "special message" to Congress asking for a rescission—just as happened here with respect to the $4 billion. § 683(a). And for the next 45 days, any bill accepting the President's proposal receives expedited congressional review through fast-track procedures. See §§ 682(3), 688.[1] Second, the Act gives the Comptroller General (a legislative officer) a way to sue over presidential impoundments. If he believes the President is unlawfully withholding funds, he is to send a report to Congress saying so. See § 686. And after a specified time, he may bring a civil action under the Act to compel the Executive to obligate the funds at issue. See § 687. According to the Executive's application for a stay, that statutory scheme "impliedly preclude[s]" the plaintiff organizations from bringing an APA suit to similarly enforce appropriations laws. Application 18. That suit, the Executive argues, would "supplant[ ] interbranch negotiations" and "leapfrog[ ] the Comptroller General" if allowed to go forward. *Id.*, at 20.[2]

Page Proof Pending Publication

[1] The special message does not itself alter spending requirements. Section 683(b) provides that any funds the President has "proposed to be rescinded . . . shall be made available for obligation unless, within the prescribed 45-day period," Congress adopts the proposal. In other words, Congress's action on the proposal is needed to relieve the Executive of its duty under an appropriations law to obligate funds.

[2] The Executive only recently devised that argument; just last month, in the Court of Appeals, the Executive took the opposite view, stating that the ICA permits private APA suits to enforce appropriations laws. See Response to Petition for Rehearing En Banc in No. 25–5097 etc. (CADC), pp. 15–16. At that time, the Executive explained that the ICA does not allow private plaintiffs to "enforce the ICA" itself (the issue then in

But the text of the ICA refutes that notion. As against the Executive's argument about "implied" meaning are the statute's express words. In its very first section, titled "Disclaimer," the ICA declares: "Nothing contained in this Act . . . shall be construed" as "affecting in any way the claims or defenses of any party to litigation concerning any impoundment." § 681(3). It is hard to write a clearer and a more emphatic *non*-preclusion provision than that. *Nothing* in the ICA (neither its process for considering proposed rescissions nor its creation of a Comptroller General suit) affects *in any way* the claims of *any* party to litigation about *any* impoundment. So as applied here, nothing in the ICA has any effect on the claims of the plaintiff organizations ("any party") to sue over the President's withholding of appropriated foreign-aid funds ("any impoundment"). All the Executive can argue in response is that the provision contains an unspoken limit, depriving it of any current effect. According to the Executive, the Disclaimer really applies only to litigation pending at the time the ICA was enacted—not to later suits like this one. See Application 22. "But this Court may not narrow a provision's reach by inserting words Congress chose to omit." *Lomax* v. *Ortiz-Marquez*, 590 U. S. 595, 600 (2020). It would have been easy enough to draft the statute the Executive wants—just add the words "currently pending" before "litigation." Congress did not do so. Nor did it express the same idea in some other way. The words it chose apply as well to this present-day litigation as to suits brought a half-century ago. All are allowed.

Page Proof Pending Publication

And reading the Disclaimer as its text demands creates no conflict with the rest of the ICA. Yes, Congress in that statute gave the Executive a way to propose changes in enacted appropriations levels. See § 683. But that mechanism suggests precious little about how Congress thought appropriations laws should be enforced when, as here, it has not adopted such a proposal. And yes, Congress authorized the Comptroller General to bring suit under the statute for the Executive's failure to obligate appro-

dispute). *Id.*, at 15. But such plaintiffs, the Executive continued, still retain "preexisting" (*i. e.*, non-ICA) rights "to enforce statutory [funding] obligations through a suit under the APA." *Id.*, at 16. So at a private plaintiff's request, a "court could enjoin a refusal to spend appropriated funds where the relevant [appropriations] statutes required that the funds be spent." *Id.*, at 15–16. That, of course, is precisely what the plaintiff organizations argue here.

priated funds. See § 687. But government enforcement efforts often co-exist with private ones as to the same or similar subject matter, proceeding along parallel tracks. There is nothing strange about giving the Comptroller General the ability to challenge impoundments under the ICA while leaving affected private parties free to do so under the APA's longstanding authority.[3] So even if the Disclaimer provision did not exist, the Executive's argument would be tenuous. With the Disclaimer—remember, "nothing" in the ICA shall "affect[ ] in any way" the claims of "any party" over "any impoundment," § 681(3)—the argument becomes well-nigh impossible to sustain.

And just to gild the lily: The ICA's historical context explains why Congress made so clear that it was not precluding other parties' suits. The ICA emerged against the backdrop of President Nixon's large-scale efforts to impound appropriated funds, and thus to substitute his own policy priorities for Congress's. See A. Schick, Congress and Money: Budgeting, Spending and Taxing 29, 46–49 (1980). That effort sparked a fierce congressional reaction. See L. Fisher, Presidential Spending Power 147 (1975). But even before Congress could assert its prerogatives through legislation, suits brought by States, organizations, and individuals—more than 60 of them by Congress's careful count—put the President on his back foot.[4] As Congress knew, courts consistently rejected the President's claim of constitutional power to impound monies, reasoning that the President has a duty to follow appropriations laws as he does any others.[5] The dispositive issue in the suits thus became whether a given appropriations law indeed mandated spending, or instead provided the Executive with some discretion. And the Executive often lost on that issue too. See, *e. g.*, *Train* v. *City of New York*, 420 U. S. 35, 42–46 (1975). In the end, the mass of litigation contributed significantly to President Nixon's decision to "abandon the impoundment tactic," as even his Budget Director acknowledged. See B. Graham,

Page Proof Pending Publication

[3] Note again that just last month that was how the Executive itself thought the statute works. See *supra*, at 1057–1058, n. 2.

[4] See Joint Committee on Congressional Operations, Special Report on Court Challenges to Executive Branch Impoundments of Appropriated Funds, 93d Cong., 2d Sess., 1 (Comm. Print 1974).

[5] See House Committee on Government Operations, Report on Presidential Impoundment of Congressionally Appropriated Funds: An Analysis of Recent Federal Court Decisions, 93d Cong., 2d Sess., 1 (Comm. Print 1974).

White House Backing Off Impounding, Washington Post, June 30, 1974, p. A2 (reporting on speech by Roy Ash). Congress followed up by enacting the ICA in order to (as its title says) "control" future impoundments. But it is hardly surprising that in so doing Congress disclaimed any intent to interfere with other parties' suits to enforce appropriations laws. Suits of that kind had helped Congress win its confrontation with the President—and Congress knew could do so again.

The Executive's argument about irreparable harm and the balance of equities fares no better. The Executive says that to comply with the District Court's order to obligate the $4 billion, it will have to "enter into negotiations" with "foreign states or international organizations." Application 35. And in those discussions, the Executive protests, it will have to "advocate against its own objectives"—"undermin[ing]" its real view that the expenditures are "contrary to U. S. foreign policy." *Id.*, at 3, 34–35. But that is just the price of living under a Constitution that gives *Congress* the power to make spending decisions through the enactment of appropriations laws. If those laws require obligation of the money, and if Congress has not by rescission or other action relieved the Executive of that duty, then the Executive must comply. It cannot be heard to complain, as it does here, that the laws clash with the President's differing view of "American values" and "American interests." *Id.*, at 34. That inconsistency, in other words, is not a cognizable harm, to be weighed in the equitable balance. It is merely a frustration any President must bear.

Page Proof Pending Publication

For those reasons, the Executive has not shown what it must to receive emergency relief from this Court. That kind of relief should be sparingly given. As earlier noted, every such award disrupts the usual process of judicial review. And no such award emerges from our normal hallmarks of deliberation. So the standard for granting emergency relief is supposed to be stringent. The Executive has not come close to meeting it here. And the consequence of today's grant is significant. I appreciate that the majority refrains from offering a definitive view of this dispute and the questions raised in it. But the effect of its ruling is to allow the Executive to cease obligating $4 billion in funds that Congress appropriated for foreign aid, and that will now never reach its intended recipients. Because that result conflicts with the separation of powers, I respectfully dissent.

SEPTEMBER 30, 2025

Miscellaneous Orders

No. 24–109. LOUISIANA *v.* CALLAIS ET AL.; and

No. 24–110. ROBINSON ET AL. *v.* CALLAIS ET AL. D. C. W. D. La. [Probable jurisdiction noted, 604 U. S. 1007.] Motion of Press Robinson et al. to strike the supplemental brief of Nancy Landry, Secretary of State of Louisiana denied. Motion of Nancy Landry, Secretary of State of Louisiana for divided argument and for enlargement of time for oral argument denied. Motion of Edward Galmon, Sr., et al. for leave to participate in oral argument as *amici curiae* and for divided argument denied. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 24–345. FS CREDIT OPPORTUNITIES CORP. ET AL. *v.* SABA CAPITAL MASTER FUND, LTD., ET AL. C. A. 2d Cir. [Certiorari granted, 606 U. S. 930.] Motion of petitioners to dispense with printing joint appendix granted.

No. 24–624. CASE *v.* MONTANA. Sup. Ct. Mont. [Certiorari granted, 605 U. S. 968.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

Page Proof Pending Publication

No. 24–758. GEO GROUP, INC. *v.* MENOCAL ET AL. C. A. 10th Cir. [Certiorari granted, 605 U. S. 968.] Motion of petitioner to dispense with printing joint appendix granted.

No. 24–777. URIAS-ORELLANA ET AL. *v.* BONDI, ATTORNEY GENERAL. C. A. 1st Cir. [Certiorari granted, 606 U. S. 930.] Motion of petitioners to dispense with printing joint appendix granted.

No. 24–1021. GALETTE *v.* NEW JERSEY TRANSIT CORPORATION. Sup. Ct. Pa.; and

No. 24–1113. NEW JERSEY TRANSIT CORPORATION ET AL. *v.* COLT ET AL. Ct. App. N. Y. [Certiorari granted, 606 U. S. 959.] Motion to of New Jersey Transit Corporation to dispense with printing joint appendix granted.

No. 24–1056. RICO *v.* UNITED STATES. C. A. 9th Cir. [Certiorari granted, 606 U. S. 930.] Motion of petitioner to dispense with printing joint appendix granted.

Certiorari Denied

No. 25–5745 (25A356). Jones *v.* Florida et al. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to Justice Thomas, and by him referred to the Court, denied. Certiorari denied.

October 1, 2025

Miscellaneous Order

No. 25A312. Trump, President of the United States, et al. *v.* Cook, Member of the Board of Governors of the Federal Reserve System. C. A. D. C. Cir. Application for stay, presented to The Chief Justice, and by him referred to the Court, deferred pending oral argument in January 2026. The Clerk is directed to establish a briefing schedule for *amici curiae* and any supplemental briefs responding to *amici*.

October 3, 2025

Miscellaneous Order

No. 25A326. Noem, Secretary, Department of Homeland Security, et al. *v.* National TPS Alliance et al. C. A. 9th Cir. In March of this year, the United States District Court for the Northern District of California entered a preliminary order postponing the effective date of the Secretary of Homeland Security's decision to remove "temporary protected status" (TPS) from Venezuelan nationals living in the United States. See 8 U. S. C. § 1254a; 5 U. S. C. § 705. In May, this Court stayed that order while the Government appealed. The United States Court of Appeals for the Ninth Circuit ultimately affirmed the District Court's preliminary order. Last month, the District Court entered final judgment in respondents' favor, holding unlawful and setting aside the Secretary's actions effectuating her decision—namely, her vacatur of a pending extension of TPS for Venezuelan nationals, and her termination of that status itself. See 5 U. S. C. § 706(2). (The District Court also concluded that the Secretary unlawfully vacated a TPS extension for Haitian nationals. The Government now seeks to stay the portions of the District Court's judgment pertaining to Venezuela, but not Haiti. See Application 7, n. 6.)

The application for stay presented to Justice Kagan and by her referred to the Court is granted. Although the posture of

Page Proof Pending Publication

the case has changed, the parties' legal arguments and relative harms generally have not. The same result that we reached in May is appropriate here.

The September 5, 2025 order entered by the United States District Court for the Northern District of California, case No. 25–cv–1766, is stayed as to the Venezuela vacatur and Venezuela termination, pending the disposition of the Government's appeal in the United States Court of Appeals for the Ninth Circuit and disposition of a petition for a writ of certiorari, if such writ is timely sought. Should the petition for a writ of 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 SOTOMAYOR and JUSTICE KAGAN would deny the application.

JUSTICE JACKSON, dissenting.

On January 19, 2021, the United States Government told Venezuelans living in the United States that Venezuela was experiencing the "worst humanitarian crisis in the Western Hemisphere in recent memory."[1] A couple months later, it said their country was in the midst of a "'severe political and economic crisis'" marked by "[e]conomic contraction," "deepening poverty," "a collapse in basic services," and "human rights abuses and repression."[2] The Government said substantially the same thing in September 2022,[3] and again in October 2023,[4] and again in January 2025.[5]

Page Proof Pending Publication

These fact-based conclusions had legal import: They entitled eligible Venezuelans to temporary protected status (TPS) under federal law. As a result, certain Venezuelans were shielded from removal, permitted to work, and qualified as lawfully present in

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[1] Deferred Enforced Departure for Certain Venezuelans, Memorandum of Jan. 19, 2021, 86 Fed. Reg. 6845 (2021).

[2] See Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure, 86 Fed. Reg. 13576 (2021).

[3] See Extension of the Designation of Venezuela for Temporary Protected Status, 87 Fed. Reg. 55026–55027 (2022).

[4] See Extension and Redesignation of Venezuela for Temporary Protected Status, 88 Fed. Reg. 68132 (2023).

[5] See Extension of the 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 5963–5966 (2025).

the United States. See 8 U. S. C. §§ 1254a(a)(1), (f)(4). By law, this protection was supposed to last until at least October 2026.[6]

When President Trump took office in late January 2025, however, the Government quickly reversed course. The TPS statute plainly states that a TPS designation shall remain effective until the expiration of its "most recent previous extension." § 1254a(b)(3)(B). But Secretary of Homeland Security Kristi Noem announced a much nearer termination date for some 300,000 Venezuelan TPS recipients: April 2025.[7]

By now, our lower court colleagues have determined five times over that this abrupt truncation of the TPS period was unlawful or likely so.[8] They have done so in reasoned and thoughtful written opinions—opinions that, in the normal course, we would get to parse, assess, and embrace or reject, while fully explaining our reasoning.

The lower courts have also made a second considered judgment on a different question: What should happen to 300,000 human beings while our colleagues on the Ninth Circuit, and then perhaps we, do the job of judging? Should those individuals get to remain in the United States, working legally, as the Government promised them a few short months ago? Or should they be left vulnerable to job loss, family separation, and deportation to a country the Government determined in January was "experiencing 'a complex, serious and multidimensional humanitarian crisis' " to which they could not "retur[n] in safety"? See 90 Fed. Reg. 5963, 5966.

Page Proof Pending Publication

Our lower court colleagues have already chosen the obvious—*i.e.*, least disruptive and most humane—answer to that question.[9]

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[6] *Id.*, at 5966 (extending Venezuela's TPS designation for an 18-month period ending October 2, 2026).

[7] See Vacatur of 2025 Temporary Protected Status Decision for Venezuela, 90 Fed. Reg. 8807; Termination of the Oct. 3, 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 9043–9044.

[8] See 773 F. Supp. 3d 807 (ND Cal. 2025); 2025 WL 1019671 (ND Cal., Apr. 4, 2025); 150 F. 4th 1000 (CA9 2025); 798 F. Supp. 3d 1108 (ND Cal. 2025); 163 F. 4th 1152 (CA9 2025).

[9] See 2025 WL 1019671 (ND Cal., Apr. 4, 2025) (denying stay pending appeal of postponement of agency action under 5 U. S. C. § 705); 150 F. 4th 1000 (affirming postponement); 2025 WL 2617231 (ND Cal., Sept. 10, 2025) (denying stay pending appeal from final judgment); 163 F. 4th 1152 (same).

So, this stay application presents us with an antecedent decision: whether the Government's interest in terminating TPS *right now* is so urgent that *this* Court, rather than the able judges currently exercising jurisdiction over the matter, should be the one to decide those individuals' interim fate. See *Noem* v. *Doe*, 605 U. S. 960, 965–966 (2025) (JACKSON, J., dissenting from grant of application for stay); see also *Magnum Import Co.* v. *Coty*, 262 U. S. 159, 164 (1923) (explaining that "this Court requires an extraordinary showing" before it will override the stay decision of a lower court, rendered "with a much fuller knowledge [of the case] than we can have"). Only if the Government demonstrates such a time-sensitive need should we even consider vetoing the lower courts' unanimous judgment about the most equitable interim status.

The Government has made no such showing. Yet, for the second time in this same case, the Court grants it the extraordinary relief it seeks. We once again eschew restraint—ignoring the need for exigency or any other prudent threshold limitation on the exercise of our discretion—and wordlessly override the considered judgments of our colleagues. We once again use our equitable power (but not our opinion-writing capacity) to allow this Administration to disrupt as many lives as possible, as quickly as possible.

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I view today's decision as yet another grave misuse of our emergency docket. This Court should have stayed its hand. Having opted instead to join the fray, the Court plainly misjudges the irreparable harm and balance-of-the-equities factors by privileging the bald assertion of unconstrained executive power over countless families' pleas for the stability our Government has promised them. Because, respectfully, I cannot abide our repeated, gratuitous, and harmful interference with cases pending in the lower courts while lives hang in the balance, I dissent.

Certiorari Granted

No. 24–699. EXXON MOBIL CORP. *v.* CORPORACIÓN CIMEX, S. A. (CUBA), ET AL. C. A. D. C. Cir. Certiorari granted. Reported below: 111 F. 4th 12.

No. 24–983. HAVANA DOCKS CORP. *v.* ROYAL CARIBBEAN CRUISES, LTD., ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 119 F. 4th 1276.

No. 24–1238. Montgomery *v.* Caribe Transport II, LLC, et al. C. A. 7th Cir. Certiorari granted. Reported below: 124 F. 4th 1053.

No. 25–95. Pung, Personal Representative of the Estate of Pung *v.* Isabella County, Michigan. C. A. 6th Cir. Certiorari granted.

No. 24–1046. Wolford et al. *v.* Lopez, Attorney General of Hawaii. C. A. 9th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 116 F. 4th 959.

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