





1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	MALCOLM L. STEWART	
4	Deputy Solicitor General,	
5	Department of Justice,	
6	On behalf of the Petitioners	3
7	ORAL ARGUMENT OF:	
8	AHILAN T. ARULANANTHAM	
9	On behalf of the Respondents	30
10	REBUTTAL ORAL ARGUMENT OF:	
11	MALCOLM L. STEWART	
12	Deputy Solicitor General,	
13	Department of Justice,	
14	On behalf of the Petitioners	67
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

(11:05 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument next in Case 15-1204, Jennings v. Rodriguez.

Mr. Stewart.

ORAL ARGUMENT OF MALCOLM L. STEWART  
ON BEHALF OF THE PETITIONERS

MR. STEWART: Mr. Chief Justice, and may it please the Court:

This Court has often stressed the breadth of Congress's constitutional authority to establish the rules under which aliens will be allowed to enter and remain in the United States.

This case squarely implicates that principle. During the pendency of Respondents' removal proceedings, the question whether members of a certified class will be detained and the question whether they will be allowed into the United States are simply two sides of the same coin.

In practical effect, Respondents assert a constitutional right to be released into this country for the remainder of their

1 removal proceedings if those proceedings last  
2 for more than six months and the government  
3 cannot prove flight risk or dangerousness by  
4 clear and convincing evidence.

5           This Court's decisions make clear that  
6 Respondents have no such right. If I may, I'd  
7 like to begin with the arriving alien subclass.  
8 The statutory provision that's most directly at  
9 issue for these purposes is at page 152a of the  
10 -- the petition appendix.

11           And this one deals particularly with  
12 what -- what I think is the most important  
13 subset of the arriving alien subclass; that is,  
14 individuals who come to the country for the  
15 first time, they pass a credible fear screening  
16 for asylum purposes, and they're then placed in  
17 removal proceedings.

18           And near the top of page 152a, in  
19 Romanette II, referral of certain aliens, it  
20 says if the asylum officer determines at the  
21 time of the interview that the alien has a  
22 credible fear of persecution, the alien shall  
23 be detained for further consideration of the  
24 application for asylum.

25           And so, in the very provision in which

1 Congress was dealing with aliens who passed the  
2 credible fear screening, it was making clear  
3 that the finding of a credible fear confers no  
4 entitlement to be released into the United  
5 States. It's an important step in the process  
6 because it means that the alien won't be placed  
7 in expedited removal and have -- will have a  
8 thorough chance to -- to prove his compliance  
9 with the prerequisites for asylum, but it  
10 doesn't confer any right to be released into  
11 the United States. To the --

12 JUSTICE GINSBURG: There is -- there  
13 is a possibility of parole, is it?

14 MR. STEWART: There is a possibility  
15 of parole. That's entrusted to the discretion  
16 of DHS. That's made under some of the same  
17 criteria that the Respondents would have the  
18 immigration judge make in bond hearings. That  
19 is, it's the policy of DHS that if an alien  
20 passes a credible fear screening, and DHS is  
21 adequate -- is able adequately to verify his  
22 identity, is satisfied that the alien is not a  
23 flight risk and will not be dangerous if  
24 released into the community. Unless there's  
25 some countervailing consideration, the policy

1 of DHS is to parole those individuals into the  
2 country. I think --

3 JUSTICE KENNEDY: Can you give me any  
4 idea of numbers? Do 10 percent meet that  
5 requirement, 20 percent, or do we know?

6 MR. STEWART: We really don't know.  
7 DHS doesn't keep statistics as to -- to the  
8 numbers. I don't think it's a -- it's not  
9 either a formality in the sense of aliens being  
10 always or almost always paroled; neither is it  
11 a nullity. But between those two extremes, I  
12 don't think we really have reliable statistical  
13 evidence. I think there was --

14 JUSTICE SOTOMAYOR: I -- I thought  
15 that we had some. And from what I understand,  
16 in 2012, ICE granted parole to 80 percent of  
17 arriving aliens. In 2015, the number dropped  
18 to 47 percent. And it may be lower now.

19 So my question is it's obviously the  
20 executive alone making this determination; what  
21 other area of law have we permitted a  
22 government agent on his or her own, without a  
23 neutral party looking at that decision, to  
24 detain someone indefinitely?

25 MR. STEWART: Well, I -- first of all,

1 I would not accept the premise that this is  
2 indefinite detention. It's true that there is  
3 no outer limit in terms of a number of days,  
4 but it is detention that is specifically  
5 pending a determination of eligibility for --  
6 for asylum.

7 JUSTICE SOTOMAYOR: Well, but that --  
8 that assumes that that determination is going  
9 to be done in some expeditious way, but we know  
10 as a matter of fact that these determinations  
11 can sometimes take years.

12 MR. STEWART: They can sometimes take  
13 a long time. The -- the cases in which aliens  
14 are detained are expedited by the immigration  
15 judges and by the BIA. So they do move more  
16 quickly than cases involving non-detained  
17 aliens.

18 I guess the first thing I would say in  
19 response to your question, is there any other  
20 area of law, the Court has said time after time  
21 that insofar as people arriving -- aliens  
22 arriving at our shores are concerned, whatever  
23 process Congress chooses to give is due  
24 process. Aliens, once they've built up ties to  
25 the country --



1 JUSTICE SOTOMAYOR: Well, but the  
2 problem with that is that that's lawlessness.  
3 That's basically saying that we're not a  
4 country of law, that we're a country of  
5 arbitrariness in detaining people, locking them  
6 up.

7 Perhaps let's -- let's -- answer this  
8 question: In which ways is immigration  
9 detention different than criminal detention? I  
10 mean, I -- I understand right now that when you  
11 detain aliens, you put them in orange suits,  
12 they are shackled during visitation and court  
13 visits, they are subject to surveillance and  
14 strip searches, they are referred to by number,  
15 not by name.

16 So in which ways is immigration  
17 detention different than criminal detention?

18 MR. STEWART: Well, I think the -- the  
19 real difference is the justification for the  
20 detention. That is, the justification for  
21 criminal detention, at least with respect to  
22 convicted prisoners, obviously, is that they've  
23 found -- been found guilty of a crime, and for  
24 that, you need judicial process.

25 There -- there are some circumstances

1 outside this country where aliens who want to  
2 apply for a visa, for instance, or who want to  
3 assert an entitlement to refugee status can do  
4 so outside this country. And where those  
5 avenues are available, during the period while  
6 U.S. Government officials are deciding whether  
7 to grant the request, the alien doesn't need to  
8 be detained. But when the alien arrives at the  
9 shores of the United States, the only two  
10 options are detention and release into the  
11 community.

12 And so the principle that the alien  
13 has no constitutional right to be released into  
14 the community necessarily compels detention.

15 Now, the other respect in which --

16 JUSTICE GINSBURG: Mr. Stewart, there  
17 are -- there is something in between. It  
18 doesn't have to be release, you are fancy free.  
19 You can -- they can monitor. They can use  
20 monitoring devices to check on the person who's  
21 been released.

22 MR. STEWART: There are various forms  
23 of monitoring and supervision that the  
24 government can use. I think it's still  
25 basically release even though it's release upon

1 conditions or with some form of monitoring.

2 But the Court in Demore v. Kim says  
3 the Due Process Clause doesn't require Congress  
4 to use the least restrictive means with respect  
5 to detention of aliens. That --

6 JUSTICE BREYER: The statute doesn't  
7 say --

8 JUSTICE KAGAN: Mr. Stewart?

9 CHIEF JUSTICE ROBERTS: Justice  
10 Breyer?

11 JUSTICE BREYER: The statute doesn't  
12 say about whether there'll be bail hearings or  
13 not. It just says arrest and detain.

14 We detain people whenever we stop them  
15 for Miranda briefly, whenever -- not for -- you  
16 know, stop and search, frisk and search, et  
17 cetera. We detain them when we arrest them.  
18 Normally, if you were to say detain somebody,  
19 you would then possibly -- in most cases, you'd  
20 give them a bail hearing, all right?

21 Now, why is the statute different  
22 here? In X-K-, I think, the agency said we'll  
23 give some of the people, those found within 100  
24 miles of the border, we'll give some of them  
25 bail hearings. And, of course, if they're

1 found more than 100 miles from the border, they  
2 always get bail hearings.

3 MR. STEWART: Right.

4 JUSTICE BREYER: But the people who --  
5 who are just arriving at LAX, your know, or  
6 LaGuardia or JFK or something like that, and  
7 who have a credible -- a credible claim of  
8 prosecution, they don't get bail hearings.

9 Now, that to me is a little odd,  
10 particularly when, as Justice Sotomayor said is  
11 true, we give triple ax murderers, at least  
12 people who are accused of such, bail hearings.  
13 Are they dangerous? Are they risk of flight?  
14 Some of these people in the first category, you  
15 know, they might have relatives in Los Angeles.  
16 They might even have a green card which  
17 somebody decides is no longer valid.

18 And so what's the basis for reading  
19 the word "detained" sometimes to allow bail  
20 hearings at the discretion of the agency; other  
21 times not to allow bail hearings and keeping  
22 the people possibly for a year, a year and a  
23 half, in a jail cell without -- sorry, I don't  
24 mean my voice to rise -- but -- but with --  
25 without even a bail hearing? Where? Where --

1 I mean, the word "detain" doesn't say that. It  
2 just doesn't say.

3 MR. STEWART: Well, Sections 1225 and  
4 1226 have traditionally been understood to get  
5 at different categories of aliens. 1226 is the  
6 provision that we use when we arrest somebody  
7 who is within the -- who has entered the United  
8 States -- or is within the United States; 1225  
9 is the one we use when we are dealing with  
10 aliens who arrive at our shores.

11 Now, there is a tweak to that  
12 principle. And you alluded to the category of  
13 aliens who are within 100 miles of the border  
14 and have been in the country for fewer than 14  
15 days. For most purposes, those are treated as  
16 though they were people who just arrived. The  
17 BIA has issued the decision in Matter of X-K-  
18 that -- you know, you can agree with it or  
19 disagree with it, but it says for purposes of  
20 the bond hearings, we read the regulations to  
21 say they have -- they should be treated for  
22 bond hearings as though they had been arrested  
23 in the interior.

24 JUSTICE BREYER: But those are just as  
25 much the people you mentioned at the beginning,

1 those are just as much people who have no right  
2 to be in the country, just as much people who  
3 haven't been here for more than a few hours,  
4 just as much. And yet the agency itself thinks  
5 there's no problem with giving them bail  
6 hearings.

7 MR. STEWART: The BIA has never  
8 suggested that aliens who come to the border  
9 and are detained at a checkpoint are entitled  
10 to what the aliens are given in -- under Matter  
11 of X-K-. And I don't think there's any  
12 justification for bootstrapping that ruling.

13 JUSTICE KAGAN: But the BIA made that  
14 distinction because it thought that the  
15 regulation prevented other aliens coming to the  
16 border from receiving bail hearings. But it  
17 read the statute as not imposing such an  
18 obstacle.

19 MR. STEWART: The -- the statute says  
20 with respect to the -- the arriving aliens that  
21 these people shall be -- shall be detained for  
22 further consideration --

23 JUSTICE KAGAN: Yes, and what I'm  
24 saying is the BIA read the statute in exactly  
25 the way Justice Breyer indicated. So are you

1 saying that the BIA was simply wrong in X-K-?  
2 Because X-K- said the statute doesn't say, the  
3 statute is perfectly consistent with bond  
4 hearings being given; it's only this  
5 regulation, and the regulation only applies at  
6 the border.

7 MR. STEWART: Well, even if you adopt  
8 that reading of the statute and even if you  
9 accept the decision in X-K- to -- to that  
10 extent, the authority under 1226, which is at  
11 page 156-A of the petition appendix, this deals  
12 with people who are detained within the  
13 country. And it says, except as provided in  
14 subsection (c) of this section, which deals  
15 with criminal aliens, and pending the  
16 decision -- such decision, namely the decision  
17 whether the alien should be removed from the  
18 United States, the Attorney General may  
19 continue to detain the arrested alien or may  
20 release the arrested alien.

21 And it's the regulations that provide  
22 for bond hearings for people who are arrested  
23 inside the country. So -- but even if you read  
24 that statute to authorize the executive branch  
25 to grant bond hearings for individuals who are

1 newly arriving at the border, nothing in the  
2 statute says that that's compelled and  
3 certainly nothing in the Constitution says that  
4 that's compelled.

5           And if I could return to -- for a  
6 second, to your question, Justice Sotomayor,  
7 when you asked is there anything comparable in  
8 other areas of the law or why would immigration  
9 be unique? I think you -- you can think of the  
10 -- the plenary power doctrine, the idea that  
11 the political branches have plenary or nearly  
12 plenary power to regulate nearly initial  
13 admission as simply an idiosyncratic feature of  
14 immigration law, but you could also think of it  
15 as an immigration application of a more general  
16 principle. That is, it's often the case that  
17 the government has to provide greater process  
18 when it tries to take away something that an  
19 individual already has than it would have to  
20 provide when it decides whether to give a  
21 benefit to an individual in the first place.

22           JUSTICE SOTOMAYOR: But what -- some  
23 process. Here, what you're saying, at least  
24 with respect to this 1225(a), is no process.  
25 Because you have an executive, a parole IB --



1 INS member deciding whether someone should be  
2 paroled or not, and no neutral magistrate of  
3 any kind is looking at that executive decision  
4 to ensure it's not arbitrary. There's  
5 something fundamental about that in due  
6 process, which is someone should be looking at  
7 whether this is neutral or not.

8 MR. STEWART: Well, somebody is. I  
9 mean --

10 JUSTICE SOTOMAYOR: Some neutral  
11 party.

12 MR. STEWART: Some -- but it -- it  
13 could certainly be the case as far as the  
14 Constitution is concerned that, in many  
15 situations, a person who applies for government  
16 benefits, for instance, could get the process  
17 that -- that Congress specified. If Congress  
18 specified that an employee of the Social  
19 Security Administration would make a decision  
20 as to an initial award of benefits and didn't  
21 provide -- Congress has provided for judicial  
22 review, but if Congress didn't provide for  
23 judicial review, I think that the answer as a  
24 constitutional matter would be you have no Due  
25 Process Clause property interest --

1 JUSTICE KAGAN: Mr. Stewart, is -- is  
2 your argument about the new admits, the people  
3 who are coming to the border, premised on the  
4 idea that they simply have no constitutional  
5 rights at all?

6 MR. STEWART: It is premised on that.  
7 Now, we do have the --

8 JUSTICE KAGAN: Okay. If it is  
9 premised on that, I mean, Justice Scalia in one  
10 of his opinions talked about, surely, that --  
11 that can't be right; could we torture those  
12 people, could we put those people into forced  
13 labor? Surely, the answer to that is no. Is  
14 that right?

15 MR. STEWART: Yeah, I should have been  
16 more precise in saying they have no  
17 constitutional rights with respect to the  
18 determination whether they will be allowed to  
19 enter the country.

20 JUSTICE KAGAN: Okay. So -- but they  
21 do have some constitutional rights, not to be  
22 tortured, not to be placed in hard labor. Why  
23 isn't it -- it pretty close to that, not to be  
24 placed in arbitrary confinement, arbitrary  
25 detention?

1           MR. STEWART: Because when they arrive  
2 -- I mean, if by "arbitrary" you meant --

3           JUSTICE KAGAN: "Arbitrary" means that  
4 nobody gave them an individualized hearing, and  
5 so we don't know whether they're being held for  
6 any good reason. Nobody's made that decision.  
7 So, usually, in our -- you know, usually in our  
8 constitutional law, we think that that's a  
9 problem.

10           MR. STEWART: Now, Congress -- I  
11 think, Congress, consistent with the  
12 Constitution, could have abolished parole  
13 altogether and could have said, as a  
14 categorical matter, no newly arriving alien  
15 will be allowed to enter the country until he  
16 or she has persuaded the decision-maker that  
17 the right answer ultimately is to let that  
18 person in.

19           I think that would be a constitutional  
20 scheme under this Court's decisions, but  
21 Congress has historically offered parole as a  
22 form of process by -- to --

23           JUSTICE BREYER: Visitors too? I  
24 mean, you know, people overstay their visitors'  
25 visas. And we find a businessperson who, in

1 fact, has overstayed his visa. Oh, you're here  
2 too long; we'll put you in a cell and we'll  
3 keep you there for 13 months. Could they do  
4 that?

5 MR. STEWART: Well, they could put him  
6 in --

7 JUSTICE BREYER: Constitutionally?

8 MR. STEWART: They could -- well, they  
9 could put him in a cell --

10 JUSTICE BREYER: No, I mean, the only  
11 answer has to be no, doesn't it?

12 MR. STEWART: Well, the answer -- the  
13 answer could be he is arrested; he has an  
14 entitlement under the statute in that  
15 circumstance to a bond hearing. We don't think  
16 he has a consti -- a -- a --

17 JUSTICE BREYER: No, no, I'm thinking  
18 -- but doesn't he have -- no, wait, what I'm  
19 thinking of is this. You've got me thinking at  
20 the beginning of somebody standing at the  
21 airport outside the gate or standing at --  
22 outside the gate down at, say, in Mexico, or  
23 Canada, possibly. That isn't what happens.

24 What happens is they're told to that  
25 person: You want to go home? Go. And he

1 says: But I have a legal right, I think, to be  
2 in the United States. Very well, come in.

3 Now he's physically in the United  
4 States. And what we do to the person  
5 physically in the United States, because he has  
6 shown that he has a credible fear of  
7 persecution, is we put him in a little  
8 reception area which looks an awful lot like a  
9 cell.

10 And we keep him there for 13 months,  
11 possibly, or a year without a bail hearing, and  
12 maybe without anything. Now, that's the  
13 problem. And it seems to me if I'm right --  
14 and you'll correct me if I'm wrong -- but if  
15 I'm right, it's not quite -- I mean, it has a  
16 lot of implications because there are a lot of  
17 people in that category, and -- and to say they  
18 have no rights at all or even no rights, not to  
19 be confined arbitrarily, dah-dah-dah, I'm  
20 pretty nervous about that.

21 MR. STEWART: Well, again, I tried to  
22 be more precise with Justice Kagan. It's no  
23 right -- no constitutional right to be admitted  
24 into the country.

25 And when the alien simply arrives at

1 the border, the only alternative to release him  
2 to the community, subject perhaps to some form  
3 of supervision, is detention. And I think it's  
4 also worth pointing out that with respect to  
5 these class members, the people who are  
6 actually detained for more than six months,  
7 fewer than 5 percent ultimately prevailed on  
8 the ground that they were not removable; that  
9 is, to the extent that mistakes were made at  
10 the border as to an actual entitlement --

11 JUSTICE BREYER: Wait, but I thought  
12 40 percent eventually win, something like that.

13 MR. STEWART: A number of them win,  
14 but on discretionary grounds. They obtain  
15 asylum or they obtain cancellation of removal,  
16 but they don't establish a legal right to be  
17 there.

18 JUSTICE KENNEDY: Mr. Stewart, do you  
19 agree that detention violates due process, if  
20 there's an unreasonable delay in that  
21 detention?

22 MR. STEWART: I would -- if the  
23 unreasonable delay is attributable to the  
24 government in its prosecutorial capacity.

25 JUSTICE KENNEDY: And how should the

1 Court assess that reasonableness when delays  
2 result from backlogs? Let's -- let's suppose  
3 that Congress has provided only one-tenth of  
4 the necessary immigration judges to avoid  
5 unreasonable delays. Is that attributable to  
6 the government?

7 MR. STEWART: I would not attribute  
8 that to the government. And I think I'd like  
9 to focus on the two primary categories.

10 JUSTICE KENNEDY: So, if immigration  
11 judges were not available for a year and a  
12 half, that's not an unreasonable delay because  
13 we just can't count that?

14 MR. STEWART: Well, with respect to  
15 the arriving aliens, there still is the  
16 constitutional rule that they have no due  
17 process rights in connection with their initial  
18 entry into the country.

19 JUSTICE KENNEDY: But we -- we -- we  
20 started from the premise that you say that  
21 there can -- due process is violated when  
22 there's an unreasonable delay attributable to  
23 the government.

24 And my question is going to be how --  
25 how can we measure that?

1 MR. STEWART: Well, you're --

2 JUSTICE KENNEDY: Isn't -- isn't a  
3 bright line rule, six months, nine months,  
4 whatever it is, an easier way than to say,  
5 well, are there enough immigration judges --  
6 which there aren't -- how -- how can we -- how  
7 can we measure this?

8 MR. STEWART: Well, let me say a  
9 couple of things in response to that. The  
10 first, in your concurring opinion in *Demore v.*  
11 *Kim*, you said that detention, in that case you  
12 were talking specifically about criminal aliens  
13 who were detained under 1226(c), but you said  
14 detention might become unconstitutional if the  
15 government was unreasonably prolonging the  
16 detention for some purpose unrelated to its  
17 original purposes; namely, preventing flight  
18 risk and preventing danger to the community.

19 And so, for instance, if DHS officials  
20 were -- believed that the alien was going to  
21 win asylum at the end of the day and wanted to  
22 keep him confined for as long as possible, and  
23 protracted the proceedings for that purpose,  
24 that would establish -- if you could prove  
25 that, that would establish a valid



1 constitutional claim under that theory.

2 The other thing I would say about the  
3 various bright line rules that have --

4 JUSTICE KAGAN: But if I could just  
5 push on Justice Kennedy's question a bit, I  
6 mean, for those -- that class of aliens, we are  
7 talking about people who have been in this  
8 country, who clearly do have various  
9 constitutional rights.

10 And are you suggesting that if the  
11 backlog is five years, it's okay to keep them  
12 there for five years without a determination of  
13 whether they pose any risk of flight or whether  
14 they're dangerous?

15 MR. STEWART: I would say that is not  
16 unconstitutional. And one of the -- one of the  
17 points I would make is --

18 JUSTICE KENNEDY: But you have to also  
19 say under your premise that it's not  
20 unreasonable, because I thought you agreed that  
21 detention violates due process when there's an  
22 unreasonable delay.

23 MR. STEWART: I would --

24 JUSTICE KENNEDY: Now you're saying,  
25 oh, well, there's no constitutional right.

1 This doesn't -- this doesn't match.

2 MR. STEWART: Well, I would say a  
3 delay attributable to unreasonable action on  
4 the government's part.

5 And I think with respect to the  
6 criminal aliens --

7 JUSTICE KAGAN: So five years of  
8 backlog or suppose that the government decided  
9 to appeal from an adverse decision and that  
10 that created a -- a further delay of two or  
11 three years.

12 MR. STEWART: Let me give you my most  
13 extreme answer, and then let me give you a -- a  
14 backup answer.

15 The most extreme answer is the  
16 criminal alien who is detained for more than  
17 six months, unlike every other form of  
18 detention that are -- is discussed in the  
19 briefs, that alien always has the option of  
20 terminating the detention by accepting a final  
21 order of removal and returning home.

22 JUSTICE KAGAN: I take it that that's  
23 your most extreme answer because it doesn't  
24 sound all that good.

25 (Laughter.)

1           MR. STEWART: Well, but the other --  
2           the other -- no, the other nuance to the most  
3           extreme answer is Congress, as we've said, has  
4           provided certain bases; asylum in some  
5           instances; cancellation of removal is a more  
6           prevalent form of discretionary relief for  
7           aliens who are convicted of criminal offenses  
8           and have been confined under 1226(c), Congress  
9           had no constitutional obligation to create  
10          those discretionary bases on which an alien  
11          can -- can try to remain in the country. And  
12          so Congress --

13                 JUSTICE KENNEDY: What if we --

14           MR. STEWART: I'm sorry.

15                 JUSTICE KENNEDY: Go ahead.

16           MR. STEWART: Congress could have said  
17          all of the aliens who fit within the categories  
18          covered by 1226(c) will be removed without  
19          regard to discretionary forms of relief because  
20          those will be unavailable.

21                 And if Congress can take that step, it  
22          can also take the step of saying we will give  
23          you some hope of discretionary relief, but our  
24          resources are thin, and it may take a long time  
25          for us to rule on your case.

1 JUSTICE KENNEDY: You --

2 CHIEF JUSTICE ROBERTS: It seems to me  
3 I'm just -- just looking at your supplemental  
4 reply brief. And you say that if the process  
5 lasts longer than 14 months, it could fairly  
6 prompt an occasion for review.

7 I mean, it --

8 MR. STEWART: Could be --

9 CHIEF JUSTICE ROBERTS: -- it sounds  
10 close to a concession.

11 MR. STEWART: Well, I could be wrong,  
12 but I believe we were talking there about the  
13 immigration judge stage of the proceedings.  
14 And what we were saying was in order to decide  
15 whether a case is an outlier, you should look  
16 to -- to statistical evidence about how long do  
17 particular stages of a case typically take.

18 And if a particular -- if there is an  
19 as-applied challenge and the evidence is this  
20 particular stage of the case has taken wildly  
21 longer than it ordinarily does, that should  
22 prompt further inquiry.

23 But if due to resource constraints or  
24 whatever it became typical for proceedings in  
25 1226(c) cases to take three years, I think we'd

1 endorse a different principle.

2 CHIEF JUSTICE ROBERTS: Yes, I think  
3 -- I think I interrupted Justice Alito.

4 JUSTICE ALITO: Well, I was just going  
5 to say if -- let's assume that there is a --  
6 that it would be a constitutional violation if  
7 there is unreasonable delay. What is the best  
8 way to deal with it?

9 Is it for us to impose some sort of a  
10 time limit, a hard time limit, or would it be  
11 better to deal with it the way we deal with  
12 Speedy Trial Act -- speedy trial -- not Speedy  
13 Trial Act -- constitutional speedy trial claims  
14 where you look at -- at all of the factors of a  
15 particular case?

16 MR. STEWART: It would be much better  
17 to go the latter route. And I think there are  
18 several differences between the case -- this  
19 particular setting and the cases in which the  
20 Court has adopted bright line rules, but the  
21 one that I would focus on most intently is I'm  
22 not aware of any situation where the Court has  
23 imposed a bright line constitutional deadline  
24 where the duration of particular steps was so  
25 much within the control of the person who is

1 asserting the constitutional right.

2 JUSTICE SOTOMAYOR: Mr. Stewart,  
3 individual consideration, like a habeas, if we  
4 granted a habeas -- if we say habeas will take  
5 care of this, the courts can look at it. What  
6 are they going to look at?

7 I think they're going to look at  
8 whether or not you've unreasonably delayed and  
9 decide, well, there's a possibility, so let's  
10 give this person a bond hearing.

11 The issue here is whether the  
12 constitution sensibly would say give people a  
13 bond hearing after a certain amount of time  
14 because then that independent neutral  
15 adjudicator can decide whether the reason the  
16 alien is being held is that he is a national  
17 security risk, he's committed a crime that is  
18 so heinous that he shouldn't be let out because  
19 he's a danger to the community or if it is a  
20 1226(a) class member who was picked up merely  
21 because they were in a sweep, but there's no  
22 criminal record, they have strong ties to the  
23 community, they own property, they should be  
24 let out.

25 Why would it be sensible to put that

1 person in an individual situation as opposed to  
2 creating a rule that says after a certain  
3 amount of time, government, explain why this  
4 person is dangerous?

5 MR. STEWART: If the Court thinks the  
6 constitution actually imposes a six- or  
7 eight-month deadline, this case is a perfectly  
8 appropriate vehicle to say it. We think that  
9 the analysis of whether there is a  
10 constitutional violation depends on a  
11 consideration of a variety of factors,  
12 including the extent to which the alien was  
13 responsible for the delay.

14 If I may, I'd like to reserve the  
15 balance of my time.

16 CHIEF JUSTICE ROBERTS: Thank you,  
17 counsel.

18 Mr. Arulanantham?

19 OPENING ARGUMENT OF AHILAN ARULANANTHAM

20 MR. ARULANANTHAM: Thank you, Mr.  
21 Chief Justice, and may it please the Court:

22 I think my friend's presentation  
23 clarifies the basic difference between the  
24 parties in this case.

25 In their view, he says, removal and

1 detention are just two sides of the same coin.  
2 And we fundamentally disagree with that  
3 provision -- position for both doctrinal and  
4 practical reasons.

5 Now, for doctrinal reasons, it goes  
6 far beyond anything this Court has ever said  
7 with respect to the power to detain  
8 non-citizens. All the way back in Wong Wing,  
9 when the Court in 1896 first said that there is  
10 a power to detain, they did so in the next  
11 sentence by analogizing to the pretrial  
12 criminal process.

13 You have the power to detain, but only  
14 if the detention is necessary to ensure that  
15 the person appears or to prevent, you know, a  
16 danger to the community. Similarly, in Carlson  
17 v. Landon, the height, arguably, of the  
18 government's detention power, the Court said we  
19 won't impute dangerousness to everybody who's  
20 facing deportation proceedings, instead --

21 JUSTICE GINSBURG: You mentioned --  
22 you mentioned the pretrial detainee, but there  
23 is nothing like a six-month requirement. If  
24 somebody is being detained, the remedy that the  
25 Ninth Circuit provided a hearing every six



1 months, that is -- is not provided to pretrial  
2 detainees.

3 MR. ARULANANTHAM: Your Honor, let's  
4 leave the periodic part of that aside for just  
5 a moment.

6 As for the initial six-month hearing,  
7 the analogy there is to the -- the bond hearing  
8 that you get within days promptly, as the Court  
9 said in Salerno after your arrest in the  
10 pretrial detention context. And if instead my  
11 friend's position is correct, Your Honor, that  
12 just the fact that you are in deportation  
13 proceedings itself is sufficient to justify  
14 your detention, then Congress could pass a law  
15 that mandated the detention of every person in  
16 removal proceedings.

17 And, in fact, my friend said that with  
18 respect to, you know, people arriving at the  
19 border.

20 JUSTICE KAGAN: Well, we know that  
21 Demore said that this was permissible as long  
22 as it was for a matter of months. Isn't that  
23 true?

24 MR. ARULANANTHAM: Yes, two things,  
25 Your Honor, that it was a brief, and also that

1 the detainee had conceded their deportability.

2           And I think both are extremely  
3 important here. Obviously the detention times  
4 here are something like eight or ten times,  
5 depending on who you talk to, more than those  
6 in Demore, but, in addition, our class members  
7 are detained for a long time because they are  
8 pursuing defenses to their cases.

9           And many of them, 40 percent for  
10 the -- almost 40 percent for the Mandatory  
11 Subclass, two-thirds for the Arrivings, won  
12 their cases even when they were detained. You  
13 know, and I expect that number to go up.

14           JUSTICE KAGAN: So I agree that  
15 there's a significant difference about the  
16 time. I guess I'm less sure whether there's a  
17 difference as to that second factor because  
18 it's -- I think many of your clients are  
19 pursuing cancellation of removal, which I  
20 believe was the same as in Demore; is that not  
21 correct?

22           MR. ARULANANTHAM: No, it is not, Your  
23 Honor. This is an important point. So the  
24 only relief, as the Court understood the claim  
25 in Demore, which was not actually what was true

1 of Mr. Kim, but as the Court decided the case,  
2 the only claim he was -- belief he was seeking  
3 was withholding of removal.

4 And withholding of removal does not  
5 give you a right to remain in the United  
6 States. You lose your green card and can be  
7 deported to any country, except for one, you  
8 know, unless conditions change in that country.  
9 It's a form of weaker kind of asylum  
10 protection.

11 In contrast, cancellation of removal,  
12 which is half the Mandatory Subclass is  
13 eligible for that, if you win that, you keep  
14 your green card. You are never ordered  
15 removed. And the same is true for adjustment  
16 of status, is also true for asylum, for the  
17 Arriving Subclass. So there is a fundamental  
18 difference here.

19 Those people get a path to  
20 citizenship, actually, through that case.

21 So the reason why that matters so much  
22 is because the Court treated the concession of  
23 deportability as like a proxy for flight risk  
24 in Demore and accepted that as a proxy, a  
25 categorical generalization because the

1 detention was brief.

2 JUSTICE GORSUCH: Counsel, can you  
3 help me --

4 MR. ARULANANTHAM: But that is a poor  
5 proxy for our -- excuse me, Your Honor.

6 JUSTICE GORSUCH: No, I'm sorry. I'm  
7 way over here. I was hoping you could help me  
8 with a couple of jurisdictional tangles I'm  
9 snarled up in.

10 One is 1252(b)(9), which is you will  
11 recall indicates Congress's intent to strip  
12 courts of jurisdiction over final orders of  
13 removal, attack -- collateral attacks on them.  
14 What do we do about that, in your view?

15 And then also (f)(1), which the Ninth  
16 Circuit worked around by saying, in part, it  
17 was interpreting the statute, not restraining  
18 the statute, but if we go down constitutional  
19 grounds, we would be restraining the statute --

20 MR. ARULANANTHAM: Yes.

21 JUSTICE GORSUCH: -- at least through  
22 a declaratory judgment, which of course the  
23 government -- we would expect them to abide it  
24 much like an injunction. So how do we handle  
25 those two problems?

1 MR. ARULANANTHAM: That's fair.

2 JUSTICE GORSUCH: I would like the  
3 government's view on that too.

4 MR. ARULANANTHAM: Yes, Your Honor,  
5 (b) (9) unfortunately is not briefed, but the  
6 government has said repeatedly that it doesn't  
7 apply to detention claims. And that makes  
8 sense because the only time you can challenge  
9 it is in petition for review of your final  
10 removal order, which in this case is after all  
11 the detention has already happened. So --

12 JUSTICE GORSUCH: Right.

13 MR. ARULANANTHAM: -- so they have  
14 read the statute, as have we, to not bar  
15 detention claims.

16 JUSTICE GORSUCH: And --

17 MR. ARULANANTHAM: As to (f), Your  
18 Honor, also unfortunately not briefed and I  
19 think waived insofar as the Ninth Circuit ruled  
20 when at the time that the Ninth Circuit --

21 JUSTICE GORSUCH: Can it be waived?  
22 That would be an initial question I guess I'd  
23 have.

24 MR. ARULANANTHAM: Yes, I think it can  
25 be waived, Your Honor. It doesn't -- it just

1 goes the remedial power. It doesn't go to  
2 subject matter jurisdiction.

3 JUSTICE GORSUCH: Okay.

4 MR. ARULANANTHAM: And the Ninth  
5 Circuit ruled -- recognized that there was a  
6 constitutional claim in the case at the time it  
7 issued its class certification order. The  
8 government argued (f) at that time and never  
9 sought a certiorari, but if Your Honor also has  
10 concerns about it I would say the Supreme Court  
11 has the power --

12 JUSTICE GORSUCH: Right.

13 MR. ARULANANTHAM: Who exempts the  
14 Supreme Court, and you know, we're here now.  
15 It is a habeas petition.

16 JUSTICE GORSUCH: Right.

17 MR. ARULANANTHAM: And it also doesn't  
18 mention habeas at all, which was the basis for  
19 the Court's jurisdictional ruling in Demore  
20 v. Kim. And since then actually Congress  
21 amended the Real ID Act and they put explicit  
22 mentions to habeas in other provisions of 1252,  
23 but they didn't do it in (f), so I think  
24 there's, you know, a reasonable statutory  
25 argument --

1 JUSTICE GORSUCH: Thank you.

2 MR. ARULANANTHAM: -- to that, Your  
3 Honor.

4 Going back, though, to Your Honor's  
5 question, Justice Kagan, they viewed  
6 deportability, the concession, as a proxy for  
7 flight risk. And what we know now, at least as  
8 to our group of people who have substantial  
9 defenses, is it is a horrible proxy for flight  
10 risk.

11 And we have people in our case who  
12 have citizenship claims -- excuse me, have  
13 married to U.S. citizens, and they have a  
14 petition. And they are going to win their  
15 case. They are just waiting for the DHS to  
16 decide the petition. And they get detained  
17 like eight months, ten months waiting for this  
18 petition to get decided. That person has no  
19 reason to flee.

20 We also have alternatives to detention  
21 now, intensive supervision, gets extremely,  
22 extraordinarily high appearance rates by the  
23 government's own witness testimony, and so the  
24 idea that the immigration judge can't just look  
25 at that to individually assess whether or not

1 you actually do present the flight risk, it  
2 seems like the due process clause should  
3 require that here, even if it didn't require it  
4 in Demore.

5 JUSTICE KAGAN: You know, thinking  
6 about Demore again on just the timing issue,  
7 Demore makes a big point of saying how short  
8 the times are here and most of them are 90  
9 days. And even at the top end, it's only five  
10 months. But Mr. Demore himself was six months.

11 So I guess my question is does that  
12 mean that your proposed remedy, which is a  
13 six-month line, just doesn't fit with Demore,  
14 given that we sent Demore back and he was -- he  
15 continued to be detained?

16 MR. ARULANANTHAM: Your Honor, I think  
17 the Court decides, the opinions should be read  
18 to decide the claims that are argued. And Mr.  
19 Kim never argued that my detention is, I  
20 concede, fine, for the first six months, it  
21 only became unconstitutional after that time  
22 period.

23 He never made the argument that, for  
24 example, there's a long history, even in the  
25 criminal context, with respect to petty



1 offenses versus, you know, serious ones. Six  
2 months is treated as a really significant  
3 limitation because of the jury trial right.

4 He didn't argue that Zadvydas  
5 required, you know, because Congress previously  
6 doubted the constitutionality of detention  
7 beyond six months, that that was the relevant  
8 line, so I don't think Demore controls the  
9 question. I think it is open.

10 And I think, you know, I think I've  
11 sort of given you some of the reasons why I  
12 think six months is a logical rule. You know,  
13 this Court has never authorized detention  
14 without a hearing before a neutral  
15 decision-maker, outside of national security,  
16 beyond six months. So I think it would be  
17 extraordinary to do that.

18 Demore certainly didn't say that.  
19 Demore said the vast -- the outlier cases for  
20 the tiny percent involving appeals will be four  
21 and a half months, and most of them are 47  
22 days. And the Court didn't understand, I think  
23 what the Court here obviously does now about  
24 backlogs, and about also the way the  
25 immigration process is structured.

1           So if you want to apply for  
2           cancellation of removal, for example, you have  
3           to take what they call a continuance. If my  
4           lawyer --

5           JUSTICE GINSBURG: Would you -- would  
6           you clarify the relief that you are seeking  
7           now? I don't know of any regime, maybe there  
8           is one, where someone who is being detained has  
9           to be brought before a judge every six months.

10          Is it, as you pointed out, with the  
11          pretrial detainees, there is an immediate bail  
12          hearing. But is there any --

13          MR. ARULANANTHAM: Yes, Your Honor.

14          JUSTICE GINSBURG: Yes?

15          MR. ARULANANTHAM: Yes, Your Honor.

16          The agency's own regulations governing Zadvydas  
17          attendees, people who have lost the right to  
18          live here, there's -- there's two of them,  
19          241.4 and 241.14. The second one provides for  
20          IG bond hearings every six months for people  
21          who are especially dangerous. So they're  
22          detaining them, notwithstanding Zadvydas,  
23          because they are a national security threat or  
24          sex offenders, and there's a couple of other  
25          provisions there.

1           241.4 provides it every year. And  
2 there are other civil commitment schemes that  
3 do it every year. It's true that six months is  
4 rare, although the agency does do it in this --  
5 you know, in this other context.

6           Our main concern, Your Honor, is that  
7 this is a group of unrepresented people. So --

8           JUSTICE ALITO: But that can be done by  
9 -- it can be done by -- it can be done by  
10 Congress. It can be done by regulation. But  
11 it's quite something to find six months in the  
12 Constitution. Where does it say six months in  
13 the Constitution? Why is it six? Why isn't it  
14 seven? Why isn't it five? Why isn't it eight?

15          MR. ARULANANTHAM: Yes, Your Honor, it  
16 doesn't say it in the Constitution. It didn't  
17 say 14 days in Justice Scalia's opinion --

18          JUSTICE ALITO: No. That's the only  
19 example I can think of, but there, that's  
20 entirely within the power, the control of the  
21 -- of the government entity making the arrest.  
22 If you arrest somebody, I've got a certain  
23 period of time, the 48 days -- the 48 hours.  
24 It would have to be short, and the 48 hours is  
25 just -- provides clarity.

1           But this is -- this is different.  
2       There are many factors that can go into the  
3       question of whether the delay is unreasonable.  
4       Isn't that true?

5           MR. ARULANANTHAM: Well, I don't think  
6       that -- let me answer two ways, Your Honor.  
7       First, Congress previously doubted the  
8       constitutionality of detention beyond six  
9       months in Zadvydas. It's also in McNeil a  
10      useful benchmark for a civil commitment --

11           JUSTICE ALITO: Why do you say  
12      Congress doubted the constitutionality --

13           MR. ARULANANTHAM: I'm quoting -- I'm  
14      quoting the Court in Zadvydas. And that's it.

15           But, Your Honor, the -- the other  
16      argument for it really arises from the fact  
17      that when detention becomes prolonged,  
18      something is fundamentally different. So you  
19      have to draw a line somewhere, or else you  
20      don't end up with, you know, an administrable  
21      rule. And what we -- what we've seen in the  
22      decade of litigation on this subject since  
23      Demore is that the lower courts that failed to  
24      -- I mean, it didn't even start out that way.  
25      The Ninth Circuit first said detention was

1 unconstitutional if prolonged, or construed the  
2 statute in light of that, in 2005.

3           And then there were more cases. Four  
4 and a half years detention, I had a client in  
5 2006; seven years detention in  
6 Casas-Castrillon, another case that came, I  
7 think, another year later. The Third Circuit,  
8 the same thing happened. They first said it  
9 was unconstitutional or, excuse me, construed  
10 the statute to avoid the constitutional  
11 problem, which I know Your Honor is not a huge  
12 fan of, but, you know, they did that first, and  
13 then four -- four years later, there has been  
14 two other cases.

15           And so then they start saying we have  
16 to have some kind of guidepost. So that's I  
17 think the rationale --

18           CHIEF JUSTICE ROBERTS: Those are  
19 certainly --

20           MR. ARULANANTHAM: -- for a temporal  
21 rule.

22           CHIEF JUSTICE ROBERTS: Those are  
23 certainly outlier cases. And, you know, they  
24 obviously -- concerns are heightened as you get  
25 beyond -- as you extend the time period.

1           But six months, I mean the time period  
2   that you've selected, how long -- what is --

3           MR. ARULANANTHAM: Yes, Your Honor.

4           CHIEF JUSTICE ROBERTS: Give me some  
5   sense of how I can figure out how often that is  
6   an issue with respect to the broad group of  
7   people that are --

8           MR. ARULANANTHAM: Absolutely, Your  
9   Honor.

10          If you look at EOIR updated  
11   statistics, so the government's statistics that  
12   they published in FY 2015, which they cite in  
13   their -- somewhere in their -- in their briefs,  
14   is when they -- when they corrected the error  
15   in *Demore v. Kim*, they cited it there, the  
16   updated statistics were published, 90 percent  
17   of all detention cases under mandatory  
18   detention finish in less than six months.

19          So six --

20          JUSTICE KENNEDY: What did you say?

21          MR. ARULANANTHAM: Less than six  
22   months. So six months, our class, is the  
23   outliers. You know, we are the outliers. And  
24   the reason for that is because our class is the  
25   people who have substantial defenses. And it

1 is true that --

2 CHIEF JUSTICE ROBERTS: And is that --  
3 but just taking the outliers, the government  
4 makes the point that in many cases those  
5 individuals are compiling an evidentiary record  
6 to substantiate their -- their claims. So that  
7 that should be taken into account in  
8 considering how -- how long it is.

9 And I suppose the government's  
10 alternative of individualized assessment, which  
11 would take into account whether or not the  
12 people are using the time to compile a record  
13 or not and are particularly interested in  
14 getting out now as opposed to in three months  
15 or whatever, why doesn't the suitability of  
16 individualized -- the availability of  
17 individualized relief through habeas or another  
18 procedure become more plausible to the extent  
19 you're dealing with a smaller category of  
20 cases?

21 MR. ARULANANTHAM: So although it's  
22 only 10 percent that go beyond six months, it's  
23 still thousands of case. You know, if you take  
24 just snapshot data on any given day, we got  
25 that for our class, it was 400 people in the

1 Central District of California on any given  
2 day. It was a thousand people --

3 CHIEF JUSTICE ROBERTS: Some of  
4 whom -- some of whom we've been discussing are  
5 there because they're compiling evidence --

6 MR. ARULANANTHAM: Right.

7 CHIEF JUSTICE ROBERTS: -- to -- to  
8 allow them to make a stronger case, and it's  
9 not clear why --

10 MR. ARULANANTHAM: Understood.

11 CHIEF JUSTICE ROBERTS: -- that  
12 shouldn't be a consideration that diminishes  
13 their claim.

14 MR. ARULANANTHAM: Right. Understood,  
15 Your Honor. So let me answer that portion of  
16 it.

17 And we fundamentally disagree on the  
18 question whether you get a hearing to assess  
19 whether your detention is lawful or not where  
20 the reason for the delay is because you're  
21 compiling a record and pursuing relief.

22 I think, you know -- I agree that if  
23 you want to give up and go home -- you know,  
24 Mr. Rodriguez came here at the age of one, so,  
25 you know, I'm not sure where home is, but,



1     anyway -- and, in fact, a huge majority,  
2     something like two-thirds of the Mandatory  
3     Subclass, came here prior to the age of 21. So  
4     -- and they have -- 60 percent have U.S.  
5     citizen children or spouses. But anyway, you  
6     know, if you want to leave, then you can give  
7     up and you control the length of time in your  
8     case; true.

9             But if you want to apply for any  
10    relief, or make any defense, you want to  
11    contest the charge, anything like that, you do  
12    not have control over how long your case will  
13    take anymore.

14            CHIEF JUSTICE ROBERTS: No, I'm not --  
15    I understand -- I understand I think both the  
16    government's point and your response about you  
17    hold the keys in your pocket and why that's not  
18    satisfactory in -- in every case. But my  
19    question is that it's -- it's not everybody who  
20    is -- the government is not entirely  
21    responsible for the length of time that the  
22    individual or the individuals are being  
23    detained.

24            MR. ARULANANTHAM: Yes, and Your  
25    Honor --

1 CHIEF JUSTICE ROBERTS: And -- and I'm  
2 just trying to get a number. You say 400  
3 people in -- in where? In the Central  
4 District --

5 MR. ARULANANTHAM: In the Central  
6 District of California.

7 CHIEF JUSTICE ROBERTS: Central  
8 District of California.

9 MR. ARULANANTHAM: Yes.

10 CHIEF JUSTICE ROBERTS: And the number  
11 of people who are not partially responsible for  
12 that delay themselves is -- is some smaller  
13 percentage of that.

14 MR. ARULANANTHAM: Yeah.

15 CHIEF JUSTICE ROBERTS: And I'm  
16 wondering, as the number gets smaller and  
17 smaller, at some point the prospect of  
18 individual rather than -- individual  
19 application rather than unusual class-wide  
20 relief becomes a more palatable option.

21 MR. ARULANANTHAM: Understood, Your  
22 Honor. I think if the Court were to hold that  
23 you don't even get a hearing, you don't even  
24 get to look at your detention, if you are  
25 partly responsible for the delay insofar as

1 you're litigating your case, then almost nobody  
2 will get out, and you're right that the number  
3 of habeas petitions will be very small. You  
4 know, assuming that this would be done through  
5 individual habeas petitions.

6 But I disagree with the premise  
7 because I don't think it's fair to say that you  
8 control the length of your detention just -- I  
9 mean you control it in the sense that you could  
10 give up, but beyond that, you do not control  
11 it.

12 CHIEF JUSTICE ROBERTS: Control is --  
13 right. I'm thinking something of the way we  
14 approach speedy trial claims. In deciding  
15 whether or not you've been deprived of a speedy  
16 trial, you have to take out of the calculation  
17 times when you've asked for a continuance and  
18 so on and so forth.

19 MR. ARULANANTHAM: Right. And that  
20 analogy is -- is I think fundamentally  
21 misguided, you know, because the Speedy Trial  
22 Act gives you release, and it gives you  
23 dismissal of the prosecution if, after you do  
24 the calculation you describe, you know there  
25 has been a violation. It applies even if

1 people are not detained, right, because the  
2 government has a separate obligation to pursue  
3 a proceeding in an expeditious manner.

4           There's probably some speedy  
5 trial-like constraint also in the immigration  
6 context, but we haven't argued that. The Due  
7 Process Clause is a separate constraint, which  
8 is detention has to be necessary to serve its  
9 purpose.

10           And even if you are litigating your  
11 case in good faith, because you're a U.S.  
12 citizen's wife or because Mr. Rodriguez has,  
13 you know, a baby child at home, he misses the  
14 first three years of his child's life, you  
15 know, that is because he's pursuing relief. So  
16 in that sense he is responsible. But it  
17 doesn't make him a flight risk. You know, and  
18 so all we're saying is that, for that reason,  
19 you should be able to get the hearing on due  
20 process grounds, not speedy trial, you get it a  
21 due process grounds when the detention has  
22 become prolonged.

23           And while the judge may say, you know  
24 what, you are pursuing dilatory tactics, you  
25 don't have a good faith claim here, or I think

1 you are going to flee, I think even putting an  
2 ankle monitor with a GPS device on you is not  
3 going to be good enough or you have a horrible  
4 criminal history, then that's fine; that person  
5 gets detained. But the other people for whom  
6 that is not true, which is a lot of people in  
7 our class, you know, those people should have  
8 the chance to -- the make the case in front of  
9 the immigration judge.

10 Your Honor --

11 JUSTICE ALITO: Well, why do you say  
12 it should -- it should happen at six months?  
13 Why shouldn't it happen immediately?

14 MR. ARULANANTHAM: Your Honor, we  
15 thought it should happen immediately. In  
16 *Demore v. Kim* we lost. And I think that the  
17 Court accepted the idea that a categorical  
18 generalization, rather than an individualized  
19 assessment, was okay for brief detentions as to  
20 people who had conceded their deportability.  
21 So -- and that's essentially it, you know.

22 If -- if -- that may be fine and you  
23 don't need that hearing on day one, but once  
24 your case has taken a long time, deprivation of  
25 liberty is greater, then you need --

1 JUSTICE ALITO: But what -- does that  
2 reflect the idea that there is a significant  
3 flight risk in this category of cases? That's  
4 why there's the six-month rule?

5 MR. ARULANANTHAM: You know -- sorry,  
6 you mean the six month rule from Demore?  
7 Congress -- Congress said, and we disagree with  
8 this because I think -- the Congress said that  
9 there was significant flight risk concerns  
10 here. That was because of their lack of bed  
11 space, you know, but that's -- that's -- that  
12 ship has passed, as long as Demore is good law;  
13 you know, the -- the Court said, you know,  
14 that's a -- that's a sufficient justification.  
15 But it didn't foreclose our showing in a case  
16 like this.

17 JUSTICE GORSUCH: Counsel, building on  
18 that, I can imagine some individuals thinking  
19 that they have a good argument that they should  
20 be released before six months, at some point  
21 between zero and six months.

22 Would the class-wide relief preclude  
23 those claims and, if not, and we're going to be  
24 doing individualized claims anyway for the  
25 period of zero to six months, what -- what do

1 we gain by creating this bright line rule?

2 MR. ARULANANTHAM: We defined the  
3 classes that we thought was the outer limit. I  
4 agree with you. I think there may be -- Your  
5 Honor, excuse me -- that there may be people  
6 who are entitled to hearings before that.

7 I don't read this as foreclosing that  
8 because, you know, the maximum -- or the sort  
9 of most favorable relief we sought was  
10 detention -- excuse me -- was -- was hearings  
11 at six months.

12 So I think we've foreclosed -- yeah,  
13 we've foreclosed the claims we pled but, you  
14 know, don't -- don't foreclose, you know, for  
15 the -- for the things that we didn't ask for.

16 JUSTICE GORSUCH: So we're still going  
17 to have individualized claims between zero and  
18 six months and individualized claims, I assume,  
19 between six months and 12 months and so forth?

20 MR. ARULANANTHAM: Well, hopefully not  
21 the latter if -- if we were to win on six  
22 months, but as to the initial --

23 JUSTICE GORSUCH: Well, why not? If  
24 they're detained at six months, but conditions  
25 change between six and 12, I would -- I would

1 want to bring a habeas petition at that point.

2 MR. ARULANANTHAM: I under -- I  
3 understand, Your Honor.

4 So first, as to the short, the before  
5 six months, as a practical matter, very  
6 unlikely because it is impossible to get a  
7 habeas adjudicated most of the time before six  
8 months.

9 The American for Immigrant Justice  
10 brief at page 31, it co-lists the statistics.

11 JUSTICE GORSUCH: I would hope that in  
12 detention habeas petitions get prompt  
13 attention.

14 MR. ARULANANTHAM: You would hope so,  
15 Your Honor, but in practice --

16 JUSTICE GORSUCH: Yeah.

17 MR. ARULANANTHAM: -- it takes 19  
18 months in the Eleventh Circuit. It takes about  
19 14 months, I think, in the Third. The fastest  
20 circuit --

21 JUSTICE GORSUCH: To get before a  
22 judge at all or to have it finally adjudicated?

23 MR. ARULANANTHAM: To have it finally  
24 adjudicated.

25 JUSTICE GORSUCH: Okay.



1           MR. ARULANANTHAM: To have it finally  
2 adjudicated.

3           But -- but part of the problem, Your  
4 Honor, is they're assessing all these  
5 individualized factors, which they don't know  
6 about, because they don't have the case in  
7 front of them, and that takes time. The  
8 immigration judge --

9           JUSTICE BREYER: How has it worked?  
10 I would assume that the reason six months is  
11 not picked out of the air but, rather, six  
12 months reflects what's -- reflects Zadvydas,  
13 where it wasn't absolutely six months, it was  
14 presumptively six months.

15          MR. ARULANANTHAM: Right.

16          JUSTICE BREYER: And you could say  
17 your continued detention was unreasonable prior  
18 to six months, and you could say it was  
19 reasonable up to eight months, all those things  
20 were true of that case.

21          MR. ARULANANTHAM: Right.

22          JUSTICE BREYER: Now, how has that  
23 worked out?

24          I assume that it has worked out that  
25 the problems that had been raised are not

1     overwhelming and, therefore, for purposes of  
2     uniformity, which gives the government some  
3     time, like many times what it has in an  
4     ordinary criminal case, to proceed, and yet  
5     doesn't have the extreme detention, that that's  
6     where that number comes from.

7                     So how has that worked out in the  
8     Zadvydas context?

9                     MR. ARULANANTHAM: Your Honor, let me  
10    answer both that and then just finish answering  
11    Justice Gorsuch's question.

12                    I think Zadvydas has worked out quite  
13    well. You know, after -- there was one big  
14    dispute, which is does it apply to  
15    excludeables. That was resolved in Clark v.  
16    Martinez. You know, I would be surprised if  
17    Your Honors have seen a cert petition. I  
18    certainly am not aware of one arising out of  
19    Zadvydas.

20                    You know, in contrast, the Demore  
21    rule, you've got our case, you've got Prayopp,  
22    which is currently pending before this Court,  
23    and there is other -- I mean, there's a lot of  
24    litigation that arose from trying to figure out  
25    the limits on Demore, unlike Zadvydas.

1           Just to go back briefly, Your Honor,  
2           the immigration judge, if they are the one  
3           conducting the hearing, it does not take them  
4           long to make this assessment. The hearings  
5           take about 10 to 15 minutes actually just  
6           because they have the merits case, right. The  
7           habeas court, totally a different story.

8           As to the -- the later habeases, Your  
9           Honor, that's part of the justification in our  
10          view for periodic review. It is also a rule of  
11          adminstrability. It ensures that there's  
12          another look at the hearing -- at the detention  
13          after one month -- excuse me -- after one year.

14          You know, it might be that what was  
15          sufficient to detain at six months, that --  
16          that's not sufficient to detain after six  
17          years, which is how long Mr. Rodriguez's case,  
18          you know, took to finish. And in their view,  
19          all of his detention for that entire time would  
20          have been justified because it's his fault, he  
21          is the one who is trying to challenge his  
22          claim.

23          And even when he gets to the Ninth  
24          Circuit, the government confesses error, and  
25          then remands it back, you know, but -- but he's

1 still the one pursuing relief. And he can go  
2 home to Mexico, which he hasn't been since the  
3 age of one. And so that's why --

4 CHIEF JUSTICE ROBERTS: I don't think  
5 the government -- I don't think the government  
6 says that the entire period is his fault  
7 because he's pursuing relief. I think their  
8 point was there are discrete periods where  
9 they're actually trying to compile a record.

10 They're not suggesting simply because  
11 he's seeking relief, they can keep him as long  
12 as they want because he can always give up the  
13 relief.

14 MR. ARULANANTHAM: I would hope that  
15 is their position, Your Honor. I guess my --  
16 my broader point would still be that the fact  
17 that he's pursuing relief, if it's dilatory,  
18 that should -- you should not let that person  
19 out, and the immigration judge can make that  
20 assessment.

21 If it's a plausible claim, a colorable  
22 claim, which it obviously was in his case, then  
23 he shouldn't have to be locked up.

24 JUSTICE GINSBURG: May I ask a --

25 JUSTICE SOTOMAYOR: Counsel, can I go

1 to the 12 --

2 JUSTICE GINSBURG: Counsel, may I ask  
3 you a procedural question before? Suppose we  
4 reject your constitutional avoidance question.

5 Would there be any impediment to the  
6 relief you are seeking if we were to remand it  
7 to the Ninth Circuit to take a first view of  
8 the constitutionality?

9 MR. ARULANANTHAM: I mean, obviously,  
10 the Court could do that, certainly. It's  
11 within its power to do that. I'm not sure if  
12 that's -- but we're continuing to press the  
13 construction claim as well, although I haven't  
14 discussed it, but, yes, the Court could do  
15 that.

16 That being said, the Ninth Circuit, I  
17 think quite clearly viewed the relief as  
18 necessary to vindicate constitutional rights.  
19 It said that at the end of the opinion, that  
20 the purpose of these hearings is to make sure  
21 that the detention actually serves its purpose.

22 So, you know, I can come back for  
23 Number 3 perhaps, Your Honor.

24 JUSTICE SOTOMAYOR: Counsel, can I ask  
25 you a practical question?

1 MR. ARULANANTHAM: Yes.

2 JUSTICE SOTOMAYOR: I -- I have seen  
3 the statistics that since the Ninth Circuit  
4 order, under the 1226(a) category, there have  
5 been more people released than previously.

6 Why? Under 1226(a), you get a bail  
7 hearing before an INS judge. The burden is on  
8 the -- on the -- on the immigrant to prove that  
9 they're not a flight risk and are not a danger  
10 to the community. And they can make a motion  
11 to have that situation relooked at.

12 MR. ARULANANTHAM: I have two guesses,  
13 Your Honor. Sorry. Sorry.

14 JUSTICE SOTOMAYOR: Yeah. And so what  
15 is it that has changed the outcome so much?

16 MR. ARULANANTHAM: Right. So I'm not  
17 -- I am not actually aware of the particular  
18 statistics you're referring to, but my two  
19 guesses as to why there might be more releases,  
20 one is the burden shifts after six months, even  
21 for 1226(a) detainees, and they get also a  
22 requirement that alternatives to detention be  
23 considered under the injunction. That didn't  
24 exist under regular 1226(a).

25 And second, Your Honor, as a practical

1 matter, we know, you can see it in the Metidat  
2 declaration, in the Inlander declaration, even  
3 people who are eligible under changed  
4 circumstances for bond hearings, they don't  
5 have lawyers, they don't know that rule. They  
6 don't read the regulation. Whereas when you  
7 have a periodic hearing, the people get the  
8 hearing automatically and they're more likely  
9 to get access to the Court. I mean, for sure  
10 --

11 JUSTICE BREYER: What is your answer  
12 -- what is your argument on statutory -- I  
13 don't get the statutory part on the second  
14 part.

15 MR. ARULANANTHAM: Yes, Your Honor.

16 JUSTICE BREYER: Which is that, you  
17 know, the criminals, they finish their  
18 sentence, they're finished. After there's a  
19 final deportation order, you can only keep them  
20 six months, roughly, while you're looking for a  
21 country, but in between the time they are  
22 released, finish sentence, and there is no  
23 final deportation order, keep them for months  
24 and months and months without a bail hearing.

25 So, but the statute says shall take

1       them into custody when he's released from his  
2       prison time, and then it says the attorney  
3       general may release only if, basically, the AG  
4       is necessary witness protection.

5               MR. ARULANANTHAM:  Your Honor, let me  
6       --

7               JUSTICE BREYER:  Now I can't figure  
8       out a way, how do you interpret the statute to  
9       get around that even under constitutional  
10      components?

11              MR. ARULANANTHAM:  Right, Your Honor.  
12      Let me briefly answer that and then turn to  
13      Arrivings, because I see that my time is  
14      limited and we haven't discussed that yet.

15              We have nothing new to say on the  
16      subject.  The two arguments were Your Honors'  
17      decision in *Zadvydas* required that Congress  
18      speak in clear terms to authorize a prolonged  
19      detention.

20              We read only if as allowing release  
21      even as to brief detentions, and we know that  
22      Congress understood this because in the Patriot  
23      Act they did clearly authorize detention beyond  
24      six months even for pending cases under 1226a,  
25      with no parentheses.  That's the argument.



1           Let me turn briefly to the Arrivings,  
2 Your Honor. Just three quick points. You  
3 knor, first, my friend twice in their briefs  
4 defended or cited Matter of X-K- as though it  
5 was a description of the law.

6           So on the question whether you do get  
7 a bond hearing under 1226(a) if you cross in  
8 the desert and shortly after are arrested but  
9 then pass the credible fear interview, they --  
10 they -- I thought they had endorsed that. They  
11 say it in their -- in their brief.

12           He now relies on the regulation. If  
13 you look at our opening brief on this question,  
14 it is unanswered by the government, the problem  
15 with the regulation, with relying on the  
16 regulation is that the statute, 1226(a), says  
17 attorney general in it.

18           And the attorney general cannot then  
19 turn around and give that authority to the DHS.  
20 If Congress gave it to the attorney general,  
21 the attorney general's delegate has to exercise  
22 that. And that's the BIA's decision in the  
23 Matter of Garcia/Garcia.

24           The immigration judges are the  
25 attorney general's delegate. So that's why

1 they are the ones who have to decide as a  
2 statutory matter when someone passes the  
3 credible fear interview and are in their full  
4 removal proceeding, whether they're entitled to  
5 release on bond.

6           And the advantage of that -- I mean, I  
7 think that's the best reading of the statute,  
8 period, even if there's no constitutional  
9 problem because, you know, as we discussed last  
10 time, Justice Kennedy, there's a neighboring  
11 provision for people who are denied credible  
12 fear that says you shall be detained pending  
13 the removal proceeding. This one only says  
14 shall be detained for the proceeding, like I'm  
15 standing in line for the movie or I'm studying  
16 for an exam, you know, that's how we read the  
17 provision.

18           And certainly if you add the  
19 constitutional question of whether, if you  
20 can't put them to hard labor, as in Wong Wing,  
21 and you can't torture or -- or shoot them, you  
22 also can't detain them for no reason  
23 whatsoever.

24           And the government concedes -- I took  
25 my friend to be saying we agree or at least in

1 practice, not as a constitutional matter, but  
2 we released the people who are not a danger or  
3 flight risk after they have passed a credible  
4 fear interview.

5 So then the constitutional dispute is  
6 really quite narrow, it is just whether the  
7 jailer gets to make that decision, I think you  
8 are not a danger of flight risk, or instead a  
9 neutral, the immigration judge, who has got the  
10 case, should be the one making the decision.

11 Because we both agree that if they are  
12 not a danger of flight risk and they have  
13 passed the credible fear interview, they should  
14 get out. And, you know, as we saw, you know,  
15 two-thirds of this class, these people who  
16 passed the credible fear interview, they win  
17 asylum, even when they're detained. That  
18 number surely goes up when you get out of --  
19 when you get out of prison, when you are  
20 talking about a class of people who have fled  
21 horrific persecution in some cases.

22 And in that situation we think that it  
23 is entirely appropriate for the Court to find  
24 that those people have a right to be free from  
25 arbitrary detention. And that's the reason why

1 we would request the Court affirm the  
2 injunction as to the Arrivings, as well as with  
3 respect to everybody else.

4 CHIEF JUSTICE ROBERTS: Thank you,  
5 Counsel.

6 Mr. Stewart, two minutes.

7 REBUTTAL ARGUMENT OF MALCOLM STEWART

8 MR. STEWART: Thank you, Mr. Chief  
9 Justice.

10 I would like to focus on the criminal  
11 aliens, because I think I spent most of my  
12 initial time on the arriving aliens.

13 Justice Kagan referred to the  
14 correction of the statistics that were before  
15 the Court in Demore versus Kim, but I think it  
16 is important to emphasize that most of what the  
17 Court thought to be true at the time of Demore  
18 was true; that is, the Court said this  
19 detention has a natural stopping point because  
20 it lasts only as long as the removal  
21 proceedings are ongoing. That's still true.

22 The Court said the large majority of  
23 cases, the IJ's decision is not appealed, and  
24 in those cases, the average and median times of  
25 detention are about a month, and that was true.

1           The one respect in which the detention  
2 times have turned out to be much longer than  
3 the Court in Demore thought they were was in  
4 the category of cases around 10 to 15 percent  
5 where an appeal from the IJ decision is taken  
6 to the BIA.

7           But the large majority of those cases  
8 are cases involving an alien who loses before  
9 the AJ and takes his own appeal. And so to the  
10 extent that the Court was misinformed about --  
11 about the statistics, it is really in a  
12 category of cases where it is the alien's own  
13 volitional choice that causes a further stage  
14 of the proceedings to be triggered.

15           That is not to say that the alien is  
16 at fault. It's to say that the Court should  
17 use the same methodology that it uses under the  
18 Speedy Trial Clause, the Speedy Trial Act where  
19 in determining whether a delay has been undue,  
20 the court focuses on the reasons for the delay,  
21 whether it is attributable to some improper act  
22 by the government.

23           Counsel -- opposing counsel said at  
24 the end that really the constitutional dispute  
25 as to the arriving aliens has been

1 crystallized. It is just a question about who  
2 makes the decision. And that goes to the very  
3 essence of this Court's holdings, that aliens  
4 at the threshold have no constitutional rights  
5 under the due process clause.

6 CHIEF JUSTICE ROBERTS: Thank you,  
7 Counsel. The case is submitted.

8 (Whereupon, at 12:05 p.m. the case was  
9 submitted.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Official - Subject to Final Review

<b>1</b>	<b>absolutely</b> <sup>[1]</sup> 21:14 <b>abusive</b> <sup>[2]</sup> 60:14 61:6 <b>acceptance</b> <sup>[1]</sup> 64:25 <b>accepted</b> <sup>[1]</sup> 41:4 <b>access</b> <sup>[1]</sup> 6:22 <b>account</b> <sup>[4]</sup> 20:6 28:22 54:21 55:2 <b>accountability</b> <sup>[1]</sup> 28:24 <b>achieve</b> <sup>[1]</sup> 33:23 <b>achieved</b> <sup>[1]</sup> 16:15 <b>achieves</b> <sup>[1]</sup> 50:15 <b>across</b> <sup>[2]</sup> 37:10 47:15 <b>act</b> <sup>[5]</sup> 10:7 54:3,23 55:2,9 <b>acted</b> <sup>[1]</sup> 3:13 <b>acting</b> <sup>[1]</sup> 61:13 <b>action</b> <sup>[1]</sup> 61:5 <b>actual</b> <sup>[1]</sup> 55:21 <b>actually</b> <sup>[10]</sup> 14:14 16:8 26:22 28:19 29:16 38:24 46:13 47:25 50:24 55:1 <b>added</b> <sup>[1]</sup> 19:2 <b>addition</b> <sup>[1]</sup> 47:17 <b>additional</b> <sup>[1]</sup> 33:16 <b>address</b> <sup>[1]</sup> 36:23 <b>administer</b> <sup>[1]</sup> 23:18 <b>adopt</b> <sup>[1]</sup> 52:11 <b>advance</b> <sup>[2]</sup> 30:8 39:1 <b>advancement</b> <sup>[1]</sup> 64:21 <b>advantage</b> <sup>[6]</sup> 19:17 20:6 23:6 26:5 28:16 56:25 <b>adversarial</b> <sup>[1]</sup> 64:5 <b>affairs</b> <sup>[1]</sup> 13:22 <b>affect</b> <sup>[1]</sup> 54:4 <b>affected</b> <sup>[2]</sup> 11:3 32:4 <b>affects</b> <sup>[1]</sup> 31:19 <b>african</b> <sup>[3]</sup> 32:25 33:4,18 <b>african-american</b> <sup>[1]</sup> 7:4 <b>agenda</b> <sup>[1]</sup> 32:2 <b>ago</b> <sup>[1]</sup> 6:25 <b>agree</b> <sup>[2]</sup> 40:13,23 <b>ahead</b> <sup>[1]</sup> 46:7 <b>airy-fairy</b> <sup>[1]</sup> 15:18 <b>al</b> <sup>[3]</sup> 1:3,6,20 <b>alito</b> <sup>[19]</sup> 8:15 9:23 18:2 20:8,14,17 21:10 32:5,22 39:25 42:3 44:15, 20,24 53:18,21 54:14 62:6,22 <b>alleged</b> <sup>[1]</sup> 8:20 <b>allow</b> <sup>[2]</sup> 47:13 56:12 <b>allowed</b> <sup>[1]</sup> 36:25 <b>allowing</b> <sup>[2]</sup> 8:25 9:1 <b>allows</b> <sup>[1]</sup> 47:14 <b>almost</b> <sup>[2]</sup> 28:7 55:24 <b>already</b> <sup>[4]</sup> 13:18 38:13 48:14 55:9 <b>alternative</b> <sup>[1]</sup> 54:17 <b>although</b> <sup>[1]</sup> 34:3 <b>amendment</b> <sup>[27]</sup> 4:10,14,18 5:3,3 6:14 9:7,11 26:14 27:1,7,21 28:9 35:3,8,14,17 59:4 60:1,2,3,3,13,13, 24 61:10 63:9 <b>american</b> <sup>[2]</sup> 32:25 33:18 <b>americans</b> <sup>[1]</sup> 33:5 <b>amici</b> <sup>[1]</sup> 1:20 <b>amicus</b> <sup>[6]</sup> 2:8 13:24 18:18 43:22 55:4 63:23 <b>amount</b> <sup>[1]</sup> 49:14	<b>analogy</b> <sup>[2]</sup> 36:5,7 <b>analysis</b> <sup>[1]</sup> 24:5 <b>analytically</b> <sup>[1]</sup> 31:13 <b>analytics</b> <sup>[2]</sup> 39:10 57:22 <b>another</b> <sup>[9]</sup> 3:25 20:24 25:16 26:11 33:2 37:24 38:21 47:7,7 <b>answer</b> <sup>[10]</sup> 12:2 21:10 22:8 24:1 27:15 37:15 38:7 40:15 44:11,13 <b>answered</b> <sup>[1]</sup> 26:13 <b>answering</b> <sup>[1]</sup> 63:7 <b>answers</b> <sup>[1]</sup> 22:21 <b>antidemocratic</b> <sup>[2]</sup> 39:1 50:10 <b>anxious</b> <sup>[1]</sup> 10:20 <b>anybody</b> <sup>[2]</sup> 32:20 35:15 <b>appeal</b> <sup>[1]</sup> 64:9 <b>appearances</b> <sup>[1]</sup> 1:16 <b>appellants</b> <sup>[6]</sup> 1:4,18 2:4,14 3:8 63:5 <b>appellees</b> <sup>[4]</sup> 1:7,22 2:11 29:22 <b>appendix</b> <sup>[3]</sup> 7:18 35:1 64:16 <b>applied</b> <sup>[1]</sup> 53:4 <b>apply</b> <sup>[1]</sup> 53:10 <b>appointed</b> <sup>[2]</sup> 42:14,15 <b>apportionment</b> <sup>[1]</sup> 35:9 <b>approach</b> <sup>[1]</sup> 41:2 <b>appropriate</b> <sup>[2]</sup> 23:10 50:3 <b>appropriately</b> <sup>[2]</sup> 33:13 44:25 <b>arcane</b> <sup>[1]</sup> 59:20 <b>area</b> <sup>[3]</sup> 32:4 61:14,20 <b>areas</b> <sup>[1]</sup> 21:1 <b>aren't</b> <sup>[2]</sup> 58:5 60:7 <b>arg</b> <sup>[1]</sup> 14:10 <b>arguably</b> <sup>[2]</sup> 43:14,15 <b>argue</b> <sup>[1]</sup> 5:5 <b>argued</b> <sup>[1]</sup> 47:11 <b>arguing</b> <sup>[2]</sup> 41:7,8 <b>argument</b> <sup>[15]</sup> 1:13 2:2,5,9,12 3:4, 7 4:6 5:9 9:12 18:17 29:21 30:20 35:17 63:4 <b>arise</b> <sup>[2]</sup> 35:3,9 <b>around</b> <sup>[3]</sup> 37:1 49:17 52:16 <b>arresting</b> <sup>[1]</sup> 30:12 <b>art</b> <sup>[1]</sup> 56:1 <b>article</b> <sup>[1]</sup> 62:9 <b>asks</b> <sup>[1]</sup> 44:7 <b>aspects</b> <sup>[1]</sup> 13:17 <b>assembly</b> <sup>[2]</sup> 10:11 30:2 <b>assign</b> <sup>[1]</sup> 47:13 <b>associated</b> <sup>[1]</sup> 4:23 <b>association</b> <sup>[3]</sup> 5:11,12 33:9 <b>assume</b> <sup>[5]</sup> 4:8 6:3 8:16 27:14 33:17 <b>asymmetrical</b> <sup>[1]</sup> 52:23 <b>asymmetry</b> <sup>[12]</sup> 8:9 12:5,15,21 16:22 23:10 45:15 47:18,20 63:24 64:17,24 <b>attack</b> <sup>[1]</sup> 31:4 <b>attain</b> <sup>[1]</sup> 48:11 <b>attempt</b> <sup>[2]</sup> 7:3 19:22 <b>attempting</b> <sup>[1]</sup> 32:1 <b>attractive</b> <sup>[1]</sup> 46:11 <b>authority</b> <sup>[1]</sup> 59:21 <b>authorizes</b> <sup>[1]</sup> 59:23 <b>automatically</b> <sup>[1]</sup> 23:8	<b>available</b> <sup>[1]</sup> 7:18 <b>avoid</b> <sup>[2]</sup> 22:10 52:2 <b>away</b> <sup>[1]</sup> 40:3
<b>2</b>	<b>back</b> <sup>[7]</sup> 17:10,14 18:2 22:6 27:8 47:15 57:3 <b>background</b> <sup>[1]</sup> 40:6 <b>bad</b> <sup>[1]</sup> 13:1 <b>baker</b> <sup>[2]</sup> 60:20 64:13 <b>balance</b> <sup>[2]</sup> 18:13 34:6 <b>ballot</b> <sup>[1]</sup> 61:22 <b>baloney</b> <sup>[1]</sup> 37:21 <b>bandemer</b> <sup>[4]</sup> 17:7 42:18 48:10 49:10 <b>bandermer</b> <sup>[1]</sup> 17:4 <b>based</b> <sup>[5]</sup> 3:21 8:13 38:8 53:23 63:18 <b>basic</b> <sup>[1]</sup> 23:8 <b>basically</b> <sup>[3]</sup> 57:10,12 63:21 <b>basis</b> <sup>[1]</sup> 48:18 <b>battles</b> <sup>[2]</sup> 3:21 14:5 <b>bears</b> <sup>[1]</sup> 7:5 <b>become</b> <sup>[5]</sup> 15:8 55:25 56:14,16 58:2 <b>becomes</b> <sup>[4]</sup> 18:24 24:22 39:9 56:23 <b>begin</b> <sup>[1]</sup> 63:6 <b>beginning</b> <sup>[1]</sup> 52:21 <b>behalf</b> <sup>[8]</sup> 1:18,22 2:4,11,14 3:8 29:22 63:5 <b>behind</b> <sup>[1]</sup> 24:14 <b>below</b> <sup>[3]</sup> 44:6 50:16 53:16 <b>best</b> <sup>[1]</sup> 62:12 <b>better</b> <sup>[3]</sup> 16:17 27:18 38:23 <b>between</b> <sup>[3]</sup> 23:5 33:10 50:1 <b>beverly</b> <sup>[1]</sup> 1:3 <b>beyond</b> <sup>[1]</sup> 21:2 <b>bias</b> <sup>[6]</sup> 45:16 49:14 54:7 55:13 56:13 62:11 <b>biased</b> <sup>[2]</sup> 30:7 49:7 <b>big</b> <sup>[2]</sup> 39:20 54:24 <b>bipartisan</b> <sup>[2]</sup> 7:24 12:3 <b>bit</b> <sup>[6]</sup> 13:19 22:13,14 50:18 51:18 55:14 <b>blunt</b> <sup>[1]</sup> 62:13 <b>board</b> <sup>[1]</sup> 37:10 <b>body</b> <sup>[2]</sup> 30:9 43:20 <b>both</b> <sup>[5]</sup> 46:10 51:18 54:23 58:20 61:23 <b>bounds</b> <sup>[1]</sup> 41:9 <b>branches</b> <sup>[1]</sup> 45:12 <b>breyer</b> <sup>[3]</sup> 11:7 40:12 52:14 <b>breyer's</b> <sup>[4]</sup> 22:7,20 28:18 53:1 <b>brief</b> <sup>[7]</sup> 12:22 13:24 43:22 56:6,8 57:21 63:23 <b>briefly</b> <sup>[1]</sup> 30:11 <b>briefs</b> <sup>[4]</sup> 11:16 55:4,5 56:7 <b>bring</b> <sup>[4]</sup> 27:13 35:16 38:23 43:5 <b>brought</b> <sup>[2]</sup> 37:25 38:13 <b>buildings</b> <sup>[1]</sup> 11:3 <b>bunch</b> <sup>[1]</sup> 37:21 <b>burden</b> <sup>[2]</sup> 40:10 63:17 <b>burdening</b> <sup>[1]</sup> 35:10		
<b>3</b>		<b>B</b>	
<b>4</b>			
<b>5</b>			
<b>6</b>			
<b>7</b>			
<b>8</b>			
<b>9</b>			
<b>A</b>			
<b>a-ha</b> <sup>[1]</sup> 46:21 <b>a.m</b> <sup>[3]</sup> 1:14 3:2 65:6 <b>abandon</b> <sup>[1]</sup> 19:16 <b>abandoned</b> <sup>[1]</sup> 64:9 <b>ability</b> <sup>[1]</sup> 41:11 <b>able</b> <sup>[5]</sup> 10:10 23:18 30:22 35:16 48:11 <b>above-entitled</b> <sup>[1]</sup> 1:12 <b>absence</b> <sup>[2]</sup> 33:15 61:5			

Official - Subject to Final Review

C			
<p><b>calculate</b> [2] 44:7 45:15  <b>calculations</b> [1] 26:7  <b>calculus</b> [1] 4:12  <b>california</b> [1] 9:20  <b>call</b> [2] 12:11 41:3  <b>came</b> [1] 1:12  <b>campaign</b> [1] 10:11  <b>campaigning</b> [1] 32:19  <b>candidate</b> [10] 8:23 9:8,14,18,19, 21 31:18 34:3 44:2,5  <b>candidate's</b> [1] 8:25  <b>candidates</b> [1] 34:7  <b>cannot</b> [4] 6:16 18:12 20:10,17  <b>capable</b> [1] 14:14  <b>capacity</b> [1] 56:9  <b>care</b> [2] 54:12,15  <b>careful</b> [1] 6:7  <b>carr</b> [1] 60:20  <b>carry</b> [1] 32:1  <b>case</b> [33] 3:4 4 4:6 17 10:5 11:9 12: 4 15:5 16:25 22:10 23:24 25:18 30:4 31:13 35:22 36:3,5 37:8,24 45:18 47:7,7,11 48:3 49:2,11 53: 14 55:25 56:4 61:2,7 63:10 64:5 65:5  <b>cases</b> [11] 17:2 21:5 37:5,25 38:18 45:6 55:22 56:15 60:21 61:1 63: 11  <b>cause</b> [1] 38:1  <b>cautious</b> [1] 60:9  <b>central</b> [1] 63:24  <b>certain</b> [5] 7:5 11:3 14:25 21:17 23:14  <b>certainly</b> [11] 9:13,17,24 21:12 23: 23 29:10 34:17 36:6 50:4 54:5 56: 5  <b>challenge</b> [10] 5:4,14 9:7 35:24 36: 15,16 38:24 44:25 46:16 56:21  <b>challenged</b> [3] 38:14,15,20  <b>challenges</b> [2] 3:25 38:13  <b>chance</b> [1] 48:7  <b>chances</b> [1] 18:6  <b>change</b> [1] 4:12  <b>changed</b> [1] 14:17  <b>charge</b> [1] 57:6  <b>chart</b> [2] 7:16 64:15  <b>chen</b> [1] 55:3  <b>chief</b> [26] 3:3,9 5:8,21 18:14,19 29: 19,23,24 30:10,24 31:14 33:25 34: 10 35:19 36:19 38:6 40:1,15 41:1, 13 42:11 48:9 50:25 63:1 65:4  <b>choice</b> [1] 24:25  <b>circumstance</b> [1] 5:4  <b>citizen</b> [1] 24:24  <b>claim</b> [16] 5:16,17 6:19,23 30:13, 17 31:3,4 33:12 34:23 35:3 36:24 41:19 59:2,4,4  <b>claims</b> [5] 6:11,12 30:18 37:1,3  <b>clarify</b> [1] 58:8  <b>classification</b> [1] 7:14  <b>clause</b> [3] 59:6,16 61:3  <b>clear</b> [2] 51:5 59:25</p>	<p><b>clearer</b> [1] 63:11  <b>closely</b> [1] 19:9  <b>closer</b> [2] 19:18 36:17  <b>colleagues</b> [2] 8:19 36:21  <b>collective</b> [2] 33:19,23  <b>come</b> [10] 25:1,16 27:6 37:4,24 45: 19 46:21 57:3,8 60:18  <b>comes</b> [2] 27:8 34:23  <b>coming</b> [2] 5:6 57:24  <b>commend</b> [1] 57:20  <b>commission</b> [1] 12:3  <b>commission-drawn</b> [1] 7:24  <b>commissions</b> [3] 8:8 52:18 61:24  <b>communities</b> [2] 26:9,9  <b>compare</b> [1] 47:14  <b>compared</b> [1] 13:1  <b>competitive</b> [2] 49:6,15  <b>complain</b> [4] 30:15,23 31:22 33:1  <b>compliance</b> [2] 54:3,22  <b>complicated</b> [3] 11:20 12:11 40:9  <b>complied</b> [4] 17:5,13,23,25  <b>comply</b> [5] 23:4 24:7,11 26:20 28: 10  <b>complying</b> [1] 20:4  <b>composed</b> [1] 3:15  <b>comprehensive</b> [1] 64:12  <b>computer</b> [2] 11:11,22  <b>computers</b> [2] 17:17 39:10  <b>concede</b> [1] 28:8  <b>conceivably</b> [1] 60:22  <b>concept</b> [3] 23:7 27:6 63:24  <b>concern</b> [1] 19:11  <b>concerned</b> [1] 25:3  <b>concerns</b> [2] 35:3,9  <b>concisely</b> [1] 36:21  <b>concluded</b> [1] 65:7  <b>concludes</b> [1] 43:10  <b>conclusion</b> [2] 25:24 45:19  <b>concrete</b> [1] 42:9  <b>concurrence</b> [2] 34:24 50:6  <b>concurring</b> [1] 21:23  <b>confident</b> [1] 62:19  <b>confines</b> [1] 5:19  <b>conform</b> [1] 19:10  <b>congress</b> [8] 4:24 5:1,7 60:4,22 61:2,9,13  <b>congressional</b> [2] 60:6 61:5  <b>conjectural</b> [1] 13:22  <b>conjecture</b> [2] 15:15 18:11  <b>consent</b> [1] 61:22  <b>consideration</b> [1] 50:1  <b>considered</b> [1] 19:7  <b>considering</b> [1] 21:24  <b>constitution</b> [10] 18:24 19:8 20:1 26:19,23 27:10 38:10 59:20,23 60: 8  <b>constitutional</b> [9] 6:14 17:22 20: 7 23:17 26:14 28:9 31:2 43:7 59: 15  <b>constitutionalize</b> [1] 51:3  <b>constraints</b> [1] 24:10  <b>contested</b> [4] 25:21 43:25 44:3,5  <b>context</b> [2] 35:7 62:18  <b>contexts</b> [1] 21:21</p>	<p><b>contiguous</b> [1] 19:22  <b>continue</b> [1] 30:1  <b>control</b> [6] 12:1 30:8 39:2 46:1 58: 1 62:11  <b>controlled</b> [1] 32:8  <b>controls</b> [2] 40:18,21  <b>convenient</b> [1] 41:2  <b>conveniently</b> [1] 19:4  <b>convinced</b> [1] 23:20  <b>cook</b> [1] 61:2  <b>copycat</b> [1] 39:16  <b>correct</b> [1] 17:16  <b>correlated</b> [1] 6:10  <b>counsel</b> [3] 18:15 29:20 65:5  <b>count</b> [2] 58:16,16  <b>country</b> [11] 6:10 13:2 37:2 38:4, 20 39:17,19 41:5 47:15 51:1 52:6  <b>country's</b> [1] 4:20  <b>couple</b> [2] 25:4 56:7  <b>course</b> [7] 5:18,19,25 7:13 13:25 17:17 18:10  <b>court</b> [53] 1:1,13 3:10,11,22 4:7 6: 6,25 8:1,10,12 11:10 13:23 16:9 17:3 18:20 21:22 22:13 29:25 36: 13 37:12,22 38:3 39:7,19 42:12 44:6,24 45:6 47:10 48:15 49:2,3 50:5,6,16,22 51:17 52:6,10 53:16 55:15 57:15 60:16,24 61:4 63:20 64:1,8,22,23 65:2,2  <b>court's</b> [1] 63:11  <b>court-drawn</b> [3] 7:23 19:3 23:5  <b>courts</b> [8] 3:20,23 14:4 18:12 23: 21 40:4 42:7 52:18  <b>cracked</b> [1] 33:3  <b>create</b> [2] 7:7 46:20  <b>created</b> [5] 7:17 16:10,11 17:15 55:13  <b>criteria</b> [14] 8:6 17:13 19:17,21 22: 9,16,23 23:4,16,21 24:5 28:11 55: 7 56:11  <b>criticized</b> [1] 64:24  <b>criticise</b> [3] 1:20 2:8 18:18  <b>curve</b> [1] 23:13  <b>cusps</b> [1] 39:8  <b>cycles</b> [1] 23:13</p> <hr/> <p><b>D</b></p> <p><b>d.c</b> [3] 1:9,19,21  <b>data</b> [4] 22:19 23:13 39:10 57:22  <b>day</b> [2] 4:1 29:12  <b>days</b> [1] 48:14  <b>de</b> [3] 31:25 32:2,5  <b>deal</b> [1] 14:17  <b>dealt</b> [1] 7:1  <b>debate</b> [1] 20:21  <b>decade</b> [3] 30:9 47:23 50:11  <b>decay</b> [1] 62:11  <b>decide</b> [4] 3:20 23:9 31:24 37:8  <b>decided</b> [3] 4:9 42:12 56:15  <b>decides</b> [2] 30:7 39:1  <b>deciding</b> [1] 14:6  <b>decision</b> [2] 37:5,12  <b>decisions</b> [4] 26:2 38:3 42:10 50: 6</p>	<p><b>decks</b> [2] 29:4,11  <b>deeply</b> [1] 8:16  <b>defendants</b> [1] 48:23  <b>definition</b> [1] 45:3  <b>degree</b> [3] 47:18 55:12 56:13  <b>deliberate</b> [2] 7:2 19:22  <b>democracy</b> [7] 28:2 30:3 39:20 40: 3 57:11,14 62:3  <b>democrat</b> [2] 32:1 58:14  <b>democratic</b> [7] 8:23 9:10 24:18 32:10,13,20 42:15  <b>democratic-dominated</b> [1] 10:8  <b>democrats</b> [9] 10:15 32:12 37:9, 13,14,23 48:6,11 58:13  <b>describe</b> [1] 40:6  <b>description</b> [2] 34:23 35:2  <b>designed</b> [1] 19:9  <b>determine</b> [1] 29:13  <b>determining</b> [2] 3:13 18:22  <b>developed</b> [1] 56:9  <b>dicing</b> [1] 57:24  <b>difference</b> [1] 33:10  <b>different</b> [11] 6:13 16:10,14 20:19 26:23 31:11 33:18 34:3 45:14 47: 9 51:11  <b>differentiate</b> [1] 23:5  <b>differentiates</b> [1] 21:20  <b>differently</b> [1] 12:7  <b>difficult</b> [1] 21:4  <b>dilute</b> [1] 60:6  <b>diluted</b> [1] 30:22  <b>dilution</b> [4] 31:12,13 33:12 36:12  <b>dire</b> [1] 62:6  <b>direction</b> [1] 16:5  <b>directly</b> [2] 4:4 32:4  <b>disagree</b> [1] 53:12  <b>discovered</b> [3] 43:2,3,8  <b>discretionary</b> [1] 37:6  <b>discriminating</b> [2] 8:23 9:5  <b>discrimination</b> [1] 27:22  <b>discriminatory</b> [1] 63:8  <b>discussed</b> [2] 55:3,4  <b>discussing</b> [1] 17:1  <b>discussion</b> [1] 28:19  <b>disfavored</b> [2] 34:19 35:6  <b>dispute</b> [1] 29:10  <b>dissenting</b> [2] 21:22 28:18  <b>distasteful</b> [1] 42:6  <b>distinct</b> [1] 31:13  <b>distort</b> [1] 42:1  <b>district</b> [34] 3:14 4:20,22 5:10 6:19 8:24 9:8,9,16 10:8 22:10 24:18,19, 25 25:1 26:20 30:6,15 31:5,7 33: 16 34:6 35:23,24,25 36:9,10,15 46:16,20 48:15 55:15 64:7 65:2  <b>district-specific</b> [1] 4:1  <b>districting</b> [13] 3:19 5:15 8:5 17:6 18:1,23 21:25 24:4 25:6 26:5,24 28:15 54:18  <b>districts</b> [21] 7:4,7 8:7 19:9 24:11, 21 25:8,12,19 26:6 28:20 33:2 34: 8 36:13,17 49:5,6,8,15 52:5 55:8  <b>divided</b> [1] 52:18  <b>doctrine</b> [3] 6:8 38:16,17</p>



**doing** [6] 14:14 15:9 20:23 49:13  
58:5 60:16  
**done** [7] 48:22 49:1 54:21 56:5 57:  
17 58:15 63:22  
**down** [5] 15:1 31:17 32:9 44:25 49:  
16  
**dozens** [1] 54:24  
**draw** [9] 20:11 24:10 25:24 27:24  
30:6 46:25 47:6,16 54:7  
**drawer** [3] 6:18,20 16:7  
**drawers** [1] 17:5  
**drawing** [8] 3:14 8:7,8 14:18 20:  
23 26:6 48:24,25  
**drawn** [10] 7:24,25 23:6 28:21 31:  
5 45:20 52:17 55:9 57:23 58:9  
**draws** [1] 7:22  
**drew** [1] 16:8  
**driven** [1] 26:8  
**driving** [1] 37:2  
**due** [2] 23:19 29:9  
**durability** [1] 47:20  
**durable** [1] 22:18  
**during** [1] 10:6

**E**

**each** [4] 47:12,13 50:21 51:22  
**earlier** [1] 17:20  
**earthquake** [1] 48:6  
**easier** [1] 28:21  
**easiest** [1] 7:15  
**easily** [1] 14:14  
**easy** [1] 21:5  
**educational** [1] 40:5  
**effect** [5] 21:17 31:25 35:5,10 54:  
24  
**effective** [1] 32:10  
**effectively** [3] 30:3,7 32:19  
**effects** [7] 54:10 56:11,18,23,24  
62:7,10  
**efficiency** [11] 22:15 23:14 43:4,  
21 45:18 50:16 51:1,7,17 52:3 64:  
6  
**effort** [3] 7:6 13:9 32:17  
**eg** [11] 12:11 14:2 37:15,16 38:8  
44:7 53:23 54:2,8,20 62:15  
**eight** [2] 15:1 49:21  
**either** [3] 52:17 54:12,22  
**elected** [3] 3:19 10:15 48:17  
**election** [12] 4:21 14:1,2,20,21,22,  
23 22:11 25:20 44:3,5 48:12  
**elections** [8] 22:18 29:13,17 43:  
24 60:15 61:3,7,8  
**electoral** [1] 18:7  
**electorate** [2] 39:11 57:25  
**eligible** [2] 9:19,20  
**eliminates** [1] 5:20  
**eliminating** [1] 49:14  
**elsewhere** [2] 5:12 30:16  
**enacting** [1] 6:7  
**enacts** [1] 35:4  
**end** [6] 12:3 29:11 33:23 39:4 43:  
10,10  
**ended** [1] 49:20  
**enduring** [1] 19:4

**engaging** [1] 14:5  
**enough** [3] 16:11,12,21  
**ensure** [1] 14:25  
**entering** [1] 45:7  
**enterprise** [1] 48:20  
**entertain** [1] 3:24  
**entire** [4] 30:9 35:25 36:16 49:12  
**entirely** [2] 31:10 50:17  
**entitled** [1] 46:23  
**entrench** [3] 15:4,6 21:18  
**equal** [7] 4:10 26:25 27:10,19 41:  
10 59:4,16  
**equalizing** [1] 45:17  
**equally** [2] 34:1 60:6  
**eric** [2] 12:22 42:23  
**erin** [3] 1:19 2:6 18:17  
**establish** [1] 30:13  
**estimate** [2] 16:18,19  
**estimates** [3] 15:22 16:1,2  
**et** [3] 1:3,6,20  
**evaluate** [1] 15:9  
**even** [14] 4:17 6:12 16:18 29:6 30:  
5,19 48:7 49:17,19 55:16 57:4,18  
58:11 60:3  
**eventually** [1] 49:21  
**everybody** [2] 11:20 58:10  
**everything** [2] 24:8 34:13  
**everywhere** [1] 39:22  
**evidence** [6] 12:8,10 21:15,16 48:  
5 56:17  
**ex** [1] 11:11  
**exact** [2] 45:19 63:24  
**exactly** [9] 4:8 11:14 13:21 32:6,  
15 36:7 41:14 59:9,21  
**example** [8] 4:22,24 5:5 6:1 15:23  
17:3 36:20 56:22  
**excessive** [1] 31:5  
**excluded** [2] 58:11,11  
**excuse** [1] 53:18  
**exercise** [2] 5:11 24:17  
**expected** [1] 16:18  
**expert** [5] 7:17,19 48:23 62:9 64:  
12  
**experts** [4] 3:21 11:11 14:5 49:1  
**explored** [1] 27:5  
**extend** [1] 32:7  
**extensive** [1] 28:19  
**extreme** [8] 12:21 16:20 30:2 45:  
20 50:9 52:24 57:9,17  
**extremely** [2] 15:8 30:7  
**extremity** [1] 14:9  
**eyes** [1] 38:3

**F**

**face** [7] 20:18 21:2,8,11,13 26:19  
27:17  
**faced** [1] 17:3  
**facially** [3] 26:24 63:8,13  
**fact** [8] 20:4 25:12,24 26:6 38:8 52:  
16 58:21 60:22  
**factor** [1] 54:2  
**factors** [3] 26:15 53:23 54:6  
**facts** [3] 16:25 17:2 61:15  
**fair** [5] 40:19,22 51:23,25 55:18

**fairness** [1] 45:4  
**faith** [1] 39:20  
**false** [3] 15:13,13 23:2  
**far** [5] 22:25 31:16,18 45:9 46:1  
**fastidiously** [1] 17:6  
**fatally** [1] 64:7  
**fate** [1] 3:20  
**father's** [1] 57:13  
**favor** [3] 19:17 20:11 26:16  
**favorable** [2] 40:14 57:5  
**favours** [1] 19:5  
**federal** [5] 3:20,23 14:4 59:23 61:  
7  
**feel** [1] 26:10  
**festival** [2] 39:16 57:17  
**few** [1] 50:20  
**fewer** [2] 32:11 33:4  
**fifteenth** [1] 60:1  
**figure** [1] 52:15  
**filed** [1] 28:9  
**fill** [1] 23:16  
**filter** [2] 49:25 56:23  
**final** [2] 16:13 64:10  
**finally** [3] 16:13 43:7,8  
**find** [1] 34:16  
**finding** [1] 22:3  
**first** [26] 3:4 4:10,14,18 5:3,3 8:4 9:  
7,11 25:5 27:1,7,21 30:21 35:3,8,  
14,16 38:11 46:11 51:5 52:12,14  
59:3 60:12 63:9  
**five** [4] 16:6 45:22 48:14 63:2  
**fix** [3] 17:10 61:3,16  
**flawed** [1] 64:7  
**flexible** [1] 43:15  
**flip** [3] 47:24 48:4 49:9  
**flunks** [1] 13:4  
**fly** [1] 53:15  
**focus** [2] 22:25 31:5  
**folks** [1] 4:21  
**follow** [3] 19:16 30:25 36:20  
**followed** [2] 50:4 60:21  
**follows** [1] 31:1  
**force** [1] 37:3  
**forget** [1] 48:16  
**form** [3] 59:1,6,13  
**formula** [2] 50:15,25  
**forthcoming** [2] 44:12,13  
**forward** [1] 55:23  
**found** [2] 55:12,16  
**four** [4] 16:10,12 29:17 49:12  
**four-day** [1] 64:6  
**fourteenth** [5] 5:3 60:3,13,23 61:  
10  
**fourth** [1] 13:16  
**frame** [1] 11:1  
**fray** [1] 45:7  
**free** [1] 30:1  
**friend** [1] 34:4  
**full** [2] 43:21 50:11  
**fully** [1] 27:5  
**function** [1] 57:11  
**fundamentally** [1] 50:10

**G**

**gap** [11] 22:15 23:15 43:4,21 45:18  
50:16 51:1,7,17 52:3 64:6  
**gather** [1] 22:19  
**general** [1] 1:17  
**generalized** [2] 10:13 11:4  
**generated** [3] 55:6,11,12  
**generating** [1] 56:10  
**generic** [1] 59:16  
**geographers** [1] 56:8  
**geography** [5] 25:11 53:25 55:13  
56:24 57:4  
**gerrymander** [5] 28:12 47:14 48:  
25 50:9 57:13  
**gerrymandered** [3] 17:11 30:20  
38:14  
**gerrymandering** [26] 3:25 4:2 6:  
11,12 16:23 25:10 28:3 30:14,16,  
18 31:3,9,12 35:8 38:17 39:9,16  
42:5 43:17 53:24 57:10 61:17,17  
62:4,7,24  
**gerrymanders** [4] 19:4 45:20 57:  
12,17  
**gets** [5] 12:16 29:6,7 41:21,22  
**getting** [3] 38:18 49:21 62:4  
**gill** [2] 1:3 3:5  
**ginsburg** [8] 6:24 10:18 19:19 24:  
12 25:14,17 58:7 60:17  
**give** [6] 15:23 32:3 36:23 41:16 45:  
1,3  
**given** [3] 10:7 22:12 45:2  
**giving** [1] 11:15  
**gobbledygook** [2] 40:7,24  
**gorsuch** [20] 22:2,6 23:11,25 50:  
14 51:10,13,15,21,24 52:8,25 53:5,  
7,11 58:25 59:8,11,18 61:12  
**got** [6] 12:8,9 16:13 45:1,2 48:13  
**government** [7] 28:4 39:2 59:1,6,  
13,24 60:15  
**governorship** [1] 58:21  
**grail** [1] 6:22  
**gralike** [1] 61:2  
**great** [3] 14:17 43:19 47:9  
**greater** [2] 37:16 38:9  
**grounded** [2] 4:19 6:13  
**group** [5] 11:10 35:5,10,12,15  
**group's** [1] 32:1  
**guarantee** [1] 59:13  
**guaranteed** [1] 58:1  
**guess** [3] 15:18,19 21:12  
**guesses** [1] 44:1

**H**

**handled** [2] 36:2,18  
**happen** [1] 64:11  
**happened** [2] 57:22 64:14  
**hard** [2] 11:8 27:3  
**harder** [1] 21:3  
**harm** [2] 10:7 38:2  
**hazardous** [1] 48:20  
**hear** [2] 3:3 46:18  
**heard** [1] 64:2  
**hearing** [1] 65:6  
**height** [1] 11:3  
**held** [1] 50:12

Official - Subject to Final Review

<p><b>help</b> <sup>[1]</sup> 28:3  <b>helpful</b> <sup>[2]</sup> 22:8 36:7  <b>helps</b> <sup>[1]</sup> 4:4  <b>high</b> <sup>[3]</sup> 53:22,23 54:2  <b>history</b> <sup>[2]</sup> 41:5 47:15  <b>hold</b> <sup>[2]</sup> 3:23 19:24  <b>holding</b> <sup>[1]</sup> 53:14  <b>holes</b> <sup>[1]</sup> 16:3  <b>holy</b> <sup>[1]</sup> 6:22  <b>home</b> <sup>[1]</sup> 11:2  <b>honor</b> <sup>[28]</sup> 4:17 5:23 6:6 7:10 9:14  13:15 15:10,21 16:25 17:17 18:10  25:5 31:23 32:16 33:11 34:17 38:  5,11 40:8 41:6 44:19 46:8 50:2 51:  4 57:1 58:18 62:17,25  <b>honors</b> <sup>[1]</sup> 65:3  <b>houses</b> <sup>[1]</sup> 58:20  <b>huge</b> <sup>[1]</sup> 57:16  <b>hypo</b> <sup>[1]</sup> 19:7  <b>hypothetical</b> <sup>[7]</sup> 3:16 5:22 11:1  13:22 14:5 15:18 31:15</p>	<p><b>intent</b> <sup>[11]</sup> 20:21,22 21:2,16,17 22:  4 54:12 56:17 63:14,15 64:20  <b>intentional</b> <sup>[1]</sup> 57:9  <b>intentionally</b> <sup>[2]</sup> 7:6 20:23  <b>intents</b> <sup>[1]</sup> 54:9  <b>interest</b> <sup>[8]</sup> 4:14,23 10:14 11:5 26:  9,10 31:25 33:19  <b>interests</b> <sup>[4]</sup> 32:13 33:8 35:15 62:  13  <b>interstate</b> <sup>[1]</sup> 5:24  <b>intervention</b> <sup>[1]</sup> 45:5  <b>intuitive</b> <sup>[1]</sup> 46:10  <b>involved</b> <sup>[1]</sup> 17:12  <b>involves</b> <sup>[1]</sup> 31:11  <b>isn't</b> <sup>[10]</sup> 16:21 22:4 24:22 28:25  30:22 53:13,18,21 59:8,8  <b>issue</b> <sup>[10]</sup> 4:6,10,11,18 7:11 10:23  11:8 30:11 32:23 34:22  <b>issues</b> <sup>[3]</sup> 30:19 37:12 40:3  <b>itself</b> <sup>[3]</sup> 21:25 52:4 60:8</p>	<p>11 47:22 52:2  <b>king's</b> <sup>[2]</sup> 13:24 63:22</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>label</b> <sup>[1]</sup> 41:2  <b>lack</b> <sup>[1]</sup> 3:23  <b>laid</b> <sup>[1]</sup> 44:25  <b>lander</b> <sup>[1]</sup> 56:6  <b>lander's</b> <sup>[1]</sup> 12:22  <b>language</b> <sup>[1]</sup> 38:10  <b>last</b> <sup>[2]</sup> 50:11 57:16  <b>late</b> <sup>[1]</sup> 59:7  <b>later</b> <sup>[1]</sup> 43:5  <b>laughter</b> <sup>[6]</sup> 6:4 13:14 40:25 44:14,  22 61:18  <b>launch</b> <sup>[1]</sup> 8:12  <b>law</b> <sup>[11]</sup> 5:5 17:23 20:10 21:1,6 26:  14 28:10 33:13 34:20 35:4 63:8  <b>lawful</b> <sup>[1]</sup> 26:17  <b>lay</b> <sup>[1]</sup> 36:21  <b>lead</b> <sup>[5]</sup> 10:4 50:5 53:25 54:2,7  <b>leading</b> <sup>[1]</sup> 42:25  <b>learn</b> <sup>[2]</sup> 8:1,11  <b>least</b> <sup>[4]</sup> 19:18 20:20 41:9 49:20  <b>leave</b> <sup>[2]</sup> 9:4 45:11  <b>leaving</b> <sup>[1]</sup> 3:25  <b>led</b> <sup>[2]</sup> 5:6 21:17  <b>left</b> <sup>[1]</sup> 9:24  <b>legal</b> <sup>[2]</sup> 24:9 42:19  <b>legislation</b> <sup>[1]</sup> 27:23  <b>legislative</b> <sup>[4]</sup> 8:24 30:8 59:22,25  <b>legislators</b> <sup>[2]</sup> 14:13 60:5  <b>legislators'</b> <sup>[1]</sup> 18:4  <b>legislature</b> <sup>[16]</sup> 7:3 12:9 20:3,22  23:3 24:6,16 26:20 28:23 32:12  33:5 40:18,21 58:12,15,20  <b>legislature's</b> <sup>[1]</sup> 61:22  <b>legislatures</b> <sup>[8]</sup> 14:18 15:4,11,12,  14 18:11 23:22 52:19  <b>legitimate</b> <sup>[2]</sup> 26:15 54:2  <b>less</b> <sup>[6]</sup> 5:6 17:2 34:11 45:10 49:16  57:9  <b>lesson</b> <sup>[2]</sup> 8:4,10  <b>lessons</b> <sup>[2]</sup> 8:2 56:11  <b>levels</b> <sup>[1]</sup> 53:23  <b>likelihood</b> <sup>[1]</sup> 47:19  <b>likely</b> <sup>[1]</sup> 34:7  <b>likes</b> <sup>[1]</sup> 39:17  <b>limit</b> <sup>[1]</sup> 45:5  <b>limited</b> <sup>[3]</sup> 6:19 30:14 63:18  <b>limits</b> <sup>[5]</sup> 33:13 46:3,3,4 61:2  <b>line</b> <sup>[5]</sup> 46:25 47:4,7,16 53:20  <b>lines</b> <sup>[6]</sup> 3:14 8:18 35:25 59:22 63:  12,13  <b>list</b> <sup>[3]</sup> 7:22 8:2,11  <b>litigation</b> <sup>[2]</sup> 22:11 52:2  <b>little</b> <sup>[10]</sup> 11:20 13:18 22:13,14 27:  3 30:12 50:18,20 51:18 55:14  <b>live</b> <sup>[5]</sup> 10:8 25:12 33:14 36:8 56:  12  <b>living</b> <sup>[2]</sup> 36:12 45:21  <b>localized</b> <sup>[1]</sup> 31:7  <b>locked</b> <sup>[2]</sup> 49:13 61:20  <b>longer</b> <sup>[2]</sup> 11:4 57:11</p>	<p><b>look</b> <sup>[11]</sup> 7:16 12:13,24 21:1,8 32:  23 40:13 59:15 60:1,1 64:15  <b>looked</b> <sup>[2]</sup> 43:12 50:17  <b>looking</b> <sup>[2]</sup> 42:20 49:23  <b>looks</b> <sup>[1]</sup> 49:7  <b>lose</b> <sup>[1]</sup> 39:20  <b>loses</b> <sup>[1]</sup> 40:20  <b>losing</b> <sup>[1]</sup> 44:4  <b>lost</b> <sup>[1]</sup> 40:16  <b>lot</b> <sup>[8]</sup> 18:8 21:20 32:17 37:1 45:2  49:5,5 56:10  <b>lower</b> <sup>[3]</sup> 22:13 54:19,19  <b>lulac</b> <sup>[4]</sup> 13:24 19:2 63:23 64:23</p>
<hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>idea</b> <sup>[2]</sup> 34:5 46:10  <b>identified</b> <sup>[4]</sup> 7:20 18:21 23:24 50:  11  <b>identifies</b> <sup>[1]</sup> 19:3  <b>identify</b> <sup>[2]</sup> 23:1 49:4  <b>ignores</b> <sup>[1]</sup> 52:16  <b>illustrates</b> <sup>[1]</sup> 30:4  <b>immediately</b> <sup>[1]</sup> 7:25  <b>impair</b> <sup>[1]</sup> 33:7  <b>impaired</b> <sup>[1]</sup> 32:14  <b>impediment</b> <sup>[1]</sup> 61:13  <b>important</b> <sup>[3]</sup> 10:23 37:2 47:19  <b>impose</b> <sup>[1]</sup> 42:6  <b>impression</b> <sup>[1]</sup> 14:13  <b>inadequate</b> <sup>[1]</sup> 43:1  <b>inappropriate</b> <sup>[1]</sup> 43:13  <b>incentive</b> <sup>[1]</sup> 24:16  <b>including</b> <sup>[2]</sup> 7:25 33:8  <b>increase</b> <sup>[1]</sup> 19:12  <b>incumbent</b> <sup>[1]</sup> 54:22  <b>incumbents</b> <sup>[1]</sup> 54:1  <b>incursions</b> <sup>[1]</sup> 57:14  <b>indeed</b> <sup>[2]</sup> 19:1 58:2  <b>indefinite</b> <sup>[1]</sup> 29:5  <b>indications</b> <sup>[1]</sup> 60:8  <b>individual</b> <sup>[1]</sup> 24:24  <b>individual's</b> <sup>[1]</sup> 31:19  <b>individuals</b> <sup>[1]</sup> 27:23  <b>ingredients</b> <sup>[1]</sup> 50:20  <b>inherent</b> <sup>[1]</sup> 25:6  <b>inherently</b> <sup>[2]</sup> 18:23 21:25  <b>initial</b> <sup>[1]</sup> 56:4  <b>injure</b> <sup>[1]</sup> 27:25  <b>injury</b> <sup>[6]</sup> 10:12 31:1,6,11 35:14,14  <b>inquiry</b> <sup>[1]</sup> 13:23  <b>insofar</b> <sup>[1]</sup> 13:11  <b>instance</b> <sup>[2]</sup> 26:21 28:17  <b>instead</b> <sup>[2]</sup> 3:18 44:9  <b>institution</b> <sup>[1]</sup> 62:1  <b>integrity</b> <sup>[1]</sup> 38:2  <b>intelligent</b> <sup>[2]</sup> 37:11,20</p>	<hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>jackman</b> <sup>[1]</sup> 45:23  <b>job</b> <sup>[1]</sup> 47:12  <b>join</b> <sup>[1]</sup> 33:22  <b>judge</b> <sup>[1]</sup> 11:25  <b>judges</b> <sup>[2]</sup> 42:19 44:6  <b>judicial</b> <sup>[4]</sup> 3:12 15:11 39:14 45:5  <b>judicially-amenable</b> <sup>[1]</sup> 63:19  <b>jump</b> <sup>[2]</sup> 43:19 44:17  <b>jurisdiction</b> <sup>[3]</sup> 3:24 37:6,7  <b>jurisdictional</b> <sup>[1]</sup> 35:1  <b>justice</b> <sup>[116]</sup> 3:3,9 4:3 5:8,18,21 6:  2,24 8:15 9:23 10:18,19 11:7 14:  11 15:16,25 17:9,19,24 18:2,3,14,  19 19:6,19,25 20:8,14,17,25 21:10  22:2,5,6,7,20 23:11,25 24:12 25:  14,17 26:12,25 27:9,14 28:1,7,17  29:2,19,23,24 30:10,24 31:14 32:  5,22 33:25 34:10,24 35:18,19,20,  21 36:4,19 38:6 39:25 40:1,12 41:  1,13 42:3,11 44:15,20,24 46:2,5,9  47:2,6,8 48:9 49:22 50:5,14 51:10,  13,15,21,24 52:8,13,25 53:1,5,7,  11,18,21 54:14 55:18 56:22 58:7,  25 59:8,11,18 60:17 61:12 62:6,  22 63:1,7 65:4  <b>justice's</b> <sup>[2]</sup> 40:15 50:25  <b>justiciability</b> <sup>[1]</sup> 7:11  <b>justification</b> <sup>[6]</sup> 13:5,6 54:11,13,  15 56:16</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>kagan</b> <sup>[16]</sup> 14:11 15:16 20:25 22:5  35:18,20,21 36:4 46:5,9 47:2,6,8  49:22 55:18 56:22  <b>kagan's</b> <sup>[1]</sup> 18:3  <b>keep</b> <sup>[1]</sup> 52:16  <b>kennedy</b> <sup>[10]</sup> 4:3 5:18 6:2 10:19  19:6,25 26:12,25 27:9,14  <b>kennedy's</b> <sup>[3]</sup> 34:24 50:5 63:7  <b>kept</b> <sup>[2]</sup> 17:9 55:9  <b>key</b> <sup>[1]</sup> 43:2  <b>kind</b> <sup>[7]</sup> 6:7 13:21 15:17 21:17 31:</p>	<p>11 47:22 52:2  <b>king's</b> <sup>[2]</sup> 13:24 63:22</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>label</b> <sup>[1]</sup> 41:2  <b>lack</b> <sup>[1]</sup> 3:23  <b>laid</b> <sup>[1]</sup> 44:25  <b>lander</b> <sup>[1]</sup> 56:6  <b>lander's</b> <sup>[1]</sup> 12:22  <b>language</b> <sup>[1]</sup> 38:10  <b>last</b> <sup>[2]</sup> 50:11 57:16  <b>late</b> <sup>[1]</sup> 59:7  <b>later</b> <sup>[1]</sup> 43:5  <b>laughter</b> <sup>[6]</sup> 6:4 13:14 40:25 44:14,  22 61:18  <b>launch</b> <sup>[1]</sup> 8:12  <b>law</b> <sup>[11]</sup> 5:5 17:23 20:10 21:1,6 26:  14 28:10 33:13 34:20 35:4 63:8  <b>lawful</b> <sup>[1]</sup> 26:17  <b>lay</b> <sup>[1]</sup> 36:21  <b>lead</b> <sup>[5]</sup> 10:4 50:5 53:25 54:2,7  <b>leading</b> <sup>[1]</sup> 42:25  <b>learn</b> <sup>[2]</sup> 8:1,11  <b>least</b> <sup>[4]</sup> 19:18 20:20 41:9 49:20  <b>leave</b> <sup>[2]</sup> 9:4 45:11  <b>leaving</b> <sup>[1]</sup> 3:25  <b>led</b> <sup>[2]</sup> 5:6 21:17  <b>left</b> <sup>[1]</sup> 9:24  <b>legal</b> <sup>[2]</sup> 24:9 42:19  <b>legislation</b> <sup>[1]</sup> 27:23  <b>legislative</b> <sup>[4]</sup> 8:24 30:8 59:22,25  <b>legislators</b> <sup>[2]</sup> 14:13 60:5  <b>legislators'</b> <sup>[1]</sup> 18:4  <b>legislature</b> <sup>[16]</sup> 7:3 12:9 20:3,22  23:3 24:6,16 26:20 28:23 32:12  33:5 40:18,21 58:12,15,20  <b>legislature's</b> <sup>[1]</sup> 61:22  <b>legislatures</b> <sup>[8]</sup> 14:18 15:4,11,12,  14 18:11 23:22 52:19  <b>legitimate</b> <sup>[2]</sup> 26:15 54:2  <b>less</b> <sup>[6]</sup> 5:6 17:2 34:11 45:10 49:16  57:9  <b>lesson</b> <sup>[2]</sup> 8:4,10  <b>lessons</b> <sup>[2]</sup> 8:2 56:11  <b>levels</b> <sup>[1]</sup> 53:23  <b>likelihood</b> <sup>[1]</sup> 47:19  <b>likely</b> <sup>[1]</sup> 34:7  <b>likes</b> <sup>[1]</sup> 39:17  <b>limit</b> <sup>[1]</sup> 45:5  <b>limited</b> <sup>[3]</sup> 6:19 30:14 63:18  <b>limits</b> <sup>[5]</sup> 33:13 46:3,3,4 61:2  <b>line</b> <sup>[5]</sup> 46:25 47:4,7,16 53:20  <b>lines</b> <sup>[6]</sup> 3:14 8:18 35:25 59:22 63:  12,13  <b>list</b> <sup>[3]</sup> 7:22 8:2,11  <b>litigation</b> <sup>[2]</sup> 22:11 52:2  <b>little</b> <sup>[10]</sup> 11:20 13:18 22:13,14 27:  3 30:12 50:18,20 51:18 55:14  <b>live</b> <sup>[5]</sup> 10:8 25:12 33:14 36:8 56:  12  <b>living</b> <sup>[2]</sup> 36:12 45:21  <b>localized</b> <sup>[1]</sup> 31:7  <b>locked</b> <sup>[2]</sup> 49:13 61:20  <b>longer</b> <sup>[2]</sup> 11:4 57:11</p>	<hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>madison</b> <sup>[4]</sup> 1:17 10:9 30:21 32:  14  <b>main</b> <sup>[1]</sup> 36:22  <b>majorities</b> <sup>[2]</sup> 15:5 29:15  <b>majority</b> <sup>[11]</sup> 10:11 12:9 29:8,16  40:17,20 48:12,13 58:13,19,19  <b>malpractice</b> <sup>[1]</sup> 58:5  <b>man</b> <sup>[2]</sup> 37:11,20  <b>manageability</b> <sup>[1]</sup> 15:12  <b>manageable</b> <sup>[12]</sup> 3:12 11:9,24 13:  7,10 20:9,10,15 21:12 23:21 42:8,  20  <b>management</b> <sup>[1]</sup> 60:14  <b>mandated</b> <sup>[1]</sup> 19:25  <b>mandatory</b> <sup>[1]</sup> 37:7  <b>manner</b> <sup>[1]</sup> 49:25  <b>many</b> <sup>[10]</sup> 7:3,7 19:7 22:18 32:8 44:  1,3 54:16 55:19,20  <b>map</b> <sup>[39]</sup> 6:17,20 8:1 10:9 12:6 14:  6,7 16:6,13,15,20 17:5,10 23:5,6  24:20 30:2,6 35:25 36:16 38:25  40:10 41:8,25 44:7 46:23 47:3,22,  24 48:4,24 49:4,7 54:7,19 55:17,  21 57:3,23  <b>maps</b> <sup>[30]</sup> 3:21 7:19,21,23,24,24 8:  9 12:25 13:1 14:18 16:8,10,12 17:  12,14,20 19:3 20:11 27:24 38:14,  19 45:22 52:17 54:17,21 55:6,12,  19 56:10 58:9  <b>matches</b> <sup>[1]</sup> 57:3  <b>matter</b> <sup>[8]</sup> 1:12 3:22 23:17 24:5,9  39:23 59:18,20  <b>matters</b> <sup>[2]</sup> 29:12 59:25  <b>max-black</b> <sup>[2]</sup> 7:2,9  <b>max-republican</b> <sup>[1]</sup> 7:8  <b>maximize</b> <sup>[3]</sup> 18:6 19:23 49:14  <b>maximizing</b> <sup>[1]</sup> 46:1  <b>maximum</b> <sup>[1]</sup> 19:12  <b>mcghee</b> <sup>[4]</sup> 42:23 44:11 62:9,19  <b>mcghee's</b> <sup>[1]</sup> 43:22  <b>mean</b> <sup>[12]</sup> 14:1 15:19 23:1,19 25:  25 27:13 29:4 32:11 42:5 48:10  58:8 60:24  <b>means</b> <sup>[4]</sup> 28:15 29:3 35:8 41:19  <b>meantime</b> <sup>[1]</sup> 45:10  <b>measure</b> <sup>[8]</sup> 40:9 43:13,15 45:4,  16,16 47:19 52:23  <b>measured</b> <sup>[1]</sup> 51:6  <b>measures</b> <sup>[3]</sup> 42:24,25 47:9</p>

<p><b>measuring</b> [2] 47:17 51:11  <b>median-mean</b> [1] 45:16  <b>members</b> [3] 4:24 32:11,18  <b>memory</b> [1] 45:21  <b>mentioned</b> [4] 42:11 48:14 51:8 52:14  <b>merely</b> [1] 3:18  <b>merits</b> [4] 8:16 10:20 37:5 55:5  <b>method</b> [3] 8:6 49:3 50:8  <b>methods</b> [1] 14:24  <b>metric</b> [1] 16:4  <b>metrics</b> [5] 3:15 8:14 20:5 22:25 23:1  <b>might</b> [8] 4:22,25 28:13,14 31:24 44:24 49:9 53:15  <b>millions</b> [1] 54:16  <b>milwaukee</b> [5] 9:10,17,24 10:24 32:13  <b>milwaukee's</b> [1] 11:2  <b>minimis</b> [3] 31:25 32:3,6  <b>minor</b> [1] 29:7  <b>minorities</b> [1] 15:5  <b>minority</b> [5] 29:6,7 33:16 55:8 58:23  <b>minus</b> [1] 37:17  <b>minute</b> [2] 8:17 55:14  <b>minutes</b> [2] 40:15 63:2  <b>misha</b> [5] 1:17 2:3,13 3:7 63:4  <b>misuse</b> [1] 61:6  <b>mix</b> [1] 19:2  <b>model</b> [1] 57:18  <b>modest</b> [1] 55:14  <b>moment</b> [1] 11:17  <b>months</b> [1] 49:12  <b>morning</b> [1] 3:4  <b>most</b> [6] 16:16,20 24:20 29:16 38:18 45:20  <b>motive</b> [1] 13:5  <b>ms</b> [25] 18:16,19 19:14 20:2,13,16, 18 21:1,19 22:2,3,22 23:19 24:2, 12 25:4,15,23 26:18 27:3,12,16 28:5,14 29:9  <b>much</b> [9] 14:2 18:11 22:19 40:10 47:4 50:21 51:22 57:9 62:5  <b>murphy</b> [28] 1:19 2:6 18:16,17,19 19:14 20:2,13,16,18 21:1,19 22:2, 3,22 23:19 24:2,12 25:4,15,23 26: 18 27:3,12,16 28:5,14 29:9  <b>must</b> [6] 26:15,20,20 28:10,11 37: 22</p>	<p>11 57:4 63:12 64:24  <b>neutrally</b> [2] 63:12,13  <b>never</b> [8] 3:11 21:8 39:17 41:4 48: 4,11,16 61:16  <b>new</b> [3] 57:17 63:20 64:1  <b>next</b> [5] 14:19 15:1 47:23 48:12 64: 11  <b>nineteenth</b> [1] 60:2  <b>nobody</b> [1] 25:20  <b>non-flippable</b> [1] 48:25  <b>non-problem</b> [2] 62:20,25  <b>non-starter</b> [1] 14:7  <b>none</b> [1] 47:10  <b>norm</b> [1] 58:2  <b>north</b> [1] 31:16  <b>northern</b> [1] 8:21  <b>nothing</b> [10] 10:12 11:19,19 13:13 25:10 26:4 53:24 56:13 63:20,25  <b>nullifies</b> [1] 30:3  <b>number</b> [7] 19:12,23 20:4 47:13 52:17 60:20 61:1  <b>numbers</b> [1] 23:15  <b>numerous</b> [1] 43:22</p>	<p>21 61:15  <b>ought</b> [5] 34:22 35:16 41:22 56:2 60:9  <b>out</b> [17] 5:20 9:24 13:8 16:9 17:14 24:13 25:1,16 32:1 34:6,24 36:21 37:24 45:22 48:8 49:25 56:23  <b>outcome</b> [1] 42:1  <b>outcomes</b> [1] 29:14  <b>outlier</b> [3] 12:21 50:3 55:21  <b>outliers</b> [1] 49:24  <b>outlines</b> [1] 43:22  <b>outside</b> [2] 10:17 32:4  <b>over</b> [11] 12:15 21:6 29:17 33:20 37:18,23 47:3,23,24 48:5 49:9  <b>overpopulated</b> [3] 35:23 36:8,13  <b>overriding</b> [1] 19:11  <b>own</b> [5] 4:21 7:17 19:5 36:15 43: 22</p>	<p>37:13 38:15  <b>person's</b> [1] 33:8  <b>perspective</b> [1] 27:7  <b>picture</b> [1] 62:7  <b>pinch</b> [4] 50:23,23 51:18,19  <b>place</b> [3] 21:6 31:7 55:10  <b>places</b> [1] 32:17  <b>plain</b> [1] 7:19  <b>plaintiff</b> [4] 6:21 10:4,5 30:21  <b>plaintiff's</b> [4] 3:15 7:17,19 64:12  <b>plaintiffs</b> [11] 8:12 18:21 19:1 34: 16,18 49:2 55:19 56:3 63:16,21 64:8  <b>plan</b> [3] 7:2 16:9 25:18  <b>please</b> [5] 3:10 18:20 29:25 46:6,7  <b>plenty</b> [2] 20:25 25:7  <b>plurality</b> [1] 21:23  <b>plus</b> [1] 37:19  <b>point</b> [10] 15:20 17:24 19:18 20:20 27:4 28:6,17 40:2 57:25 64:10  <b>points</b> [2] 16:4 24:3  <b>poked</b> [1] 16:3  <b>polarized</b> [2] 39:12 57:25  <b>political</b> [25] 3:24 6:10,21 11:11 12:7 18:23,24 19:5 26:1,7,11 28:2 30:17 32:2 39:19 41:4,24 42:5,19 45:7,12 53:25 55:13 56:8 57:20  <b>politically</b> [2] 3:14 28:12  <b>politicians</b> [3] 3:13 18:5 61:16  <b>politics</b> [5] 6:9 7:13 21:24 25:11 37:2  <b>polls</b> [1] 18:8  <b>population</b> [1] 36:17  <b>positive</b> [2] 13:8 28:16  <b>positives</b> [2] 15:13 23:2  <b>possibility</b> [1] 58:24  <b>possible</b> [5] 7:4 10:9 19:10 30:5 47:16  <b>possibly</b> [2] 6:16 13:10  <b>power</b> [5] 15:6 21:18 29:1 60:4 61: 6  <b>practical</b> [1] 24:10  <b>precious</b> [2] 24:15,23  <b>precise</b> [1] 63:18  <b>predictable</b> [1] 39:12  <b>predicted</b> [1] 48:10  <b>predicting</b> [1] 48:18  <b>predictions</b> [1] 48:10  <b>predominate</b> [1] 8:22  <b>preferred</b> [1] 37:22  <b>premise</b> [1] 29:10  <b>preordained</b> [1] 24:20  <b>presented</b> [4] 47:10 63:17,20 64: 22  <b>presenting</b> [1] 48:2  <b>president</b> [2] 42:14,16  <b>pressuring</b> [1] 9:3  <b>pretty</b> [8] 5:9 14:14 15:19 16:19 40: 23 47:4 52:24 59:25  <b>prevent</b> [1] 32:18  <b>previously</b> [4] 17:3 42:25,25 51: 16  <b>primary</b> [1] 64:9  <b>principle</b> [5] 19:15 41:5 46:11,13,</p>
<b>N</b>			
<p><b>name</b> [1] 47:4  <b>naturally</b> [1] 36:25  <b>nature</b> [2] 31:1,2  <b>necessarily</b> [1] 28:15  <b>necessary</b> [1] 34:7  <b>need</b> [7] 22:9,18 23:12,13,14 41:2 50:8  <b>needs</b> [1] 39:7  <b>negate</b> [1] 58:23  <b>negatives</b> [1] 15:14  <b>neighbor</b> [1] 34:4  <b>neutral</b> [9] 7:22 8:3,5,6 26:24 56:</p>	<p><b>obtain</b> [1] 14:25  <b>obtained</b> [2] 44:8,10  <b>october</b> [1] 1:10  <b>offered</b> [1] 43:13  <b>officials</b> [2] 3:19 8:21  <b>often</b> [4] 6:9,14 14:20,21  <b>ointment</b> [1] 53:16  <b>okay</b> [7] 12:4,12,22 13:13 23:11 29: 4 57:6  <b>one</b> [52] 4:13 5:2 10:20,25 11:25 12:1,16,23 15:1,23 16:7 17:5,20 20:5,11,24 24:3 25:16,21 26:10 29:6 31:17 32:18 33:1 35:22 36: 20 37:4,24 38:15,16 39:1 42:11 44:6 45:15,20,22 46:1 48:13 49:4, 8,8 50:3,9 52:14 54:24 55:3,20 57: 10 58:1,17,19 64:4  <b>one-party</b> [6] 52:15,22 58:1,3,8 59: 12  <b>one-person</b> [1] 35:21  <b>one-person/one-vote</b> [1] 60:18  <b>one-third</b> [1] 52:15  <b>one-vote</b> [1] 35:22  <b>ones</b> [1] 48:1  <b>only</b> [12] 4:21 10:5 14:19 15:1 19:1 24:8 35:24 36:14 40:6 50:13 62:1 64:4  <b>opinion</b> [3] 21:21,22 28:18  <b>opinions</b> [3] 21:22,23,23  <b>opportunity</b> [2] 36:23 57:16  <b>opposition</b> [1] 12:12  <b>oral</b> [7] 1:12 2:2,5,9 3:7 18:17 29: 21  <b>order</b> [6] 14:24 15:4,6 18:6 22:9 23:17  <b>other</b> [28] 4:15 5:12 12:6,10,13 13: 5,6 14:24 19:16 20:4,12 21:3,5,20 25:22 32:18 34:8 38:15 47:18 50: 6,20 51:7 52:9 54:6 56:7 58:22 60:</p>	<p><b>packed</b> [1] 33:3  <b>page</b> [2] 2:2 34:25  <b>paint</b> [1] 62:6  <b>palatable</b> [1] 38:7  <b>paper</b> [6] 42:23,23 43:9,11 44:12, 13  <b>parameters</b> [1] 4:9  <b>part</b> [8] 4:13 10:22 33:1,2,18,20 56: 3,15  <b>partial-partisan</b> [1] 31:9  <b>particular</b> [3] 14:3 22:24 31:4  <b>parties</b> [4] 12:7 26:1 34:12 41:10  <b>partisan</b> [36] 8:4,8 12:5 16:11,12, 15,16,22 17:15 19:4,17 20:6 22: 14 23:6,7,10 25:10 26:5 28:16 35: 7 38:13 41:8 43:16,16 45:16 46: 22 49:25 50:17 54:7 56:24 62:13 63:14,15,24 64:20,24  <b>partisanship</b> [1] 50:7  <b>party</b> [45] 4:15,15,23 12:1,8,16 15: 6 19:5,13,13 20:11 21:18 25:21 26:11,16,16 29:6 32:18,18,20 33: 22,22 34:3,13,19,20 35:6 37:17,18, 18,19 39:2 40:11,17,18,20 41:21, 22 46:1 57:5 58:17,19,22 62:10 63:10  <b>pass</b> [1] 30:1  <b>past</b> [1] 29:17  <b>paul</b> [3] 1:21 2:10 29:21  <b>pennsylvania</b> [1] 47:25  <b>people</b> [21] 5:12 10:23 17:11 25:7 28:25 29:12 32:4 33:14,19,22 34: 1,12 35:13,13 36:11 38:23 44:1,4 56:9,12 57:24  <b>percent</b> [16] 12:8,16,17,17 22:17 23:2 37:16 38:9 41:21,21,22,23 44:9 51:1 55:16 58:14  <b>percentage</b> [2] 41:17,17  <b>perfectly</b> [1] 20:15  <b>period</b> [1] 29:5  <b>permanent</b> [1] 48:25  <b>persistence</b> [1] 13:21  <b>persistent</b> [1] 12:15  <b>person</b> [6] 6:18 16:7 35:22 36:14</p>	

Official - Subject to Final Review

<p>17  <b>principles</b> [3] 17:7 18:1 19:11  <b>prior</b> [1] 7:25  <b>probably</b> [5] 9:16 19:6 27:19 50:3 57:18  <b>problem</b> [18] 5:20,25 7:9 22:4,14, 15 23:8 26:22 36:22 37:10 39:6,9, 15 60:23 61:4,11,19 62:3  <b>problems</b> [4] 3:17 7:12 22:23 54: 12  <b>proceed</b> [1] 36:25  <b>process</b> [4] 17:12 23:23 48:23 54: 25  <b>produce</b> [2] 54:19 56:3  <b>produced</b> [1] 55:5  <b>produces</b> [1] 28:23  <b>professor</b> [3] 13:24 45:23 63:22  <b>projections</b> [1] 3:17  <b>promoting</b> [1] 62:13  <b>properly</b> [1] 64:23  <b>proportional</b> [5] 41:3,7,14,15,18  <b>proportions</b> [1] 48:7  <b>proposal</b> [1] 54:16  <b>proposed</b> [1] 51:16  <b>proposing</b> [1] 64:3  <b>protect</b> [1] 39:18  <b>protection</b> [8] 4:10 27:1,11,19 53: 25 54:22 59:4,16  <b>prove</b> [1] 16:21  <b>proved</b> [1] 64:7  <b>proven</b> [2] 18:9 20:7  <b>provide</b> [3] 22:20 55:19 60:5  <b>provision</b> [1] 59:15  <b>public</b> [2] 3:19 42:10  <b>publishes</b> [2] 42:22,23  <b>punished</b> [1] 34:20  <b>purpose</b> [3] 20:24 35:4,10  <b>purposes</b> [1] 31:21  <b>pursuant</b> [1] 40:4  <b>pushed</b> [3] 46:3,3,4  <b>put</b> [6] 8:25 9:2 10:7 16:1 26:2 42: 1  <b>putting</b> [1] 23:22</p>	<p><b>random</b> [1] 56:10  <b>randomly</b> [2] 55:6,11  <b>range</b> [1] 12:15  <b>rapidly</b> [1] 62:11  <b>rather</b> [3] 26:11 36:9 59:15  <b>ratios</b> [1] 3:16  <b>react</b> [1] 11:18  <b>reaction</b> [1] 42:10  <b>read</b> [2] 11:15,21  <b>real</b> [3] 13:1 22:15 39:6  <b>reality</b> [1] 25:25  <b>really</b> [10] 24:14 27:5,8 29:2 31:21 39:8,23 45:5 57:14,15  <b>reason</b> [5] 4:17 14:3,8 35:6 40:16  <b>reasons</b> [4] 17:5 26:4 34:2 65:1  <b>rebuttal</b> [2] 2:12 63:4  <b>recognize</b> [1] 14:1  <b>record</b> [2] 15:24 55:24  <b>recycled</b> [1] 63:25  <b>redistricting</b> [7] 8:13 12:2 38:19 58:15 62:12,20 64:14  <b>redrawn</b> [1] 46:23  <b>reducing</b> [2] 11:23 49:15  <b>reflect</b> [1] 26:7  <b>regard</b> [2] 13:20 14:9  <b>regarding</b> [1] 6:24  <b>region</b> [1] 33:14  <b>regulate</b> [3] 60:14,23 61:6  <b>rejected</b> [1] 64:8  <b>relationship</b> [1] 6:1  <b>relative</b> [1] 43:14  <b>relatively</b> [1] 41:10  <b>reliably</b> [1] 30:6  <b>relied</b> [1] 51:17  <b>rely</b> [4] 18:8 50:16 61:8,9  <b>remaining</b> [1] 63:3  <b>remedy</b> [4] 39:15 57:2,3,7  <b>reminds</b> [1] 50:18  <b>remotely</b> [2] 41:20 55:16  <b>reno</b> [1] 31:4  <b>replicate</b> [1] 39:4  <b>representation</b> [6] 41:3,7,14,16, 19 60:7  <b>representational</b> [2] 35:11 63:17  <b>representatives</b> [2] 34:5 58:22  <b>republican</b> [9] 4:25 7:7 9:2 24:19 42:14 58:13 59:1,6,13  <b>republicans</b> [11] 5:1,6 8:22 19:23 29:15 32:9 37:9,23 48:16 58:10, 11  <b>require</b> [1] 55:19  <b>required</b> [1] 20:3  <b>requirement</b> [5] 17:22 26:19 54: 10,10,11  <b>requirements</b> [1] 54:18  <b>researcher</b> [2] 42:22 43:9  <b>resemblance</b> [1] 7:5  <b>reserve</b> [1] 18:12  <b>resources</b> [1] 26:2  <b>respect</b> [4] 9:5 12:21 23:20 29:9  <b>respond</b> [1] 13:12  <b>respondents</b> [1] 4:5  <b>response</b> [2] 13:11 38:12  <b>responses</b> [1] 25:5</p>	<p><b>responsiveness</b> [2] 43:1,12  <b>rest</b> [1] 18:11  <b>result</b> [6] 19:13 24:19,20,24 25:9 33:3  <b>results</b> [1] 14:25  <b>reverse</b> [1] 65:2  <b>revise</b> [1] 59:22  <b>revive</b> [1] 59:5  <b>revolution</b> [2] 8:13 57:22  <b>reynolds</b> [2] 36:3 60:19  <b>rights</b> [5] 35:11 54:3,23 55:2 63:17  <b>road</b> [1] 15:2  <b>roadsides</b> [2] 9:1,3  <b>roberts</b> [18] 3:3 5:8 18:14 29:19, 23 30:10 31:14 33:25 34:10 35:19 36:19 38:6 40:1 41:1,13 48:9 63:1 65:4  <b>room</b> [1] 49:13  <b>rosetta</b> [2] 43:3 62:15  <b>rough</b> [1] 41:9  <b>roughly</b> [1] 23:2  <b>rub</b> [1] 50:19  <b>rule</b> [3] 11:2 30:13 59:12  <b>ruling</b> [1] 38:8  <b>run</b> [2] 54:16 61:7  <b>runner</b> [1] 44:10  <b>running</b> [1] 24:13</p>	<p>57:16,23 61:12 62:18  <b>seem</b> [2] 40:22 51:25  <b>seeming</b> [1] 39:19  <b>seems</b> [8] 5:16 15:3 20:14 32:6,14 38:7 40:18 47:3  <b>seen</b> [1] 39:17  <b>seminal</b> [1] 62:8  <b>senate</b> [3] 1:20 2:7 18:18  <b>sense</b> [1] 27:22  <b>sensitivity</b> [3] 14:23 47:21 48:22  <b>sentence</b> [1] 62:18  <b>serious</b> [7] 38:2 39:8,9 45:6,11 57: 14,19  <b>set</b> [2] 22:15 53:16  <b>seven</b> [1] 49:20  <b>severe</b> [1] 56:17  <b>shall</b> [1] 19:9  <b>shape</b> [1] 23:14  <b>shaw</b> [1] 31:3  <b>shift</b> [1] 3:18  <b>show</b> [2] 56:9 62:10  <b>showing</b> [1] 6:17  <b>shown</b> [1] 43:12  <b>shows</b> [3] 10:12 12:18 64:17  <b>side</b> [1] 52:9  <b>sigma</b> [3] 37:16,17,18  <b>sign</b> [3] 10:21,21 31:15  <b>significantly</b> [1] 17:1  <b>signs</b> [5] 8:25 9:2,6 31:17 32:10  <b>simply</b> [3] 8:5 40:5 41:20  <b>sims</b> [1] 60:20  <b>since</b> [8] 19:2 36:2,18 42:17,18 57: 23 60:21 64:23  <b>single</b> [6] 4:20 6:19 14:1,2 16:3 48: 18  <b>situation</b> [2] 31:6 33:14  <b>situations</b> [1] 33:10  <b>size</b> [1] 23:14  <b>slicing</b> [1] 57:24  <b>small</b> [2] 47:23 62:11  <b>smith</b> [63] 1:21 2:10 29:21,23,24 30:24 31:23 32:16 33:11 34:9,15 35:18,19 36:1,6,19 38:5,11 39:25 40:8 41:6,15 42:3 44:18,23 46:5,7 47:1,5,8 48:21 49:22 50:2,14 51:4, 12,14,20,23 52:7,12 53:2,6,9,12, 20 54:5 55:1,22 57:1 58:7,18,25 59:3,10,17 60:11,19 61:15,19 62: 17,24 63:2</p>
<b>S</b>			
<p><b>question</b> [24] 4:1 6:25 8:18 12:14 18:3 19:20 22:7,20 26:13 27:8,12, 15 40:16 42:4 44:17,18,21 45:25 46:12,14 53:1 63:7,13,16  <b>questions</b> [5] 13:10 23:12 43:21, 23 44:16  <b>quite</b> [5] 11:12 12:11 25:24 26:23 62:19</p>	<p><b>representational</b> [2] 35:11 63:17  <b>representatives</b> [2] 34:5 58:22  <b>republican</b> [9] 4:25 7:7 9:2 24:19 42:14 58:13 59:1,6,13  <b>republicans</b> [11] 5:1,6 8:22 19:23 29:15 32:9 37:9,23 48:16 58:10, 11  <b>require</b> [1] 55:19  <b>required</b> [1] 20:3  <b>requirement</b> [5] 17:22 26:19 54: 10,10,11  <b>requirements</b> [1] 54:18  <b>researcher</b> [2] 42:22 43:9  <b>resemblance</b> [1] 7:5  <b>reserve</b> [1] 18:12  <b>resources</b> [1] 26:2  <b>respect</b> [4] 9:5 12:21 23:20 29:9  <b>respond</b> [1] 13:12  <b>respondents</b> [1] 4:5  <b>response</b> [2] 13:11 38:12  <b>responses</b> [1] 25:5</p>	<p><b>s-curve</b> [2] 12:18 16:16  <b>same</b> [12] 6:20 7:9,12 15:7 16:4 31: 10 32:6,15 36:7 41:16 45:19 63: 24  <b>satisfied</b> [1] 34:22  <b>satisfies</b> [1] 19:21  <b>saying</b> [10] 21:24 24:7 26:15 27:24 28:12 35:17 43:11 46:2 59:11 62: 18  <b>says</b> [12] 11:25 19:8,15 20:11 24: 24 28:10 41:20 42:24 44:11 52:9 60:4 62:9  <b>scale</b> [1] 42:2  <b>scare</b> [2] 64:11,19  <b>scenario</b> [1] 20:19  <b>scheme</b> [1] 25:6  <b>scholars</b> [2] 42:19,19  <b>scholarship</b> [1] 43:20  <b>science</b> [7] 3:15 8:14 11:10,21 16: 4 42:5 56:20  <b>scientific</b> [4] 15:19,23 18:7,9  <b>scientist</b> [1] 16:2  <b>scientists</b> [3] 41:24 42:20 45:13  <b>scientists'</b> [1] 57:21  <b>screen</b> [2] 6:18,21  <b>screens</b> [1] 52:13  <b>scrutiny</b> [1] 64:5  <b>seat</b> [1] 3:16  <b>seats</b> [6] 19:23 29:8 41:11,17,22, 23  <b>second</b> [6] 8:10 13:18 14:12 46:14 59:19 64:2  <b>seconds</b> [1] 11:14  <b>section</b> [4] 33:12 38:17 60:4 61:9  <b>see</b> [9] 7:15 9:22 10:3 12:13 54:17</p>	<p><b>so-called</b> [1] 7:1  <b>social</b> [8] 3:15 8:14 11:10,21 16:2, 4 45:13 56:20  <b>society</b> [1] 25:2  <b>sociological</b> [1] 40:7  <b>solicitor</b> [1] 1:17  <b>solve</b> [3] 3:17 5:24 62:2  <b>solved</b> [1] 26:22  <b>somebody</b> [3] 12:25 31:17 46:21  <b>someone</b> [3] 9:20 10:16,16  <b>someplace</b> [2] 8:21 50:1  <b>sometimes</b> [3] 21:3 26:10 34:1  <b>somewhat</b> [2] 55:4 57:5  <b>sophisticated</b> [2] 15:8 39:10  <b>sorry</b> [4] 9:23 15:25 46:6 53:20</p>

Official - Subject to Final Review

<p><b>sort</b> <sup>[4]</sup> 5:4 11:1 12:17 57:4  <b>sotomayor</b> <sup>[8]</sup> 15:25 17:9,19,24 28:1,7 29:2 46:2  <b>sound</b> <sup>[1]</sup> 38:9  <b>sounds</b> <sup>[2]</sup> 40:14 41:13  <b>south</b> <sup>[1]</sup> 31:18  <b>southern</b> <sup>[1]</sup> 10:22  <b>specific</b> <sup>[1]</sup> 59:14  <b>specifically</b> <sup>[1]</sup> 27:24  <b>specify</b> <sup>[1]</sup> 50:24  <b>spend</b> <sup>[1]</sup> 11:14  <b>spent</b> <sup>[1]</sup> 49:11  <b>stack</b> <sup>[2]</sup> 24:15 29:4  <b>stacked</b> <sup>[1]</sup> 29:11  <b>stage</b> <sup>[7]</sup> 54:13,13,15 56:16 57:2,8 59:7  <b>standard</b> <sup>[11]</sup> 18:22 20:9,10,15 21:12 22:12 42:7,21 43:7 63:19 64:25  <b>standards</b> <sup>[4]</sup> 3:12 11:9 15:12 45:8  <b>standing</b> <sup>[21]</sup> 4:5 8:18 9:6,11,15, 25 10:2 27:8,13,15 30:11,25 31:21 32:3,21 33:13 34:16,22 35:20, 23 36:14  <b>start</b> <sup>[1]</sup> 23:7  <b>started</b> <sup>[9]</sup> 16:9 24:7 55:8  <b>starting</b> <sup>[1]</sup> 24:3  <b>state</b> <sup>[48]</sup> 1:19 2:7 4:13 5:13,15,19, 20 10:22 13:22 17:23 18:18 19:8, 8 20:1 22:9 23:17 26:14 28:8 29:25 30:5,16,23 32:20,24 33:1,2,15, 19,20 34:20 35:4,25 37:25 39:2 52:15,22 55:9,25 58:3,8 59:22,24, 24 60:5,14,15 61:8 63:9  <b>state's</b> <sup>[1]</sup> 55:7  <b>state-wide</b> <sup>[1]</sup> 31:20  <b>stated</b> <sup>[1]</sup> 5:21  <b>statement</b> <sup>[1]</sup> 35:1  <b>states</b> <sup>[6]</sup> 1:1,13 45:21 51:25 61:23 62:2  <b>statewide</b> <sup>[6]</sup> 3:16,24 6:22 30:19 34:14 38:19  <b>statistics</b> <sup>[1]</sup> 48:19  <b>status</b> <sup>[2]</sup> 38:2 58:23  <b>statute</b> <sup>[6]</sup> 19:8 20:19 21:2,8,11,14  <b>steak</b> <sup>[1]</sup> 50:19  <b>step</b> <sup>[3]</sup> 11:25 12:5 59:24  <b>stepped</b> <sup>[2]</sup> 45:13 56:21  <b>stepping</b> <sup>[1]</sup> 60:9  <b>steps</b> <sup>[1]</sup> 14:1  <b>stereotypical</b> <sup>[1]</sup> 34:11  <b>stereotyping</b> <sup>[2]</sup> 33:21 34:1  <b>stigmatize</b> <sup>[1]</sup> 63:10  <b>still</b> <sup>[4]</sup> 4:18 6:6 40:21 52:25  <b>stone</b> <sup>[2]</sup> 43:3 62:15  <b>stop</b> <sup>[1]</sup> 14:12  <b>straightforward</b> <sup>[1]</sup> 5:9  <b>strategy</b> <sup>[1]</sup> 32:11  <b>street</b> <sup>[2]</sup> 37:12,20  <b>strength</b> <sup>[1]</sup> 31:20  <b>striking</b> <sup>[1]</sup> 7:21  <b>strong</b> <sup>[2]</sup> 4:6,15  <b>strongly</b> <sup>[2]</sup> 4:5 26:10</p>	<p><b>struck</b> <sup>[1]</sup> 62:8  <b>structural</b> <sup>[1]</sup> 5:25  <b>stuck</b> <sup>[1]</sup> 53:1  <b>studied</b> <sup>[2]</sup> 7:19 45:23  <b>study</b> <sup>[4]</sup> 55:3 64:12,15,16  <b>stuff</b> <sup>[2]</sup> 11:22,22  <b>subject</b> <sup>[2]</sup> 22:11 46:16  <b>subjected</b> <sup>[1]</sup> 64:4  <b>subjecting</b> <sup>[1]</sup> 35:5  <b>submitted</b> <sup>[2]</sup> 13:23 65:5  <b>substantive</b> <sup>[3]</sup> 45:3 46:12 51:9  <b>subtracting</b> <sup>[1]</sup> 44:8  <b>success</b> <sup>[1]</sup> 18:7  <b>suffer</b> <sup>[1]</sup> 36:12  <b>sufficiently</b> <sup>[2]</sup> 32:2 42:9  <b>suggest</b> <sup>[2]</sup> 24:2 53:10  <b>suggested</b> <sup>[2]</sup> 13:25 22:24  <b>suggesting</b> <sup>[4]</sup> 15:17 49:23,24 62:12  <b>suggestion</b> <sup>[1]</sup> 13:25  <b>suit</b> <sup>[1]</sup> 43:6  <b>supplemental</b> <sup>[2]</sup> 7:18 64:16  <b>support</b> <sup>[1]</sup> 34:13  <b>supporters</b> <sup>[1]</sup> 34:19  <b>suppose</b> <sup>[6]</sup> 4:7 8:20 10:21 19:7 33:8 58:12  <b>supposed</b> <sup>[5]</sup> 23:4 24:8 50:22,24 52:1  <b>supreme</b> <sup>[3]</sup> 1:1,13 37:22  <b>suspect</b> <sup>[2]</sup> 7:13 13:7  <b>swing</b> <sup>[2]</sup> 47:23 49:5  <b>symmetry</b> <sup>[14]</sup> 8:5 22:14,25 23:7 41:8,23 43:1,11 46:10,22 50:18 51:6,8,11  <b>sympathetic</b> <sup>[1]</sup> 11:12  <b>system</b> <sup>[5]</sup> 4:21 28:4,20 32:7 38:22  <b>systematic</b> <sup>[1]</sup> 32:17  <b>systematically</b> <sup>[1]</sup> 49:15</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>table</b> <sup>[1]</sup> 52:21  <b>tactics</b> <sup>[2]</sup> 64:11,19  <b>talked</b> <sup>[2]</sup> 10:22 13:18  <b>targeted</b> <sup>[1]</sup> 35:12  <b>task</b> <sup>[1]</sup> 18:23  <b>teach</b> <sup>[1]</sup> 56:10  <b>technicalities</b> <sup>[1]</sup> 13:9  <b>technique</b> <sup>[1]</sup> 48:21  <b>techniques</b> <sup>[3]</sup> 15:7 18:4,5  <b>technologies</b> <sup>[1]</sup> 55:23  <b>technology</b> <sup>[1]</sup> 14:17  <b>term</b> <sup>[1]</sup> 61:1  <b>terms</b> <sup>[3]</sup> 28:23 41:10 64:22  <b>test</b> <sup>[13]</sup> 13:3 19:3 22:24 50:18 51:15,17 52:3,10 54:9 64:4,6,8,9  <b>tested</b> <sup>[2]</sup> 43:20 49:2  <b>testified</b> <sup>[1]</sup> 10:5  <b>testimony</b> <sup>[2]</sup> 10:4,6  <b>testing</b> <sup>[3]</sup> 14:24 47:21 48:22  <b>tests</b> <sup>[5]</sup> 48:1 51:7,11 53:3 64:3  <b>texas</b> <sup>[3]</sup> 5:1,5,6  <b>textual</b> <sup>[1]</sup> 60:7  <b>theory</b> <sup>[2]</sup> 43:23 61:11</p>	<p><b>there's</b> <sup>[9]</sup> 20:21 25:25 27:10 33:15 44:21 45:24 46:21 58:19 60:12  <b>therefore</b> <sup>[2]</sup> 32:12 47:16  <b>they've</b> <sup>[2]</sup> 29:15 63:25  <b>thinking</b> <sup>[2]</sup> 14:19,20  <b>third</b> <sup>[3]</sup> 13:16,20 52:5  <b>thorough</b> <sup>[1]</sup> 34:18  <b>thought</b> <sup>[3]</sup> 29:6 49:17 59:9  <b>thousands</b> <sup>[2]</sup> 12:24,25  <b>three</b> <sup>[8]</sup> 16:10,11 42:13,15 45:14 47:9 53:3,8  <b>three-judge</b> <sup>[1]</sup> 42:12  <b>threshold</b> <sup>[2]</sup> 3:22 46:24  <b>threw</b> <sup>[1]</sup> 17:14  <b>throughout</b> <sup>[1]</sup> 5:15  <b>throw</b> <sup>[1]</sup> 13:8  <b>throwing</b> <sup>[2]</sup> 40:4 52:16  <b>thumb</b> <sup>[1]</sup> 42:1  <b>tinkered</b> <sup>[2]</sup> 49:18,18  <b>together</b> <sup>[2]</sup> 6:15 33:23  <b>tolerate</b> <sup>[1]</sup> 18:25  <b>tool</b> <sup>[1]</sup> 62:13  <b>town</b> <sup>[2]</sup> 8:20 9:3  <b>towns</b> <sup>[1]</sup> 32:8  <b>traditional</b> <sup>[10]</sup> 17:6,12,13 18:1 19:10,21 24:4 28:11 54:18 55:7  <b>translate</b> <sup>[1]</sup> 41:11  <b>treat</b> <sup>[1]</sup> 12:6  <b>treatment</b> <sup>[1]</sup> 35:6  <b>treats</b> <sup>[1]</sup> 41:9  <b>trial</b> <sup>[1]</sup> 64:6  <b>tries</b> <sup>[1]</sup> 16:14  <b>troubling</b> <sup>[1]</sup> 17:2  <b>true</b> <sup>[9]</sup> 4:3 17:7 36:1 47:5 52:7,7 53:19,22 61:23  <b>try</b> <sup>[3]</sup> 18:6 23:25 59:5  <b>trying</b> <sup>[3]</sup> 49:13,25 59:9  <b>tseytlin</b> <sup>[24]</sup> 1:17 2:3,13 3:6,7,9 4:16 5:23 6:5 7:10 9:13 10:1,25 13:15 15:10,21 16:24 17:16,21,25 18:10 63:2,4,6  <b>tuesday</b> <sup>[1]</sup> 1:10  <b>turmeric</b> <sup>[1]</sup> 50:19  <b>turn</b> <sup>[1]</sup> 13:10  <b>turned</b> <sup>[2]</sup> 6:18,20  <b>turns</b> <sup>[1]</sup> 7:11  <b>twenty-sixth</b> <sup>[1]</sup> 60:2  <b>two</b> <sup>[14]</sup> 8:1 12:5 17:4 23:12,13 33:10 40:14 41:9 42:13,14 44:1 45:3 49:13 51:7  <b>two-sentence</b> <sup>[1]</sup> 35:2</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>u.s</b> <sup>[1]</sup> 5:7  <b>ultimate</b> <sup>[1]</sup> 19:15  <b>ultimately</b> <sup>[1]</sup> 6:13  <b>unanswered</b> <sup>[1]</sup> 43:23  <b>uncertainties</b> <sup>[1]</sup> 54:25  <b>unconstitutional</b> <sup>[7]</sup> 16:22 22:1 27:17 28:13 50:7,12 53:15  <b>uncontested</b> <sup>[2]</sup> 25:20,25  <b>uncovered</b> <sup>[1]</sup> 3:11  <b>under</b> <sup>[7]</sup> 10:9 14:6,13 38:15,16,17 60:23</p>	<p><b>underlying</b> <sup>[1]</sup> 51:8  <b>underpopulated</b> <sup>[1]</sup> 36:9  <b>understand</b> <sup>[7]</sup> 11:12 21:4,5 28:22,25 29:3 52:3  <b>understanding</b> <sup>[1]</sup> 54:20  <b>undisputed</b> <sup>[1]</sup> 17:11  <b>unequivocal</b> <sup>[1]</sup> 48:5  <b>unfair</b> <sup>[1]</sup> 40:10  <b>uniform</b> <sup>[1]</sup> 64:25  <b>united</b> <sup>[4]</sup> 1:1,13 45:21 62:1  <b>unprecedented</b> <sup>[1]</sup> 48:7  <b>unusual</b> <sup>[1]</sup> 60:12  <b>unusually</b> <sup>[1]</sup> 52:23  <b>up</b> <sup>[12]</sup> 8:25 9:2 31:16 44:10 45:14 48:8 49:17,20 52:6 56:21 57:8 61:21  <b>useful</b> <sup>[1]</sup> 56:19  <b>using</b> <sup>[5]</sup> 24:19 30:1 54:17 55:6 60:12</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>vague</b> <sup>[1]</sup> 4:23  <b>valid</b> <sup>[1]</sup> 43:15  <b>valuable</b> <sup>[1]</sup> 28:24  <b>value</b> <sup>[1]</sup> 28:2  <b>values</b> <sup>[2]</sup> 28:16,23  <b>variety</b> <sup>[2]</sup> 34:2 56:19  <b>various</b> <sup>[2]</sup> 54:6 64:3  <b>versus</b> <sup>[1]</sup> 3:5  <b>vieth</b> <sup>[10]</sup> 17:4,8 28:18 34:25 44:24 47:11,11,25 48:14 49:10  <b>view</b> <sup>[1]</sup> 34:7  <b>viewpoint</b> <sup>[1]</sup> 27:22  <b>views</b> <sup>[1]</sup> 35:7  <b>violate</b> <sup>[2]</sup> 59:12 63:9  <b>violating</b> <sup>[1]</sup> 46:17  <b>violation</b> <sup>[7]</sup> 20:7 27:1,2,19,21 31:2 46:22  <b>virtue</b> <sup>[1]</sup> 47:9  <b>vote</b> <sup>[22]</sup> 3:16 4:19,21 9:18,19,20 12:9 24:15,17,23 25:15 29:12,16 30:21 31:20 33:12 34:2,12 36:12 38:16 39:24 60:6  <b>voted</b> <sup>[2]</sup> 44:2,4  <b>voter</b> <sup>[5]</sup> 9:10 10:13 24:17 32:13, 25  <b>voters</b> <sup>[9]</sup> 9:9,16,17,24 28:21 35:5 39:21,22 61:21  <b>voters'</b> <sup>[1]</sup> 35:11  <b>votes</b> <sup>[20]</sup> 12:15 19:2,12 29:7,8 30:21 31:12 37:17,18,19,19 40:17,21 41:11,18 43:14 44:8,9,10 48:8  <b>voting</b> <sup>[7]</sup> 14:16 25:8 30:23 47:23 54:3,23 55:2  <b>vs</b> <sup>[3]</sup> 60:19,20 61:2</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> <sup>[1]</sup> 9:23  <b>walk</b> <sup>[1]</sup> 22:19  <b>wants</b> <sup>[1]</sup> 33:1  <b>washington</b> <sup>[3]</sup> 1:9,19,21  <b>wasted</b> <sup>[4]</sup> 19:2 37:17,18 43:14  <b>way</b> <sup>[23]</sup> 5:16,21 7:15 11:23 16:7 23:9 24:16 25:16 26:16 27:25 28:</p>
---	--	--	---

21 30:22 36:2,18 38:21 41:25 42:  
 13 45:4 49:9 56:5,23 58:4 62:4  
**ways** <sup>[5]</sup> 38:15 45:14 46:15,15 56:  
 20  
**weak** <sup>[1]</sup> 4:15  
**whereas** <sup>[1]</sup> 18:12  
**whereupon** <sup>[1]</sup> 65:6  
**whether** <sup>[8]</sup> 12:18 24:18 37:8 39:  
 24 52:23 54:17 55:20 56:2  
**white** <sup>[1]</sup> 35:1  
**whitford** <sup>[2]</sup> 1:6 3:5  
**who's** <sup>[1]</sup> 30:8  
**whole** <sup>[4]</sup> 30:19 40:2 54:25 56:19  
**wide** <sup>[1]</sup> 34:2  
**will** <sup>[19]</sup> 3:3 4:7 6:14 8:16 14:25 25:  
 16 32:11,14 36:25 37:3,4,7,14 55:  
 24 56:14 58:1,7 63:14 64:11  
**william** <sup>[1]</sup> 1:6  
**win** <sup>[5]</sup> 25:22 37:9,9,13,14  
**winding** <sup>[1]</sup> 52:6  
**winner** <sup>[1]</sup> 44:9  
**winning** <sup>[1]</sup> 44:2  
**wins** <sup>[1]</sup> 40:17  
**wisconsin** <sup>[21]</sup> 1:17,19 2:7 4:25 7:  
 25 8:21 10:15,16,17 18:18 25:17  
 29:14 30:5 31:16 34:21 39:23 55:  
 6,14 57:18 58:6 61:21  
**wisconsinites** <sup>[1]</sup> 10:14  
**wish** <sup>[5]</sup> 11:18,18 13:11,12,12  
**within** <sup>[2]</sup> 37:6 41:9  
**without** <sup>[2]</sup> 40:22 61:22  
**won** <sup>[4]</sup> 29:15,16 48:2,17  
**word** <sup>[2]</sup> 31:10 50:2  
**words** <sup>[2]</sup> 12:6,13  
**work** <sup>[2]</sup> 33:23 38:23  
**workable** <sup>[1]</sup> 18:22  
**worked** <sup>[2]</sup> 16:17,17  
**world** <sup>[3]</sup> 14:16 20:3 46:20  
**worry** <sup>[3]</sup> 15:11,13,14  
**worse** <sup>[4]</sup> 62:3,5 64:17,18  
**worst** <sup>[4]</sup> 7:20,21 13:2 45:22  
**worth** <sup>[1]</sup> 23:13

---

**Y**

---

**year** <sup>[2]</sup> 43:5 49:8  
**years** <sup>[12]</sup> 6:25 7:20 15:1 23:12 29:  
 5,17 38:20 39:3,3,5 42:17 43:8  
**yield** <sup>[1]</sup> 52:5  
**young** <sup>[2]</sup> 42:22 43:9

---

**Z**

---

**zero** <sup>[2]</sup> 54:8 57:7