

**SUPREME COURT
OF THE UNITED STATES**

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -

UNITED STATES,)	
Petitioner,)	
v.)	No. 20-303
JOSE LUIS VAELLO-MADERO,)	
Respondent.)	

- - - - -

Pages: 1 through 70
Place: Washington, D.C.
Date: November 9, 2021

HERITAGE REPORTING CORPORATION
Official Reporters
1220 L Street, N.W., Suite 206
Washington, D.C. 20005
(202) 628-4888
www.hrccourtreporters.com

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

IN THE SUPREME COURT OF THE UNITED STATES
- - - - -
UNITED STATES,)
Petitioner,)
v.) No. 20-303
JOSE LUIS VAELLO-MADERO,)
Respondent.)
- - - - -

Washington, D.C.
Tuesday, November 9, 2021

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 10:00 a.m.

APPEARANCES:
CURTIS E. GANNON, Deputy Solicitor General,
Department of Justice, Washington, D.C.; on behalf
of the Petitioner.
HERMANN FERRÉ, ESQUIRE, New York, New York; on behalf
of the Respondent.

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	CURTIS E. GANNON, ESQ.	
4	On behalf of the Petitioner	3
5	ORAL ARGUMENT OF:	
6	HERMANN FERRÉ, ESQ.	
7	On behalf of the Respondent	41
8	REBUTTAL ARGUMENT OF:	
9	CURTIS E. GANNON, ESQ.	
10	On behalf of the Petitioner	67
11		
12		
13		
14		
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

(10:00 a.m.)

CHIEF JUSTICE ROBERTS: We will hear argument first this morning in Case 20-303, Vaello-Madero -- United States versus Vaello-Madero.

Mr. Gannon.

ORAL ARGUMENT OF CURTIS E. GANNON
ON BEHALF OF THE PETITIONER

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

The court of appeals erred in holding that Congress's decision not to extend its Supplemental Security Income program to Puerto Rico lacks a rational basis.

As this Court has recognized, Puerto Rico has a unique tax status vis-a-vis the federal government. Puerto Rico's residents and employers contribute to federal unemployment insurance and to the Social Security and Medicare trust funds, and they receive benefits from those programs, but Congress has expressly exempted them from the obligations to pay many forms of federal taxes, including federal income tax in most instances, excise taxes, gift taxes,

1 and estate taxes, which means that much of the
2 revenue that would have flowed into the federal
3 treasury can instead be tapped by territorial
4 government, which therefore has greater leeway
5 to make different fiscal or economic choices
6 consistent with its distinctive status as a
7 self-governing commonwealth.

8 Congress could reasonably take those
9 considerations into account when deciding that
10 Puerto Rico's residents would receive some
11 federal benefits but not others. And this Court
12 has already recognized as much when it concluded
13 in *Torres and Rosario* that there is a rational
14 basis for Congress to exclude Puerto Rico's
15 residents from participation in a social welfare
16 program.

17 Of course, it would also be rational
18 for Congress to make changes on either side of
19 its balance between taxes and benefits. And the
20 president has already called on Congress to
21 extend SSI benefits to the residents of Puerto
22 Rico.

23 But whether and how to alter the
24 balances underlying current social welfare
25 policies are decisions that are left to Congress

1 and evaluated under a deferential rational basis
2 standard that this Court should find has been
3 satisfied here.

4 I welcome the Court's questions.

5 JUSTICE THOMAS: Mr. Gannon, do you
6 think that the Territory Clause is enough of a
7 -- a source of authority for the government or
8 Congress to have a rational basis to do what
9 it's doing?

10 MR. GANNON: We aren't resting just on
11 the Territory Clause here, Justice Thomas. We
12 agree that the equal protection principle in the
13 Fifth Amendment's Due Process Clause applies
14 here, and there does need to be a rational
15 basis.

16 The fact that the Territory Clause
17 gives Congress a different and unique source of
18 authorities over territories does mean that it
19 is inescapably the case that Congress often
20 legislates differently with respect to a
21 territory than it does with respect to the rest
22 of the country and that --

23 JUSTICE THOMAS: Well, how much of
24 your argument depends on that? I'm trying to
25 sort of figure out whether or not just merely

1 under the Territory Clause you could -- how much
2 could you do?

3 For example -- I'll give you a
4 different approach -- could you do the same
5 thing to Vermont?

6 MR. GANNON: The question would still
7 be governed by rational basis, and I --

8 JUSTICE THOMAS: Well, I'm -- I guess
9 would the test -- how different would the test
10 be for Vermont versus Puerto Rico?

11 MR. GANNON: I don't think the
12 rational basis test would be different. I think
13 the Court would still be looking under that
14 deferential screen into whether there is a
15 legitimate governmental interest that's being
16 served by drawing a different line there.

17 And there are federal laws that make
18 state-by-state distinctions, but I do think that
19 the Territory Clause means that it is natural
20 that Congress has often legislated differently
21 with respect to territories, and, therefore,
22 there are -- it is going to be a more common
23 break point in legislation.

24 But, here, we think that the reason is
25 deeper because it relates to the balance of

1 federal benefits and burdens that apply in the
2 territory differently than they do in the
3 states.

4 And so, if Vermont had a different
5 relationship with the federal government on the
6 one side, then it might be easier for the
7 federal government to alter it on the other
8 side. And in this instance, it doesn't.

9 Now Congress always takes into
10 account, it is always legitimate for Congress to
11 take into account, the source of federal funding
12 associated with a particular program. Sometimes
13 that connection is obvious. In the case of the
14 Medicare and Social Security trust funds, that
15 -- that's something where there's a one-to-one
16 relationship. For refundable tax credits, it --
17 it's usually somebody needs to be filing a
18 federal tax -- income tax return in order to be
19 eligible for a refundable tax credit, and the
20 connection is sometimes more obvious like that.

21 But, in this instance, we think that
22 it is clear, as the Court recognized in Torres
23 and Rosario, that Congress -- its relationship
24 with the territory is different largely in this
25 context of a social welfare benefit program

1 because of the different burdens that the tax --
2 the federal tax structure imposes in Puerto
3 Rico, and that means that there is a smaller tax
4 bite being taken out of the Puerto Rico
5 community by the federal government, which
6 leaves Puerto Rico greater leeway than Vermont
7 would have to deal with this problem in its own
8 fashion.

9 JUSTICE THOMAS: Thank you.

10 JUSTICE SOTOMAYOR: I'm sorry, counsel
11 --

12 CHIEF JUSTICE ROBERTS: Does the -- go
13 ahead.

14 JUSTICE SOTOMAYOR: No, no, please.

15 CHIEF JUSTICE ROBERTS: Do the Insular
16 Cases have anything to do with this litigation?

17 MR. GANNON: We don't think that they
18 affect the analysis that the Court needs to
19 apply here because we acknowledge that the equal
20 protection component of the Fifth Amendment is
21 applicable here. The Insular Cases were about
22 whether there are different portions of the
23 Constitution that apply differently to different
24 territories.

25 And, here, everybody has acknowledged

1 this Court has previously held that the equal
2 protection component of the -- of the Fifth
3 Amendment applies to Puerto Rico. And,
4 therefore, we don't think that the Court needs
5 to address the Insular Cases here any more than
6 it did last year in *Aurelius*, where it noted
7 that the Court has repeatedly declined to extend
8 the Insular Cases. It declared that in *Reid*
9 against *Covert* in the 1950s. The --

10 JUSTICE GORSUCH: Counsel, if that's
11 true, why -- why -- why shouldn't we just admit
12 the Insular Cases were incorrectly decided?

13 MR. GANNON: Well, I -- I think that
14 it -- that would not be the Court's normal
15 course to just say that several cases were
16 incorrect --

17 JUSTICE GORSUCH: I'm asking for the
18 government's position. I'm not asking for
19 thoughts about the Court's normal course.

20 From -- from the government's point of
21 view, if the Insular Cases are wrong and if
22 you're proceeding on a premise inconsistent with
23 them, why shouldn't we just say what everyone
24 knows to be true?

25 MR. GANNON: Well, I -- I don't think

1 we're proceeding on a premise that's
2 inconsistent with the Insular Cases because --

3 JUSTICE GORSUCH: No, I -- I -- I -- I
4 think you've said that you're proceeding on a
5 premise that the Constitution applies fully and
6 --

7 MR. GANNON: With --

8 JUSTICE GORSUCH: -- without exception
9 in -- in respect to this claim, right?

10 MR. GANNON: With respect to the equal
11 protection claim, yes.

12 JUSTICE GORSUCH: So why not just --

13 MR. GANNON: But that -- I don't think
14 that that's the only thing that the -- that the
15 Insular Cases decided.

16 JUSTICE GORSUCH: What is the
17 government's position on the Insular Cases?

18 MR. GANNON: The government's position
19 on the Insular Cases is that some of the
20 reasoning and rhetoric there is obviously
21 anathema, has been for decades, if not from the
22 outset, but that the -- that they are not at
23 issue in this case because the conclusion that
24 parts of the Constitution wouldn't apply to
25 Puerto Rico doesn't decide anything that is

1 relevant to this case.

2 The equal protection component applies
3 here, and -- and, therefore, just as in
4 Aurelius, the Court doesn't need to say anything
5 else about the Insular Cases in order to decide
6 this case.

7 JUSTICE SOTOMAYOR: Counselor, can I
8 unpackage your argument? Let's start with
9 Justice Thomas's question.

10 If Congress said, Vermont, you have
11 too many needy people, the cost is going to be
12 too great to us, we're not going to pass this
13 law on to Vermont, would that pass equal
14 protection?

15 MR. GANNON: I think it might, and --

16 JUSTICE SOTOMAYOR: Under what theory?

17 MR. GANNON: Under -- under the theory
18 of if there is a -- I mean, it wouldn't be the
19 theory that we're using here, which is that
20 there is a different relationship between --

21 JUSTICE SOTOMAYOR: Well, but I'm --
22 I'm trying to figure out the different
23 relationship for this reason. You -- it seems
24 to be that what you're saying -- and correct me
25 if I'm wrong -- cost alone is not enough. Cost

1 plus something else is.

2 MR. GANNON: Yes.

3 JUSTICE SOTOMAYOR: Correct?

4 MR. GANNON: That's correct. We think
5 that --

6 JUSTICE SOTOMAYOR: All right. So
7 let's look at the plus of that. This program is
8 fully funded by the federal government, fully
9 administered by the federal government. There's
10 no cost to Puerto Rico. There's no cost to any
11 state. And so I don't understand what the
12 different relationship with Puerto Rico has to
13 do with this program because there's no cost to
14 the government.

15 It's not as if it could take this
16 federal money, Puerto Rico, and distribute it in
17 some other way or put this money to use in some
18 other way because the money's going directly to
19 the people, not to the government. So I don't
20 see how that can be a plus with respect to the
21 self-governance of Puerto Rico.

22 MR. GANNON: That -- that's true,
23 Justice Sotomayor, with respect to the money
24 that's coming back from the federal government
25 to the recipients --

1 JUSTICE SOTOMAYOR: Well, it's not --

2 MR. GANNON: -- of the program.

3 JUSTICE SOTOMAYOR: -- coming back.

4 Well, let's go back to that point, okay?

5 As the courts below noted, most of the
6 SSI recipients, if not all of them, don't pay
7 taxes. So it's not as if the recipients of this
8 money are any different among themselves.
9 Puerto Ricans are citizens, and the Constitution
10 applies to them. Their needy people are being
11 treated different than the needy people in the
12 50 states, the District of Columbia, and the
13 Northern Mariana Islands.

14 So explain how those people, none of
15 whom pay taxes to the federal government, how
16 are they different?

17 MR. GANNON: They are different --
18 first of all, there may be some taxes from which
19 they are exempt, like the excise taxes, as we do
20 point out, but the reason -- the primary reason
21 why they are different is because they live in a
22 community, in a locality where there is less tax
23 money being taken by the federal government out
24 of that community to be -- being taken into the
25 general revenues at the federal level, which is

1 then distributed through various federal benefit
2 programs --

3 JUSTICE SOTOMAYOR: So what do I do --

4 MR. GANNON: -- and other ways, and --

5 JUSTICE SOTOMAYOR: -- with the record
6 that I see in the First Circuit case, *Penya*,
7 that shows that Puerto Ricans pay, maybe not
8 excise tax, maybe not income tax, but that they
9 pay as much taxes, other combined taxes, as
10 other states in the union, meaning it's nice to
11 sort of cherry-pick one tax, but that's true
12 around the country.

13 The government gives some tax benefits
14 to some things and not others. You've got to
15 look at the structure as a whole to see is there
16 a really substantial difference. But I'm
17 looking at that record, and it shows Puerto
18 Ricans as a community, and all the other taxes
19 they pay, pay more than many states of the
20 union.

21 So I don't know how exempting out one
22 or two taxes gets you away from seeing whether
23 the government's distinction is rational based
24 on the need of the citizens who are supposed to
25 receive the money.

1 MR. GANNON: And the -- it -- the tax
2 bite that the federal government is taking from
3 the entire community is lower. And so, on a per
4 capita basis, they're --

5 JUSTICE SOTOMAYOR: It's not. I mean,
6 the *Penya* case showed it exceeds some other
7 states.

8 MR. GANNON: The -- the aggregate
9 amount of money that is being sent to Washington
10 is greater than in some states, but there are --
11 there's a larger community in Puerto Rico that's
12 being taxed.

13 JUSTICE BREYER: Well, are they
14 holding --

15 MR. GANNON: And they are, of course,
16 getting benefits under many federal programs.

17 JUSTICE BREYER: Yeah.

18 MR. GANNON: So our point here is not
19 --

20 JUSTICE SOTOMAYOR: So are the
21 states --

22 MR. GANNON: Yes.

23 JUSTICE SOTOMAYOR: -- under many
24 other programs. So you can't compare apples and
25 oranges. I'm sorry, Justice Breyer.

1 JUSTICE BREYER: No. I mean, I just
2 wonder, is -- is that a reasonable, rational, or
3 arbitrary thing to do for Congress to say, you
4 know what, we discovered a state over here,
5 maybe it's Mississippi or maybe it's California
6 for all I know, that when you look at how much
7 money they contribute to Washington,
8 proportionate to the number of SSI things, it's
9 greater than 14 other states, so we cut them out
10 of the program.

11 How long do you think that would last?

12 MR. GANNON: Well, I don't know how
13 long that would last, Justice Breyer.

14 JUSTICE BREYER: All right. But, I
15 mean, what's your rationale?

16 MR. GANNON: But -- but the --

17 JUSTICE BREYER: Why is that a
18 rational thing?

19 MR. GANNON: The rationale is that
20 this is -- it is always appropriate for Congress
21 to take account of the general balance of
22 benefits and burdens associated with a
23 particular federal program.

24 And, here, this -- this program is
25 funded out of general federal revenues. And

1 when the locality at issue pays in less into
2 that income stream than others do, that means
3 that there is --

4 JUSTICE BREYER: Okay. That's --

5 MR. GANNON: -- more money left --

6 JUSTICE BREYER: -- rational? Okay.

7 That --

8 MR. GANNON: -- there is more money
9 left in the community --

10 JUSTICE BREYER: Has it ever happened?

11 MR. GANNON: Pardon?

12 JUSTICE BREYER: Has it ever happened?

13 MR. GANNON: Has which ever happened?

14 JUSTICE BREYER: What I was -- what
15 we're talking about, that they cut out a state
16 because the proportionate amount is greater.

17 MR. GANNON: I -- they have not done
18 that --

19 JUSTICE BREYER: No? That's never
20 happened?

21 MR. GANNON: -- with respect to this
22 program. No.

23 JUSTICE BREYER: Never happened?

24 MR. GANNON: But -- but -- but I --

25 JUSTICE BREYER: Now let me add one

1 thing. The thing I would add is there's not a
2 word about Puerto Rico in this statute. It has
3 a definition of the United States, doesn't say
4 anything about Puerto Rico.

5 But there is a relevant sentence in
6 the Federal Relations Act, I think, but you can
7 tell me I'm wrong. It said federal laws not
8 locally inapplicable shall apply to Puerto Rico.
9 Okay?

10 Why is this law locally inapplicable
11 when, even if your theory is right, it's never
12 happened in the case of a state and there is
13 good reason for applying it? There are a lot of
14 SSI people who -- you know, in Puerto Rico. And
15 there is no real connection between the SSI
16 beneficiaries and federal taxes, and they pay a
17 lot of taxes.

18 So what's your best argument, no, this
19 is locally inapplicable? Why?

20 MR. GANNON: It's locally inapplicable
21 because the statutory definition makes it
22 inapplicable. It defines the program as being
23 available in the United States.

24 Congress then, as it routinely does
25 with respect to different programs, has

1 specified what that means in this particular
2 context.

3 And I don't think that you should draw
4 any particular inference from the fact that the
5 statutory definition that they used there has to
6 do with the United States. Sometimes, when
7 Puerto Rico is included in a program, it's
8 defined as being a state, and sometimes it's
9 defined as not. And --

10 JUSTICE BREYER: What I'm actually
11 thinking is -- is -- I'm not thinking something
12 simple, and I haven't got it quite worked out,
13 but those words "locally inapplicable" and the
14 Federal Relations Act were designed to put
15 Puerto Rico in a status that isn't in practice
16 quite that of a territory, although it's not a
17 state. It's a commonwealth.

18 It's the Estado Libre Asociado, and no
19 one knows exactly what that is. And so
20 shouldn't we, in fact, look at the purpose of
21 the Federal Relations Act and say it takes a
22 little bit more -- a little bit more in terms of
23 a good reason to exclude Puerto Rico from a
24 benefit than it would the Marianas and Guam and
25 the other territories that have no such act? Or

1 is it totally irrelevant? Did we tell the
2 United Nations something that wasn't true?

3 MR. GANNON: We did not tell the
4 United Nations something that wasn't true. And
5 we've said that we think that one of the reasons
6 why this is justified is because it does,
7 indeed, help promote territorial autonomy
8 because it is related to the fact that, as
9 Congress is taking fewer federal tax dollars
10 from the Puerto Rico economy, it leaves greater
11 leeway for the territorial government to have --

12 JUSTICE BREYER: But the government --

13 MR. GANNON: -- its own tax structure.

14 JUSTICE BREYER: -- is this the same
15 government that is bankrupt and that is being
16 run, the economy, by people, some of them
17 anyway, not from Puerto Rico but from -- under a
18 law that applies from the mainland to the
19 mainland? And is this the same program that
20 would, in fact, give the people on average who
21 need it \$418 a month, as opposed to what Puerto
22 Rico can afford to give them, which is \$58 a
23 month?

24 MR. GANNON: It -- it is the same
25 program. We think that the PROMESA statute,

1 which was enacted about two months before the
2 benefits that are actually at issue in this
3 case, but we don't -- we don't think that that
4 affects the analysis here -- PROMESA itself is a
5 temporary bankruptcy measure that was intended
6 to assist in restoring Puerto Rico's fiscal
7 economy and its security. It is itself intended
8 to promote autonomy by restoring Puerto Rico's
9 fiscal footing.

10 And, therefore, as here, Congress is
11 seeking to make locally applicable laws. It has
12 made the determination -- the federal
13 relationship principle here is something that's
14 been overridden by Congress's specific
15 determination with respect to the applicability
16 of this program.

17 Nobody has ever thought that -- that
18 Puerto Rico might have been implicitly included
19 by virtue of the statute that you -- that you
20 cite, Justice Breyer, and that's why this Court
21 decided in the 1970s that -- that this
22 particular exclusion was constitutional in
23 Torres.

24 And -- and so, in -- in this context,
25 we think that Puerto Rico does have extra

1 autonomy to deal with this problem precisely
2 because the federal government has taken fewer
3 tax dollars out of that local economy.

4 JUSTICE BARRETT: Mr. Gannon --

5 CHIEF JUSTICE ROBERTS: How much has
6 the federal government -- maybe there aren't
7 statistics on this -- provided assistance and
8 revenue to Puerto Rico? Do -- do you have any
9 information on that?

10 MR. GANNON: I -- I don't have
11 aggregate information about how much federal
12 revenues have -- have gone to Puerto Rico,
13 especially in recent years. There are some
14 figures in the SEIU amicus brief that -- that
15 parse data from 2004 and 2010 about the net
16 federal expenditures in different jurisdictions.

17 And I think what they show is that
18 Puerto Rico is not being treated as an extreme
19 outlier. They -- they show that if you take
20 into account federal expenditures in a
21 jurisdiction, subtract out federal taxes that
22 were collected from that jurisdiction, so that's
23 the net expenditures in -- in the jurisdiction,
24 on a per capita basis, Puerto Rico is receiving
25 less back from the federal government than the

1 District and 17 states, but it's receiving more
2 than 33 other states.

3 And so it's not being treated here as
4 an extreme outlier, but we think it is always
5 appropriate for Congress to take into account
6 this balance of payments consideration,
7 especially against the backdrop of the fact that
8 Puerto Rico, as a territory, does have its own
9 government. It does have --

10 JUSTICE SOTOMAYOR: Excuse me. But
11 you --

12 MR. GANNON: -- greater wherewithal to
13 --

14 JUSTICE SOTOMAYOR: It's hard to
15 imagine that Puerto Rico has the ability, given
16 that it's in temporary bankruptcy, to do what
17 you say to be able to raise taxes to help the
18 needy.

19 But what do I do with the fact that
20 the findings, when Puerto Rico was given federal
21 tax exemption, were based on the fact that
22 Congress recognized that the Commonwealth's
23 economy could not sustain further taxation? So
24 Congress itself, when it exempted federal income
25 tax, made a finding that there isn't the ability

1 to do what you say.

2 MR. GANNON: It --

3 JUSTICE SOTOMAYOR: There isn't -- you
4 know, it's illusory to think that Puerto Rico's
5 local economy could match the federal economy
6 and give those tax resources to its needy.

7 MR. GANNON: That -- that was the
8 reason why there shouldn't be two separate tax
9 bites out of the Puerto Rican economy. And so
10 that's why Congress --

11 JUSTICE SOTOMAYOR: No, it said that
12 it couldn't sustain --

13 MR. GANNON: It --

14 JUSTICE SOTOMAYOR: -- further
15 taxation.

16 MR. GANNON: -- it couldn't sustain
17 the additional layer of federal taxation and,
18 therefore, have the same reduced capacity to
19 issue income taxes that states would have
20 because they have to add on top of what the
21 federal taxes would otherwise be.

22 And this is why the income taxes in
23 Puerto Rico that the territorial government
24 raises are at -- generally at higher rates than
25 states are able to raise, because they don't

1 have to take after the federal government has
2 already taken out of that population. Of
3 course, that's not true with respect to FICA.
4 There are still some federal taxes that are
5 being taken out, but they're -- they're getting
6 full benefits back.

7 And so, here, we think, in the
8 aggregate, it's appropriate for Congress to take
9 account of the fact that when there is less
10 total share going into the federal -- federal
11 treasury, that there is less of a total share
12 coming back to the community.

13 JUSTICE KAGAN: Mr. Gannon --

14 JUSTICE BARRETT: Mr. Gannon --

15 JUSTICE KAGAN: -- am I right that
16 that theory would enable Congress to exclude
17 Puerto Rico from any benefits program?

18 MR. GANNON: Well, I -- I do think
19 that there are other benefits programs that we
20 have not sought to distinguish from this one.
21 There's a case pending in the First Circuit that
22 involves not just SSI but also SNAP and also the
23 low-income subsidy under Medicare Part D.

24 We have not sought to distinguish
25 those particular benefit programs.

1 JUSTICE KAGAN: I mean, I'm wondering,
2 on your theory, how any such distinction could
3 be made. It seems as though it's a theory that
4 would apply equally well to any benefits
5 program, so the -- if -- if -- if you are
6 correct, the lesson going forward -- and maybe
7 Congress does this and maybe it doesn't, and you
8 might say it's up to them -- but the lesson
9 going forward is Congress can do this whenever
10 it wants.

11 MR. GANNON: We think that here, it --
12 it -- the rational basis standard that the Court
13 articulated in Torres and applied in Rosario
14 would allow Congress to take into account this
15 consideration that -- that there is less tax
16 revenue coming in. There's also the cost of the
17 program. That's the other side of the coin.

18 And we think here it is also promoting
19 local autonomy because this is the type of
20 program that, setting aside current -- the
21 strained attitude of the current economy there,
22 it is still true as a general matter that there
23 is more autonomy in Puerto Rico to have more tax
24 money available for designing different social
25 benefit programs in a different way than the

1 federal government would otherwise necessarily
2 impose or allow --

3 JUSTICE BARRETT: Mr. Gannon, that --

4 MR. GANNON: -- in that context.

5 JUSTICE BARRETT: -- that answer that
6 you're giving Justice Kagan, it -- it's similar
7 to the one that you keep saying about Congress
8 taking into account revenues coming in and then
9 benefits going out.

10 And I guess I was surprised. When
11 Justice Thomas asked you about how much the
12 Territories Clause bore on this, you seemed to
13 kind of back away a little bit from what you
14 said in your brief.

15 And I understand you're not resting
16 entirely on the Territories Clause, but your
17 answers seem to take account of the status of
18 Puerto Rico as a territory, because, otherwise,
19 I don't see why your argument doesn't lead
20 exactly to what Justice Breyer said, which is,
21 well, we're looking at it here and, you know,
22 Mississippi is a poorer state, and so the
23 revenues going into the federal treasury, you
24 know, are really low compared to the others, and
25 we'd be paying, you know, a lot out.

1 I mean, I guess I had understood in
2 your brief to say Mississippi would be
3 distinguishable from Puerto Rico based on
4 statehood. Am I -- I just want to know based --
5 what your position is. Am I misunderstanding
6 your argument?

7 MR. GANNON: Well, I mean, I think
8 there are two ways in which Mississippi is
9 distinguishable. One is that they don't have
10 the differential treatment on the tax side.

11 But, secondly, it is the case that the
12 Territory Clause matters because it means that
13 it is routine for Congress to draw some
14 distinctions with respect to the territories.
15 And the Constitution itself recognizes this as a
16 legitimate dividing line.

17 But, if we -- if we look back at other
18 equal protection cases, we do think that the
19 Court has acknowledged that Congress can
20 distinguish even among the states. A case like
21 Hodel, the Surface Mining Act case, had
22 differential effect in different states on the
23 basis of geographic criteria that were defined
24 there, and the Court said that that was just
25 subject to rational basis review.

1 JUSTICE SOTOMAYOR: How does the fact
2 that Puerto Rico residents are a politically
3 powerless minority -- you're just telling us
4 that, can't protect itself the way Mississippi
5 can -- and has been subject to, by your own
6 admission right now, a history of
7 discrimination -- the Insular Cases are a prime
8 example of that; just look at their language --
9 how does this factor into your argument on
10 rational basis?

11 MR. GANNON: Well, we don't think that
12 there is any heightened scrutiny here.

13 First, the benefit that's at issue
14 here is not something to which there's a
15 fundamental right. The Court made that clear in
16 Schweiker, which was an SSI case. It made it
17 clear that -- that the only question there is
18 whether there was a suspect class --

19 JUSTICE SOTOMAYOR: No, but equal
20 protection is.

21 MR. GANNON: Yes.

22 JUSTICE SOTOMAYOR: Puerto Ricans are
23 U.S. citizens.

24 MR. GANNON: They are U.S. citizens,
25 but there is no evidence here linking this

1 exclusion to ethnicity or --

2 JUSTICE SOTOMAYOR: Well, it's --

3 MR. GANNON: -- a history of
4 discrimination.

5 JUSTICE SOTOMAYOR: How do you
6 separate it out?

7 MR. GANNON: I -- I --

8 JUSTICE SOTOMAYOR: Puerto Ricans are
9 Puerto Ricans. They're Hispanic, and they are
10 routinely denied a political voice. They're
11 powerless politically.

12 All you have to do is, well, listen to
13 some of the rhetoric about Puerto Rico and you
14 know there has been discrimination shown.

15 Why shouldn't that add to the
16 scrutiny?

17 MR. GANNON: Well, this is a -- this
18 statute classifies on the basis of location, not
19 ethnicity or race. That's why Respondent was
20 able to get these benefits while he was living
21 in New York. He's not able to get them while
22 he's living in Puerto Rico.

23 There's no evidence that anyone on the
24 other side has cited that ties this
25 determination in the 1970s about how Puerto Rico

1 would be treated in this benefits program to any
2 of the troubling statements in the Insular Cases
3 from the early 20th Century that came from this
4 Court.

5 If you thought that that history
6 prevented Congress from drawing any distinctions
7 with respect to the territories, that would --
8 that would be a sea change --

9 JUSTICE SOTOMAYOR: No, not --

10 MR. GANNON: -- in equal --

11 CHIEF JUSTICE ROBERTS: Thank you,
12 counsel.

13 MR. GANNON: -- protection law as --

14 CHIEF JUSTICE ROBERTS: Thank you,
15 counsel.

16 Justice Thomas?

17 Justice Breyer?

18 Justice Alito?

19 Justice Sotomayor?

20 JUSTICE SOTOMAYOR: Just to finish
21 that thought, no, but a distinction based on
22 citizenship, period, needy is needy, whether in
23 Puerto Rico or in the mainland.

24 None of the people who receive it on
25 the mainland pay taxes. None of the money is or

1 would go to Puerto Rico for its self-governance.
2 I do think that restrictions have to be
3 rational. And I'm just not quite sure --

4 MR. GANNON: Well, we --

5 JUSTICE SOTOMAYOR: -- why one would
6 say that it's rational to treat a -- a group of
7 people, of citizens, differently from other
8 citizens on the mainland when the need is the
9 same.

10 MR. GANNON: And we think that's
11 because they're situated in a community where
12 Congress has left more tax revenue there, and
13 that makes a difference. And there's nothing
14 that ties the history of discrimination on the
15 basis of ethnicity to this decision that
16 happened in the 1970s.

17 If it -- if that were thought to be a
18 through line throughout the 20th Century, then,
19 presumably, Congress would not in 1950 have
20 extended ordinary Social Security to residents
21 of Puerto Rico.

22 CHIEF JUSTICE ROBERTS: Justice Kagan?

23 JUSTICE KAGAN: Mr. Gannon, you've
24 gone this whole argument barely mentioning
25 Torres or Rosario. Is that because you think

1 that they do not have any precedential effect?

2 MR. GANNON: Not at all. We think
3 that even summary reversals of this Court have
4 precedential effect. We think that they are
5 correctly decided.

6 Obviously, we have relied on the
7 holding that rational basis review applies here
8 and that the differential tax treatment and the
9 costs of the program are a rational basis.
10 That's something that Congress has relied on for
11 decades, not just with respect to continuing --

12 JUSTICE KAGAN: And -- and yet --

13 MR. GANNON: -- this treatment on SSI.

14 JUSTICE KAGAN: -- and yet, never once
15 did you say to any of these questions: Well,
16 that's been asked and answered already by this
17 Court?

18 MR. GANNON: Well, I think it has
19 implicitly been asked and answered by this Court
20 in those two cases. Obviously, to the extent
21 that there are arguments that PROMESA or other
22 things have changed, we don't think that they
23 change the underlying considerations that make
24 this rational, which is the balance of benefits
25 and burdens and respecting local autonomy that

1 derives from allowing Puerto Rico to have less
2 of a federal tax bite and, therefore, an ability
3 to come up with a different system if it chooses
4 to deal with this particular problem.

5 JUSTICE KAGAN: And -- and one other
6 quick question. I understand that there's
7 legislation in Congress now that would remove
8 this exclusion. Were Congress to pass that, how
9 would it affect this case?

10 MR. GANNON: I don't think it would
11 moot this case. I mean, I'm not sure what form
12 it will ultimately pass in. If it were to be
13 retroactively applicable and -- and extend back
14 to benefits that -- that were owed between 2013
15 and 2016, maybe there would be an argument for
16 mootness.

17 I think that it doesn't otherwise
18 affect the constitutional analysis here. I
19 think it would indicate that it's not true to
20 say that the residents of Puerto Rico are
21 politically powerless if Congress were to pass a
22 statute like that.

23 And -- but I think that there is still
24 a need for the Court to decide whether rational
25 basis is the appropriate standard here and

1 whether these types of considerations would
2 satisfy rational basis because this isn't the
3 only benefit program that would be covered by
4 the First Circuit's analysis.

5 JUSTICE KAGAN: Thank you.

6 CHIEF JUSTICE ROBERTS: Justice
7 Gorsuch?

8 JUSTICE GORSUCH: I -- I'd like to
9 follow up on Torres and Rosario for just a
10 moment. You cited them in your brief as
11 pointing out that distinctions based on
12 territory status are generally subject to
13 rational basis review because that distinction
14 between territories and states is in the
15 Constitution. Okay.

16 Is it always the case in the
17 government's view that rational basis applies to
18 distinctions based on territorial status?

19 What if, for example, hypothetically,
20 a -- a statute discriminating against
21 territories could be shown to be the product of
22 invidious racial discrimination? Wouldn't we
23 subject that to strict scrutiny?

24 MR. GANNON: I think you would. And I
25 -- I -- I -- I think that the -- what the Court

1 said in those cases is that Congress may treat
2 -- the rational basis applies. And the reason
3 it's applying differently -- why it's rational
4 basis is because there's no fundamental right to
5 this particular social welfare benefit.

6 If there were allegations of racial
7 discrimination or other things that trigger
8 heightened scrutiny, then that would be a reason
9 for the Court to take the analysis differently.

10 JUSTICE GORSUCH: Even if the statute
11 on its face distinguished between states and
12 territories only?

13 MR. GANNON: I mean, I think that you
14 would need a pretty strong record to overcome
15 the -- the other reasons that -- that would --
16 might justify that -- that treatment. But, if
17 there were evidence that this were based on
18 racial or ethnic considerations, then the Court
19 would obviously view that differently than it
20 does here. And as I was --

21 JUSTICE GORSUCH: You don't see
22 anything in Rosario or Torres that foreclosed
23 that conclusion, do you?

24 MR. GANNON: I don't think so.

25 JUSTICE GORSUCH: Thank you.

1 CHIEF JUSTICE ROBERTS: Justice
2 Kavanaugh?

3 JUSTICE KAVANAUGH: In addition to the
4 constitutional text that Justice Thomas and
5 Justice Barrett mentioned, there's also the
6 precedent that Justice Kagan mentioned. I just
7 want to follow up on that and nail down how much
8 you're relying on that.

9 Are you saying that we couldn't rule
10 the other way without overruling those cases?

11 MR. GANNON: I think that's basically
12 true, Justice Kavanaugh. I don't think that
13 there are meaningful differences. Obviously,
14 the reasoning was brief.

15 We don't think -- we don't agree with
16 the First Circuit's conclusion that the holdings
17 there are inapplicable either because the second
18 case involved a block grant. Even Justice
19 Marshall's dissent didn't consider that to be a
20 sufficient distinction between AFDC and SSI for
21 purposes of a difference between those two
22 cases.

23 And we also don't think that the --
24 the argument that the Court listed three
25 different reasons in its footnote in Torres that

1 were then repeated in Rosario means that -- that
2 we would need to have evidence about the
3 particular type of economic disruption that
4 would be affected in the local economy in order
5 to rest on those cases.

6 We think that the holding is that
7 rational basis is applicable, and these reasons,
8 especially the benefit of the tax and burdens,
9 the cost and benefits analysis associated with
10 local autonomy, is sufficient to say that this
11 satisfies the type of rational basis review that
12 the Court applied in those two cases.

13 JUSTICE KAVANAUGH: And then one
14 factual question. The Respondent here is still
15 eligible for a waiver from paying the \$28,000,
16 correct?

17 MR. GANNON: Under the regulations, he
18 could seek a waiver. There are different
19 criteria for the waiver. He has not --

20 JUSTICE KAVANAUGH: I just want to
21 make sure he's still eligible for the waiver?

22 MR. GANNON: I -- yes, I think he
23 would be able to -- to seek the waiver. This
24 case arises in an unusual procedural context.
25 And as made -- was made clear at the district

1 court level, we did not -- the SSA did not send
2 him a notice of overpayment, which would have
3 triggered his ability to -- to respond in the
4 administrative context, but the regulations
5 would still allow that. Exactly.

6 JUSTICE KAVANAUGH: Thank you.

7 CHIEF JUSTICE ROBERTS: Justice
8 Barrett?

9 JUSTICE BARRETT: I just have a -- a
10 factual question. So you said the First
11 Circuit's reasoning would -- would require
12 extending not only SSI benefits to Puerto Ricans
13 but a variety of other federal benefit programs,
14 you know, that -- for which they may not be
15 currently eligible.

16 And I assume that the reasoning would
17 also require the extension of benefits to some
18 other territories who don't currently receive
19 them. You know, I know the Mariana Islands are
20 getting SSI, maybe not TANF, you know, Guam, et
21 cetera.

22 SSI, I gather, is about a \$2 billion
23 expense roughly to send it?

24 MR. GANNON: In Puerto Rico.

25 JUSTICE BARRETT: In Puerto Rico?

1 MR. GANNON: Yes.

2 JUSTICE BARRETT: Do you have a number
3 on what the implications would be of the First
4 Circuit's reasoning if, you know, everything
5 that I just said, extending more benefits to
6 Puerto Rico and to other territories?

7 MR. GANNON: I -- I don't have a
8 number. The number on SSI for the other
9 territories is -- is cited, and -- and -- and
10 that's actually much smaller. But I don't know
11 what the cost of the other benefits programs
12 are. And the challenges there are sometimes
13 going to follow from complete exclusions, and
14 sometimes they might just follow from
15 significantly differential treatment.

16 And so the SNAP program and the -- the
17 low-income subsidy in Medicare Part D are the
18 two other issues that are at stake in a pending
19 First Circuit case where we have not sought to
20 draw distinctions between SSI and those
21 programs. We have repeated and preserved the
22 arguments that we're making here.

23 JUSTICE BARRETT: Uh-huh.

24 MR. GANNON: But -- but we have not
25 tried to otherwise distinguish them. And we

1 don't understand the other side's arguments here
2 to be drawing a line between, for instance,
3 individual benefit programs or block grants that
4 are jointly administered by the federal
5 government and states and territories.

6 JUSTICE BARRETT: Thank you, Mr.
7 Gannon.

8 CHIEF JUSTICE ROBERTS: Thank you,
9 counsel.

10 Mr. Ferré.

11 ORAL ARGUMENT OF HERMANN FERRÉ

12 ON BEHALF OF THE RESPONDENT

13 MR. FERRÉ: Mr. Chief Justice, and may
14 it please the Court:

15 Not long ago, Americans with
16 disabilities, especially the poor, were
17 practically excluded from society. The SSI
18 program helped change that, replacing an uneven
19 patchwork of programs with a uniform standard of
20 national support, guaranteeing poor and disabled
21 Americans the autonomy to buy their own food and
22 clothing, move more freely, and live with
23 dignity.

24 But that guarantee is not enjoyed by
25 all Americans. Some are excluded because of

1 where they live in the country. My client, Mr.
2 Vaello-Madero, an American citizen, qualified
3 for SSI after suffering a debilitating illness
4 while living in New York. His benefits were
5 then revoked solely because he moved to Puerto
6 Rico.

7 We're here today because the
8 government have sued him to recover payments he
9 received while living there, even though he
10 remained disabled and unable to work.

11 Congress's decision to exclude the
12 poor and disabled in Puerto Rico is based on the
13 false premise that they are outside the U.S.
14 The Downes Court, the same Court that decided
15 Plessy, deemed Puerto Rico foreign for domestic
16 purposes because of the race and ancestry of its
17 people.

18 And as was made clear in *Califano v.*
19 *Gautier Torres*, that premise from Downes
20 continues to provide an excuse for Congress to
21 deny equal treatment. As such, the proper basis
22 to examine the exclusion here is heightened
23 scrutiny.

24 But it is also simply irrational to
25 treat Mr. Vaello-Madero differently just because

1 he's now in Puerto Rico. That is what the lower
2 courts unanimously held. For all relevant
3 purposes, he is the same as similarly situated
4 individuals in the states and the Northern
5 Mariana Islands. Tax status is irrelevant.
6 Those poor enough to qualify for SSI pay no
7 federal tax, and they don't have to to qualify.

8 I welcome your questions.

9 JUSTICE THOMAS: Counsel, just to help
10 clarify things for me, the -- we're talking a
11 lot here about Puerto Rico, but if you -- in
12 equal protection clay -- cases, we normally
13 attach the classification to the individual.

14 So let's assume that I concede that
15 Mr. Madero would be classified, let's say, in an
16 ethnic group and, hence, you get an heightened
17 scrutiny. But can you transfer the treatment --
18 the concerns that you have about the treatment
19 of Puerto Rico to a citizen of Puerto Rico or a
20 resident of Puerto Rico for equal protection
21 analysis purposes?

22 MR. FERRÉ: Yes, Your Honor. I -- I
23 believe that treating a citizen as though
24 they're foreign because they happen to reside in
25 Puerto Rico is the issue.

1 JUSTICE THOMAS: Okay. So let's
2 assume that someone who is of Italian descent
3 has lived in New York City all of his life and
4 decides: You know, Puerto Rico's really a nice
5 place. I think I'm going to move to Puerto
6 Rico. And assume after that that the exact same
7 thing happens to him as happened to Respondent
8 here, but he's Italian.

9 How would you analyze that? Would it
10 be any different?

11 MR. FERRÉ: No. The analysis would be
12 the same. He's being --

13 JUSTICE THOMAS: So you are
14 transferring the relationship with Puerto Rico
15 to the individual who happens to reside in
16 Puerto Rico?

17 MR. FERRÉ: Yes. That's correct, Your
18 Honor.

19 JUSTICE THOMAS: Do you have any cases
20 in which that has been the case, where you have
21 equal protection cases involving women or blacks
22 or members of Hispanic groups, et cetera, native
23 Americans, in other words, characteristics that
24 attach to the individual? Do you have any where
25 we have transferred the treatment of a state to

1 an individual?

2 MR. FERRÉ: I think, Your Honor, that
3 this is a circumstance in which, because of the
4 characterization of territories -- these
5 unincorporated territories, anyone who now moves
6 to these unincorporated territories is deemed
7 now to be in a foreign country.

8 And so that is the issue here. So I
9 think that that does highlight that even if a
10 non-Puerto Rican moves to Puerto Rico, they are
11 now treated as being outside of their nation.

12 JUSTICE THOMAS: Thank you.

13 CHIEF JUSTICE ROBERTS: Counsel, is
14 there any reason that your argument would not
15 apply to every federal benefit program? In
16 other words, Puerto -- Puerto Rico, for whatever
17 reason is offered, is excluded from some federal
18 benefit program. It doesn't matter, does it,
19 that this is SSI?

20 MR. FERRÉ: Well, I -- we -- we do
21 think that it matters that this program, which
22 is a federal program administered by the federal
23 government and directed at individuals and --
24 and has absolutely no component that takes into
25 account local conditions or state -- whether the

1 state can assist or cannot assist. In fact, if
2 states decide that they want to add additional
3 assistance, this program permits them to do
4 that. This program is unique in that it is a
5 federal program directed at individuals without
6 needing a cooperation from --

7 CHIEF JUSTICE ROBERTS: Is --

8 MR. FERRÉ: -- local jurisdictions.

9 CHIEF JUSTICE ROBERTS: When you say
10 "unique," does that mean -- I mean, I know what
11 "unique" means, but do you really mean to say
12 that there is no federal benefit program like
13 this one?

14 MR. FERRÉ: Well, this one is unique
15 in that it is -- it is exclusively federal.
16 There are other programs, for example, the SNAP
17 program that requires a partnership between the
18 federal government and the local jurisdictions.

19 And so those programs might be seen
20 differently because Congress then has the
21 ability with respect to the territories to act
22 on both sides of that partnership. That creates
23 another problem because, of course, when
24 Congress is acting on behalf of the territories,
25 there is no political fallout if it acts

1 contrary to the interests of the people of those
2 -- of the territories.

3 JUSTICE KAGAN: Mr. Ferré, to -- to --
4 to go back to some questions that we asked Mr.
5 Gannon about the effect of the Territories
6 Clause here, it -- it -- it does seem as though
7 that clause, which Mr. Gannon relied on as part
8 of a larger package, but if we just take that
9 piece of it, that that clause goes pretty far
10 towards authorizing Congress to make rules about
11 the territories, which inevitably means or may
12 inevitably mean to make distinctions between the
13 territories and other parts of the United
14 States.

15 So why shouldn't we understand the
16 clause essentially to resolve this matter?

17 MR. FERRÉ: Well, we believe the
18 Territory Clause was intended for Congress to
19 have the power to provide all rules and
20 regulations respecting the territory, acting as
21 a state would within the jurisdiction of a
22 state, and we believe that that was intended to
23 be temporary while the territory was in
24 pupilage.

25 The problem here is that the Insular

1 Cases has created a circumstance in which that
2 temporary period has become indefinite. So
3 there is a concern that the Territory Clause
4 could potentially be abused in the sense that
5 Congress can step in for an indefinite period
6 without actually guiding the territory towards
7 statehood or, if it decides that a territory is
8 to be disposed, to --

9 JUSTICE KAGAN: So do -- do I
10 understand that -- that argument to be that the
11 Territory Clause has a -- a sort of implicit
12 expiration date attached to it?

13 MR. FERRÉ: Well, I think that the
14 early Court decisions certainly viewed the
15 Territory Clause as being temporary and that the
16 purpose of the Territory Clause was for Congress
17 to guide those territories towards statehood.

18 So -- and -- and the Court changed
19 that view in the Insular Cases, for the first
20 time deeming these territories, the territories
21 acquired from Spain, to now be unincorporated
22 and, therefore, not destined for statehood.

23 JUSTICE KAGAN: That's -- that's a big
24 claim. Do we need to accept it to rule for you?

25 MR. FERRÉ: No, I don't believe so,

1 but I think that it informs the analysis as to
2 how the people of the territories have been
3 excluded. They've been excluded because they
4 are deemed to be outside the United States.

5 There's a contrast between, for
6 example, how Hawaii and Alaska was treated when
7 those states were territories. We can see that,
8 for example, when the Social Security Act was
9 first passed, and provisions that provided for
10 assistance included individuals in Hawaii and
11 Alaska but excluded the people of the
12 unincorporated territories.

13 JUSTICE BARRETT: Mr. Ferré, do we
14 need to overrule Torres and Rosario?

15 MR. FERRÉ: Well, I think that the --
16 certainly, with respect to the applicable
17 standard, I think that Harris seems to make a
18 blanket statement that just the mere fact that
19 the Territory Clause applies means that any
20 congressional action with respect to Puerto Rico
21 is entitled to rational basis review.

22 I don't think that follows.

23 JUSTICE BARRETT: So, yes, you can't
24 win unless we overrule them or at least Harris
25 versus Rosario?

1 MR. FERRÉ: There is -- there is a --
2 yes, I -- I -- I believe that they should be
3 over -- certainly, this case has received
4 attention that the Gautier Torres and Harris
5 cases just did not receive. So whatever the
6 outcome --

7 JUSTICE BARRETT: So yes? Just yes or
8 no. So --

9 MR. FERRÉ: Yes. Yes, Your Honor.

10 JUSTICE BARRETT: Okay. Thank you.

11 JUSTICE BREYER: Well, that's why I --
12 I wondered. You heard I -- I was -- you lose if
13 it is true, I think, that Congress could exclude
14 Wyoming, Mississippi, any state where the amount
15 of revenue that comes to the federal government
16 from that state divided by what they'll have to
17 pay out in SSI is smaller than most states
18 because that's the situation that they say
19 justifies Puerto Rico being treated differently.

20 I don't know about that one. I
21 haven't -- I haven't really thought through
22 that.

23 Second, if you don't lose on that, you
24 lose on Rosario and -- and so forth, unless
25 there's something different about this, all

1 right?

2 At that stage, I thought there are two
3 different things. One is your argument about
4 the Insular Cases, and that's a big bite in this
5 case, where it isn't fully argued and so forth,
6 but the other ground was the Federal Relations
7 Act, which was designed to create a special
8 status for Puerto Rico.

9 What I have not done is think that
10 through. And so the government correctly says:
11 Well, no one's really argued that here. If you
12 think about it, it doesn't create that big a
13 difference from the standard in Rosario. Why
14 should it? And they have a series of arguments.

15 So there we are. Now what do you say?

16 MR. FERRÉ: Your Honor, so earlier you
17 indicated that the Law 600 expressly provides
18 that federal laws are -- are to apply to Puerto
19 Rico, unless not local -- not locally
20 applicable.

21 And I think that's -- I think that's
22 correct that there are no local conditions that
23 would warrant not extending SSI to Puerto Rico.
24 But, in addition, local conditions was just not
25 the line that was drawn with respect to the

1 program.

2 So the program is entirely unrelated
3 to local conditions. It's also entirely
4 unrelated to the balance of payments between
5 local jurisdictions and the federal government.
6 So that is just not the line that Congress drew
7 when it put in place the SSI program.

8 JUSTICE SOTOMAYOR: Counsel, our
9 precedent in the Harris case had to do with a
10 different program than this SSI. So you said to
11 Justice Barrett that we have to overturn that
12 precedent. But why?

13 MR. FERRÉ: Well, with re- --

14 JUSTICE SOTOMAYOR: You said you had
15 two grounds, one that rational basis should not
16 apply. There, we might have to overturn it.

17 But even if we kept rational basis,
18 isn't your argument that this is just a
19 fundamentally different --

20 MR. FERRÉ: Yeah.

21 JUSTICE SOTOMAYOR: -- program, and so
22 you have to view it under rational basis as a
23 different program?

24 MR. FERRÉ: Yes, Justice Sotomayor.
25 The -- if -- if -- if we look at the program as

1 a partnership, which is the type of program that
2 was dealt with in Harris, as a partnership
3 between the federal government and the local
4 jurisdictions to be administered by local
5 jurisdictions, well, then it is distinct.

6 It's -- it's not the same case that we
7 have here, where this program is entirely run by
8 the federal government and is directed at
9 individuals, not directed at states and
10 territories.

11 JUSTICE SOTOMAYOR: So, in that case,
12 there's no need to overturn our precedent?

13 MR. FERRÉ: That's correct. Thank
14 you.

15 JUSTICE ALITO: If a person who is a
16 resident of one of the states brought an action
17 claiming that that person's equal protection
18 rights were violated because he or she was
19 required to pay federal income tax and residents
20 of Puerto Rico are not, what would be the
21 standard of review? Would it be rational basis,
22 or would it be something else?

23 MR. FERRÉ: Well, I think that under
24 our heightened scrutiny analysis, if the
25 territory is being treated differently

1 specifically because it's an unincorporated
2 territory and deemed foreign, I would -- I would
3 say that that distinction should then be
4 entitled to heightened scrutiny.

5 And it may very well pass a heightened
6 scrutiny analysis because there might be a
7 compelling reason for treating that territory
8 differently. It might be because it is such a
9 poor jurisdiction. It might be that Congress
10 takes into account that the citizens of that
11 jurisdiction are politically powerless.

12 JUSTICE ALITO: Does it matter for
13 your argument that the geographic scope of the
14 SSI program is defined the way it is?

15 Suppose it were defined this way:
16 Suppose that a person would be eligible for
17 benefits -- would -- would be ineligible for
18 benefits if the person resided in a state or
19 other part of the United States that was exempt
20 from the federal income tax.

21 Would that be different?

22 MR. FERRÉ: Well, if -- if the -- I'm
23 sorry, if the program were specified?

24 JUSTICE ALITO: Right.

25 MR. FERRÉ: So --

1 JUSTICE ALITO: It says nothing about
2 that it applies to only -- only to the states
3 and not to unincorporated territories any place
4 else within the United States.

5 It simply says that it applies -- that
6 benefits are available only to persons who
7 reside in a state where they are required to pay
8 federal income tax.

9 MR. FERRÉ: If that's the line that
10 was drawn in the statute, then it might very
11 well pass a rational basis review. But this
12 program is meant to assist poor individuals, who
13 in all likelihood are not the ones that are
14 paying the tax.

15 JUSTICE KAVANAUGH: Counsel, can I ask
16 a bigger-picture question about the text of the
17 Constitution and our role with respect to the
18 structure? Because I think that's the source of
19 some of the concern here as well as the
20 precedent.

21 You -- you made compelling policy
22 arguments, but there are parts of the
23 Constitution's structure that people would want
24 to change. The two senators per -- per state
25 discriminates against people in larger states.

1 Many of -- in some of those larger states have
2 more minority population.

3 The Electoral College gives you a
4 slight, just a slight, but a slight advantage if
5 you're in a smaller state. Delaware and Rhode
6 Island, your vote for president counts a little
7 more than your vote if you live in -- in New
8 York or California, for example.

9 And Article IV is -- is similar. I
10 mean, it would take a constitutional amendment
11 to change the first two that I mentioned, and,
12 actually, the Constitution purports to change --
13 prohibit changes to the Senate, but we'll put
14 that aside. But, here, it leaves it up to
15 Congress. And Congress has the ability, the
16 role to make changes over time, does not give
17 that authority to this Court.

18 So that's a really big-picture concern
19 that I think is reflected then in the precedent
20 about what is our role with respect to the
21 Territory Clause in terms of structures in the
22 Constitution that may seem anachronistic to
23 some, and the other two I mentioned are things
24 that also seem anachronistic to some. Just your
25 big-picture thoughts on that.

1 MR. FERRÉ: I -- I think the big
2 picture is that the Constitution promised to
3 citizens a republican form of government, and
4 the intention certainly from the cases that --
5 the Court's early cases, were that the problem
6 of a non-republican form of government in the
7 territories was a temporary one which would be
8 resolved as these territories were populated and
9 organized and then became states.

10 The -- that changed with the Insular
11 Cases and has created a system in which
12 populations now are held in an indefinite state
13 of territorial status. So the Court essentially
14 blessed the possibility of territories remaining
15 territories in an indefinite state without full
16 participation, without a full seat at the table,
17 if you will.

18 JUSTICE KAVANAUGH: So it's kind of
19 the -- the purpose of the clause, not reflected
20 in the text necessarily, but the purpose of the
21 clause was a time limit --

22 MR. FERRÉ: I think --

23 JUSTICE KAVANAUGH: -- of sorts?

24 MR. FERRÉ: -- I -- I would agree with
25 you, Justice Kavanaugh, in that it's also in

1 that section of the Constitution dealing with
2 new states.

3 JUSTICE KAVANAUGH: Right. I agree
4 with that. How do we then figure out that when
5 -- when the time has run? I guess you would say
6 it long since ran in your case.

7 MR. FERRÉ: Well, the --

8 JUSTICE KAVANAUGH: I understand that.

9 MR. FERRÉ: -- the -- certainly, it is
10 up to Congress to -- to make states, but I think
11 that, here, the -- the Court in the Insular
12 Cases essentially stopped the clock so that
13 Congress just did not have to consider the path
14 of these unincorporated territories.

15 CHIEF JUSTICE ROBERTS: Have we ever
16 held that the republican form of government
17 provision is judicially enforceable?

18 MR. FERRÉ: I -- I believe so. I
19 think it's a -- it's a -- it's a --

20 CHIEF JUSTICE ROBERTS: What -- what
21 -- what case?

22 MR. FERRÉ: I -- I can't -- I can't
23 say.

24 JUSTICE BREYER: Rhode Island? Wasn't
25 there something in Rhode Island or --

1 CHIEF JUSTICE ROBERTS: There was
2 something. I'm not sure what it --

3 JUSTICE ALITO: Well, that one held
4 that it wasn't.

5 MR. FERRÉ: Yes. I --

6 JUSTICE KAGAN: We'll go back and
7 look.

8 (Laughter.)

9 CHIEF JUSTICE ROBERTS: Something
10 happened in Rhode Island, Justice Breyer and I
11 agree, but I'm not sure what the result of that
12 case was if -- if -- we'll look.

13 MR. FERRÉ: It -- it -- it -- it's --

14 CHIEF JUSTICE ROBERTS: It's another
15 small state.

16 MR. FERRÉ: Right. But it -- it's
17 certainly a basic premise of the Constitution.

18 CHIEF JUSTICE ROBERTS: Well, I -- I
19 don't know that it follows from that that it's
20 judicial -- judicially enforceable. But we'll
21 -- we'll check.

22 JUSTICE ALITO: Would you like us to
23 hold that all federal laws, whether they provide
24 benefits or impose obligations or whether they
25 apply to citizens or to a governmental unit,

1 must apply equally to residents of Puerto Rico
2 and residents of the states across the board,
3 equal treatment in every respect?

4 MR. FERRÉ: I think -- I think that
5 there is a -- certainly a due process right to
6 equal treatment, equal protection. So, if we're
7 looking at how individuals are being treated,
8 yes, then I would say that -- that it -- it
9 would apply.

10 JUSTICE KAGAN: Can -- can I -- so one
11 way to frame your argument -- and -- and tell me
12 if I'm mischaracterizing it in any way -- is
13 because of how you think the Territory Clause
14 should be understood and the -- and -- and --
15 and -- and that it -- it -- that we should view
16 it as limited, that, essentially, the question
17 before us is the exact same as if Congress
18 excluded Mississippi from SSI. Is -- is that
19 correct?

20 MR. FERRÉ: Yes, Justice Kagan. Yes.

21 JUSTICE KAGAN: And -- and -- and then
22 we would go through whatever analysis we would
23 go through with respect to deciding what the
24 proper standard of review was and how it
25 applied, but, essentially, your claim is that

1 these are -- are two equivalent cases?

2 MR. FERRÉ: That's correct.

3 JUSTICE KAGAN: And -- and --

4 MR. FERRÉ: I think that the source of
5 power just doesn't -- shouldn't figure in. I
6 think that, here, we're looking at the equal
7 protection component of the Due Process Clause.

8 JUSTICE KAGAN: And -- and tell me
9 once more briefly why you think that's true, you
10 know, your best statement as to why the
11 exclusion of Puerto Rico should be treated the
12 same way as the exclusion -- hypothetical
13 exclusion of Mississippi.

14 MR. FERRÉ: Because the source of
15 power can't override the rights enshrined in the
16 Constitution. So congressional power under the
17 Territory Clause can't somehow override these
18 protections in the Constitution.

19 JUSTICE BARRETT: Mr. Ferré, can I
20 follow up on Justice Kagan's questions and
21 Justice Alito's questions? So you're
22 maintaining that there should be equal treatment
23 across the board, whether you live in
24 Mississippi or Puerto Rico. And Justice Alito
25 asked you if you maintain that benefits,

1 burdens, et cetera, should be the same.

2 So what are the implications of that
3 position for, you know, policies like Puerto
4 Ricans not paying federal income tax? If we
5 accept your position, would that mean that the
6 burdens that Mississippians bear, et cetera,
7 also have to apply to Puerto Ricans?

8 MR. FERRÉ: I think that the analysis
9 would be the same; in other words, the Court
10 would look at that exclusion with heightened
11 scrutiny and determine whether there's a
12 compelling interest for treating that
13 jurisdiction differently, in the same way that
14 Congress could decide to -- to treat certain
15 regions of the U.S. differently for tax purposes
16 in order to encourage development, for -- for
17 instance.

18 JUSTICE BREYER: But you see that's
19 exactly why -- Justice Barrett's question was
20 exactly why what came into my mind are these
21 words "not locally inapplicable," which is
22 different. But I don't know what to do -- you
23 see, I don't know what to do with them once
24 they're in my head.

25 I mean, it's fairly easy to think of

1 things you might say. You might say Puerto Rico
2 was designed in Law 600 to maintain a kind of
3 independent status but not totally. Now -- and,
4 therefore, this isn't applicable locally given
5 that purpose. Or you might say that purpose
6 wasn't the overarching purpose in this instance.

7 So, while I often like to look at
8 purposes, I'm at sea in this one, and I -- and I
9 don't know how you do this thing comparing
10 Mississippi and Puerto Rico and when it is and
11 when it isn't.

12 MR. FERRÉ: Well, I think Law 600 was
13 intended to give a measure of autonomy to Puerto
14 Rico, akin to the states, without actually
15 extending the full participation available to
16 states. So, with respect to local self-rule, if
17 you will, there was that autonomy.

18 Now, obviously, Congress has seen fit
19 to take some of that autonomy back, and it did
20 so with the PROMESA Act. So this illustrates
21 that Congress certainly had or believes it
22 continues to have that power to provide --
23 delegate its ability to provide needful rules
24 and regulations respecting Puerto Rico, and it
25 can also take some of that back.

1 JUSTICE ALITO: I don't know how often
2 Congress enacts a statute that explicitly
3 distinguishes residents of one state from
4 another state, but it certainly does enact laws
5 that have the effect of strongly favoring
6 residents of some states and strongly
7 disfavoring residents of -- of other states.

8 The one that's been controversial in
9 recent years is the deductibility of state and
10 local taxes. That strongly disfavored my home
11 state of New Jersey, strongly -- strongly
12 favored it when they were deductible; strongly
13 disfavored the president's home -- home state of
14 Delaware, where there's no income tax.

15 So what is the difference between that
16 and -- and this?

17 MR. FERRÉ: That -- that -- that
18 change in the SALT deductions was enacted across
19 the board. So the fact that local conditions
20 then -- you know, the -- the result of the
21 uniform application across the board created
22 differences in local conditions doesn't mean
23 that that statute didn't provide equal
24 treatment.

25 CHIEF JUSTICE ROBERTS: Thank you,

1 counsel. I feel a little more comfortable now
2 saying that the guarantee clause, which
3 guarantees the republican form of government,
4 we've said it presents a political question.

5 And I wonder if your -- the extent to
6 which you relied on it in one of your prior
7 answers, to what extent is it -- is it key to
8 your argument?

9 MR. FERRÉ: I -- I don't -- I don't
10 know that it's key to the argument, but I think
11 that the Court should take and the Court has in
12 the past certain -- certainly taken into account
13 the fact of a -- an individual or a group's
14 political powerlessness.

15 So -- so to the extent that the group
16 that has been targeted is politically powerless,
17 I think, has informed the Court in the past and
18 -- and should do so here.

19 CHIEF JUSTICE ROBERTS: Justice
20 Thomas?

21 JUSTICE THOMAS: So, if I move from
22 Virginia to Puerto Rico, how do I -- and -- and
23 -- and lose a certain benefit, how do I -- how
24 could I claim powerlessness?

25 I understand your argument if you have

1 a life-long resident of Puerto Rico, but you're
2 saying your arguments also apply to anyone who
3 chooses to locate or relocate to Puerto Rico,
4 and that's the part I don't understand,
5 particularly in the context of your power --
6 powerlessness argument.

7 MR. FERRÉ: When -- when the resident
8 from Virginia decides to move to Puerto Rico,
9 they thereby lose the ability to participate in
10 the -- the -- the -- the federal elections that
11 would -- would result in a representative in
12 Congress, representative in -- in the Senate,
13 and also the ability to vote for president and
14 vice president, all of which then means that
15 that individual has no representative protecting
16 his or her interests while in Puerto Rico.

17 CHIEF JUSTICE ROBERTS: Justice
18 Breyer?

19 Justice Sotomayor?

20 Justice Kagan?

21 Justice Gorsuch?

22 JUSTICE KAVANAUGH: Just one quick
23 question on the waiver. That's still possible,
24 correct?

25 MR. FERRÉ: The government has pursued

1 my client and has never indicated that it is
2 inclined to grant a waiver. But, certainly, if
3 -- if we were in an administrative proceeding,
4 that is a possibility.

5 The -- the -- the government early on
6 sought to withdraw with prejudice and was not
7 even clear as to whether potential criminal
8 charges were still a possibility. So there was
9 no indication that the government was inclined
10 to consider waiver.

11 JUSTICE KAVANAUGH: Might you still
12 apply for the waiver if you don't prevail in
13 this case?

14 MR. FERRÉ: I -- I -- I would hope so,
15 yes.

16 JUSTICE KAVANAUGH: Thank you.

17 CHIEF JUSTICE ROBERTS: Justice
18 Barrett? No.

19 Thank you, counsel.

20 Rebuttal, Mr. Gannon?

21 REBUTTAL ARGUMENT OF CURTIS E. GANNON

22 ON BEHALF OF THE PETITIONER

23 MR. GANNON: Thank you, Mr. Chief
24 Justice. If I could just make three points:

25 First, the territories clause -- the

1 Territory Clause does not have an except -- an
2 -- an expiration date, and, if it did, the
3 Court's analysis in cases like Aurelius would
4 have been completely different. But the fact
5 that Puerto Rico and other current territories
6 have uncertain future status vis-à-vis the
7 United States is one thing that we think
8 promotes the idea that Congress must necessarily
9 take into account that, among other things, when
10 it is deciding whether to deal differently with
11 territories.

12 So Puerto Rico may be on its way to
13 statehood. It may be on its way to
14 independence. It may be on its way to some
15 other status.

16 But those are -- that is relevant to
17 Congress being able to continue to calibrate the
18 degree of relationship between the federal and
19 territorial polities and economies and FISCs.

20 And so that's another reason why being
21 able to promote local autonomy by having a
22 smaller federal tax bite and, therefore, maybe a
23 faller -- a smaller share in federal benefits is
24 something that is appropriate for Congress to do
25 in this context.

1 Second, my friend on the other side
2 has still not, I think, given any reason why
3 there's a special justification for overruling
4 Torres and Rosario. We do think that those
5 would be controlling here.

6 Torres was about this particular
7 benefit, and Rosario, I think, the fact that it
8 involved a block grant program doesn't
9 meaningfully distinguish it and it didn't
10 suggest, since it was drawing from Torres, which
11 was not a block grant program, but actually
12 about this program, SSI, an individual benefit
13 program, the Court didn't seem to think that
14 that was a -- a -- a reason to draw a
15 distinction, and -- and, as I mentioned before,
16 neither did Justice Marshall's dissent.

17 And so, finally, my friend has
18 forcefully given reasons why SSI should be
19 extended to residents of Puerto Rico because he
20 thinks that would better promote one of the main
21 purposes of the program. And we don't have a
22 quarrel about that.

23 The only question is whether it could
24 be rational for Congress to have taken into
25 account other considerations and decided in this

1 instance that there was a basis for drawing a
2 different line with respect to Puerto Rico.

3 And unless and until Congress alters
4 Puerto Rico's distinct tax treatment, which
5 Respondent and his amici have pointedly not said
6 that it is required to do, we think there is a
7 plausible, rational, and non-invidious basis for
8 Puerto Rico's residents to be excluded from SSI.

9 We urge the Court to reverse the
10 judgment of the court of appeals.

11 CHIEF JUSTICE ROBERTS: Thank you,
12 counsel. The case is submitted.

13 (Whereupon, at 11:14 a.m., the case
14 was submitted.)

15

16

17

18

19

20

21

22

23

24

25

Official - Subject to Final Review

\$			
\$2 ^[1] 39:22	56:12 63:14 69:11	application ^[1] 64:21	based ^[9] 14:23 23:21 28:3,4 31:21 35:11,18 36:17 42:12
\$28,000 ^[1] 38:15	add ^[5] 17:25 18:1 24:20 30:15 46:2	applied ^[3] 26:13 38:12 60:25	basic ^[1] 59:17
\$418 ^[1] 20:21	addition ^[2] 37:3 51:24	applies ^[12] 5:13 9:3 10:5 11:2 13:10 20:18 33:7 35:17 36:2 49:19 55:2,5	basically ^[1] 37:11
\$58 ^[1] 20:22	additional ^[2] 24:17 46:2	apply ^[15] 7:1 8:19,23 10:24 18:8 26:4 45:15 51:18 52:16 59:25 60:1,9 62:7 66:2 67:12	basis ^[34] 3:15 4:14 5:1,8,15 6:7,12 15:4 22:24 26:12 28:23,25 29:10 30:18 32:15 33:7,9 34:25 35:2,13,17 36:2,4 38:7,11 42:21 49:21 52:15,17,22 53:21 55:11 70:1,7
1	address ^[1] 9:5	applying ^[2] 18:13 36:3	bear ^[1] 62:6
10:00 ^[2] 1:15 3:2	administered ^[4] 12:9 41:4 45:22 53:4	approach ^[1] 6:4	became ^[1] 57:9
11:14 ^[1] 70:13	administrative ^[2] 39:4 67:3	appropriate ^[5] 16:20 23:5 25:8 34:25 68:24	become ^[1] 48:2
14 ^[1] 16:9	admission ^[1] 29:6	arbitrary ^[1] 16:3	behalf ^[9] 1:19,21 2:4,7,10 3:9 41:12 46:24 67:22
17 ^[1] 23:1	admit ^[1] 9:11	aren't ^[2] 5:10 22:6	believe ^[6] 43:23 47:17,22 48:25 50:2 58:18
1950 ^[1] 32:19	advantage ^[1] 56:4	argued ^[2] 51:5,11	believes ^[1] 63:21
1950s ^[1] 9:9	AFDC ^[1] 37:20	argument ^[27] 1:14 2:2,5,8 3:4,8 5:24 11:8 18:18 27:19 28:6 29:9 32:24 34:15 37:24 41:11 45:14 48:10 51:3 52:18 54:13 60:11 65:8,10,25 66:6 67:21	below ^[1] 13:5
1970s ^[3] 21:21 30:25 32:16	affect ^[3] 8:18 34:9,18	arguments ^[6] 33:21 40:22 41:1 51:14 55:22 66:2	beneficiaries ^[1] 18:16
2	affected ^[1] 38:4	arises ^[1] 38:24	benefit ^[17] 7:25 14:1 19:24 25:25 26:25 29:13 35:3 36:5 38:8 39:13 41:3 45:15,18 46:12 65:23 69:7,12
20-303 ^[1] 3:4	affects ^[1] 21:4	around ^[1] 14:12	benefits ^[30] 3:21 4:11,19,21 7:14 13:13 15:16 16:22 21:2 25:6,17,19 26:4 27:9 30:20 31:1 33:24 34:14 38:9 39:12,17 40:5,11 42:4 54:17,18 55:6 59:24 61:25 68:23
2004 ^[1] 22:15	afford ^[1] 20:22	Article ^[1] 56:9	best ^[2] 18:18 61:10
2010 ^[1] 22:15	aggregate ^[3] 15:8 22:11 25:8	articulated ^[1] 26:13	better ^[1] 69:20
2013 ^[1] 34:14	ago ^[1] 41:15	aside ^[2] 26:20 56:14	between ^[17] 4:19 11:20 18:15 34:14 35:14 36:11 37:20,21 40:20 41:2 46:17 47:12 49:5 52:4 53:3 64:15 68:18
2016 ^[1] 34:15	agree ^[5] 5:12 37:15 57:24 58:3 59:11	Asociado ^[1] 19:18	big ^[4] 48:23 51:4,12 57:1
2021 ^[1] 1:11	ahead ^[1] 8:13	assist ^[4] 21:6 46:1,1 55:12	big-picture ^[2] 56:18,25
20th ^[2] 31:3 32:18	akin ^[1] 63:14	assistance ^[3] 22:7 46:3 49:10	bigger-picture ^[1] 55:16
3	Alaska ^[2] 49:6,11	associated ^[3] 7:12 16:22 38:9	billion ^[1] 39:22
3 ^[1] 2:4	Alito ^[9] 31:18 53:15 54:12,24 55:1 59:3,22 61:24 64:1	assume ^[4] 39:16 43:14 44:2,6	bit ^[3] 19:22,22 27:13
33 ^[1] 23:2	Alito's ^[1] 61:21	attach ^[2] 43:13 44:24	bite ^[5] 8:4 15:2 34:2 51:4 68:22
4	allegations ^[1] 36:6	attached ^[1] 48:12	bites ^[1] 24:9
41 ^[1] 2:7	allow ^[3] 26:14 27:2 39:5	attention ^[1] 50:4	blacks ^[1] 44:21
5	allowing ^[1] 34:1	attitude ^[1] 26:21	blanket ^[1] 49:18
50 ^[1] 13:12	alone ^[1] 11:25	Aurelius ^[3] 9:6 11:4 68:3	blessed ^[1] 57:14
6	already ^[4] 4:12,20 25:2 33:16	authorities ^[1] 5:18	block ^[4] 37:18 41:3 69:8,11
600 ^[3] 51:17 63:2,12	alter ^[2] 4:23 7:7	authority ^[2] 5:7 56:17	board ^[4] 60:2 61:23 64:19,21
67 ^[1] 2:10	alters ^[1] 70:3	authorizing ^[1] 47:10	bore ^[1] 27:12
9	although ^[1] 19:16	autonomy ^[12] 20:7 21:8 22:1 26:19,23 33:25 38:10 41:21 63:13,17,19 68:21	both ^[1] 46:22
9 ^[1] 1:11	Amendment ^[3] 8:20 9:3 56:10	available ^[4] 18:23 26:24 55:6 63:15	break ^[1] 6:23
A	Amendment's ^[1] 5:13	away ^[2] 14:22 27:13	BREYER ^[26] 15:13,17,25 16:1,13,14,17 17:4,6,10,12,14,19,23,25 19:10 20:12,14 21:20 27:20 31:17 50:11 58:24 59:10 62:18 66:18
a.m. ^[3] 1:15 3:2 70:13	American ^[1] 42:2	B	brief ^[5] 22:14 27:14 28:2 35:10 37:14
ability ^[9] 23:15,25 34:2 39:3 46:21 56:15 63:23 66:9,13	Americans ^[4] 41:15,21,25 44:23	back ^[13] 12:24 13:3,4 22:25 25:6,12 27:13 28:17 34:13 47:4 59:6 63:19,25	briefly ^[1] 61:9
able ^[7] 23:17 24:25 30:20,21 38:23 68:17,21	amici ^[1] 70:5	backdrop ^[1] 23:7	brought ^[1] 53:16
above-entitled ^[1] 1:13	amicus ^[1] 22:14	balance ^[6] 4:19 6:25 16:21 23:6 33:24 52:4	burdens ^[7] 7:1 8:1 16:22 33:25 38:8 62:1,6
absolutely ^[1] 45:24	among ^[3] 13:8 28:20 68:9	balances ^[1] 4:24	buy ^[1] 41:21
abused ^[1] 48:4	amount ^[3] 15:9 17:16 50:14	bankrupt ^[1] 20:15	C
accept ^[2] 48:24 62:5	anachronistic ^[2] 56:22,24	bankruptcy ^[2] 21:5 23:16	calibrate ^[1] 68:17
account ^[15] 4:9 7:10,11 16:21 22:20 23:5 25:9 26:14 27:8,17 45:25 54:10 65:12 68:9 69:25	analysis ^[14] 8:18 21:4 34:18 35:4 36:9 38:9 43:21 44:11 49:1 53:24 54:6 60:22 62:8 68:3	barely ^[1] 32:24	
acknowledge ^[1] 8:19	analyze ^[1] 44:9	BARRETT ^[18] 22:4 25:14 27:3,5 37:5 39:8,9,25 40:2,23 41:6 49:13,23 50:7,10 52:11 61:19 67:18	
acknowledged ^[2] 8:25 28:19	anathema ^[1] 10:21	Barrett's ^[1] 62:19	
acquired ^[1] 48:21	ancestry ^[1] 42:16		
across ^[4] 60:2 61:23 64:18,21	another ^[4] 46:23 59:14 64:4 68:20		
Act ^[9] 18:6 19:14,21,25 28:21 46:21 49:8 51:7 63:20	answer ^[1] 27:5		
acting ^[2] 46:24 47:20	answered ^[2] 33:16,19		
action ^[2] 49:20 53:16	answers ^[2] 27:17 65:7		
acts ^[1] 46:25	anyway ^[1] 20:17		
actually ^[7] 19:10 21:2 40:10 48:6	appeals ^[2] 3:12 70:10		

Official - Subject to Final Review

<p>Califano ^[1] 42:18 California ^[2] 16:5 56:8 called ^[1] 4:20 came ^[3] 1:13 31:3 62:20 cannot ^[1] 46:1 capacity ^[1] 24:18 capita ^[2] 15:4 22:24 Case ^[33] 3:4 5:19 7:13 10:23 11:1, 6 14:6 15:6 18:12 21:3 25:21 28:11,20,21 29:16 34:9,11 35:16 37:18 38:24 40:19 44:20 50:3 51:5 52:9 53:6,11 58:6,21 59:12 67:13 70:12,13 Cases ^[34] 8:16,21 9:5,8,12,15,21 10:2,15,17,19 11:5 28:18 29:7 31:2 33:20 36:1 37:10,22 38:5,12 43:12 44:19,21 48:1,19 50:5 51:4 57:4,5,11 58:12 61:1 68:3 Century ^[2] 31:3 32:18 certain ^[3] 62:14 65:12,23 certainly ^[1] 48:14 49:16 50:3 57:4 58:9 59:17 60:5 63:21 64:4 65:12 67:2 cetera ^[4] 39:21 44:22 62:1,6 challenges ^[1] 40:12 change ^[7] 31:8 33:23 41:18 55:24 56:11,12 64:18 changed ^[3] 33:22 48:18 57:10 changes ^[3] 4:18 56:13,16 characteristics ^[1] 44:23 characterization ^[1] 45:4 charges ^[1] 67:8 check ^[1] 59:21 cherry-pick ^[1] 14:11 CHIEF ^[28] 3:3,10 8:12,15 22:5 31:11,14 32:22 35:6 37:1 39:7 41:8,13 45:13 46:7,9 58:15,20 59:1,9,14,18 64:25 65:19 66:17 67:17,23 70:11 choices ^[1] 4:5 chooses ^[2] 34:3 66:3 Circuit ^[3] 14:6 25:21 40:19 Circuit's ^[4] 35:4 37:16 39:11 40:4 circumstance ^[2] 45:3 48:1 cite ^[1] 21:20 cited ^[3] 30:24 35:10 40:9 citizen ^[3] 42:2 43:19,23 citizens ^[9] 13:9 14:24 29:23,24 32:7,8 54:10 57:3 59:25 citizenship ^[1] 31:22 City ^[1] 44:3 claim ^[5] 10:9,11 48:24 60:25 65:24 claiming ^[1] 53:17 clarify ^[1] 43:10 class ^[1] 29:18 classification ^[1] 43:13 classified ^[1] 43:15 classifies ^[1] 30:18 Clause ^[28] 5:6,11,13,16 6:1,19 27:12,16 28:12 47:6,7,9,16,18 48:3,11,15,16 49:19 56:21 57:19,21 60:</p>	<p>13 61:7,17 65:2 67:25 68:1 clay ^[1] 43:12 clear ^[6] 7:22 29:15,17 38:25 42:18 67:7 client ^[2] 42:1 67:1 clock ^[1] 58:12 clothing ^[1] 41:22 coin ^[1] 26:17 collected ^[1] 22:22 College ^[1] 56:3 Columbia ^[1] 13:12 combined ^[1] 14:9 come ^[1] 34:3 comes ^[1] 50:15 comfortable ^[1] 65:1 coming ^[5] 12:24 13:3 25:12 26:16 27:8 common ^[1] 6:22 commonwealth ^[2] 4:7 19:17 Commonwealth's ^[1] 23:22 community ^[9] 8:5 13:22,24 14:18 15:3,11 17:9 25:12 32:11 compare ^[1] 15:24 compared ^[1] 27:24 comparing ^[1] 63:9 compelling ^[3] 54:7 55:21 62:12 complete ^[1] 40:13 completely ^[1] 68:4 component ^[5] 8:20 9:2 11:2 45:24 61:7 concede ^[1] 43:14 concern ^[3] 48:3 55:19 56:18 concerns ^[1] 43:18 concluded ^[1] 4:12 conclusion ^[3] 10:23 36:23 37:16 conditions ^[6] 45:25 51:22,24 52:3 64:19,22 Congress ^[64] 3:22 4:8,14,18,20,25 5:8,17,19 6:20 7:9,10,23 11:10 16:3,20 18:24 20:9 21:10 23:5,22,24 24:10 25:8,16 26:7,9,14 27:7 28:13,19 31:6 32:12,19 33:10 34:7,8,21 36:1 42:20 46:20,24 47:10,18 48:5,16 50:13 52:6 54:9 56:15,15 58:10,13 60:17 62:14 63:18,21 64:2 66:12 68:8,17,24 69:24 70:3 Congress's ^[3] 3:13 21:14 42:11 congressional ^[2] 49:20 61:16 connection ^[3] 7:13,20 18:15 consider ^[3] 37:19 58:13 67:10 consideration ^[2] 23:6 26:15 considerations ^[5] 4:9 33:23 35:1 36:18 69:25 consistent ^[1] 4:6 Constitution ^[14] 8:23 10:5,24 13:9 28:15 35:15 55:17 56:12,22 57:2 58:1 59:17 61:16,18 Constitution's ^[1] 55:23 constitutional ^[4] 21:22 34:18 37:4 56:10 context ^[8] 7:25 19:2 21:24 27:4 38:24 39:4 66:5 68:25</p>	<p>continue ^[1] 68:17 continues ^[2] 42:20 63:22 continuing ^[1] 33:11 contrary ^[1] 47:1 contrast ^[1] 49:5 contribute ^[2] 3:19 16:7 controlling ^[1] 69:5 controversial ^[1] 64:8 cooperation ^[1] 46:6 correct ^[11] 11:24 12:3,4 26:6 38:16 44:17 51:22 53:13 60:19 61:2 66:24 correctly ^[2] 33:5 51:10 cost ^[9] 11:11,25,25 12:10,10,13 26:16 38:9 40:11 costs ^[1] 33:9 couldn't ^[3] 24:12,16 37:9 counsel ^[12] 8:10 9:10 31:12,15 41:9 43:9 45:13 52:8 55:15 65:1 67:19 70:12 Counselor ^[1] 11:7 country ^[4] 5:22 14:12 42:1 45:7 counts ^[1] 56:6 course ^[6] 4:17 9:15,19 15:15 25:3 46:23 COURT ^[45] 1:1,14 3:11,12,16 4:11 5:2 6:13 7:22 8:18 9:1,4,7 11:4 21:20 26:12 28:19,24 29:15 31:4 33:3,17,19 34:24 35:25 36:9,18 37:24 38:12 39:1 41:14 42:14,14 48:14,18 56:17 57:13 58:11 62:9 65:11,11,17 69:13 70:9,10 Court's ^[5] 5:4 9:14,19 57:5 68:3 courts ^[2] 13:5 43:2 covered ^[1] 35:3 Covert ^[1] 9:9 create ^[2] 51:7,12 created ^[3] 48:1 57:11 64:21 creates ^[1] 46:22 credit ^[1] 7:19 credits ^[1] 7:16 criminal ^[1] 67:7 criteria ^[2] 28:23 38:19 current ^[4] 4:24 26:20,21 68:5 currently ^[2] 39:15,18 CURTIS ^[5] 1:18 2:3,9 3:8 67:21 cut ^[2] 16:9 17:15</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D.C ^[2] 1:10,19 data ^[1] 22:15 date ^[2] 48:12 68:2 deal ^[4] 8:7 22:1 34:4 68:10 dealing ^[1] 58:1 dealt ^[1] 53:2 debilitating ^[1] 42:3 decades ^[2] 10:21 33:11 decide ^[5] 10:25 11:5 34:24 46:2 62:14 decided ^[6] 9:12 10:15 21:21 33:5 42:14 69:25 decides ^[3] 44:4 48:7 66:8 deciding ^[3] 4:9 60:23 68:10</p>	<p>decision ^[3] 3:13 32:15 42:11 decisions ^[2] 4:25 48:14 declared ^[1] 9:8 declined ^[1] 9:7 deductibility ^[1] 64:9 deductible ^[1] 64:12 deductions ^[1] 64:18 deemed ^[4] 42:15 45:6 49:4 54:2 deeming ^[1] 48:20 deeper ^[1] 6:25 deferential ^[2] 5:1 6:14 defined ^[5] 19:8,9 28:23 54:14,15 defines ^[1] 18:22 definition ^[3] 18:3,21 19:5 degree ^[1] 68:18 Delaware ^[2] 56:5 64:14 delegate ^[1] 63:23 denied ^[1] 30:10 deny ^[1] 42:21 Department ^[1] 1:19 depends ^[1] 5:24 Deputy ^[1] 1:18 derives ^[1] 34:1 descent ^[1] 44:2 designed ^[3] 19:14 51:7 63:2 designing ^[1] 26:24 destined ^[1] 48:22 determination ^[3] 21:12,15 30:25 determine ^[1] 62:11 development ^[1] 62:16 difference ^[5] 14:16 32:13 37:21 51:13 64:15 differences ^[2] 37:13 64:22 different ^[37] 4:5 5:17 6:4,9,12,16 7:4,24 8:1,22,23 11:20,22 12:12 13:8,11,16,17,21 18:25 22:16 26:24,25 28:22 34:3 37:25 38:18 44:10 50:25 51:3 52:10,19,23 54:21 62:22 68:4 70:2 differential ^[4] 28:10,22 33:8 40:15 differently ^[16] 5:20 6:20 7:2 8:23 32:7 36:3,9,19 42:25 46:20 50:19 53:25 54:8 62:13,15 68:10 dignity ^[1] 41:23 directed ^[4] 45:23 46:5 53:8,9 directly ^[1] 12:18 disabilities ^[1] 41:16 disabled ^[3] 41:20 42:10,12 discovered ^[1] 16:4 discriminates ^[1] 55:25 discriminating ^[1] 35:20 discrimination ^[6] 29:7 30:4,14 32:14 35:22 36:7 disfavored ^[2] 64:10,13 disfavoring ^[1] 64:7 disposed ^[1] 48:8 disruption ^[1] 38:3 dissent ^[2] 37:19 69:16 distinct ^[2] 53:5 70:4 distinction ^[7] 14:23 26:2 31:21 35:13 37:20 54:3 69:15</p>
--	--	--	---

Official - Subject to Final Review

<p>distinctions [7] 6:18 28:14 31:6 35:11,18 40:20 47:12 distinctive [1] 4:6 distinguish [5] 25:20,24 28:20 40:25 69:9 distinguishable [2] 28:3,9 distinguished [1] 36:11 distinguishes [1] 64:3 distribute [1] 12:16 distributed [1] 14:1 District [3] 13:12 23:1 38:25 divided [1] 50:16 dividing [1] 28:16 doing [1] 5:9 dollars [2] 20:9 22:3 domestic [1] 42:15 done [2] 17:17 51:9 down [1] 37:7 Downes [2] 42:14,19 draw [4] 19:3 28:13 40:20 69:14 drawing [5] 6:16 31:6 41:2 69:10 70:1 drawn [2] 51:25 55:10 drew [1] 52:6 Due [3] 5:13 60:5 61:7</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>earlier [1] 51:16 early [4] 31:3 48:14 57:5 67:5 easier [1] 7:6 easy [1] 62:25 economic [2] 4:5 38:3 economies [1] 68:19 economy [10] 20:10,16 21:7 22:3 23:23 24:5,5,9 26:21 38:4 effect [5] 28:22 33:1,4 47:5 64:5 either [2] 4:18 37:17 elections [1] 66:10 Electoral [1] 56:3 eligible [5] 7:19 38:15,21 39:15 54:16 employers [1] 3:19 enable [1] 25:16 enact [1] 64:4 enacted [2] 21:1 64:18 enacts [1] 64:2 encourage [1] 62:16 enforceable [2] 58:17 59:20 enjoyed [1] 41:24 enough [3] 5:6 11:25 43:6 enshrined [1] 61:15 entire [1] 15:3 entirely [4] 27:16 52:2,3 53:7 entitled [2] 49:21 54:4 equal [20] 5:12 8:19 9:1 10:10 11:2,13 28:18 29:19 31:10 42:21 43:12,20 44:21 53:17 60:3,6,6 61:6,22 64:23 equally [2] 26:4 60:1 equivalent [1] 61:1 erred [1] 3:12 especially [4] 22:13 23:7 38:8 41:16</p>	<p>ESQ [3] 2:3,6,9 ESQUIRE [1] 1:21 essentially [5] 47:16 57:13 58:12 60:16,25 Estado [1] 19:18 estate [1] 4:1 et [4] 39:20 44:22 62:1,6 ethnic [2] 36:18 43:16 ethnicity [3] 30:1,19 32:15 evaluated [1] 5:1 even [9] 18:11 28:20 33:3 36:10 37:18 42:9 45:9 52:17 67:7 everybody [1] 8:25 everyone [1] 9:23 everything [1] 40:4 evidence [4] 29:25 30:23 36:17 38:2 exact [2] 44:6 60:17 exactly [5] 19:19 27:20 39:5 62:19,20 examine [1] 42:22 example [7] 6:3 29:8 35:19 46:16 49:6,8 56:8 exceeds [1] 15:6 except [1] 68:1 exception [1] 10:8 excise [3] 3:25 13:19 14:8 exclude [5] 4:14 19:23 25:16 42:11 50:13 excluded [8] 41:17,25 45:17 49:3,3,11 60:18 70:8 exclusion [8] 21:22 30:1 34:8 42:22 61:11,12,13 62:10 exclusions [1] 40:13 exclusively [1] 46:15 Excuse [2] 23:10 42:20 exempt [2] 13:19 54:19 exempted [2] 3:23 23:24 exempting [1] 14:21 exemption [1] 23:21 expenditures [3] 22:16,20,23 expense [1] 39:23 expiration [2] 48:12 68:2 explain [1] 13:14 explicitly [1] 64:2 expressly [2] 3:22 51:17 extend [4] 3:13 4:21 9:7 34:13 extended [2] 32:20 69:19 extending [4] 39:12 40:5 51:23 63:15 extension [1] 39:17 extent [4] 33:20 65:5,7,15 extra [1] 21:25 extreme [2] 22:18 23:4</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face [1] 36:11 fact [16] 5:16 19:4,20 20:8,20 23:7,19,21 25:9 29:1 46:1 49:18 64:19 65:13 68:4 69:7 factor [1] 29:9 factual [2] 38:14 39:10 fairly [1] 62:25</p>	<p>faller [1] 68:23 fallout [1] 46:25 false [1] 42:13 far [1] 47:9 fashion [1] 8:8 favoring [1] 64:12 favoring [1] 64:5 federal [78] 3:18,19,24,24 4:2,11 6:17 7:1,5,7,11,18 8:2,5 12:8,9,16,24 13:15,23,25 14:1 15:2,16 16:23,25 18:6,7,16 19:14,21 20:9 21:12 22:2,6,11,16,20,21,25 23:20,24 24:5,17,21 25:1,4,10,10 27:1,23 34:2 39:13 41:4 43:7 45:15,17,22,22 46:5,12,15,18 50:15 51:6,18 52:5 53:3,8,19 54:20 55:8 59:23 62:4 66:10 68:18,22,23 feel [1] 65:1 FERRÉ [52] 1:21 2:6 41:10,11,13 43:22 44:11,17 45:2,20 46:8,14 47:3,17 48:13,25 49:13,15 50:1,9 51:16 52:13,20,24 53:13,23 54:22,25 55:9 57:1,22,24 58:7,9,18,22 59:5,13,16 60:4,20 61:2,4,14,19 62:8 63:12 64:17 65:9 66:7,25 67:14 fewer [2] 20:9 22:2 FICA [1] 25:3 Fifth [3] 5:13 8:20 9:2 figure [4] 5:25 11:22 58:4 61:5 figures [1] 22:14 filing [1] 7:17 finally [1] 69:17 find [1] 5:2 finding [1] 23:25 findings [1] 23:20 finish [1] 31:20 first [14] 3:4 13:18 14:6 25:21 29:13 35:4 37:16 39:10 40:3,19 48:19 49:9 56:11 67:25 fiscal [3] 4:5 21:6,9 FISCs [1] 68:19 fit [1] 63:18 flowed [1] 4:2 follow [5] 35:9 37:7 40:13,14 61:20 follows [2] 49:22 59:19 food [1] 41:21 footing [1] 21:9 footnote [1] 37:25 forcefully [1] 69:18 foreclosed [1] 36:22 foreign [4] 42:15 43:24 45:7 54:2 form [5] 34:11 57:3,6 58:16 65:3 forms [1] 3:24 forth [2] 50:24 51:5 forward [2] 26:6,9 frame [1] 60:11 freely [1] 41:22 friend [2] 69:1,17 full [4] 25:6 57:15,16 63:15 fully [4] 10:5 12:8,8 51:5</p>	<p>fundamental [2] 29:15 36:4 fundamentally [1] 52:19 funded [2] 12:8 16:25 funding [1] 7:11 funds [2] 3:21 7:14 further [2] 23:23 24:14 future [1] 68:6</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>GANNON [89] 1:18 2:3,9 3:7,8,10 5:5,10 6:6,11 8:17 9:13,25 10:7,10,13,18 11:15,17 12:2,4,22 13:2,17 14:4 15:1,8,15,18,22 16:12,16,19 17:5,8,11,13,17,21,24 18:20 19:3,13,24 22:4,10 23:12 24:2,7,13,16 25:13,14,18 26:11 27:3,4 28:7 29:11,21,24 30:3,7,17 31:10,13 32:4,10,23 33:2,13,18 34:10 35:24 36:13,24 37:11 38:17,22 39:24 40:1,7,24 41:7 47:5,7 67:20,21,23 gather [1] 39:22 Gautier [2] 42:19 50:4 General [5] 1:18 13:25 16:21,25 26:22 generally [2] 24:24 35:12 geographic [2] 28:23 54:13 gets [1] 14:22 getting [3] 15:16 25:5 39:20 gift [1] 3:25 give [6] 6:3 20:20,22 24:6 56:16 63:13 given [5] 23:15,20 63:4 69:2,18 gives [3] 5:17 14:13 56:3 giving [1] 27:6 GORSUCH [12] 9:10,17 10:3,8,12,16 35:7,8 36:10,21,25 66:21 got [2] 14:14 19:12 governed [1] 6:7 government [41] 3:18 4:4 5:7 7:5,7 8:5 12:8,9,14,19,24 13:15,23 14:13 15:2 20:11,12,15 22:2,6,25 23:9 24:23 25:1 27:1 41:5 42:8 45:23 46:18 50:15 51:10 52:5 53:3,8 57:3,6 58:16 65:3 66:25 67:5,9 government's [6] 9:18,20 10:17,18 14:23 35:17 governmental [2] 6:15 59:25 grant [4] 37:18 67:2 69:8,11 grants [1] 41:3 great [1] 11:12 greater [7] 4:4 8:6 15:10 16:9 17:16 20:10 23:12 ground [1] 51:6 grounds [1] 52:15 group [3] 32:6 43:16 65:15 group's [1] 65:13 groups [1] 44:22 Guam [2] 19:24 39:20 guarantee [2] 41:24 65:2 guaranteeing [1] 41:20 guarantees [1] 65:3 guess [4] 6:8 27:10 28:1 58:5 guide [1] 48:17</p>
---	--	--	--

Official - Subject to Final Review

<p>guiding ^[1] 48:6</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>happen ^[1] 43:24 happened ^[9] 17:10,12,13,20,23 18:12 32:16 44:7 59:10 happens ^[2] 44:7,15 hard ^[1] 23:14 Harris ^[5] 49:17,24 50:4 52:9 53:2 Hawaii ^[2] 49:6,10 head ^[1] 62:24 hear ^[1] 3:3 heard ^[1] 50:12 heightened ^[8] 29:12 36:8 42:22 43:16 53:24 54:4,5 62:10 held ^[5] 9:1 43:2 57:12 58:16 59:3 help ^[3] 20:7 23:17 43:9 helped ^[1] 41:18 hence ^[1] 43:16 HERMANN ^[3] 1:21 2:6 41:11 higher ^[1] 24:24 highlight ^[1] 45:9 Hispanic ^[2] 30:9 44:22 history ^[4] 29:6 30:3 31:5 32:14 Hodel ^[1] 28:21 hold ^[1] 59:23 holding ^[4] 3:12 15:14 33:7 38:6 holdings ^[1] 37:16 home ^[3] 64:10,13,13 Honor ^[5] 43:22 44:18 45:2 50:9 51:16 hope ^[1] 67:14 hypothetical ^[1] 61:12 hypothetically ^[1] 35:19</p>	<p>indication ^[1] 67:9 individual ^[8] 41:3 43:13 44:15,24 45:1 65:13 66:15 69:12 individuals ^[7] 43:4 45:23 46:5 49: 10 53:9 55:12 60:7 ineligible ^[1] 54:17 inescapably ^[1] 5:19 inevitably ^[2] 47:11,12 inference ^[1] 19:4 information ^[2] 22:9,11 informed ^[1] 65:17 informs ^[1] 49:1 instance ^[6] 7:8,21 41:2 62:17 63: 6 70:1 instances ^[1] 3:25 instead ^[1] 4:3 Insular ^[18] 8:15,21 9:5,8,12,21 10: 2,15,17,19 11:5 29:7 31:2 47:25 48:19 51:4 57:10 58:11 insurance ^[1] 3:20 intended ^[5] 21:5,7 47:18,22 63: 13 intention ^[1] 57:4 interest ^[2] 6:15 62:12 interests ^[2] 47:1 66:16 invidious ^[1] 35:22 involved ^[2] 37:18 69:8 involves ^[1] 25:22 involving ^[1] 44:21 irrational ^[1] 42:24 irrelevant ^[2] 20:1 43:5 Island ^[4] 56:6 58:24,25 59:10 Islands ^[3] 13:13 39:19 43:5 isn't ^[8] 19:15 23:25 24:3 35:2 51: 5 52:18 63:4,11 issue ^[7] 10:23 17:1 21:2 24:19 29: 13 43:25 45:8 issues ^[1] 40:18 Italian ^[2] 44:2,8 itself ^[5] 21:4,7 23:24 28:15 29:4 IV ^[1] 56:9</p>	<p>6,6,8 36:10,21,25 37:1,1,3,4,5,6, 12,18 38:13,20 39:6,7,7,9,25 40:2, 23 41:6,8,13 43:9 44:1,13,19 45: 12,13 46:7,9 47:3 48:9,23 49:13, 23 50:7,10,11 52:8,11,14,21,24 53: 11,15 54:12,24 55:1,15 57:18,23, 25 58:3,8,15,20,24 59:1,3,6,9,10, 14,18,22 60:10,20,21 61:3,8,19,20, 21,24 62:18,19 64:1,25 65:19,19, 21 66:17,17,19,20,21,22 67:11,16, 17,17,24 69:16 70:11 justification ^[1] 69:3 justified ^[1] 20:6 justifies ^[1] 50:19 justify ^[1] 36:16</p>	<p>25 52:6 55:9 70:2 linking ^[1] 29:25 listed ^[1] 37:24 listen ^[1] 30:12 litigation ^[1] 8:16 little ^[5] 19:22,22 27:13 56:6 65:1 live ^[5] 13:21 41:22 42:1 56:7 61: 23 lived ^[1] 44:3 living ^[4] 30:20,22 42:4,9 local ^[2] 22:3 24:5 26:19 33:25 38: 4,10 45:25 46:8,18 51:19,22,24 52:3,5 53:3,4 63:16 64:10,19,22 68:21 locality ^[2] 13:22 17:1 locally ^[9] 18:8,10,19,20 19:13 21: 11 51:19 62:21 63:4 locate ^[1] 66:3 location ^[1] 30:18 long ^[4] 16:11,13 41:15 58:6 look ^[11] 12:7 14:15 16:6 19:20 28: 17 29:8 52:25 59:7,12 62:10 63:7 looking ^[5] 6:13 14:17 27:21 60:7 61:6 lose ^[5] 50:12,23,24 65:23 66:9 lot ^[4] 18:13,17 27:25 43:11 low ^[1] 27:24 low-income ^[2] 25:23 40:17 lower ^[2] 15:3 43:1 LUIS ^[1] 1:6</p>	
<p style="text-align: center;">I</p> <hr/> <p>idea ^[1] 68:8 illness ^[1] 42:3 illusory ^[1] 24:4 illustrates ^[1] 63:20 imagine ^[1] 23:15 implications ^[2] 40:3 62:2 implicit ^[1] 48:11 implicitly ^[2] 21:18 33:19 impose ^[2] 27:2 59:24 imposes ^[1] 8:2 inapplicable ^[8] 18:8,10,19,20,22 19:13 37:17 62:21 inclined ^[2] 67:2,9 included ^[3] 19:7 21:18 49:10 including ^[1] 3:24 Income ^[13] 3:14,24 7:18 14:8 17: 2 23:24 24:19,22 53:19 54:20 55: 8 62:4 64:14 inconsistent ^[2] 9:22 10:2 incorrect ^[1] 9:16 incorrectly ^[1] 9:12 indeed ^[1] 20:7 indefinite ^[4] 48:2,5 57:12,15 independence ^[1] 68:14 independent ^[1] 63:3 indicate ^[1] 34:19 indicated ^[2] 51:17 67:1</p>	<p style="text-align: center;">J</p> <hr/> <p>Jersey ^[1] 64:11 jointly ^[1] 41:4 JOSE ^[1] 1:6 judgment ^[1] 70:10 judicial ^[1] 59:20 judicially ^[2] 58:17 59:20 jurisdiction ^[7] 22:21,22,23 47:21 54:9,11 62:13 jurisdictions ^[6] 22:16 46:8,18 52: 5 53:4,5 Justice ^[187] 1:19 3:3,10 5:5,11,23 6:8 8:9,10,12,14,15 9:10,17 10:3, 8,12,16 11:7,9,16,21 12:3,6,23 13: 1,3 14:3,5 15:5,13,17,20,23,25 16: 1,13,14,17 17:4,6,10,12,14,19,23, 25 19:10 20:12,14 21:20 22:4,5 23:10,14 24:3,11,14 25:13,14,15 26:1 27:3,5,6,11,20 29:1,19,22 30: 2,5,8 31:9,11,14,16,17,18,19,20 32:5,22,22,23 33:12,14 34:5 35:5,</p>	<p style="text-align: center;">K</p> <hr/> <p>KAGAN ^[21] 25:13,15 26:1 27:6 32: 22,23 33:12,14 34:5 35:5 37:6 47: 3 48:9,23 59:6 60:10,20,21 61:3,8 66:20 Kagan's ^[1] 61:20 Kavanaugh ^[15] 37:2,3,12 38:13, 20 39:6 55:15 57:18,23,25 58:3,8 66:22 67:11,16 keep ^[1] 27:7 kept ^[1] 52:17 key ^[2] 65:7,10 kind ^[3] 27:13 57:18 63:2 knows ^[2] 9:24 19:19</p>	<p style="text-align: center;">L</p> <hr/> <p>lacks ^[1] 3:15 language ^[1] 29:8 largely ^[1] 7:24 larger ^[4] 15:11 47:8 55:25 56:1 last ^[3] 9:6 16:11,13 Laughter ^[1] 59:8 law ^[7] 11:13 18:10 20:18 31:13 51: 17 63:2,12 laws ^[6] 6:17 18:7 21:11 51:18 59: 23 64:4 layer ^[1] 24:17 lead ^[1] 27:19 least ^[1] 49:24 leaves ^[3] 8:6 20:10 56:14 leeway ^[3] 4:4 8:6 20:11 left ^[4] 4:25 17:5,9 32:12 legislated ^[1] 6:20 legislates ^[1] 5:20 legislation ^[2] 6:23 34:7 legitimate ^[3] 6:15 7:10 28:16 less ^[7] 13:22 17:1 22:25 25:9,11 26:15 34:1 lesson ^[2] 26:6,8 level ^[2] 13:25 39:1 Libre ^[1] 19:18 life ^[1] 44:3 life-long ^[1] 66:1 likelihood ^[1] 55:13 limit ^[1] 57:21 limited ^[1] 60:16 line ^[8] 6:16 28:16 32:18 41:2 51:</p>	<p style="text-align: center;">M</p> <hr/> <p>made ^[9] 21:12 23:25 26:3 29:15, 16 38:25,25 42:18 55:21 Madero ^[1] 43:15 main ^[1] 69:20 mainland ^[5] 20:18,19 31:23,25 32:8 maintain ^[2] 61:25 63:2 maintaining ^[1] 61:22 many ^[6] 3:23 11:11 14:19 15:16, 23 56:1 Mariana ^[3] 13:13 39:19 43:5 Marianas ^[1] 19:24 Marshall's ^[2] 37:19 69:16 match ^[1] 24:5 matter ^[5] 1:13 26:22 45:18 47:16 54:12 matters ^[2] 28:12 45:21 mean ^[18] 5:18 11:18 15:5 16:1,15 26:1 28:1,7 34:11 36:13 46:10,10, 11 47:12 56:10 62:5,25 64:22 meaning ^[1] 14:10 meaningful ^[1] 37:13 meaningfully ^[1] 69:9 means ^[11] 4:1 6:19 8:3 17:2 19:1 28:12 38:1 46:11 47:11 49:19 66: 14 meant ^[1] 55:12 measure ^[2] 21:5 63:13 Medicare ^[4] 3:21 7:14 25:23 40: 17 members ^[1] 44:22</p>

Official - Subject to Final Review

<p>mentioned [5] 37:5,6 56:11,23 69:15 mentioning [1] 32:24 mere [1] 49:18 merely [1] 5:25 might [16] 7:6 11:15 21:18 26:8 36:16 40:14 46:19 52:16 54:6,8,9 55:10 63:1,1,5 67:11 mind [1] 62:20 Mining [1] 28:21 minority [2] 29:3 56:2 mischaracterizing [1] 60:12 Mississippi [10] 16:5 27:22 28:2,8 29:4 50:14 60:18 61:13,24 63:10 Mississippians [1] 62:6 misunderstanding [1] 28:5 moment [1] 35:10 money [12] 12:16,17,23 13:8,23 14:25 15:9 16:7 17:5,8 26:24 31:25 money's [1] 12:18 month [2] 20:21,23 months [1] 21:1 moot [1] 34:11 mootness [1] 34:16 morning [1] 3:4 most [3] 3:25 13:5 50:17 move [4] 41:22 44:5 65:21 66:8 moved [1] 42:5 moves [2] 45:5,10 much [11] 4:1,12 5:23 6:1 14:9 16:6 22:5,11 27:11 37:7 40:10 must [2] 60:1 68:8</p>	<p>N</p> <p>nailed [1] 37:7 nation [1] 45:11 national [1] 41:20 Nations [2] 20:2,4 native [1] 44:22 natural [1] 6:19 necessarily [3] 27:1 57:20 68:8 need [11] 5:14 11:4 14:24 20:21 32:8 34:24 36:14 38:2 48:24 49:14 53:12 needful [1] 63:23 needing [1] 46:6 needs [3] 7:17 8:18 9:4 needy [7] 11:11 13:10,11 23:18 24:6 31:22,22 neither [1] 69:16 net [2] 22:15,23 never [5] 17:19,23 18:11 33:14 67:1 New [8] 1:21,21 30:21 42:4 44:3 56:7 58:2 64:11 nice [2] 14:10 44:4 Nobody [1] 21:17 non-invidious [1] 70:7 non-Puerto [1] 45:10 non-republican [1] 57:6 none [3] 13:14 31:24,25 normal [2] 9:14,19 normally [1] 43:12</p>	<p>Northern [2] 13:13 43:4 noted [2] 9:6 13:5 nothing [2] 32:13 55:1 notice [1] 39:2 November [1] 1:11 number [4] 16:8 40:2,8,8</p> <p>O</p> <p>obligations [2] 3:23 59:24 obvious [2] 7:13,20 obviously [6] 10:20 33:6,20 36:19 37:13 63:18 offered [1] 45:17 often [4] 5:19 6:20 63:7 64:1 okay [7] 13:4 17:4,6 18:9 35:15 44:1 50:10 once [3] 33:14 61:9 62:23 one [28] 7:6 14:11,21 17:25 19:19 20:5 25:20 27:7 28:9 32:5 34:5 38:13 46:13,14 50:20 51:3 52:15 53:16 57:7 59:3 60:10 63:8 64:3,8 65:6 66:22 68:7 69:20 one's [1] 51:11 one-to-one [1] 7:15 ones [1] 55:13 only [9] 10:14 29:17 35:3 36:12 39:12 55:2,2,6 69:23 opposed [1] 20:21 oral [5] 1:14 2:2,5 3:8 41:11 oranges [1] 15:25 order [4] 7:18 11:5 38:4 62:16 ordinary [1] 32:20 organized [1] 57:9 other [43] 7:7 12:17,18 14:4,9,10,18 15:6,24 16:9 19:25 23:2 25:19 26:17 28:17 30:24 32:7 33:21 34:5 36:7,15 37:10 39:13,18 40:6,8,11,18 41:1 44:23 45:16 46:16 47:13 51:6 54:19 56:23 62:9 64:7 68:5,9,15 69:1,25 others [4] 4:11 14:14 17:2 27:24 otherwise [5] 24:21 27:1,18 34:17 40:25 out [21] 5:25 8:4 11:22 13:20,23 14:21 16:9,25 17:15 19:12 22:3,21 24:9 25:2,5 27:9,25 30:6 35:11 50:17 58:4 outcome [1] 50:6 outlier [2] 22:19 23:4 outset [1] 10:22 outside [3] 42:13 45:11 49:4 over [4] 5:18 16:4 50:3 56:16 overarching [1] 63:6 overcome [1] 36:14 overpayment [1] 39:2 overridden [1] 21:14 override [2] 61:15,17 overrule [2] 49:14,24 overruling [2] 37:10 69:3 overturn [3] 52:11,16 53:12 owed [1] 34:14 own [5] 8:7 20:13 23:8 29:5 41:21</p>	<p>P</p> <p>package [1] 47:8 PAGE [1] 2:2 Pardon [1] 17:11 parse [1] 22:15 Part [5] 25:23 40:17 47:7 54:19 66:4 participate [1] 66:9 participation [3] 4:15 57:16 63:15 particular [10] 7:12 16:23 19:1,4 21:22 25:25 34:4 36:5 38:3 69:6 particularly [1] 66:5 partnership [4] 46:17,22 53:1,2 parts [3] 10:24 47:13 55:22 pass [7] 11:12,13 34:8,12,21 54:5 55:11 passed [1] 49:9 past [2] 65:12,17 patchwork [1] 41:19 path [1] 58:13 pay [13] 3:23 13:6,15 14:7,9,19,19 18:16 31:25 43:6 50:17 53:19 55:7 paying [4] 27:25 38:15 55:14 62:4 payments [3] 23:6 42:8 52:4 pays [1] 17:1 pending [2] 25:21 40:18 Penya [2] 14:6 15:6 people [16] 11:11 12:19 13:10,11,14 18:14 20:16,20 31:24 32:7 42:17 47:1 49:2,11 55:23,25 per [4] 15:3 22:24 55:24,24 period [3] 31:22 48:2,5 permits [1] 46:3 person [3] 53:15 54:16,18 person's [1] 53:17 persons [1] 55:6 Petitioner [6] 1:4,20 2:4,10 3:9 67:22 picture [1] 57:2 piece [1] 47:9 place [3] 44:5 52:7 55:3 plausible [1] 70:7 please [3] 3:11 8:14 41:14 Plessy [1] 42:15 plus [3] 12:1,7,20 point [5] 6:23 9:20 13:4,20 15:18 pointedly [1] 70:5 pointing [1] 35:11 points [1] 67:24 policies [2] 4:25 62:3 policy [1] 55:21 political [4] 30:10 46:25 65:4,14 politically [5] 29:2 30:11 34:21 54:11 65:16 polities [1] 68:19 poor [6] 41:16,20 42:12 43:6 54:9 55:12 poorer [1] 27:22 populated [1] 57:8 population [2] 25:2 56:2 populations [1] 57:12</p>	<p>portions [1] 8:22 position [6] 9:18 10:17,18 28:5 62:3,5 possibility [3] 57:14 67:4,8 possible [1] 66:23 potential [1] 67:7 potentially [1] 48:4 power [6] 47:19 61:5,15,16 63:22 66:5 powerless [5] 29:3 30:11 34:21 54:11 65:16 powerlessness [3] 65:14,24 66:6 practically [1] 41:17 practice [1] 19:15 precedent [6] 37:6 52:9,12 53:12 55:20 56:19 precedential [2] 33:1,4 precisely [1] 22:1 prejudice [1] 67:6 premise [6] 9:22 10:1,5 42:13,19 59:17 presents [1] 65:4 preserved [1] 40:21 president [4] 4:20 56:6 66:13,14 president's [1] 64:13 presumably [1] 32:19 pretty [2] 36:14 47:9 prevail [1] 67:12 prevented [1] 31:6 previously [1] 9:1 primary [1] 13:20 prime [1] 29:7 principle [2] 5:12 21:13 prior [1] 65:6 problem [6] 8:7 22:1 34:4 46:23 47:25 57:5 procedural [1] 38:24 proceeding [4] 9:22 10:1,4 67:3 Process [3] 5:13 60:5 61:7 product [1] 35:21 program [5] 3:14 4:16 7:12,25 12:7,13 13:2 16:10,23,24 17:22 18:22 19:7 20:19,25 21:16 25:17 26:5,17,20 31:1 33:9 35:3 40:16 41:18 45:15,18,21,22 46:3,4,5,12,17 52:1,2,7,10,21,23,25 53:1,7 54:14,23 55:12 69:8,11,12,13,21 programs [15] 3:22 14:2 15:16,24 18:25 25:19,25 26:25 39:13 40:11,21 41:3,19 46:16,19 prohibit [1] 56:13 PROMESA [4] 20:25 21:4 33:21 63:20 promised [1] 57:2 promote [4] 20:7 21:8 68:21 69:20 promotes [1] 68:8 promoting [1] 26:18 proper [2] 42:21 60:24 proportionate [2] 16:8 17:16 protect [1] 29:4 protecting [1] 66:15 protection [15] 5:12 8:20 9:2 10:</p>
--	--	--	--	---

Official - Subject to Final Review

<p>11 11:2,14 28:18 29:20 31:13 43:12,20 44:21 53:17 60:6 61:7</p> <p>protections [1] 61:18</p> <p>provide [6] 42:20 47:19 59:23 63:22,23 64:23</p> <p>provided [2] 22:7 49:9</p> <p>provides [1] 51:17</p> <p>provision [1] 58:17</p> <p>provisions [1] 49:9</p> <p>Puerto [106] 3:14,16,18 4:10,14,21 6:10 8:2,4,6 9:3 10:25 12:10,12,16,21 13:9 14:7,17 15:11 18:2,4,8,14 19:7,15,23 20:10,17,21 21:6,8,18,25 22:8,12,18,24 23:8,15,20 24:4,9,23 25:17 26:23 27:18 28:3 29:2,22 30:8,9,13,22,25 31:23 32:1,21 34:1,20 39:12,24,25 40:6 42:5,12,15 43:1,11,19,19,20,25 44:4,5,14,16 45:10,16,16 49:20 50:19 51:8,18,23 53:20 60:1 61:11,24 62:3,7 63:1,10,13,24 65:22 66:1,3,8,16 68:5,12 69:19 70:2,4,8</p> <p>pupilage [1] 47:24</p> <p>purports [1] 56:12</p> <p>purpose [7] 19:20 48:16 57:19,20 63:5,5,6</p> <p>purposes [7] 37:21 42:16 43:3,21 62:15 63:8 69:21</p> <p>pursued [1] 66:25</p> <p>put [4] 12:17 19:14 52:7 56:13</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualified [1] 42:2</p> <p>qualify [2] 43:6,7</p> <p>quarrel [1] 69:22</p> <p>question [12] 6:6 11:9 29:17 34:6 38:14 39:10 55:16 60:16 62:19 65:4 66:23 69:23</p> <p>questions [6] 5:4 33:15 43:8 47:4 61:20,21</p> <p>quick [2] 34:6 66:22</p> <p>quite [3] 19:12,16 32:3</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>race [2] 30:19 42:16</p> <p>racial [3] 35:22 36:6,18</p> <p>raise [2] 23:17 24:25</p> <p>raises [1] 24:24</p> <p>ran [1] 58:6</p> <p>rates [1] 24:24</p> <p>rational [36] 3:15 4:13,17 5:1,8,14 6:7,12 14:23 16:2,18 17:6 26:12 28:25 29:10 32:3,6 33:7,9,24 34:24 35:2,13,17 36:2,3 38:7,11 49:21 52:15,17,22 53:21 55:11 69:24 70:7</p> <p>rationale [2] 16:15,19</p> <p>re [1] 52:13</p> <p>real [1] 18:15</p> <p>really [7] 14:16 27:24 44:4 46:11 50:21 51:11 56:18</p> <p>reason [15] 6:24 11:23 13:20,20 18:13 19:23 24:8 36:2,8 45:14,17</p>	<p>54:7 68:20 69:2,14</p> <p>reasonable [1] 16:2</p> <p>reasonably [1] 4:8</p> <p>reasoning [5] 10:20 37:14 39:11,16 40:4</p> <p>reasons [5] 20:5 36:15 37:25 38:7 69:18</p> <p>REBUTTAL [3] 2:8 67:20,21</p> <p>receive [6] 3:21 4:10 14:25 31:24 39:18 50:5</p> <p>received [2] 42:9 50:3</p> <p>receiving [2] 22:24 23:1</p> <p>recent [2] 22:13 64:9</p> <p>recipients [3] 12:25 13:6,7</p> <p>recognized [4] 3:16 4:12 7:22 23:22</p> <p>recognizes [1] 28:15</p> <p>record [3] 14:5,17 36:14</p> <p>recover [1] 42:8</p> <p>reduced [1] 24:18</p> <p>reflected [2] 56:19 57:19</p> <p>refundable [2] 7:16,19</p> <p>regions [1] 62:15</p> <p>regulations [4] 38:17 39:4 47:20 63:24</p> <p>Reid [1] 9:8</p> <p>related [1] 20:8</p> <p>relates [1] 6:25</p> <p>Relations [4] 18:6 19:14,21 51:6</p> <p>relationship [9] 7:5,16,23 11:20,23 12:12 21:13 44:14 68:18</p> <p>relevant [4] 11:1 18:5 43:2 68:16</p> <p>relied [4] 33:6,10 47:7 65:6</p> <p>relocate [1] 66:3</p> <p>relying [1] 37:8</p> <p>remained [1] 42:10</p> <p>remaining [1] 57:14</p> <p>remove [1] 34:7</p> <p>repeated [2] 38:1 40:21</p> <p>repeatedly [1] 9:7</p> <p>replacing [1] 41:18</p> <p>representative [3] 66:11,12,15</p> <p>republican [3] 57:3 58:16 65:3</p> <p>require [2] 39:11,17</p> <p>required [3] 53:19 55:7 70:6</p> <p>requires [1] 46:17</p> <p>reside [3] 43:24 44:15 55:7</p> <p>resided [1] 54:18</p> <p>resident [4] 43:20 53:16 66:1,7</p> <p>residents [15] 3:18 4:10,15,21 29:2 32:20 34:20 53:19 60:1,2 64:3,6,7 69:19 70:8</p> <p>resolve [1] 47:16</p> <p>resolved [1] 57:8</p> <p>resources [1] 24:6</p> <p>respect [24] 5:20,21 6:21 10:9,10 12:20,23 17:21 18:25 21:15 25:3 28:14 31:7 33:11 46:21 49:16,20 51:25 55:17 56:20 60:3,23 63:16 70:2</p> <p>respecting [3] 33:25 47:20 63:24</p> <p>respond [1] 39:3</p>	<p>Respondent [8] 1:7,22 2:7 30:19 38:14 41:12 44:7 70:5</p> <p>rest [2] 5:21 38:5</p> <p>resting [2] 5:10 27:15</p> <p>restoring [2] 21:6,8</p> <p>restrictions [1] 32:2</p> <p>result [3] 59:11 64:20 66:11</p> <p>retroactively [1] 34:13</p> <p>return [1] 7:18</p> <p>revenue [5] 4:2 22:8 26:16 32:12 50:15</p> <p>revenues [5] 13:25 16:25 22:12 27:8,23</p> <p>reversals [1] 33:3</p> <p>reverse [1] 70:9</p> <p>review [8] 28:25 33:7 35:13 38:11 49:21 53:21 55:11 60:24</p> <p>revoked [1] 42:5</p> <p>rhetoric [2] 10:20 30:13</p> <p>Rhode [4] 56:5 58:24,25 59:10</p> <p>Rican [2] 24:9 45:10</p> <p>Ricans [9] 13:9 14:7,18 29:22 30:8,9 39:12 62:4,7</p> <p>Rico [86] 3:15,17 4:22 6:10 8:3,4,6 9:3 10:25 12:10,12,16,21 15:11 18:2,4,8,14 19:7,15,23 20:10,17,22 21:18,25 22:8,12,18,24 23:8,15,20 24:23 25:17 26:23 27:18 28:3 29:2 30:13,22,25 31:23 32:1,21 34:1,20 39:24,25 40:6 42:6,12,15 43:1,11,19,19,20,25 44:6,14,16 45:10,16 49:20 50:19 51:8,19,23 53:20 60:1 61:11,24 63:1,10,14,24 65:22 66:1,3,8,16 68:5,12 69:19 70:2</p> <p>Rico's [9] 3:18 4:10,14 21:6,8 24:4 44:4 70:4,8</p> <p>rights [2] 53:18 61:15</p> <p>ROBERTS [25] 3:3 8:12,15 22:5 31:11,14 32:22 35:6 37:1 39:7 41:8 45:13 46:7,9 58:15,20 59:1,9,14,18 64:25 65:19 66:17 67:17 70:11</p> <p>role [3] 55:17 56:16,20</p> <p>Rosario [13] 4:13 7:23 26:13 32:25 35:9 36:22 38:1 49:14,25 50:24 51:13 69:4,7</p> <p>roughly [1] 39:23</p> <p>routine [1] 28:13</p> <p>routinely [2] 18:24 30:10</p> <p>rule [2] 37:9 48:24</p> <p>rules [3] 47:10,19 63:23</p> <p>run [3] 20:16 53:7 58:5</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>SALT [1] 64:18</p> <p>same [16] 6:4 20:14,19,24 24:18 32:9 42:14 43:3 44:6,12 53:6 60:17 61:12 62:1,9,13</p> <p>satisfied [1] 5:3</p> <p>satisfies [1] 38:11</p> <p>satisfy [1] 35:2</p> <p>saying [5] 11:24 27:7 37:9 65:2 66:2</p>	<p>says [3] 51:10 55:1,5</p> <p>Schweiker [1] 29:16</p> <p>scope [1] 54:13</p> <p>screen [1] 6:14</p> <p>scrutiny [10] 29:12 30:16 35:23 36:8 42:23 43:17 53:24 54:4,6 62:11</p> <p>sea [2] 31:8 63:8</p> <p>seat [1] 57:16</p> <p>second [3] 37:17 50:23 69:1</p> <p>secondly [1] 28:11</p> <p>section [1] 58:1</p> <p>Security [6] 3:14,20 7:14 21:7 32:20 49:8</p> <p>see [8] 12:20 14:6,15 27:19 36:21 49:7 62:18,23</p> <p>seeing [1] 14:22</p> <p>seek [2] 38:18,23</p> <p>seeking [1] 21:11</p> <p>seem [5] 27:17 47:6 56:22,24 69:13</p> <p>seemed [1] 27:12</p> <p>seems [3] 11:23 26:3 49:17</p> <p>seen [2] 46:19 63:18</p> <p>SEIU [1] 22:14</p> <p>self-governance [2] 12:21 32:1</p> <p>self-governing [1] 4:7</p> <p>self-rule [1] 63:16</p> <p>Senate [2] 56:13 66:12</p> <p>senators [1] 55:24</p> <p>send [2] 39:1,23</p> <p>sense [1] 48:4</p> <p>sent [1] 15:9</p> <p>sentence [1] 18:5</p> <p>separate [2] 24:8 30:6</p> <p>series [1] 51:14</p> <p>served [1] 6:16</p> <p>setting [1] 26:20</p> <p>several [1] 9:15</p> <p>shall [1] 18:8</p> <p>share [3] 25:10,11 68:23</p> <p>shouldn't [7] 9:11,23 19:20 24:8 30:15 47:15 61:5</p> <p>show [2] 22:17,19</p> <p>showed [1] 15:6</p> <p>shown [2] 30:14 35:21</p> <p>shows [2] 14:7,17</p> <p>side [7] 4:18 7:6,8 26:17 28:10 30:24 69:1</p> <p>side's [1] 41:1</p> <p>sides [1] 46:22</p> <p>significantly [1] 40:15</p> <p>similar [2] 27:6 56:9</p> <p>similarly [1] 43:3</p> <p>simple [1] 19:12</p> <p>simply [2] 42:24 55:5</p> <p>since [2] 58:6 69:10</p> <p>situated [2] 32:11 43:3</p> <p>situation [1] 50:18</p> <p>slight [3] 56:4,4,4</p> <p>small [1] 59:15</p> <p>smaller [6] 8:3 40:10 50:17 56:5 68:22,23</p>
---	--	--	---

Official - Subject to Final Review

<p>SNAP ^[3] 25:22 40:16 46:16 Social ^[9] 3:20 4:15,24 7:14,25 26:24 32:20 36:5 49:8 society ^[1] 41:17 solely ^[1] 42:5 Solicitor ^[1] 1:18 somebody ^[1] 7:17 somehow ^[1] 61:17 someone ^[1] 44:2 Sometimes ^[6] 7:12,20 19:6,8 40:12,14 sorry ^[3] 8:10 15:25 54:23 sort ^[3] 5:25 14:11 48:11 sorts ^[1] 57:23 SOTOMAYOR ^[36] 8:10,14 11:7,16,21 12:3,6,23 13:1,3 14:3,5 15:5,20,23 23:10,14 24:3,11,14 29:1,19,22 30:2,5,8 31:9,19,20 32:5 52:8,14,21,24 53:11 66:19 sought ^[4] 25:20,24 40:19 67:6 source ^[6] 5:7,17 7:11 55:18 61:4,14 Spain ^[1] 48:21 special ^[2] 51:7 69:3 specific ^[1] 21:14 specifically ^[1] 54:1 specified ^[2] 19:1 54:23 SSA ^[1] 39:1 SSI ^[27] 4:21 13:6 16:8 18:14,15 25:22 29:16 33:13 37:20 39:12,20,22 40:8,20 41:17 42:3 43:6 45:19 50:17 51:23 52:7,10 54:14 60:18 69:12,18 70:8 stage ^[1] 51:2 stake ^[1] 40:18 standard ^[8] 5:2 26:12 34:25 41:19 49:17 51:13 53:21 60:24 start ^[1] 11:8 state ^[26] 12:11 16:4 17:15 18:12 19:8,17 27:22 44:25 45:25 46:1 47:21,22 50:14,16 54:18 55:7,24 56:5 57:12,15 59:15 64:3,4,9,11,13 state-by-state ^[1] 6:18 statehood ^[5] 28:4 48:7,17,22 68:13 statement ^[2] 49:18 61:10 statements ^[1] 31:2 STATES ^[46] 1:1,3,15 3:5 7:3 13:12 14:10,19 15:7,10,21 16:9 18:3,23 19:6 23:1,2 24:19,25 28:20,22 35:14 36:11 41:5 43:4 46:2 47:14 49:4,7 50:17 53:9,16 54:19 55:2,4,25 56:1 57:9 58:2,10 60:2 63:14,16 64:6,7 68:7 statistics ^[1] 22:7 status ^[12] 3:17 4:6 19:15 27:17 35:12,18 43:5 51:8 57:13 63:3 68:6,15 statute ^[10] 18:2 20:25 21:19 30:18 34:22 35:20 36:10 55:10 64:2,23</p>	<p>statutory ^[2] 18:21 19:5 step ^[1] 48:5 still ^[12] 6:6,13 25:4 26:22 34:23 38:14,21 39:5 66:23 67:8,11 69:2 stopped ^[1] 58:12 strained ^[1] 26:21 stream ^[1] 17:2 strict ^[1] 35:23 strong ^[1] 36:14 strongly ^[6] 64:5,6,10,11,11,12 structure ^[5] 8:2 14:15 20:13 55:18,23 structures ^[1] 56:21 subject ^[4] 28:25 29:5 35:12,23 submitted ^[2] 70:12,14 subsidy ^[2] 25:23 40:17 substantial ^[1] 14:16 subtract ^[1] 22:21 sued ^[1] 42:8 suffering ^[1] 42:3 sufficient ^[2] 37:20 38:10 suggest ^[1] 69:10 summary ^[1] 33:3 Supplemental ^[1] 3:14 support ^[1] 41:20 Suppose ^[2] 54:15,16 supposed ^[1] 14:24 SUPREME ^[2] 1:1,14 Surface ^[1] 28:21 surprised ^[1] 27:10 suspect ^[1] 29:18 sustain ^[3] 23:23 24:12,16 system ^[2] 34:3 57:11</p> <hr/> <p style="text-align: center;">T</p> <p>table ^[1] 57:16 TANF ^[1] 39:20 tapped ^[1] 4:3 targeted ^[1] 65:16 tax ^[40] 3:17,25 7:16,18,18,19 8:1,2,3 13:22 14:8,8,11,13 15:1 20:9,13 22:3 23:21,25 24:6,8 26:15,23 28:10 32:12 33:8 34:2 38:8 43:5,7 53:19 54:20 55:8,14 62:4,15 64:14 68:22 70:4 taxation ^[3] 23:23 24:15,17 taxed ^[1] 15:12 taxes ^[23] 3:24,25,25 4:1,19 13:7,15,18,19 14:9,9,18,22 18:16,17 22:21 23:17 24:19,21,22 25:4 31:25 64:10 temporary ^[6] 21:5 23:16 47:23 48:2,15 57:7 terms ^[2] 19:22 56:21 territorial ^[7] 4:3 20:7,11 24:23 35:18 57:13 68:19 territories ^[40] 5:18 6:21 8:24 19:25 27:12,16 28:14 31:7 35:14,21 36:12 39:18 40:6,9 41:5 45:4,5,6 46:21,24 47:2,5,11,13 48:17,20,20 49:2,7,12 53:10 55:3 57:7,8,14,15 58:14 67:25 68:5,11 Territory ^[30] 5:6,11,16,21 6:1,19</p>	<p>7:2,24 19:16 23:8 27:18 28:12 35:12 47:18,20,23 48:3,6,7,11,15,16 49:19 53:25 54:2,7 56:21 60:13 61:17 68:1 test ^[3] 6:9,9,12 text ^[3] 37:4 55:16 57:20 themselves ^[1] 13:8 theory ^[7] 11:16,17,19 18:11 25:16 26:2,3 there's ^[20] 7:15 12:9,10,13 15:11 18:1 25:21 26:16 29:14 30:23 32:13 34:6 36:4 37:5 49:5 50:25 53:12 62:11 64:14 69:3 thereby ^[1] 66:9 therefore ^[10] 4:4 6:21 9:4 11:3 21:10 24:18 34:2 48:22 63:4 68:22 they'll ^[1] 50:16 They've ^[1] 49:3 thinking ^[2] 19:11,11 thinks ^[1] 69:20 THOMAS ^[15] 5:5,11,23 6:8 8:9 27:11 31:16 37:4 43:9 44:1,13,19 45:12 65:20,21 Thomas's ^[1] 11:9 though ^[4] 26:3 42:9 43:23 47:6 thoughts ^[2] 9:19 56:25 three ^[2] 37:24 67:24 throughout ^[1] 32:18 ties ^[2] 30:24 32:14 today ^[1] 42:7 top ^[1] 24:20 Torres ^[14] 4:13 7:22 21:23 26:13 32:25 35:9 36:22 37:25 42:19 49:14 50:4 69:4,6,10 total ^[2] 25:10,11 totally ^[2] 20:1 63:3 towards ^[3] 47:10 48:6,17 transfer ^[1] 43:17 transferred ^[1] 44:25 transferring ^[1] 44:14 treasury ^[3] 4:3 25:11 27:23 treat ^[4] 32:6 36:1 42:25 62:14 treated ^[10] 13:11 22:18 23:3 31:1 45:11 49:6 50:19 53:25 60:7 61:11 treating ^[3] 43:23 54:7 62:12 treatment ^[14] 28:10 33:8,13 36:16 40:15 42:21 43:17,18 44:25 60:3,6 61:22 64:24 70:4 tried ^[1] 40:25 trigger ^[1] 36:7 triggered ^[1] 39:3 troubling ^[1] 31:2 true ^[12] 9:11,24 12:22 14:11 20:2,4 25:3 26:22 34:19 37:12 50:13 61:9 trust ^[2] 3:21 7:14 trying ^[2] 5:24 11:22 Tuesday ^[1] 1:11 two ^[14] 14:22 21:1 24:8 28:8 33:20 37:21 38:12 40:18 51:2 52:15</p>	<p>55:24 56:11,23 61:1 type ^[4] 26:19 38:3,11 53:1 types ^[1] 35:1</p> <hr/> <p style="text-align: center;">U</p> <p>U.S ^[4] 29:23,24 42:13 62:15 ultimately ^[1] 34:12 unable ^[1] 42:10 unanimously ^[1] 43:2 uncertain ^[1] 68:6 under ^[14] 5:1 6:1,13 11:16,17,17 15:16,23 20:17 25:23 38:17 52:22 53:23 61:16 underlying ^[2] 4:24 33:23 understand ^[9] 12:11 27:15 34:6 41:1 47:15 48:10 58:8 65:25 66:4 understood ^[2] 28:1 60:14 unemployment ^[1] 3:19 uneven ^[1] 41:18 uniform ^[2] 41:19 64:21 unincorporated ^[7] 45:5,6 48:21 49:12 54:1 55:3 58:14 union ^[2] 14:10,20 unique ^[6] 3:17 5:17 46:4,10,11,14 unit ^[1] 59:25 UNITED ^[14] 1:1,3,15 3:5 18:3,23 19:6 20:2,4 47:13 49:4 54:19 55:4 68:7 unless ^[4] 49:24 50:24 51:19 70:3 unpackage ^[1] 11:8 unrelated ^[2] 52:2,4 until ^[1] 70:3 unusual ^[1] 38:24 up ^[7] 26:8 34:3 35:9 37:7 56:14 58:10 61:20 urge ^[1] 70:9 using ^[1] 11:19</p> <hr/> <p style="text-align: center;">V</p> <p>VAELLO-MADERO ^[5] 1:6 3:5,6 42:2,25 variety ^[1] 39:13 various ^[1] 14:1 Vermont ^[6] 6:5,10 7:4 8:6 11:10,13 versus ^[3] 3:5 6:10 49:25 vice ^[1] 66:14 view ^[6] 9:21 35:17 36:19 48:19 52:22 60:15 viewed ^[1] 48:14 violated ^[1] 53:18 Virginia ^[2] 65:22 66:8 virtue ^[1] 21:19 vis-à-vis ^[1] 68:6 vis-a-vis ^[1] 3:17 voice ^[1] 30:10 vote ^[3] 56:6,7 66:13</p> <hr/> <p style="text-align: center;">W</p> <p>waiver ^[9] 38:15,18,19,21,23 66:23 67:2,10,12 wants ^[1] 26:10 warrant ^[1] 51:23</p>
---	--	--	--

Washington ^[4] 1:10,19 15:9 16:7
way ^[14] 12:17,18 26:25 29:4 37:10
 54:14,15 60:11,12 61:12 62:13 68:
 12,13,14
ways ^[2] 14:4 28:8
welcome ^[2] 5:4 43:8
welfare ^[4] 4:15,24 7:25 36:5
whatever ^[3] 45:16 50:5 60:22
whenever ^[1] 26:9
Whereupon ^[1] 70:13
wherewithal ^[1] 23:12
whether ^[17] 4:23 5:25 6:14 8:22
 14:22 29:18 31:22 34:24 35:1 45:
 25 59:23,24 61:23 62:11 67:7 68:
 10 69:23
whole ^[2] 14:15 32:24
whom ^[1] 13:15
will ^[4] 3:3 34:12 57:17 63:17
win ^[1] 49:24
withdraw ^[1] 67:6
within ^[2] 47:21 55:4
without ^[7] 10:8 37:10 46:5 48:6
 57:15,16 63:14
women ^[1] 44:21
wonder ^[2] 16:2 65:5
wondered ^[1] 50:12
wondering ^[1] 26:1
word ^[1] 18:2
words ^[5] 19:13 44:23 45:16 62:9,
 21
work ^[1] 42:10
worked ^[1] 19:12
Wyoming ^[1] 50:14

Y

year ^[1] 9:6
years ^[2] 22:13 64:9
York ^[6] 1:21,21 30:21 42:4 44:3
 56:8