

# SUPREME COURT OF THE UNITED STATES

---

IN THE SUPREME COURT OF THE UNITED STATES

-----  
JOHN H. RAMIREZ, )  
 )  
                   Petitioner, )  
 )  
                   v. ) No. 21-5592  
 )  
BRYAN COLLIER, EXECUTIVE DIRECTOR, )  
 )  
TEXAS DEPARTMENT OF CRIMINAL )  
 )  
JUSTICE, ET AL., )  
 )  
                   Respondents. )  
-----

Pages: 1 through 106  
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](http://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

- - - - -

JOHN H. RAMIREZ, )

Petitioner, )

v. ) No. 21-5592

BRYAN COLLIER, EXECUTIVE DIRECTOR, )

TEXAS DEPARTMENT OF CRIMINAL )

JUSTICE, ET AL., )

Respondents. )

- - - - -

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 11:17 a.m.

1 APPEARANCES:  
2 SETH KRETZER, ESQUIRE, Houston, Texas; on behalf of  
3 the Petitioner.  
4 ERIC J. FEIGIN, Deputy Solicitor General,  
5 Department of Justice, Washington, D.C.; for the  
6 United States, as amicus curiae, in support of  
7 neither party.  
8 JUDD E. STONE, II, Solicitor General, Austin, Texas;  
9 on behalf of the Respondents.  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	SETH KRETZER, ESQ.	
4	On behalf of the Petitioner	4
5	ORAL ARGUMENT OF:	
6	ERIC J. FEIGIN, ESQ.	
7	For the United States, as amicus	
8	curiae, in support of neither party	45
9	ORAL ARGUMENT OF:	
10	JUDD E. STONE, II, ESQ.	
11	On behalf of the Respondents	76
12	REBUTTAL ARGUMENT OF:	
13	SETH KRETZER, ESQ.	
14	On behalf of the Petitioner	103
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

P R O C E E D I N G S

(11:17 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument next today in Case 21-5592, Ramirez versus Collier.

Mr. Kretzer.

ORAL ARGUMENT OF SETH KRETZER

ON BEHALF OF THE PETITIONER

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

Across Texas's 572 executions spanning four decades, the State's policy was to allow a spiritual advisor to be present in the execution chamber to lay hands on a condemned inmate and to audibly pray.

In 2019, that long-standing practice changed suddenly when the State chose to forbid any religion advisor from the execution chamber. Ramirez and other inmates fought to preserve their religious exercise rights to spiritual advisor presence, and while these challenges proceeded, the State withdrew Ramirez's 2020 execution date in exchange for withdrawal of his Section 1983 petition.

Six months later, the State reset

1 Ramirez's execution, followed two months after  
2 that by a reversion to allowing in chambers  
3 spiritual advisor presence. The State then  
4 waited to reveal -- months more to reveal first  
5 a ban on touch; only later, it banned the writ  
6 -- spoken word.

7           Either the State merely delayed  
8 revealing these new restrictions or, worse,  
9 added them piecemeal while Ramirez sought  
10 redress through the grievance system. Either  
11 way, the State's actions rendered that system  
12 unavailable under the PLRA. The State now  
13 argues that Ramirez's resort to litigation came  
14 somehow far too late but also six days too  
15 early.

16           TDCJ's own history and practices, as  
17 well as the current approaches of the federal  
18 government and states like Alabama, prove that  
19 Texas's restrictions on touch and prayer are not  
20 the least restrictive means of furthering its  
21 proffered execution interests.

22           Mr. Ramirez should prevail as a matter  
23 of law under RLUIPA. If the Court determines,  
24 however, that the State should be allowed  
25 another chance to attempt to meet its burden,

1 this Court should remand for an evidentiary  
2 hearing in which both sides may develop the  
3 record.

4 I welcome the Court's questions.

5 JUSTICE THOMAS: Counsel, has Mr.  
6 Ramirez always requested that hands be laid on  
7 him?

8 MR. KRETZER: The answer to your  
9 question, Justice Thomas, is that is Mr.  
10 Ramirez's religious belief. There is a sentence  
11 in the petition I filed in the year 2020 which  
12 turned out, in light of facts ultimately learned  
13 by me, to have been incorrect. That was only on  
14 file for two days before the State asked me to  
15 dismiss it without prejudice.

16 When the matter was refiled, and I had  
17 an affidavit from Pastor Moore, it was reflected  
18 appropriately. It would have been amended at  
19 the time.

20 JUSTICE THOMAS: Well, I mean, that's  
21 an affidavit from Pastor Moore.

22 MR. KRETZER: Yes.

23 JUSTICE THOMAS: We're talking about  
24 Mr. Ramirez now.

25 If we think that Mr. Ramirez has

1 changed his request a number of times and has  
2 filed last-minute complaints that, as -- and  
3 that is -- and -- and -- and if we assume that  
4 that's some indication of gaming the system,  
5 what should we do with that with respect to  
6 assessing the sincerity of his beliefs?

7 MR. KRETZER: I think, Justice Thomas,  
8 you can assess the sincerity of Mr. Ramirez's  
9 belief by looking at the best evidence that  
10 there is in the record, which is a seriatim, one  
11 handwritten, signed grievance after another  
12 repeatedly requesting the same thing --

13 JUSTICE THOMAS: Yeah, but I'm --

14 MR. KRETZER: -- the ministrations of  
15 Pastor Moore.

16 JUSTICE THOMAS: -- but you have  
17 people filing grievances --

18 MR. KRETZER: Yes.

19 JUSTICE THOMAS: -- in non-religious  
20 contexts, and that's not evidence of their  
21 religious beliefs. It's evidence that,  
22 obviously, they don't -- obviously don't want to  
23 be executed. And they -- and in some instances,  
24 they're gaming the system.

25 I guess my question is, can one's



1 repeated filing of complaints, particularly at  
2 the last minute, not only be seen as evidence of  
3 gaming of the system but also of the sincerity  
4 of religious beliefs?

5 MR. KRETZER: Well, Justice Thomas, I  
6 can certainly see how a hypothetical inmate  
7 perhaps filing a last-minute such request might  
8 so be construed. I can only speak as Mr.  
9 Ramirez's attorney, and I do not play games.  
10 There's no dilatory tactics in this case.

11 When the State set the execution date  
12 in the year 2020, I filed the 1983 lawsuit, and  
13 the State asked me to dismiss it without  
14 prejudice. When the State filed again -- got a  
15 new death warrant in the year 2020, it was only  
16 -- Mr. Ramirez immediately filed grievances.  
17 There was no waiting there. And the State  
18 responded by handing him a copy of this new  
19 policy they promulgated on April 21, 2021.

20 Mr. Ramirez has always, Justice  
21 Thomas, filed these grievances within days of  
22 learning -- in that case, he learned from the  
23 director of chaplaincy that there would be this  
24 no touch requirement that was suddenly imposed  
25 in the year 2021.

1                   And yet, it was the State that  
2                   delays -- there is, I think, a very alarming  
3                   intention you see in the Riley affidavit the  
4                   State lodged in their materials where she said  
5                   that as the execution date gets quicker, the  
6                   State regards these grievances and tries to  
7                   process them all the faster.

8                   That's not at all what happened here,  
9                   Justice Thomas. Mr. Ramirez filed his request  
10                  in -- Level 2 grievance in July of 2021. The  
11                  State sat on this for six weeks, until we were  
12                  right on the cusp of the execution.

13                  I would contend, if there's any delay  
14                  here, Justice Thomas, it's on the part of the  
15                  State. There's no insincerity as to Mr.  
16                  Ramirez's consistently stated beliefs, and Mr.  
17                  Ramirez has repeatedly asked as quickly as  
18                  possible for the least -- relief, as he is  
19                  required to, from the prison system.

20                  JUSTICE THOMAS: Thank you.

21                  CHIEF JUSTICE ROBERTS: Counsel, what  
22                  is your client's position on -- is it touch  
23                  anywhere on his body that will satisfy his  
24                  religious needs?

25                  MR. KRETZER: Yes, that's correct.

1 Pastor Moore, when he lays his hands on the --  
2 his congregants, can touch anywhere on the body.  
3 So, for example, Pastor Moore can touch Mr.  
4 Ramirez's foot, an extremity on the complete far  
5 end of the body from the point at which the IV  
6 line will be inserted into his arm. So, yes,  
7 that would satisfy the religious exercise.

8 CHIEF JUSTICE ROBERTS: How would you  
9 analyze the case -- is it -- would it be any  
10 different than how you're analyzing it, in your  
11 case, if the religious conviction were somewhat  
12 different and the hand had to be on the  
13 forehead, on the heart, something like that?

14 MR. KRETZER: I can certainly see how  
15 it might be a little closer, and yet, in such a  
16 religious exercise, if that was, in fact, what  
17 the religious exercise generally was, such as we  
18 have with Pastor Moore and his congregants, then  
19 touching on the other side of the body I still  
20 don't think would present a problem because  
21 there's no touch anywhere near the IV.

22 For example, if the prison -- the IV  
23 is in one arm and the prison doctor's ultimately  
24 to touch the other arm to monitor pulse, there  
25 would be no problem with Pastor Moore touching

1 that other arm. Similarly, with the head -- as  
2 the heart. These are still places pretty far  
3 removed, not as far away as the foot that I  
4 mentioned, but still pretty far removed from the  
5 point at which that IV will be injected.

6 CHIEF JUSTICE ROBERTS: Well, I don't  
7 think either the hand or the heart is very far  
8 removed from the IV injection site.

9 MR. KRETZER: They're obviously closer  
10 to the IV injection site than the foot is. And  
11 yet, I think the important point, Chief, Mr.  
12 Chief Justice, is that under RLUIPA, the courts  
13 are not allowed to rewrite the religious  
14 exercise for the inmate so as to accommodate  
15 their religious exercise, as that term is  
16 narrowly defined under RLUIPA, is that as the  
17 inmate and his religious precepts dictate.

18 Mr. Ramirez does not need any place  
19 other on the body even closer to the IV site to  
20 be touched, just the same as Mr. Ramirez's  
21 religious exercise is not satisfied by what the  
22 State proposes.

23 CHIEF JUSTICE ROBERTS: Right. I'm --  
24 I'm trying to get a sense of your stand -- the  
25 standard of review as applied in this situation

1 and how, I mean, would -- what would the  
2 analysis be if, for example, his religious  
3 beliefs required three -- three people to be  
4 present?

5 MR. KRETZER: Yes. The -- just -- Mr.  
6 Chief Justice, RLUIPA is specifically designed  
7 to take these matters of religious exercise up  
8 on an inmate-by-inmate basis.

9 This Court has said in several cases  
10 the classic rejoinder of bureaucrats throughout  
11 history, if I make an exception for you, I have  
12 to make it for everyone. So no exceptions.

13 CHIEF JUSTICE ROBERTS: It's very  
14 eloquent.

15 (Laughter.)

16 MR. KRETZER: It was not my words.  
17 The -- the -- the logic being that this does  
18 have to be taken up on an inmate-by-inmate  
19 basis. If some inmate had a genuinely held,  
20 sincere religious observance and it was to be  
21 established that this needed to be done at a  
22 particular point in the body, I guess that might  
23 be a different case.

24 But, to answer your question directly,  
25 the standard is exactly that from the statute,

1 to take it up on an inmate-by-inmate --

2 JUSTICE KAVANAUGH: That'll --

3 MR. KRETZER: -- basis instead  
4 of categorically.

5 JUSTICE KAVANAUGH: -- that'll be the  
6 next case, and then there will be the next case  
7 after that and the next case after that where  
8 people are moving the goalposts on their claims  
9 in order to delay executions. At least that's  
10 the State's concern.

11 And kind of four issues you need to  
12 run through. Sincerity, Justice Thomas's  
13 questions get at that. Substantial burden. It  
14 can't just be a burden. It has to be a  
15 substantial burden. And then too I want to ask  
16 about compelling interest, the State's  
17 compelling interest and least restrictive means.

18 So let me just focus on the compelling  
19 interest because I think the State's compelling  
20 interest here is challenging for us to analyze  
21 because I think it is in reducing risk, risk of  
22 something going wrong in the execution chamber.

23 And I think the State is saying, we  
24 want the risk to be zero of a problem. That's  
25 when they were excluding everyone following our

1 equal treatment principle that we enshrined in  
2 -- in Murphy or enforced.

3 MR. KRETZER: Okay.

4 JUSTICE KAVANAUGH: So we want the  
5 risk to be zero.

6 Now that it looks like, okay, well,  
7 there has to be someone allowed in the execution  
8 room, a religious minister, we want the risk to  
9 be as close to zero as possible of something  
10 going wrong.

11 Why isn't that a compelling interest  
12 when the State says we want the risk to be as  
13 close to zero as possible, and, if we allow  
14 touching and -- and the like, the risk  
15 increases?

16 And you might say: Ah, there's really  
17 still not too much of a risk, it's okay. But  
18 the State is saying: No, we want the risk to be  
19 low.

20 How do we as a Court say, no,  
21 actually, State, your compelling interest in  
22 reducing the risk to close to zero, it's not  
23 good enough, it's not compelling? How do we do  
24 that?

25 MR. KRETZER: Yes, Justice Kavanaugh.

1 My answer is somewhat different than as you  
2 phrased it at the end of the question.

3 I do not dispute at all the State's  
4 palpable interest in having a secure  
5 environment. Prisons are all about risk  
6 management.

7 JUSTICE KAVANAUGH: It's about risk.

8 MR. KRETZER: Yes, I understand.

9 JUSTICE KAVANAUGH: It's about degree  
10 of risk.

11 MR. KRETZER: Yes.

12 JUSTICE KAVANAUGH: And we all agree  
13 in the security, and I appreciate your answer on  
14 that, but the State is saying we want the risk  
15 to be really close to zero of a problem.

16 And you're saying you can do this and  
17 without a problem, and the State's saying that  
18 increases the risk of a problem. And I don't  
19 think you can dispute that. It does increase  
20 the risk of a problem some. But you can -- you  
21 might want to respond to that.

22 MR. KRETZER: My answer, Justice  
23 Kavanaugh, would be this: I mean, risk, as a  
24 statistical matter, is based in empirical data.  
25 We have a vast empirical dataset of hundreds of



1 executions --

2 JUSTICE KAVANAUGH: That --

3 MR. KRETZER: -- spanning four  
4 decades.

5 JUSTICE KAVANAUGH: I'm sorry, that  
6 doesn't -- that doesn't move me at all because  
7 those were state chaplains who were officials of  
8 the state, which was the whole point, right?  
9 That's what created the equal treatment problem  
10 to begin with. Those were largely Christian,  
11 right?

12 MR. KRETZER: Yes.

13 JUSTICE KAVANAUGH: And that created  
14 the equal treatment problem. So that doesn't  
15 work.

16 What they're worried about is someone  
17 from the outside coming in, and you never know.  
18 And it's a very fraught -- Judge Higginbotham's  
19 concurrence is a very fraught situation with a  
20 lot of potential for issues. At least the State  
21 thinks so.

22 And I don't know how we, sitting here  
23 -- we haven't -- we're not in the execution  
24 room, we don't know -- how we can question the  
25 State's interest in keeping the risk of a

1 problem close to zero.

2 I think you're saying, ah, the risk  
3 isn't that much. But how do we analyze that?

4 MR. KRETZER: Well, the answer,  
5 Justice Kavanaugh, is that while I certainly  
6 understand the State's logic, we hire the  
7 prison-employed chaplains, ergo, we could fire  
8 them or not renew their contract, there are  
9 substantial laws on the books in every state  
10 criminalizing interference with a law  
11 enforcement officer in the disposition of his  
12 duties.

13 There is not a single example in  
14 history where any spiritual advisor -- and the  
15 state allowed these, you know, as a matter of  
16 course -- has ever interrupted a proceeding.

17 What the State can do, to answer your  
18 question directly, Justice Kavanaugh, is exactly  
19 that which Pastor Moore did. He went and drove  
20 hundreds of miles to visit with these folks at a  
21 particular location. He signed a penalty-backed  
22 pledge.

23 We know the State believes that Pastor  
24 Moore was safe to be in the execution chamber.  
25 On September 8, the execution leading up to when

1 this Court granted the stay, he sat there all  
2 day. We know the State --

3 JUSTICE KAVANAUGH: Can I -- that's  
4 about the facts of this case, and I understand  
5 it, but I was asking a case -- we're going to --  
6 you know, if we rule in your favor here, this is  
7 going to be a heavy part of our docket for years  
8 to come, would be my sense given the history of  
9 death penalty litigation, which we'll -- we'll  
10 deal with as it comes.

11 But, on least restrictive  
12 alternatives, I want to ask about that. Your  
13 basic point on that is, if another state does  
14 it, that helps show that there's a less  
15 restrictive alternative.

16 And I guess what if a state allows, to  
17 the -- use the Chief Justice's example, multiple  
18 people in the room? Does that mean every state  
19 has to do it?

20 MR. KRETZER: No.

21 JUSTICE KAVANAUGH: If the -- your  
22 answer is no to that?

23 MR. KRETZER: Okay. Yes, my answer to  
24 that would be no. Under RLUIPA --

25 JUSTICE KAVANAUGH: Okay. And how

1 about if another state allows bread and wine in  
2 the execution room right before the execution?  
3 Does every state have to do that because it's a  
4 less restrictive alternative?

5 MR. KRETZER: No, there is not a, I  
6 don't know, greatest common denominator or least  
7 common denominator.

8 JUSTICE KAVANAUGH: And if -- and if  
9 another state allows the minister to kind of hug  
10 the inmate, does every other state have to do  
11 that?

12 MR. KRETZER: No. One state doing a  
13 first mover does not calibrate a national  
14 standard ipso facto.

15 JUSTICE KAVANAUGH: And why -- how  
16 could we as a Court say actually two people no,  
17 one person yes? Like, what neutral principle  
18 are we relying on there when other states do it  
19 and we say, well, other states do it, but that's  
20 not the least restrictive alternative?

21 MR. KRETZER: Justice Kavanaugh, I  
22 don't think there will be a micromanagement  
23 problem. No one is asking federal courts to  
24 micromanage.

25 I think the issue will remain that you

1 will still have most recent national standards  
2 as demonstrated -- maybe not national  
3 standard -- empirical basis, what we see the  
4 federal government did just last year, and the  
5 State of Alabama has changed its rules just in  
6 the last six months and carried out such an  
7 execution only two weeks ago.

8           And I -- perhaps I could point out the  
9 State of Alabama actually affords more religious  
10 exercise in that execution of Willie Smith --

11           JUSTICE KAVANAUGH: That's --

12           MR. KRETZER: -- than Mr. Ramirez's  
13 question.

14           JUSTICE KAVANAUGH: -- you're making  
15 the argument that I'm -- that I'm a bit  
16 concerned about. And you -- you make strong  
17 arguments, so I'm not -- I'm just testing them  
18 here.

19           The argument I'm concerned about is,  
20 once you get one state doing this, every other  
21 state has to follow. And then, when you get the  
22 two -- you know, I've already -- already said  
23 it. And you citing Alabama from two weeks ago,  
24 that's going to happen over and over over the  
25 next few years, I would imagine -- maybe not --

1 where states are being sued by inmates in the  
2 last days before an execution saying: Another  
3 state does it different. I want this.

4 Now how do we deal with that?

5 MR. KRETZER: Sure. Under RLUIPA, a  
6 state certainly can get to some point where they  
7 have inhibitions greater than perhaps their  
8 sister states. But, if a state wants to do  
9 that, they would have to show evidence in the  
10 record when the burden shift. After the  
11 plaintiff satisfied his first prong under  
12 RLUIPA, they would have to show that we studied  
13 this issue or we come to a conclusion, an  
14 informed conclusion, that we need to reach a  
15 different result.

16 In the Ramirez case, there was no  
17 evidence of risk put into the record. If a  
18 state like Texas and if this Court --

19 JUSTICE KAVANAUGH: Well, the risk is  
20 inherent in having another person in the room, I  
21 think, but you're not saying we can -- if we  
22 rule for you in this case, the concern about  
23 future litigation would go away if you're saying  
24 there's kind of a bright line because there's a  
25 historical practice of audible prayer and

1 touching, but we're not looking for anything  
2 else in the execution room.

3 But you can't say that, can you?

4 MR. KRETZER: I don't know that I --  
5 that I would agree with that, Justice Kavanaugh,  
6 respectfully, because I think perhaps what the  
7 State has done here is recreated, they've come  
8 full circle, back to the same issue which  
9 impelled the opinion in Murphy, by which I mean,  
10 if TDCJ chaplains, those employees, are able to  
11 touch and pray, and now there's a new rule the  
12 State has so told us in -- in a seriatim fashion  
13 last summer that the outside non-TDCJ employees  
14 are not allowed to touch and pray, now you have  
15 a new form of denominational discrimination.

16 JUSTICE ALITO: But out -- over the  
17 last couple of years, we have had a whole series  
18 of stay applications that present issues that  
19 are related to the one that is presented here,  
20 and each one has been different. Like virtually  
21 every application for a stay of execution, they  
22 come to us at the last minute, the day before,  
23 sometimes the day of. And what you have said so  
24 far suggests to me that we can look forward to  
25 an unending stream of variations.

1                   So you would be satisfied -- you have  
2                   told us you would be satisfied if Pastor Moore  
3                   touches Mr. Ramirez's foot. But what's going to  
4                   happen when the next prisoner says that I have a  
5                   religious belief that he should touch my knee?  
6                   He should hold my hand? He should put his hand  
7                   over my heart? He should be able to put his  
8                   hand on my head? We're going to have to go  
9                   through the whole human anatomy with a series of  
10                  -- of cases.

11                  And you haven't said anything about  
12                  what you want exactly with respect to audible  
13                  prayer. What type of prayer? When? How loud?  
14                  What exactly do you want to start out with?

15                  MR. KRETZER: Yes, let me touch --  
16                  Justice Alito, start with audible prayer. Yes,  
17                  prayer, as we -- should be non-disruptive,  
18                  audible prayer in the ordinary style of how  
19                  people pray.

20                  When, to answer your question  
21                  directly, Justice Alito, is after the in -- the  
22                  -- the pastor and the warden come in together  
23                  after the drug team has already inserted the IV  
24                  line. So --

25                  JUSTICE ALITO: And you want it



1 throughout the execution? You want it up to the  
2 point where the prisoner loses consciousness or  
3 dies?

4 MR. KRETZER: Yes. The pastor can  
5 step away. What they agreed to do in Alabama is  
6 before -- after the prisoner passes, when the  
7 conscious -- the pastor steps away when the  
8 unconsciousness assessment is performed and then  
9 remains when the drapes are closed and removal  
10 and so forth.

11 So the prayer, to answer your  
12 question, Justice Alito, yes, would be after the  
13 -- the lethal injection begins and then until --

14 JUSTICE ALITO: Okay. Well, that's --

15 MR. KRETZER: -- the point in time he  
16 passes in a non-disruptive way.

17 JUSTICE ALITO: -- that's helpful.

18 So can you -- can you say anything to  
19 us to relieve us of the fear that we are going  
20 to get an unending stream of variations about  
21 both of these things, about touching different  
22 parts of the body, about the type of prayer, the  
23 -- the singing, chanting, number of people in  
24 the room? Are we just -- is this just what's  
25 going to happen?

1           The lower courts are going to have to  
2 deal with this on the eve of every execution,  
3 and we're going to get these at the very last  
4 minute and have to decide them. The difference  
5 between the -- the factual information presented  
6 to us in these briefs and what we received in  
7 all of the previous stay applications is like  
8 night and day.

9           MR. KRETZER: Well, Justice Alito, I  
10 could talk about timing, and then I'll switch in  
11 just a second.

12           With regard to timing, in Mr.  
13 Ramirez's case, the 1983 petition was filed a  
14 month in advance of the execution date, and the  
15 district judge entered a scheduling order when  
16 the motion for stay would be filed, the  
17 response/reply. So all those proceeded very  
18 much apace, and the Fifth Circuit ruled within a  
19 few days. So everything proceeded here on a  
20 listed schedule.

21           When we go --

22           JUSTICE ALITO: Well, how far in  
23 advance of the execution did it come here?

24           MR. KRETZER: The Fifth Circuit, I  
25 believe their opinion issued on Labor Day. The

1 Court was obviously -- early that morning. I  
2 wrote the stay application the following day.  
3 The next day, the State responded, and I  
4 followed the reply that same day. So it all --

5 JUSTICE ALITO: And when was the --  
6 how far in advance of the execution day was  
7 that?

8 MR. KRETZER: I believe the execution  
9 date's a Tuesday, the -- the 8th was a Tuesday  
10 -- I don't have a calendar in front of me -- but  
11 I believe that was correct. So I filed -- no,  
12 it was the 7th. So I -- the Fifth Circuit  
13 opinion issued on the 6th, the stay application  
14 was filed on the 7th, the State responded in the  
15 middle of the day of the 8th, and the reply was  
16 filed later that same day.

17 JUSTICE ALITO: Well, we get these at  
18 the very last minute, and we're going to  
19 continue to get them at the very last minute.

20 MR. KRETZER: Well, I don't know that  
21 -- Justice Alito, that you necessarily -- I -- I  
22 don't know that you necessarily will get them at  
23 the last minute. I think it has to be  
24 remembered that Mr. Ramirez, starting back when  
25 his execution was first scheduled, started to

1 file Step 1, Step 2 grievances. Then the State  
2 changed their policy. The State then proceeded  
3 to list these restrictions in seriatim in this  
4 piecemeal fashion that came from a letter from  
5 the general counsel and so forth.

6 If the State is so worried about these  
7 things coming up in the last minute, all they  
8 have to do is actually tell us what the rules  
9 are. In other words, there's not a single thing  
10 in the prison manual that anyone can see or in  
11 the form that Pastor Moore was told to sign that  
12 says what he could or could not do. If the  
13 State would simply tell us what they want  
14 instead of having -- make us try to figure out  
15 by guessing, these would not --

16 JUSTICE ALITO: All right. Well, we  
17 can --

18 MR. KRETZER: -- present so late.

19 JUSTICE ALITO: -- you know, you and  
20 -- and -- and Texas can argue about who did what  
21 when and all of that, and it's relevant to some  
22 of the issues.

23 But, to get back to my point about the  
24 unending stream of variations, I -- I take it  
25 what you said is, well, each one of these is

1 different, factually different; prisoners have  
2 different religious beliefs; each one has to be  
3 analyzed separately.

4 MR. KRETZER: Well --

5 JUSTICE ALITO: Different states,  
6 different execution chambers, different sizes,  
7 different religious beliefs, each one will  
8 present its own unique question.

9 MR. KRETZER: Justice Alito, I'm sorry  
10 --

11 JUSTICE ALITO: Maybe that's the way  
12 it has to be.

13 MR. KRETZER: Justice Alito, I mean,  
14 I'm certainly no expert on religion. I don't  
15 know all the religions in the world, but I think  
16 similar concerns voiced in this Court in the  
17 early Religious Freedom Restoration Act cases,  
18 in the Church of Lukumi and so forth, no -- even  
19 in the Holt v. Hobbs case, the question was  
20 specifically asked: Are these issues going to  
21 bubble up one half-an-inch beard at a time?

22 They're not going to present in that  
23 order. I don't think any religion has striated  
24 that there must be a touch on this particular  
25 piece of the body. What we're talking about

1 here is a laying-on-of-hands doctrine that the  
2 minister does with all of his congregants as  
3 they're nearing the point in time that they die.

4 If some other inmate has a  
5 well-established, sincerely held belief and that  
6 can be -- bear their burden under RLUIPA on the  
7 first prong, then perhaps that will be or it  
8 will not be their --

9 JUSTICE ALITO: Well, do you think in  
10 -- in RLUIPA a court can say you are whatever,  
11 you are a -- a Catholic, and so I am going to  
12 see what the teaching of the Catholic Church is  
13 on this question? Is that the way this is --  
14 this is resolved? Or --

15 MR. KRETZER: No.

16 JUSTICE ALITO: -- can the prisoner  
17 say, well, yes, I'm a Catholic, but I have my  
18 own personal beliefs about this? Would we not  
19 have to honor that person's own sincere,  
20 individual, perhaps unique religious beliefs?  
21 Isn't that the way RLUIPA works?

22 MR. KRETZER: To answer your question,  
23 the first part of your question, Justice Alito,  
24 no, what you said is exactly opposite to RLUIPA.  
25 No, you cannot inquire as to the centrality or

1 ultimate correctness theologically of a --

2 JUSTICE ALITO: Right.

3 MR. KRETZER: -- sincerely held  
4 religious belief. I think the point was made in  
5 the Tenth Circuit in Yellowbear that the  
6 question for federal district courts in that  
7 first prong of RLUIPA is really just, is the  
8 inmate trying to perpetrate a fraud on the  
9 court? Are they lying to try to get some  
10 benefit they would otherwise not be entitled to  
11 in the secular context?

12 Once they do that, the burden shifts  
13 to the state. RLUIPA is written this way. And  
14 all the equities, the victims and so forth, were  
15 all taken into account and cognized by Congress  
16 in the statute passed nearly unanimously over 20  
17 years ago.

18 CHIEF JUSTICE ROBERTS: Thank you,  
19 counsel.

20 Justice Thomas, anything further?

21 JUSTICE THOMAS: No, Chief.

22 CHIEF JUSTICE ROBERTS: Justice  
23 Breyer?

24 Justice Alito? No?

25 Justice Sotomayor?

1                   JUSTICE SOTOMAYOR: Counsel, under the  
2 Turner standard, a generalized security interest  
3 would have been enough to defeat a claim.  
4 RLUIPA changed that, and whether we like it or  
5 not, it requires the state to address each  
6 individual person's need. And a risk analysis  
7 that talks generally about a compelling need is  
8 not -- not the standard that RLUIPA sets. The  
9 standard is, is something that you're proposing  
10 going to interfere with this execution?

11                   Now I looked at the pictures that I  
12 was provided, and the other side gave a bunch of  
13 reasons. They said it'll block the view. But I  
14 saw the picture of the prison, and the window at  
15 least by the foot doesn't block the view. So  
16 where you want to stand is not going to block  
17 the view.

18                   They have fears that a unknown pastor  
19 could -- and this goes to Justice Kavanaugh's  
20 concern -- that an unknown pastor could go to  
21 the IV line, could go to the manacles, et  
22 cetera. But the manacles are nowhere near  
23 there. The minister has a person standing with  
24 him.

25                   I'm assuming that your argument is



1 that every security risk they present is just  
2 not presented by these facts, correct?

3 MR. KRETZER: Correct, yes.

4 JUSTICE SOTOMAYOR: And going back to  
5 the response that Justice Kavanaugh and Justice  
6 Alito have expressed, it's not us that have to  
7 worry about the individualized treatment.  
8 Congress has told us that that's what  
9 petitioners are entitled to, correct?

10 MR. KRETZER: Yes.

11 JUSTICE SOTOMAYOR: And prisons have  
12 to work in good faith to accommodate those  
13 needs?

14 MR. KRETZER: They're supposed to,  
15 yes.

16 JUSTICE SOTOMAYOR: They waited a  
17 month to tell you -- six weeks to tell you they  
18 wouldn't permit the touching or praying. That's  
19 not working in good faith is what you're saying?

20 MR. KRETZER: I never heard, Justice  
21 Sotomayor, a word about no prayer until I got  
22 that letter on August 19.

23 JUSTICE SOTOMAYOR: All right. So  
24 they can say what it is early and tell people,  
25 if you have an objection, come in and tell us

1 what you need within a certain amount of time,  
2 correct?

3 MR. KRETZER: Yes.

4 JUSTICE SOTOMAYOR: That's what you've  
5 said?

6 MR. KRETZER: Yes.

7 JUSTICE SOTOMAYOR: So they can avoid  
8 last-minute requests by simply setting  
9 reasonable guidelines, correct?

10 MR. KRETZER: They could, yes.

11 JUSTICE SOTOMAYOR: And acting  
12 expeditiously?

13 MR. KRETZER: Yes.

14 JUSTICE SOTOMAYOR: They're the ones  
15 who waited close to the execution date, correct?

16 MR. KRETZER: Yes, Justice --

17 JUSTICE SOTOMAYOR: That's your point?

18 MR. KRETZER: Yes.

19 JUSTICE SOTOMAYOR: All right. Thank  
20 you, counsel.

21 CHIEF JUSTICE ROBERTS: Justice Kagan?  
22 Justice Gorsuch, anything further?  
23 Justice Kavanaugh?

24 JUSTICE KAVANAUGH: I do have several  
25 questions. Judge Higginbotham said in his

1 concurring opinion: "While lethal injection may  
2 seem straightforward, the actual administration  
3 of the drugs and pronouncement of death is both  
4 delicate and fraught with difficulties, as  
5 evidenced by the responses of regulatory bodies  
6 and the experience of this Court with mishaps in  
7 execution by lethal injection.

8 "In short, the complexities attending  
9 the administration of drugs in the execution  
10 procedure and its failures expose the risks of  
11 non-medical hands on the body of a person  
12 undergoing the procedure."

13 Why do you think Judge Higginbotham's  
14 wrong?

15 MR. KRETZER: Well, it's not that I  
16 think he's wrong, Justice Kavanaugh. These --  
17 Pastor Moore is definitionally not a doctor.  
18 His hands would be on the body. So, in that  
19 sense, his -- you know, it would be non-medical  
20 hands on the body.

21 The way Judge Higginbotham construed  
22 it, though, was no hands means no hands. It's a  
23 direct quote, I believe, from his opinion. And  
24 yet, we know that that would not be true under  
25 the State's own logic with a TDCJ chaplain who

1 has touched the -- I believe there's testimony  
2 that he touched the leg, the calf, so forth, for  
3 years.

4 JUSTICE KAVANAUGH: And that goes to  
5 the risk question that I talked about earlier  
6 because that person has been an employee.

7 But second question. On sincerity, to  
8 follow up on Justice Alito's questions, this is  
9 a potential huge area of future litigation  
10 across a lot of areas, sincerity of religious  
11 claims, and how do we -- how do we question  
12 those?

13 Some things that people have talked  
14 about are the incentives someone might have to  
15 be insincere, behavioral inconsistencies --  
16 Justice Thomas's questions got at that with the  
17 complaint -- the religious tradition of the  
18 practice.

19 Are those -- what do we look at to  
20 check sincerity? Because that's a very awkward  
21 thing for a judge to do to say: I want to look  
22 into the sincerity of your claim, but our case  
23 law says we must do that.

24 MR. KRETZER: Well, Justice --

25 JUSTICE KAVANAUGH: How do we do that?

1                   MR. KRETZER:  Yes, Justice Kavanaugh.  
2     I would argue, yes, while federal judges, you  
3     know, obviously would be very worried to look at  
4     the religiosity, the correctness of the  
5     religious aspects of the claim, federal district  
6     courts judge sincerity, in a manner of speaking,  
7     all the time.  Credibility determinations are  
8     made by district judges in every motion to  
9     suppress.

10                  JUSTICE KAVANAUGH:  It's a -- it's a  
11     little more awkward, I think you would admit,  
12     for a judge to tell someone you're claiming that  
13     you believe this is a matter of religion, but I  
14     think you're lying.  That's -- that's hard to  
15     do.  Do you agree with that?

16                  MR. KRETZER:  Well, I don't know that  
17     I do, Justice Kavanaugh.  I mean, district  
18     judges have to, unfortunately, say they believe  
19     in a suppression hearing, for example, a case  
20     agent or any other manner of law enforcement  
21     witness is not telling the truth.

22                  Many experts testify in white collar  
23     cases on causality.  Expert people have to  
24     testify about things all the time in a district  
25     court on a Daubert challenge, for example, and

1 has to decide whether or not it's sincere.

2           Maybe not sincere as to religious  
3 beliefs to be sure. It might be a somewhat more  
4 rare circumstance. But those sort of  
5 credibility determinations are made on a daily  
6 basis in federal courts in this country.

7           JUSTICE KAVANAUGH: Okay. Two more.  
8 Sorry, I'll try to be succinct.

9           Justice Sotomayor is quite right in  
10 saying that Congress put this standard in place,  
11 the strict scrutiny standard. I think the  
12 difficulty of applying it's one of the reasons  
13 some of us in -- in *Fulton* had concerns about  
14 what might replace *Smith*.

15           And this case is a good illustration,  
16 I think, of the problems that can arise trying  
17 to apply a strict scrutiny standard. But just  
18 on the relationship of compelling interests  
19 versus least restrictive alternative, and when  
20 it goes to risk, I mean, I'm still having  
21 problems with they're saying we should keep the  
22 risk to zero, and you're saying, no, you should  
23 tolerate a little more risk because Alabama does  
24 it.

25           MR. KRETZER: No, just --

1 JUSTICE KAVANAUGH: And -- and -- or  
2 because other states do it. And I just, as a  
3 judge, don't know. You might be right. They  
4 might be right. I don't know of a neutral  
5 principle, how to -- how to resolve that where  
6 they're saying we want the risk lower, we want  
7 the risk to be lower than our next-door -- or  
8 the state -- state -- another state.

9 MR. KRETZER: Justice Kavanaugh, I  
10 think I'd have to very respectfully disagree  
11 with the premise of that last part of the  
12 question, which is that a non-TDCJ employee  
13 chaplain necessarily carries with him some  
14 appreciable additional level of risk.

15 I can say I attach --

16 JUSTICE KAVANAUGH: Okay. Can I stop  
17 you right there? I don't see how you can say  
18 that.

19 MR. KRETZER: Okay.

20 JUSTICE KAVANAUGH: There's another  
21 human being, to go back to Judge Higginbotham,  
22 in the execution room in about the most fraught  
23 situation anyone can imagine, especially if the  
24 person is, by definition, close to the inmate,  
25 spiritually, friends, and they're about to die

1 and be put to death.

2 And the idea that we can predict how  
3 another human being will react in that situation  
4 and be sure, as you're saying, that the person's  
5 not going to react in a way that they would  
6 never react in any other situation, I just don't  
7 -- I don't know. You might be right, and -- and  
8 we'll see, I guess, if -- if you prevail here,  
9 how -- how this plays out.

10 But I'm -- it's not my decision, and  
11 as a judge, I don't know how I prioritize your  
12 assessment of that over the State's.

13 MR. KRETZER: Well, the way I can say  
14 that, to answer your question, Justice  
15 Kavanaugh, you asked me how I can say that.

16 The way I can say that is that it is  
17 incredibly well documented, every single time  
18 anyone, a minister, a reporter, or anybody else  
19 goes to see a prisoner, Pastor Moore has been  
20 going to see, for example, Mr. Ramirez for five  
21 years, longer than I've been his lawyer --

22 JUSTICE KAVANAUGH: I'm not  
23 questioning --

24 MR. KRETZER: -- there's never been an  
25 incident.



1 JUSTICE KAVANAUGH: I'm sorry to  
2 interrupt. I'm not questioning the current  
3 pastor at all involved in this case, so I don't  
4 mean to do that.

5 And the last question, I'll finish  
6 with this, is just the victims. I mean, we  
7 haven't mentioned -- we've gone a long time and  
8 we haven't mentioned the victim's family, who  
9 filed a brief here, and they've had to go  
10 through now four-and-a-half years of postponed  
11 executions.

12 And their brief says: "In Maria's  
13 eyes, Ramirez gets all this publicity like he  
14 just won a gold medal, while she and her family  
15 are going through all this pain and suffering  
16 each time they're told Ramirez will be executed,  
17 only to have the courts put a hold on it."

18 You know, we -- we have to think about  
19 the -- the victim's family members too with  
20 this, oh, it's going to be a stay here and a  
21 stay there and a stay there and each time  
22 they're -- they're -- they're brought to the  
23 execution room decades after the -- the crime,  
24 where their father was, you know, beaten to  
25 death and stabbed to death in a parking lot.

1           I mean, I just think we -- that's all  
2 by way of saying that as a legal point to it, if  
3 we're going to rule for you, I think we need  
4 some clear lines so, as Justice Alito says,  
5 we're not putting future victims' families in  
6 the same position of time after time having  
7 these delays.

8           MR. KRETZER: Justice Kavanaugh, I  
9 have nothing but the greatest sympathy for the  
10 family of Pablo Castro. I grieve for them. I  
11 feel horribly for their loss.

12           Victims certainly do have an interest  
13 in -- public interest in the proceedings and  
14 finality of executions of judgment and so forth.  
15 All those victims' interests were specifically  
16 taken into account by Congress when it passed  
17 the RLUIPA.

18           And that was not even a newfangled  
19 concept 20 years ago some now when the RLUIPA  
20 was passed. The brief the amicus of the Becket  
21 Fund filed where they showed the historical  
22 examples of where pastoral or spiritual guidance  
23 has been given throughout history to people as  
24 risible as the Nazis, and the point was made it  
25 was not a luxury afforded for who those people

1 were but something that religion affords in  
2 larger society because of who the society is.

3 And Congress accounted for all of that  
4 when it passed the statute, and that's how the  
5 equities are to be balanced out.

6 JUSTICE KAVANAUGH: Thank you. I  
7 appreciate your good answers. Thank you.

8 CHIEF JUSTICE ROBERTS: Justice  
9 Barrett?

10 JUSTICE BARRETT: I just have one  
11 question. So Justice Kavanaugh has been asking  
12 you about how strict scrutiny would apply here,  
13 and Justice Kavanaugh said that the compelling  
14 interest that the State has is in the reduction  
15 of risk because, understandably, the State wants  
16 that risk to be zero because the consequences of  
17 a botched execution are quite high.

18 I think how we define the compelling  
19 interest matters a lot for how the strict  
20 scrutiny analysis plays out. So I'm just  
21 wondering how you would characterize the State's  
22 interests. Would you characterize it the way  
23 that Justice Kavanaugh does, or do you have a  
24 different articulation of how you think the  
25 compelling interest should be described?

1           MR. KRETZER: I think I would  
2 characterize it, respectfully, slightly  
3 differently than Justice Kavanaugh did, Justice  
4 Barrett, and that is that the compelling  
5 interest is in a execution that is done in the  
6 humane way, in the safe way, for all the  
7 circumstances that have been discussed here and  
8 further in the briefs.

9           If the State, though, is going to --  
10 the compelling interest, to answer your question  
11 directly, is directed towards how they have  
12 chose to frame the execution, the -- for  
13 instance, the size of the execution chamber.  
14 The prison chose the size of that execution  
15 chamber. Under RLUIPA, a prison entity can be  
16 required to spend --

17           JUSTICE BARRETT: Well, that's not --

18           MR. KRETZER: -- some money to  
19 alleviate --

20           JUSTICE BARRETT: -- the compelling  
21 interest, right? That -- that goes to how the  
22 State is structuring the execution and how it  
23 chooses to carry it out.

24           I mean, the compelling interest may be  
25 prison security or, you know, as you say, the

1       humanity -- carrying -- carrying out the  
2       execution in a humane and safe way. But the  
3       size of the execution chamber, I don't think, is  
4       the compelling interest, right?

5                 MR. KRETZER: No, I would agree. The  
6       compelling interest is in the safety of -- I  
7       mean, that's what prisons do. They're risk  
8       management operations.

9                 I guess one could construct a  
10       perfectly safe operation where no one --  
11       lawyers, reporters, anybody -- was ever allowed  
12       to see an inmate. Prisons are tasked with  
13       managing risk. One has to show the ID and a  
14       background check and paperwork and so forth,  
15       which the State is free to and did and is doing,  
16       of any pastor who wants to come in for these  
17       circumstances.

18                So, yes, the State absolutely has a  
19       compelling interest. I embrace it completely.  
20       And yet, that compelling interest, if they're  
21       going to then go to the next step, the State,  
22       it's not that they could not necessarily do  
23       something different than other states or the  
24       federal government is doing, but --

25                JUSTICE BARRETT: But you're talking

1 about least restrictive alternatives.

2 MR. KRETZER: Okay.

3 JUSTICE BARRETT: I just wanted to  
4 know --

5 MR. KRETZER: Okay, yes.

6 JUSTICE BARRETT: -- about compelling  
7 interests. You answered the question. Thank  
8 you very much.

9 MR. KRETZER: Yes.

10 CHIEF JUSTICE ROBERTS: Thank you,  
11 counsel.

12 Mr. Feigin.

13 ORAL ARGUMENT OF ERIC J. FEIGIN FOR  
14 THE UNITED STATES, AS AMICUS CURIAE

15 MR. FEIGIN: Thank you, Mr. Chief  
16 Justice, and may it please the Court:

17 As the submissions to this Court,  
18 including today, reflect, there are continuing  
19 factual disputes on many issues that we think  
20 ultimately warrant a remand. And we'd like to  
21 think that better explaining the federal  
22 experience may be helpful for further review.

23 We agree that Texas can vindicate its  
24 compelling interests by substantially limiting  
25 physical contact with the inmate and

1 vocalization by a spiritual advisor in the  
2 highly choreographed and sensitive execution  
3 procedure.

4           But our recent experiences suggest  
5 that a categorical ban, like Texas appears to  
6 have, isn't the least restrictive means for  
7 doing so. To justify such a ban, Texas would  
8 have to offer -- its experts would have to offer  
9 state-specific reasons why it's necessary.

10           I -- I'm happy to take the Court's  
11 questions, but one way in which I might be a  
12 little helpful is just to tease apart the word  
13 "execution," which I think is just used as an  
14 overarching term in both some of the briefing  
15 and in -- especially in media reports.

16           There are really two relevant phases  
17 that occur when both the inmate and his  
18 spiritual advisor are in the execution chamber  
19 together, separated by before the drugs are  
20 administered and during the administration of  
21 the drugs. And, obviously, the second part,  
22 which, in our experience, takes about five to  
23 eight minutes, is the more sensitive portion of  
24 the procedure.

25           So we do think it's helpful to think

1 about this case in terms of maybe a little bit  
2 like a box. He's making two claims, one for  
3 physical contact, one for vocalization. And  
4 there are two parts, as relevant here, of the  
5 procedure, one before the drug and one during  
6 the drug.

7           We think Texas has a very strong  
8 argument to resist physical contact during the  
9 administration of the drug, and we have not  
10 allowed that.

11           We think, conversely, that Petitioner  
12 has a fairly strong argument that -- for  
13 vocalization before the administration of the  
14 drug. In fact, if you look at page 16a,  
15 paragraph 11 of the Lumpkin declaration, I don't  
16 think they even really address why they couldn't  
17 accommodate that.

18           And then the other two boxes,  
19 vocalization during the administration of the  
20 drug -- and I can talk a little bit more about  
21 that later -- and physical contact before  
22 administration of the drug are a little bit more  
23 indeterminate and could benefit from some  
24 further factual findings.

25           I apologize, Justice Thomas. You



1 appeared to want to ask a question.

2 JUSTICE THOMAS: Well, I think you're  
3 -- you've come close to answering it because I'm  
4 interested in what would be precisely in this  
5 context the State of Texas -- I know you've  
6 generically talked about it -- what would be the  
7 least restrictive means in this case?

8 MR. FEIGIN: Well, Your Honor, I can't  
9 answer that question definitively, in part  
10 because I -- I really do think it depends on  
11 some factual circumstances that I don't know and  
12 certainly aren't in the record.

13 I can share what the federal  
14 experience has revealed. We have -- although it  
15 isn't the way we would have necessarily ideally  
16 set up the procedure, we've allowed vocalization  
17 essentially throughout. Obviously, someone  
18 can't interrupt the marshal while they're  
19 announcing the judgment or when something --  
20 someone else is speaking. But we've allowed  
21 vocalization essentially throughout, through  
22 both phases of the execution. And we've allowed  
23 physical contact one time briefly before the  
24 execution -- before the administration of the  
25 drugs began.

1           In every instance where we've had a  
2           spiritual advisor in the chamber, the spiritual  
3           advisor has been well away from the inmate as  
4           the drugs are actually administered.

5           JUSTICE THOMAS: So do you -- and the  
6           next claim would be, you know, obviously, a  
7           little more contact. But I want to ask you  
8           something that's different, okay?

9           So we have RFRA and we have RLUIPA,  
10          and the -- we normally, in -- under RFRA, would  
11          rarely discuss the sincerity of beliefs.

12          Is that analysis different under  
13          RLUIPA, considering the opportunities for gaming  
14          the system?

15          MR. FEIGIN: I -- I think sincerity is  
16          quite relevant under, frankly, both statutes,  
17          Justice Thomas, but I think you're quite right  
18          that in the RLUIPA context, there may be  
19          particularized incentives for someone to falsely  
20          claim a religious belief.

21          And some of those concerns are  
22          manifest here and would need to be developed a  
23          little bit further. Obviously, it raises one  
24          red flag that something different was claimed in  
25          the 2020 litigation, and now we have the State's

1 lodging -- and that's what I was also citing  
2 earlier, the State's lodging -- and at page 25a  
3 of the redacted declaration, you can see the  
4 representation is made that on the day he  
5 thought he was going to be executed, the only  
6 reason he wanted to meet with Pastor Moore was,  
7 he represented, because of the pending  
8 litigation, which raises further sincerity  
9 concerns.

10 We took sincerity as a given here  
11 because the lower courts did. They, as we  
12 understand it, essentially just considered the  
13 narrow tailoring analysis and almost nothing  
14 else past that.

15 JUSTICE THOMAS: Thank you.

16 MR. FEIGIN: But we do think that's a  
17 -- an issue here.

18 JUSTICE THOMAS: Thank you.

19 JUSTICE SOTOMAYOR: Mr. Feigin, what  
20 is insincere about -- there's steps to this.  
21 There's a certain amount of time in which an  
22 inmate is given with his family, correct, and,  
23 presumably, with a pastor if he wants it before  
24 the execution, correct?

25 MR. FEIGIN: Yes, Your Honor.

1 JUSTICE SOTOMAYOR: And, here, he  
2 decided not to have the pastor there, correct?

3 MR. FEIGIN: I -- I believe his -- if  
4 I'm understanding the declaration correctly,  
5 Your Honor, I believe his pastor was there, but  
6 he chose not to meet with him.

7 JUSTICE SOTOMAYOR: He wanted to meet  
8 with his family. How does that take away from  
9 his desire to have the pastor at -- in the  
10 execution chamber when he's dying? Because the  
11 whole purpose of the religious belief is that  
12 you should have a pastor to help guide you to  
13 the other place.

14 MR. FEIGIN: So, Your Honor, I am not  
15 suggesting how a court should come out if it  
16 considered these facts. I am simply suggesting  
17 that given the combination of facts -- and, in  
18 fact, Petitioner, in the reply brief, said he  
19 would welcome a hearing at which he can have a  
20 chance to explain or maybe even --

21 JUSTICE SOTOMAYOR: Do you have any --

22 MR. FEIGIN: -- cross-examine these --  
23 these facts.

24 JUSTICE SOTOMAYOR: -- do you have any  
25 reason why we shouldn't order -- enter an order

1 like we did in Murphy, which is send it back,  
2 let these issues be threshed out, but let Texas  
3 decide whether it wants to execute him in the  
4 meantime? Because it does seem as though  
5 sending it back would cause delay, but it's  
6 within Texas's freedom to choose to accommodate  
7 him and go ahead, correct?

8 MR. FEIGIN: Well, Your Honor, I  
9 think, essentially, we -- we don't disagree that  
10 the Court should simply remand. I'd add that  
11 there's been no dispute with the representation  
12 in our brief, so I take it to be correct under  
13 Texas law, though I'm no expert in it, that --  
14 pages 32 and 33 of our brief, that under Texas  
15 law, there'd have to be a 90-day waiting period  
16 between a court setting a new execution date and  
17 the actual execution, which means there would be  
18 at least 90 days to develop a further record on  
19 some of these issues.

20 And also, regardless of whether there  
21 was proper exhaustion here or whether the  
22 absence of exhaustion could be excused as  
23 unavailable, I do think there are some  
24 continuing factual matters that the parties  
25 might be able to work out between themselves as

1 far as the -- exactly what Petitioner is  
2 requesting and exactly what he would be  
3 satisfied with and how far the State can go to  
4 accommodate that.

5 That's exactly why exhaustion is so  
6 important, because it not only allows for some  
7 consensual resolution but might really  
8 crystallize the dispute into a dispute of a much  
9 smaller nature; either we're just talking about  
10 one of the boxes I mentioned earlier or maybe  
11 even just a --

12 JUSTICE SOTOMAYOR: That seems --

13 MR. FEIGIN: -- subcomponent of one.

14 JUSTICE SOTOMAYOR: -- useless here  
15 because they didn't give a response for six  
16 weeks.

17 MR. FEIGIN: Well, Your Honor --

18 JUSTICE SOTOMAYOR: They never  
19 attempted to engage in accommodation.

20 MR. FEIGIN: Well, Your Honor, I think  
21 that goes to whether the grievance process was  
22 properly exhausted and whether they were on  
23 notice that there was specific requests for  
24 vocalization and at what point Petitioner was  
25 aware that that would be limited, which are also

1 factual issues that could be explored.

2 But -- and perhaps I am being overly  
3 optimistic about the degree of accommodation  
4 that could be reached between the parties, but I  
5 do think that further development during at  
6 least that 90-day period and possibly longer --  
7 as you noted, it's obviously under Texas's  
8 control when it decides to set the execution  
9 date and carry out the execution -- some further  
10 degree of development in the lower courts would  
11 be tremendously helpful, not only so the courts  
12 can properly resolve this but also for purposes  
13 of the parties themselves.

14 JUSTICE KAGAN: Mr. Feigin --

15 CHIEF JUSTICE ROBERTS: Mr. Feigin --  
16 go ahead.

17 I don't understand how the prison  
18 officials and the judges are supposed to assess  
19 sincerity. I mean, it is certainly  
20 understandable that as death approaches, inmates  
21 may have, you know, different religious views  
22 than they did before and -- and want to take  
23 those into account.

24 I mean, let's say a week before a  
25 prisoner comes in and -- and says: I want to

1 become a member of a particular church because I  
2 think I -- you know, I need that to be saved.

3 And the period, the -- the training,  
4 the whatever, the initiation is three months,  
5 and it's very sincere.

6 What -- what happens then?

7 MR. FEIGIN: Well, Your Honor, if a  
8 court believes it's very sincere, I'm not --

9 CHIEF JUSTICE ROBERTS: We have -- we  
10 have no reason to doubt the sincerity.

11 MR. FEIGIN: Well, I -- I think that's  
12 somewhat how the lower courts took this case. I  
13 think it is difficult to determine sincerity.  
14 It's nevertheless a requirement that the statute  
15 --

16 CHIEF JUSTICE ROBERTS: Even if --

17 MR. FEIGIN: -- imposes --

18 CHIEF JUSTICE ROBERTS: -- he says,  
19 you know, the process for me to reach the point  
20 under which I feel that I can -- you know, the  
21 religion would benefit me is three months?

22 MR. FEIGIN: Well, Your Honor, I think  
23 there are -- if I could take this out a little  
24 bit and just talk about the universe of  
25 religious claims for a second, this is a



1 particularly, for reasons you just mentioned,  
2 difficult subset of that.

3 But, just generally, I think it is a  
4 very robust requirement that courts have been  
5 able to use to eliminate certain frivolous  
6 claims, like my religion requires me to be a  
7 marijuana distributor or something to that  
8 effect.

9 I think it gets somewhat more  
10 difficult, Your Honor, in -- in this context,  
11 and I -- it might well require something like an  
12 evidentiary hearing here.

13 And I think what makes -- I think  
14 there will be cases in which sincerity has  
15 certain red flags on it, and I think this case  
16 may or may not be one of those, but in a case  
17 where it does appear that the inmate has a  
18 sincere religious belief, the court would have  
19 to proceed to the further steps.

20 Now there --

21 CHIEF JUSTICE ROBERTS: Thank you.

22 Justice Kagan?

23 JUSTICE KAGAN: May I ask more about  
24 the BOP experience? I mean, as I understand it,  
25 there were 13 recent executions. In 11, there

1 were spiritual advisors there. You said that  
2 all of them, you allowed vocalization throughout  
3 the process, but in only one was there touching  
4 and that before the drugs were administered.

5 Is that basically -- did I get that  
6 right?

7 MR. FEIGIN: Yes, Your Honor, with --  
8 with two very small caveats. It's a little bit  
9 unclear, just because no one was focusing on  
10 this when they made their records, it's a little  
11 bit unclear whether all the vocalization  
12 included vocalization during the administration  
13 of the drugs. It may have; it may not have.

14 And, also, I think, in one case, it  
15 was just conversation before and not actual  
16 prayer.

17 JUSTICE KAGAN: Here's what I'd like  
18 to know. I guess I'd like to get a little more  
19 texture about how the process played out.

20 In other words, you know, when you got  
21 these requests, what -- what -- you being the  
22 BOP, what did -- what did the BOP do? Were  
23 there discussions? Were there requests that  
24 were rejected? Were -- were -- how does this  
25 all get managed in -- in -- in the experience of

1 the BOP?

2 As I understand it, none of these ever  
3 came to a court. Is that -- is that right? I  
4 mean --

5 MR. FEIGIN: That's --

6 JUSTICE KAGAN: -- they all came to a  
7 court, but not with respect to the religious  
8 claims.

9 MR. FEIGIN: That's correct, Your  
10 Honor. There were some RFRA claims with the  
11 recent executions, but they didn't relate to  
12 this specific issue.

13 JUSTICE KAGAN: So how does this all  
14 get done?

15 MR. FEIGIN: Essentially, Your Honor,  
16 we resolve them informally. We have discussions  
17 with the inmates and/or their spiritual advisor  
18 about what it was that they were proposing and  
19 internal discussions about what could be  
20 accommodated. I don't think we accommodated  
21 every single request --

22 JUSTICE KAGAN: What kind of --

23 MR. FEIGIN: -- that was made.

24 JUSTICE KAGAN: -- requests did you  
25 reject?

1                   MR. FEIGIN: Your Honor, I -- I'm not  
2 aware of any specific requests that we rejected,  
3 but my general understanding is there may have  
4 been requests that we did not -- I -- I don't  
5 want to rep -- my -- my concern is representing  
6 to the Court that we accommodated everything  
7 that was requested of us. I'm not certain I  
8 could make that representation. But everyone  
9 was clearly satisfied enough that we avoided  
10 last-minute litigation.

11                   JUSTICE KAVANAUGH: But there was no  
12 -- no touching, right?

13                   MR. FEIGIN: There was no touching  
14 during --

15                   JUSTICE KAVANAUGH: So, if someone had  
16 requested touching, like Petitioner --

17                   JUSTICE KAGAN: But there was touching  
18 in one, is that -- is that correct?

19                   MR. FEIGIN: There was -- may I, Your  
20 Honor?

21                   JUSTICE KAGAN: It was -- wasn't there  
22 communion given in one and the -- and use of  
23 holy oils?

24                   MR. FEIGIN: Well, Your Honor, our --  
25 our recollection of that one is a little bit

1 different from -- from Father O'Keefe's  
2 recollection of it, but there was -- our  
3 recollection is there was at least some  
4 touching, but that was during the period before  
5 the administration of the drugs.

6 And we don't think it was communion in  
7 the sense of giving someone a wafer on the  
8 tongue or anything to that effect.

9 CHIEF JUSTICE ROBERTS: Thank you,  
10 counsel.

11 Justice Thomas?

12 JUSTICE THOMAS: No.

13 CHIEF JUSTICE ROBERTS: Justice  
14 Breyer?

15 Justice Alito?

16 JUSTICE ALITO: Yeah, Mr. Feigin, I do  
17 have a number of questions. RLUIPA, like RFRA,  
18 like the pre-Smith free exercise jurisprudence  
19 of this Court, requires an individualized  
20 determination. That's been the law for a long  
21 time. RFRA's been on the books for a long time.  
22 It's a completely workable standard. It's  
23 regrettable it wasn't extended to the Free  
24 Exercise Clause, but it is individualized.

25 And what would be most helpful here, I

1 think, is if we could at least identify sort of  
2 a gold standard, not to preclude individualized  
3 variations but a -- a -- something that will  
4 generally be sufficient to take into account  
5 religious demands regarding the two things that  
6 are at issue here, touching and vocalization,  
7 and accommodation of the State's interests.

8           And we could look to the BOP, doesn't  
9 get to specify what the First Amendment requires  
10 or what RLUIPA requires, but it's a starting  
11 point. And so, if you -- you -- you've said  
12 what has happened in the past. If there are  
13 federal executions in the future, what will the  
14 BOP do?

15           Will it -- will its policy be  
16 generally -- will its policy be no touching  
17 during the execution, vocalization allowed  
18 throughout the -- the -- the execution so long  
19 as it doesn't interfere with other  
20 communications that have to take place?

21           MR. FEIGIN: Your Honor, I -- I don't  
22 think -- I can't quite represent accurately  
23 under any circumstances exactly what BOP --

24           JUSTICE ALITO: All right. Let me --  
25 that --

1           MR. FEIGIN: -- would do in a specific  
2 case.

3           JUSTICE ALITO: -- that's unfair, an  
4 unfair question, so let me -- let me look back.

5           That was what BOP apparently thought  
6 was appropriate during the executions that took  
7 place last year?

8           MR. FEIGIN: Well, Your Honor, I want  
9 to be a little bit more nuanced about that. I  
10 think what the BOP was doing was making  
11 individualized judgments about each particular  
12 case and then were kind of mapping out a -- how  
13 that shaped out if you look at the entire  
14 universe of the 13.

15          JUSTICE ALITO: Well, I wonder if you  
16 could be a little more helpful. What does the  
17 BOP regard as sufficient to satisfy its  
18 interests in security and in having executions  
19 carried out without any interference?

20          MR. FEIGIN: Well, Your Honor, if we  
21 wanted to have the risk be absolutely zero,  
22 there would be no spiritual advisor in the  
23 chamber whatsoever.

24          However, BOP was able to carry out 11  
25 executions with a spiritual advisor in the

1 chamber. It had a security person next to the  
2 spiritual advisor at all times. Everything was  
3 -- the position of the spiritual advisor varied  
4 with the phase of the execution, as I described  
5 earlier.

6           The BOP does do some auditory  
7 monitoring during the administration of the  
8 drugs, in particular, listening for any drip  
9 from the IV lines. And it is also listening for  
10 a particular snoring sound from the prisoner  
11 that would indicate the pentobarbital is working  
12 as it is supposed to, and it -- the chanting and  
13 praying sometimes could interfere with that.

14           The BOP may do with visual and EKG  
15 monitoring, and nothing went wrong when they --  
16 when they did that, fortunately.

17           The BOP, I think, did not get a  
18 request to physically touch the inmate during  
19 the administration of the drugs. I think they  
20 would have very, very substantial concerns about  
21 that because of the risk of either advertent or  
22 inadvertent disruption of the IV lines.

23           That risk may be low, but the harm, as  
24 Justice Barrett was mentioning earlier, would be  
25 extremely high. Also, unlike an -- an actual



1 prison employee, like a state or federal  
2 chaplain, the outside spiritual advisor would  
3 need to be removed if the medical team had to  
4 come in, and that in itself could cause delay or  
5 -- or problems.

6 And, frankly, Your Honor, I -- I also  
7 think blocking the witnesses' views, which, you  
8 know, now you're requiring two people, the  
9 outside spiritual advisor and the security  
10 person, is a legitimate concern here because one  
11 of the purposes of capital punishment is to  
12 provide some closure to the victims. And, of  
13 course, we believe the inmate's family should be  
14 able to witness this as well. And blocking  
15 either of them from fully viewing the inmate at  
16 the time of the execution is an important  
17 factor.

18 JUSTICE ALITO: All that is helpful.

19 Now, to follow up a little bit, we  
20 have a picture of the execution room that Texas  
21 uses. I don't know whether the execution room  
22 that the federal government has is a matter of  
23 public record, anything about it, but can you  
24 tell us whether there's anything that is  
25 materially different about the -- what the

1 federal -- about the room that the federal  
2 government uses or the procedures that would  
3 suggest that the considerations in Texas should  
4 be different from the considerations in Terre  
5 Haute?

6 MR. FEIGIN: As to the chamber, Your  
7 Honor, ours has about twice the square footage  
8 of what I understand Texas's is, which is what  
9 enables us to have the spiritual advisor about  
10 nine feet away during the administration of the  
11 drugs.

12 Before the administration of the  
13 drugs, the spiritual advisor was advised to  
14 stand at a line that's taped on the floor that's  
15 about 28 inches away from the gurney. I don't  
16 know that the precise procedures we've used  
17 there would be feasible for Texas with its  
18 smaller chamber.

19 I'm also not entirely clear on what  
20 Texas's monitoring equipment exactly looks like  
21 or the positioning of its windows. We have  
22 separate galleries for the victim and inmate  
23 witnesses, as well as the federal official  
24 witnesses, and then another one for the medical  
25 team, and they all need to be able to see in for

1 one reason or another.

2 And then there's auditory monitoring  
3 equipment and medical monitoring equipment that  
4 may differ there as well that may raise some  
5 concerns too.

6 JUSTICE ALITO: I'm sorry to take up  
7 so much time. If I could just ask one more  
8 question. It relates to something that, to my  
9 mind, is related to this, although it's a  
10 different subject, and -- and that is I'm  
11 interested in BOP practice regarding religious  
12 services during a typical weekend.

13 So, on a Friday, Saturday, Sunday, in  
14 a federal prison, what religious services, if  
15 any, are prisoners allowed to attend? Do you  
16 know the answer to that?

17 MR. FEIGIN: Your Honor, not -- not as  
18 I stand here today, no.

19 JUSTICE ALITO: All right. Thank you  
20 very much.

21 CHIEF JUSTICE ROBERTS: Justice  
22 Sotomayor, anything further?

23 Justice Kagan?

24 JUSTICE KAVANAUGH: I have a few  
25 follow-ups. I share Justice Alito's desire to

1 have a -- what I would call a bright-line rule  
2 or -- or something, some guidelines, if -- if  
3 Petitioner's position were to prevail here, and  
4 it's helpful, your explanation, of what happened  
5 in the federal executions. But I want to make  
6 sure, following up on Justice Kagan's questions,  
7 I understand what happened.

8           There was no touching except in one,  
9 is that correct?

10           MR. FEIGIN: That is our recollection,  
11 Your Honor, yes.

12           JUSTICE KAVANAUGH: There was someone  
13 present in 11 of the 13?

14           MR. FEIGIN: Yes.

15           JUSTICE KAVANAUGH: Okay. And they  
16 spoke aloud in all 11 of those?

17           MR. FEIGIN: In one of them, there  
18 appears to have just been conversation before  
19 the administration --

20           JUSTICE KAVANAUGH: Okay.

21           MR. FEIGIN: -- of the drugs.

22           JUSTICE KAVANAUGH: And I --

23           MR. FEIGIN: In --

24           JUSTICE KAVANAUGH: Sorry, keep going.

25           MR. FEIGIN: I'm sorry. In the rest

1 of them, there was at least some prayer. And,  
2 again, because of the somewhat underdetermined  
3 word "execution," it's not entirely clear  
4 whether the prayer was during the entire period  
5 or just during the portion as the witnesses were  
6 coming in and the spiritual advisor and the  
7 inmate were alone with the federal officials.

8 JUSTICE KAVANAUGH: And if I'm  
9 interpreting you correctly, but correct --  
10 correct me if I'm wrong, you have much more  
11 concern -- you're okay with someone being in the  
12 room or at least BOP was, during these, okay  
13 with audible? It doesn't seem like you're okay  
14 as you stand here today with someone touching  
15 during the execution, putting to the side the --  
16 or maybe you don't want to put it to the side --  
17 the question of what the execution is.

18 MR. FEIGIN: Well, Your Honor, just to  
19 be clear, I mean, I'm not quite sure I'd  
20 represent that we were okay with it. It was  
21 just BOP was able to accommodate it.

22 JUSTICE KAVANAUGH: Okay.

23 MR. FEIGIN: And I think BOP would  
24 have a vastly greater degree of concern for the  
25 reasons I mentioned earlier about accommodating

1 a request to have the spiritual advisor in  
2 physical contact with the inmate.

3 I mean, if I could just emphasize one  
4 thing that I think really came out in the  
5 Gutierrez litigation after this Court remanded,  
6 is that Texas, you know, points out, and I think  
7 they point it out here but not to the same  
8 degree, even -- it's not just a matter of not  
9 trusting a spiritual advisor. It's a very  
10 fraught circumstance.

11 You don't know how someone's going to  
12 react in that circumstance. I mean, I -- I -- I  
13 realize this probably wouldn't happen to most  
14 people, but someone could faint, someone could  
15 stumble, and it -- you could jostle the lines.  
16 That might or might not disrupt them.

17 But, if that were to happen in the  
18 middle of the pentobarbital, all of the problems  
19 in, for example, the Lockett execution in  
20 Oklahoma were because the IV was going into the  
21 tissue as opposed to into the vein, and anything  
22 going wrong here would be catastrophic.

23 JUSTICE KAVANAUGH: And then, to  
24 follow up on Justice Barrett's question and my  
25 earlier questions about the risk, the State's

1 compelling interest in reducing the risk to zero  
2 or as close to zero as possible given what we've  
3 mandated under RLUIPA, you said, I think, at the  
4 beginning, the State would need state-specific  
5 reasons to justify that.

6 And I'm wondering how a state could  
7 say: We have a state-specific reason for  
8 wanting to reduce the risk to as close to zero  
9 as possible.

10 MR. FEIGIN: Well, I think this is  
11 where Holt's and Cutter's emphasis on  
12 substantial deference to prison administrators'  
13 expertise comes in. We certainly do not think  
14 that courts should be micromanaging prison  
15 procedures. But I -- I think Holt identifies  
16 the practices of other jurisdictions as at least  
17 another least restrictive means that the state  
18 needs to, in Holt's words, give persuasive  
19 reasons why it can't follow.

20 So, if a number of other  
21 jurisdictions, and, here, the federal government  
22 and Alabama, have been able to allow outside  
23 spiritual advisors, I think what Texas would  
24 need to do but hasn't done yet and may or may  
25 not be able to do is to say things that are of

1 the nature of what I was discussing earlier with  
2 Justice Alito: We have different monitoring  
3 equipment. We -- our chamber is not the same  
4 size as the federal government's. We rely more  
5 heavily on certain types of monitoring than the  
6 federal government does.

7 And I also think they could  
8 legitimately decide to tolerate a lower degree  
9 of risk than the federal government was willing  
10 to accommodate. I think --

11 CHIEF JUSTICE ROBERTS: Justice  
12 Barrett, anything further?

13 MR. FEIGIN: I'm sorry.

14 JUSTICE BARRETT: Yes, Mr. Feigin, I  
15 just have two quick questions. One is to follow  
16 up. I think Justice Kavanaugh was asking a very  
17 important question about how do we define the  
18 state interest. And I -- I feel like you gave  
19 him a lot of examples of least restrictive  
20 alternatives but maybe not the compelling  
21 interest.

22 MR. FEIGIN: Sure.

23 JUSTICE BARRETT: I'm just wondering  
24 if it's legitimate to define it as trying to get  
25 to zero percent risk, because, you know, Justice



1 Alito asked you about services on the weekends.  
2 I -- I think -- it's my understanding, I might  
3 be wrong -- that BOP and -- and state prisons  
4 too do allow some religious services, perhaps  
5 because of RLUIPA. If they said, we want the  
6 risk of prison rioting or fighting to be  
7 zero percent, that would permit the prison,  
8 right, to say there can never be any kind of  
9 prayer service or gathering?

10 But, if the compelling interest were  
11 defined differently, like, for example, to say  
12 maintaining prison security, then that wouldn't  
13 rule out those kinds of gatherings.

14 And so, here, if -- if the prison  
15 defines the compelling interest in saying, like,  
16 well, we in Alabama want a zero percent risk or  
17 we in Texas want only a 2 percent risk, that  
18 permits them to -- to altogether bar the  
19 spiritual advisor from the chamber, right,  
20 because there's not going to be any, you know,  
21 lesser restrictive alternative that's going to  
22 get you there. It always -- it's -- inherently  
23 carries a risk.

24 So how would the federal government  
25 articulate what the acceptable state compelling

1 interest is?

2 MR. FEIGIN: Well, I think RLUIPA kind  
3 of presupposes that you can't ever get to  
4 zero percent risk on anything for the reasons  
5 that you just mentioned, Justice Barrett.

6 I -- I do think courts are interfering  
7 a little bit too much under the Holt standard if  
8 they're kind of micromanaging between, like -- I  
9 mean, not that anyone could ever get precise  
10 empirical numbers, but, like, 10 and 5 percent  
11 risk.

12 But I -- I -- I think the -- just to  
13 answer your question directly, the question you  
14 asked my friend directly, we think the  
15 compelling interest here in this particular  
16 context is in carrying out the execution  
17 procedure effectively and -- which both means  
18 making sure it goes correctly for the prisoner  
19 and also making sure the purposes of the  
20 judgment are satisfied.

21 And, obviously, even having a  
22 spiritual advisor in the chamber does create  
23 some degree of risk even if they're nine feet  
24 away, but I -- I think courts could probably set  
25 a minimum bar on risk tolerance. And one place

1 to look is the experience of other  
2 jurisdictions.

3 I think courts should be very hesitant  
4 outside of that to start suggesting that these  
5 kinds of things need to be allowed. But, if you  
6 see that other jurisdictions are permitting  
7 them, it places under Holt at least somewhat of  
8 a modest burden on the state to give some  
9 reasons, which would themselves get deference  
10 for their administrators, as to why they  
11 couldn't similarly accommodate it. And they may  
12 well have such reasons here.

13 JUSTICE BARRETT: One other just brief  
14 question. Justice Kagan was asking you about  
15 how BOP carries out these executions and  
16 determines its standards, and you said it was an  
17 individualized process with respect to each of  
18 the inmates.

19 Presumably, though, BOP had to make  
20 some decisions about standards that would apply  
21 to each one. Like you mentioned, there was tape  
22 on the floor and the spiritual advisor had to  
23 stand on the tape or that there would be a  
24 security officer present.

25 Was there any kind of discussion or

1 consultation with prison administrators or  
2 experts before the 11 executions were carried  
3 out to decide, well, these are -- you know, this  
4 is the minimum, they can't get any closer than  
5 this tape on the floor?

6 MR. FEIGIN: Your Honor, I'm not  
7 precisely sure why they decided on that specific  
8 distance. I think they wanted them close for --  
9 wanted to allow them to be close for that  
10 portion of it but not too close.

11 The concern there was simply making  
12 sure that the security official would still be  
13 in position to try to stop the advisor from  
14 doing something that might interfere with the  
15 execution.

16 I -- I don't know the precise content  
17 of the discussions that BOP had ahead of time,  
18 but there was clearly a great deal of thinking.  
19 Even -- even during periods where federal  
20 executions are in a moratorium, they rehearse  
21 this essentially semi-annually, what the  
22 procedures are going to look like. It's a very  
23 choreographed procedure with a lot of thought  
24 into it.

25 JUSTICE BARRETT: Thank you.

1 MR. FEIGIN: Sorry, Mr. Chief Justice.

2 Thank you.

3 CHIEF JUSTICE ROBERTS: Thank you,

4 counsel.

5 General Stone.

6 ORAL ARGUMENT OF JUDD E. STONE, II,

7 ON BEHALF OF THE RESPONDENTS

8 MR. STONE: Thank you, Mr. Chief

9 Justice, and may it please the Court:

10 Petitioner has twice received the  
11 extremely exceptional remedy of having his  
12 execution halted at the last minute. Each time  
13 he litigates around an execution date, he  
14 receives another lengthy reprieve.

15 This Court should not countenance the  
16 delay of a fourth execution date.

17 Ramirez claims that he has  
18 consistently sought the same relief, namely, his  
19 pastor's touch and audible prayer, throughout  
20 his piecemeal litigation.

21 There are two problems with that  
22 assertion. First, it's false. Ramirez  
23 disclaimed in 2020 that he wanted pastoral  
24 touch. And in April 2021, Texas gave Ramirez  
25 all that he had been looking for at that time,

1 his pastor's presence in the execution chamber.

2           Second, Ramirez's assertion makes his  
3 litigation conduct inexplicable. If Ramirez was  
4 aware the entire time that he wanted pastoral  
5 touch and audible prayer, then he has no excuse  
6 for failing to timely raise and grieve those  
7 requests.

8           Ramirez tries to excuse both his  
9 failures to -- both his delays and his failures  
10 to exhaust by claiming he only learned he  
11 wouldn't be permitted touch or audible prayer in  
12 June and August of this year, respectively.

13           Again, false. The -- the State's  
14 execution procedures publicly available as of  
15 this April state that a pastor may "observe the  
16 inmate's execution." An observer's role is  
17 passive, not interactive.

18           Ramirez knew his pastor's observation  
19 and his pastor's participation were distinct  
20 because he himself distinguished them. Ramirez  
21 stated in August that he assumed his pastor  
22 could not audibly pray, and he distinguished  
23 touch from presence in his 2020 suit.

24           Ramirez has delayed in seeking  
25 accommodations, reversed his litigation

1 positions, and raised his claims seriatim, all  
2 for the purposes of delay. This Court should  
3 put an end to these tactics once and for all.

4 I welcome the Court's questions.

5 CHIEF JUSTICE ROBERTS: Counsel, how  
6 would you deal with the hypothetical I was  
7 raising earlier, which is, you know, a few days  
8 before execution the prisoner says, I've decided  
9 I need to convert to a particular faith and the  
10 process takes three months, and there's a --  
11 there's a religion in which that is true, that  
12 it takes three months.

13 What -- what -- would you -- what  
14 would you do?

15 MR. STONE: Certainly, Your Honor.  
16 So, for purposes of -- and I assume that this  
17 prisoner is raising a RLUIPA claim and asking  
18 for a preliminary injunction against his  
19 execution?

20 CHIEF JUSTICE ROBERTS: Yeah, because  
21 it takes three months, and that's what his --  
22 the faith that he wants to pursue takes.

23 MR. STONE: Well, Your Honor, first, I  
24 think the -- the court would have to determine  
25 whether or not that was a sincere conversion.

1 CHIEF JUSTICE ROBERTS: Well, right.

2 That's --

3 MR. STONE: Right.

4 CHIEF JUSTICE ROBERTS: -- what I'm  
5 asking you.

6 MR. STONE: That's right.

7 CHIEF JUSTICE ROBERTS: How would you  
8 -- what would you do to make sure you've  
9 accommodated that concern?

10 MR. STONE: The court would go -- go  
11 into a pretext inquiry as discussed in the RFRA  
12 context in Footnote 28 of Hobby Lobby. It would  
13 look into factors like, for example, how is this  
14 individual -- how has this individual behaved in  
15 the past? Have they made any similar --

16 CHIEF JUSTICE ROBERTS: Well, he had a  
17 conversion experience. I suspect impending  
18 death focuses people's concerns on religion in a  
19 way they may not have been before. And with  
20 death imminent, he decided he needed this --  
21 needed to pursue this route to salvation.

22 MR. STONE: On just those facts alone,  
23 Your Honor, it would sound to me that, with  
24 nothing else, that -- that the individual might  
25 be seeking delay of his execution because



1 several days beforehand he's requesting a  
2 multi-month process. But I think that would be  
3 a -- a credibility determination and -- and that  
4 would be --

5 CHIEF JUSTICE ROBERTS: Well, but --  
6 yeah, I understand that. But how would you do  
7 that? I mean, it is a factually plausible  
8 thing. I mean, people convert and particularly  
9 in times of stress. There is a church that  
10 requires three months. Maybe he's not sincere,  
11 but how do you tell?

12 MR. STONE: You look at other  
13 collateral circumstances, such as whether or not  
14 there had been previous contact with a pastor  
15 that, you know, sort of engendered a spiritual  
16 relationship beforehand, whether or not the  
17 person had raised similar claims beforehand and,  
18 if so, when relative to previous execution  
19 dates.

20 Whether or not this is, in fact, the  
21 kind of -- whether or not this individual has  
22 brought other basically pretextual or baseless  
23 lawsuits, I think these would all be the kinds  
24 of facts and circumstances that would help a  
25 district court make the familiar inquiry as to

1 whether or not basically they're being lied to,  
2 the same pretext inquiry that occurs in  
3 virtually every area of law.

4           Undoubtedly, because this is a very  
5 sensitive area of law and a very sensitive area  
6 of human experience, it's going to require --  
7 it's going to require an examination of a lot of  
8 facts and circumstances around the individual.

9           And it may be the case that district  
10 judges making this factual determination for the  
11 first time are going to tend to give some  
12 deference to an individual on the surface of  
13 things.

14           But Congress has placed that initial  
15 burden on the individual trying to show  
16 sincerity. So, at a minimum, that person has to  
17 start by adducing some proof that they have a  
18 sincere need.

19           JUSTICE BARRETT: General Stone, can I  
20 ask you -- you just said that the April 2020  
21 policy said that the -- that the prisoner could  
22 have a spiritual advisor observe in the room.

23           Could you direct me to where it says  
24 that? Because I'm looking at the policy and it  
25 talks about the spiritual advisor being present

1 in the room, and I think that's a significant  
2 difference.

3 So does it say "observe"?

4 MR. STONE: It's the April 2021  
5 policy, Justice Barrett. Let me get you that  
6 page.

7 JUSTICE BARRETT: I'm -- I'm sorry.  
8 I'm looking at the April 2021 policy. Maybe you  
9 could get that for me.

10 MR. STONE: Of course. It's on page  
11 149 of the Joint Appendix, of the Joint  
12 Appendix. In Part D, Part 1, it says, to read  
13 the relevant quote: "If requested by the  
14 inmate" -- towards the bottom, it says, "will be  
15 escorted into the execution chamber by an agency  
16 representative to observe the inmate's  
17 execution."

18 JUSTICE BARRETT: Okay. Thank you  
19 very much.

20 JUSTICE BREYER: Well, I mean, I've  
21 gone through -- or we have in my chambers the  
22 dates, and there's an argument about this. I  
23 mean, they say, look, in -- you used to allow  
24 spiritual advisors in. No problem. Then you  
25 decided in 2019, no, they can't come in.

1                   So, in 2020, after we got through with  
2     it, he says, please, let them in, okay? And he  
3     doesn't say anything about laying on of hands  
4     because, you know, letting them in is better  
5     than nothing. You say, no, they can't come in.

6                   Then we get to 2022, and he says, come  
7     on, let him in. And you say, okay, we'll let  
8     him in.

9                   And at that point, they say: Huh,  
10    pretty good, fine, and we want the hands and the  
11    audible prayer too. That's what you used to do.

12                  And you say: Ha, you didn't ask for  
13    that before. Of course, they didn't. They  
14    thought they couldn't come in at all. And --  
15    and so now you're asking for it. All right.  
16    The answer is no.

17                  All right. So here we are. And --  
18    and -- and as I go through this, I think that  
19    they have a point. Maybe you have a point.  
20    What are we supposed to do? Send it back for  
21    that?

22                  MR. STONE: Two points, Your Honor.

23                  I think there are at least two clear  
24    places where Mr. Ramirez certainly should have  
25    had notice that he needed to look into this.

1 The first one is in 2019, when TDCJ first  
2 changed its policies --

3 JUSTICE BREYER: Yes.

4 MR. STONE: -- partially in response  
5 to this Court's decision in Murphy. At that  
6 point, TDCJ's policy was no pastors in the  
7 chamber at all.

8 JUSTICE BREYER: Yeah.

9 MR. STONE: Because what he wanted was  
10 not only a pastor in the chamber but other  
11 things that are sort of logically subsequent to  
12 that, by being told you may not have a pastor in  
13 the chamber, he's being told you may not have  
14 any of those other things too.

15 JUSTICE BREYER: Well, I mean, it's  
16 very technical and it's excellent lawyering,  
17 but, you know, you sit there and you read it,  
18 and you used to let them in, and now he reads it  
19 and says no, they can't come in. And we have  
20 the case still, and, finally, it gets out of  
21 here, and you go back and, no, they can't come  
22 in.

23 So, obviously, he says, please let him  
24 in. And then, finally, when you change and let  
25 them in, he says, by the way, we would like

1 hands plus -- I'm just repeating myself -- hands  
2 plus audible prayer. That's what you used to  
3 do.

4 Now -- now, as I say it like that, you  
5 know, it sounds as if they had been fairly  
6 reasonable. But, as you say, well, you say, but  
7 they didn't really ask for it. I say, okay, you  
8 have a point. And -- and so my question was,  
9 what do we do about that? And I have a question  
10 on the merits too, but go ahead with that.

11 MR. STONE: Sure. Well, Your Honor,  
12 this Court's rule, as articulated in Hill and in  
13 Bucklew, places the obligation on the capital  
14 inmate who's going to raise claims to do so in a  
15 diligent manner so as to not require the  
16 equitable relief staying his execution. He's  
17 under that burden and an obligation -- a burden  
18 of bringing claims diligently includes a burden  
19 to investigate.

20 JUSTICE BREYER: Okay. Okay. I got  
21 your point.

22 MR. STONE: Right.

23 JUSTICE BREYER: Now, on the merits,  
24 I'd like to know this: Do you have any idea how  
25 many executions have there been -- let's go back

1 a hundred years, okay -- where they did let  
2 spiritual advisors in somewhere? I don't care,  
3 United States, do it as you want, what --  
4 depending on what you know. They let the  
5 spiritual advisors in, there was physical  
6 touching, and there was audible prayer.

7 Was the answer zero? Was the answer  
8 --

9 MR. STONE: Certainly not.

10 JUSTICE BREYER: No? Certainly not?

11 MR. STONE: Certainly not zero.

12 JUSTICE BREYER: What -- what -- what  
13 was the answer about? Can you guess?

14 MR. STONE: It was commonplace in  
15 executions --

16 JUSTICE BREYER: Okay.

17 MR. STONE: -- in Texas between 1982  
18 and 2019.

19 JUSTICE BREYER: Okay. So someplace  
20 it's commonplace. In how many of those did the  
21 audibility and the physical touching create the  
22 execution going astray? Are you aware of any?

23 MR. STONE: No, Your Honor --

24 JUSTICE BREYER: Okay.

25 MR. STONE: -- though I would point

1 out --

2 JUSTICE BREYER: So we have experience  
3 and there's never been a problem. All right.  
4 That's -- that's what you think. I mean, I  
5 don't know if you think it, but, I mean, at  
6 least that's the best you can answer.

7 MR. STONE: I -- I would also add an  
8 important -- an important distinction, Your  
9 Honor, is that for every one of those  
10 circumstances, the individual is a TDCJ  
11 employee. And it turns out TDCJ is a  
12 correctional institution dealing with the  
13 extraordinarily charged and choreographed area  
14 of -- of a death chamber.

15 There is a very significant difference  
16 between having an outsider with no relationship  
17 whatsoever --

18 JUSTICE KAGAN: Are you aware in any  
19 other states of an execution going astray  
20 because of an outside spiritual advisor?

21 MR. STONE: No, Justice Kagan, though  
22 I do -- we reached out to other states, and  
23 because this is very new in the handful of  
24 jurisdictions that allow it, I'm not surprised  
25 that we have none of them. This is the sort of



1 thing we would anticipate to be a very low  
2 likelihood of occurring. It just has a  
3 catastrophic potential of potential damage if it  
4 did.

5 JUSTICE BARRETT: Given that  
6 catastrophic risk, the question that I asked Mr.  
7 Feigin and your friend on the other side about  
8 what the definition of the State's compelling  
9 interest is, could you give us yours?

10 MR. STONE: Of course, Your Honor. I  
11 think Justice Kavanaugh accurately or almost  
12 accurately summarizes that we're attempting to  
13 minimize risk almost all the way to zero, as --  
14 as much as we reasonably can.

15 I -- I take the point that you have  
16 that if that's the State's compelling interest  
17 going forward in all sorts of contexts, that  
18 that sounds an awful lot like a license for the  
19 State to just reject religious claims.

20 I think the Court's -- the Court's  
21 articulated deference in *Holt v. Hobbs* and other  
22 similar cases and the sort of span of that  
23 deference is what does a lot of work in this  
24 case. So, for example, this Court rejected  
25 deference to these sorts of claims of minimizing

1 risk in Holt precisely because the policy was  
2 under-inclusive, it seemed incredibly hard to  
3 believe that contraband could be held in a  
4 half-inch beard, situations like that.

5 To the extent that you have a -- a  
6 correctional institution saying that we have to  
7 ban -- we have to ban all church services  
8 because there's too high of a chance of a riot,  
9 there's -- it sounds in that hypothetical it's  
10 just a very bad ends/means fit between the thing  
11 that was ultimately chosen and the -- and the  
12 pursuit of the sort of minimization of risk or  
13 at least a policy that appears to be sacrificing  
14 a whole lot of potential RFRA rights.

15 And in that case, I think that the  
16 Court's deference to the stated security  
17 concerns of -- of the administrative -- of the  
18 -- of the agency should be a lot lower, if only  
19 because, like I said, you've got this very  
20 over-inclusive sort of policy. And these  
21 over-inclusion and under-inclusion analyses are  
22 very typical of when this Court says, well, we  
23 defer to prison administrators as experts, but  
24 we're not sure about this particular policy.

25 I think that would take care of at

1 least a lot of the concerns that you have.

2 JUSTICE KAVANAUGH: You have to think  
3 about the risk together with the harm, correct?

4 MR. STONE: That's exactly right. So  
5 --

6 JUSTICE KAVANAUGH: So the risk is  
7 low, but the potential harm, as you used the  
8 word, and I think Mr. Feigin agreed with this,  
9 catastrophic or some adjective similar to that,  
10 so those two things need to be thought about  
11 together?

12 MR. STONE: That's exactly right, Your  
13 Honor. Texas being unwilling to tolerate a very  
14 small amount of risk in the death chamber, where  
15 a tiny amount of risk can lead to a situation  
16 that would be -- that would create intolerable  
17 pain for an inmate or an intolerable amount of  
18 reliving of suffering for a victim -- for the  
19 victim's families or any of these very high --

20 JUSTICE KAVANAUGH: What -- what about  
21 --

22 MR. STONE: -- sort of very high  
23 negative value problems.

24 JUSTICE KAVANAUGH: -- what about Mr.  
25 Feigin's description of the experience and then

1 our effort to balance the competing interests  
2 here under a test, the strict scrutiny test,  
3 that is difficult to apply here, as I think  
4 everyone would acknowledge? The advisor's  
5 allowed in the room. There can be audible  
6 prayer before the drugs are administered. No  
7 touching. Is that something Texas could live  
8 with?

9 MR. STONE: Well, Your Honor, one of  
10 the major problems is -- was alluded to in the  
11 -- in the logistics of the federal execution  
12 room is that it's just much, much larger than  
13 Texas's. I might point out that's one major  
14 difference because, in Texas, we can  
15 functionally only have about three people. It's  
16 about a 9-by-12 room. Most of one wall is taken  
17 up by windows for the inmate -- for -- rather,  
18 for witnesses on behalf of the inmate's  
19 families. The other is witnesses of the  
20 victim's. On the other side, we have a large  
21 window for the medical team to view and IV lines  
22 coming in. So the much smaller space makes it  
23 much more difficult to navigate.

24 In terms of the sort of -- in terms of  
25 your sort of general point that I think you're

1 getting at as to whether or not Texas might be  
2 able to accommodate something that was  
3 significantly less intrusive of a request, Texas  
4 is obligated under -- under RFRA and RLUIPA to  
5 take these prison requests one at a time.

6 In the event that someone said, I want  
7 a five-second blessing and then my pastor can  
8 step outside, that would be obviously something  
9 that would be much less intrusive, that would --  
10 that would bear much less of a risk and that  
11 Texas would have to have an awfully good reason  
12 to refuse.

13 The reason why that doesn't work here  
14 is because Mr. Ramirez is insistent that he's  
15 wanted the same thing the whole time. He's  
16 wanted touch and prayer the entire duration of  
17 the -- of the execution from beginning all the  
18 way to end.

19 JUSTICE KAVANAUGH: Well, that goes --

20 JUSTICE KAGAN: The size of the room  
21 did not prevent many, many chaplains in Texas's  
22 history from providing both touch and prayer, is  
23 that right?

24 MR. STONE: No, Justice Kagan, but it  
25 did indirectly in that when we had chaplains in

1 the room, we didn't need to have another  
2 security officer in the room. And so the fact  
3 that we have a volunteer coming into the room,  
4 the chaplain has to now be -- now has to be  
5 accompanied by a security officer, which  
6 required us to take out the warden.

7 So it did change -- it did change how  
8 we had to run the room, but the chaplain himself  
9 did not add to the risk, no.

10 JUSTICE KAVANAUGH: That was, again,  
11 the state official, right? The state --

12 MR. STONE: Yes, Your Honor, it was.

13 JUSTICE KAVANAUGH: -- official  
14 chaplain.

15 MR. STONE: That's right.

16 JUSTICE KAVANAUGH: That's different  
17 -- at least to me, that's a somewhat different  
18 situation. It may not be to others.

19 You were switching, though, to  
20 sincerity in this case, and I get you have a  
21 whole argument about sincerity in this case, but  
22 we may also have to opine on compelling interest  
23 and least restrictive alternatives.

24 Just on the -- looking to other  
25 states, how do we do that? You know, Alabama

1 does it. Why can't Texas? That's the argument  
2 -- I -- I'm simplifying, but that's kind of the  
3 argument on the other side as to some of this.

4 Your response?

5 MR. STONE: Sure, Your Honor. In  
6 particular with Alabama, I think the Court,  
7 however it's going to set down rules, needs to  
8 make sure it's really engaging in an  
9 apples-to-apples comparison.

10 The request in Alabama was much  
11 briefer. I understand that it was a brief touch  
12 with holy oils to essentially administer the  
13 last rights, and that's something significantly  
14 less intrusive risk-wise than what's being  
15 presented in Texas.

16 All else equal, if someone in Texas  
17 were to -- if someone in Texas were to present  
18 that same request as in Alabama, the fact  
19 Alabama was able to provide it would be a piece  
20 of evidence, not necessarily dispositive, but at  
21 least something to the extent that Alabama has a  
22 similar execution protocol and a similar  
23 execution room.

24 JUSTICE KAGAN: General, why isn't the  
25 inquiry really exactly how Holt laid out the

1 inquiry? In other words, you know, in Holt, the  
2 prison officials came in and said men can put  
3 contraband in their beards and we have a  
4 security interest in preventing that.

5           And what the Court said was, you know  
6 what, I mean, that might be, but we're going to  
7 look around at other states, see what other  
8 practices are. To the extent most other states  
9 or many other states can deal with the security  
10 interests in a way that also respects religious  
11 interests of the inmate, then we're going,  
12 essentially, to, you know, say to the state why  
13 not you too?

14           And in all of that, there is an  
15 appropriate level of deference given to prison  
16 officials, but there's also an appropriate level  
17 of respect given to the inmate with religious  
18 convictions, as commanded by Congress.

19           MR. STONE: I don't think we're very  
20 far apart, Justice Kagan. I think that to the  
21 extent that we're dealing with many states that  
22 are similarly situated as in having the same  
23 kind of execution protocol and similarly  
24 substantial execution rooms, that if many states  
25 had that same experience that, in fact, there



1 wasn't a risk or the -- the risk didn't manifest  
2 after a long period of time, that would be  
3 powerful evidence that a given state, for  
4 example, Texas in this case, couldn't  
5 legitimately say we can't do this without  
6 unacceptably adding to our risk.

7 I was speaking more specifically that  
8 to the extent that this Court's going to look at  
9 other states as like examples for purposes of --  
10 of engaging exactly that kind of state  
11 comparison that you bring up, Justice Kagan,  
12 that the Court's making sure it's getting like  
13 things like.

14 And the kind of fact that might fall  
15 by the wayside for purposes of comparison is the  
16 federal government has just a much larger  
17 chamber, and that's an important fact. Whether  
18 or not it should be sufficient to justify a  
19 policy -- a policy difference in one or many  
20 cases, that's obviously going to be  
21 case-specific and up to this Court.

22 But that's what I sort of was  
23 exhorting, was that you can't take one  
24 particular institution or one particular  
25 execution as dispositive for that analysis.

1 JUSTICE SOTOMAYOR: Counsel --

2 JUSTICE ALITO: If Mr. -- if Mr.  
3 Ramirez is going to be executed, would a new  
4 execution date have to be set?

5 MR. STONE: Yes, Justice Alito.

6 JUSTICE ALITO: And that would -- that  
7 would have to be at least 90 days from when?

8 MR. STONE: As a practical matter,  
9 Your Honor, first of all, a date has to be -- a  
10 state court has to be petitioned to set another  
11 date. No state court in Texas is going to do  
12 that while this Court has a case on the merits  
13 pending regarding you have an execution.

14 After that occurs, it would be at  
15 least 91 days from when the trial judge is --  
16 grants the motion. As a practical matter, it  
17 tends to be about four to seven months, as this  
18 Court could see regarding Mr. Ramirez's dates.

19 JUSTICE ALITO: And would there be any  
20 reason why Mr. Ramirez could not exhaust any  
21 grievances he has about the way the execution  
22 will be carried out during that period?

23 MR. STONE: Well, Your Honor, I  
24 believe he actually -- so he hasn't exhausted  
25 either of the two as of right now. The

1 exhaustion came after he'd filed loss -- the --  
2 his lawsuit regarding physical touch.

3 So I believe, if that were dismissed  
4 for exhaustion, that would be without prejudice  
5 or at least with leave to refile based on the  
6 district court's analysis of that.

7 The other audible claim -- audible  
8 prayer one, he's had notice of that for more  
9 than 15 days. This Court in Woodford has noted  
10 that a prisoner has to engage in exhaustion  
11 proper, not just exhaustion simpliciter. And  
12 because TDCJ's consistent policy is that you  
13 have to raise a first step grievance within 15  
14 days of the arising of the problem, his refusal  
15 to do so would mean he couldn't exhaust that  
16 one.

17 JUSTICE SOTOMAYOR: Counsel, I  
18 understand that prisoners -- you don't have any  
19 rules that say prisoners can't pray out loud  
20 during the execution, correct?

21 MR. STONE: No, Your Honor. And, in  
22 fact --

23 JUSTICE SOTOMAYOR: All right. So you  
24 tolerate their noise.

25 Number two, you were talking about the

1 fact that you didn't understand his request in  
2 -- in June to "touch and pray over me," that it  
3 would be verbal.

4 How was he supposed to understand from  
5 the word "observe" in your April -- in your  
6 April 21 change of execution policy that  
7 "observe" meant no touching and no praying?  
8 Observing, it had happened before.

9 So all I'm suggesting to you is you  
10 can defend your position. He's defended his.  
11 To me, prayer -- silent prayer, you don't have  
12 to ask permission for.

13 I suspect that many of your people in  
14 that room, even though they're DOJ employees,  
15 also pray silently, and no one would question  
16 that their prayer would be in their head.

17 So all I'm suggesting is lack of  
18 clarity exists on both sides, but you can fix  
19 yours by making your rules clearer. He tried to  
20 fix his by filing a grievance less than a month,  
21 weeks after you announced your policy on May 4.

22 You returned his grievance saying your  
23 spiritual advisor can come. Weeks later,  
24 Petitioner's counsel e-mails you and asks you if  
25 touching will be allowed. June 11, three days

1 later, Petitioner files his grievance and says  
2 "allow Moore to touch and pray over me."

3 You deny that almost a month later,  
4 July 2. And on July 8, he files a grievance,  
5 but you don't respond to that over a month  
6 later. What were you doing six weeks later?

7 MR. STONE: Your Honor, if I recall  
8 correctly, we responded in 36 days. TDCJ's  
9 manual state that these grievances can take up  
10 to 40 days to respond. We try to be faster.  
11 TDCJ receives quite a few --

12 JUSTICE SOTOMAYOR: What was so slow  
13 -- why were you so slow here? The execution's  
14 going to be in September. If you don't want  
15 there to be delay, what took you so long?

16 MR. STONE: Well, Your Honor, TDCJ  
17 still responded within the amount of time that  
18 the manual says --

19 JUSTICE SOTOMAYOR: Yeah, but at some  
20 point, that becomes ineffective as a remedy --

21 MR. STONE: Well --

22 JUSTICE SOTOMAYOR: -- if you're going  
23 to butt up against the execution date purposely.

24 MR. STONE: -- respectfully, Your  
25 Honor, I think that means that Ramirez was under

1 an obligation to bring his grievance earlier.

2 At a very minimum, passing by the  
3 public announcement of the changed protocols,  
4 passing by the fact he had notice of everything  
5 he would have needed to bring his RLUIPA  
6 lawsuits in 2019, he received actual notice in  
7 the form of his returned grievance saying you  
8 may have your pastor --

9 JUSTICE SOTOMAYOR: On May -- in May.

10 MR. STONE: May 4, I believe, that's  
11 right.

12 JUSTICE SOTOMAYOR: And within weeks,  
13 he filed his grievance --

14 MR. STONE: He's in May --

15 JUSTICE SOTOMAYOR: -- in the same  
16 amount of time that you took to deny it.

17 MR. STONE: He's in May 2021, Your  
18 Honor, and he has a September execution date.  
19 He waits to file his first grievance not May  
20 6th, 7th, 8th, 9th. He waits until the middle  
21 of June. So he takes a third of the time he has  
22 left for purposes of figuring out whether or not  
23 he's entitled to the extremely exceptional stay  
24 of an -- of an execution at the last minute.  
25 Spends it not grieving. Then he gets a

1 grievance in. Then TDCJ takes much less than  
2 the 40 days back.

3 JUSTICE SOTOMAYOR: Thirty-six, four  
4 days less. Thirty-six days.

5 MR. STONE: In the first return -- in  
6 the return of the June grievance, I believe we  
7 -- we received it on the -- on the 14th. We  
8 returned it on July 5 for that first step  
9 grievance, so far faster than 40 days. We  
10 returned it certainly diligently.

11 Then he files a Step 2 on the 8th, and  
12 then we end up filing 36 days -- we end up  
13 returning it to him 36 days later, and he's  
14 already sued.

15 At a bare minimum, if -- if Mr.  
16 Ramirez thought that the grievance process was  
17 unavailable, which he'd be incorrect about  
18 legally and descriptively, at a minimum, then he  
19 shouldn't have waited until the very end to  
20 bring his lawsuit.

21 If he was going to go and file a  
22 lawsuit regardless of whether or not he'd  
23 received a second step grievance response, then  
24 he should have done everyone a favor and sued in  
25 May.

1 CHIEF JUSTICE ROBERTS: Thank you,  
2 counsel.

3 Justice Thomas, anything further?

4 JUSTICE THOMAS: No questions.

5 CHIEF JUSTICE ROBERTS: Justice  
6 Breyer?

7 Justice Alito?

8 Justice Sotomayor?

9 Justice Gorsuch?

10 Justice Barrett? No?

11 Thank you very much, counsel.

12 Rebuttal, Mr. Kretzer.

13 REBUTTAL ARGUMENT OF SETH KRETZER

14 ON BEHALF OF THE PETITIONER

15 MR. KRETZER: Yes, Mr. Chief Justice.

16 I think perhaps one of the most  
17 alarming things that my friend General Stone  
18 said in his argument was that the TDCJ now has  
19 the affirmative power under their logic to  
20 front-run, impede, cut off, whatever you want to  
21 call it, the ability to file a 1983 case by  
22 their delay of the Level 2 exhaustion.

23 The three most catalytic pages of this  
24 entire record and the lodged materials, 11, 12,  
25 and 13, it's also at page 53 of the Joint



1 Appendix, and this is where Mr. Ramirez filed --  
2 this was in June that he said the "and pray over  
3 me" language, it was denied in boilerplate on  
4 July 2.

5 The August 19 -- 16 denial -- this is  
6 on page 13 -- has the exact same language.  
7 Someone literally just took the same typewriter  
8 and put the exact same thing and stamped there  
9 on August 16. It sat there for six weeks.

10 This page 13 appears in the lodged  
11 grievance file. It's not in the Joint Appendix  
12 because it was never received by the attorney.  
13 In other words, TDCJ, Mr. Stone said they can  
14 take up -- we returned it in 36 days. We have  
15 40.

16 Under their own internal protocols,  
17 they could give themselves another 40 days to  
18 respond to it, in which case they would have  
19 returned the Level 2 grievance after Mr. Ramirez  
20 was already executed.

21 That is the implication of how they  
22 are trying to construe exhaustion in this case.  
23 And there were several questions to me in my  
24 opening about what would the larger implications  
25 be for other cases.

1           If this Court adopts Mr. Stone's  
2     logic, I predict you will see the word go out to  
3     prisons across the country that they now have  
4     this wonderful tool to insulate their policies,  
5     whatever they may be, from federal review under  
6     1983 because they can put off the Level 2  
7     grievance as long as they care to.

8           I would point out -- Justice  
9     Kavanaugh, you asked me in my opening about the  
10    risk of, as you perceived, the non-TDCJ employee  
11    chaplains being greater than TDCJ employee  
12    chaplains. I would just point out that the drug  
13    team members are not TDCJ employees. And the  
14    botched executions you've heard about from both  
15    sides, most famously Mr. Lockett in Oklahoma,  
16    those botched executions were apparently caused  
17    by these individuals who were not TDCJ  
18    employees.

19           If the real concern is the compelling  
20    interest, the safety of -- the security  
21    protocols of the execution, I would submit  
22    history has shown that it's these non-TDCJ  
23    employees -- non-prison employees, in these  
24    other cases, that have caused these executions,  
25    not anything caused by any chaplain.

1                   There simply exists -- as far as  
2 everyone has looked for a hundred years, Justice  
3 Breyer, or longer, there is not a single  
4 instance of any chaplain ever causing any such  
5 disturbance.

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

8                   (Whereupon, at 12:54 p.m., the case  
9 was submitted.)

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## Official - Subject to Final Review

<b>1</b>	<p><b>1</b> [2] 27:1 82:12  <b>10</b> [1] 73:10  <b>103</b> [1] 3:14  <b>11</b> [8] 47:15 56:25 62:24 67:13,16 75:2 99:25 103:24  <b>11:17</b> [2] 1:17 4:2  <b>12</b> [1] 103:24  <b>12:54</b> [1] 106:8  <b>13</b> [6] 56:25 62:14 67:13 103:25 104:6,10  <b>149</b> [1] 82:11  <b>14th</b> [1] 102:7  <b>15</b> [2] 98:9,13  <b>16</b> [2] 104:5,9  <b>16a</b> [1] 47:14  <b>19</b> [2] 32:22 104:5  <b>1982</b> [1] 86:17  <b>1983</b> [5] 4:24 8:12 25:13 103:21 105:6</p>	<p><b>9</b> [1] 1:13  <b>9-by-12</b> [1] 91:16  <b>90</b> [2] 52:18 97:7  <b>90-day</b> [2] 52:15 54:6  <b>91</b> [1] 97:15  <b>9th</b> [1] 101:20</p> <hr/> <p style="text-align: center;"><b>A</b></p> <hr/> <p><b>a.m</b> [2] 1:17 4:2  <b>ability</b> [1] 103:21  <b>able</b> [12] 22:10 23:7 52:25 56:5 62:24 64:14 65:25 68:21 70:22,25 92:2 94:19  <b>above-entitled</b> [1] 1:15  <b>absence</b> [1] 52:22  <b>absolutely</b> [2] 44:18 62:21  <b>acceptable</b> [1] 72:25  <b>accommodate</b> [9] 11:14 32:12 47:17 52:6 53:4 68:21 71:10 74:11 92:2  <b>accommodated</b> [4] 58:20,20 59:6 79:9  <b>accommodating</b> [1] 68:25  <b>accommodation</b> [3] 53:19 54:3 61:7  <b>accommodations</b> [1] 77:25  <b>accompanied</b> [1] 93:5  <b>account</b> [4] 30:15 41:16 54:23 61:4  <b>accounted</b> [1] 42:3  <b>accurately</b> [3] 61:22 88:11,12  <b>acknowledge</b> [1] 91:4  <b>Across</b> [3] 4:11 35:10 105:3  <b>Act</b> [1] 28:17  <b>acting</b> [1] 33:11  <b>actions</b> [1] 5:11  <b>actual</b> [5] 34:2 52:17 57:15 63:25 101:6  <b>actually</b> [6] 14:21 19:16 20:9 27:8 49:4 97:24  <b>add</b> [3] 52:10 87:7 93:9  <b>added</b> [1] 5:9  <b>adding</b> [1] 96:6  <b>additional</b> [1] 38:14  <b>address</b> [2] 31:5 47:16  <b>adducing</b> [1] 81:17  <b>adjective</b> [1] 90:9  <b>administer</b> [1] 94:12  <b>administered</b> [4] 46:20 49:4 57:4 91:6  <b>administration</b> [15] 34:2,9 46:20 47:9,13,19,22 48:24 57:12 60:5 63:7,19 65:10,12 67:19  <b>administrative</b> [1] 89:17  <b>administrators</b> [3] 74:10 75:1 89:23  <b>administrators'</b> [1] 70:12  <b>admit</b> [1] 36:11  <b>adopts</b> [1] 105:1  <b>advance</b> [3] 25:14,23 26:6  <b>advertent</b> [1] 63:21  <b>advised</b> [1] 65:13  <b>advisor</b> [29] 4:13,18,21 5:3 17:14</p>	<p><b>46:1,18 49:2,3 58:17 62:22,25 63:2,3 64:2,9 65:9,13 68:6 69:1,9 72:19 73:22 74:22 75:13 81:22,25 87:20 99:23</b>  <b>advisor's</b> [1] 91:4  <b>advisors</b> [5] 57:1 70:23 82:24 86:2,5  <b>affidavit</b> [3] 6:17,21 9:3  <b>affirmative</b> [1] 103:19  <b>afforded</b> [1] 41:25  <b>affords</b> [2] 20:9 42:1  <b>agency</b> [2] 82:15 89:18  <b>agent</b> [1] 36:20  <b>ago</b> [4] 20:7,23 30:17 41:19  <b>agree</b> [5] 15:12 22:5 36:15 44:5 45:23  <b>agreed</b> [2] 24:5 90:8  <b>Ah</b> [2] 14:16 17:2  <b>ahead</b> [4] 52:7 54:16 75:17 85:10  <b>AL</b> [1] 1:8  <b>Alabama</b> [14] 5:18 20:5,9,23 24:5 37:23 70:22 72:16 93:25 94:6,10,18,19,21  <b>alarming</b> [2] 9:2 103:17  <b>ALITO</b> [40] 22:16 23:16,21,25 24:12,14,17 25:9,22 26:5,17,21 27:16,19 28:5,9,11,13 29:9,16,23 30:2,24 32:6 41:4 60:15,16 61:24 62:3,15 64:18 66:6,19 71:2 72:1 97:2,5,6,19 103:7  <b>Alito's</b> [2] 35:8 66:25  <b>alleviate</b> [1] 43:19  <b>allow</b> [8] 4:12 14:13 70:22 72:4 75:9 82:23 87:24 100:2  <b>allowed</b> [16] 5:24 11:13 14:7 17:15 22:14 44:11 47:10 48:16,20,22 57:2 61:17 66:15 74:5 91:5 99:25  <b>allowing</b> [1] 5:2  <b>allows</b> [4] 18:16 19:1,9 53:6  <b>alluded</b> [1] 91:10  <b>almost</b> [4] 50:13 88:11,13 100:3  <b>alone</b> [2] 68:7 79:22  <b>aloud</b> [1] 67:16  <b>already</b> [5] 20:22,22 23:23 102:14 104:20  <b>alternative</b> [5] 18:15 19:4,20 37:19 72:21  <b>alternatives</b> [4] 18:12 45:1 71:20 93:23  <b>although</b> [2] 48:14 66:9  <b>altogether</b> [1] 72:18  <b>amended</b> [1] 6:18  <b>Amendment</b> [1] 61:9  <b>amicus</b> [4] 2:6 3:7 41:20 45:14  <b>amount</b> [7] 33:1 50:21 90:14,15,17 100:17 101:16  <b>analyses</b> [1] 89:21  <b>analysis</b> [7] 12:2 31:6 42:20 49:12 50:13 96:25 98:6  <b>analyze</b> [3] 10:9 13:20 17:3  <b>analyzed</b> [1] 28:3  <b>analyzing</b> [1] 10:10</p>	<p><b>anatomy</b> [1] 23:9  <b>and/or</b> [1] 58:17  <b>announced</b> [1] 99:21  <b>announcement</b> [1] 101:3  <b>announcing</b> [1] 48:19  <b>another</b> [17] 5:25 7:11 18:13 19:1,9 21:2,20 38:8,20 39:3 65:24 66:1 70:17 76:14 93:1 97:10 104:17  <b>answer</b> [22] 6:8 12:24 15:1,13,22 17:4,17 18:22,23 23:20 24:11 29:22 39:14 43:10 48:9 66:16 73:13 83:16 86:7,7,13 87:6  <b>answered</b> [1] 45:7  <b>answering</b> [1] 48:3  <b>answers</b> [1] 42:7  <b>anticipate</b> [1] 88:1  <b>anybody</b> [2] 39:18 44:11  <b>apace</b> [1] 25:18  <b>apart</b> [2] 46:12 95:20  <b>apologize</b> [1] 47:25  <b>apparently</b> [2] 62:5 105:16  <b>appear</b> [1] 56:17  <b>APPEARANCES</b> [1] 2:1  <b>appeared</b> [1] 48:1  <b>appears</b> [4] 46:5 67:18 89:13 104:10  <b>Appendix</b> [4] 82:11,12 104:1,11  <b>apples-to-apples</b> [1] 94:9  <b>application</b> [3] 22:21 26:2,13  <b>applications</b> [2] 22:18 25:7  <b>applied</b> [1] 11:25  <b>apply</b> [4] 37:17 42:12 74:20 91:3  <b>applying</b> [1] 37:12  <b>appreciable</b> [1] 38:14  <b>appreciate</b> [2] 15:13 42:7  <b>approaches</b> [2] 5:17 54:20  <b>appropriate</b> [3] 62:6 95:15,16  <b>appropriately</b> [1] 6:18  <b>April</b> [8] 8:19 76:24 77:15 81:20 82:4,8 99:5,6  <b>area</b> [5] 35:9 81:3,5,5 87:13  <b>areas</b> [1] 35:10  <b>aren't</b> [1] 48:12  <b>argue</b> [2] 27:20 36:2  <b>argues</b> [1] 5:13  <b>argument</b> [20] 1:16 3:2,5,9,12 4:4,7 20:15,19 31:25 45:13 47:8,12 76:6 82:22 93:21 94:1,3 103:13,18  <b>arguments</b> [1] 20:17  <b>arise</b> [1] 37:16  <b>arising</b> [1] 98:14  <b>arm</b> [4] 10:6,23,24 11:1  <b>around</b> [3] 76:13 81:8 95:7  <b>articulate</b> [1] 72:25  <b>articulated</b> [2] 85:12 88:21  <b>articulation</b> [1] 42:24  <b>asks</b> [1] 99:24  <b>aspects</b> [1] 36:5  <b>assertion</b> [2] 76:22 77:2  <b>assess</b> [2] 7:8 54:18  <b>assessing</b> [1] 7:6</p>
<b>2</b>	<p><b>2</b> [9] 9:10 27:1 72:17 100:4 102:11 103:22 104:4,19 105:6  <b>20</b> [2] 30:16 41:19  <b>2019</b> [5] 4:16 82:25 84:1 86:18 101:6  <b>2020</b> [9] 4:22 6:11 8:12,15 49:25 76:23 77:23 81:20 83:1  <b>2021</b> [8] 1:13 8:19,25 9:10 76:24 82:4,8 101:17  <b>2022</b> [1] 83:6  <b>21</b> [2] 8:19 99:6  <b>21-5592</b> [1] 4:4  <b>25a</b> [1] 50:2  <b>28</b> [2] 65:15 79:12</p>	<p><b>92:2</b>  <b>accommodated</b> [4] 58:20,20 59:6 79:9  <b>accommodating</b> [1] 68:25  <b>accommodation</b> [3] 53:19 54:3 61:7  <b>accommodations</b> [1] 77:25  <b>accompanied</b> [1] 93:5  <b>account</b> [4] 30:15 41:16 54:23 61:4  <b>accounted</b> [1] 42:3  <b>accurately</b> [3] 61:22 88:11,12  <b>acknowledge</b> [1] 91:4  <b>Across</b> [3] 4:11 35:10 105:3  <b>Act</b> [1] 28:17  <b>acting</b> [1] 33:11  <b>actions</b> [1] 5:11  <b>actual</b> [5] 34:2 52:17 57:15 63:25 101:6  <b>actually</b> [6] 14:21 19:16 20:9 27:8 49:4 97:24  <b>add</b> [3] 52:10 87:7 93:9  <b>added</b> [1] 5:9  <b>adding</b> [1] 96:6  <b>additional</b> [1] 38:14  <b>address</b> [2] 31:5 47:16  <b>adducing</b> [1] 81:17  <b>adjective</b> [1] 90:9  <b>administer</b> [1] 94:12  <b>administered</b> [4] 46:20 49:4 57:4 91:6  <b>administration</b> [15] 34:2,9 46:20 47:9,13,19,22 48:24 57:12 60:5 63:7,19 65:10,12 67:19  <b>administrative</b> [1] 89:17  <b>administrators</b> [3] 74:10 75:1 89:23  <b>administrators'</b> [1] 70:12  <b>admit</b> [1] 36:11  <b>adopts</b> [1] 105:1  <b>advance</b> [3] 25:14,23 26:6  <b>advertent</b> [1] 63:21  <b>advised</b> [1] 65:13  <b>advisor</b> [29] 4:13,18,21 5:3 17:14</p>	<p><b>12,14,17 25:9,22 26:5,17,21 27:16,19 28:5,9,11,13 29:9,16,23 30:2,24 32:6 41:4 60:15,16 61:24 62:3,15 64:18 66:6,19 71:2 72:1 97:2,5,6,19 103:7</b>  <b>Alito's</b> [2] 35:8 66:25  <b>alleviate</b> [1] 43:19  <b>allow</b> [8] 4:12 14:13 70:22 72:4 75:9 82:23 87:24 100:2  <b>allowed</b> [16] 5:24 11:13 14:7 17:15 22:14 44:11 47:10 48:16,20,22 57:2 61:17 66:15 74:5 91:5 99:25  <b>allowing</b> [1] 5:2  <b>allows</b> [4] 18:16 19:1,9 53:6  <b>alluded</b> [1] 91:10  <b>almost</b> [4] 50:13 88:11,13 100:3  <b>alone</b> [2] 68:7 79:22  <b>aloud</b> [1] 67:16  <b>already</b> [5] 20:22,22 23:23 102:14 104:20  <b>alternative</b> [5] 18:15 19:4,20 37:19 72:21  <b>alternatives</b> [4] 18:12 45:1 71:20 93:23  <b>although</b> [2] 48:14 66:9  <b>altogether</b> [1] 72:18  <b>amended</b> [1] 6:18  <b>Amendment</b> [1] 61:9  <b>amicus</b> [4] 2:6 3:7 41:20 45:14  <b>amount</b> [7] 33:1 50:21 90:14,15,17 100:17 101:16  <b>analyses</b> [1] 89:21  <b>analysis</b> [7] 12:2 31:6 42:20 49:12 50:13 96:25 98:6  <b>analyze</b> [3] 10:9 13:20 17:3  <b>analyzed</b> [1] 28:3  <b>analyzing</b> [1] 10:10</p>	<p><b>103:22 104:4,19 105:6</b>  <b>20</b> [2] 30:16 41:19  <b>2019</b> [5] 4:16 82:25 84:1 86:18 101:6  <b>2020</b> [9] 4:22 6:11 8:12,15 49:25 76:23 77:23 81:20 83:1  <b>2021</b> [8] 1:13 8:19,25 9:10 76:24 82:4,8 101:17  <b>2022</b> [1] 83:6  <b>21</b> [2] 8:19 99:6  <b>21-5592</b> [1] 4:4  <b>25a</b> [1] 50:2  <b>28</b> [2] 65:15 79:12</p>
<b>3</b>	<p><b>32</b> [1] 52:14  <b>33</b> [1] 52:14  <b>36</b> [4] 100:8 102:12,13 104:14</p>	<p><b>92:2</b>  <b>accommodated</b> [4] 58:20,20 59:6 79:9  <b>accommodating</b> [1] 68:25  <b>accommodation</b> [3] 53:19 54:3 61:7  <b>accommodations</b> [1] 77:25  <b>accompanied</b> [1] 93:5  <b>account</b> [4] 30:15 41:16 54:23 61:4  <b>accounted</b> [1] 42:3  <b>accurately</b> [3] 61:22 88:11,12  <b>acknowledge</b> [1] 91:4  <b>Across</b> [3] 4:11 35:10 105:3  <b>Act</b> [1] 28:17  <b>acting</b> [1] 33:11  <b>actions</b> [1] 5:11  <b>actual</b> [5] 34:2 52:17 57:15 63:25 101:6  <b>actually</b> [6] 14:21 19:16 20:9 27:8 49:4 97:24  <b>add</b> [3] 52:10 87:7 93:9  <b>added</b> [1] 5:9  <b>adding</b> [1] 96:6  <b>additional</b> [1] 38:14  <b>address</b> [2] 31:5 47:16  <b>adducing</b> [1] 81:17  <b>adjective</b> [1] 90:9  <b>administer</b> [1] 94:12  <b>administered</b> [4] 46:20 49:4 57:4 91:6  <b>administration</b> [15] 34:2,9 46:20 47:9,13,19,22 48:24 57:12 60:5 63:7,19 65:10,12 67:19  <b>administrative</b> [1] 89:17  <b>administrators</b> [3] 74:10 75:1 89:23  <b>administrators'</b> [1] 70:12  <b>admit</b> [1] 36:11  <b>adopts</b> [1] 105:1  <b>advance</b> [3] 25:14,23 26:6  <b>advertent</b> [1] 63:21  <b>advised</b> [1] 65:13  <b>advisor</b> [29] 4:13,18,21 5:3 17:14</p>	<p><b>12,14,17 25:9,22 26:5,17,21 27:16,19 28:5,9,11,13 29:9,16,23 30:2,24 32:6 41:4 60:15,16 61:24 62:3,15 64:18 66:6,19 71:2 72:1 97:2,5,6,19 103:7</b>  <b>Alito's</b> [2] 35:8 66:25  <b>alleviate</b> [1] 43:19  <b>allow</b> [8] 4:12 14:13 70:22 72:4 75:9 82:23 87:24 100:2  <b>allowed</b> [16] 5:24 11:13 14:7 17:15 22:14 44:11 47:10 48:16,20,22 57:2 61:17 66:15 74:5 91:5 99:25  <b>allowing</b> [1] 5:2  <b>allows</b> [4] 18:16 19:1,9 53:6  <b>alluded</b> [1] 91:10  <b>almost</b> [4] 50:13 88:11,13 100:3  <b>alone</b> [2] 68:7 79:22  <b>aloud</b> [1] 67:16  <b>already</b> [5] 20:22,22 23:23 102:14 104:20  <b>alternative</b> [5] 18:15 19:4,20 37:19 72:21  <b>alternatives</b> [4] 18:12 45:1 71:20 93:23  <b>although</b> [2] 48:14 66:9  <b>altogether</b> [1] 72:18  <b>amended</b> [1] 6:18  <b>Amendment</b> [1] 61:9  <b>amicus</b> [4] 2:6 3:7 41:20 45:14  <b>amount</b> [7] 33:1 50:21 90:14,15,17 100:17 101:16  <b>analyses</b> [1] 89:21  <b>analysis</b> [7] 12:2 31:6 42:20 49:12 50:13 96:25 98:6  <b>analyze</b> [3] 10:9 13:20 17:3  <b>analyzed</b> [1] 28:3  <b>analyzing</b> [1] 10:10</p>	<p><b>103:22 104:4,19 105:6</b>  <b>20</b> [2] 30:16 41:19  <b>2019</b> [5] 4:16 82:25 84:1 86:18 101:6  <b>2020</b> [9] 4:22 6:11 8:12,15 49:25 76:23 77:23 81:20 83:1  <b>2021</b> [8] 1:13 8:19,25 9:10 76:24 82:4,8 101:17  <b>2022</b> [1] 83:6  <b>21</b> [2] 8:19 99:6  <b>21-5592</b> [1] 4:4  <b>25a</b> [1] 50:2  <b>28</b> [2] 65:15 79:12</p>
<b>4</b>	<p><b>4</b> [3] 3:4 99:21 101:10  <b>40</b> [5] 100:10 102:2,9 104:15,17  <b>45</b> [1] 3:8</p>	<p><b>92:2</b>  <b>accommodated</b> [4] 58:20,20 59:6 79:9  <b>accommodating</b> [1] 68:25  <b>accommodation</b> [3] 53:19 54:3 61:7  <b>accommodations</b> [1] 77:25  <b>accompanied</b> [1] 93:5  <b>account</b> [4] 30:15 41:16 54:23 61:4  <b>accounted</b> [1] 42:3  <b>accurately</b> [3] 61:22 88:11,12  <b>acknowledge</b> [1] 91:4  <b>Across</b> [3] 4:11 35:10 105:3  <b>Act</b> [1] 28:17  <b>acting</b> [1] 33:11  <b>actions</b> [1] 5:11  <b>actual</b> [5] 34:2 52:17 57:15 63:25 101:6  <b>actually</b> [6] 14:21 19:16 20:9 27:8 49:4 97:24  <b>add</b> [3] 52:10 87:7 93:9  <b>added</b> [1] 5:9  <b>adding</b> [1] 96:6  <b>additional</b> [1] 38:14  <b>address</b> [2] 31:5 47:16  <b>adducing</b> [1] 81:17  <b>adjective</b> [1] 90:9  <b>administer</b> [1] 94:12  <b>administered</b> [4] 46:20 49:4 57:4 91:6  <b>administration</b> [15] 34:2,9 46:20 47:9,13,19,22 48:24 57:12 60:5 63:7,19 65:10,12 67:19  <b>administrative</b> [1] 89:17  <b>administrators</b> [3] 74:10 75:1 89:23  <b>administrators'</b> [1] 70:12  <b>admit</b> [1] 36:11  <b>adopts</b> [1] 105:1  <b>advance</b> [3] 25:14,23 26:6  <b>advertent</b> [1] 63:21  <b>advised</b> [1] 65:13  <b>advisor</b> [29] 4:13,18,21 5:3 17:14</p>	<p><b>12,14,17 25:9,22 26:5,17,21 27:16,19 28:5,9,11,13 29:9,16,23 30:2,24 32:6 41:4 60:15,16 61:24 62:3,15 64:18 66:6,19 71:2 72:1 97:2,5,6,19 103:7</b>  <b>Alito's</b> [2] 35:8 66:25  <b>alleviate</b> [1] 43:19  <b>allow</b> [8] 4:12 14:13 70:22 72:4 75:9 82:23 87:24 100:2  <b>allowed</b> [16] 5:24 11:13 14:7 17:15 22:14 44:11 47:10 48:16,20,22 57:2 61:17 66:15 74:5 91:5 99:25  <b>allowing</b> [1] 5:2  <b>allows</b> [4] 18:16 19:1,9 53:6  <b>alluded</b> [1] 91:10  <b>almost</b> [4] 50:13 88:11,13 100:3  <b>alone</b> [2] 68:7 79:22  <b>aloud</b> [1] 67:16  <b>already</b> [5] 20:22,22 23:23 102:14 104:20  <b>alternative</b> [5] 18:15 19:4,20 37:19 72:21  <b>alternatives</b> [4] 18:12 45:1 71:20 93:23  <b>although</b> [2] 48:14 66:9  <b>altogether</b> [1] 72:18  <b>amended</b> [1] 6:18  <b>Amendment</b> [1] 61:9  <b>amicus</b> [4] 2:6 3:7 41:20 45:14  <b>amount</b> [7] 33:1 50:21 90:14,15,17 100:17 101:16  <b>analyses</b> [1] 89:21  <b>analysis</b> [7] 12:2 31:6 42:20 49:12 50:13 96:25 98:6  <b>analyze</b> [3] 10:9 13:20 17:3  <b>analyzed</b> [1] 28:3  <b>analyzing</b> [1] 10:10</p>	<p><b>103:22 104:4,19 105:6</b>  <b>20</b> [2] 30:16 41:19  <b>2019</b> [5] 4:16 82:25 84:1 86:18 101:6  <b>2020</b> [9] 4:22 6:11 8:12,15 49:25 76:23 77:23 81:20 83:1  <b>2021</b> [8] 1:13 8:19,25 9:10 76:24 82:4,8 101:17  <b>2022</b> [1] 83:6  <b>21</b> [2] 8:19 99:6  <b>21-5592</b> [1] 4:4  <b>25a</b> [1] 50:2  <b>28</b> [2] 65:15 79:12</p>
<b>5</b>	<p><b>5</b> [2] 73:10 102:8  <b>53</b> [1] 103:25  <b>572</b> [1] 4:11</p>	<p><b>92:2</b>  <b>accommodated</b> [4] 58:20,20 59:6 79:9  <b>accommodating</b> [1] 68:25  <b>accommodation</b> [3] 53:19 54:3 61:7  <b>accommodations</b> [1] 77:25  <b>accompanied</b> [1] 93:5  <b>account</b> [4] 30:15 41:16 54:23 61:4  <b>accounted</b> [1] 42:3  <b>accurately</b> [3] 61:22 88:11,12  <b>acknowledge</b> [1] 91:4  <b>Across</b> [3] 4:11 35:10 105:3  <b>Act</b> [1] 28:17  <b>acting</b> [1] 33:11  <b>actions</b> [1] 5:11  <b>actual</b> [5] 34:2 52:17 57:15 63:25 101:6  <b>actually</b> [6] 14:21 19:16 20:9 27:8 49:4 97:24  <b>add</b> [3] 52:10 87:7 93:9  <b>added</b> [1] 5:9  <b>adding</b> [1] 96:6  <b>additional</b> [1] 38:14  <b>address</b> [2] 31:5 47:16</p>		

## Official - Subject to Final Review

<p><b>assessment</b> [2] 24:8 39:12  <b>assume</b> [2] 7:3 78:16  <b>assumed</b> [1] 77:21  <b>assuming</b> [1] 31:25  <b>astray</b> [2] 86:22 87:19  <b>attach</b> [1] 38:15  <b>attempt</b> [1] 5:25  <b>attempted</b> [1] 53:19  <b>attempting</b> [1] 88:12  <b>attend</b> [1] 66:15  <b>attending</b> [1] 34:8  <b>attorney</b> [2] 8:9 104:12  <b>audibility</b> [1] 86:21  <b>audible</b> [14] 21:25 23:12,16,18 68:13 76:19 77:5,11 83:11 85:2 86:6 91:5 98:7,7  <b>audibly</b> [2] 4:15 77:22  <b>auditory</b> [2] 63:6 66:2  <b>August</b> [5] 32:22 77:12,21 104:5,9  <b>Austin</b> [1] 2:8  <b>available</b> [1] 77:14  <b>avoid</b> [1] 33:7  <b>avoided</b> [1] 59:9  <b>aware</b> [5] 53:25 59:2 77:4 86:22 87:18  <b>away</b> [9] 11:3 21:23 24:5,7 49:3 51:8 65:10,15 73:24  <b>awful</b> [1] 88:18  <b>awfully</b> [1] 92:11  <b>awkward</b> [2] 35:20 36:11</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>back</b> [12] 22:8 26:24 27:23 32:4 38:21 52:1,5 62:4 83:20 84:21 85:25 102:2  <b>background</b> [1] 44:14  <b>bad</b> [1] 89:10  <b>balance</b> [1] 91:1  <b>balanced</b> [1] 42:5  <b>ban</b> [5] 5:5 46:5,7 89:7,7  <b>banned</b> [1] 5:5  <b>bar</b> [2] 72:18 73:25  <b>bare</b> [1] 102:15  <b>Barrett</b> [2] 42:9,10 43:4,17,20 44:25 45:3,6 63:24 71:12,14,23 73:5 74:13 75:25 81:19 82:5,7,18 88:5 103:10  <b>Barrett's</b> [1] 69:24  <b>based</b> [2] 15:24 98:5  <b>baseless</b> [1] 80:22  <b>basic</b> [1] 18:13  <b>basically</b> [3] 57:5 80:22 81:1  <b>basis</b> [5] 12:8,19 13:3 20:3 37:6  <b>bear</b> [2] 29:6 92:10  <b>beard</b> [2] 28:21 89:4  <b>beards</b> [1] 95:3  <b>beaten</b> [1] 40:24  <b>Becket</b> [1] 41:20  <b>become</b> [1] 55:1  <b>becomes</b> [1] 100:20  <b>beforehand</b> [3] 80:1,16,17  <b>began</b> [1] 48:25  <b>begin</b> [1] 16:10</p>	<p><b>beginning</b> [2] 70:4 92:17  <b>begins</b> [1] 24:13  <b>behalf</b> [9] 2:2,9 3:4,11,14 4:8 76:7 91:18 103:14  <b>behaved</b> [1] 79:14  <b>behavioral</b> [1] 35:15  <b>belief</b> [8] 6:10 7:9 23:5 29:5 30:4 49:20 51:11 56:18  <b>beliefs</b> [11] 7:6,21 8:4 9:16 12:3 28:2,7 29:18,20 37:3 49:11  <b>believe</b> [15] 25:25 26:8,11 34:23 35:1 36:13,18 51:3,5 64:13 89:3 97:24 98:3 101:10 102:6  <b>believes</b> [2] 17:23 55:8  <b>benefit</b> [3] 30:10 47:23 55:21  <b>best</b> [2] 7:9 87:6  <b>better</b> [2] 45:21 83:4  <b>between</b> [8] 25:5 52:16,25 54:4 73:8 86:17 87:16 89:10  <b>bit</b> [12] 20:15 47:1,20,22 49:23 55:24 57:8,11 59:25 62:9 64:19 73:7  <b>blessing</b> [1] 92:7  <b>block</b> [3] 31:13,15,16  <b>blocking</b> [2] 64:7,14  <b>bodies</b> [1] 34:5  <b>body</b> [11] 9:23 10:2,5,19 11:19 12:22 24:22 28:25 34:11,18,20  <b>boilerplate</b> [1] 104:3  <b>books</b> [2] 17:9 60:21  <b>BOP</b> [22] 56:24 57:22,22 58:1 61:8,14,23 62:5,10,17,24 63:6,14,17 66:11 68:12,21,23 72:3 74:15,19 75:17  <b>botched</b> [3] 42:17 105:14,16  <b>both</b> [13] 6:2 24:21 34:3 46:14,17 48:22 49:16 73:17 77:8,9 92:22 99:18 105:14  <b>bottom</b> [1] 82:14  <b>box</b> [1] 47:2  <b>boxes</b> [2] 47:18 53:10  <b>bread</b> [1] 19:1  <b>Breyer</b> [16] 30:23 60:14 82:20 84:3,8,15 85:20,23 86:10,12,16,19,24 87:2 103:6 106:3  <b>brief</b> [8] 40:9,12 41:20 51:18 52:12,14 74:13 94:11  <b>briefe</b> [1] 94:11  <b>briefing</b> [1] 46:14  <b>briefly</b> [1] 48:23  <b>briefs</b> [2] 25:6 43:8  <b>bright</b> [1] 21:24  <b>bright-line</b> [1] 67:1  <b>bring</b> [4] 96:11 101:1,5 102:20  <b>bringing</b> [1] 85:18  <b>brought</b> [2] 40:22 80:22  <b>BRYAN</b> [1] 1:6  <b>bubble</b> [1] 28:21  <b>Bucklew</b> [1] 85:13  <b>bunch</b> [1] 31:12  <b>burden</b> [12] 5:25 13:13,14,15 21:10 29:6 30:12 74:8 81:15 85:17,17,18</p>	<p><b>bureaucrats</b> [1] 12:10  <b>butt</b> [1] 100:23</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>calendar</b> [1] 26:10  <b>calf</b> [1] 35:2  <b>calibrate</b> [1] 19:13  <b>call</b> [2] 67:1 103:21  <b>came</b> [8] 1:15 5:13 27:4 58:3,6 69:4 95:2 98:1  <b>cannot</b> [1] 29:25  <b>capital</b> [2] 64:11 85:13  <b>care</b> [3] 86:2 89:25 105:7  <b>carried</b> [4] 20:6 62:19 75:2 97:22  <b>carries</b> [3] 38:13 72:23 74:15  <b>carry</b> [3] 43:23 54:9 62:24  <b>carrying</b> [3] 44:1,1 73:16  <b>Case</b> [40] 4:4 8:10,22 10:9,11 12:23 13:6,6,7 18:4,5 21:16,22 25:13 28:19 35:22 36:19 37:15 40:3 47:1 48:7 55:12 56:15,16 57:14 62:2,12 81:9 84:20 88:24 89:15 93:20,21 96:4 97:12 103:21 104:18,22 106:7,8  <b>case-specific</b> [1] 96:21  <b>cases</b> [9] 12:9 23:10 28:17 36:23 56:14 88:22 96:20 104:25 105:24  <b>Castro</b> [1] 41:10  <b>catalytic</b> [1] 103:23  <b>catastrophic</b> [4] 69:22 88:3,6 90:9  <b>categorical</b> [1] 46:5  <b>categorically</b> [1] 13:4  <b>Catholic</b> [3] 29:11,12,17  <b>causality</b> [1] 36:23  <b>cause</b> [2] 52:5 64:4  <b>caused</b> [3] 105:16,24,25  <b>causing</b> [1] 106:4  <b>caveats</b> [1] 57:8  <b>centrality</b> [1] 29:25  <b>certain</b> [6] 33:1 50:21 56:5,15 59:7 71:5  <b>certainly</b> [15] 8:6 10:14 17:5 21:6 28:14 41:12 48:12 54:19 70:13 78:15 83:24 86:9,10,11 102:10  <b>cetera</b> [1] 31:22  <b>challenge</b> [1] 36:25  <b>challenges</b> [1] 4:21  <b>challenging</b> [1] 13:20  <b>chamber</b> [25] 4:14,18 13:22 17:24 43:13,15 44:3 46:18 49:2 51:10 62:23 63:1 65:6,18 71:3 72:19 73:22 77:1 82:15 84:7,10,13 87:14 90:14 96:17  <b>chambers</b> [3] 5:2 28:6 82:21  <b>chance</b> [3] 5:25 51:20 89:8  <b>change</b> [4] 84:24 93:7,7 99:6  <b>changed</b> [7] 4:17 7:1 20:5 27:2 31:4 84:2 101:3  <b>chanting</b> [2] 24:23 63:12  <b>chaplain</b> [8] 34:25 38:13 64:2 93:4,8,14 105:25 106:4  <b>chaplaincy</b> [1] 8:23</p>	<p><b>chaplains</b> [7] 16:7 17:7 22:10 92:21,25 105:11,12  <b>characterize</b> [3] 42:21,22 43:2  <b>charged</b> [1] 87:13  <b>check</b> [2] 35:20 44:14  <b>CHIEF</b> [41] 4:3,9 9:21 10:8 11:6,11,12,23 12:6,13 18:17 30:18,21,22 33:21 42:8 45:10,15 54:15 55:9,16,18 56:21 60:9,13 66:21 71:11 76:1,3,8 78:5,20 79:1,4,7,16 80:5 103:1,5,15 106:6  <b>choose</b> [1] 52:6  <b>chooses</b> [1] 43:23  <b>choreographed</b> [3] 46:2 75:23 87:13  <b>chose</b> [4] 4:17 43:12,14 51:6  <b>chosen</b> [1] 89:11  <b>Christian</b> [1] 16:10  <b>Church</b> [5] 28:18 29:12 55:1 80:9 89:7  <b>circle</b> [1] 22:8  <b>Circuit</b> [4] 25:18,24 26:12 30:5  <b>circumstance</b> [3] 37:4 69:10,12  <b>circumstances</b> [8] 43:7 44:17 48:11 61:23 80:13,24 81:8 87:10  <b>citing</b> [2] 20:23 50:1  <b>claim</b> [7] 31:3 35:22 36:5 49:6,20 78:17 98:7  <b>claimed</b> [1] 49:24  <b>claiming</b> [2] 36:12 77:10  <b>claims</b> [14] 13:8 35:11 47:2 55:25 56:6 58:8,10 76:17 78:1 80:17 85:14,18 88:19,25  <b>clarity</b> [1] 99:18  <b>classic</b> [1] 12:10  <b>Clause</b> [1] 60:24  <b>clear</b> [5] 41:4 65:19 68:3,19 83:23  <b>clearer</b> [1] 99:19  <b>clearly</b> [2] 59:9 75:18  <b>client's</b> [1] 9:22  <b>close</b> [13] 14:9,13,22 15:15 17:1 33:15 38:24 48:3 70:2,8 75:8,9,10  <b>closed</b> [1] 24:9  <b>closer</b> [4] 10:15 11:9,19 75:4  <b>closure</b> [1] 64:12  <b>cognized</b> [1] 30:15  <b>collar</b> [1] 36:22  <b>collateral</b> [1] 80:13  <b>COLLIER</b> [2] 1:6 4:5  <b>combination</b> [1] 51:17  <b>come</b> [18] 18:8 21:13 22:7,22 23:22 25:23 32:25 44:16 48:3 51:15 64:4 82:25 83:5,6,14 84:19,21 99:23  <b>comes</b> [3] 18:10 54:25 70:13  <b>coming</b> [5] 16:17 27:7 68:6 91:22 93:3  <b>commanded</b> [1] 95:18  <b>common</b> [2] 19:6,7  <b>commonplace</b> [2] 86:14,20  <b>communications</b> [1] 61:20  <b>communion</b> [2] 59:22 60:6</p>
---	---	---	---

## Official - Subject to Final Review

<p><b>comparison</b> [3] 94:9 96:11,15  <b>compelling</b> [32] 13:16,17,18,19  14:11,21,23 31:7 37:18 42:13,18,  25 43:4,10,20,24 44:4,6,19,20 45:  6,24 70:1 71:20 72:10,15,25 73:  15 88:8,16 93:22 105:19  <b>competing</b> [1] 91:1  <b>complaint</b> [1] 35:17  <b>complaints</b> [2] 7:2 8:1  <b>complete</b> [1] 10:4  <b>completely</b> [2] 44:19 60:22  <b>complexities</b> [1] 34:8  <b>concept</b> [1] 41:19  <b>concern</b> [10] 13:10 21:22 31:20 59:  5 64:10 68:11,24 75:11 79:9 105:  19  <b>concerned</b> [2] 20:16,19  <b>concerns</b> [9] 28:16 37:13 49:21  50:9 63:20 66:5 79:18 89:17 90:1  <b>conclusion</b> [2] 21:13,14  <b>concurrence</b> [1] 16:19  <b>concurring</b> [1] 34:1  <b>condemned</b> [1] 4:14  <b>conduct</b> [1] 77:3  <b>congregants</b> [3] 10:2,18 29:2  <b>Congress</b> [7] 30:15 32:8 37:10 41:  16 42:3 81:14 95:18  <b>conscious</b> [1] 24:7  <b>consciousness</b> [1] 24:2  <b>consensual</b> [1] 53:7  <b>consequences</b> [1] 42:16  <b>considerations</b> [2] 65:3,4  <b>considered</b> [2] 50:12 51:16  <b>considering</b> [1] 49:13  <b>consistent</b> [1] 98:12  <b>consistently</b> [2] 9:16 76:18  <b>construct</b> [1] 44:9  <b>construe</b> [1] 104:22  <b>construed</b> [2] 8:8 34:21  <b>consultation</b> [1] 75:1  <b>contact</b> [8] 45:25 47:3,8,21 48:23  49:7 69:2 80:14  <b>contend</b> [1] 9:13  <b>content</b> [1] 75:16  <b>context</b> [6] 30:11 48:5 49:18 56:  10 73:16 79:12  <b>contexts</b> [2] 7:20 88:17  <b>continue</b> [1] 26:19  <b>continuing</b> [2] 45:18 52:24  <b>contraband</b> [2] 89:3 95:3  <b>contract</b> [1] 17:8  <b>control</b> [1] 54:8  <b>conversation</b> [2] 57:15 67:18  <b>conversely</b> [1] 47:11  <b>conversion</b> [2] 78:25 79:17  <b>convert</b> [2] 78:9 80:8  <b>conviction</b> [1] 10:11  <b>convictions</b> [1] 95:18  <b>copy</b> [1] 8:18  <b>correct</b> [20] 9:25 26:11 32:2,3,9 33:  2,9,15 50:22,24 51:2 52:7,12 58:9  59:18 67:9 68:9,10 90:3 98:20</p>	<p><b>correctional</b> [2] 87:12 89:6  <b>correctly</b> [4] 51:4 68:9 73:18 100:  8  <b>correctness</b> [2] 30:1 36:4  <b>couldn't</b> [5] 47:16 74:11 83:14 96:  4 98:15  <b>Counsel</b> [16] 6:5 9:21 27:5 30:19  31:1 33:20 45:11 60:10 76:4 78:5  97:1 98:17 99:24 103:2,11 106:7  <b>countenance</b> [1] 76:15  <b>country</b> [2] 37:6 105:3  <b>couple</b> [1] 22:17  <b>course</b> [5] 17:16 64:13 82:10 83:  13 88:10  <b>COURT</b> [45] 1:1,16 4:10 5:23 6:1  12:9 14:20 18:1 19:16 21:18 26:1  28:16 29:10 30:9 34:6 36:25 45:  16,17 51:15 52:10,16 55:8 56:18  58:3,7 59:6 60:19 69:5 76:9,15 78:  2,24 79:10 80:25 88:24 89:22 94:  6 95:5 96:21 97:10,11,12,18 98:9  105:1  <b>Court's</b> [11] 6:4 46:10 78:4 84:5  85:12 88:20,20 89:16 96:8,12 98:  6  <b>courts</b> [16] 11:12 19:23 25:1 30:6  36:6 37:6 40:17 50:11 54:10,11  55:12 56:4 70:14 73:6,24 74:3  <b>create</b> [3] 73:22 86:21 90:16  <b>created</b> [2] 16:9,13  <b>Credibility</b> [3] 36:7 37:5 80:3  <b>crime</b> [1] 40:23  <b>CRIMINAL</b> [1] 1:7  <b>criminalizing</b> [1] 17:10  <b>cross-examine</b> [1] 51:22  <b>crystallize</b> [1] 53:8  <b>curiae</b> [3] 2:6 3:8 45:14  <b>current</b> [2] 5:17 40:2  <b>cusp</b> [1] 9:12  <b>cut</b> [1] 103:20  <b>Cutter's</b> [1] 70:11</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D.C</b> [2] 1:12 2:5  <b>daily</b> [1] 37:5  <b>damage</b> [1] 88:3  <b>data</b> [1] 15:24  <b>dataset</b> [1] 15:25  <b>date</b> [14] 4:23 8:11 9:5 25:14 33:15  52:16 54:9 76:13,16 97:4,9,11  100:23 101:18  <b>date's</b> [1] 26:9  <b>dates</b> [3] 80:19 82:22 97:18  <b>Daubert</b> [1] 36:25  <b>day</b> [12] 18:2 22:22,23 25:8,25 26:  2,3,4,6,15,16 50:4  <b>days</b> [23] 5:14 6:14 8:21 21:2 25:  19 52:18 78:7 80:1 97:7,15 98:9,  14 99:25 100:8,10 102:2,4,4,9,12,  13 104:14,17  <b>deal</b> [6] 18:10 21:4 25:2 75:18 78:  6 95:9  <b>dealing</b> [2] 87:12 95:21</p>	<p><b>death</b> [11] 8:15 18:9 34:3 39:1 40:  25,25 54:20 79:18,20 87:14 90:14  <b>decades</b> [3] 4:12 16:4 40:23  <b>decide</b> [5] 25:4 37:1 52:3 71:8 75:  3  <b>decided</b> [5] 51:2 75:7 78:8 79:20  82:25  <b>decides</b> [1] 54:8  <b>decision</b> [2] 39:10 84:5  <b>decisions</b> [1] 74:20  <b>declaration</b> [3] 47:15 50:3 51:4  <b>defeat</b> [1] 31:3  <b>defend</b> [1] 99:10  <b>defended</b> [1] 99:10  <b>defer</b> [1] 89:23  <b>deference</b> [8] 70:12 74:9 81:12 88:  21,23,25 89:16 95:15  <b>define</b> [3] 42:18 71:17,24  <b>defined</b> [2] 11:16 72:11  <b>defines</b> [1] 72:15  <b>definition</b> [2] 38:24 88:8  <b>definitionally</b> [1] 34:17  <b>definitively</b> [1] 48:9  <b>degree</b> [7] 15:9 54:3,10 68:24 69:  8 71:8 73:23  <b>delay</b> [9] 9:13 13:9 52:5 64:4 76:  16 78:2 79:25 100:15 103:22  <b>delayed</b> [2] 5:7 77:24  <b>delays</b> [3] 9:2 41:7 77:9  <b>delicate</b> [1] 34:4  <b>demands</b> [1] 61:5  <b>demonstrated</b> [1] 20:2  <b>denial</b> [1] 104:5  <b>denied</b> [1] 104:3  <b>denominational</b> [1] 22:15  <b>denominator</b> [2] 19:6,7  <b>deny</b> [2] 100:3 101:16  <b>DEPARTMENT</b> [2] 1:7 2:5  <b>depending</b> [1] 86:4  <b>depends</b> [1] 48:10  <b>Deputy</b> [1] 2:4  <b>described</b> [2] 42:25 63:4  <b>description</b> [1] 90:25  <b>descriptively</b> [1] 102:18  <b>designed</b> [1] 12:6  <b>desire</b> [2] 51:9 66:25  <b>determination</b> [3] 60:20 80:3 81:  10  <b>determinations</b> [2] 36:7 37:5  <b>determine</b> [2] 55:13 78:24  <b>determines</b> [2] 5:23 74:16  <b>develop</b> [2] 6:2 52:18  <b>developed</b> [1] 49:22  <b>development</b> [2] 54:5,10  <b>dictate</b> [1] 11:17  <b>die</b> [2] 29:3 38:25  <b>dies</b> [1] 24:3  <b>differ</b> [1] 66:4  <b>difference</b> [5] 25:4 82:2 87:15 91:  14 96:19  <b>different</b> [28] 10:10,12 12:23 15:1  21:3,15 22:20 24:21 28:1,1,2,5,6,</p>	<p>6,7 42:24 44:23 49:8,12,24 54:21  60:1 64:25 65:4 66:10 71:2 93:16,  17  <b>differently</b> [2] 43:3 72:11  <b>difficult</b> [5] 55:13 56:2,10 91:3,23  <b>difficulties</b> [1] 34:4  <b>difficulty</b> [1] 37:12  <b>dilatory</b> [1] 8:10  <b>diligent</b> [1] 85:15  <b>diligently</b> [2] 85:18 102:10  <b>direct</b> [2] 34:23 81:23  <b>directed</b> [1] 43:11  <b>directly</b> [6] 12:24 17:18 23:21 43:  11 73:13,14  <b>DIRECTOR</b> [2] 1:6 8:23  <b>disagree</b> [2] 38:10 52:9  <b>disclaimed</b> [1] 76:23  <b>discrimination</b> [1] 22:15  <b>discuss</b> [1] 49:11  <b>discussed</b> [2] 43:7 79:11  <b>discussing</b> [1] 71:1  <b>discussion</b> [1] 74:25  <b>discussions</b> [4] 57:23 58:16,19  75:17  <b>dismiss</b> [2] 6:15 8:13  <b>dismissed</b> [1] 98:3  <b>disposition</b> [1] 17:11  <b>dispositive</b> [2] 94:20 96:25  <b>dispute</b> [5] 15:3,19 52:11 53:8,8  <b>disputes</b> [1] 45:19  <b>disrupt</b> [1] 69:16  <b>disruption</b> [1] 63:22  <b>distance</b> [1] 75:8  <b>distinct</b> [1] 77:19  <b>distinction</b> [1] 87:8  <b>distinguished</b> [2] 77:20,22  <b>distributor</b> [1] 56:7  <b>district</b> [9] 25:15 30:6 36:5,8,17,  24 80:25 81:9 98:6  <b>disturbance</b> [1] 106:5  <b>docket</b> [1] 18:7  <b>doctor</b> [1] 34:17  <b>doctor's</b> [1] 10:23  <b>doctrine</b> [1] 29:1  <b>documented</b> [1] 39:17  <b>doing</b> [8] 19:12 20:20 44:15,24 46:  7 62:10 75:14 100:6  <b>DOJ</b> [1] 99:14  <b>done</b> [6] 12:21 22:7 43:5 58:14 70:  24 102:24  <b>doubt</b> [1] 55:10  <b>down</b> [1] 94:7  <b>drapes</b> [1] 24:9  <b>drip</b> [1] 63:8  <b>drove</b> [1] 17:19  <b>drug</b> [8] 23:23 47:5,6,9,14,20,22  105:12  <b>drugs</b> [15] 34:3,9 46:19,21 48:25  49:4 57:4,13 60:5 63:8,19 65:11,  13 67:21 91:6  <b>duration</b> [1] 92:16  <b>during</b> [21] 46:20 47:5,8,19 54:5</p>
--	---	---	--

## Official - Subject to Final Review

<p>57:12 59:14 60:4 61:17 62:6 63:7, 18 65:10 66:12 68:4,5,12,15 75: 19 97:22 98:20</p> <p><b>duties</b> [1] 17:12</p> <p><b>dying</b> [1] 51:10</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>e-mails</b> [1] 99:24</p> <p><b>each</b> [11] 22:20 27:25 28:2,7 31:5 40:16,21 62:11 74:17,21 76:12</p> <p><b>earlier</b> [10] 35:5 50:2 53:10 63:5, 24 68:25 69:25 71:1 78:7 101:1</p> <p><b>early</b> [4] 5:15 26:1 28:17 32:24</p> <p><b>effect</b> [2] 56:8 60:8</p> <p><b>effectively</b> [1] 73:17</p> <p><b>effort</b> [1] 91:1</p> <p><b>eight</b> [1] 46:23</p> <p><b>Either</b> [7] 5:7,10 11:7 53:9 63:21 64:15 97:25</p> <p><b>EKG</b> [1] 63:14</p> <p><b>eliminate</b> [1] 56:5</p> <p><b>eloquent</b> [1] 12:14</p> <p><b>embrace</b> [1] 44:19</p> <p><b>emphasis</b> [1] 70:11</p> <p><b>emphasize</b> [1] 69:3</p> <p><b>empirical</b> [4] 15:24,25 20:3 73:10</p> <p><b>employee</b> [6] 35:6 38:12 64:1 87: 11 105:10,11</p> <p><b>employees</b> [7] 22:10,13 99:14 105:13,18,23,23</p> <p><b>enables</b> [1] 65:9</p> <p><b>end</b> [7] 10:5 15:2 78:3 92:18 102: 12,12,19</p> <p><b>ends/means</b> [1] 89:10</p> <p><b>enforced</b> [1] 14:2</p> <p><b>enforcement</b> [2] 17:11 36:20</p> <p><b>engage</b> [2] 53:19 98:10</p> <p><b>engaging</b> [2] 94:8 96:10</p> <p><b>engendered</b> [1] 80:15</p> <p><b>enough</b> [3] 14:23 31:3 59:9</p> <p><b>enshrined</b> [1] 14:1</p> <p><b>enter</b> [1] 51:25</p> <p><b>entered</b> [1] 25:15</p> <p><b>entire</b> [5] 62:13 68:4 77:4 92:16 103:24</p> <p><b>entirely</b> [2] 65:19 68:3</p> <p><b>entitled</b> [3] 30:10 32:9 101:23</p> <p><b>entity</b> [1] 43:15</p> <p><b>environment</b> [1] 15:5</p> <p><b>equal</b> [4] 14:1 16:9,14 94:16</p> <p><b>equipment</b> [4] 65:20 66:3,3 71:3</p> <p><b>equitable</b> [1] 85:16</p> <p><b>equities</b> [2] 30:14 42:5</p> <p><b>ergo</b> [1] 17:7</p> <p><b>ERIC</b> [3] 2:4 3:6 45:13</p> <p><b>escorted</b> [1] 82:15</p> <p><b>especially</b> [2] 38:23 46:15</p> <p><b>ESQ</b> [4] 3:3,6,10,13</p> <p><b>ESQUIRE</b> [1] 2:2</p> <p><b>essentially</b> [8] 48:17,21 50:12 52: 9 58:15 75:21 94:12 95:12</p> <p><b>established</b> [1] 12:21</p> <p><b>ET</b> [2] 1:8 31:21</p>	<p><b>eve</b> [1] 25:2</p> <p><b>even</b> [13] 11:19 28:18 41:18 47:16 51:20 53:11 55:16 69:8 73:21,23 75:19,19 99:14</p> <p><b>event</b> [1] 92:6</p> <p><b>everyone</b> [6] 12:12 13:25 59:8 91: 4 102:24 106:2</p> <p><b>everything</b> [4] 25:19 59:6 63:2 101:4</p> <p><b>evidence</b> [8] 7:9,20,21 8:2 21:9,17 94:20 96:3</p> <p><b>evidenced</b> [1] 34:5</p> <p><b>evidentiary</b> [2] 6:1 56:12</p> <p><b>exact</b> [2] 104:6,8</p> <p><b>exactly</b> [14] 12:25 17:18 23:12,14 29:24 53:1,2,5 61:23 65:20 90:4, 12 94:25 96:10</p> <p><b>examination</b> [1] 81:7</p> <p><b>example</b> [13] 10:3,22 12:2 17:13 18:17 36:19,25 39:20 69:19 72:11 79:13 88:24 96:4</p> <p><b>examples</b> [3] 41:22 71:19 96:9</p> <p><b>excellent</b> [1] 84:16</p> <p><b>except</b> [1] 67:8</p> <p><b>exception</b> [1] 12:11</p> <p><b>exceptional</b> [2] 76:11 101:23</p> <p><b>exceptions</b> [1] 12:12</p> <p><b>exchange</b> [1] 4:23</p> <p><b>excluding</b> [1] 13:25</p> <p><b>excuse</b> [2] 77:5,8</p> <p><b>excused</b> [1] 52:22</p> <p><b>executed</b> [1] 52:3</p> <p><b>executed</b> [5] 7:23 40:16 50:5 97:3 104:20</p> <p><b>execution</b> [96] 4:13,18,23 5:1,21 8: 11 9:5,12 13:22 14:7 16:23 17:24, 25 19:2,2 20:7,10 21:2 22:2,21 24: 1 25:2,14,23 26:6,8,25 28:6 31:10 33:15 34:7,9 38:22 40:23 42:17 43:5,12,13,14,22 44:2,3 46:2,13, 18 48:22,24 50:24 51:10 52:16,17 54:8,9 61:17,18 63:4 64:16,20,21 68:3,15,17 69:19 73:16 75:15 76: 12,13,16 77:1,14,16 78:8,19 79:25 80:18 82:15,17 85:16 86:22 87:19 91:11 92:17 94:22,23 95:23,24 96: 25 97:4,13,21 98:20 99:6 100:23 101:18,24 105:21</p> <p><b>execution's</b> [1] 100:13</p> <p><b>executions</b> [20] 4:11 13:9 16:1 40: 11 41:14 56:25 58:11 61:13 62:6, 18,25 67:5 74:15 75:2,20 85:25 86:15 105:14,16,24</p> <p><b>EXECUTIVE</b> [1] 1:6</p> <p><b>exercise</b> [11] 4:20 10:7,16,17 11: 14,15,21 12:7 20:10 60:18,24</p> <p><b>exhaust</b> [3] 77:10 97:20 98:15</p> <p><b>exhausted</b> [2] 53:22 97:24</p> <p><b>exhaustion</b> [9] 52:21,22 53:5 98:1, 4,10,11 103:22 104:22</p> <p><b>exhorting</b> [1] 96:23</p> <p><b>exists</b> [2] 99:18 106:1</p>	<p><b>expeditiously</b> [1] 33:12</p> <p><b>experience</b> [12] 34:6 45:22 46:22 48:14 56:24 57:25 74:1 79:17 81: 6 87:2 90:25 95:25</p> <p><b>experiences</b> [1] 46:4</p> <p><b>expert</b> [3] 28:14 36:23 52:13</p> <p><b>expertise</b> [1] 70:13</p> <p><b>experts</b> [4] 36:22 46:8 75:2 89:23</p> <p><b>explain</b> [1] 51:20</p> <p><b>explaining</b> [1] 45:21</p> <p><b>explanation</b> [1] 67:4</p> <p><b>explored</b> [1] 54:1</p> <p><b>expose</b> [1] 34:10</p> <p><b>expressed</b> [1] 32:6</p> <p><b>extended</b> [1] 60:23</p> <p><b>extent</b> [5] 89:5 94:21 95:8,21 96:8</p> <p><b>extraordinary</b> [1] 87:13</p> <p><b>extremely</b> [3] 63:25 76:11 101:23</p> <p><b>extremity</b> [1] 10:4</p> <p><b>eyes</b> [1] 40:13</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>fact</b> [12] 10:16 47:14 51:18 80:20 93:2 94:18 95:25 96:14,17 98:22 99:1 101:4</p> <p><b>facto</b> [1] 19:14</p> <p><b>factor</b> [1] 64:17</p> <p><b>factors</b> [1] 79:13</p> <p><b>facts</b> [9] 6:12 18:4 32:2 51:16,17, 23 79:22 80:24 81:8</p> <p><b>factual</b> [7] 25:5 45:19 47:24 48:11 52:24 54:1 81:10</p> <p><b>factually</b> [2] 28:1 80:7</p> <p><b>failing</b> [1] 77:6</p> <p><b>failures</b> [3] 34:10 77:9,9</p> <p><b>faint</b> [1] 69:14</p> <p><b>fairly</b> [2] 47:12 85:5</p> <p><b>faith</b> [4] 32:12,19 78:9,22</p> <p><b>fall</b> [1] 96:14</p> <p><b>false</b> [2] 76:22 77:13</p> <p><b>falsely</b> [1] 49:19</p> <p><b>familiar</b> [1] 80:25</p> <p><b>families</b> [3] 41:5 90:19 91:19</p> <p><b>family</b> [7] 40:8,14,19 41:10 50:22 51:8 64:13</p> <p><b>famously</b> [1] 105:15</p> <p><b>far</b> [14] 5:14 10:4 11:2,3,4,7 22:24 25:22 26:6 53:1,3 95:20 102:9 106:1</p> <p><b>fashion</b> [2] 22:12 27:4</p> <p><b>faster</b> [3] 9:7 100:10 102:9</p> <p><b>father</b> [2] 40:24 60:1</p> <p><b>favor</b> [2] 18:6 102:24</p> <p><b>fear</b> [1] 24:19</p> <p><b>fears</b> [1] 31:18</p> <p><b>feasible</b> [1] 65:17</p> <p><b>federal</b> [28] 5:17 19:23 20:4 30:6 36:2,5 37:6 44:24 45:21 48:13 61: 13 64:1,22 65:1,1,23 66:14 67:5 68:7 70:21 71:4,6,9 72:24 75:19 91:11 96:16 105:5</p> <p><b>feel</b> [3] 41:11 55:20 71:18</p> <p><b>feet</b> [2] 65:10 73:23</p>	<p><b>FEIGIN</b> [56] 2:4 3:6 45:12,13,15 48: 8 49:15 50:16,19,25 51:3,14,22 52:8 53:13,17,20 54:14,15 55:7, 11,17,22 57:7 58:5,9,15,23 59:1, 13,19,24 60:16 61:21 62:1,8,20 65:6 66:17 67:10,14,17,21,23,25 68:18,23 70:10 71:13,14,22 73:2 75:6 76:1 88:7 90:8</p> <p><b>Feigin's</b> [1] 90:25</p> <p><b>few</b> [5] 20:25 25:19 66:24 78:7 100: 11</p> <p><b>Fifth</b> [3] 25:18,24 26:12</p> <p><b>fighting</b> [1] 72:6</p> <p><b>figure</b> [1] 27:14</p> <p><b>figuring</b> [1] 101:22</p> <p><b>file</b> [6] 6:14 27:1 101:19 102:21 103:21 104:11</p> <p><b>filed</b> [17] 6:11 7:2 8:12,14,16,21 9: 9 25:13,16 26:11,14,16 40:9 41: 21 98:1 101:13 104:1</p> <p><b>files</b> [3] 100:1,4 102:11</p> <p><b>filing</b> [5] 7:17 8:1,7 99:20 102:12</p> <p><b>finality</b> [1] 41:14</p> <p><b>finally</b> [2] 84:20,24</p> <p><b>findings</b> [1] 47:24</p> <p><b>fine</b> [1] 83:10</p> <p><b>finish</b> [1] 40:5</p> <p><b>fire</b> [1] 17:7</p> <p><b>first</b> [18] 5:4 19:13 21:11 26:25 29: 7,23 30:7 61:9 76:22 78:23 81:11 84:1,1 97:9 98:13 101:19 102:5,8</p> <p><b>fit</b> [1] 89:10</p> <p><b>fit</b> [2] 39:20 46:22</p> <p><b>five-second</b> [1] 92:7</p> <p><b>fix</b> [2] 99:18,20</p> <p><b>flag</b> [1] 49:24</p> <p><b>flags</b> [1] 56:15</p> <p><b>floor</b> [3] 65:14 74:22 75:5</p> <p><b>focus</b> [1] 13:18</p> <p><b>focuses</b> [1] 79:18</p> <p><b>focusing</b> [1] 57:9</p> <p><b>folks</b> [1] 17:20</p> <p><b>follow</b> [6] 20:21 35:8 64:19 69:24 70:19 71:15</p> <p><b>follow-ups</b> [1] 66:25</p> <p><b>followed</b> [2] 5:1 26:4</p> <p><b>following</b> [3] 13:25 26:2 67:6</p> <p><b>foot</b> [5] 10:4 11:3,10 23:3 31:15</p> <p><b>footage</b> [1] 65:7</p> <p><b>Footnote</b> [1] 79:12</p> <p><b>forbid</b> [1] 4:17</p> <p><b>forehead</b> [1] 10:13</p> <p><b>form</b> [3] 22:15 27:11 101:7</p> <p><b>forth</b> [7] 24:10 27:5 28:18 30:14 35:2 41:14 44:14</p> <p><b>fortunately</b> [1] 63:16</p> <p><b>forward</b> [2] 22:24 88:17</p> <p><b>fought</b> [1] 4:19</p> <p><b>four</b> [5] 4:12 13:11 16:3 97:17 102: 3</p> <p><b>four-and-a-half</b> [1] 40:10</p> <p><b>fourth</b> [1] 76:16</p>
--	---	--	---

## Official - Subject to Final Review

<p><b>frame</b> <sup>[1]</sup> 43:12  <b>frankly</b> <sup>[2]</sup> 49:16 64:6  <b>fraud</b> <sup>[1]</sup> 30:8  <b>fraught</b> <sup>[5]</sup> 16:18,19 34:4 38:22 69:10  <b>free</b> <sup>[3]</sup> 44:15 60:18,23  <b>Freedom</b> <sup>[2]</sup> 28:17 52:6  <b>Friday</b> <sup>[1]</sup> 66:13  <b>friend</b> <sup>[3]</sup> 73:14 88:7 103:17  <b>friends</b> <sup>[1]</sup> 38:25  <b>frivolous</b> <sup>[1]</sup> 56:5  <b>front</b> <sup>[1]</sup> 26:10  <b>front-run</b> <sup>[1]</sup> 103:20  <b>full</b> <sup>[1]</sup> 22:8  <b>fully</b> <sup>[1]</sup> 64:15  <b>Fulton</b> <sup>[1]</sup> 37:13  <b>functionally</b> <sup>[1]</sup> 91:15  <b>Fund</b> <sup>[1]</sup> 41:21  <b>further</b> <sup>[14]</sup> 30:20 33:22 43:8 45:22 47:24 49:23 50:8 52:18 54:5,9 56:19 66:22 71:12 103:3  <b>furthering</b> <sup>[1]</sup> 5:20  <b>future</b> <sup>[4]</sup> 21:23 35:9 41:5 61:13</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>galleries</b> <sup>[1]</sup> 65:22  <b>games</b> <sup>[1]</sup> 8:9  <b>gaming</b> <sup>[4]</sup> 7:4,24 8:3 49:13  <b>gathering</b> <sup>[1]</sup> 72:9  <b>gatherings</b> <sup>[1]</sup> 72:13  <b>gave</b> <sup>[3]</sup> 31:12 71:18 76:24  <b>General</b> <sup>[9]</sup> 2:4,8 27:5 59:3 76:5 81:19 91:25 94:24 103:17  <b>generalized</b> <sup>[1]</sup> 31:2  <b>generally</b> <sup>[5]</sup> 10:17 31:7 56:3 61:4,16  <b>generally</b> <sup>[1]</sup> 48:6  <b>genuinely</b> <sup>[1]</sup> 12:19  <b>gets</b> <sup>[5]</sup> 9:5 40:13 56:9 84:20 101:25  <b>getting</b> <sup>[2]</sup> 92:1 96:12  <b>give</b> <sup>[6]</sup> 53:15 70:18 74:8 81:11 88:9 104:17  <b>given</b> <sup>[11]</sup> 18:8 41:23 50:10,22 51:17 59:22 70:2 88:5 95:15,17 96:3  <b>giving</b> <sup>[1]</sup> 60:7  <b>goalposts</b> <sup>[1]</sup> 13:8  <b>gold</b> <sup>[2]</sup> 40:14 61:2  <b>Gorsuch</b> <sup>[2]</sup> 33:22 103:9  <b>got</b> <sup>[7]</sup> 8:14 32:21 35:16 57:20 83:1 85:20 89:19  <b>government</b> <sup>[10]</sup> 5:18 20:4 44:24 64:22 65:2 70:21 71:6,9 72:24 96:16  <b>government's</b> <sup>[1]</sup> 71:4  <b>granted</b> <sup>[1]</sup> 18:1  <b>grants</b> <sup>[1]</sup> 97:16  <b>great</b> <sup>[1]</sup> 75:18  <b>greater</b> <sup>[3]</sup> 21:7 68:24 105:11  <b>greatest</b> <sup>[2]</sup> 19:6 41:9  <b>grievance</b> <sup>[21]</sup> 5:10 7:11 9:10 53:21 98:13 99:20,22 100:1,4 101:1,7,13,19 102:1,6,9,16,23 104:11,19</p>	<p>105:7  <b>grievances</b> <sup>[7]</sup> 7:17 8:16,21 9:6 27:1 97:21 100:9  <b>grieve</b> <sup>[2]</sup> 41:10 77:6  <b>grieving</b> <sup>[1]</sup> 101:25  <b>guess</b> <sup>[7]</sup> 7:25 12:22 18:16 39:8 44:9 57:18 86:13  <b>guessing</b> <sup>[1]</sup> 27:15  <b>guidance</b> <sup>[1]</sup> 41:22  <b>guide</b> <sup>[1]</sup> 51:12  <b>guidelines</b> <sup>[2]</sup> 33:9 67:2  <b>gurney</b> <sup>[1]</sup> 65:15  <b>Gutierrez</b> <sup>[1]</sup> 69:5</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>Ha</b> <sup>[1]</sup> 83:12  <b>half-an-inch</b> <sup>[1]</sup> 28:21  <b>half-inch</b> <sup>[1]</sup> 89:4  <b>halted</b> <sup>[1]</sup> 76:12  <b>hand</b> <sup>[5]</sup> 10:12 11:7 23:6,6,8  <b>handful</b> <sup>[1]</sup> 87:23  <b>handing</b> <sup>[1]</sup> 8:18  <b>hands</b> <sup>[12]</sup> 4:14 6:6 10:1 34:11,18,20,22,22 83:3,10 85:1,1  <b>handwritten</b> <sup>[1]</sup> 7:11  <b>happen</b> <sup>[5]</sup> 20:24 23:4 24:25 69:13,17  <b>happened</b> <sup>[5]</sup> 9:8 61:12 67:4,7 99:8  <b>happens</b> <sup>[1]</sup> 55:6  <b>happy</b> <sup>[1]</sup> 46:10  <b>hard</b> <sup>[2]</sup> 36:14 89:2  <b>harm</b> <sup>[3]</sup> 63:23 90:3,7  <b>Haute</b> <sup>[1]</sup> 65:5  <b>head</b> <sup>[3]</sup> 11:1 23:8 99:16  <b>hear</b> <sup>[1]</sup> 4:3  <b>heard</b> <sup>[2]</sup> 32:20 105:14  <b>hearing</b> <sup>[4]</sup> 6:2 36:19 51:19 56:12  <b>heart</b> <sup>[4]</sup> 10:13 11:2,7 23:7  <b>heavily</b> <sup>[1]</sup> 71:5  <b>heavy</b> <sup>[1]</sup> 18:7  <b>held</b> <sup>[4]</sup> 12:19 29:5 30:3 89:3  <b>help</b> <sup>[2]</sup> 51:12 80:24  <b>helpful</b> <sup>[9]</sup> 24:17 45:22 46:12,25 54:11 60:25 62:16 64:18 67:4  <b>helps</b> <sup>[1]</sup> 18:14  <b>hesitant</b> <sup>[1]</sup> 74:3  <b>Higginbotham</b> <sup>[3]</sup> 33:25 34:21 38:21  <b>Higginbotham's</b> <sup>[2]</sup> 16:18 34:13  <b>high</b> <sup>[5]</sup> 42:17 63:25 89:8 90:19,22  <b>highly</b> <sup>[1]</sup> 46:2  <b>Hill</b> <sup>[1]</sup> 85:12  <b>himself</b> <sup>[2]</sup> 77:20 93:8  <b>hire</b> <sup>[1]</sup> 17:6  <b>historical</b> <sup>[2]</sup> 21:25 41:21  <b>history</b> <sup>[7]</sup> 5:16 12:11 17:14 18:8 41:23 92:22 105:22  <b>Hobbs</b> <sup>[2]</sup> 28:19 88:21  <b>Hobby</b> <sup>[1]</sup> 79:12  <b>hold</b> <sup>[2]</sup> 23:6 40:17  <b>Holt</b> <sup>[8]</sup> 28:19 70:15 73:7 74:7 88:21 89:1 94:25 95:1</p>	<p><b>Holt's</b> <sup>[2]</sup> 70:11,18  <b>holy</b> <sup>[2]</sup> 59:23 94:12  <b>honor</b> <sup>[45]</sup> 29:19 48:8 50:25 51:5,14 52:8 53:17,20 55:7,22 56:10 57:7 58:10,15 59:1,20,24 61:21 62:8,20 64:6 65:7 66:17 67:11 68:18 75:6 78:15,23 79:23 83:22 85:11 86:23 87:9 88:10 90:13 91:9 93:12 94:5 97:9,23 98:21 100:7,16,25 101:18  <b>horribly</b> <sup>[1]</sup> 41:11  <b>Houston</b> <sup>[1]</sup> 2:2  <b>however</b> <sup>[3]</sup> 5:24 62:24 94:7  <b>hug</b> <sup>[1]</sup> 19:9  <b>huge</b> <sup>[1]</sup> 35:9  <b>human</b> <sup>[4]</sup> 23:9 38:21 39:3 81:6  <b>humane</b> <sup>[2]</sup> 43:6 44:2  <b>humanity</b> <sup>[1]</sup> 44:1  <b>hundred</b> <sup>[2]</sup> 86:1 106:2  <b>hundreds</b> <sup>[2]</sup> 15:25 17:20  <b>hypothetical</b> <sup>[3]</sup> 8:6 78:6 89:9</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>ID</b> <sup>[1]</sup> 44:13  <b>idea</b> <sup>[2]</sup> 39:2 85:24  <b>ideally</b> <sup>[1]</sup> 48:15  <b>identifies</b> <sup>[1]</sup> 70:15  <b>identify</b> <sup>[1]</sup> 61:1  <b>Il</b> <sup>[3]</sup> 2:8 3:10 76:6  <b>illustration</b> <sup>[1]</sup> 37:15  <b>imagine</b> <sup>[2]</sup> 20:25 38:23  <b>immediately</b> <sup>[1]</sup> 8:16  <b>imminent</b> <sup>[1]</sup> 79:20  <b>impede</b> <sup>[1]</sup> 103:20  <b>impelled</b> <sup>[1]</sup> 22:9  <b>impending</b> <sup>[1]</sup> 79:17  <b>implication</b> <sup>[1]</sup> 104:21  <b>implications</b> <sup>[1]</sup> 104:24  <b>important</b> <sup>[7]</sup> 11:11 53:6 64:16 71:17 87:8,8 96:17  <b>imposed</b> <sup>[1]</sup> 8:24  <b>imposes</b> <sup>[1]</sup> 55:17  <b>inadvertent</b> <sup>[1]</sup> 63:22  <b>incentives</b> <sup>[2]</sup> 35:14 49:19  <b>inches</b> <sup>[1]</sup> 65:15  <b>incident</b> <sup>[1]</sup> 39:25  <b>included</b> <sup>[1]</sup> 57:12  <b>includes</b> <sup>[1]</sup> 85:18  <b>including</b> <sup>[1]</sup> 45:18  <b>inconsistencies</b> <sup>[1]</sup> 35:15  <b>incorrect</b> <sup>[2]</sup> 6:13 102:17  <b>increase</b> <sup>[1]</sup> 15:19  <b>increases</b> <sup>[2]</sup> 14:15 15:18  <b>incredibly</b> <sup>[2]</sup> 39:17 89:2  <b>indeterminate</b> <sup>[1]</sup> 47:23  <b>indicate</b> <sup>[1]</sup> 63:11  <b>indication</b> <sup>[1]</sup> 7:4  <b>indirectly</b> <sup>[1]</sup> 92:25  <b>individual</b> <sup>[10]</sup> 29:20 31:6 79:14,14,24 80:21 81:8,12,15 87:10  <b>individualized</b> <sup>[6]</sup> 32:7 60:19,24 61:2 62:11 74:17  <b>individuals</b> <sup>[1]</sup> 105:17</p>	<p><b>ineffective</b> <sup>[1]</sup> 100:20  <b>inexplicable</b> <sup>[1]</sup> 77:3  <b>informally</b> <sup>[1]</sup> 58:16  <b>information</b> <sup>[1]</sup> 25:5  <b>informed</b> <sup>[1]</sup> 21:14  <b>inherent</b> <sup>[1]</sup> 21:20  <b>inherently</b> <sup>[1]</sup> 72:22  <b>inhibitions</b> <sup>[1]</sup> 21:7  <b>initial</b> <sup>[1]</sup> 81:14  <b>initiation</b> <sup>[1]</sup> 55:4  <b>injected</b> <sup>[1]</sup> 11:5  <b>injection</b> <sup>[5]</sup> 11:8,10 24:13 34:1,7  <b>injunction</b> <sup>[1]</sup> 78:18  <b>inmate</b> <sup>[26]</sup> 4:14 8:6 11:14,17 12:19 19:10 29:4 30:8 38:24 44:12 45:25 46:17 49:3 50:22 56:17 63:18 64:15 65:22 68:7 69:2 82:14 85:14 90:17 91:17 95:11,17  <b>inmate's</b> <sup>[4]</sup> 64:13 77:16 82:16 91:18  <b>inmate-by-inmate</b> <sup>[3]</sup> 12:8,18 13:1  <b>inmates</b> <sup>[5]</sup> 4:19 21:1 54:20 58:17 74:18  <b>inquire</b> <sup>[1]</sup> 29:25  <b>inquiry</b> <sup>[5]</sup> 79:11 80:25 81:2 94:25 95:1  <b>inserted</b> <sup>[2]</sup> 10:6 23:23  <b>insincere</b> <sup>[2]</sup> 35:15 50:20  <b>insincerity</b> <sup>[1]</sup> 9:15  <b>insistent</b> <sup>[1]</sup> 92:14  <b>instance</b> <sup>[3]</sup> 43:13 49:1 106:4  <b>instances</b> <sup>[1]</sup> 7:23  <b>instead</b> <sup>[2]</sup> 13:3 27:14  <b>institution</b> <sup>[3]</sup> 87:12 89:6 96:24  <b>insulate</b> <sup>[1]</sup> 105:4  <b>intention</b> <sup>[1]</sup> 9:3  <b>interactive</b> <sup>[1]</sup> 77:17  <b>interest</b> <sup>[34]</sup> 13:16,17,19,20 14:11,21 15:4 16:25 31:2 41:12,13 42:14,19,25 43:5,10,21,24 44:4,6,19,20 70:1 71:18,21 72:10,15 73:1,15 88:9,16 93:22 95:4 105:20  <b>interested</b> <sup>[2]</sup> 48:4 66:11  <b>interests</b> <sup>[11]</sup> 5:21 37:18 41:15 42:22 45:7,24 61:7 62:18 91:1 95:10,11  <b>interfere</b> <sup>[4]</sup> 31:10 61:19 63:13 75:14  <b>interference</b> <sup>[2]</sup> 17:10 62:19  <b>interfering</b> <sup>[1]</sup> 73:6  <b>internal</b> <sup>[2]</sup> 58:19 104:16  <b>interpreting</b> <sup>[1]</sup> 68:9  <b>interrupt</b> <sup>[2]</sup> 40:2 48:18  <b>interrupted</b> <sup>[1]</sup> 17:16  <b>intolerable</b> <sup>[2]</sup> 90:16,17  <b>intrusive</b> <sup>[3]</sup> 92:3,9 94:14  <b>investigate</b> <sup>[1]</sup> 85:19  <b>involved</b> <sup>[1]</sup> 40:3  <b>ipso</b> <sup>[1]</sup> 19:14  <b>isn't</b> <sup>[6]</sup> 14:11 17:3 29:21 46:6 48:15 94:24</p>
---	---	---	--



## Official - Subject to Final Review

<p><b>issue</b> <sup>[6]</sup> 19:25 21:13 22:8 50:17 58:12 61:6 <b>issued</b> <sup>[2]</sup> 25:25 26:13 <b>issues</b> <sup>[9]</sup> 13:11 16:20 22:18 27: 22 28:20 45:19 52:2,19 54:1 <b>it'll</b> <sup>[1]</sup> 31:13 <b>itself</b> <sup>[1]</sup> 64:4 <b>IV</b> <sup>[13]</sup> 10:5,21,22 11:5,8,10,19 23: 23 31:21 63:9,22 69:20 91:21</p>	<p>57:17 58:6,13,22,24 59:17,21 66: 23 74:14 87:18,21 92:20,24 94:24 95:20 96:11 <b>Kagan's</b> <sup>[1]</sup> 67:6 <b>KAVANAUGH</b> <sup>[68]</sup> 13:2,5 14:4,25 15:7,9,12,23 16:2,5,13 17:5,18 18: 3,21,25 19:8,15,21 20:11,14 21:19 22:5 32:5 33:23,24 34:16 35:4,25 36:1,10,17 37:7 38:1,9,16,20 39: 15,22 40:1 41:8 42:6,11,13,23 43: 3 59:11,15 66:24 67:12,15,20,22, 24 68:8,22 69:23 71:16 88:11 90: 2,6,20,24 92:19 93:10,13,16 105:9 <b>Kavanaugh's</b> <sup>[1]</sup> 31:19 <b>keep</b> <sup>[2]</sup> 37:21 67:24 <b>keeping</b> <sup>[1]</sup> 16:25 <b>kind</b> <sup>[14]</sup> 13:11 19:9 21:24 58:22 62:12 72:8 73:2,8 74:25 80:21 94: 2 95:23 96:10,14 <b>kinds</b> <sup>[3]</sup> 72:13 74:5 80:23 <b>knee</b> <sup>[1]</sup> 23:5 <b>KRETZER</b> <sup>[77]</sup> 2:2 3:3,13 4:6,7,9 6:8,22 7:7,14,18 8:5 9:25 10:14 11:9 12:5,16 13:3 14:3,25 15:8,11, 22 16:3,12 17:4 18:20,23 19:5,12, 21 20:12 21:5 22:4 23:15 24:4,15 25:9,24 26:8,20 27:18 28:4,9,13 29:15,22 30:3 32:3,10,14,20 33:3, 6,10,13,16,18 34:15 35:24 36:1,16 37:25 38:9,19 39:13,24 41:8 43:1, 18 44:5 45:2,5,9 103:12,13,15</p>	<p><b>learning</b> <sup>[1]</sup> 8:22 <b>least</b> <sup>[33]</sup> 5:20 9:18 13:9,17 16:20 18:11 19:6,20 31:15 37:19 45:1 46:6 48:7 52:18 54:6 60:3 61:1 68: 1,12 70:16,17 71:19 74:7 83:23 87:6 89:13 90:1 93:17,23 94:21 97:7,15 98:5 <b>leave</b> <sup>[1]</sup> 98:5 <b>left</b> <sup>[1]</sup> 101:22 <b>leg</b> <sup>[1]</sup> 35:2 <b>legal</b> <sup>[1]</sup> 41:2 <b>legally</b> <sup>[1]</sup> 102:18 <b>legitimate</b> <sup>[2]</sup> 64:10 71:24 <b>legitimately</b> <sup>[2]</sup> 71:8 96:5 <b>lengthy</b> <sup>[1]</sup> 76:14 <b>less</b> <sup>[9]</sup> 18:14 19:4 92:3,9,10 94:14 99:20 102:1,4 <b>lesser</b> <sup>[1]</sup> 72:21 <b>lethal</b> <sup>[3]</sup> 24:13 34:1,7 <b>letter</b> <sup>[2]</sup> 27:4 32:22 <b>letting</b> <sup>[1]</sup> 83:4 <b>Level</b> <sup>[7]</sup> 9:10 38:14 95:15,16 103: 22 104:19 105:6 <b>license</b> <sup>[1]</sup> 88:18 <b>lied</b> <sup>[1]</sup> 81:1 <b>light</b> <sup>[1]</sup> 6:12 <b>likelihood</b> <sup>[1]</sup> 88:2 <b>limited</b> <sup>[1]</sup> 53:25 <b>limiting</b> <sup>[1]</sup> 45:24 <b>line</b> <sup>[5]</sup> 10:6 21:24 23:24 31:21 65: 14 <b>lines</b> <sup>[5]</sup> 41:4 63:9,22 69:15 91:21 <b>list</b> <sup>[1]</sup> 27:3 <b>listed</b> <sup>[1]</sup> 25:20 <b>listening</b> <sup>[2]</sup> 63:8,9 <b>literally</b> <sup>[1]</sup> 104:7 <b>litigates</b> <sup>[1]</sup> 76:13 <b>litigation</b> <sup>[11]</sup> 5:13 18:9 21:23 35: 9 49:25 50:8 59:10 69:5 76:20 77: 3,25 <b>little</b> <sup>[18]</sup> 10:15 36:11 37:23 46:12 47:1,20,22 49:7,23 55:23 57:8,10, 18 59:25 62:9,16 64:19 73:7 <b>live</b> <sup>[1]</sup> 91:7 <b>Lobby</b> <sup>[1]</sup> 79:12 <b>location</b> <sup>[1]</sup> 17:21 <b>Lockett</b> <sup>[2]</sup> 69:19 105:15 <b>lodged</b> <sup>[3]</sup> 9:4 103:24 104:10 <b>lodging</b> <sup>[2]</sup> 50:1,2 <b>logic</b> <sup>[5]</sup> 12:17 17:6 34:25 103:19 105:2 <b>logically</b> <sup>[1]</sup> 84:11 <b>logistics</b> <sup>[1]</sup> 91:11 <b>long</b> <sup>[7]</sup> 40:7 60:20,21 61:18 96:2 100:15 105:7 <b>long-standing</b> <sup>[1]</sup> 4:16 <b>longer</b> <sup>[3]</sup> 39:21 54:6 106:3 <b>look</b> <sup>[16]</sup> 22:24 35:19,21 36:3 47: 14 61:8 62:4,13 74:1 75:22 79:13 80:12 82:23 83:25 95:7 96:8 <b>looked</b> <sup>[2]</sup> 31:11 106:2 <b>looking</b> <sup>[6]</sup> 7:9 22:1 76:25 81:24</p>	<p>82:8 93:24 <b>looks</b> <sup>[2]</sup> 14:6 65:20 <b>loses</b> <sup>[1]</sup> 24:2 <b>loss</b> <sup>[2]</sup> 41:11 98:1 <b>lot</b> <sup>[12]</sup> 16:20 35:10 40:25 42:19 71: 19 75:23 81:7 88:18,23 89:14,18 90:1 <b>loud</b> <sup>[2]</sup> 23:13 98:19 <b>low</b> <sup>[4]</sup> 14:19 63:23 88:1 90:7 <b>lower</b> <sup>[8]</sup> 25:1 38:6,7 50:11 54:10 55:12 71:8 89:18 <b>Lukumi</b> <sup>[1]</sup> 28:18 <b>Lumpkin</b> <sup>[1]</sup> 47:15 <b>luxury</b> <sup>[1]</sup> 41:25 <b>lying</b> <sup>[2]</sup> 30:9 36:14</p>
<b>J</b>			<b>M</b>
<p><b>JOHN</b> <sup>[1]</sup> 1:3 <b>Joint</b> <sup>[4]</sup> 82:11,11 103:25 104:11 <b>jostle</b> <sup>[1]</sup> 69:15 <b>JUDD</b> <sup>[3]</sup> 2:8 3:10 76:6 <b>Judge</b> <sup>[12]</sup> 16:18 25:15 33:25 34: 13,21 35:21 36:6,12 38:3,21 39: 11 97:15 <b>judges</b> <sup>[5]</sup> 36:2,8,18 54:18 81:10 <b>judgment</b> <sup>[3]</sup> 41:14 48:19 73:20 <b>judgments</b> <sup>[1]</sup> 62:11 <b>July</b> <sup>[5]</sup> 9:10 100:4,4 102:8 104:4 <b>June</b> <sup>[6]</sup> 77:12 99:2,25 101:21 102: 6 104:2 <b>jurisdictions</b> <sup>[5]</sup> 70:16,21 74:2,6 87:24 <b>jurisprudence</b> <sup>[1]</sup> 60:18 <b>JUSTICE</b> <sup>[275]</sup> 1:8 2:5 4:3,9 6:5,9, 20,23 7:7,13,16,19 8:5,20 9:9,14, 20,21 10:8 11:6,12,23 12:6,13 13: 2,5,12 14:4,25 15:7,9,12,22 16:2,5, 13 17:5,18 18:3,21,25 19:8,15,21 20:11,14 21:19 22:5,16 23:16,21, 25 24:12,14,17 25:9,22 26:5,17,21 27:16,19 28:5,9,11,13 29:9,16,23 30:2,18,20,21,22,22,24,25 31:1,19 32:4,5,5,11,16,20,23 33:4,7,11,14, 16,17,19,21,21,22,23,24 34:16 35: 4,8,16,24,25 36:1,10,17 37:7,9 38: 1,9,16,20 39:14,22 40:1 41:4,8 42: 6,8,8,10,11,13,23 43:3,3,17,20 44: 25 45:3,6,10,16 47:25 48:2 49:5, 17 50:15,18,19 51:1,7,21,24 53:12, 14,18 54:14,15 55:9,16,18 56:21, 22,23 57:17 58:6,13,22,24 59:11, 15,17,21 60:9,11,12,13,13,15,16 61:24 62:3,15 63:24 64:18 66:6, 19,21,21,23,24,25 67:6,12,15,20, 22,24 68:8,22 69:23,24 71:2,11,11, 14,16,23,25 73:5 74:13,14 75:25 76:1,3,9 78:5,20 79:1,4,7,16 80:5 81:19 82:5,7,18,20 84:3,8,15 85: 20,23 86:10,12,16,19,24 87:2,18, 21 88:5,11 90:2,6,20,24 92:19,20, 24 93:10,13,16 94:24 95:20 96:11 97:1,2,5,6,19 98:17,23 100:12,19, 22 101:9,12,15 102:3 103:1,3,4,5, 5,7,8,9,10,15 105:8 106:2,6 <b>Justice's</b> <sup>[1]</sup> 18:17 <b>justify</b> <sup>[3]</sup> 46:7 70:5 96:18</p>	<p><b>Labor</b> <sup>[1]</sup> 25:25 <b>lack</b> <sup>[1]</sup> 99:17 <b>laid</b> <sup>[2]</sup> 6:6 94:25 <b>language</b> <sup>[2]</sup> 104:3,6 <b>large</b> <sup>[1]</sup> 91:20 <b>largely</b> <sup>[1]</sup> 16:10 <b>larger</b> <sup>[4]</sup> 42:2 91:12 96:16 104:24 <b>last</b> <sup>[18]</sup> 8:2 20:4,6 21:2 22:13,17, 22 25:3 26:18,19,23 27:7 38:11 40:5 62:7 76:12 94:13 101:24 <b>last-minute</b> <sup>[4]</sup> 7:2 8:7 33:8 59:10 <b>late</b> <sup>[2]</sup> 5:14 27:18 <b>later</b> <sup>[10]</sup> 4:25 5:5 26:16 47:21 99: 23 100:1,3,6,6 102:13 <b>Laughter</b> <sup>[1]</sup> 12:15 <b>law</b> <sup>[9]</sup> 5:23 17:10 35:23 36:20 52: 13,15 60:20 81:3,5 <b>laws</b> <sup>[1]</sup> 17:9 <b>lawsuit</b> <sup>[4]</sup> 8:12 98:2 102:20,22 <b>lawsuits</b> <sup>[2]</sup> 80:23 101:6 <b>lawyer</b> <sup>[1]</sup> 39:21 <b>lawyering</b> <sup>[1]</sup> 84:16 <b>lawyers</b> <sup>[1]</sup> 44:11 <b>lay</b> <sup>[1]</sup> 4:14 <b>laying</b> <sup>[1]</sup> 83:3 <b>laying-on-of-hands</b> <sup>[1]</sup> 29:1 <b>lays</b> <sup>[1]</sup> 10:1 <b>lead</b> <sup>[1]</sup> 90:15 <b>leading</b> <sup>[1]</sup> 17:25 <b>learned</b> <sup>[3]</sup> 6:12 8:22 77:10</p>	<p><b>learning</b> <sup>[1]</sup> 8:22 <b>least</b> <sup>[33]</sup> 5:20 9:18 13:9,17 16:20 18:11 19:6,20 31:15 37:19 45:1 46:6 48:7 52:18 54:6 60:3 61:1 68: 1,12 70:16,17 71:19 74:7 83:23 87:6 89:13 90:1 93:17,23 94:21 97:7,15 98:5 <b>leave</b> <sup>[1]</sup> 98:5 <b>left</b> <sup>[1]</sup> 101:22 <b>leg</b> <sup>[1]</sup> 35:2 <b>legal</b> <sup>[1]</sup> 41:2 <b>legally</b> <sup>[1]</sup> 102:18 <b>legitimate</b> <sup>[2]</sup> 64:10 71:24 <b>legitimately</b> <sup>[2]</sup> 71:8 96:5 <b>lengthy</b> <sup>[1]</sup> 76:14 <b>less</b> <sup>[9]</sup> 18:14 19:4 92:3,9,10 94:14 99:20 102:1,4 <b>lesser</b> <sup>[1]</sup> 72:21 <b>lethal</b> <sup>[3]</sup> 24:13 34:1,7 <b>letter</b> <sup>[2]</sup> 27:4 32:22 <b>letting</b> <sup>[1]</sup> 83:4 <b>Level</b> <sup>[7]</sup> 9:10 38:14 95:15,16 103: 22 104:19 105:6 <b>license</b> <sup>[1]</sup> 88:18 <b>lied</b> <sup>[1]</sup> 81:1 <b>light</b> <sup>[1]</sup> 6:12 <b>likelihood</b> <sup>[1]</sup> 88:2 <b>limited</b> <sup>[1]</sup> 53:25 <b>limiting</b> <sup>[1]</sup> 45:24 <b>line</b> <sup>[5]</sup> 10:6 21:24 23:24 31:21 65: 14 <b>lines</b> <sup>[5]</sup> 41:4 63:9,22 69:15 91:21 <b>list</b> <sup>[1]</sup> 27:3 <b>listed</b> <sup>[1]</sup> 25:20 <b>listening</b> <sup>[2]</sup> 63:8,9 <b>literally</b> <sup>[1]</sup> 104:7 <b>litigates</b> <sup>[1]</sup> 76:13 <b>litigation</b> <sup>[11]</sup> 5:13 18:9 21:23 35: 9 49:25 50:8 59:10 69:5 76:20 77: 3,25 <b>little</b> <sup>[18]</sup> 10:15 36:11 37:23 46:12 47:1,20,22 49:7,23 55:23 57:8,10, 18 59:25 62:9,16 64:19 73:7 <b>live</b> <sup>[1]</sup> 91:7 <b>Lobby</b> <sup>[1]</sup> 79:12 <b>location</b> <sup>[1]</sup> 17:21 <b>Lockett</b> <sup>[2]</sup> 69:19 105:15 <b>lodged</b> <sup>[3]</sup> 9:4 103:24 104:10 <b>lodging</b> <sup>[2]</sup> 50:1,2 <b>logic</b> <sup>[5]</sup> 12:17 17:6 34:25 103:19 105:2 <b>logically</b> <sup>[1]</sup> 84:11 <b>logistics</b> <sup>[1]</sup> 91:11 <b>long</b> <sup>[7]</sup> 40:7 60:20,21 61:18 96:2 100:15 105:7 <b>long-standing</b> <sup>[1]</sup> 4:16 <b>longer</b> <sup>[3]</sup> 39:21 54:6 106:3 <b>look</b> <sup>[16]</sup> 22:24 35:19,21 36:3 47: 14 61:8 62:4,13 74:1 75:22 79:13 80:12 82:23 83:25 95:7 96:8 <b>looked</b> <sup>[2]</sup> 31:11 106:2 <b>looking</b> <sup>[6]</sup> 7:9 22:1 76:25 81:24</p>	<p><b>made</b> <sup>[8]</sup> 30:4 36:8 37:5 41:24 50: 4 57:10 58:23 79:15 <b>maintaining</b> <sup>[1]</sup> 72:12 <b>major</b> <sup>[2]</sup> 91:10,13 <b>manacles</b> <sup>[2]</sup> 31:21,22 <b>managed</b> <sup>[1]</sup> 57:25 <b>management</b> <sup>[2]</sup> 15:6 44:8 <b>managing</b> <sup>[1]</sup> 44:13 <b>mandated</b> <sup>[1]</sup> 70:3 <b>manifest</b> <sup>[2]</sup> 49:22 96:1 <b>manner</b> <sup>[3]</sup> 36:6,20 85:15 <b>manual</b> <sup>[3]</sup> 27:10 100:9,18 <b>Many</b> <sup>[11]</sup> 36:22 45:19 85:25 86:20 92:21,21 95:9,21,24 96:19 99:13 <b>mapping</b> <sup>[1]</sup> 62:12 <b>Maria's</b> <sup>[1]</sup> 40:12 <b>marijuana</b> <sup>[1]</sup> 56:7 <b>marshal</b> <sup>[1]</sup> 48:18 <b>materially</b> <sup>[1]</sup> 64:25 <b>materials</b> <sup>[2]</sup> 9:4 103:24 <b>matter</b> <sup>[10]</sup> 1:15 5:22 6:16 15:24 17:15 36:13 64:22 69:8 97:8,16 <b>matters</b> <sup>[3]</sup> 12:7 42:19 52:24 <b>mean</b> <sup>[30]</sup> 6:20 12:1 15:23 18:18 22:9 28:13 36:17 37:20 40:4,6 41: 1 43:24 44:7 54:19,24 56:24 58:4 68:19 69:3,12 73:9 80:7,8 82:20, 23 84:15 87:4,5 95:6 98:15 <b>means</b> <sup>[9]</sup> 5:20 13:17 34:22 46:6 48:7 52:17 70:17 73:17 100:25 <b>meant</b> <sup>[1]</sup> 99:7 <b>meantime</b> <sup>[1]</sup> 52:4 <b>medal</b> <sup>[1]</sup> 40:14 <b>media</b> <sup>[1]</sup> 46:15 <b>medical</b> <sup>[4]</sup> 64:3 65:24 66:3 91:21 <b>meet</b> <sup>[4]</sup> 5:25 50:6 51:6,7 <b>member</b> <sup>[1]</sup> 55:1 <b>members</b> <sup>[2]</sup> 40:19 105:13 <b>men</b> <sup>[1]</sup> 95:2 <b>mentioned</b> <sup>[8]</sup> 11:4 40:7,8 53:10 56:1 68:25 73:5 74:21 <b>mentioning</b> <sup>[1]</sup> 63:24 <b>merely</b> <sup>[1]</sup> 5:7 <b>merits</b> <sup>[3]</sup> 85:10,23 97:12 <b>micromanage</b> <sup>[1]</sup> 19:24 <b>micromanagement</b> <sup>[1]</sup> 19:22</p>
<b>K</b>			
<p><b>Kagan</b> <sup>[20]</sup> 33:21 54:14 56:22,23</p>			

## Official - Subject to Final Review

<p><b>micromanaging</b> [2] 70:14 73:8  <b>middle</b> [3] 26:15 69:18 101:20  <b>might</b> [24] 8:7 10:15 12:22 14:16  15:21 35:14 37:3,14 38:3,4 39:7  46:11 52:25 53:7 56:11 69:16,16  72:2 75:14 79:24 91:13 92:1 95:6  96:14  <b>miles</b> [1] 17:20  <b>mind</b> [1] 66:9  <b>minimization</b> [1] 89:12  <b>minimize</b> [1] 88:13  <b>minimizing</b> [1] 88:25  <b>minimum</b> [6] 73:25 75:4 81:16  101:2 102:15,18  <b>minister</b> [5] 14:8 19:9 29:2 31:23  39:18  <b>ministrations</b> [1] 7:14  <b>minute</b> [9] 8:2 22:22 25:4 26:18,  19,23 27:7 76:12 101:24  <b>minutes</b> [1] 46:23  <b>mishaps</b> [1] 34:6  <b>modest</b> [1] 74:8  <b>money</b> [1] 43:18  <b>monitor</b> [1] 10:24  <b>monitoring</b> [7] 63:7,15 65:20 66:2,  3 71:2,5  <b>month</b> [5] 25:14 32:17 99:20 100:  3,5  <b>months</b> [11] 4:25 5:1,4 20:6 55:4,  21 78:10,12,21 80:10 97:17  <b>Moore</b> [15] 6:17,21 7:15 10:1,3,18,  25 17:19,24 23:2 27:11 34:17 39:  19 50:6 100:2  <b>moratorium</b> [1] 75:20  <b>morning</b> [1] 26:1  <b>most</b> [9] 20:1 38:22 60:25 69:13  91:16 95:8 103:16,23 105:15  <b>motion</b> [3] 25:16 36:8 97:16  <b>move</b> [1] 16:6  <b>moving</b> [1] 19:13  <b>moving</b> [1] 13:8  <b>much</b> [21] 14:17 17:3 25:18 45:8  53:8 66:7,20 68:10 73:7 82:19 88:  14 91:12,12,22,23 92:9,10 94:10  96:16 102:1 103:11  <b>multi-month</b> [1] 80:2  <b>multiple</b> [1] 18:17  <b>Murphy</b> [4] 14:2 22:9 52:1 84:5  <b>must</b> [2] 28:24 35:23  <b>myself</b> [1] 85:1</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>namely</b> [1] 76:18  <b>narrow</b> [1] 50:13  <b>narrowly</b> [1] 11:16  <b>national</b> [3] 19:13 20:1,2  <b>nature</b> [2] 53:9 71:1  <b>navigate</b> [1] 91:23  <b>Nazis</b> [1] 41:24  <b>near</b> [2] 10:21 31:22  <b>nearing</b> [1] 29:3  <b>nearly</b> [1] 30:16  <b>necessarily</b> [6] 26:21,22 38:13 44:</p>	<p>22 48:15 94:20  <b>necessary</b> [1] 46:9  <b>need</b> [18] 11:18 13:11 21:14 31:6,7  33:1 41:3 49:22 55:2 64:3 65:25  70:4,24 74:5 78:9 81:18 90:10 93:  1  <b>needed</b> [5] 12:21 79:20,21 83:25  101:5  <b>needs</b> [4] 9:24 32:13 70:18 94:7  <b>negative</b> [1] 90:23  <b>neither</b> [2] 2:7 3:8  <b>neutral</b> [2] 19:17 38:4  <b>never</b> [8] 16:17 32:20 39:6,24 53:  18 72:8 87:3 104:12  <b>nevertheless</b> [1] 55:14  <b>new</b> [8] 5:8 8:15,18 22:11,15 52:16  87:23 97:3  <b>newfangled</b> [1] 41:18  <b>next</b> [10] 4:4 13:6,6,7 20:25 23:4  26:3 44:21 49:6 63:1  <b>next-door</b> [1] 38:7  <b>night</b> [1] 25:8  <b>nine</b> [2] 65:10 73:23  <b>noise</b> [1] 98:24  <b>non-disruptive</b> [2] 23:17 24:16  <b>non-medical</b> [2] 34:11,19  <b>non-prison</b> [1] 105:23  <b>non-religious</b> [1] 7:19  <b>non-TDCJ</b> [4] 22:13 38:12 105:10,  22  <b>none</b> [2] 58:2 87:25  <b>normally</b> [1] 49:10  <b>noted</b> [2] 54:7 98:9  <b>nothing</b> [5] 41:9 50:13 63:15 79:  24 83:5  <b>notice</b> [5] 53:23 83:25 98:8 101:4,  6  <b>November</b> [1] 1:13  <b>nowhere</b> [1] 31:22  <b>nuanced</b> [1] 62:9  <b>number</b> [5] 7:1 24:23 60:17 70:20  98:25  <b>numbers</b> [1] 73:10</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O'Keefe's</b> [1] 60:1  <b>objection</b> [1] 32:25  <b>obligated</b> [1] 92:4  <b>obligation</b> [3] 85:13,17 101:1  <b>observance</b> [1] 12:20  <b>observation</b> [1] 77:18  <b>observe</b> [6] 77:15 81:22 82:3,16  99:5,7  <b>observer's</b> [1] 77:16  <b>Observing</b> [1] 99:8  <b>obviously</b> [14] 7:22,22 11:9 26:1  36:3 46:21 48:17 49:6,23 54:7 73:  21 84:23 92:8 96:20  <b>occur</b> [1] 46:17  <b>occurring</b> [1] 88:2  <b>occurs</b> [2] 81:2 97:14  <b>offer</b> [2] 46:8,8  <b>officer</b> [4] 17:11 74:24 93:2,5</p>	<p><b>official</b> [4] 65:23 75:12 93:11,13  <b>officials</b> [5] 16:7 54:18 68:7 95:2,  16  <b>oils</b> [2] 59:23 94:12  <b>Okay</b> [29] 14:3,6,17 18:23,25 24:14  37:7 38:16,19 45:2,5 49:8 67:15,  20 68:11,12,13,20,22 82:18 83:2,7  85:7,20,20 86:1,16,19,24  <b>Oklahoma</b> [2] 69:20 105:15  <b>once</b> [3] 20:20 30:12 78:3  <b>one</b> [57] 7:10 10:23 19:12,17,23 20:  20 22:19,20 27:25 28:2,7,21 37:  12 42:10 44:9,10,13 46:11 47:2,3,  5,5 48:23 49:23 53:10,13 56:16  57:3,9,14 59:18,22,25 64:10 65:  24 66:1,7 67:8,17 69:3 71:15 73:  25 74:13,21 84:1 87:9 91:9,13,16  92:5 96:19,23,24 98:8,16 99:15  103:16  <b>one's</b> [1] 7:25  <b>ones</b> [1] 33:14  <b>only</b> [16] 5:5 6:13 8:2,8,15 20:7 40:  17 50:5 53:6 54:11 57:3 72:17 77:  10 84:10 89:18 91:15  <b>opening</b> [2] 104:24 105:9  <b>operation</b> [1] 44:10  <b>operations</b> [1] 44:8  <b>opine</b> [1] 93:22  <b>opinion</b> [5] 22:9 25:25 26:13 34:1,  23  <b>opportunities</b> [1] 49:13  <b>opposed</b> [1] 69:21  <b>opposite</b> [1] 29:24  <b>optimistic</b> [1] 54:3  <b>oral</b> [7] 1:16 3:2,5,9 4:7 45:13 76:6  <b>order</b> [5] 13:9 25:15 28:23 51:25,  25  <b>ordinary</b> [1] 23:18  <b>other</b> [47] 4:19 10:19,24 11:1,19  19:10,18,19 20:20 27:9 29:4 31:  12 36:20 38:2 39:6 44:23 47:18  51:13 57:20 61:19 70:16,20 74:1,  6,13 80:12,22 84:10,14 87:19,22  88:7,21 91:19,20 93:24 94:3 95:1,  7,7,8,9 96:9 98:7 104:13,25 105:  24  <b>others</b> [1] 93:18  <b>otherwise</b> [1] 30:10  <b>out</b> [41] 6:12 20:6,8 22:16 23:14 27:  14 39:9 42:5,20 43:23 44:1 51:15  52:2,25 54:9 55:23 57:19 62:12,  13,19,24 69:4,6,7 72:13 73:16 74:  15 75:3 84:20 87:1,11,22 91:13  93:6 94:25 97:22 98:19 101:22  105:2,8,12  <b>outside</b> [8] 16:17 22:13 64:2,9 70:  22 74:4 87:20 92:8  <b>outsider</b> [1] 87:16  <b>over</b> [11] 20:24,24,24 22:16 23:7  30:16 39:12 99:2 100:2,5 104:2  <b>over-inclusion</b> [1] 89:21  <b>over-inclusive</b> [1] 89:20</p>	<p><b>overarching</b> [1] 46:14  <b>overly</b> [1] 54:2  <b>own</b> [6] 5:16 28:8 29:18,19 34:25  104:16</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>p.m</b> [1] 106:8  <b>Pablo</b> [1] 41:10  <b>PAGE</b> [8] 3:2 47:14 50:2 82:6,10  103:25 104:6,10  <b>pages</b> [2] 52:14 103:23  <b>pain</b> [2] 40:15 90:17  <b>palpable</b> [1] 15:4  <b>paperwork</b> [1] 44:14  <b>paragraph</b> [1] 47:15  <b>parking</b> [1] 40:25  <b>part</b> [8] 9:14 18:7 29:23 38:11 46:  21 48:9 82:12,12  <b>partially</b> [1] 84:4  <b>participation</b> [1] 77:19  <b>particular</b> [13] 12:22 17:21 28:24  55:1 62:11 63:8,10 73:15 78:9 89:  24 94:6 96:24,24  <b>particularized</b> [1] 49:19  <b>particularly</b> [3] 8:1 56:1 80:8  <b>parties</b> [3] 52:24 54:4,13  <b>parts</b> [2] 24:22 47:4  <b>party</b> [2] 2:7 3:8  <b>passed</b> [4] 30:16 41:16,20 42:4  <b>passes</b> [2] 24:6,16  <b>passing</b> [2] 101:2,4  <b>passive</b> [1] 77:17  <b>past</b> [3] 50:14 61:12 79:15  <b>Pastor</b> [33] 6:17,21 7:15 10:1,3,18,  25 17:19,23 23:2,22 24:4,7 27:11  31:18,20 34:17 39:19 40:3 44:16  50:6,23 51:2,5,9,12 77:15,21 80:  14 84:10,12 92:7 101:8  <b>pastor's</b> [4] 76:19 77:1,18,19  <b>pastoral</b> [3] 41:22 76:23 77:4  <b>pastors</b> [1] 84:6  <b>penalty</b> [1] 18:9  <b>penalty-backed</b> [1] 17:21  <b>pending</b> [2] 50:7 97:13  <b>pentobarbital</b> [2] 63:11 69:18  <b>people</b> [17] 7:17 12:3 13:8 18:18  19:16 23:19 24:23 32:24 35:13 36:  23 41:23,25 64:8 69:14 80:8 91:  15 99:13  <b>people's</b> [1] 79:18  <b>perceived</b> [1] 105:10  <b>percent</b> [6] 71:25 72:7,16,17 73:4,  10  <b>perfectly</b> [1] 44:10  <b>performed</b> [1] 24:8  <b>perhaps</b> [9] 8:7 20:8 21:7 22:6 29:  7,20 54:2 72:4 103:16  <b>period</b> [7] 52:15 54:6 55:3 60:4 68:  4 96:2 97:22  <b>periods</b> [1] 75:19  <b>permission</b> [1] 99:12  <b>permit</b> [2] 32:18 72:7  <b>permits</b> [1] 72:18</p>
--	---	--	---

## Official - Subject to Final Review

<p><b>permitted</b> <sup>[1]</sup> 77:11  <b>permitting</b> <sup>[1]</sup> 74:6  <b>perpetrate</b> <sup>[1]</sup> 30:8  <b>person</b> <sup>[10]</sup> 19:17 21:20 31:23 34:11 35:6 38:24 63:1 64:10 80:17 81:16  <b>person's</b> <sup>[3]</sup> 29:19 31:6 39:4  <b>personal</b> <sup>[1]</sup> 29:18  <b>persuasive</b> <sup>[1]</sup> 70:18  <b>petition</b> <sup>[3]</sup> 4:24 6:11 25:13  <b>petitioned</b> <sup>[1]</sup> 97:10  <b>Petitioner</b> <sup>[13]</sup> 1:4 2:3 3:4,14 4:8 47:11 51:18 53:1,24 59:16 76:10 100:1 103:14  <b>Petitioner's</b> <sup>[2]</sup> 67:3 99:24  <b>petitioners</b> <sup>[1]</sup> 32:9  <b>phase</b> <sup>[1]</sup> 63:4  <b>phases</b> <sup>[2]</sup> 46:16 48:22  <b>phrased</b> <sup>[1]</sup> 15:2  <b>physical</b> <sup>[9]</sup> 45:25 47:3,8,21 48:23 69:2 86:5,21 98:2  <b>physically</b> <sup>[1]</sup> 63:18  <b>picture</b> <sup>[2]</sup> 31:14 64:20  <b>pictures</b> <sup>[1]</sup> 31:11  <b>piece</b> <sup>[2]</sup> 28:25 94:19  <b>piecemeal</b> <sup>[3]</sup> 5:9 27:4 76:20  <b>place</b> <sup>[6]</sup> 11:18 37:10 51:13 61:20 62:7 73:25  <b>placed</b> <sup>[1]</sup> 81:14  <b>places</b> <sup>[4]</sup> 11:2 74:7 83:24 85:13  <b>plaintiff</b> <sup>[1]</sup> 21:11  <b>plausible</b> <sup>[1]</sup> 80:7  <b>play</b> <sup>[1]</sup> 8:9  <b>played</b> <sup>[1]</sup> 57:19  <b>plays</b> <sup>[2]</sup> 39:9 42:20  <b>please</b> <sup>[5]</sup> 4:10 45:16 76:9 83:2 84:23  <b>pledge</b> <sup>[1]</sup> 17:22  <b>PLRA</b> <sup>[1]</sup> 5:12  <b>plus</b> <sup>[2]</sup> 85:1,2  <b>point</b> <sup>[33]</sup> 10:5 11:5,11 12:22 16:8 18:13 20:8 21:6 24:2,15 27:23 29:3 30:4 33:17 41:2,24 53:24 55:19 61:11 69:7 83:9,19,19 84:6 85:8,21 86:25 88:15 91:13,25 100:20 105:8,12  <b>points</b> <sup>[2]</sup> 69:6 83:22  <b>policies</b> <sup>[2]</sup> 84:2 105:4  <b>policy</b> <sup>[19]</sup> 4:12 8:19 27:2 61:15,16 81:21,24 82:5,8 84:6 89:1,13,20,24 96:19,19 98:12 99:6,21  <b>portion</b> <sup>[3]</sup> 46:23 68:5 75:10  <b>position</b> <sup>[6]</sup> 9:22 41:6 63:3 67:3 75:13 99:10  <b>positioning</b> <sup>[1]</sup> 65:21  <b>positions</b> <sup>[1]</sup> 78:1  <b>possible</b> <sup>[5]</sup> 9:18 14:9,13 70:2,9  <b>possibly</b> <sup>[1]</sup> 54:6  <b>postponed</b> <sup>[1]</sup> 40:10  <b>potential</b> <sup>[6]</sup> 16:20 35:9 88:3,3 89:14 90:7  <b>power</b> <sup>[1]</sup> 103:19</p>	<p><b>powerful</b> <sup>[1]</sup> 96:3  <b>practical</b> <sup>[2]</sup> 97:8,16  <b>practice</b> <sup>[4]</sup> 4:16 21:25 35:18 66:11  <b>practices</b> <sup>[3]</sup> 5:16 70:16 95:8  <b>pray</b> <sup>[10]</sup> 4:15 22:11,14 23:19 77:22 98:19 99:2,15 100:2 104:2  <b>prayer</b> <sup>[27]</sup> 5:19 21:25 23:13,13,16,17,18 24:11,22 32:21 57:16 68:1,4 72:9 76:19 77:5,11 83:11 85:2 86:6 91:6 92:16,22 98:8 99:11,11,16  <b>praying</b> <sup>[3]</sup> 32:18 63:13 99:7  <b>pre-Smith</b> <sup>[1]</sup> 60:18  <b>precepts</b> <sup>[1]</sup> 11:17  <b>precise</b> <sup>[3]</sup> 65:16 73:9 75:16  <b>precisely</b> <sup>[3]</sup> 48:4 75:7 89:1  <b>preclude</b> <sup>[1]</sup> 61:2  <b>predict</b> <sup>[2]</sup> 39:2 105:2  <b>prejudice</b> <sup>[3]</sup> 6:15 8:14 98:4  <b>preliminary</b> <sup>[1]</sup> 78:18  <b>premise</b> <sup>[1]</sup> 38:11  <b>presence</b> <sup>[4]</sup> 4:21 5:3 77:1,23 27:18 28:8,22 32:1 67:13 74:24 81:25 94:17  <b>presented</b> <sup>[4]</sup> 22:19 25:5 32:2 94:15  <b>preserve</b> <sup>[1]</sup> 4:19  <b>presumably</b> <sup>[2]</sup> 50:23 74:19  <b>presupposes</b> <sup>[1]</sup> 73:3  <b>pretext</b> <sup>[2]</sup> 79:11 81:2  <b>pretextual</b> <sup>[1]</sup> 80:22  <b>pretty</b> <sup>[3]</sup> 11:2,4 83:10  <b>prevail</b> <sup>[3]</sup> 5:22 39:8 67:3  <b>prevent</b> <sup>[1]</sup> 92:21  <b>preventing</b> <sup>[1]</sup> 95:4  <b>previous</b> <sup>[3]</sup> 25:7 80:14,18  <b>principle</b> <sup>[3]</sup> 14:1 19:17 38:5  <b>prioritize</b> <sup>[1]</sup> 39:11  <b>prison</b> <sup>[22]</sup> 9:19 10:22,23 27:10 31:14 43:14,15,25 54:17 64:1 66:14 70:12,14 72:6,7,12,14 75:1 89:23 92:5 95:2,15  <b>prison-employed</b> <sup>[1]</sup> 17:7  <b>prisoner</b> <sup>[12]</sup> 23:4 24:2,6 29:16 39:19 54:25 63:10 73:18 78:8,17 81:21 98:10  <b>prisoners</b> <sup>[4]</sup> 28:1 66:15 98:18,19  <b>Prisons</b> <sup>[6]</sup> 15:5 32:11 44:7,12 72:3 105:3  <b>probably</b> <sup>[2]</sup> 69:13 73:24  <b>problem</b> <sup>[14]</sup> 10:20,25 13:24 15:15,17,18,20 16:9,14 17:1 19:23 82:24 87:3 98:14  <b>problems</b> <sup>[7]</sup> 37:16,21 64:5 69:18 76:21 90:23 91:10  <b>procedure</b> <sup>[8]</sup> 34:10,12 46:3,24 47:5 48:16 73:17 75:23  <b>procedures</b> <sup>[5]</sup> 65:2,16 70:15 75:22 77:14  <b>proceed</b> <sup>[1]</sup> 56:19</p>	<p><b>proceeded</b> <sup>[4]</sup> 4:22 25:17,19 27:2  <b>proceeding</b> <sup>[1]</sup> 17:16  <b>proceedings</b> <sup>[1]</sup> 41:13  <b>process</b> <sup>[9]</sup> 9:7 53:21 55:19 57:3,19 74:17 78:10 80:2 102:16  <b>proffered</b> <sup>[1]</sup> 5:21  <b>promulgated</b> <sup>[1]</sup> 8:19  <b>prong</b> <sup>[3]</sup> 21:11 29:7 30:7  <b>pronouncement</b> <sup>[1]</sup> 34:3  <b>proof</b> <sup>[1]</sup> 81:17  <b>proper</b> <sup>[2]</sup> 52:21 98:11  <b>properly</b> <sup>[2]</sup> 53:22 54:12  <b>proposes</b> <sup>[1]</sup> 11:22  <b>proposing</b> <sup>[2]</sup> 31:9 58:18  <b>protocol</b> <sup>[2]</sup> 94:22 95:23  <b>protocols</b> <sup>[3]</sup> 101:3 104:16 105:21  <b>prove</b> <sup>[1]</sup> 5:18  <b>provide</b> <sup>[2]</sup> 64:12 94:19  <b>provided</b> <sup>[1]</sup> 31:12  <b>providing</b> <sup>[1]</sup> 92:22  <b>public</b> <sup>[3]</sup> 41:13 64:23 101:3  <b>publicity</b> <sup>[1]</sup> 40:13  <b>publicly</b> <sup>[1]</sup> 77:14  <b>pulse</b> <sup>[1]</sup> 10:24  <b>punishment</b> <sup>[1]</sup> 64:11  <b>purpose</b> <sup>[1]</sup> 51:11  <b>purposely</b> <sup>[1]</sup> 100:23  <b>purposes</b> <sup>[8]</sup> 54:12 64:11 73:19 78:2,16 96:9,15 101:22  <b>pursue</b> <sup>[2]</sup> 78:22 79:21  <b>pursuit</b> <sup>[1]</sup> 89:12  <b>put</b> <sup>[11]</sup> 21:17 23:6,7 37:10 39:1 40:17 68:16 78:3 95:2 104:8 105:6  <b>putting</b> <sup>[2]</sup> 41:5 68:15</p> <p style="text-align: center;"><b>Q</b></p> <p><b>question</b> <sup>[38]</sup> 6:9 7:25 12:24 15:2 16:24 17:18 20:13 23:20 24:12 28:8,19 29:13,22,23 30:6 35:5,7,11 38:12 39:14 40:5 42:11 43:10 45:7 48:1,9 62:4 66:8 68:17 69:24 71:17 73:13,13 74:14 85:8,9 88:6 99:15  <b>questioning</b> <sup>[2]</sup> 39:23 40:2  <b>questions</b> <sup>[13]</sup> 6:4 13:13 33:25 35:8,16 46:11 60:17 67:6 69:25 71:15 78:4 103:4 104:23  <b>quick</b> <sup>[1]</sup> 71:15  <b>quicker</b> <sup>[1]</sup> 9:5  <b>quickly</b> <sup>[1]</sup> 9:17  <b>quite</b> <sup>[7]</sup> 37:9 42:17 49:16,17 61:22 68:19 100:11  <b>quote</b> <sup>[2]</sup> 34:23 82:13</p> <p style="text-align: center;"><b>R</b></p> <p><b>raise</b> <sup>[4]</sup> 66:4 77:6 85:14 98:13  <b>raised</b> <sup>[2]</sup> 78:1 80:17  <b>raises</b> <sup>[2]</sup> 49:23 50:8  <b>raising</b> <sup>[2]</sup> 78:7,17  <b>RAMIREZ</b> <sup>[34]</sup> 1:3 4:4,19 5:9,22 6:6,24,25 8:16,20 9:9,17 11:18 21:16 26:24 39:20 40:13,16 76:17,22,24 77:3,8,18,20,24 83:24 92:14  <b>97:3,20 100:25 102:16 104:1,19</b>  <b>Ramirez's</b> <sup>[14]</sup> 4:22 5:1,13 6:10 7:8 8:9 9:16 10:4 11:20 20:12 23:3 25:13 77:2 97:18  <b>rare</b> <sup>[1]</sup> 37:4  <b>rarely</b> <sup>[1]</sup> 49:11  <b>rather</b> <sup>[1]</sup> 91:17  <b>reach</b> <sup>[2]</sup> 21:14 55:19  <b>reached</b> <sup>[2]</sup> 54:4 87:22  <b>react</b> <sup>[4]</sup> 39:3,5,6 69:12  <b>read</b> <sup>[2]</sup> 82:12 84:17  <b>reads</b> <sup>[1]</sup> 84:18  <b>real</b> <sup>[1]</sup> 105:19  <b>realize</b> <sup>[1]</sup> 69:13  <b>really</b> <sup>[11]</sup> 14:16 15:15 30:7 46:16 47:16 48:10 53:7 69:4 85:7 94:8,25  <b>reason</b> <sup>[8]</sup> 50:6 51:25 55:10 66:1 70:7 92:11,13 97:20  <b>reasonable</b> <sup>[2]</sup> 33:9 85:6  <b>reasonably</b> <sup>[1]</sup> 88:14  <b>reasons</b> <sup>[10]</sup> 31:13 37:12 46:9 56:1 68:25 70:5,19 73:4 74:9,12  <b>REBUTTAL</b> <sup>[3]</sup> 3:12 103:12,13  <b>recall</b> <sup>[1]</sup> 100:7  <b>received</b> <sup>[6]</sup> 25:6 76:10 101:6 102:7,23 104:12  <b>receives</b> <sup>[2]</sup> 76:14 100:11  <b>recent</b> <sup>[4]</sup> 20:1 46:4 56:25 58:11  <b>recollection</b> <sup>[4]</sup> 59:25 60:2,3 67:10  <b>record</b> <sup>[8]</sup> 6:3 7:10 21:10,17 48:12 52:18 64:23 103:24  <b>records</b> <sup>[1]</sup> 57:10  <b>recreated</b> <sup>[1]</sup> 22:7  <b>red</b> <sup>[2]</sup> 49:24 56:15  <b>redacted</b> <sup>[1]</sup> 50:3  <b>redress</b> <sup>[1]</sup> 5:10  <b>reduce</b> <sup>[1]</sup> 70:8  <b>reducing</b> <sup>[3]</sup> 13:21 14:22 70:1  <b>reduction</b> <sup>[1]</sup> 42:14  <b>refile</b> <sup>[1]</sup> 98:5  <b>refiled</b> <sup>[1]</sup> 6:16  <b>reflect</b> <sup>[1]</sup> 45:18  <b>reflected</b> <sup>[1]</sup> 6:17  <b>refusal</b> <sup>[1]</sup> 98:14  <b>refuse</b> <sup>[1]</sup> 92:12  <b>regard</b> <sup>[2]</sup> 25:12 62:17  <b>regarding</b> <sup>[5]</sup> 61:5 66:11 97:13,18 98:2  <b>regardless</b> <sup>[2]</sup> 52:20 102:22  <b>regards</b> <sup>[1]</sup> 9:6  <b>regrettable</b> <sup>[1]</sup> 60:23  <b>regulatory</b> <sup>[1]</sup> 34:5  <b>rehearse</b> <sup>[1]</sup> 75:20  <b>reject</b> <sup>[2]</sup> 58:25 88:19  <b>rejected</b> <sup>[3]</sup> 57:24 59:2 88:24  <b>rejoinder</b> <sup>[1]</sup> 12:10  <b>relate</b> <sup>[1]</sup> 58:11  <b>related</b> <sup>[2]</sup> 22:19 66:9  <b>relates</b> <sup>[1]</sup> 66:8  <b>relationship</b> <sup>[3]</sup> 37:18 80:16 87:</p>
---	---	--

## Official - Subject to Final Review

<p>16  <b>relative</b> [1] 80:18  <b>relevant</b> [5] 27:21 46:16 47:4 49:16 82:13  <b>relief</b> [3] 9:18 76:18 85:16  <b>relieve</b> [1] 24:19  <b>religion</b> [9] 4:18 28:14,23 36:13 42:1 55:21 56:6 78:11 79:18  <b>religions</b> [1] 28:15  <b>religiosity</b> [1] 36:4  <b>religious</b> [4] 4:20 6:10 7:21 8:4 9:24 10:7,11,16,17 11:13,15,17,21 12:2,7,20 14:8 20:9 23:5 28:2,7,17 29:20 30:4 35:10,17 36:5 37:2 49:20 51:11 54:21 55:25 56:18 58:7 61:5 66:11,14 72:4 88:19 95:10,17  <b>reliving</b> [1] 90:18  <b>rely</b> [1] 71:4  <b>relying</b> [1] 19:18  <b>remain</b> [1] 19:25  <b>remains</b> [1] 24:9  <b>remand</b> [3] 6:1 45:20 52:10  <b>remanded</b> [1] 69:5  <b>remedy</b> [2] 76:11 100:20  <b>remembered</b> [1] 26:24  <b>removal</b> [1] 24:9  <b>removed</b> [4] 11:3,4,8 64:3  <b>rendered</b> [1] 5:11  <b>renew</b> [1] 17:8  <b>rep</b> [1] 59:5  <b>repeated</b> [1] 8:1  <b>repeatedly</b> [2] 7:12 9:17  <b>repeating</b> [1] 85:1  <b>replace</b> [1] 37:14  <b>reply</b> [3] 26:4,15 51:18  <b>reporter</b> [1] 39:18  <b>reporters</b> [1] 44:11  <b>reports</b> [1] 46:15  <b>represent</b> [2] 61:22 68:20  <b>representation</b> [3] 50:4 52:11 59:8  <b>representative</b> [1] 82:16  <b>represented</b> [1] 50:7  <b>representing</b> [1] 59:5  <b>reprieve</b> [1] 76:14  <b>request</b> [10] 7:1 8:7 9:9 58:21 63:18 69:1 92:3 94:10,18 99:1  <b>requested</b> [4] 6:6 59:7,16 82:13  <b>requesting</b> [3] 7:12 53:2 80:1  <b>requests</b> [9] 33:8 53:23 57:21,23 58:24 59:2,4 77:7 92:5  <b>require</b> [4] 56:11 81:6,7 85:15  <b>required</b> [4] 9:19 12:3 43:16 93:6  <b>requirement</b> [3] 8:24 55:14 56:4  <b>requires</b> [6] 31:5 56:6 60:19 61:9,10 80:10  <b>requiring</b> [1] 64:8  <b>reset</b> [1] 4:25  <b>resist</b> [1] 47:8  <b>resolution</b> [1] 53:7  <b>resolve</b> [3] 38:5 54:12 58:16</p>	<p><b>resolved</b> [1] 29:14  <b>resort</b> [1] 5:13  <b>respect</b> [5] 7:5 23:12 58:7 74:17 95:17  <b>respectfully</b> [4] 22:6 38:10 43:2 100:24  <b>respectively</b> [1] 77:12  <b>respects</b> [1] 95:10  <b>respond</b> [4] 15:21 100:5,10 104:18  <b>responded</b> [5] 8:18 26:3,14 100:8,17  <b>Respondents</b> [4] 1:9 2:9 3:11 76:7  <b>response</b> [5] 32:5 53:15 84:4 94:4 102:23  <b>response/reply</b> [1] 25:17  <b>responses</b> [1] 34:5  <b>rest</b> [1] 67:25  <b>Restoration</b> [1] 28:17  <b>restrictions</b> [3] 5:8,19 27:3  <b>restrictive</b> [14] 5:20 13:17 18:11,15 19:4,20 37:19 45:1 46:6 48:7 70:17 71:19 72:21 93:23  <b>result</b> [1] 21:15  <b>return</b> [2] 102:5,6  <b>returned</b> [6] 99:22 101:7 102:8,10 104:14,19  <b>returning</b> [1] 102:13  <b>reveal</b> [2] 5:4,4  <b>revealed</b> [1] 48:14  <b>revealing</b> [1] 5:8  <b>reversed</b> [1] 77:25  <b>reversion</b> [1] 5:2  <b>review</b> [3] 11:25 45:22 105:5  <b>rewrite</b> [1] 11:13  <b>RFRA</b> [7] 49:9,10 58:10 60:17 79:11 89:14 92:4  <b>RFRA's</b> [1] 60:21  <b>rights</b> [3] 4:20 89:14 94:13  <b>Riley</b> [1] 9:3  <b>riot</b> [1] 89:8  <b>rioting</b> [1] 72:6  <b>risible</b> [1] 41:24  <b>risk</b> [64] 13:21,21,24 14:5,8,12,14,17,18,22 15:5,7,10,14,18,20,23 16:25 17:2 21:17,19 31:6 32:1 35:5 37:20,22,23 38:6,7,14 42:15,16 44:7,13 62:21 63:21,23 69:25 70:1,8 71:9,25 72:6,16,17,23 73:4,11,23,25 88:6,13 89:1,12 90:3,6,14,15 92:10 93:9 96:1,1,6 105:10  <b>risk-wise</b> [1] 94:14  <b>risks</b> [1] 34:10  <b>RLUIPA</b> [29] 5:23 11:12,16 12:6 18:24 21:5,12 29:6,10,21,24 30:7,13 31:4,8 41:17,19 43:15 49:9,13,18 60:17 61:10 70:3 72:5 73:2 78:17 92:4 101:5  <b>ROBERTS</b> [31] 4:3 9:21 10:8 11:6,23 12:13 30:18,22 33:21 42:8 45:10 54:15 55:9,16,18 56:21 60:9,</p>	<p>13 66:21 71:11 76:3 78:5,20 79:1,4,7,16 80:5 103:1,5 106:6  <b>robust</b> [1] 56:4  <b>role</b> [1] 77:16  <b>room</b> [25] 14:8 16:24 18:18 19:2 21:20 22:2 24:24 38:22 40:23 64:20,21 65:1 68:12 81:22 82:1 91:5,12,16 92:20 93:1,2,3,8 94:23 99:14  <b>rooms</b> [1] 95:24  <b>route</b> [1] 79:21  <b>rule</b> [7] 18:6 21:22 22:11 41:3 67:1 72:13 85:12  <b>ruled</b> [1] 25:18  <b>rules</b> [5] 20:5 27:8 94:7 98:19 99:19  <b>run</b> [2] 13:12 93:8</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>sacrificing</b> [1] 89:13  <b>safe</b> [4] 17:24 43:6 44:2,10  <b>safety</b> [2] 44:6 105:20  <b>salvation</b> [1] 79:21  <b>same</b> [18] 7:12 11:20 22:8 26:4,16 41:6 69:7 71:3 76:18 81:2 92:15 94:18 95:22,25 101:15 104:6,7,8  <b>sat</b> [3] 9:11 18:1 104:9  <b>satisfied</b> [7] 11:21 21:11 23:1,2 53:3 59:9 73:20  <b>satisfy</b> [3] 9:23 10:7 62:17  <b>Saturday</b> [1] 66:13  <b>saved</b> [1] 55:2  <b>saw</b> [1] 31:14  <b>saying</b> [20] 13:23 14:18 15:14,16,17 17:2 21:2,21,23 32:19 37:10,21,22 38:6 39:4 41:2 72:15 89:6 99:22 101:7  <b>says</b> [20] 14:12 23:4 27:12 35:23 40:12 41:4 54:25 55:18 78:8 81:23 82:12,14 83:2,6 84:19,23,25 89:22 100:1,18  <b>schedule</b> [1] 25:20  <b>scheduled</b> [1] 26:25  <b>scheduling</b> [1] 25:15  <b>scrutiny</b> [5] 37:11,17 42:12,20 91:2  <b>second</b> [6] 25:11 35:7 46:21 55:25 77:2 102:23  <b>Section</b> [1] 4:24  <b>secular</b> [1] 30:11  <b>secure</b> [1] 15:4  <b>security</b> [16] 15:13 31:2 32:1 43:25 62:18 63:1 64:9 72:12 74:24 75:12 89:16 93:2,5 95:4,9 105:20  <b>see</b> [17] 8:6 9:3 10:14 20:3 27:10 29:12 38:17 39:8,19,20 44:12 50:3 65:25 74:6 95:7 97:18 105:2  <b>seeking</b> [2] 77:24 79:25  <b>seem</b> [3] 34:2 52:4 68:13  <b>seemed</b> [1] 89:2  <b>seems</b> [1] 53:12  <b>seen</b> [1] 8:2  <b>semi-annually</b> [1] 75:21</p>	<p><b>send</b> [2] 52:1 83:20  <b>sending</b> [1] 52:5  <b>sense</b> [4] 11:24 18:8 34:19 60:7  <b>sensitive</b> [4] 46:2,23 81:5,5  <b>sentence</b> [1] 6:10  <b>separate</b> [1] 65:22  <b>separated</b> [1] 46:19  <b>separately</b> [1] 28:3  <b>September</b> [3] 17:25 100:14 101:18  <b>seriatim</b> [4] 7:10 22:12 27:3 78:1  <b>series</b> [2] 22:17 23:9  <b>service</b> [1] 72:9  <b>services</b> [5] 66:12,14 72:1,4 89:7  <b>set</b> [7] 8:11 48:16 54:8 73:24 94:7 97:4,10  <b>SETH</b> [5] 2:2 3:3,13 4:7 103:13  <b>sets</b> [1] 31:8  <b>setting</b> [2] 33:8 52:16  <b>seven</b> [1] 97:17  <b>several</b> [4] 12:9 33:24 80:1 104:23  <b>shaped</b> [1] 62:13  <b>share</b> [2] 48:13 66:25  <b>shift</b> [1] 21:10  <b>shifts</b> [1] 30:12  <b>short</b> [1] 34:8  <b>shouldn't</b> [2] 51:25 102:19  <b>show</b> [5] 18:14 21:9,12 44:13 81:15  <b>showed</b> [1] 41:21  <b>shown</b> [1] 105:22  <b>side</b> [7] 10:19 31:12 68:15,16 88:7 91:20 94:3  <b>sides</b> [3] 6:2 99:18 105:15  <b>sign</b> [1] 27:11  <b>signed</b> [2] 7:11 17:21  <b>significant</b> [2] 82:1 87:15  <b>significantly</b> [2] 92:3 94:13  <b>silent</b> [1] 99:11  <b>silently</b> [1] 99:15  <b>similar</b> [7] 28:16 79:15 80:17 88:22 90:9 94:22,22  <b>Similarly</b> [4] 11:1 74:11 95:22,23  <b>simpliciter</b> [1] 98:11  <b>simplifying</b> [1] 94:2  <b>simply</b> [6] 27:13 33:8 51:16 52:10 75:11 106:1  <b>sincere</b> [10] 12:20 29:19 37:1,2 55:5,8 56:18 78:25 80:10 81:18  <b>sincerely</b> [2] 29:5 30:3  <b>sincerity</b> [20] 7:6,8 8:3 13:12 35:7,10,20,22 36:6 49:11,15 50:8,10 54:19 55:10,13 56:14 81:16 93:20,21  <b>singing</b> [1] 24:23  <b>single</b> [5] 17:13 27:9 39:17 58:21 106:3  <b>sister</b> [1] 21:8  <b>sit</b> [1] 84:17  <b>site</b> [3] 11:8,10,19  <b>sitting</b> [1] 16:22  <b>situated</b> [1] 95:22</p>
---	---	--	--

## Official - Subject to Final Review

<p><b>situation</b> <sup>[7]</sup> 11:25 16:19 38:23 39:3,6 90:15 93:18</p> <p><b>situations</b> <sup>[1]</sup> 89:4</p> <p><b>Six</b> <sup>[8]</sup> 4:25 5:14 9:11 20:6 32:17 53:15 100:6 104:9</p> <p><b>size</b> <sup>[5]</sup> 43:13,14 44:3 71:4 92:20</p> <p><b>sizes</b> <sup>[1]</sup> 28:6</p> <p><b>slightly</b> <sup>[1]</sup> 43:2</p> <p><b>slow</b> <sup>[2]</sup> 100:12,13</p> <p><b>small</b> <sup>[2]</sup> 57:8 90:14</p> <p><b>smaller</b> <sup>[3]</sup> 53:9 65:18 91:22</p> <p><b>Smith</b> <sup>[2]</sup> 20:10 37:14</p> <p><b>snoring</b> <sup>[1]</sup> 63:10</p> <p><b>society</b> <sup>[2]</sup> 42:2,2</p> <p><b>Solicitor</b> <sup>[2]</sup> 2:4,8</p> <p><b>someone</b> <sup>[1]</sup> 5:14</p> <p><b>someone</b> <sup>[18]</sup> 14:7 16:16 35:14 36:12 48:17,20 49:19 59:15 60:7 67:12 68:11,14 69:14,14 92:6 94:16,17 104:7</p> <p><b>someone's</b> <sup>[1]</sup> 69:11</p> <p><b>someplace</b> <sup>[1]</sup> 86:19</p> <p><b>sometimes</b> <sup>[2]</sup> 22:23 63:13</p> <p><b>somewhat</b> <sup>[8]</sup> 10:11 15:1 37:3 55:12 56:9 68:2 74:7 93:17</p> <p><b>somewhere</b> <sup>[1]</sup> 86:2</p> <p><b>sorry</b> <sup>[10]</sup> 16:5 28:9 37:8 40:1 66:6 67:24,25 71:13 76:1 82:7</p> <p><b>sort</b> <sup>[12]</sup> 37:4 61:1 80:15 84:11 87:25 88:22 89:12,20 90:22 91:24,25 96:22</p> <p><b>sorts</b> <sup>[2]</sup> 88:17,25</p> <p><b>Sotomayor</b> <sup>[34]</sup> 30:25 31:1 32:4,11,16,21,23 33:4,7,11,14,17,19 37:9 50:19 51:1,7,21,24 53:12,14,18 66:22 97:1 98:17,23 100:12,19,22 101:9,12,15 102:3 103:8</p> <p><b>sought</b> <sup>[2]</sup> 5:9 76:18</p> <p><b>sound</b> <sup>[2]</sup> 63:10 79:23</p> <p><b>sounds</b> <sup>[3]</sup> 85:5 88:18 89:9</p> <p><b>space</b> <sup>[1]</sup> 91:22</p> <p><b>span</b> <sup>[1]</sup> 88:22</p> <p><b>spanning</b> <sup>[2]</sup> 4:11 16:3</p> <p><b>speaking</b> <sup>[3]</sup> 36:6 48:20 96:7</p> <p><b>specific</b> <sup>[5]</sup> 53:23 58:12 59:2 62:1 75:7</p> <p><b>specifically</b> <sup>[4]</sup> 12:6 28:20 41:15 96:7</p> <p><b>specify</b> <sup>[1]</sup> 61:9</p> <p><b>spend</b> <sup>[1]</sup> 43:16</p> <p><b>Spends</b> <sup>[1]</sup> 101:25</p> <p><b>spiritual</b> <sup>[34]</sup> 4:13,20 5:3 17:14 41:22 46:1,18 49:2,2 57:1 58:17 62:22,25 63:2,3 64:2,9 65:9,13 68:6 69:1,9 70:23 72:19 73:22 74:22 80:15 81:22,25 82:24 86:2,5 87:20 99:23</p> <p><b>spiritually</b> <sup>[1]</sup> 38:25</p> <p><b>spoke</b> <sup>[1]</sup> 67:16</p> <p><b>spoken</b> <sup>[1]</sup> 5:6</p> <p><b>square</b> <sup>[1]</sup> 65:7</p> <p><b>stabbed</b> <sup>[1]</sup> 40:25</p>	<p><b>stamped</b> <sup>[1]</sup> 104:8</p> <p><b>stand</b> <sup>[6]</sup> 11:24 31:16 65:14 66:18 68:14 74:23</p> <p><b>standard</b> <sup>[13]</sup> 11:25 12:25 19:14 20:3 31:2,8,9 37:10,11,17 60:22 61:2 73:7</p> <p><b>standards</b> <sup>[3]</sup> 20:1 74:16,20</p> <p><b>standing</b> <sup>[1]</sup> 31:23</p> <p><b>start</b> <sup>[4]</sup> 23:14,16 74:4 81:17</p> <p><b>started</b> <sup>[1]</sup> 26:25</p> <p><b>starting</b> <sup>[2]</sup> 26:24 61:10</p> <p><b>State</b> <sup>[87]</sup> 4:17,22,25 5:3,7,12,24 6:14 8:11,13,14,17 9:1,4,6,11,15 11:22 13:23 14:12,18,21 15:14 16:7,8,20 17:9,15,17,23 18:2,13,16,18 19:1,3,9,10,12 20:5,9,20,21 21:3,6,8,18 22:7,12 26:3,14 27:1,2,6,13 30:13 31:5 38:8,8 42:14,15 43:9,22 44:15,18,21 48:5 53:3 64:1 70:4,6,17 71:18 72:3,25 74:8 77:15 88:19 93:11,11 95:12 96:3,10 97:10,11 100:9</p> <p><b>State's</b> <sup>[19]</sup> 4:12 5:11 13:10,16,19 15:3,17 16:25 17:6 34:25 39:12 42:21 49:25 50:2 61:7 69:25 77:13 88:8,16</p> <p><b>state-specific</b> <sup>[3]</sup> 46:9 70:4,7</p> <p><b>stated</b> <sup>[3]</sup> 9:16 77:21 89:16</p> <p><b>STATES</b> <sup>[23]</sup> 1:1,17 2:6 3:7 5:18 19:18,19 21:1,8 28:5 38:2 44:23 45:14 86:3 87:19,22 93:25 95:7,8,9,21,24 96:9</p> <p><b>statistical</b> <sup>[1]</sup> 15:24</p> <p><b>statute</b> <sup>[4]</sup> 12:25 30:16 42:4 55:14</p> <p><b>statutes</b> <sup>[1]</sup> 49:16</p> <p><b>stay</b> <sup>[11]</sup> 18:1 22:18,21 25:7,16 26:2,13 40:20,21,21 101:23</p> <p><b>staying</b> <sup>[1]</sup> 85:16</p> <p><b>step</b> <sup>[9]</sup> 24:5 27:1,1 44:21 92:8 98:13 102:8,11,23</p> <p><b>steps</b> <sup>[3]</sup> 24:7 50:20 56:19</p> <p><b>still</b> <sup>[9]</sup> 10:19 11:2,4 14:17 20:1 37:20 75:12 84:20 100:17</p> <p><b>STONE</b> <sup>[52]</sup> 2:8 3:10 76:5,6,8 78:15,23 79:3,6,10,22 80:12 81:19 82:4,10 83:22 84:4,9 85:11,22 86:9,11,14,17,23,25 87:7,21 88:10 90:4,12,22 91:9 92:24 93:12,15 94:5 95:19 97:5,8,23 98:21 100:7,16,21,24 101:10,14,17 102:5 103:17 104:13</p> <p><b>Stone's</b> <sup>[1]</sup> 105:1</p> <p><b>stop</b> <sup>[2]</sup> 38:16 75:13</p> <p><b>straightforward</b> <sup>[1]</sup> 34:2</p> <p><b>stream</b> <sup>[3]</sup> 22:25 24:20 27:24</p> <p><b>stress</b> <sup>[1]</sup> 80:9</p> <p><b>striated</b> <sup>[1]</sup> 28:23</p> <p><b>strict</b> <sup>[5]</sup> 37:11,17 42:12,19 91:2</p> <p><b>strong</b> <sup>[3]</sup> 20:16 47:7,12</p> <p><b>structuring</b> <sup>[1]</sup> 43:22</p> <p><b>studied</b> <sup>[1]</sup> 21:12</p> <p><b>stumble</b> <sup>[1]</sup> 69:15</p>	<p><b>style</b> <sup>[1]</sup> 23:18</p> <p><b>subcomponent</b> <sup>[1]</sup> 53:13</p> <p><b>subject</b> <sup>[1]</sup> 66:10</p> <p><b>submissions</b> <sup>[1]</sup> 45:17</p> <p><b>submit</b> <sup>[1]</sup> 105:21</p> <p><b>submitted</b> <sup>[2]</sup> 106:7,9</p> <p><b>subsequent</b> <sup>[1]</sup> 84:11</p> <p><b>subset</b> <sup>[1]</sup> 56:2</p> <p><b>Substantial</b> <sup>[6]</sup> 13:13,15 17:9 63:20 70:12 95:24</p> <p><b>substantially</b> <sup>[1]</sup> 45:24</p> <p><b>succinct</b> <sup>[1]</sup> 37:8</p> <p><b>suddenly</b> <sup>[2]</sup> 4:17 8:24</p> <p><b>sued</b> <sup>[3]</sup> 21:1 102:14,24</p> <p><b>suffering</b> <sup>[2]</sup> 40:15 90:18</p> <p><b>sufficient</b> <sup>[3]</sup> 61:4 62:17 96:18</p> <p><b>suggest</b> <sup>[2]</sup> 46:4 65:3</p> <p><b>suggesting</b> <sup>[5]</sup> 51:15,16 74:4 99:9,17</p> <p><b>suggests</b> <sup>[1]</sup> 22:24</p> <p><b>suit</b> <sup>[1]</sup> 77:23</p> <p><b>summarizes</b> <sup>[1]</sup> 88:12</p> <p><b>summer</b> <sup>[1]</sup> 22:13</p> <p><b>Sunday</b> <sup>[1]</sup> 66:13</p> <p><b>support</b> <sup>[2]</sup> 2:6 3:8</p> <p><b>supposed</b> <sup>[5]</sup> 32:14 54:18 63:12 83:20 99:4</p> <p><b>suppress</b> <sup>[1]</sup> 36:9</p> <p><b>suppression</b> <sup>[1]</sup> 36:19</p> <p><b>SUPREME</b> <sup>[2]</sup> 1:1,16</p> <p><b>surface</b> <sup>[1]</sup> 81:12</p> <p><b>surprised</b> <sup>[1]</sup> 87:24</p> <p><b>suspect</b> <sup>[2]</sup> 79:17 99:13</p> <p><b>switch</b> <sup>[1]</sup> 25:10</p> <p><b>switching</b> <sup>[1]</sup> 93:19</p> <p><b>sympathy</b> <sup>[1]</sup> 41:9</p> <p><b>system</b> <sup>[7]</sup> 5:10,11 7:4,24 8:3 9:19 49:14</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>tactics</b> <sup>[2]</sup> 8:10 78:3</p> <p><b>tailoring</b> <sup>[1]</sup> 50:13</p> <p><b>talked</b> <sup>[3]</sup> 35:5,13 48:6</p> <p><b>talks</b> <sup>[2]</sup> 31:7 81:25</p> <p><b>tape</b> <sup>[3]</sup> 74:21,23 75:5</p> <p><b>taped</b> <sup>[1]</sup> 65:14</p> <p><b>tasked</b> <sup>[1]</sup> 44:12</p> <p><b>TDCJ</b> <sup>[13]</sup> 22:10 34:25 84:1 87:10,11 100:11,16 102:1 103:18 104:13 105:11,13,17</p> <p><b>TDCJ's</b> <sup>[4]</sup> 5:16 84:6 98:12 100:8</p> <p><b>teaching</b> <sup>[1]</sup> 29:12</p> <p><b>team</b> <sup>[5]</sup> 23:23 64:3 65:25 91:21 105:13</p> <p><b>tease</b> <sup>[1]</sup> 46:12</p> <p><b>technical</b> <sup>[1]</sup> 84:16</p> <p><b>tend</b> <sup>[1]</sup> 81:11</p> <p><b>tends</b> <sup>[1]</sup> 97:17</p> <p><b>Tenth</b> <sup>[1]</sup> 30:5</p> <p><b>term</b> <sup>[2]</sup> 11:15 46:14</p> <p><b>terms</b> <sup>[3]</sup> 47:1 91:24,24</p> <p><b>Terre</b> <sup>[1]</sup> 65:4</p> <p><b>test</b> <sup>[2]</sup> 91:2,2</p>	<p><b>testify</b> <sup>[2]</sup> 36:22,24</p> <p><b>testimony</b> <sup>[1]</sup> 35:1</p> <p><b>testing</b> <sup>[1]</sup> 20:17</p> <p><b>TEXAS</b> <sup>[33]</sup> 1:7 2:2,8 21:18 27:20 45:23 46:5,7 47:7 48:5 52:2,13,14 64:20 65:3,17 69:6 70:23 72:17 76:24 86:17 90:13 91:7,14 92:1,3,11 94:1,15,16,17 96:4 97:11</p> <p><b>Texas's</b> <sup>[8]</sup> 4:11 5:19 52:6 54:7 65:8,20 91:13 92:21</p> <p><b>texture</b> <sup>[1]</sup> 57:19</p> <p><b>That'll</b> <sup>[2]</sup> 13:2,5</p> <p><b>themselves</b> <sup>[4]</sup> 52:25 54:13 74:9 104:17</p> <p><b>theologically</b> <sup>[1]</sup> 30:1</p> <p><b>there'd</b> <sup>[1]</sup> 52:15</p> <p><b>There's</b> <sup>[26]</sup> 8:10 9:13,15 10:21 14:16 18:14 21:24,24 22:11 27:9 35:1 38:20 39:24 50:20,21 52:11 64:24 66:2 72:20 78:10,11 82:22 87:3 89:8,9 95:16</p> <p><b>they've</b> <sup>[2]</sup> 22:7 40:9</p> <p><b>thinking</b> <sup>[1]</sup> 75:18</p> <p><b>thinks</b> <sup>[1]</sup> 16:21</p> <p><b>third</b> <sup>[1]</sup> 101:21</p> <p><b>Thirty-six</b> <sup>[2]</sup> 102:3,4</p> <p><b>THOMAS</b> <sup>[25]</sup> 6:5,9,20,23 7:7,13,16,19 8:5,21 9:9,14,20 30:20,21 47:25 48:2 49:5,17 50:15,18 60:11,12 103:3,4</p> <p><b>Thomas's</b> <sup>[2]</sup> 13:12 35:16</p> <p><b>though</b> <sup>[9]</sup> 34:22 43:9 52:4,13 74:19 86:25 87:21 93:19 99:14</p> <p><b>three</b> <sup>[11]</sup> 12:3,3 55:4,21 78:10,12,21 80:10 91:15 99:25 103:23</p> <p><b>threshed</b> <sup>[1]</sup> 52:2</p> <p><b>throughout</b> <sup>[8]</sup> 12:10 24:1 41:23 48:17,21 57:2 61:18 76:19</p> <p><b>timely</b> <sup>[1]</sup> 77:6</p> <p><b>timing</b> <sup>[2]</sup> 25:10,12</p> <p><b>tiny</b> <sup>[1]</sup> 90:15</p> <p><b>tissue</b> <sup>[1]</sup> 69:21</p> <p><b>today</b> <sup>[4]</sup> 4:4 45:18 66:18 68:14</p> <p><b>together</b> <sup>[4]</sup> 23:22 46:19 90:3,11</p> <p><b>tolerance</b> <sup>[1]</sup> 73:25</p> <p><b>tolerate</b> <sup>[4]</sup> 37:23 71:8 90:13 98:24</p> <p><b>tongue</b> <sup>[1]</sup> 60:8</p> <p><b>took</b> <sup>[6]</sup> 50:10 55:12 62:6 100:15 101:16 104:7</p> <p><b>tool</b> <sup>[1]</sup> 105:4</p> <p><b>touch</b> <sup>[25]</sup> 5:5,19 8:24 9:22 10:2,3,21,24 22:11,14 23:5,15 28:24 63:18 76:19,24 77:5,11,23 92:16,22 94:11 98:2 99:2 100:2</p> <p><b>touched</b> <sup>[3]</sup> 11:20 35:1,2</p> <p><b>touches</b> <sup>[1]</sup> 23:3</p> <p><b>touching</b> <sup>[21]</sup> 10:19,25 14:14 22:1 24:21 32:18 57:3 59:12,13,16,17 60:4 61:6,16 67:8 68:14 86:6,21 91:7 99:7,25</p> <p><b>towards</b> <sup>[2]</sup> 43:11 82:14</p>
--	--	--	---

## Official - Subject to Final Review

<p><b>tradition</b> <sup>[1]</sup> 35:17  <b>training</b> <sup>[1]</sup> 55:3  <b>treatment</b> <sup>[4]</sup> 14:1 16:9,14 32:7  <b>tremendously</b> <sup>[1]</sup> 54:11  <b>trial</b> <sup>[1]</sup> 97:15  <b>tried</b> <sup>[1]</sup> 99:19  <b>tries</b> <sup>[2]</sup> 9:6 77:8  <b>true</b> <sup>[2]</sup> 34:24 78:11  <b>trusting</b> <sup>[1]</sup> 69:9  <b>truth</b> <sup>[1]</sup> 36:21  <b>try</b> <sup>[5]</sup> 27:14 30:9 37:8 75:13 100:10  <b>trying</b> <sup>[6]</sup> 11:24 30:8 37:16 71:24 81:15 104:22  <b>Tuesday</b> <sup>[3]</sup> 1:13 26:9,9  <b>turned</b> <sup>[1]</sup> 6:12  <b>Turner</b> <sup>[1]</sup> 31:2  <b>turns</b> <sup>[1]</sup> 87:11  <b>twice</b> <sup>[2]</sup> 65:7 76:10  <b>two</b> <sup>[2]</sup> 5:1 6:14 19:16 20:7,22,23 37:7 46:16 47:2,4,18 57:8 61:5 64:8 71:15 76:21 83:22,23 90:10 97:25 98:25  <b>type</b> <sup>[2]</sup> 23:13 24:22  <b>types</b> <sup>[1]</sup> 71:5  <b>typewriter</b> <sup>[1]</sup> 104:7  <b>typical</b> <sup>[2]</sup> 66:12 89:22</p>	<p>102:19  <b>unwilling</b> <sup>[1]</sup> 90:13  <b>up</b> <sup>[22]</sup> 12:7,18 13:1 17:25 24:1 27:7 28:21 35:8 48:16 64:19 66:6 67:6 69:24 71:16 91:17 96:11,21 100:9,23 102:12,12 104:14  <b>useless</b> <sup>[1]</sup> 53:14  <b>uses</b> <sup>[2]</sup> 64:21 65:2</p>	<p>105:5  <b>whatsoever</b> <sup>[2]</sup> 62:23 87:17  <b>Whereupon</b> <sup>[1]</sup> 106:8  <b>whether</b> <sup>[21]</sup> 31:4 37:1 52:3,20,21 53:21,22 57:11 64:21,24 68:4 78:25 80:13,16,20,21 81:1 92:1 96:17 101:22 102:22  <b>white</b> <sup>[1]</sup> 36:22  <b>who's</b> <sup>[1]</sup> 85:14  <b>whole</b> <sup>[7]</sup> 16:8 22:17 23:9 51:11 89:14 92:15 93:21  <b>will</b> <sup>[23]</sup> 9:23 10:6 11:5 13:6 19:22,25 20:1 26:22 28:7 29:7,8 39:3 40:16 56:14 61:3,13,15,15,16 82:14 97:22 99:25 105:2  <b>Willie</b> <sup>[1]</sup> 20:10  <b>willing</b> <sup>[1]</sup> 71:9  <b>window</b> <sup>[2]</sup> 31:14 91:21  <b>windows</b> <sup>[2]</sup> 65:21 91:17  <b>wine</b> <sup>[1]</sup> 19:1  <b>withdrawal</b> <sup>[1]</sup> 4:23  <b>withdrew</b> <sup>[1]</sup> 4:22  <b>within</b> <sup>[7]</sup> 8:21 25:18 33:1 52:6 98:13 100:17 101:12  <b>without</b> <sup>[6]</sup> 6:15 8:13 15:17 62:19 96:5 98:4  <b>witness</b> <sup>[2]</sup> 36:21 64:14  <b>witnesses</b> <sup>[5]</sup> 65:23,24 68:5 91:18,19  <b>witnesses'</b> <sup>[1]</sup> 64:7  <b>won</b> <sup>[1]</sup> 40:14  <b>wonder</b> <sup>[1]</sup> 62:15  <b>wonderful</b> <sup>[1]</sup> 105:4  <b>wondering</b> <sup>[3]</sup> 42:21 70:6 71:23  <b>Woodford</b> <sup>[1]</sup> 98:9  <b>word</b> <sup>[7]</sup> 5:6 32:21 46:12 68:3 90:8 99:5 105:2  <b>words</b> <sup>[6]</sup> 12:16 27:9 57:20 70:18 95:1 104:13  <b>work</b> <sup>[5]</sup> 16:15 32:12 52:25 88:23 92:13  <b>workable</b> <sup>[1]</sup> 60:22  <b>working</b> <sup>[2]</sup> 32:19 63:11  <b>works</b> <sup>[1]</sup> 29:21  <b>world</b> <sup>[1]</sup> 28:15  <b>worried</b> <sup>[3]</sup> 16:16 27:6 36:3  <b>worry</b> <sup>[1]</sup> 32:7  <b>worse</b> <sup>[1]</sup> 5:8  <b>writ</b> <sup>[1]</sup> 5:5  <b>written</b> <sup>[1]</sup> 30:13  <b>wrote</b> <sup>[1]</sup> 26:2</p>	<p>71:25 72:7,16 73:4 86:7,11 88:13</p>
<p style="text-align: center;"><b>U</b></p> <p><b>ultimate</b> <sup>[1]</sup> 30:1  <b>ultimately</b> <sup>[4]</sup> 6:12 10:23 45:20 89:11  <b>unacceptably</b> <sup>[1]</sup> 96:6  <b>unanimously</b> <sup>[1]</sup> 30:16  <b>unavailable</b> <sup>[3]</sup> 5:12 52:23 102:17  <b>unclear</b> <sup>[2]</sup> 57:9,11  <b>unconsciousness</b> <sup>[1]</sup> 24:8  <b>under</b> <sup>[30]</sup> 5:12,23 11:12,16 18:24 21:5,11 29:6 31:1 34:24 43:15 49:10,12,16 52:12,14 54:7 55:20 61:23 70:3 73:7 74:7 85:17 91:2 92:4,4 100:25 103:19 104:16 105:5  <b>under-inclusion</b> <sup>[1]</sup> 89:21  <b>under-inclusive</b> <sup>[1]</sup> 89:2  <b>underdetermined</b> <sup>[1]</sup> 68:2  <b>undergoing</b> <sup>[1]</sup> 34:12  <b>understand</b> <sup>[14]</sup> 15:8 17:6 18:4 50:12 54:17 56:24 58:2 65:8 67:7 80:6 94:11 98:18 99:1,4  <b>understandable</b> <sup>[1]</sup> 54:20  <b>understandably</b> <sup>[1]</sup> 42:15  <b>understanding</b> <sup>[3]</sup> 51:4 59:3 72:2  <b>Undoubtedly</b> <sup>[1]</sup> 81:4  <b>unending</b> <sup>[3]</sup> 22:25 24:20 27:24  <b>unfair</b> <sup>[2]</sup> 62:3,4  <b>unfortunately</b> <sup>[1]</sup> 36:18  <b>unique</b> <sup>[2]</sup> 28:8 29:20  <b>UNITED</b> <sup>[6]</sup> 1:1,17 2:6 3:7 45:14 86:3  <b>universe</b> <sup>[2]</sup> 55:24 62:14  <b>unknown</b> <sup>[2]</sup> 31:18,20  <b>unlike</b> <sup>[1]</sup> 63:25  <b>until</b> <sup>[5]</sup> 9:11 24:13 32:21 101:20</p>	<p style="text-align: center;"><b>V</b></p> <p><b>value</b> <sup>[1]</sup> 90:23  <b>variations</b> <sup>[4]</sup> 22:25 24:20 27:24 61:3  <b>varied</b> <sup>[1]</sup> 63:3  <b>vast</b> <sup>[1]</sup> 15:25  <b>vastly</b> <sup>[1]</sup> 68:24  <b>vein</b> <sup>[1]</sup> 69:21  <b>verbal</b> <sup>[1]</sup> 99:3  <b>versus</b> <sup>[2]</sup> 4:5 37:19  <b>victim</b> <sup>[2]</sup> 65:22 90:18  <b>victim's</b> <sup>[4]</sup> 40:8,19 90:19 91:20  <b>victims</b> <sup>[4]</sup> 30:14 40:6 41:12 64:12  <b>victims'</b> <sup>[2]</sup> 41:5,15  <b>view</b> <sup>[4]</sup> 31:13,15,17 91:21  <b>viewing</b> <sup>[1]</sup> 64:15  <b>views</b> <sup>[2]</sup> 54:21 64:7  <b>vindicate</b> <sup>[1]</sup> 45:23  <b>virtually</b> <sup>[2]</sup> 22:20 81:3  <b>visit</b> <sup>[1]</sup> 17:20  <b>visual</b> <sup>[1]</sup> 63:14  <b>vocalization</b> <sup>[12]</sup> 46:1 47:3,13,19 48:16,21 53:24 57:2,11,12 61:6,17  <b>voiced</b> <sup>[1]</sup> 28:16  <b>volunteer</b> <sup>[1]</sup> 93:3</p>	<p style="text-align: center;"><b>Y</b></p> <p><b>year</b> <sup>[7]</sup> 6:11 8:12,15,25 20:4 62:7 77:12  <b>years</b> <sup>[10]</sup> 18:7 20:25 22:17 30:17 35:3 39:21 40:10 41:19 86:1 106:2  <b>Yellowbear</b> <sup>[1]</sup> 30:5</p>	<p style="text-align: center;"><b>Z</b></p> <p><b>zero</b> <sup>[20]</sup> 13:24 14:5,9,13,22 15:15 17:1 37:22 42:16 62:21 70:1,2,8</p>