SUPREME COURT
OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

- - - - - - - - - - - - - - - - - - -

MICHAEL J. BOST, ET AL.,)
Petitioners,)
v.) No. 24-568
ILLINOIS STATE BOARD OF ELECTIONS,)
ET AL.,)
Respondents.)

- - - - - - - - - - - - - - - - - - -

Pages: 1 through 120

Place: Washington, D.C.

Date: October 8, 2025

HERITAGE REPORTING CORPORATION
Official Reporters
1150 Connecticut Avenue, N.W., Suite 305
Washington, D.C. 20036
(202) 628-4888
www.hrccourtreporters.com

IN THE SUPREME COURT OF THE UNITED STATES

- - - - - - - - - - - - - - - - - - - -

MICHAEL J. BOST, ET AL.,)

Petitioners,)

v.) No. 24-568

ILLINOIS STATE BOARD OF ELECTIONS,)

ET AL.,)

Respondents.)

- - - - - - - - - - - - - - - - - - - -

Washington, D.C.

Wednesday, October 8, 2025

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 10:04 a.m.

APPEARANCES:

PAUL D. CLEMENT, ESQUIRE, Alexandria, Virginia; on behalf of the Petitioners.

MICHAEL TALENT, Assistant to the Solicitor General, Department of Justice, Washington, D.C.; for the United States, as amicus curiae, supporting the Petitioners.

JANE E. NOTZ, Solicitor General, Chicago, Illinois; on behalf of the Respondents.

C O N T E N T S

ORAL ARGUMENT OF: PAGE:
PAUL D. CLEMENT, ESQ.
On behalf of the Petitioners 4
ORAL ARGUMENT OF:
MICHAEL TALENT, ESQ.
For the United States, as amicus curiae, supporting the Petitioners 57
ORAL ARGUMENT OF:
JANE E. NOTZ, ESQ.
On behalf of the Respondents 76
REBUTTAL ARGUMENT OF:
PAUL D. CLEMENT, ESQ.
On behalf of the Petitioners 116

P R O C E E D I N G S

(10:04 a.m.)

CHIEF JUSTICE ROBERTS: We will hear argument first this morning in Case 24-568, Bost versus the Illinois State Board of Elections.

Mr. Clement.

ORAL ARGUMENT OF PAUL D. CLEMENT

ON BEHALF OF THE PETITIONERS

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

Illinois counts mail-in ballots received up to two weeks after Election Day. Petitioners contend that under controlling federal law, that is two weeks too long. As a result, if the Petitioners' merits theory is credited, which it must be for evaluating standing, then Illinois is counting unlawful ballots. Those unlawful ballots could cost Congressman Bost the election or at least reduce his margin of victory, and he has to pay his campaign staff for two extra weeks.

All of that means that Congressman Bost has standing three times over. The court below lost sight of that straightforward

conclusion only by misreading this Court's precedents and misperceiving candidates, who pour untold time and treasure into the election and are the ones whose names are actually on the ballot as mere bystanders with a generalized grievance.

That decision is not only wrong but dangerous. It needlessly injects federal courts into the role of political prognosticators. It risks denying judicial access to minor party candidates, and it shuffles election disputes into the closest races and the worst possible context: Election disputes after the election, where federal courts are in the uncomfortable position of having to pick the political winners.

There is a better way, and it simply requires acknowledging that candidates have a unique, concrete, and particularized interest in the rules of the electoral road, especially those that address which ballots are going to be counted and when. At a bare minimum, a longer campaign is a more expensive campaign, and that classic pocketbout -- book injury is sufficient to give Congressman Bost standing.

There is no need to make the standing inquiry here any more complicated than that.

I welcome the Court's questions.

JUSTICE THOMAS: Mr. Clement, how do we know that Petitioner has -- will suffer a risk of competitive harm?

MR. CLEMENT: So, in -- in some respects, we know that from the very fact that he is a candidate in the election. I mean, obviously, he's put that in a declaration as well, but I think this is something where every candidate cares very deeply and uniquely about the outcome of the -- the -- the election but also their vote tally and the margin of victory or the margin of defeat.

And this idea that, like, all a candidate can care about is the ultimate win or loss, I just don't think that maps on to the way elections actually operate or people think about them.

JUSTICE THOMAS: Well, I think you could argue that he will actually benefit from the additional time.

MR. CLEMENT: So, I -- I mean, I --

JUSTICE THOMAS: Well, someone has to

benefit or there wouldn't be a risk of -- of competitive harm.

MR. CLEMENT: I suppose anytime the government changes the rules for any highly regulated activity, it may be that some of the people that are affected by the new regulations are actually going to be better off. They may be better off -- better able to sort of incur the costs or they may be better able to take advantage of that additional time.

Here, Congressman Bost has alleged that, no, this is going to hurt his sort of margin for victory. But I also think, as a general matter, I'm not even sure you need to get to that level, which is to say, if this were just a simply regulated industry, if the SEC promulgated new rules for registered broker-dealers, you'd expect the broker-dealers, some of them, to come and sue about those new rules. I think you wouldn't be that worried that broker-dealers were coming in and actually suing for rules that helped them. The market sort of shifts --

JUSTICE SOTOMAYOR: That's the point, though --

MR. CLEMENT: -- takes care of that.

JUSTICE SOTOMAYOR: -- that this regulation is not of a broker-dealer. It's not of a candidate. It's of voters. So it's not a direct regulation.

But going back to your margin of victory, in the case where we decided that a campaign ad had standing, in that case, there were affidavits that said these ads increased the amount of revenue we receive or can decrease it. So there was an affidavit that said that.

Here, you don't even say that the margin of error is going to affect -- you don't have anybody saying anything close to that. You're just saying the margin of error could have a reflection on me. That's a generalized statement with no support.

MR. CLEMENT: So two things, Your Honor. First, just on the first point, if the new broker-dealer regulations from the SEC regulated the -- the terms at which the customers could deal with the broker-dealers, I think the broker-dealers would still have standing to challenge that.

JUSTICE SOTOMAYOR: But this is not how they're dealing with the candidates. They're still voting for the candidate. They're not being deprived of their right to get their voters to vote.

MR. CLEMENT: Well, but --

JUSTICE SOTOMAYOR: So I'm -- I'm not sure -- the analogy doesn't work for me, Mr. Clement.

MR. CLEMENT: Well, I --

JUSTICE SOTOMAYOR: But let's go back to my point that I'm not sure that someone who says to the court below that his "injury" is not based on the risk of losing the election. Seems to me that he's forgone that argument here, as he did below, and that the question becomes whether this margin of victory issue is enough.

MR. CLEMENT: So two things, Your Honor. One, as we point out in our reply brief -- and I would urge you to read the Seventh Circuit briefing on this -- the statement that my friend on the other side says is where we waived this electoral outcome argument was simply responding to their

argument that pocketbook injuries don't matter if, in fact, you don't -- can't show that there is this electoral outcome injury.

And what we said in response and what we say in our reply brief here and remains correct and waives nothing is that's actually not right. The pocketbook injury is separate from any electoral outcome. So there's no waiver of any of this.

There was a declaration here. The declaration does say that we risk -- that Congressman Bost risks losing the election, but it also then says but it's certainly going to affect the margin of victory. And he also alleges in his declaration that that margin of victory is not just an abstract injury, but that translates rather directly into reputational injuries and financial industries -- injuries.

And I think that corresponds with the general sort of common sense of the matter. If you ask -- if you ask candidates would you like to win this election by 60 percent of the vote or 51 percent of the vote, I think a hundred percent of the candidates are going to say I'll

take the 60 percent.

JUSTICE JACKSON: Yeah, but that's not how we ordinarily think about harm, and harm is what you need in order to establish standing, not preference for 60 percent or 59 percent or whatever.

And so what I guess I'm a little concerned about in your argument is the idea that a candidate who wins and who wins by some margin is harmed by a regulation of this nature because of the potential decrease in his margin of victory. I don't understand the harm that necessarily comes from that.

MR. CLEMENT: So, if you start with the premise that every candidate would prefer to win 60 percent rather than 51 percent, and then you challenge --

JUSTICE JACKSON: But why -- why do we start with preference? That's what I -- I'm saying that the -- the relevant metric for standing is harm. So, yes, fine, you -- you might be disappointed, but that's usually not what we look at when we're determining whether or not someone is actually harmed.

MR. CLEMENT: Well, I would say that

if a law improperly denies somebody their preference, that is a harm. But, in all events, I don't think you need to make it that abstract. If the abstraction is what's bothering you, he alleges in his declaration that that is accompanied by reputational and financial harms as well.

JUSTICE JACKSON: Isn't that speculative? I mean, couldn't we also speculate that a candidate who decreases the margin of error or, excuse me, the -- margin of victory, who wins by a smaller amount, people would actually want to contribute more the next time, as opposed to them not having contributors?

I -- I don't necessarily see a financial harm that comes from a smaller margin of victory.

MR. CLEMENT: Well, on this -- I mean, you know, I think this is the kind of issue that at this stage of the case, where you have a complaint and you have declaration, you haven't had any evidence, if -- if the other side wants to come in and put on an expert that says: Actually, Congressman Bost, who's run

successfully in Illinois, like, a dozen times, doesn't know what he's talking about --

JUSTICE JACKSON: No, no. I'm just saying --

MR. CLEMENT: -- and actually --

JUSTICE JACKSON: -- I'm saying it's your burden. You're the Petitioner, and you have to establish standing. You're the -- the plaintiff, so you have to show that you have a non-speculative risk of harm here. And I just don't understand how saying: Well, I would prefer to win by more actually counts, especially when you're winning by -- you know, more or less is sort of speculative in this context.

MR. CLEMENT: Well, with respect, I think, if you're going to allow people to challenge election rules at the beginning of the election, which I actually think is something that the standing doctrine should not get in the way of because it avoids having these disputes litigated at the worst possible times, you're going to have to allow some room for a little bit of speculation, I mean, because the election hasn't happened yet.

But the way that this Court's cases have generally dealt with that is you have to show that there's a substantial risk of something.

And, here, there's no question in my mind that at this stage of the litigation, between the allegations and the declarations, he's done enough for the motion to dismiss stage.

Again, you know, we all know that standing law has to be sort of addressed at the level of substantiality for every stage of the litigation. And so, if they want to continue to contest this, I suppose, at the summary judgment stage, we could have competing experts on some of this stuff.

But, frankly, I think that is a pretty good advertisement for a broader, simpler rule that simply says candidates have standing to challenge the rules that govern the election.

JUSTICE KAVANAUGH: If it were --

JUSTICE BARRETT: Mr. Clement --

JUSTICE KAVANAUGH: -- if it were after the election, how would that play out?

MR. CLEMENT: So I think --

JUSTICE KAVANAUGH: In other words, if the litigation over issues like this were funneled to post-election?

MR. CLEMENT: Well, I -- I mean, I -- there's -- there's a couple ways to think about that.

One analytical way to think about that is I would say no matter what the margin of victory is, if there are ballots that, under Congressman Bost's theory, were illegally counted --

JUSTICE KAVANAUGH: Yeah.

MR. CLEMENT: -- I think he would have standing to bring the challenge.

Now the courts might want to apply in the post-election context a --

JUSTICE KAVANAUGH: What do you -- what -- what's the remedy? Do -- does the Court there -- and this is -- I think blends into your concern about post-election, but I just want to play it out.

So let's say the losing candidate sues, challenging this rule, and let's say the Court finds it -- post-election, finds it illegal. Do you -- and we faced this in 2020

in some of our many cases pre-election.

What -- what's the remedy?

MR. CLEMENT: Well, I -- I --

JUSTICE KAVANAUGH: Do you throw out those votes? Because, if you do, some of those voters might say: Oh, I actually would have voted earlier if I had known.

I'm just trying to figure out how that would play out.

MR. CLEMENT: So I think that would be the right remedy. And I think that's kind of a nightmare scenario for exactly the reason that you point out.

And I don't think there's any reason for the standing rules to basically say that you have to decide all these issues in those nightmare scenarios or even in the very closest districts.

And the point I was trying to make is, like, if you think about this case proceeding past the pleading standard, the idea that you would have, like, competing experts come in and say: You know, Congressman Bost is kind of a lousy candidate, so this one's going to be pretty close.

And that would be my expert because I'd have to show that the election is close in order to have standing.

And then they'd come in and their expert would say: No, Congressman Bost is the best candidate there's ever been. He's going to win this thing in a landslide.

JUSTICE KAGAN: But would you agree to a rule like this one, which sort of makes this question of do you have to show you would win or do you have to show margin of victory a little bit irrelevant, that what you have to show -- you have to show something. It's not enough to just walk in and say: Hi, I'm a candidate and I'm suing.

But what you have to show is some kind of substantial risk or substantial likelihood, whatever the phrase may be from our standing doctrine, that the new rule puts you at an electoral disadvantage relative to the old rule so that, you know, if the new rule has -- says more mail-in ballots, then you just have to plead that that's a kind of rule that puts you to an electoral disadvantage and say something, not a lot, but something to suggest

that that's right.

MR. CLEMENT: So I could live with that rule. I don't know that it's the ideal rule. I mean, I'm not coming in here asking for a broad rule because I'd like to win this case in the hardest possible way.

I'm asking for that because I actually see advantages to it, namely, that even under your view, you still, in theory, would have at the summary judgment stage this, like, debate in Article III courts about whether late-arriving ballots help Republican candidates or Democratic candidates.

And that makes me sufficiently uncomfortable that I actually would prefer a rule that says: No, Congressman Bost is coming in and he's saying there are going to be unlawful votes cast and they'll be ballots with his name on it in his election.

That's enough. We're done. None of these --

JUSTICE KAGAN: I mean, your rule really does just take out the injury requirement entirely. It just says you should assume that if a candidate is there before the

court, the candidate has good reasons for being there before the court.

And for the most part, I think we have rejected that view of standing. I mean, for example, we said there's no such thing as doctor standing just a couple of years ago.

So too here it seems quite inconsistent with our standing law to say: Oh, we just have, like, an automatic rule for candidate standing.

On the other hand, I'm sort of in sympathy with the view that this bar should not be all that high and that the bar shouldn't have to -- like, you shouldn't have to say: Here are the polls that show I could lose as a result of this rule.

It's like all you have to do is come in and say why it is that the rule puts you at a disadvantage relative to what's come before.

MR. CLEMENT: So, Justice Kagan, I don't think that much separates us, and so I don't want to sort of die on any particular hill here.

The reason that I'm hedging a little bit, I'll say two things in response. One is

I -- I don't think it's we're saying get rid of the standing -- I mean the injury in fact requirement. We're just saying unlawful ballots being counted in your election is an injury in fact. Is it a little abstract? Sure. But it is an injury in fact, and then everything else follows.

And then you don't even have to get into the -- what I still think is an uncomfortable prospect of competing expert affidavits where one party says that, actually, late -- late-breaking votes can actually be good for Congressman Bost because people like candidates with a B in their name --

JUSTICE GORSUCH: Well --

MR. CLEMENT: -- or something, and then the other side says, no, they're actually good for the Republicans.

JUSTICE GORSUCH: -- Mr. Clement, though, I -- if -- if you could just answer whether you could satisfy Justice Kagan's standard, I -- I -- I -- I'd be grateful and whether you -- and it doesn't require a competitive -- as I understand the question, it doesn't require a competitive disadvantage. It

just says: Compared to the law, what I understand the law to have been, I am at a disadvantage.

MR. CLEMENT: Yes, we can satisfy that.

JUSTICE GORSUCH: Would -- would -- can you spin that out?

MR. CLEMENT: Sure. I mean, we can satisfy it in sort of two ways.

I mean, one, Congressman Bost, in his declaration, has made clear that he thinks that this rule will hurt his margin for victory.

And then the second thing he said, and he maybe said this, frankly, more clearly, is because he's -- you know, we have kind of the unique benefit here of a candidate who was a candidate under the old rules, and he has said that this change in the rules has increased the cost of running his campaign.

JUSTICE GORSUCH: Yeah.

MR. CLEMENT: So, on both those two kind of classic injuries, I think the declarations here are sufficient. Obviously, we're just at the motion to dismiss stage, so there -- there --

JUSTICE GORSUCH: Thank you.

MR. CLEMENT: -- there could be more, but I think they are satisfied.

JUSTICE BARRETT: Mr. Clement, when you say that these two classic injuries, how does -- how, if at all, does TransUnion affect this?

Do you have to show that there is some sort of history and tradition that this is the kind of injury, either the vote margin or the risk of electoral loss that counts as a cognizable injury?

MR. CLEMENT: So two thoughts on that.

I mean, one, if we have to, then I think the pocketbook injury just makes it easy because that's classic, go back, Blackacre, White -- you know, whatever --

JUSTICE BARRETT: Yeah.

MR. CLEMENT: -- that's the classic old-school injury.

The second thing I would say, though, is I do think there's some artificiality in some of these contexts to force everything to be run through the pocketbook injury.

I mean, the -- Congressman Bost is

injured in the pocketbook, but that's because he's a candidate in an election with a ballot with his name on it. And I think, if you go back to the relevant history here, I don't know if 133 years counts, but I'd take you back to McPherson v. Blacker, and that was a case brought by presidential electors challenging Michigan's change of the rules for the presidential electors. Michigan went from statewide to a district-by-district way of having presidential electors.

This Court thought a lot about justiciability in that opinion, didn't bat an eye about standing. Of course, the presidential electors are the right people to challenge a change in the rules for presidential electors.

And then I would also take the Court back, not ancient history, but Crawford against Indiana in the voter ID case. There was a question about the standing of the Indiana Democratic Party.

Justice Stevens, in Footnote 7, dispatches it in two sentences. Of course, the Indiana Democratic Party has challenge -- has

standing to challenge a voter ID law that they think is going to be bad for Democratic candidates.

And Justice Souter agreed with that, so there's at least five votes for the proposition that -- and -- and his footnote was just as short.

It's just common sense that in these contexts, the candidates who are the ones, as Judge Oldham said in his opinion, they take time off from the elections, their names are on the ballot.

CHIEF JUSTICE ROBERTS: Thank you, counsel.

You've answered a lot of hypotheticals. I just want to make sure I understand what your opening submission is. It is: Hi, I'm a candidate. These rules apply to me, and I'm suing. Right?

MR. CLEMENT: And if that's not enough for you --

CHIEF JUSTICE ROBERTS: No, but that -- that is the opening pitch, right? That he's the one that's affected by the -- well, that's the question, I guess, whether is it --

is it enough to simply say, hi, I'm the candidate and I'm suing?

MR. CLEMENT: So I -- I want you to believe that it is. If it's not enough, I have my two fallback arguments, but I think the reason it is enough is because, in every one of these cases -- I mean, you can run it one step further, which is what I tried to do with Justice Kagan, and you could say it's not just that I'm a candidate; I'm a candidate here and I have an injury in fact, which is I think there are going to be unlawful ballots counted in my campaign.

CHIEF JUSTICE ROBERTS: Okay.

Justice Thomas?

JUSTICE THOMAS: When we had Lujan some years ago, this Footnote 7 made a similar point. Are you making the same point, that a -- a procedural right doesn't have the same requirement for immediacy or redressability?

MR. CLEMENT: I think it's a related point.

JUSTICE THOMAS: Yeah.

MR. CLEMENT: I don't know that I would draw quite the same sort of

procedural/substantive distinction.

JUSTICE THOMAS: Mm-hmm.

MR. CLEMENT: To me, you know, I -- I -- I sort of think -- and, obviously, Justice Sotomayor and I had a colloquy about the limits of this --

JUSTICE THOMAS: Yeah.

MR. CLEMENT: -- but I sort of think there is this kind of common-sense principle that if you are in a highly regulated enterprise and the government changes the regulations and you think it hurts you, like, you go in and you say -- like, even if it's something that seems trivial to an outsider, if a broker-dealer now has to do everything on blue paper and it's going to change the way they operate, I think they ought to have standing to say it's arbitrary and capricious for you to say everything has to be on blue paper.

So I -- and I don't know why there would be a special rule that makes it more difficult in the electoral context. I mean, you certainly don't have to worry about generalized grievances here when there are only

going to be a handful of candidates in a particular election.

CHIEF JUSTICE ROBERTS: Justice Alito?

JUSTICE ALITO: You have several arguments, and I don't want to get into most of them right now. But, on the issue of competitive injury, it's not clear to me why you couldn't have done a lot better than you did in your complaint and alleged what I think a lot of people believe to be true, which is that loosening the rules for counting votes like this generally hurts Republican candidates, generally helps Democratic candidates. Why didn't you pursue that? Why didn't you try to do something with that?

MR. CLEMENT: So, Justice Alito, in some respects, the answer is, when you plead a case in district court, you don't expect to be in the Supreme Court defending every pleading that was sufficient under standing. And we certainly thought when we pled this pleading pocketbook injury, competitive injury, albeit briefly, and that we're the candidate, why is this so difficult, and relying on cases like McPherson, we didn't really think we would have

to sort of plead more. And even when the complaint was challenged, we sort of thought that we'd done enough.

And then all I can say in response to that is, of course, we could say that and we said it all in our briefs in front of this Court. So we could have said more, but, boy, that's a weird inquiry to then think it's going to stick around in the case.

That's the thing. It's like, if you think about this only as, well, this is just what you need to plead and then we're done with standing forever, these cases, you know, seem cleaner. But -- but that issue sticks -- stays in the case.

JUSTICE ALITO: Okay. I -- I understand. One final question, and I -- I should have researched this myself beforehand. When was this rule, new rule, enacted? And do we know what the partisan breakdown in -- on voting for the rule was? And could we take judicial notice of that?

MR. CLEMENT: So I -- this rule was 2005. And I don't think there is robust data that would allow you to -- you could take

judicial notice of this.

JUSTICE ALITO: Okay. All right. Thank you.

MR. CLEMENT: And, you know, it's -- we said in the reply brief, like, you know, my friend tries to make something of one data point for one county in one election. We don't even know what the kind of comparator is. So I --

JUSTICE ALITO: Got you.

CHIEF JUSTICE ROBERTS: Justice Sotomayor?

JUSTICE SOTOMAYOR: Mr. Clement, we now have a whole body of law developing on the fact that we're not going to give relief to more than one plaintiff at a time so that the relief should be tailored to the needs of the plaintiff at issue.

Assume that you have a district -- and there are some like this, maybe not your clients', but that goes to the failure of pleading in this case -- that there are some districts where the Republican registered parties are 98 percent, the Democrats are 2.

Your rule would say that that

candidate who has not just an insubstantial but a statistically almost impossible chance of winning -- of losing, that that candidate can come in and seek a change of that rule. Correct? That's your position?

MR. CLEMENT: That's correct. And, I mean --

JUSTICE SOTOMAYOR: All right.

MR. CLEMENT: -- and I think --

JUSTICE SOTOMAYOR: Doesn't the absurdity of that -- generally, we have said that suits should be brought by people for whom the harm is concrete in some meaningful way. Losing, let's say, by 1 percent more or less can't be meaningful on any scale.

So, as Justice Alito said, there are a lot more things you could have said. You could have even said, instead of saying I risk injury if untimely and illegal ballots cause me to lose my election, you didn't even say I risk substantial injury, which is our standard, substantial harm. So you didn't even track our legal language. You didn't put in any facts, as Justice Alito pointed out, about what the turnout is, what your district is like, nothing

from which any plausible argument could be drawn.

I'm also not sure what the battle of the experts is about. This is on pleadings. We have to give your expert, absent some facially -- facial deficiency, take the allegations in your favor. So I -- I'm -- I'm not sure where this battle of the experts is going to come in.

MR. CLEMENT: So I'll take the last part first. The battle of the expert comes at summary judgment. Just because we have sufficient allegations doesn't mean we're done. And all of the things that you talked about --

JUSTICE SOTOMAYOR: But this was dismissed on a motion to dismiss, no?

MR. CLEMENT: This case is. But, if we win because we allege all those details about Republicans and Democrats and voting patterns, that doesn't go away in the case. That's still there at the summary judgment stage, and that's where the battle of the experts are.

But, as to the 2 percent voter, I'm going to stand with the 2 percent candidate

and, you know, I stand in locked shoulder with the Socialist Workers Party and however many percentage votes John Anderson got, and they were able to --

JUSTICE SOTOMAYOR: Those are interesting bedfellows you're taking.

MR. CLEMENT: But I'm delighted to have those bedfellows because that's the way we think about elections in this country. We don't think just give me the bottom-line result, give me the binary result, winner or loser.

JUSTICE SOTOMAYOR: Well, the problem is, Mr. -- Mr. Clement, that our -- that our case law and our standing law requires some form of substantial harm that can be articulated and shown. And what you're talking about is a desire to implement the law with a generalized grievance because it doesn't really particularly harm you.

MR. CLEMENT: So, for the Socialist Worker Parties, the difference between 2 percent and 2.5 percent might be not the difference between getting some, like, on the ballot the next time or federal, it might be

the difference between getting taken seriously and, in the next election, getting to 3 percent or 5 percent. I mean, you know, eventually, we got rid of the Whig party. It takes a long time, but those small differences do make a difference.

And then the second thing I would say is, just as a general matter, this is not a generalized grievance. This is almost the opposite. Like, when you have voters here with standing, like, in a case like Lance, you worry about generalized grievance because everybody's a voter just like everybody's a taxpayer.

But, when you're talking about whether candidates have standing, like, you've already limited the universe to, like, a handful of people. And so just like you limit the universe, there aren't that many broker-dealers in the world. So you're not going to flood the courthouse with those suits, and you've already limited this to people that have a much more particularized interest in the issues.

CHIEF JUSTICE ROBERTS: Justice Kagan?

JUSTICE KAGAN: So I'm curious, Mr. Clement -- and I am going to actually limit

this to Democrats and Republicans to -- for purposes of this question.

I mean, usually -- in a lot of these suits, it's the parties that sue, right? The RNC sues or the DNC sues. And, as Justice Alito suggested, it's usually fairly predictable what rules the RNC is going to sue on and what rules the DNC is going to sue on, and both have their favorite rules and their disfavored rules.

And -- and, usually, we don't think about standing in that area. But I'm wondering whether you think, like, I -- I would think that the same standard should basically apply, that whether we think about it or not, what we're really asking is, is this the kind of rule that is likely to put your candidate at a disadvantage relative to where he was before?

And, I mean, do you think that there's some separate inquiry for individuals, for candidates, as opposed to parties when they sue for these rules?

MR. CLEMENT: No. I mean, if anything, I think the candidates are more obvious, but I don't think it's a radically

different proposition.

But here's what I do want to say. Usually, in these cases, when the party sues, they often couple themselves with a candidate or voters.

And one of the things that I think is particularly problematic is -- you -- you said it yourself -- like, there are certain of these rules that the Democrats don't like and certain of these rules --

JUSTICE KAGAN: No question.

MR. CLEMENT: -- that the Republicans don't like.

Well, the rules that the Democrats don't like tend to operate negatively directly on voters. And so, when the -- when the Democrats come in, they can marry up with a couple of voters and the Court can say the voters have standing, so we're done, we don't even have to think about the party or the candidate.

The Republicans in a lot of these cases are challenging rules that allow you to keep counting ballots forever, keep the voting place open forever.

JUSTICE KAGAN: Right. But that doesn't prevent the Republicans from getting into court and making their claim. It never has. You know, the RNC challenges most of these kinds of rules and, as far as I know, nobody has ever kicked it out of court on standing grounds.

MR. CLEMENT: I -- I don't know if that's true or not, but it's a lot harder for the Republicans in some of these contexts because they can't just marry themselves up with a voter.

The other thing I would say is we actually don't have that much history on any of this because, until relatively recently, everybody kind of just thought it was the most obvious thing in the world that Crawford, I mean, like I said, Justice Stevens spent two sentences saying, of course, the Indiana Democrats don't like voter ID laws, so they have standing.

But it wasn't like a here's the injury in fact, here's redressability, here's traceability. And I -- I think, you know, in -- in -- in a spate of recent cases, some

have been post-election, some have been pre-election, like, all of a sudden standing's gotten really complicated and created a circuit split.

I'm here to urge let's return to simplicity, let's return to McPherson v. Blacker, you're a candidate, you're a party, of course, you have standing.

JUSTICE KAGAN: Thank you.

CHIEF JUSTICE ROBERTS: Justice Gorsuch?

JUSTICE GORSUCH: I want to turn to your colloquy with Justice Sotomayor for a minute because it does seem to me that whatever is required, it can't be a showing that you would have won or lost the election as the candidate. You pointed to Illinois Socialist Workers case. Boy, they had zero chance of winning the election, zero chance. So that can't be the injury that's required, it seems to me.

Likewise, FEC versus Davis, funding, how much can your opponent get versus how much you can spend, no allegation that the outcome would have been different or number of margin

of victory would have been different. We didn't require anything like that in those kinds of cases.

Thoughts?

MR. CLEMENT: I mean, I -- I -- I certainly agree that you didn't require that. I think there are multiple reasons for doing that. I think, ultimately, it comes down to the -- just the common-sense intuition that, of course, the candidate has the -- the standing to challenge the rules that provide the framework for the election.

I mean, I'll add to your list of cases that in, you know, the -- the -- the Ted Cruz for Senate case, this Court went out of its way to say he probably could have brought this as a prospective challenge. He didn't have to wait until after the election and the money was, like, $10,000 short.

So this Court, I think, has always said, like, this is pretty straightforward. And I think there's another good practical reason just to put on the table, which is it's almost a little cruel to make candidates make allegations that are going to be used against

them in the campaign.

JUSTICE GORSUCH: Yeah.

MR. CLEMENT: And if Congressman Bost has to come in and say, you know, there's a material change, I'm going to lose this for this election.

JUSTICE GORSUCH: And -- and, similarly, like government contracting cases I -- I think of and, as you point out, administrative cases, a procedural -- you -- you change the rules in government contracting, I don't know whether that fellow's going to win or lose the bid, but you're changing the rules of the game on him. We find standing in those cases all the time.

MR. CLEMENT: You do find standing in those cases all the time. If you're sort of treated poorly by the -- the rules of the road, you don't have to show that you'll win the contract. You don't have to show that you'll get into the law school of your choice.

And I'd add again one more to that, which is, you know, we have all these cases where voters have standing. Nobody says that the voter has to come in and say: I'm going to

cast the decisive ballot.

JUSTICE GORSUCH: Right. On the other hand, let -- let's suppose that the change in regulation was, instead of ballots on white paper, they have to be on cream paper. Then it's harder to see an injury, right? So what do we do about that?

MR. CLEMENT: So my recommendation to you on that is to realize: Ah, that's a theoretical problem, but we're not going to have to lose a lot of sleep over that because --

JUSTICE GORSUCH: Because nobody will ever bring those cases?

MR. CLEMENT: -- nobody will bring that challenge.

JUSTICE GORSUCH: Yeah.

MR. CLEMENT: And I think, if you go -- I don't need to tell you that if you go through the federal regulations, there are lots of silly provisions in there that have never been challenged, but somebody had standing.

JUSTICE GORSUCH: Yeah. Well, I -- I -- I'd be happy to go through those with you someday, Mr. Clement, but thank you.

(Laughter.)

CHIEF JUSTICE ROBERTS: Justice Kavanaugh?

JUSTICE KAVANAUGH: I think your answers and colloquy with the Chief Justice and Justice Gorsuch reveal that you're considering this case in the bucket that the candidates are objects, in essence, of the regulation, is that right? And, thus, we have said repeatedly that when you're the object of the regulation, you don't need to say much more than you're the object of the regulation.

And -- and we've said in cases like the fuel producers last year, the -- the schools in Pierce, the broadcasting network at CBS, none of those were actually directly regulated, but we still said, in essence, they were the object.

Is that -- is that the analogy that you're using in your answer to the Chief?

MR. CLEMENT: It -- it is, except I might add one word just to avoid a quibble --

JUSTICE KAVANAUGH: Okay.

MR. CLEMENT: -- which is I think they're the objects of the regulatory regime.

Like, I think there's a fair argument and I think Justice Sotomayor sort of baked it into one of her questions that the object of the ballot deadline might be thought of as being the voter who gets the extra 14 days and not the candidate. So it's not that the candidate is the direct object --

JUSTICE KAVANAUGH: Is not the only object.

MR. CLEMENT: Not the only. But probably, you know, you --

JUSTICE KAVANAUGH: Yeah. It's like the cars --

MR. CLEMENT: Look, if it helps me to say they're the direct object, I'll say it. But I do kind of think it's a --

JUSTICE KAVANAUGH: They're an -- an object.

JUSTICE KAGAN: It might help you with some people and not with other people.

MR. CLEMENT: Yeah.

(Laughter.)

JUSTICE KAVANAUGH: An -- an object.

MR. CLEMENT: But -- but -- but where -- but what I -- like, I'm making --

JUSTICE KAVANAUGH: There's the fuel producers and the car makers last year --

MR. CLEMENT: Yeah. No, I --

JUSTICE KAVANAUGH: -- in Diamond or the --

MR. CLEMENT: Like, obviously, but -- but I'm making a slightly different point, which is I think they are the object of the whole regulatory regime.

JUSTICE KAVANAUGH: Yeah.

MR. CLEMENT: And they regulate some other people incidentally, but it's all really about the electoral process and who's going to win the election and what their vote total is going to be. And, again, like, Illinois doesn't just certify a winner. They -- after the 14 days, they certify the vote total. So they care about those late-arriving ballots. We care about those late-arriving ballots. We think they're unlawful ballots. Right there, I think that's enough of an injury.

JUSTICE KAVANAUGH: Then your -- your -- made a strong case that we need to decide this connected to the real world of how elections actually operate and not some

theoretical way. So, on your monetary injury point, can you kind of play out how a campaign operates and -- and how the monetary injury's going to come to pass in a situation with this particular regulation?

MR. CLEMENT: Sure. And what I would say is, in some ways, it's -- you -- you know, you don't have to have any political sophistication. It's just, if the -- if -- if the campaign is going to be two weeks longer, you've got to keep the campaign staff together for two weeks longer, and that's going to be more expensive.

And, you know, I think it's telling that what -- that what you'd be paying for and using your volunteer resources for in that last two weeks is the -- the -- the -- the -- the ballot monitoring and the rest and the poll watching as they count these late-arriving ballots, and, you know, no less an authority than the League of Women Voters at page 20 of their amicus briefs says it would be political malpractice not to do this.

So they're real expenses, and they're essentially completely reasonable to use, kind

of like the formulation in Clapper. But the one other kind of practical point I want to make is the distortion of this kind of thing starts much earlier because, you -- you know, you don't just say: Well, oh, I -- I -- I -- it didn't occur to me that there would be late-arriving ballots, so now, in the last two weeks, I have to spend some money.

If the election ends at Election Day, you're going to spend your money throughout the process differently. You're going to spend -- less money at the margins, you're going to spend less money directed at likely mail-in voters. You're going to spend a little more money at the margin on your voters who you think are actually going to go to the polls.

I mean, the analogy I was thinking of is, like, you know, if you have, like, a mile race instead of a half-mile race, that doesn't just change the last half mile. It changes the way you run the first half mile.

So these election regulations, all of them, have -- you know, a -- this one has, like, the most direct effect possible because it's like an election that runs an extra two

weeks is going to cost more than one that ends earlier.

But I think almost all of these end up having pocketbook injuries. And you could trace it all to the pocketbook injury, but I think it's a little artificial because the reason the candidate has a pocketbook injury is because he's a candidate or she's a candidate.

JUSTICE KAVANAUGH: Thank you.

CHIEF JUSTICE ROBERTS: Justice Barrett?

JUSTICE BARRETT: So you make a lot of practical arguments that I think have force. What do you think -- what effect, if any, do you think that adopting your theory would have in other areas of standing law?

Because we've been pretty careful about procedural injury. You know, an excellent lawyer who argued TransUnion convinced us to do that.

What do you think this -- you're asking for something, as Justice -- Justice Kagan points out, we don't fashion bespoke rules for standing in particular contexts. So what spillover effects would -- would we be

worried about in writing an opinion in your favor if you win?

MR. CLEMENT: So I don't think we're asking for a bespoke rule. I think, you know, obviously, the parties fight about this in the brief, but I think what we're asking for is the application of the ordinary standing rules that would be second nature in the context of a regulatory -- a regulated industry to just apply in the electoral context in the same way.

And, you know, you don't -- like, when a company is, like, in a particular area of regulation and the regulations change, you know, you don't even think hard that, of course, they have a basis to challenge the -- the change of the rules that they're going to be operating under.

JUSTICE BARRETT: It's mostly because of money. I mean, in Diamond Alternative, it was too.

MR. CLEMENT: Yeah, but --

JUSTICE BARRETT: It was pocketbook.

MR. CLEMENT: But -- but, even if it's just massive inconvenience and it's, like -- like, doesn't translate, I mean, you know, I

think, like -- and -- and you can imagine a situation where, like, the SEC forces broker-dealers to shut their doors at 4:00. It might -- you know, like, it's anybody's guess whether they're going to save more in wages than they're going to lose for the people that they send home early, than they're going to make in terms of additional customers that come in in the last hour of the day.

I don't think you need affidavits on that. You'd say, look, we've been operating our brokerage this way for a hundred years and we close at 5. And now the heavy thumb of the government's coming in and saying we have to close at 4. I don't -- I'm sure you're right that you could translate that into a pocketbook injury, but I don't think you've ever had to. And I don't think we're asking for anything different here.

Now, like, if -- if you're worried about that, there are obviously off-ramps to rule more narrowly, but I do think the one that is going to be the simplest rule in the long run that is going to eliminate the circuit split between the Eighth Circuit and the

Seventh Circuit is to say candidates have standing to challenge the rules of the electoral road. It really is kind of that simple.

CHIEF JUSTICE ROBERTS: Justice Jackson?

JUSTICE JACKSON: So your broadest theory, the one that you just articulated, does really seem to be motivated by the idea that the candidates are the object in the way that Justice Kavanaugh explored with you. And I guess -- I guess I wonder if -- if the response or the reply to that is really, when you're talking about an election, it's not the candidates who are the object; it is the voters, that really what an election is is the opportunity for the people to decide who are going to govern them.

And so, in that context, one could argue that the voters would be able to make the same kind of grievance that you say is particular to the candidate here, right? You say your grievance is that unlawful ballots are being filed in this election.

And I wonder why that's particularized

to the candidate when, on my theory, the election is really about the voters, and voters could make that same argument, and why shouldn't they be -- be able to? And if they could, haven't we undermined your idea that this is particularized to candidates in the way that you're articulating?

MR. CLEMENT: So what I would say is there are already, under your current doctrine, lots of ways for voters to sue. And I -- you know, I don't actually know -- if -- if -- if Illinois decides we're going to reverse this and we're going to close all the polls early and we're going to get rid of mail-in voting, I think any voter who comes in with a declaration that says I want to vote by mail, I voted for mail --

JUSTICE JACKSON: Right. But that's a different hypothetical. What I'd like to do is focus on your standing argument, which we've said you have to have a particularized grievance, not a generalized grievance.

And so my question is, why isn't unlawful ballots are being counted in this election a generalized grievance?

MR. CLEMENT: Well, here -- can I try to answer it this way --

JUSTICE JACKSON: Yeah.

MR. CLEMENT: -- which is to say just because a lot of people share a concern doesn't mean somebody whose ox is specifically gored by that concern is raising a generalized grievance.

JUSTICE JACKSON: But -- but --

MR. CLEMENT: Like, right? Like, I --

JUSTICE JACKSON: -- but isn't the function of identifying who is specifically gored the harm requirement? Isn't the function of making a candidate say, with all of these extra unlawful ballots counted, I'm at risk of losing, that's what gives him the particular harm that then I would argue would entitle him to bring a suit, as opposed to the generalized grievance of there's an unlawful thing happening with respect to this activity?

I mean, that's why it makes sense. Your second theory to me makes perfect sense. I'm not saying he wins. I'm not looking at the record. I'm just saying, in terms of a theory of why a candidate could say I'm harmed, it's

like the sort of Clapper idea that -- that there's a risk of injury to me in a real way and I'm showing you where that is. To me, that doesn't exist in the first theory, in the world where you're just saying there's unlawful conduct going on. That does not identify or particularize him.

Can I -- can I direct you to the third theory, the pocketbook theory? In a context, assuming that the injury of a potential election defeat, which I see as a real injury, assuming that's not imminent, I don't understand why additional polling costs isn't a self-inflicted harm.

So, if you take Justice Sotomayor's example where you have a candidate who has a 98 percent chance of winning based on everything we know, based on all the polls, whatever else, if he decides that he's going to spend money for the two extra weeks of, you know, counting, I don't understand why that's not on him. There's really no risk of harm to him to have that counting happen. And we've talked about self-inflicted injuries in Clapper, for example, as not being sufficient.

MR. CLEMENT: So I'd -- I'd like to just briefly talk about the first point and then get to the --

JUSTICE JACKSON: Yes.

MR. CLEMENT: -- third theory.

Just on the first point, I -- I -- I still say, you know, harm, injury, yes, we think we've identified a specific injury that -- that visits on the candidate specifically. The fact that everybody cares about the votes being accurate, I mean, I'd like to think everybody cares about the environment, but we let the person who's directly downstream from the pollution -- we say they're the ones that have standing to bring the suit even though everybody might care, everybody might be offended at some level by the pollution that's in violation of the law.

It's the same here. Everybody would like the elections to be conducted lawfully and in compliance with federal law, including the voters, but the injury is visited more specifically on the candidate. They're the ones that --

JUSTICE JACKSON: Even though the voter says my vote is diluted by all of these other unlawful votes, right? Don't they have a -- the same kind of injury you're talking about --

MR. CLEMENT: Well --

JUSTICE JACKSON: -- by the extra votes that come in?

MR. CLEMENT: -- I mean, ironically, the -- the Petitioners here tried to make a voting standing argument below as well, and that was rejected. And we didn't --

JUSTICE JACKSON: Right. And so, similarly --

MR. CLEMENT: -- we didn't --

JUSTICE JACKSON: -- shouldn't this one be rejected on that same basis?

MR. CLEMENT: No, no. And what I would say is the -- the candidate's different. His or her name's on the ballot. Right there, that just tells you there's something just obviously different about it.

But then the other thing is, you know, I think the reason that in a case like Lance you're worried about voter standing is because

there almost as many voters as taxpayers.

JUSTICE JACKSON: Can you speak to the pocketbook injury?

MR. CLEMENT: The second?

JUSTICE JACKSON: Yes.

MR. CLEMENT: Yes, I'd be delighted to. So, on the pocketbook injury, I do think it is a mistake to think that -- and this is really -- you know, Judge Scudder's dissent handled this issue quite well, I think, and I think it really gets down to the issue of is this like Clapper.

And when it's -- when -- when the injury itself isn't speculative, but the government is going to do something and it is going to happen, late-arriving ballots will be counted, at that point, the only remaining question, is the expenditure of resources reasonable?

JUSTICE JACKSON: Yes. But the harm in Clapper wasn't imminent because the rule wouldn't necessarily apply. Here, the harm isn't imminent because, even though the rule will apply, he may not lose as a result. There's still not a risk of him losing even

though this rule applies to him. They're indistinguishable in that way.

MR. CLEMENT: With respect, I think the reason the injury was so speculative in Clapper is because the rule would never apply to the Petitioners, the U.S. citizens. It was a moral certainty it wasn't going to apply directly to them. And then it was entirely speculative as to whether it would implicate their foreign clients at all.

Here, the -- what -- what is prompting us to spend money is going to happen. Illinois will count late-arriving ballots.

JUSTICE JACKSON: But, if you're a 98 percent candidate, what difference does that make? I mean, it only harms you if you could lose as a result of the new ballots being counted, right?

MR. CLEMENT: So, with respect, as a practical matter, the 98 percent candidate's not going to bring the case, but the 70 percent candidate, the 60 percent candidate, the 56 percent candidate, or even the 43 percent candidate might bring the case, and those margins of difference make a difference.

And we -- we -- the whole election system operates on the premise that we care about more than the binary final outcome.

JUSTICE JACKSON: Thank you.

CHIEF JUSTICE ROBERTS: Thank you, counsel.

Mr. Talent.

ORAL ARGUMENT OF MICHAEL TALENT

FOR THE UNITED STATES, AS AMICUS CURIAE, SUPPORTING THE PETITIONERS

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

Candidates have standing to challenge laws governing the -- the validity of ballots cast in their election so long as there is a risk that the ballots at issue could affect the election's outcome for two but only two reasons.

First, the risk of loss suffices because candidates are not mere bystanders to ballot-counting laws. Those laws determine which candidate wins his race. They are aimed at candidates' concrete interest in winning office. And so the question "what's it to you" answers itself.

Second, candidates have standing based on reasonable costs they incur to mitigate the risk posed by ballot-counting rules. This narrow rule resolves this case and comports with basic tenets of election law by ensuring that the validity of ballot-counting rules can be determined well in -- well in advance of an election.

Furthermore, it does not require courts to prognosticate about whether a race will be close or effectively limit standing to major parties.

I welcome the Court's questions.

JUSTICE THOMAS: Would there be a difference if a race is a tight race? Because it seems as though the problem we're having here is that there's an argument that there was no risk that this candidate would lose.

MR. TALENT: Justice Thomas, we do not think it would matter if it's a tight race. If a candidate -- in our -- in this scenario, the candidate is a direct object of a -- of the ballot-counting rules.

And what this Court's precedents teach is that when a candidate is a direct object, a

small probability of risk is deemed to be -- is deemed to be a substantial risk.

And the example we use in our brief is the example of a Russian roulette hypothetical. Even if the risk that the round in the chamber is live, the very fact that in that context, that the -- the direct object of the -- of the game is being forced to engage in that game means he has a concrete interest, means he has standing to -- to prevent that risk from happening. And --

CHIEF JUSTICE ROBERTS: Well, but when you put it that way, it seems to me that you are kind of buying into the what risk does the candidate really have.

JUSTICE THOMAS: Yeah.

CHIEF JUSTICE ROBERTS: I mean, in Russian roulette, you've got a one out of six or whatever it is risk.

But, if you're looking at risk and it's, you know, 85 percent margin of victory, I mean, is that your argument?

MR. TALENT: Our argument is that the -- the substantial risk test in this Court's precedents goes to the question of

whether a risk is speculative or not.

So, in the context of ballot-counting laws, we know that the law is going to be applied to the candidate. We know that the law's purpose is -- is to determine which candidate wins, so it's targeting the candidate's concrete interest in winning -- winning his election. And so, therefore, there is an actual risk that those ballots could sway the outcome of the election, and a candidate --

CHIEF JUSTICE ROBERTS: Well, what if there -- I mean, what if there isn't such a risk? You know, he's won 10 elections in a row by 85 percent. Maybe you can even tell from the turnout before the mail -- mail -- mailing in. I mean, does that make a difference under your theory?

MR. TALENT: It would not make a difference, Chief Justice Roberts. The -- we pull this test, it -- it -- it comes from this -- this Court's pre-enforcement standing context.

In that context, this Court has deemed a -- a risk to be substantial even if there is something like a credible threat of enforcement

or if the threat of enforcement is not imaginary or wholly speculative. It's -- the Court's never put a probability threshold on the -- on -- on standing.

CHIEF JUSTICE ROBERTS: Yeah, but I would say in my hypothetical none of those adjectives fit it. There isn't a credible threat that the guy is going to lose.

MR. TALENT: But the -- it's still -- I mean, it's part of the -- part of the issue is past results don't guarantee future outcomes. So, even in the Russian roulette hypothetical, even if it's a one-in-a-hundred chance, the fact of the matter is a person is forced to engage in that gamble, and the concrete interest in the "what's it to you" answer is avoiding the gamble that implicates that person's concrete risk.

A candidate is in a similar situation because ex ante this -- ballot-counting rules force them to take the risk that those ballots will sway the outcome of their election.

JUSTICE KAVANAUGH: Can you -- I'm sorry, are you done?

Can you address from the government's

perspective, if there isn't standing for these kinds of challenges to ballot receipt deadlines for U.S. House elections in their standing pre-election and they're all forced post-election, what it looks like next November or December?

MR. TALENT: I mean, I think that it's opening -- it's -- it's every -- it's all the concerns Mr. Clement raised, that there's going -- these elect -- these -- if there needs to be a likelihood or if the test is the ballots actually did make a difference, it's going to force a lot of -- it's going to force this litigation into the post-election context. It's going to require -- and it's going to force it into the post-election context for hotly contested cases and will have -- I think the practical effect of ensuring that only major parties would be able to sue to vindicate -- to protect their interests against unlawfully counted ballots.

JUSTICE KAVANAUGH: And if the deadlines were found to be unlawful, what -- what -- have you thought ahead to what the remedy would be in a post-election context if

the deadlines were found to be unlawful, how that would play out?

Because, if we're not thinking ahead to that, we're going to walk into something.

MR. TALENT: I mean, I -- I can't -- I can't imagine it would be easy or good to determine.

All the things I think you -- you -- you talked about with -- with Petitioner, questions about remedy, questions about whether voters are going to be disenfranchised because they relied on -- on rules of the road, it's simply a Gord- -- you know, it's a -- it's a thicket that the Court doesn't need to get into if it recognizes that candidates are direct objects of these regulations.

And what this Court's precedents indicate is that when a candidate is -- or when a plaintiff is a direct object of the regulation and the harm immediately flows from the challenge being conduct -- being challenged, then that is a substantial risk of harm.

JUSTICE KAVANAUGH: I might quibble with "the direct" and just "an" -- "an

object" --

MR. TALENT: "An direct," yes, yes.

JUSTICE KAVANAUGH: -- or analogous to an object just so we're --

MR. TALENT: The indefinite article, yes.

JUSTICE KAVANAUGH: Yeah.

JUSTICE SOTOMAYOR: Counsel, what -- you -- your entire presentation, as did Mr. Clement, takes out our regular articulation of standing.

In Meese versus Keene, we said a candidate has standing when the defendant's conduct would substantially harm his chances for re-election.

We -- in Clapper, we said substantial risk of harm.

In Murthy, we said substantial risk that in the near future the plaintiff will suffer an injury.

Both of you are sort of ignoring that language because you're saying -- you're almost arguing in a circle. It's always a substantial risk because it might happen, which is -- plausibility is never what we've accepted.

Maybe Justice Kagan is right.

Let's talk about what the electoral disadvantage is here.

What do you see if we use something like -- that accounts for the cases that Mr. Clement argued, like whether or not I will have to pay a greater amount or accept a lesser amount. That's electoral disadvantage. Someone else might pay less and I might pay more.

But where is the electoral disadvantage here?

MR. TALENT: So --

JUSTICE SOTOMAYOR: Meaning all the voters, Democrat and Republicans, get the same chance to have their vote counted. So it's not a harm to either side that the people voting for them are going to be equally treated.

MR. TALENT: So I -- I just want to push back on -- on the premise. We're not saying just because a risk may happen there's a substantial risk. The plaintiff has to be a direct object, and the harm has to immediately flow from --

JUSTICE SOTOMAYOR: That's where we go

back to is it -- is he or she the direct object.

MR. TALENT: So --

JUSTICE SOTOMAYOR: We're going to have to now change our standing to say indirect objects or people who are part of the scheme in any way.

But, even in Diamond, the fuel manufacturers or -- were not part of the regulatory scheme.

MR. TALENT: But, in -- in the electoral context, and I think the electoral context is -- and especially rules governing the validity of ballots is -- is unique in this sense because the purpose of those rules -- almost the only purpose for a rule saying this ballot counts but this ballot doesn't is to -- is to determine which candidate wins the election.

So it is targeting the candidate's concrete interest.

JUSTICE SOTOMAYOR: So can you answer the question, what's the electoral disadvantage in this case --

MR. TALENT: Well --

JUSTICE SOTOMAYOR: -- given the allegations of the complaint? Let's -- let's deal with that.

MR. TALENT: The --

JUSTICE SOTOMAYOR: Where -- what can you show me in the complaint that articulates electoral disadvantage?

MR. TALENT: So the -- our rule doesn't turn on electoral disadvantage partly because vote counting rules ex ante, it -- it's impossible to know which way they will break or often it's -- it's unknown which way they will break. So this --

JUSTICE SOTOMAYOR: Justice Alito said you could. You could have a long history of -- you have proof --

MR. TALENT: We're --

JUSTICE SOTOMAYOR: -- since 2005 of where these things have broken, and you could have alleged that.

MR. TALENT: Our rule is not -- our rule doesn't exclude standing based on electoral advantage.

I -- I think one of the things our rule gets at, to the extent electoral advantage

feeds into our rule, part of the gamble -- so two answers.

Part of the gamble or -- or part of the reason it's a concrete particularized harm to candidates is, if they don't expend resources to mitigate the cost of -- of this substantial risk, then they are giving up potential an electoral disadvantage.

JUSTICE SOTOMAYOR: Thank you, counsel.

CHIEF JUSTICE ROBERTS: Thank you.

Justice Thomas?

Justice Alito?

JUSTICE ALITO: How would candidates for very minor parties fare under your rule where they have no chance whatsoever of winning?

MR. TALENT: Because they're direct objects and the harm immediately flows to them, they would have standing.

JUSTICE ALITO: Thank you.

CHIEF JUSTICE ROBERTS: Justice Sotomayor?

Justice Kagan?

JUSTICE KAGAN: Mr. Talent, I -- I --

I have a sense that this whole suit is a little bit of a -- it's, like, in search of a problem. I mean, in -- in fact, we all the time allow suits pre-election to challenge election laws. I -- I -- I mean, there's hardly an election rule that gets passed in any battleground state that isn't challenged. It's usually by a party.

And we've, you know, I think, always allowed those kinds of suits because the party has suggested in plain English, and it's not so hard to do, why it is that the new rule will harm them, why it is that, you know, they'll -- they would prefer the old rules in terms of their electoral status.

So why isn't the same thing true here? I -- I -- I mean, I guess I just sort of think, like, what's the problem here?

MR. TALENT: The -- the problem here and -- and what our rule gets to is the fact that candidates are forced to gamble that these ballots are going to affect the outcome of their -- their election.

JUSTICE KAGAN: I -- I don't think we've ever actually asked the RNC or the DNC to

do anything like that. What we've asked the -- the parties to do is to -- and this is why you don't get these cases thrown out on standing grounds, because there are perfectly easy ways for a party to say why a new rule is going to harm them in the electoral game.

You know, when -- when Sunday ballot -- when Sunday voting is shut down, the Democratic Party rolls into court and says this is going to harm us and the suit goes forward, and similarly for the Republican side on different kinds of rules.

I -- I mean, I feel as though you're -- we're asking to create a whole new set of rules when everything has been proceeding just fine, that everybody who actually is harmed or is likely going to be harmed by a new election rule has had the chance to sue.

MR. TALENT: So we -- we -- our rule addresses a situation where a candidate is coming in and ex ante they're being forced to gamble on whether or not a --

JUSTICE KAGAN: All of these suits are ex ante. I mean, every time we have an

election, I -- I mean, every battleground state, we get -- we get to see how litigation plays out, mostly brought by the RNC and the DNC prior to the election, asserting that a new rule is invalid for some reason or other, and those suits are never tossed because of standing because -- because there are easy assertions to make in a complaint about why a new rule are -- is -- is going to hurt you in the electoral process.

MR. TALENT: I think a candidate can make those allegations here with a -- with a -- based on the fact that these -- these rules govern the counting of votes in their election. They're forced to gamble that these rules are not going to affect the outcome.

So whether -- you -- you know, as to the competitive injury, just to kind of make an example, you know, even though it may benefit them, they still have to put on the line their concrete risk at winning because it may not benefit them.

It's different for the RNC and DNC because I don't think they as neatly fit into the paradigm of -- of being a direct object of

these rules. It's really the candidates --

JUSTICE KAGAN: Thank you.

MR. TALENT: -- because these rules are targeted at their electoral success.

CHIEF JUSTICE ROBERTS: Justice Gorsuch?

Justice Kavanaugh?

JUSTICE KAVANAUGH: Just are you not seeing a candidate different from a party, I gather?

MR. TALENT: I -- I think we are. I -- a candidate is definitely a direct object of a -- of -- of a rule governing --

JUSTICE KAVANAUGH: Well --

MR. TALENT: -- the counting of ballots in an election.

JUSTICE KAVANAUGH: -- I guess you're saying then, if a party has standing, a fortiori, a candidate should have standing for similar reasons. Is that what you're saying in response to Justice Kagan?

MR. TALENT: What I'm saying in response to Justice Kagan is that the reason we need the narrow rule we have now is to deal with candidates who want to challenge these

rules. In this case, the RNC, for whatever reason, did not become a party plaintiff.

But the reason a candidate has standing in this context is because they are a direct object and because they're forced to take that gamble. Whether the RNC comes in and alleges competitive standing, that may be a separate theory of standing in that case, but in this case, the reason really is the candidate is being forced to gamble that the rule is not going to cost him his election.

JUSTICE KAVANAUGH: Thank you.

CHIEF JUSTICE ROBERTS: Justice Barrett?

Justice Jackson?

JUSTICE JACKSON: I -- I guess I don't understand the gamble/harm theory at all. I mean, in every election, there -- candidates -- candidates voluntarily put themselves up for election and there's a risk that they will win or lose, right?

MR. TALENT: Yes. But the -- the gamble here is that an -- an allegedly unlawful law is going to put at -- put at risk their odds of winning or losing. They have -- they

have --

JUSTICE JACKSON: So why don't they have to establish as a part of that harm that they actually have a risk of winning or losing or losing as a result of this? That's the part that's -- your rule sort of said so long as there's a risk that the extra ballots could make a difference. And I said, aha, okay, that's exactly what we're saying needs to be established. And yet you're saying, no, it doesn't if you're a direct object of the regulation.

So I -- you've sort of taken away the very thing that you're now saying is necessary to show harm in this situation.

MR. TALENT: Well, so two answers to that. On a -- the doctrinal answer is that when a -- when a plaintiff is a direct object of the harm, like -- like in the pre-enforcement cases, this Court hasn't required them to meet some type of strict probability threshold. It's a fact that there is a threat of harm that immediately flows from the challenged conduct.

In the context of elections, ex ante

it may not be possible to know how a rule will affect the outcome of -- of the race. So our rule -- this harm -- our rule harmonizes or comports with the basic tenet of election law, which is you don't want to --

JUSTICE JACKSON: And so we don't have to -- we don't have to -- you're saying we don't have to assess the realistic nature or the plausibility of the threat?

MR. TALENT: I'm saying the fact there are --

JUSTICE JACKSON: In any particular candidate's situation, we don't have to care that there really isn't a risk for the 98 percent candidate? We still just -- the theory, the fact that there could be for some candidate the ability to lose as a result of this is enough to give the 98 percent candidate --

MR. TALENT: It's a fact there's that -- it's -- it's -- it's that Russian roulette hypothetical, even if the bullet --

JUSTICE JACKSON: Got it. Thank you.

CHIEF JUSTICE ROBERTS: Thank you, counsel.

Ms. Notz.

ORAL ARGUMENT OF JANE E. NOTZ

ON BEHALF OF THE RESPONDENTS

MS. NOTZ: Mr. Chief Justice, and may it please the Court:

Rather than address the record the parties developed below, Petitioners first argue that candidates always have standing to challenge the rules that govern their elections because any election rule can cause a single vote change in the final tally. Petitioners' blanket candidate standing rule would cause chaos for election officials while saddling federal courts with resolving abstract policy disputes. This Court should hold candidates to the same standing requirements as every other plaintiff.

And when those requirements are applied to this record, Congressman Bost doesn't come close to showing standing. His invocation of the possibility of a -- of a reduced margin of victory fails at the start. As the United States put it in its brief, Bost's desire to run up the score is not a concrete injury that history and tradition

shows can support standing to sue.

And Petitioners' reliance on harms that are legally cognizable fares no better. Petitioners repeatedly told the Seventh Circuit that Bost is not at risk of losing an election. And this concession to one side, in his declaration, Bost used the words "if" and "may" without any explanation when referring to the possibility of an election loss or reputational harm. These conclusory and incomplete statements describe the mere theoretical possibility of injury. They are not evidence of a substantial risk of harm.

Finally, as for Petitioners' pocketbook theory, while the cost of precautions may be an Article III injury, this Court has recognized standing on this theory only when the underlying harm sought to be avoided is itself legally cognizable. Any other rule would water down Article III's requirements in cases alleging future injury. And because Petitioners identified no legally cognizable future harm, their efforts to repackage that failed theory into a present injury theory should be rejected.

I welcome the Court's questions.

JUSTICE THOMAS: How close would an election have to be in order for there to be a sufficient substantial risk of harm?

MS. NOTZ: Sure. I -- I think it's always -- it would always be easier in cases where elections are close, but I would also point out that this Court has never attached a metric to substantial harm, and I don't think the Court needs to do so in this case because I think, under any metric, the assertions in this declaration fail because they don't show any risk of harm at all. They simply describe the mere theoretical possibility of harm.

And this Court has said in cases like Summers that standing is not an exercise in what is merely conceivable. It requires a showing of substantial risk of harm, and the burden is on --

CHIEF JUSTICE ROBERTS: Well --

JUSTICE KAVANAUGH: If you can't --

CHIEF JUSTICE ROBERTS: I'm sorry. Look, the -- what you're sketching out for us is a potential disaster. In other words, you're saying, if the candidate's going to win

by 65 percent, no standing. But, if the candidate, you know, hopes to win by a dozen votes -- and there are places in the country where that happens over and over again -- then he has standing. But we're not going to know that until we get very close to the election, right?

And so it's going to be in the middle, the most fraught time for the Court to get involved in electoral politics. That's when you say we should jump in, as opposed to the more general, broad rule, Mr. Clement's broadest rule, I guess, is, look to the -- he's a candidate. He's challenging a rule in the election. You know, isn't -- isn't that enough?

And one reason, as I say, we'll be deciding that case then, you know, six months, nine months, maybe two years before the election, as opposed to the day after the votes have been counted.

MS. NOTZ: So I -- I -- I don't think that is an accurate description of our position for a couple of reasons. I don't think that there is a concern that standing will only be

available right before an election and only in close cases, and that's for two reasons.

The first is that the evidence that a -- a candidate plaintiff could use to show standing isn't simply sort of limited to -- to polling data. I think Meese versus Keene is very helpful on this point.

In Meese versus Keene, the Court described two types of information that the candidate used to establish standing. One was polling data. One was, you know, the expertise of a political advisor. But I don't even think that those things are necessary in a case like this one, where we are dealing with a very experienced and successful candidate.

Congressman Bost has been successfully running for election for 30 years. At the time --

JUSTICE GORSUCH: No, I -- I --

JUSTICE KAVANAUGH: You know, when they -- when you run for election for 30 years and win, sometimes, you know, you get -- you -- you act as if you have no risk of losing. And you know what happens then? You lose. A candidate who acts as if there's no risk of

losing often -- often loses.

I don't know -- and then you say rely on polling data. Are polls always reliable?

MS. NOTZ: My point is simply that in response to the Chief Justice's question, I think that there's a lot of information Congressman Bost could have brought to the table. I don't think it's limited to polling data.

CHIEF JUSTICE ROBERTS: Well --

JUSTICE KAVANAUGH: But -- okay. I -- respectfully, bring the table, okay, so we bring to the table polling data that shows you're down 20. Candidates that are down 20 sometimes make late -- late breaks for it and win. Happens all the time.

And -- and -- and you said expertise of campaign advisors. I respect them as much as anyone, but they can be wrong and they don't have perfect crystal balls either.

I don't understand a standing rule that therefore depends on prognostication, is my only point, and so you can respond to that as you think best.

MS. NOTZ: Yeah. Thank -- thank you,

Your Honor.

I -- I think that in -- in any standing case where a plaintiff is alleging future injury, courts are required to make some sort of prediction. Now, but, of course, the prediction is a substantial risk of harm. It's not certainty of harm.

And my point is merely that there is a lot of information that was available to Congressman Bost. He wouldn't even need to turn to the type of information that the Court credited in Meese versus Keene. He could have relied on, you know, the eight election cycles that he had participated --

CHIEF JUSTICE ROBERTS: Well, there was a lot of --

JUSTICE GORSUCH: You --

CHIEF JUSTICE ROBERTS: -- there was a lot of information for, you know, Tom Dewey and Charles Evans Hughes, and, you know, they both went to bed thinking they were -- were President. And it just seems to me that the ability to predict has -- is -- is not -- has not been proven to be infallible.

And yet you're going to tell somebody

two weeks before the election, no, you -- you won last time by whatever margin. By the way, what margin are you looking for?

MS. NOTZ: Again --

CHIEF JUSTICE ROBERTS: Prior races he won by what and then that's enough to get standing?

MS. NOTZ: So, again, this Court has not attached a metric. It uses the substantial risk test across the mine-run of standing cases. It has never attached a metric.

What it has said is that you look -- you know, the burden is on the plaintiff and you look at the facts --

CHIEF JUSTICE ROBERTS: Yeah. No, that's --

MS. NOTZ: -- in the record, which is why I called the Court's attention to the declaration.

CHIEF JUSTICE ROBERTS: No, that's right, but it depends on what sort of things you're talking about, the risk that the -- you know, the car is going to explode or whatever. But, if it's a risk of elections and all that counts is the -- the -- the number you get, it

does seem to me that it would fall upon the court to give some idea.

MS. NOTZ: Again, I do think that when he submitted this declaration, he had successfully participated in eight election cycles under the ballot receipt deadline.

JUSTICE GORSUCH: Ms. Notz, you -- you keep going back --

MS. NOTZ: Yeah.

JUSTICE GORSUCH: -- to the facts of this case and I appreciate -- appreciate why.

MS. NOTZ: Mm-hmm.

JUSTICE GORSUCH: I would too.

But I think what the Chief Justice is getting at and what would help me, certainly, is, okay, if a probability of -- of loss needs to be shown to secure standing, what's that probability? Is it 50 percent? Is it 60 percent?

You've resisted giving us a number, and I -- I -- I would just ask you if you could what you think that threshold should be. And then, along the way, is there something unseemly about federal courts making prognostications about a candidate's chance of

success immediately before an election that itself might influence the election? Thoughts?

MS. NOTZ: Yes. So -- so I -- I -- I hear maybe two -- two questions in there. And I am resisting giving a number because that is consistent with this Court's cases. The Court has said --

JUSTICE GORSUCH: Okay. So no number. You're not going to give us a number. How about the second part of the question?

MS. NOTZ: Sure. And -- and maybe could you repeat that for one to --

JUSTICE GORSUCH: Yeah. Is there something unseemly about a federal court in the middle of an election saying you don't have standing because you're going to win or you do have standing because you're going -- you might lose and that that itself might influence the electoral process?

MS. NOTZ: So, again, I don't -- I -- I -- I think it is common across all of the Court's cases -- we're just asking for the same election rule --

JUSTICE GORSUCH: And I'm talking about in this context. And I'm sorry to

interrupt.

MS. NOTZ: Yeah.

JUSTICE GORSUCH: But, in the election context, is there something particularly potentially unseemly about that, or are you not concerned about that?

MS. NOTZ: I don't think it's more unseemly than in other cases where a plaintiff seeks to -- to establish standing based on a substantial --

JUSTICE GORSUCH: All right.

MS. NOTZ: -- risk of a future harm.

JUSTICE KAGAN: I mean, Ms. Notz --

CHIEF JUSTICE ROBERTS: I think it's --

JUSTICE GORSUCH: Then I -- then I just want to run a couple of hypotheticals by you if I might before I let you go and I'll let you go quickly, I promise.

But imagine a law like the one in Janus or Illinois Socialist Workers where a state requires, you know, a lot of signatures to get on the ballot, minor party candidate has no chance of winning. Standing, you think?

MS. NOTZ: I -- I mean, yes, because,

I mean, that case as I hear it describes a direct regulation of the candidate. And this Court has long distinguished, you know, decades of cases between --

JUSTICE GORSUCH: We've never looked to the probability of success in those kinds of cases, have we?

MS. NOTZ: No, no, the Court has not. It's -- it's in cases like this one where the challenged law doesn't directly regulate the plaintiff, it regulates third parties. And in cases like these, the Court has held that the plaintiff needs to show a substantial risk of harm.

JUSTICE GORSUCH: Okay, okay. So let's take an example that meets that, I think.

Say the election officials decide to count only a hundred votes from each precinct and declare the winner based on that, and assume the candidates don't know which side that random sample will benefit. Standing? Doesn't regulate them directly. It's just a rule about counting ballots.

MS. NOTZ: So, as I understand the hypothetical, the election authority has

announced in advance they're only going to count a small number of ballots. They're going to just disregard all the other ones?

JUSTICE GORSUCH: Yep.

MS. NOTZ: So I think actually, in Meese versus Keene, the Court, in addition to talking about loss of an election as a cognizable harm for candidates, also talked about damage to the candidate's reputation in the community.

And I think the circumstance you're describing, like a pre-election announcement that we are just not going to count all the ballots, is the type of extreme circumstance where a candidate could say, if I win in that circumstance, my -- my victory is completely illegitimate.

JUSTICE GORSUCH: Well, why? And -- or -- or say -- say -- say we're going to count ballots for three months after the election, and you don't know who -- who that's going to benefit. I can't prove that I'm going to win or lose. Or I'm going to count them for a year.

Standing?

MS. NOTZ: So I -- I -- so that -- I mean, that probably would kind of run -- run into other Illinois laws and -- and federal laws that would --

JUSTICE GORSUCH: Oh. Well, that's the allegation here, is that this runs into other laws, the practice here. And so I'm giving you other examples, undercounting, overcounting, whatever -- however you want to phrase it, in which you don't know how it's going to affect the candidate, but, you know, it -- one wonders.

MS. NOTZ: So I do think, in that type of circumstance, to me, that probably isn't the type of extreme circumstance where a candidate could claim, you know, reputational harm.

JUSTICE GORSUCH: Okay. Thank you.

JUSTICE KAVANAUGH: What's reputation -- I mean --

MS. NOTZ: Yeah.

JUSTICE KAVANAUGH: -- you're referring to reputational harm. I'm trying to figure out, what's the reputational harm that distinguishes the sampling hypothetical that Justice Gorsuch asked from this case, where the

allegation is that illegally cast ballots will be counted? How is that different?

MS. NOTZ: So --

JUSTICE KAVANAUGH: That's the allegation.

MS. NOTZ: So, to me, there's a -- a distinction and -- between a situation where a candidate could perhaps plausibly allege that even if he were elected, you know, under this process, the election would be so illegitimate that nobody would credit him as the successful candidate.

And I don't think this circumstance meets that standard because, of course, Candidate Bost has successfully run for election now 10 times under the ballot receipt deadline, and I don't understand him ever to have suggested that he somehow was illegitimately elected.

And the reputational harm component I do think comes from Meese versus Keene, which is a candidate standing case in which the Court described, you know, two types of injuries a candidate could have, and one was the risk of an election loss and the other was the

possibility of, you know, adverse impact on their reputation in the community.

JUSTICE ALITO: I mean, I --

JUSTICE KAGAN: Suppose that --

JUSTICE ALITO: Oh, go ahead.

I don't want to create a bespoke standing rule. However, this case involves the question of injury in a particular context which is different from other contexts, and that is injury in a competition.

So, along those lines, let me give you a hypothetical. Suppose that eight runners qualify for the U.S. finals to go to the Olympics in the hundred-meter dash, and when they show up for the competition, they find that actually they're going to have to run 105 meters.

Does anybody have -- does -- does -- do any -- can any of them show injury in fact?

MS. NOTZ: So I think, in that circumstance, you know, if this Court were, you know, to apply the competitive standing cases, the Court would, you know, ask was, you know, any -- any potential plaintiff, as compared to a direct competitor, were they substantially

disadvantaged by that? And so, yes, they would need to show some sort of harm.

JUSTICE ALITO: So they would have to -- an individual runner would have to show videotapes of other races and show I -- I -- I start to lose steam at the -- you know, the 97th meter, so making me go 105 yards is going to hurt me in relation to others?

MS. NOTZ: I mean, I think the standard is one of plausibility. And I don't know that one would need to present that type of evidence to make --

JUSTICE ALITO: Well, then what --

MS. NOTZ: -- the assertion plausible.

JUSTICE ALITO: -- then what -- what -- are any of them going to be able to challenge this?

MS. NOTZ: I -- I think, actually, it probably could be fairly easy to challenge if they could --

JUSTICE ALITO: How?

MS. NOTZ: They could say --

JUSTICE ALITO: How would they challenge?

MS. NOTZ: I mean, presumably, I could

imagine a plausible assertion that, you know, I have, you know, trained for a hundred-meter race and a 105-meter race makes some sort of difference that puts me at a substantial disadvantage.

But I guess I -- I -- you know, and I know the Court is resisting going back to the declaration, but standing cases are fact-specific.

JUSTICE ALITO: Well, this is -- in this specific situation, what would be wrong with a rule that says four competitors in a competition where there's going to be a winner and there's going to be one or more losers, when the rules of competition are changed in a way that produces a risk that can't readily be measured, then all the competitors have standing?

MS. NOTZ: So --

JUSTICE ALITO: Doesn't that -- doesn't that make sense?

MS. NOTZ: So I don't think that it makes sense to adopt a blanket standing rule for candidates because I think it would create two problems.

First, it would create chaos for election officials. It is very easy to be a candidate. Any self-declared candidate could challenge any election rule that they happen to have a policy disagreement with, even if that rule were entirely harmless. And election officials who are tasked with actually running elections would have to divert their time and energy and litigate, you know, these policy-based disputes. And then federal courts, in turn, would be put in the position of -- of resolving these, you know, disputes via advisory opinions, which is exactly what this Court's standing cases have dictated should not happen.

JUSTICE KAGAN: So suppose that there was some change in rule that had a very high probability of cutting into a candidate's vote total by a fairly small amount, so let's say very high probability that this will cut into your vote total by 2 percent. Standing?

MS. NOTZ: So I think, in that case, the candidate would have to be able to plausibly allege that that sort of 2 percent change in the margin harms him in some way.

So --

JUSTICE KAGAN: Okay. So that seems -- that seems not right to me, that, you know, then you're going to force people to come into court and show a bunch of polls and how that 2 percent margin might or might not make a difference in the end when what you have is quite clear. What you have is a voting rule that harms somebody relative to what's come before.

And that is a usual standing inquiry. And, you know, it's not a bespoke anything. It's like this is a new rule. It's going to harm me relative to what's come before. I have a right to complain about it. Why isn't just that's enough?

MS. NOTZ: I actually don't think we would have any problem at all with that rule. I think the problem is, is that Congressman Bost can't show standing based on that rule because then I would go back to the declaration --

JUSTICE KAGAN: I think he could show standing. Whether he did show standing is another thing entirely, right? That this is

a -- is a complaint that sort of seems a little bit to be created in order to test a "I don't have to show injury at all" theory.

But -- but it would be very easy for Congressman Bost to write a complaint that satisfied my rule.

MS. NOTZ: I mean, I don't disagree with you and I, I guess, maybe appreciate you sort of -- appropriately reframing. My point is that what he wrote at page 68 and 69 of his declaration does not satisfy that rule because, when asked about electoral loss, he used the word "if." He -- that -- that's a mere theoretical possibility of harm. He provides no explanation why he thinks he plausibly could lose his election. And when asked about a diminished margin of victory, he uses the word "may," which suffers from the same problem.

He had a wealth of information available to him. I know I keep going back to the fact that he's an experienced candidate, but it matters. He had lived through, at the time he prepared this declaration, eight elections under the ballot receipt deadline. He said in his declaration: I send poll

watchers every single time. So he would have known at the end of the day on Election Day how many votes were cast on the unofficial --

JUSTICE KAGAN: But you -- what you're saying to me -- you know, I think that what you're saying to me is a little bit different than from what you said to the Chief Justice, because what you're -- because I -- I agree with the Chief Justice. You do not want candidates to have to walk into federal court and show that they're -- you know, they're up in the polls by X amount or that they've won the last five elections by X amount.

You're just saying he didn't say anything to show that he's going to be harmed at all by the new rule.

MS. NOTZ: I -- that -- that's exactly our position. And, you know, the burden is on the plaintiff and -- and standing is fact-specific and you look at the record that the parties developed.

JUSTICE KAVANAUGH: You're walking away from a lot of your brief there.

JUSTICE JACKSON: Yes, you are.

JUSTICE KAVANAUGH: You're walking

away from most of your brief with that answer, which is -- yeah, that's your choice.

You've mentioned the word "chaos" a few times. I guess I'm worried about the chaos of post-election litigation and how that would play out in a circumstance like a challenge to this particular ballot-counting rule. In particular, let's suppose post-election challenge; therefore, no real issue of standing in a real close election, and the rule is found invalid. Have you thought about what the remedy would be in that circumstance?

MS. NOTZ: So I -- I --

JUSTICE KAVANAUGH: And it presumably comes to this Court.

MS. NOTZ: Yeah.

JUSTICE KAVANAUGH: Maybe the House elections ride on it, so we know -- we know which way we rule what the impact will be, which is never a good position.

MS. NOTZ: So I -- I guess I would push back on the idea that there -- it necessarily would have to be resolved post-election. I'd go back to the point it's -- it's only substantial risk.

There -- there is no need for certainty. He would simply, you know, have to show a substantial risk of some legally cognizable harm that could include losing the election. It could also, according to Meese, you know, include, you know, harms that rise to the level of a reputational --

JUSTICE KAVANAUGH: You --

MS. NOTZ: -- harm. And I don't -- I'm sorry. I just --

JUSTICE KAVANAUGH: Keep going. Sorry.

MS. NOTZ: I just wanted to point the Court's attention, as -- as the Court is probably aware, to the Watson case out of the Fifth Circuit that challenges a very similar law. You know, in that case, the political party was found to have standing. It -- it did include, you know, different allegations, better allegations. So, for example, it included an allegation that if Mississippi's ballot receipt deadline was enforced, that would impair the party's ability to elect their Republican candidates.

So I -- I do think that it is --

standing is not hard to establish. I just think that this candidate did not establish it based on these -- the statements in the declaration.

JUSTICE KAVANAUGH: And the two things that --

JUSTICE ALITO: What about the --

JUSTICE KAVANAUGH: Oh, sorry.

JUSTICE ALITO: Go ahead.

JUSTICE KAVANAUGH: The two things I think you've relied on are how close the election might be -- you did say polling data earlier -- and candidate -- expert candidates, and you've relied on how experienced the candidate is or how many terms. If a candidate's been elected twice, does that candidate have -- in a better position for standing?

MS. NOTZ: So, I mean, I think that candidate -- I -- I think the experience is relevant here just because Congressman Bost had so much personal knowledge about how the ballot receipt deadline works or doesn't work in his favor, about, you know, what these late-arriving ballots look like and whether

they harm him or not.

I think a newer candidate may not have that wealth of information, but they could certainly, I think, you know, rely on other information. Again, Meese talked about the experience of political advisors, of polling. I -- I really -- I don't --

JUSTICE ALITO: Are you seriously arguing that whether or not the allegations here are sufficient requires an analysis of the particular background and experience of the candidate who files the complaint?

MS. NOTZ: No, not at --

JUSTICE ALITO: This case would come out differently if this was somebody who had never run before?

MS. NOTZ: My -- my point is simply that Congressman Bost had a lot of information available to him that he could have used to explain.

He could have said, for example, you know, I've been through eight election cycles under this deadline. This is a --

JUSTICE ALITO: Well, then you are -- I mean, then you are referring to the

particulars of his situation.

In any event, let me talk -- ask you about the pocketbook injury.

Why isn't that straightforward? Mr. Clement says, look, it's -- it's political malpractice not to continue poll watching and related activities until the -- the final bell actually tolls. That costs money. If you extend the period, it costs me more money. That's a pocketbook injury.

And your answer is, well, he didn't have to spend that, right? That's your answer?

MS. NOTZ: So, I -- I -- I mean, our answer is that when this Court has found standing basically based on a expenditure of resources -- that's, you know, his position -- the Court has required the plaintiff to demonstrate that that resource expenditure was undertaken to avoid a risk of harm that is itself legally cognizable.

And I think that that rule makes good sense because, if I think -- if the rule were otherwise, the plaintiff could simply take a failed future injury theory of harm where they couldn't show a substantial risk of harm --

JUSTICE ALITO: Wait.

MS. NOTZ: -- and --

JUSTICE ALITO: You think -- you think the risk of losing the election is not legally cognizable?

MS. NOTZ: Well, of course, Congressman Bost has not established a substantial risk he might lose an election. And, in fact, he told the Seventh Circuit multiple times that he is not at risk of losing an election.

I do think had he adequately established, you know, a substantial risk of losing an election, then, certainly, the pocketbook injury would be viable.

JUSTICE ALITO: So it turns on the risk of losing the election, not the risk of a -- a less favorable result, less -- a -- a smaller margin?

MS. NOTZ: I -- I think it turns on a -- a -- a substantial risk of a legally cognizable harm, and I don't think that a diminished margin of victory in and of itself is a legally cognizable harm.

JUSTICE ALITO: But we're talking

about injury in fact. Isn't a -- a -- a smaller margin of victory an injury in fact?

MS. NOTZ: I don't think so because, unless it's coupled with something else, a smaller margin of victory has no real-world consequences.

JUSTICE ALITO: It has no real-world consequences? Really?

MS. NOTZ: I -- I mean, unless a candidate could plausibly --

JUSTICE ALITO: It makes no difference if you win by 50.00000 percent versus 80 percent? No, it doesn't matter, a win is a win?

MS. NOTZ: I think, under those circumstances, a candidate probably could plausibly establish that a diminished margin of victory, you know, has a reputational or other competitive consequence that matters. But I don't think that under circumstances where the change in the margin is a vote or -- or a handful of votes, that that's a legally cognizable harm.

And I think that's also consistent with the historical cases. I mean, if you look

at the historical circumstances under which a candidate could obtain an election recount, those were always circumstances where the recount was likely to change the outcome.

JUSTICE KAVANAUGH: On the question Justice Alito started with was monetary injury. And I -- I thought that the likelihood of winning the election was really irrelevant to that.

You have to hire staff for an extra two weeks. And a good campaign is going to try to end up on Election Day with close to zero left in the bank to leave it all on the field. If you have to extend it two weeks, you're going to be reallocating your resources and potentially have to raise more money.

But, at a minimum, you're going to have to spend more money, which is just obvious standing, isn't it, without getting into all this other stuff? That's just obvious standing. You have to -- you have to spend more money to staff an extra two weeks.

MS. NOTZ: So -- so I -- I don't think so. I think what this Court's cases stand for -- and this is cases like Clapper and

Alliance versus Hippocratic Medicine -- is the proposition that if a plaintiff is going to rely on the expenditure of resources to establish standing, the plaintiff needs to show that that expenditure was necessary to avoid a substantial risk of an injury that is itself legally cognizable.

And I think that that makes sense because I think that if the rule were otherwise, the requirements for showing standing on a future injury theory would be watered down.

JUSTICE KAVANAUGH: I thought the --

JUSTICE JACKSON: Can we just be --

JUSTICE KAVANAUGH: Oh, sorry.

JUSTICE JACKSON: Oh, sorry.

JUSTICE KAVANAUGH: Just one follow-up.

JUSTICE JACKSON: Mm-hmm.

JUSTICE KAVANAUGH: I thought the test was is it part of your core activities, your ordinary activities, if the expenditure is part of that.

And I would think, for a campaign, as -- as the amicus brief, the ACLU, and the

League of Women Voters was quoted before, and I had -- I had it too, political malpractice not to -- not to be ready for that, to staff that.

MS. NOTZ: So I -- I think that -- so -- so petitioners here have not sort of proceeded under that organizational standing theory, but I think, if you applied that theory here, we would still prevail because I think that Congressman Bost's core mission is to win elections. He's -- he's never told us that he has another -- I mean, maybe some other candidate would have some other core mission. A minor party candidate's core mission might be, you know, to bring attention to its message.

But, because he's never --

JUSTICE KAVANAUGH: Well --

MS. NOTZ: -- proceeded under this theory --

JUSTICE KAVANAUGH: One more, sorry.

JUSTICE JACKSON: Sure.

JUSTICE KAVANAUGH: But spending money to get out the vote, monitor the polls, have staff that does all that, which is going to be

necessary for an additional two weeks is --

JUSTICE JACKSON: But just to be --

JUSTICE KAVANAUGH: -- part of the campaign.

JUSTICE JACKSON: I guess that -- that was my clarifying --

JUSTICE KAVANAUGH: Yeah.

JUSTICE JACKSON: -- question because, with respect to this regulation, it's not the campaign that is extended for two weeks, is that correct?

I mean, I understood what is happening in this regulation is that it's just the counting of the votes that have been post- -- that come in postmarked, but the campaign is not continuing, right?

MS. NOTZ: So, I -- I mean, all -- all this regulation means, and it doesn't even actually extend the time period for counting votes because we would be count -- the state would be counting provisional ballots during that 14-day period regardless.

JUSTICE JACKSON: So there's already counting going on. So the costs are really reduced.

I mean, as I understand this regulation, what is happening is that the state has decided that it's going to count ballots that it receives in the mail that are postmarked as of Election Day for the next two weeks.

So, really, what is the expenditure that is happening here? I guess Mr. Bost is saying: I have to have people to continue to monitor the counting. But you say counting is happening anyway because of the provisional ballots. So I don't understand this great big cost that is suddenly happening.

MS. NOTZ: I mean, I -- I -- I -- that I mean, I don't mean to fight the question. That's probably a question for the Congressman. I -- I mean, we did, you know, for purposes of this point in the proceeding, you know, take at his word that he has, you know, engaged, you know, additional resources to engage in further -- or in monitoring the counting.

But I do agree with Your Honor's observation that the time period for the counting is not extended at all.

And if I could, I see I'm short on

time, but I'd like to, you know, briefly address, I think, Justice Kavanaugh, you know, raised the legal malpractice point, that sort of colorful phrase.

I do think that Clapper is helpful on this point because, in Clapper, you know, there was no question that the lawyers there had diverted resources. They were traveling overseas to meet with their clients and they were doing that because they wanted to avoid the risk of unlawful surveillance associated with the challenged federal law.

I don't think there was any question that those decisions were reasonable because there -- if you look at the Second Circuit's decision, there was an affidavit submitted by a legal ethicist, and the ethicist explained that if the lawyers didn't take precautions like these, they actually would be violating their duties as attorneys, essentially --

CHIEF JUSTICE ROBERTS: Thank you, counsel.

MS. NOTZ: -- committing --

CHIEF JUSTICE ROBERTS: Justice Thomas, anything further?

Justice Alito?

JUSTICE ALITO: You think that monitoring the counting of paper ballots is either not important or doesn't require the expenditure of resources?

MS. NOTZ: No. That's not our position. Of course, Congressman Bost is free to monitor countering -- you know, counting, you know, consistent with Illinois law.

Our position is simply that when a plaintiff has -- seeks to establish standing based on a resource-expenditure theory, the question isn't whether that decision was reasonable. The question isn't whether it was prudent.

The question is whether -- were -- were those resources expended to avoid a substantial risk of harm that is itself legally cognizable.

And, as I mentioned, I think the rule makes sense because, if the rule were otherwise, a plaintiff could simply take a failed future-injury theory of standing where they couldn't show a substantial risk of harm and repackage it as a -- as a present-injury

theory of standing based on resource expenditures.

JUSTICE ALITO: All right. Thank you.

CHIEF JUSTICE ROBERTS: Justice Sotomayor?

Justice Kagan?

Justice Gorsuch?

Justice Kavanaugh?

JUSTICE KAVANAUGH: Just one question.

Justice Scalia once wrote -- and I know you're going to say that this case doesn't implicate this, but I just want to understand if you agree with the principle that he said, which was: "Count first and rule upon legality afterwards is not a recipe for producing election results that have the public acceptance democratic stability requires."

Do you agree with that?

MS. NOTZ: I think -- theoretically, I think it -- it makes sense, you know, not to -- if I -- if I understood the statement, I -- I think that post-election challenges are -- are probably not ideal. Is -- did I understand the statement correctly?

But I don't think that our position,

which, again, is how the Court treats standing across all cases, requires that because the test is simply substantial risk. And Congressman Bost's declaration simply doesn't show substantial risk by any metric.

JUSTICE KAVANAUGH: Thank you.

CHIEF JUSTICE ROBERTS: Justice Barrett?

Justice Jackson?

JUSTICE JACKSON: So -- so I'm a little bit worried about your concession to Justice Kagan that the -- that you'd be okay with a rule that says that if the harm -- if it harms -- the challenged regulation harms someone relative to what had come before, that would be enough.

And the reason I think is because that would implicate situations like even the one Justice Kagan posited, which is a person who has lost the election significantly but who claims something about the two-week period would change their margin, or -- lost or won, say, change their margin, would -- would be harmed by that.

And I guess I don't understand that.

It seems to me that it might -- that -- that the extra counting of ballots might change your position, but it only harms you if it would make a difference in the election. And I thought that was your bottom line. I thought it was sort of what the government was saying -- the -- the -- the SG was saying a little bit.

But it seems to me crucial to uphold this idea that harm is required for standing purposes. And I worry a little bit practically if we accept that kind of thought, the idea that a -- a candidate is harmed if their margin of error changes even if it doesn't make a difference in the election, that we're actually opening up avenues for a lot of post-election challenges that we wouldn't otherwise have, people who have lost the election but they want their margin of defeat to be different or they think it might have been, and so now we have litigation over the counting as a result of that.

Can you --

MS. NOTZ: Yeah.

JUSTICE JACKSON: -- respond?

MS. NOTZ: So I appreciate the question. Thank you.

I certainly did not mean to suggest, if I did, that a diminished margin of victory by itself in our view is a legally cognizable harm. So maybe it would kind of be, you know, helpful just to describe what we think our legally cognizable harms for candidates, and I think they come from history, and I think they come from Meese versus Keene.

The easy one is the risk, the substantial risk of losing an election. Then there are other concrete electoral consequences that are probably more available to minority party candidates, but that would be like a substantial risk of not getting on the ballot, a substantial risk of not qualifying for public fund -- public fund -- public funding or maybe sort of other fund-raising injuries.

And then there is the statement in Meese versus Keene which talks about reputational harms, and I think that in extreme circumstances, a candidate could plausibly allege in advance of an election that even if I win, I know I'm going to win, even if I win,

under this election scheme, my victory will be so illegitimate that -- that my reputation will be harmed.

JUSTICE JACKSON: And so, to summarize, those are the kinds of harms --

MS. NOTZ: Exactly.

JUSTICE JACKSON: -- that Justice Kagan says have been routinely alleged and courts have accepted and are pretty easy to make, and so then you get on the -- then you go on with your lawsuit, right?

MS. NOTZ: Yes. Thank you.

JUSTICE JACKSON: Thank you.

CHIEF JUSTICE ROBERTS: Thank you, counsel.

Rebuttal, Mr. Clement?

REBUTTAL ARGUMENT OF PAUL D. CLEMENT
ON BEHALF OF THE PETITIONERS

MR. CLEMENT: Thank you, Mr. Chief Justice. Just a few points in rebuttal.

First, I just want to make the point that I don't think you should just contract all this out to the RNC and the DNC. There are cases where the RNC has lost on standing. On page -- page 16 of our petition, RNC against

Burgess is one. But I also don't think you want to put the candidate in the position that they have to convince the national committee to support their challenge if they actually think they're being harmed either by the pocketbook or their electoral prospects or that unlawful ballots are going to be counted.

Second, I think it's important when you look at this complaint -- and people are complaining about the threadbare nature of the complaint -- keep in mind one of the things that is in the complaint, and this is at 85a of the Petition Appendix, is the state's own statement before the previous election that said, hey, reporters, don't get too excited about Election Day results because the late-arriving ballots can change the results, so stay tuned, essentially, for 14 days.

Now the state didn't say, oh, but don't worry about Congressman Bost's district. That one's different. That's a state seat. And, of course, the state would never say that because that would put state election officials in a ridiculous position of, before the election, deciding that certain seats are safe

seats and certain states -- seats are tossups. But yet the state wants to put the federal courts in the same position. They want you to look at this declaration and say, well, you know, he's a 10-time incumbent, so he's got a higher standard of showing how these ballots are going to hurt him. Or maybe it's easier for different -- for a different incumbent.

That way lies madness, with all due respect. I mean, they're asking for essentially an Article III determination that Congressman Bost is in a safe seat. And the Article III equivalent of the Cook Report seems like something that should be avoided at all costs.

Now let me just finish on one point, which is part of the debate here is who's asking for a special rule of standing. And with respect, I think it's the state that's asking for a special rule of standing to the effect that only an electoral disadvantage that can threaten your win or loss at the end of the day counts and maybe some stuff that I'm, frankly, confused about about Meese and one or two things. But it's really like you got to go

in there and say this is going to be outcome-determinative in the election.

That is a special rule for elections. They say pocketbook injuries don't count in this context. That -- that's not the law. I mean, if the government says to me, Clement, give me 500 bucks, that's a pocketbook injury. I don't have to point to some other injury that complements the pocketbook injury.

Now there are certain cases where there's a very speculative primary injury, and then this Court has said, well, you can't spend yourself into standing. But that's not this case. It's perfectly reasonable to spend this money on these -- poll watching. Political malpractice not to do it.

Let me finish with one thought, is it seems like we have three different stand -- tests here, three different theories, but they all come down to a simple common-sense proposition. A candidate is not a bystander in his or her own election. Their name's on the ballot, they put their lives on hold, so they have a special interest in what's on the ballot.

Thank you.

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

(Whereupon, at 11:48 a.m., the case was submitted.)

1

1)(a)(ii [1] **5:**13
100 [1] **27:**6
1112 [1] **41:**24
15 [1] **66:**6
1911 [1] **27:**8
1994 [3] **12:**18 **14:**12 **31:**5
19th [1] **27:**9
1a [1] **43:**18

2

2010 [1] **15:**24
20-year [1] **16:**2

3

30 [1] **23:**3
30-plus [1] **14:**3
31 [3] **14:**17 **28:**22 **69:**5
3553(a [2] **69:**24 **70:**22

5

50 [1] **68:**9
50-year [1] **32:**11

7

71 [1] **8:**11

8

8 [1] **75:**17
80s [1] **72:**6
841 [1] **75:**17

9

924 [1] **20:**2
924(c [19] **8:**1,23 **10:**24 **11:**9 **19:**25 **25:**25 **28:**25 **29:**5 **37:**2,4,12,14,19 **40:**13,22 **41:**10 **57:**8 **58:**13,24
924(c)(1)(a [3] **11:**12 **36:**19 **43:**14
924(c)(1)(a)(ii [2] **5:**12 **59:**4
924(c)(1)(b [1] **50:**18
924(c)(1)(d)(ii [3] **8:**12 **43:**16 **44:**12
924(c)(d)(1)(ii [1] **31:**7
924(c)'s [5] **12:**18 **37:**8,15 **58:**8,19
924(g [2] **5:**23 **40:**12
924(j [16] **5:**1 **8:**23 **12:**16 **28:**24 **29:**5 **36:**20 **37:**3 **40:**20 **41:**9,13 **42:**4 **48:**19 **57:**10 **58:**13,24 **76:**17
94 [3] **31:**12 **44:**9,20

A

abandon [1] **27:**11
ability [3] **41:**9 **48:**5,8
about [30] **5:**11,12 **9:**9 **10:**10,13,13 **12:**4,4,5,11 **22:**15 **23:**21 **28:**22 **33:**12 **34:**17 **35:**11,12 **46:**15 **50:**5 **55:**19 **61:**4,16 **62:**16 **68:**11,15 **70:**8 **72:**4 **75:**8,10,15
absolutely [2] **10:**15 **22:**20
account [8] **13:**3 **38:**18 **42:**4 **48:**10 **69:**24 **71:**1,20,25
accurate [1] **69:**5
acknowledge [3] **27:**14 **56:**1,11
acknowledges [1] **51:**5
acknowledging [1] **53:**11
act [1] **74:**5
action [1] **22:**13
activate [1] **7:**8
acts [1] **58:**16
actual [1] **20:**10
actually [7] **16:**7 **47:**22 **54:**1 **65:**10 **68:**23 **69:**17 **71:**7
add [1] **26:**13
adding [1] **50:**13
addition [18] **8:**5 **20:**9,12 **26:**2 **43:**20 **44:**5,11,18 **45:**9,12,13 **49:**16 **58:**3 **59:**14,19 **62:**4,5 **73:**8
additional [7] **33:**23 **34:**21 **58:**10 **59:**25 **60:**5 **62:**19,22
address [7] **5:**6 **7:**16 **10:**22 **14:**17 **37:**10 **49:**25 **75:**14
addressing [1] **9:**3
adhere [1] **56:**9
adhered [1] **27:**6
adopt [1] **70:**12
advocating [1] **68:**24
affect [1] **68:**11
affirm [1] **58:**25
afraid [3] **24:**10,16,18
after [9] **15:**22 **28:**23 **37:**10 **42:**8 **46:**18 **52:**15,17 **55:**22 **58:**12
again [5] **29:**8 **44:**25 **55:**21 **56:**4 **69:**13
against [5] **19:**4 **29:**10 **36:**21 **51:**8 **70:**1
agree [8] **36:**7 **38:**9 **55:**4 **65:**10 **67:**1 **68:**3 **71:**22 **72:**1
agrees [1] **68:**24
ah [5] **5:**16 **21:**4 **32:**15 **55:**4,12
ahead [1] **18:**23
aimee [1] **36:**14
albernaz [1] **72:**7
aligned [1] **39:**10
aligns [1] **30:**10
alito [18] **13:**22 **14:**5,22 **15:**3,8,11 **16:**12,16,20 **18:**8,9 **19:**23 **20:**4,6 **22:**25 **50:**22 **73:**17 **74:**17
alito's [3] **22:**15 **34:**17 **42:**18
all [18] **11:**22 **13:**25 **14:**7 **21:**19 **26:**23 **34:**7 **40:**12 **48:**23 **49:**3 **52:**7,18 **53:**16 **62:**12 **64:**15,19 **67:**11 **69:**9 **70:**12
allow [3] **11:**2 **12:**23 **34:**24
allowed [2] **25:**10 **34:**20
allowing [1] **76:**2
allows [1] **17:**18
alone [1] **55:**22
along [3] **32:**3 **38:**11 **69:**2
already [11] **31:**6,8,15,16 **44:**11 **45:**6 **57:**21 **63:**21 **65:**2 **70:**2,8
also [18] **7:**21 **8:**6 **10:**19 **20:**11 **24:**15 **25:**4,13 **26:**25 **28:**6 **32:**10 **35:**22 **37:**13 **39:**25 **40:**17 **49:**21 **54:**13 **57:**24 **72:**12
although [1] **30:**18
always [1] **6:**14
am [2] **24:**22 **54:**4
amend [1] **8:**20
amended [1] **63:**1
amicus [8] **6:**19 **20:**10 **31:**2 **36:**8 **37:**13 **50:**2 **57:**2 **76:**13
ammunition [2] **8:**8 **23:**8
among [1] **30:**21
ample [1] **19:**3
an [22] **5:**22 **6:**3 **11:**2 **18:**15 **31:**20,24 **43:**8,10 **50:**10,12 **59:**3 **60:**17,21 **61:**22,23 **68:**9,19 **69:**15 **71:**25 **72:**2 **73:**15,20
analysis [13] **29:**15 **38:**14 **39:**7 **40:**25 **41:**3 **42:**14 **49:**22 **50:**17 **52:**2,3 **68:**4 **73:**9,12
analyzing [1] **42:**8
anomalies [7] **50:**2 **64:**11,23 **66:**2 **68:**20 **70:**6,14
anomalous [1] **64:**24
anomaly [2] **66:**13,17
another [6] **20:**25 **37:**12 **47:**20 **52:**4 **58:**3 **62:**1
answer [7] **5:**17 **32:**8 **52:**15,16 **64:**19 **73:**18,18
answering [1] **29:**10
answers [1] **52:**11
any [25] **6:**24 **7:**3,5,5 **12:**12 **17:**9 **18:**25 **19:**4 **22:**15 **31:**8 **38:**21 **41:**22 **44:**23 **47:**14 **56:**5 **58:**12 **60:**1 **62:**5 **63:**4,8 **68:**11,14 **72:**8,15 **75:**18
anyone [2] **14:**12 **64:**2
anything [3] **9:**18 **31:**3 **74:**16
anyway [2] **30:**6 **53:**13
appeal [1] **20:**16
appeals [2] **37:**7 **68:**22
appears [1] **7:**25
appellate [1] **20:**12
appendix [1] **43:**19
applied [2] **39:**8 **51:**23
applies [2] **32:**7 **71:**13
apply [8] **38:**14 **41:**24 **49:**16,20,23 **50:**17 **54:**24 **56:**10
applying [3] **41:**11 **53:**13,15
approach [5] **41:**14,15,16 **57:**25 **64:**11
approaching [1] **38:**1
appropriate [5] **48:**14 **67:**3,5 **69:**15 **71:**3
are [28] **5:**8 **9:**6 **12:**7 **13:**25 **16:**12 **19:**3,7 **20:**19 **24:**2,18 **25:**15 **28:**15 **30:**20,22 **33:**15 **34:**4 **35:**23 **38:**1 **39:**16 **40:**2 **48:**3,16 **58:**13 **64:**6,23 **66:**15 **70:**10,13
area [2] **58:**1 **72:**2
aren't [1] **35:**21
argued [1] **46:**2
argument [17] **10:**10,12 **13:**14,15 **29:**9 **32:**21 **33:**15 **36:**14 **39:**13 **40:**9 **47:**15 **57:**1 **59:**4,12 **61:**25 **68:**22 **75:**1
arguments [1] **37:**14
arise [1] **64:**12
armor-piercing [2] **8:**8 **23:**8
arrive [1] **47:**3
as [39] **6:**18 **7:**15,16 **12:**4 **17:**11 **22:**25 **25:**10 **26:**7 **27:**4,4 **31:**19 **33:**14 **38:**6 **39:**8,8 **40:**5 **41:**25 **42:**2 **43:**7 **44:**16 **46:**9,21 **47:**11 **49:**17,23 **51:**24 **52:**4,4,23,24 **53:**15 **55:**18 **59:**8,14,24 **63:**19 **66:**17 **67:**22 **76:**17
ask [2] **47:**20 **51:**2
asked [4] **24:**5 **39:**21 **60:**16,20
asks [1] **24:**5
aspects [1] **25:**14
assessing [1] **69:**24
assume [3] **14:**6 **31:**22 **48:**3
assumes [1] **58:**15
at [36] **9:**21,21 **10:**12 **13:**10,24 **14:**1,9 **19:**24 **21:**12,21 **22:**22,25 **23:**1 **29:**9 **32:**21 **35:**9 **38:**11 **41:**9 **42:**18 **45:**15 **47:**3,10 **48:**22 **53:**11,20 **54:**20,22 **55:**25 **60:**15 **62:**17 **64:**15,21 **68:**2,5,8 **72:**8
attempts [1] **57:**21
authoritative [1] **52:**23

authority [1] **56:**12
authorization [8] **30:**24 **43:**10 **44:**1 **60:**17,21 **61:**22,23 **75:**12
authorize [8] **37:**21 **43:**14 **47:**6 **50:**12,14 **51:**13 **57:**19 **71:**18
authorized [9] **37:**1,17 **38:**13 **48:**16 **49:**10 **52:**5 **66:**5 **76:**11,23
authorizes [2] **41:**21 **48:**19
authorizing [5] **43:**18 **45:**16 **46:**20,21 **49:**15
available [1] **65:**22
avoid [4] **35:**25 **39:**23 **58:**18 **75:**23
avoidance [1] **51:**25
avoided [1] **76:**8

B

b [2] **18:**16 **75:**1
back [10] **16:**10 **22:**14 **29:**13 **32:**23 **51:**18 **52:**22 **53:**17, 24 **66:**2 **67:**23
backdrop [1] **70:**1
background [1] **70:**23
ball [5] **45:**24 **46:**6 **72:**7 **74:**3 **75:**5
bankruptcy [1] **16:**3
bar [3] **59:**10 **67:**7,13
barrett [10] **12:**14 **19:**16 **32:**18,22 **33:**8 **35:**4 **38:**23 **56:**18 **71:**11 **74:**20
barrett's [1] **38:**21
based [3] **32:**19 **67:**10 **70:**4
basis [2] **62:**5 **68:**14
because [45] **6:**19 **9:**5,6 **14:**11,19 **16:**19,23,25 **23:**2 **24:**9 **25:**10 **26:**17 **27:**20 **28:**10, 20 **29:**20 **30:**8 **33:**19 **34:**13, 20 **35:**9 **37:**22 **39:**13,17,25 **41:**11 **42:**7,12 **44:**11 **45:**19 **46:**3 **48:**1,18 **49:**5,18 **50:**10 **61:**23 **63:**13 **64:**16 **65:**16 **69:**3 **70:**8,13 **72:**22 **73:**5
becomes [1] **74:**8
been [6] **9:**11 **38:**13 **60:**6 **61:**15 **64:**2 **72:**12
before [5] **17:**2 **25:**7 **42:**19 **48:**7 **60:**8
begs [1] **65:**19
behalf [2] **36:**15 **75:**2
being [1] **54:**5
believe [2] **24:**20 **50:**7
believing [1] **33:**13
below [3] **32:**18 **57:**3 **59:**1
best [3] **18:**2 **43:**12 **63:**18
bet [1] **20:**16
better [3] **25:**9 **40:**18 **42:**11
between [3] **43:**13 **56:**1 **60:**11
blockburger [26] **26:**7 **27:**6, 7 **36:**21 **37:**24 **39:**17 **40:**2 **50:**10,16 **51:**16 **52:**23 **55:**16 **56:**10 **57:**19,22 **60:**10 **71:**6,8,16 **72:**5 **73:**19,22,24 **74:**1,8,13
books [1] **63:**23
borrow [1] **71:**10
both [15] **8:**21,23 **17:**20 **19:**6 **35:**18 **43:**2 **45:**22 **48:**17 **50:**10 **53:**9,12 **56:**2 **57:**14 **66:**15 **75:**24
bother [1] **72:**18
bound [2] **16:**12 **35:**22
brandishing [4] **5:**15,21,22 **6:**9
brief [3] **38:**6 **39:**6 **59:**15
briefed [1] **56:**8
briefing [2] **15:**22 **32:**19
briefly [1] **71:**4
briefs [1] **5:**6
bring [1] **64:**17
broader [1] **44:**4
broadly [1] **73:**23
brought [2] **72:**19,22
brown [47] **36:**13,14,17 **38:**4, 22 **40:**9 **42:**21,25 **43:**3,6,25 **44:**14,25 **45:**7,10,13,21 **46:**13,19 **47:**4,25 **48:**4,18 **49:**1, 8,11,25 **51:**10,16,20 **52:**9 **53:**14,23 **54:**4,9,13,18,21 **55:**3,8,10 **56:**4,15,20 **64:**10 **65:**1 **68:**15
built [1] **42:**13
busic [4] **8:**14,16 **63:**6,25
but [78] **5:**22 **6:**4,18 **9:**14 **11:**22 **12:**4 **13:**13,13 **14:**16 **15:**14 **16:**14 **18:**20 **21:**12 **23:**1, 18 **24:**22,23 **25:**13,17 **26:**9 **27:**5,15 **30:**6 **32:**21 **33:**14, 19 **35:**8,24 **37:**3,9,15 **39:**8 **40:**5 **44:**6,8,21 **45:**6,9,15 **46:**10 **47:**12,15 **49:**18 **52:**22,24 **53:**7 **54:**5,10,15,25 **55:**1,12,16 **56:**8 **57:**20 **58:**4, 17 **59:**14,20 **60:**8 **61:**12 **62:**4 **63:**15 **64:**8,13,20 **65:**1 **66:**8,17 **69:**12,12 **70:**22 **71:**14, 21 **72:**12,19 **73:**11 **74:**6
by [18] **13:**4 **14:**11 **15:**23 **16:**12 **24:**1 **25:**15 **28:**25 **29:**6, 22 **31:**15,15,24 **35:**22 **47:**13 **50:**13 **53:**19 **59:**18 **66:**20

C

c [39] **5:**21 **7:**12 **11:**18 **13:**10 **17:**21 **18:**21 **19:**17,21 **22:**8 **31:**21 **32:**3 **33:**17,17 **34:**6, 23 **35:**3 **42:**6 **48:**12,21 **49:**14 **55:**20 **59:**24 **60:**6,7,11 **62:**18,24 **63:**15,25 **64:**4,8, 12 **65:**7,18 **66:**7,11 **69:**2 **71:**1 **75:**10
c)(1 [4] **10:**19 **31:**10,18 **59:**14
c)(1)(a [7] **17:**21 **45:**16,17 **46:**21,23 **47:**9 **59:**18
c)(1)(d)(ii [11] **6:**18 **7:**15 **31:**8,19 **32:**5,7 **44:**22 **45:**1 **47:**5 **62:**14 **75:**10
c)(5 [5] **8:**7,10 **17:**21 **44:**3,4
c)'s [4] **13:**1 **30:**13 **48:**21,25
came [4] **8:**10,12,14 **32:**16
can [41] **6:**4 **8:**24 **9:**10,12,14, 22,25 **10:**18,21 **11:**17 **14:**25 **15:**3 **17:**22 **19:**25 **20:**7,15 **23:**16 **27:**14,18 **28:**14 **32:**13 **33:**10 **35:**16 **37:**11 **39:**11 **42:**18 **48:**8,13 **50:**12 **54:**10,13 **60:**4,9,24 **67:**23 **68:**17 **69:**3,21,23 **74:**13 **76:**1
cannot [7] **7:**17 **35:**18 **52:**18 **61:**18 **73:**6 **75:**6,23
canon [3] **71:**9,10,21
can't [7] **8:**24 **12:**9 **28:**2 **53:**3, 7 **75:**8 **76:**8
capping [1] **34:**23
card [1] **21:**24
care [1] **35:**11
careful [2] **17:**2 **24:**2
carefully [1] **68:**6
carries [1] **66:**21
carrying [1] **11:**24
case [26] **5:**20,25 **6:**5,9 **10:**18 **11:**21 **12:**7 **15:**22 **16:**3 **21:**9 **22:**18 **23:**8 **27:**7,8 **28:**7 **30:**9 **35:**3,10 **38:**15 **45:**24 **52:**19 **53:**16 **60:**19,20 **68:**8 **73:**15
cases [17] **25:**18,23 **27:**11 **34:**8 **47:**23 **51:**21 **52:**1 **56:**2, 7 **67:**4,18 **71:**8 **72:**6 **73:**11 **74:**2,6,13
caught [1] **18:**18
caused [1] **29:**6
cautioned [1] **29:**10
cce [1] **75:**20
ceiling [1] **70:**18
century [1] **27:**9
certain [2] **42:**22 **48:**7
certainly [5] **44:**2 **53:**14 **62:**15 **70:**23 **71:**2
cetera [2] **66:**12 **70:**5
change [1] **23:**3
charles [1] **57:**1
check [1] **28:**9
chief [15] **17:**15 **18:**6 **20:**23 **23:**11 **28:**16 **33:**7 **36:**11,17 **50:**19 **56:**16,21 **57:**4 **74:**15, 24 **75:**3
choose [2] **48:**8,13
chooses [1] **54:**11
chose [2] **28:**24 **41:**13
circuit [16] **15:**24 **28:**19 **29:**3, 12,21 **32:**10,13,21 **33:**1,13 **40:**4 **47:**17 **57:**11 **68:**23 **69:**11 **70:**24
circumstance [1] **34:**19
circumstances [6] **9:**15 **42:**23 **48:**14 **65:**3,15 **67:**8
cite [2] **17:**20 **68:**19
cited [3] **20:**10 **27:**7 **36:**8
citing [1] **27:**8
clarification [1] **33:**11
clarify [1] **75:**4
clarifying [1] **74:**14
clarity [1] **37:**20
classically [1] **22:**13
clause [12] **12:**9 **25:**15 **27:**25 **28:**8 **51:**23,23 **52:**17,24 **53:**19,25 **54:**24 **61:**4
clauses [1] **17:**8
clear [34] **7:**2,17,23 **8:**19 **11:**16 **12:**3,13 **14:**23 **15:**18 **16:**9 **17:**4,13 **19:**8 **25:**9 **30:**23 **31:**14 **32:**16 **34:**13 **37:**22 **38:**2,24 **39:**25 **40:**7 **44:**11 **52:**2 **58:**5,9 **59:**22,22 **66:**23 **68:**14 **71:**17 **75:**5 **76:**2
clearer [2] **6:**20 **64:**2
clearly [8] **6:**17 **13:**20 **17:**23 **23:**18,18 **39:**24 **57:**20 **76:**11
coasts [1] **21:**19
code [1] **18:**13
collapse [1] **52:**3
come [5] **23:**19 **24:**7,24 **51:**9 **52:**16
comes [3] **23:**20 **25:**1 **31:**5
commit [6] **6:**4 **18:**20,23 **20:**2 **26:**1 **66:**22
commits [2] **18:**15 **19:**25
committed [3] **24:**1 **65:**7 **66:**20
committing [1] **18:**11
compare [1] **43:**13
compatriots [1] **22:**11
compelled [3] **29:**22 **33:**13 **53:**19
complement [1] **58:**24
compound [1] **74:**7

con [1] **25:**2
concede [3] **55:**18 **59:**8 **66:** 15
conceded [3] **44:**18 **45:**6,6
conclusion [4] **29:**2,23 **54:** 17 **57:**16
conclusive [1] **57:**23
concurrent [3] **8:**25 **42:**20 **46:**1
concurrently [7] **6:**24 **7:**6 **9:** 13 **10:**1 **44:**13 **46:**17 **61:**15
conduct [4] **9:**24 **19:**2 **22:**6 **23:**24
confirms [1] **37:**20
conflict [1] **58:**25
congress [97] **6:**17 **8:**2,19 **11:**4,16 **12:**13,16,19 **13:**5, 12,19 **14:**12,16,18 **17:**1,3, 24 **21:**22 **22:**17 **23:**2,16,25 **24:**1 **25:**9 **28:**15,24 **29:**3 **30:** 14,25 **31:**5,12,24 **32:**2 **33:** 16,24 **37:**1,3,17,23 **41:**13, 16,20 **42:**3,19 **44:**3,7,9,19 **47:**11 **49:**13 **50:**11 **51:**12 **52:**4 **54:**10 **56:**12 **57:**12,18, 25 **58:**2,5,9,16,21 **59:**17,21, 24 **62:**3,18,21 **63:**1,7,13,19, 20 **64:**7,14,20,21 **65:**4,11, 16,21 **66:**18 **67:**6,12 **68:**1 **69:**17,25 **70:**7,12 **73:**7 **74:**3, 14 **76:**11,15,18,23
congressional [3] **14:**23 **15:** 18 **71:**17
congress's [7] **18:**2 **37:**19 **62:**16 **64:**1 **69:**21 **71:**13,15
consecutive [10] **8:**18 **11:**20 **31:**9 **37:**8 **41:**12,19 **43:**3,7 **58:**8 **63:**22
consecutively [5] **10:**4 **11:**1 **12:**1 **21:**2 **61:**16
consequence [1] **66:**24
consequences [1] **68:**16
consistent [5] **16:**24 **41:**3,4 **45:**23 **49:**3
consistently [2] **27:**5 **28:**9
constitute [1] **8:**18
constitution [3] **24:**1 **58:**22 **67:**7
constitutional [4] **10:**17 **51:** 25 **52:**2 **61:**17
constitutionally [1] **25:**5
constraining [1] **41:**18
construct [1] **69:**15
construction [3] **39:**9 **40:**10 **71:**12
context [2] **38:**12 **71:**21
continue [1] **56:**9
continuing [2] **21:**20,25
contrasted [1] **22:**4
control [1] **22:**17
controls [1] **37:**24
convert [1] **57:**21
convicted [5] **10:**19 **18:**19 **19:**6 **37:**11 **75:**24
conviction [15] **10:**17 **11:**10, 12 **12:**4,6 **16:**10 **37:**10 **45:** 20,22 **46:**8 **60:**18 **61:**6 **62:**4 **64:**3 **75:**25
convictions [14] **9:**7,12,15, 23,25 **11:**1,3,23 **35:**18 **48:**5 **60:**25 **65:**14 **75:**6,9
convicts [1] **6:**11
core [2] **61:**17,21
correct [15] **10:**23 **11:**5 **21:**6 **22:**19,23 **23:**10 **31:**17 **32:**1 **35:**1,14 **36:**6 **46:**13,19 **47:**4 **49:**1
correctly [1] **57:**11
could [18] **5:**18 **6:**20 **15:**19 **21:**10,14,22 **40:**20,21 **41:**4 **42:**21 **44:**20 **56:**7 **65:**4 **66:**8 **70:**15,20 **73:**22,23
couldn't [3] **44:**7,9 **55:**14
counsel [7] **17:**16 **36:**12 **50:** 20 **56:**22 **59:**17 **72:**19 **74:** 22
country [1] **21:**19
counts [2] **48:**7,9
couple [3] **23:**20 **50:**1 **75:**4
course [15] **5:**20 **6:**13 **22:**5,8, 12 **44:**22 **49:**15 **53:**5 **54:**10, 12 **55:**11 **64:**21 **66:**10 **70:** 25,25
court [66] **5:**24 **6:**2,5 **7:**17 **8:** 15 **13:**2,13,18 **17:**12 **19:**11 **20:**17 **21:**21 **22:**2 **25:**6,7,11, 17 **27:**5,9,20 **28:**8 **30:**9,12 **32:**18 **34:**14 **36:**18 **37:**7,21 **38:**10,17 **39:**14,15,24 **40:**11, 23 **41:**2,7 **42:**1,12 **45:**23 **46:** 6 **52:**1 **53:**16 **56:**9 **57:**5,21 **58:**15,23 **60:**14,20 **63:**24 **67:**2 **68:**22 **70:**9,14,20,25 **71:**3,13 **72:**8 **73:**10 **75:**19, 25 **76:**5,18,25
court-appointed [1] **57:**2
courts [10] **16:**25 **17:**2 **23:**23 **24:**2 **28:**10 **51:**11 **67:**7,24 **68:**17 **73:**12
court's [10] **16:**24 **22:**3 **37:** 25 **38:**9 **59:**2 **62:**6 **63:**5 **69:** 19 **71:**8 **72:**2
crazy [1] **20:**14
create [3] **29:**3 **63:**14 **64:**20
created [1] **65:**16
creating [1] **58:**6
crew [1] **57:**6
crime [24] **8:**6 **10:**20 **11:**13 **17:**4 **18:**11 **21:**6,18 **22:**16 **25:**4 **26:**1,3 **32:**4 **34:**3 **43:** 21,22 **53:**4,8 **65:**7,7,25 **66:** 21 **75:**13 **76:**12,24
crimes [4] **5:**9 **21:**16 **29:**4 **30:** 20
criminal [5] **18:**13 **21:**20,25 **23:**24 **26:**18
criminalize [1] **74:**4
critical [1] **61:**10
crystal-clear [3] **8:**20 **59:**18, 21
cumulative [26] **36:**22 **37:**2, 17,21 **38:**13 **43:**15 **45:**16 **46:**22 **47:**6 **48:**16,20 **49:**9, 16 **50:**12 **51:**13,24 **55:**3 **57:** 19 **60:**17,22 **66:**25 **67:**4,9 **71:**18 **72:**5 **73:**16
curiae [1] **57:**2
curiosity [1] **18:**10
currently [1] **66:**8

D

d [4] **7:**4 **18:**21 **46:**11,15
d)(2 [3] **61:**23 **62:**1 **63:**1
d)(ii [1] **31:**7
dafalla [3] **22:**10 **57:**7,8
data [1] **62:**16
day [5] **20:**15 **21:**17,17,23 **70:**17
deal [1] **32:**13
death [10] **12:**23 **13:**6 **14:**13 **27:**2 **29:**6 **35:**11 **41:**22 **64:** 17 **65:**25 **76:**19
debatably [1] **40:**5
debate [1] **72:**4
decide [3] **16:**25 **17:**3 **67:**2
decided [4] **14:**19 **27:**21 **42:** 8 **76:**18
decides [1] **25:**6
decision [6] **16:**13 **22:**3 **23:** 22 **38:**10 **42:**9 **63:**6
decisions [1] **39:**1
defeated [1] **47:**13
defend [1] **73:**2
defendant [9] **19:**2,24 **20:**1 **37:**11 **58:**11 **60:**1,4 **61:**11 **66:**25
define [2] **54:**10,13
defined [2] **73:**22,23
defining [1] **73:**20
definition [1] **31:**15
describing [2] **17:**11 **31:**20
designed [1] **13:**3
desire [2] **14:**23 **15:**18
despite [2] **27:**21 **28:**7
determine [1] **71:**13
determined [1] **9:**11
determining [1] **67:**8
did [14] **17:**24 **23:**5 **32:**2,2 **37:**23 **39:**15 **47:**18 **49:**25 **51:**22 **53:**21 **58:**21 **67:**6,25 **75:**14
didn't [14] **6:**17 **12:**17 **13:**20 **26:**17 **30:**16,17 **33:**1 **34:**11, 18,22 **41:**8 **64:**21 **68:**19 **72:** 17
differ [1] **38:**21
difference [1] **35:**2
differences [1] **61:**2
different [21] **5:**9 **17:**6,23 **23:** 14 **29:**4,4 **34:**4,10,11 **37:**5,6, 14 **41:**13,20 **45:**1 **58:**14 **59:** 9 **61:**17 **74:**4 **76:**6,7
direction [3] **23:**14 **37:**1 **41:** 21
disagree [2] **39:**15 **57:**18
disagrees [1] **39:**14
discern [1] **22:**22
discharge [2] **5:**15 **6:**9
discovered [1] **28:**6
discretion [1] **41:**18
discussed [2] **20:**12 **29:**8
discusses [1] **39:**6
discussion [1] **22:**3
dismiss [2] **48:**5,6
disparities [1] **35:**25
dispositive [1] **62:**15
dispute [1] **30:**21
disputing [1] **69:**13
distinct [2] **63:**16,17
distinction [1] **43:**13
distinguish [1] **21:**8
distinguishing [1] **9:**6
district [11] **32:**10,20 **67:**7, 16,24 **68:**7,8 **70:**2,14,20,25
dixon [2] **26:**9 **53:**1
do [28] **7:**23 **9:**18 **11:**18 **14:** 22 **15:**17 **18:**1 **22:**24 **25:**22 **29:**15,16 **32:**11 **33:**5 **39:**1,3 **43:**6 **48:**15 **51:**17,19 **54:**11 **56:**10,11 **63:**19 **64:**8 **67:**14 **68:**16 **69:**22 **71:**3 **73:**5
does [20] **16:**16,20,21 **17:**1 **18:**25 **20:**2 **22:**15 **23:**19,25 **24:**6 **27:**22 **30:**13 **38:**20 **43:** 14 **45:**21 **47:**20 **51:**9 **54:**5 **73:**7 **76:**9
doesn't [7] **7:**16 **9:**18 **10:**24 **35:**20 **49:**20 **51:**12 **58:**22
dog [3] **72:**16,24 **73:**2
doing [4] **46:**21 **51:**6 **65:**21 **72:**12
done [8] **26:**19,20 **35:**16,21

53:16 **64:**20 **70:**12 **76:**12
don't [32] **6:**19 **10:**15 **13:**24 **16:**25 **17:**10 **18:**19 **23:**23, 24 **25:**3 **30:**5 **31:**12,13 **33:**4, 5 **38:**6 **39:**7 **44:**10 **45:**8 **46:** 10 **48:**18 **50:**16 **53:**15 **56:**4 **62:**5 **68:**14 **69:**16 **72:**7,15 **73:**19 **74:**1 **75:**9 **76:**20
dore [1] **22:**9
double [38] **9:**21 **12:**8 **18:**13 **25:**15,18 **26:**21 **27:**21,23 **28:**8 **30:**20 **34:**12,14 **40:**14 **41:**1,5 **42:**10 **46:**3,7 **51:**8, 22,23 **52:**17,24 **53:**19,25 **54:** 24 **59:**10 **60:**15 **61:**4,13,13 **68:**25 **72:**2 **73:**10,21 **75:**7 **76:**1,3
double-punish [13] **7:**18 **8:** 21 **16:**9 **17:**4,13 **18:**4 **23:**16 **25:**4,8 **30:**25 **31:**25 **34:**14 **76:**16
double-punished [2] **31:**14, 16
drug [4] **11:**14,24 **43:**22 **75:** 17
dual [5] **11:**3,10,12,23 **26:**15
during [2] **26:**6 **66:**21

E

each [4] **19:**8 **58:**24 **75:**21, 22
earlier [3] **42:**14 **50:**5 **63:**20
early [1] **51:**21
easier [1] **59:**4
egregious [1] **35:**13
eight [1] **66:**6
either [6] **5:**18 **9:**2 **19:**10 **35:** 16 **39:**8 **48:**12
element [4] **5:**22 **6:**3 **33:**24 **50:**11
elements [7] **15:**13,16 **18:**16, 21 **33:**19 **50:**13 **65:**8
eleventh [1] **68:**23
elsewhere [1] **7:**25
emphasizes [1] **6:**19
enact [1] **64:**14
enacted [4] **37:**3 **63:**21 **64:**7, 22
enacting [1] **47:**11
encourage [1] **56:**8
ended [1] **29:**12
endorsed [1] **74:**11
enforced [1] **63:**23
engage [1] **19:**2
english [1] **44:**16
enough [9] **6:**18 **14:**20 **17:** 12 **43:**24 **44:**2,7,8 **45:**12,14
entered [1] **35:**18
enterprise [2] **21:**20 **22:**1
entire [1] **13:**24
entirely [1] **16:**23
entirety [1] **73:**11
era [1] **26:**6
error [1] **46:**3
especially [2] **25:**13 **50:**4
essentially [2] **40:**10 **74:**3
establishing [1] **59:**9
et [2] **66:**12 **70:**5
even [10] **8:**13 **17:**8,8 **27:**7 **32:**13 **36:**1,8 **62:**14 **76:**7,8
ever [4] **15:**3 **20:**10 **36:**9 **72:** 12
every [4] **15:**7 **38:**15 **66:**24 **68:**22
everybody [1] **24:**5
everybody's [1] **23:**15
everyone [1] **24:**21
evidence [3] **67:**12 **71:**17 **73:** 15
evils [1] **58:**7
exactly [8] **10:**11 **16:**4 **17:**17 **23:**9 **51:**1 **60:**22 **69:**8,12
example [4] **16:**15 **20:**10 **36:** 9 **68:**19
examples [2] **8:**1 **17:**20
except [1] **68:**23
excuse [2] **45:**25 **60:**4
exercise [1] **44:**21
exist [1] **65:**23
existed [1] **47:**10
explain [3] **10:**22 **29:**16 **41:**8
explained [6] **5:**24 **7:**17 **13:**2 **15:**25 **39:**14 **76:**18
explanation [2] **65:**11 **68:**20
exposure [1] **48:**11
express [1] **17:**17
expressing [1] **74:**10
expression [1] **18:**2
expressly [3] **37:**1 **41:**2 **42:**1
extent [1] **38:**23

F

face [1] **71:**16
faces [1] **19:**17
facing [1] **40:**12
fact [14] **11:**18 **17:**6 **19:**7 **20:** 9 **29:**9 **33:**17 **34:**3 **44:**4 **52:** 4 **54:**23 **61:**10 **63:**1,24 **76:** 15
factor [1] **51:**11
facts [2] **34:**19 **70:**4
factual [1] **67:**22
fair [2] **14:**8 **22:**25
fairly [1] **59:**12
fall [1] **40:**16
falls [1] **41:**1
fan [2] **24:**20,22
far [1] **39:**8
fashioning [1] **71:**1
fatal [4] **12:**25 **13:**13 **31:**1 **36:** 5
favor [1] **14:**10
favors [1] **29:**17
feature [1] **34:**7
features [1] **37:**16
feel [1] **28:**19
feels [1] **19:**11
felonies [1] **27:**1
felony [3] **6:**2,4,5
felt [1] **23:**4
fewer [1] **15:**15
fight [2] **72:**16,24
figure [1] **67:**24
filed [1] **32:**19
final [1] **26:**25
finally [1] **32:**6
find [4] **6:**12 **20:**18 **33:**1 **41:**8
fine [3] **52:**5 **55:**9 **60:**6
fines [1] **55:**12
firearm [3] **11:**24 **29:**5,7
first [3] **43:**11 **44:**18 **60:**14
fit [1] **14:**7
five [12] **12:**19,21 **13:**7,11 **14:** 13,15 **18:**17,19 **35:**3,5 **66:**7 **76:**21
five-year [1] **16:**4
fixed [2] **12:**18 **14:**16
floor [2] **14:**16 **70:**18
flow [1] **9:**24
focus [2] **64:**12 **74:**4
focused [2] **37:**7 **45:**1
focusing [2] **29:**5,6
follow [2] **33:**10 **57:**25
footnote [2] **53:**11 **56:**6
for [92] **7:**13 **8:**5 **9:**23,23 **10:** 19 **11:**2,12,24,25 **12:**10,23 **13:**3,12,16,17 **14:**24 **15:**12, 14 **16:**10 **18:**17,19,22 **20:**15 **21:**24 **23:**7,16 **25:**19 **26:**2,3, 15,17,21 **27:**6 **28:**3 **30:**20 **32:**3,23 **33:**24 **34:**2,12,20 **37:**2 **38:**18 **39:**16,17 **40:**2 **41:**16,22 **42:**4,9 **43:**10,21 **45:**17 **46:**3,7 **48:**16,20 **49:**5 **50:**9,15 **51:**8,13 **52:**18 **53:**4, 8 **54:**6,7,9 **55:**6 **58:**12 **59:**4, 4,5 **60:**2,17,20,21,25 **61:**18, 22 **62:**6 **63:**15 **64:**8 **65:**3 **66:** 5 **67:**11 **68:**20 **71:**3,14 **73:** 16,20 **76:**24
foresaw [1] **10:**11
forget [1] **55:**19
form [3] **51:**25 **61:**9,10
forward [1] **68:**16
found [3] **12:**20 **15:**22 **21:**1
fraud [1] **16:**3
freedom [2] **25:**14 **52:**14
friend [2] **43:**7 **64:**10
friends [1] **59:**7
from [29] **9:**25 **14:**25 **15:**4 **20:** 20 **23:**14,19,20 **24:**7,24 **25:** 1,9 **27:**8,8 **30:**25 **38:**21 **42:** 3,6,19 **47:**21 **51:**9 **52:**16 **54:** 17 **57:**22 **59:**22,23 **64:**1 **67:** 7,17 **71:**10
full [2] **38:**18 **66:**19
function [1] **23:**25
fundamental [1] **61:**3
funny [1] **28:**5
further [1] **74:**16
future [1] **56:**7

G

gamar [1] **57:**7
garrett [9] **21:**3,5,10,14 **38:** 10 **58:**4 **72:**7 **74:**7,11
generally [2] **11:**23 **51:**12
get [18] **8:**5 **10:**15 **11:**24 **12:** 14 **13:**7 **14:**13 **18:**18 **21:**24 **25:**11 **26:**1 **46:**17 **54:**16 **55:** 24 **60:**25 **64:**3 **65:**14 **75:**9 **76:**19
get-out-of-jail-free [1] **21:**24
gets [4] **19:**21,21,22 **48:**6
getting [4] **8:**9 **19:**23 **35:**4 **69:**1
given [5] **20:**22 **31:**16 **32:**21 **36:**2 **60:**9
giving [1] **20:**14
go [5] **5:**18 **18:**19,23 **64:**14 **66:**2
goes [2] **41:**20 **61:**21
going [23] **10:**12 **20:**16,17, 20 **22:**14 **30:**2 **31:**15 **32:**11 **34:**16 **38:**2 **48:**4,11 **49:**4 **51:** 2 **53:**24 **64:**10 **67:**16,19 **68:** 11,16 **70:**25 **72:**18 **76:**19
gone [1] **44:**20
good [9] **16:**15 **26:**11 **43:**23 **44:**2,7,8 **45:**12,14 **60:**20
gorsuch [41] **23:**12,13 **24:**3, 11,14,17,24 **25:**16 **26:**5 **27:** 2,17,22,25 **28:**2,12 **50:**25 **51:**1,4,15,17 **52:**7,10 **53:**20 **54:**2,7,12,15,19 **55:**1,4,9,11 **56:**14 **71:**7,19,24 **72:**10,15, 17,23 **74:**18
got [6] **13:**17 **29:**14 **39:**12 **52:** 11 **54:**15 **62:**12
government [16] **17:**20 **19:** 11,19 **20:**16 **29:**10 **39:**12,23 **40:**6 **46:**2 **48:**4 **51:**4 **57:**17

66:15 **68:**21 **69:**22 **74:**10
government's [8] **13:**15 **39:**20 **41:**5 **47:**21 **58:**17 **64:**11 **67:**15 **69:**14
grady [3] **26:**6,10 **53:**2
gravity [1] **66:**20
great [1] **24:**20
greater [10] **14:**24 **15:**12 **16:**2,6 **18:**23 **23:**17 **25:**20 **26:**15,20 **35:**24
greater-included [1] **6:**1
guess [5] **33:**11,14 **34:**18 **45:**5 **67:**22
guilty [1] **48:**6
gun [17] **5:**4,8,18 **6:**10 **8:**4,7 **11:**12 **13:**12 **14:**21 **26:**1,2 **36:**5,6 **50:**5 **66:**11,21,22
guns [2] **57:**6,9

H

had [24] **8:**19 **14:**17 **23:**3,13 **27:**9 **34:**10 **36:**4,6 **38:**13 **42:**12,13 **46:**2 **49:**14 **59:**17 **62:**11 **63:**22,23 **64:**20 **65:**6 **68:**21,25 **70:**2,8,12
hand [1] **25:**23
happen [1] **10:**12
happened [3] **22:**9 **23:**1 **40:**8
happening [2] **20:**11 **36:**9
happens [3] **48:**7 **65:**24 **70:**4
harm [1] **66:**20
harmless [2] **33:**3 **46:**2
harms [2] **35:**13 **37:**15
harshly [1] **25:**14
has [39] **7:**9,17 **8:**2 **14:**17,18 **15:**7,15 **16:**5,7 **18:**16 **19:**19 **20:**10 **23:**3 **24:**24 **25:**17 **27:**5,9,20 **28:**8 **29:**14 **31:**2 **36:**8 **37:**21 **38:**7 **42:**19 **50:**2 **52:**4 **53:**16 **56:**12 **57:**21 **60:**14,16 **61:**15 **71:**25 **73:**10 **76:**5,11,13,23
hasn't [2] **27:**12 **76:**12
have [67] **6:**14 **8:**1 **9:**10,13,14,18,22 **11:**3,19,23,25 **13:**12,16,17,24 **14:**6,6 **15:**18 **17:**2,8 **21:**22 **22:**21 **25:**8 **26:**17 **28:**3 **31:**13 **34:**22 **35:**21 **39:**19 **40:**7,19 **44:**10,20 **45:**3 **46:**11,18 **47:**2,10 **48:**5,8 **49:**4,22 **50:**10 **53:**3,7 **54:**19 **55:**14,18 **59:**3 **60:**6,13 **61:**14 **64:**2 **66:**4,12,14 **68:**9,14 **70:**16,17 **71:**20 **72:**15 **73:**7,19,19 **74:**7 **75:**6
having [1] **41:**9
he [8] **19:**9,17 **32:**11,21 **54:**22 **60:**24,24 **62:**2
hear [1] **54:**3
heard [4] **59:**7,16 **64:**9 **66:**14
heavily [3] **67:**17,18,20
heightened [1] **39:**2
held [3] **38:**10 **45:**23 **57:**11
he'll [2] **10:**23 **19:**13
help [1] **10:**24
helpful [1] **42:**16
helps [1] **23:**2
here [51] **5:**5,20 **6:**13,18 **7:**11,14 **9:**3 **12:**11 **14:**12 **17:**14 **18:**3 **19:**15 **20:**19,22 **21:**15 **22:**5,7 **23:**8 **26:**4 **27:**15 **28:**4,19 **29:**15 **30:**18 **31:**1,22 **32:**7,12,23 **33:**11 **34:**4 **35:**17 **37:**23 **39:**8,13 **44:**1 **45:**15 **49:**13,23 **50:**17 **51:**7 **55:**18 **58:**8 **60:**4 **63:**9 **64:**7 **68:**11 **75:**7 **76:**2,10,24
he's [1] **76:**14
high [1] **70:**19
higher [3] **19:**13 **66:**8 **70:**10
him [1] **57:**9
his [6] **22:**11 **55:**5 **57:**6 **60:**24,25 **62:**1
historical [1] **25:**2
historically [2] **25:**3 **26:**24
history [11] **26:**17 **36:**23 **37:**19 **38:**12 **39:**12 **55:**14 **57:**15 **59:**23 **67:**11 **73:**13 **76:**14
honor [40] **5:**3,19 **6:**8 **7:**7,21 **8:**14 **9:**1,16,19 **11:**21 **14:**2,10,17 **15:**6,21 **16:**5,23 **19:**3 **20:**5 **21:**15 **24:**21 **26:**25 **27:**16 **28:**7 **29:**18 **30:**4,8,19 **31:**19 **32:**6 **34:**3 **35:**15 **36:**7 **38:**4 **62:**25 **63:**12 **69:**8 **72:**21 **74:**23 **76:**4
honors [3] **19:**16 **23:**21 **76:**25
honors' [1] **34:**8
honor's [1] **30:**10
how [12] **6:**20 **25:**22 **29:**15,16 **31:**21 **39:**12,22 **43:**8 **45:**3 **68:**6 **69:**17 **75:**10
however [2] **5:**24 **54:**11
hunter [10] **25:**22,24,24 **26:**4,6,11 **52:**22,22 **72:**10,11
hypothetical [2] **50:**6,8

I

i'd [1] **71:**4
idea [5] **12:**8 **40:**25 **53:**17,18 **68:**9
identifying [1] **70:**7
if [52] **5:**3 **7:**12 **8:**4,7 **10:**23 **11:**17,23 **12:**20 **13:**16 **14:**18 **15:**5 **18:**18,20 **19:**6,11,16 **20:**14 **21:**23 **23:**4,17 **25:**11 **26:**1,9 **27:**13 **31:**11,12,21,22 **32:**6,13,22 **39:**14 **43:**1 **44:**6,8,17 **45:**14,14 **46:**25 **47:**5 **49:**13 **53:**23 **57:**18 **62:**14 **64:**19 **70:**12,16 **73:**14,18 **75:**6,8 **76:**18
ii [1] **5:**14
iii [3] **5:**12,15 **59:**5
i'll [2] **55:**22,22
i'm [24] **10:**6 **15:**5,5 **16:**9 **17:**10 **19:**23 **20:**14 **24:**19 **25:**21,21 **26:**5,22 **27:**17,17 **32:**22 **44:**7,19 **51:**2 **54:**3 **65:**20,21 **68:**4,24 **69:**13
immunity [1] **38:**25
implausible [2] **40:**19 **41:**11
implication [5] **38:**5 **49:**12 **55:**21,23,25
import [2] **21:**23 **65:**5
important [1] **12:**15
importation [1] **21:**17
impose [4] **11:**18 **58:**10 **75:**6,8
imposed [11] **6:**23,25 **7:**6,10,12 **10:**17 **31:**21 **32:**3 **46:**16 **47:**23 **48:**9
imposing [1] **59:**25
imprisonment [10] **6:**23,25 **7:**6,9,11 **41:**23 **44:**23 **46:**16 **53:**6 **55:**12
improperly [1] **63:**25
include [2] **45:**22 **53:**6
included [1] **6:**12
includes [2] **15:**13 **25:**20
including [1] **40:**13
incorporate [1] **30:**13
incorporates [1] **40:**12
incorporating [1] **42:**5
incorrect [1] **46:**7
indeed [1] **7:**7
independent [1] **65:**18
indicate [2] **13:**20 **50:**12
indicated [1] **22:**25
indicates [2] **17:**23 **37:**5
indicating [2] **18:**4 **25:**10
indication [16] **7:**18 **8:**19 **12:**13 **13:**5,19 **16:**9 **17:**5,13 **19:**8 **30:**23 **34:**13 **37:**23 **42:**22 **43:**8 **73:**6 **76:**2
indications [1] **42:**2
individual [1] **25:**14
inferred [3] **14:**25 **15:**4,20
injustice [2] **19:**4 **20:**20
instance [3] **38:**19 **43:**11 **46:**22
instead [4] **19:**17 **41:**11,17 **63:**15
instructed [1] **70:**8
instruction [2] **31:**20 **75:**11
insufficient [1] **12:**20
intend [3] **51:**12 **58:**21 **68:**1
intended [9] **21:**22 **29:**3 **33:**16 **42:**3 **57:**12 **60:**6 **63:**13 **64:**8 **74:**14
intent [13] **11:**2 **18:**3 **22:**22 **31:**24 **37:**6 **50:**12 **58:**5 **62:**16 **69:**21 **71:**14,15,17 **73:**15
interchangeably [1] **12:**8
interested [1] **54:**3
interpret [4] **13:**23 **24:**4 **28:**21 **58:**23
interpretation [10] **26:**8 **38:**17,19 **40:**18 **42:**9,11 **50:**3 **51:**7 **52:**25 **58:**18
interpreting [1] **28:**22
intertwined [2] **40:**1,14
into [7] **42:**13 **48:**10 **49:**14 **52:**3 **57:**22 **64:**17 **69:**23
introductory [1] **49:**19
involve [1] **37:**14
involving [1] **5:**17
irrational [1] **58:**21
isn't [9] **5:**5 **20:**4 **31:**2 **55:**20 **60:**3 **61:**1 **67:**15 **73:**17,18
issue [5] **9:**21 **35:**10 **45:**15 **56:**8 **60:**8
issued [1] **26:**6
its [13] **14:**20 **25:**7 **33:**14 **37:**2 **40:**13 **41:**2 **45:**17 **46:**24 **47:**7 **49:**18 **58:**5 **63:**16,17
it's [42] **8:**6 **9:**22 **11:**23 **12:**3,15 **13:**10 **14:**3,7,8,19 **15:**23 **16:**4,14,23,25 **17:**22 **22:**24 **25:**5 **27:**10,13 **29:**20 **30:**1,5,8 **31:**14,14 **36:**1 **43:**2,19 **44:**22 **45:**16 **48:**22 **52:**19,20,21 **58:**1 **59:**21 **65:**20 **67:**19,19 **74:**2 **75:**7
itself [4] **13:**4 **39:**10 **52:**17 **53:**19
i've [2] **20:**12 **39:**18

J

j [41] **6:**11 **7:**13 **10:**19 **12:**23 **13:**3,6 **14:**4,20 **19:**17,21 **22:**7 **30:**13,14 **31:**6 **32:**3 **33:**19,23 **34:**7,20,22 **37:**14 **44:**10 **47:**2 **48:**12,17 **49:**14 **55:**19 **60:**5,9,11 **63:**15,21 **64:**3,4,8,14 **65:**17,22 **69:**2 **71:**2 **76:**20
j)(1 [3] **64:**20,21 **70:**13
j)(2 [5] **64:**22,23 **66:**3,5 **70:**

17
j)'s [1] **33:**16
jackson [36] **9:**5,17,20 **10:**4, 7,14 **33:**9,10,22 **34:**5,16 **35:** 6,8,20 **36:**10 **38:**20 **45:**19 **46:**10,14,25 **56:**19 **60:**3,12 **61:**1,12 **62:**22 **63:**2,8 **64:**16, 19,25 **65:**13,19 **66:**2 **69:**23 **74:**21
jackson's [1] **47:**16
jail [2] **18:**19 **20:**15
jeopardy [34] **9:**22 **12:**9 **18:** 13 **25:**15,19 **27:**23 **28:**8 **30:** 20 **34:**12 **40:**15 **41:**1,5 **42:** 10 **46:**3,7 **51:**8,22,23 **52:**17, 24 **53:**19,25 **54:**6,24 **59:**10 **60:**15 **61:**4,14 **68:**25 **72:**2 **73:**10,21 **75:**7 **76:**1
joinder [2] **26:**18 **55:**15
judge [11] **15:**23,25 **16:**8 **20:** 14 **32:**10,20 **33:**5 **36:**4 **67:** 17 **68:**7,8
judges [3] **35:**22 **70:**2,3
judges' [1] **36:**2
judgment [3] **57:**3 **58:**25 **76:** 25
judicial [1] **41:**18
jurisprudence [2] **16:**24 **18:** 14
jury [1] **6:**11
just [32] **12:**3 **16:**5 **18:**9 **24:** 18 **25:**25 **26:**22 **27:**13 **32:** 15,16 **33:**10 **36:**6 **39:**18 **44:** 15 **47:**8 **49:**19,25 **51:**18 **52:** 8,10 **61:**1 **62:**1 **63:**4 **64:**12 **65:**19,22 **68:**4 **69:**5 **71:**4,14 **72:**11 **75:**4,7

K

kagan [7] **23:**11 **48:**15,24 **49:** 2,9,24 **50:**24
kavanaugh [48] **6:**16,22 **7:** 19,22 **8:**10,22 **9:**9 **10:**2,6,9, 23 **28:**17,18 **29:**19,24 **30:**2, 5,11 **31:**4,11,23 **32:**9,25 **33:** 3,6,12 **39:**11 **42:**15,24 **43:**1, 5,23 **44:**6,15 **45:**5,8,11 **47:** 12 **48:**2 **56:**17 **62:**7,10 **63:** 20 **67:**14 **68:**3 **69:**4,9 **74:**19
kavanaugh's [1] **75:**15
keep [1] **30:**2
key [1] **20:**8
kill [3] **8:**8 **12:**21 **58:**20
killing [5] **13:**4 **20:**15 **30:**15 **66:**22 **67:**19
kind [13] **12:**7 **26:**8 **29:**22 **38:** 24 **39:**1,2 **41:**15 **42:**13,22 **47:**2 **50:**1 **56:**5 **68:**6
know [34] **5:**21 **6:**18,20 **12:** 11 **13:**11 **14:**6 **18:**20 **26:**1, 10,14,20 **27:**4 **28:**6 **29:**12, 14,21 **30:**13 **31:**6,13 **32:**16, 20,22 **33:**4 **34:**6 **35:**2 **44:**21 **51:**1 **52:**21 **56:**5 **61:**2,6 **68:** 5,18 **72:**8
knows [1] **31:**12

L

l [1] **57:**1
landed [1] **72:**8
lane [1] **25:**7
language [33] **7:**8 **8:**15,16 **17:**17,22,22,23 **21:**12 **37:**5 **38:**7 **39:**2 **43:**14,16,17,18 **44:**1,3,16 **45:**9 **46:**20 **47:**2, 5,8 **48:**19 **49:**4,5,12,15,19 **59:**14 **61:**2 **75:**16 **76:**9
large [1] **62:**17
largely [1] **51:**10
larsen [77] **5:**2,13,16 **6:**21 **7:** 7,21,24 **8:**13 **9:**1,16,19 **10:**8, 14 **11:**7,11,16 **12:**5 **14:**2,8 **15:**2,5,10,21 **16:**14,18,22 **17:**19 **19:**1 **20:**3,5,7 **21:**4,7, 10,14 **22:**20,24 **23:**7,10,14, 20 **24:**8,12,15,19 **25:**1,24 **26:**24 **27:**3,20,24 **28:**1,5,13, 14 **29:**17,20 **30:**1,3,7,12 **31:** 10,18 **32:**1,15 **33:**2,4,21 **34:** 2,6 **35:**1,7,15 **36:**7 **74:**25 **75:**1,3
larsen's [1] **52:**15
last [3] **32:**9 **55:**22 **62:**8
later [3] **8:**11 **39:**22 **52:**1
laughter [4] **51:**3 **72:**20,25 **73:**3
law [10] **7:**4,5 **12:**7 **17:**10 **26:** 11 **32:**21 **44:**24 **47:**14 **52:** 20 **75:**18
laws [1] **23:**23
lawyer [1] **39:**23
least [6] **53:**11,20 **54:**20 **56:** 1 **62:**17 **68:**8
leave [1] **55:**22
left [1] **40:**3
legal [1] **68:**4
legislating [1] **70:**1
legislature [2] **25:**5 **28:**10
legislatures [1] **25:**3
length [2] **11:**5,8
lenity [7] **24:**17,20,22,23 **39:** 6,7 **52:**12
less [3] **20:**1 **36:**5 **74:**8
lesser [2] **6:**12 **25:**20
lesser-included [10] **5:**25 **6:** 6,15 **14:**24 **15:**15 **16:**1 **23:** 17 **26:**16 **36:**20 **49:**21
lesser-punished [1] **22:**16
let [7] **18:**22 **26:**13 **47:**20 **52:** 7,8,8 **73:**1
lethal [3] **6:**15 **13:**17 **76:**16
lethally [1] **14:**21
let's [1] **49:**6
liberty [1] **52:**14
life [7] **12:**24 **13:**7 **19:**18 **27:** 1 **41:**23 **54:**6 **76:**20
light [1] **19:**22
like [26] **5:**3 **7:**25 **12:**14,17, 20 **23:**4 **25:**22 **35:**10 **44:**22 **48:**22,25 **56:**6 **58:**4 **60:**19 **68:**7,7 **70:**10,16 **71:**4 **72:**7, 10 **73:**12 **74:**3,6,6 **76:**9
likely [2] **20:**17 **47:**25
likewise [1] **75:**20
limb [1] **54:**6
line [1] **16:**23
linguistic [1] **71:**10
literally [1] **21:**16
litigated [1] **23:**15
litigating [1] **32:**17
little [1] **53:**17
loaded [1] **8:**7
locate [1] **28:**24
long [1] **52:**4
longstanding [1] **41:**5
look [11] **12:**17,17 **13:**10,24 **14:**8 **18:**1 **22:**25 **42:**18 **68:**2 **73:**12,14
looked [4] **21:**11,21 **60:**15 **68:**5
looking [4] **23:**1 **38:**11 **42:**8 **54:**22
lora [33] **10:**10,12 **13:**2,14 **28:**21,22,23 **29:**9,14,16,17, 22 **30:**10 **32:**16,19 **33:**11,13, 15 **39:**13 **40:**5,9,23,25 **41:**7 **42:**1,9 **47:**19 **58:**13 **63:**12, 13 **68:**21,22 **76:**18
losing [1] **27:**1
lot [1] **8:**9
low [1] **70:**18
lower [6] **16:**7 **28:**18 **34:**23 **40:**21 **41:**10,10

M

machine [6] **5:**4,8,17 **6:**10 **50:**5 **66:**11
made [4] **37:**4 **40:**7 **52:**1 **59:** 17
magic [2] **59:**15 **62:**2
make [16] **7:**23 **8:**20 **16:**16, 20,21 **18:**25 **22:**15 **26:**23 **31:**14 **39:**25 **44:**19 **49:**4 **50:** 15 **62:**11 **70:**9 **75:**5
makes [8] **12:**3 **16:**18,22 **33:** 12 **39:**18 **44:**11 **58:**5,9
making [1] **65:**22
mandate [5] **41:**13 **58:**9 **61:** 17,21 **63:**22
mandates [1] **41:**20
mandatory [4] **37:**8 **41:**12 **58:**20 **59:**25
manslaughter [8] **5:**7 **41:**17, 24 **64:**22 **65:**3,8,24 **66:**5
many [2] **27:**9 **71:**24
marijuana [2] **21:**17,23
massachusetts [1] **27:**8
matter [4] **34:**11 **44:**16 **47:**21 **67:**22
matters [1] **69:**10
matthew [1] **75:**1
max [1] **16:**4
maximum [8] **15:**12,14 **16:**2 **18:**16,21 **19:**13 **35:**12 **66:**4
may [12] **5:**22,22 **6:**8 **7:**11 **13:** 9 **14:**15 **17:**7,7 **19:**2 **36:**18 **57:**5 **67:**3
maybe [5] **5:**8,9 **10:**22 **24:**21 **70:**7
mccloud [29] **56:**23 **57:**1,4 **59:**6 **60:**12 **61:**8,20 **62:**8,13, 25 **63:**3,11 **64:**18 **65:**10,16 **66:**1 **67:**21 **68:**13 **69:**8,12 **70:**11 **71:**22 **72:**1,14,21 **73:** 1,4,25 **74:**23
me [12] **9:**8 **10:**23 **18:**22 **26:** 13 **39:**11 **44:**17 **45:**25 **47:** 20 **51:**19 **52:**8 **60:**4 **73:**2
mean [17] **6:**19 **7:**2 **8:**11 **28:** 19 **35:**11,21 **38:**22 **44:**15 **45:**20 **47:**7,13 **53:**21 **60:**6 **61:**2 **69:**25 **71:**25 **74:**1
meaning [1] **54:**23
meaningful [1] **38:**21
means [2] **13:**23 **58:**18
meant [4] **14:**7 **33:**22,24 **48:** 24
merge [1] **69:**3
might [8] **38:**24 **48:**10 **50:**3 **52:**16 **53:**6 **54:**2 **55:**6 **60:**6
mind [1] **68:**9
minimum [11] **8:**17 **12:**19 **13:** 11,12,16 **17:**8 **35:**3,9 **37:**8 **66:**6 **76:**7
minimums [2] **41:**12,19
minutes [1] **22:**10
missing [1] **27:**15
missouri's [1] **25:**25
mm [1] **21:**7
mm-hmm [5] **30:**11 **43:**5 **49:** 8 **55:**8,10
months [1] **22:**12

more [12] **11:**6 **12:**21 **15:**13 **17:**14,14 **21:**14 **48:**13 **57:**20 **66:**12 **71:**9 **73:**22,23
most [6] **20:**17 **26:**25,25 **55:**13 **61:**10 **64:**8
mouth [3] **53:**10,12 **56:**3
ms [45] **36:**13,17 **38:**4,22 **40:**9 **42:**21,25 **43:**6,25 **44:**14,25 **45:**7,10,13,21 **46:**13,19 **47:**4,25 **48:**4,18 **49:**1,8,11,25 **51:**10,16,20 **52:**9 **53:**14,23 **54:**4,9,13,18,21 **55:**3,8,10 **56:**4,14,20 **64:**10 **65:**1 **68:**15
much [4] **8:**11 **26:**17 **66:**8,12
multiple [11] **8:**2 **12:**14 **13:**1 **14:**23 **15:**18 **17:**18,24 **20:**19 **44:**19 **55:**6 **63:**23
multi-state [1] **21:**18
murder [14] **6:**2,2,4,5 **19:**25 **20:**2 **41:**16,22 **57:**9,10 **65:**3,8,24 **70:**13
must [5] **17:**14 **23:**18 **57:**25 **62:**3,4
my [5] **43:**7 **59:**7 **61:**15 **64:**9 **69:**16

N

namely [1] **17:**21
narrowed [1] **63:**25
narrowly [1] **73:**22
natural [3] **54:**17 **55:**21,23
nature [2] **21:**13 **47:**24
necessarily [4] **5:**2 **6:**12 **26:**19 **43:**9
necessary [4] **7:**23,24 **35:**24 **49:**12
need [6] **11:**3,6 **12:**21 **19:**12 **71:**20 **76:**20
needed [1] **47:**2
needs [1] **17:**4
never [1] **68:**25
new [2] **31:**8 **32:**23
next [1] **21:**25
no [46] **6:**20 **7:**5 **9:**1,2,2 **13:**5,18,18 **14:**11 **15:**21 **16:**8,14 **17:**14 **18:**3 **19:**7,20 **20:**10,20 **21:**12 **24:**19 **25:**18 **26:**21 **30:**21 **31:**18 **34:**14 **35:**4 **37:**22 **38:**4 **39:**18 **44:**12,23 **46:**16 **48:**18,19 **49:**5 **55:**15 **57:**24 **62:**20,25 **67:**12 **71:**21 **74:**17 **76:**2,13,14,21
normal [1] **51:**6
normally [1] **24:**3
not [78] **5:**2,9,19,22 **6:**3,13 **8:**18 **9:**24 **11:**4,21 **12:**3,19 **13:**13 **14:**19 **17:**12,22 **20:**2 **21:**10,14,22 **22:**11 **23:**8 **24:**21 **25:**6,12 **28:**10 **29:**10 **30:**13 **31:**3 **33:**17 **35:**9,24 **36:**1,8 **37:**11 **42:**20 **43:**9 **47:**25 **48:**22 **49:**10 **50:**11 **51:**6 **52:**19,23 **54:**6,25 **57:**14 **58:**21,25 **59:**9,15,20 **60:**16 **61:**13 **62:**3,14 **63:**4,14 **65:**20 **66:**17,24 **67:**4,23 **69:**1,5,13,21 **70:**19 **71:**9,24 **73:**11 **74:**2 **75:**7,12,19,21 **76:**9,23
note [1] **68:**18
noted [2] **32:**10 **70:**24
nothing [5] **10:**20 **26:**3 **32:**5 **36:**22 **68:**10
noting [1] **39:**18
notwithstanding [7] **7:**3,4 **17:**9 **44:**23 **47:**14 **75:**15,18
now [10] **14:**15 **17:**11 **29:**12,22 **40:**3 **52:**21 **53:**5 **55:**16 **59:**8 **66:**14
nowadays [2] **13:**10 **27:**5
number [2] **23:**22 **74:**9

O

object [3] **53:**10,15 **56:**5
obligations [1] **36:**2
obscure [1] **74:**13
observed [1] **27:**10
obstruction [1] **16:**1
obvious [1] **55:**25
obviously [1] **69:**25
occur [3] **22:**8 **48:**12 **50:**3
occurred [1] **33:**23
occurs [1] **65:**25
odd [7] **14:**15 **29:**21,25 **30:**1,6,8 **34:**18
off [1] **19:**21
offenders [1] **62:**18
offense [66] **5:**1 **6:**1,1,7,15 **7:**13 **9:**23 **11:**14,20,24 **12:**10,12 **14:**25 **15:**12,15 **16:**1,3,6,8 **18:**15,17,22,24 **25:**20 **28:**3,4 **34:**12 **35:**13 **36:**20 **39:**19 **40:**20 **42:**5 **43:**8 **45:**17 **46:**23,23,24 **48:**17,21 **49:**6,16,22 **51:**9,14 **52:**19 **54:**8,9,16 **55:**7,19,19,20 **58:**12 **60:**2 **61:**19 **62:**24 **63:**4,8,10,16 **65:**17,17,21,24 **73:**20 **74:**8
offenses [24] **19:**6 **23:**17 **26:**16,18 **37:**16 **39:**16 **40:**2 **41:**17,25 **44:**19 **45:**15 **50:**9,14,15,18 **54:**10 **55:**15 **58:**7,14 **59:**9 **66:**11,16,19 **69:**3
oh [1] **72:**21
okay [7] **11:**15 **29:**25 **39:**19 **42:**15 **46:**10 **49:**24 **69:**11
omitted [1] **37:**4
on [64] **6:**11,23,25 **13:**7 **14:**14,20 **17:**3 **19:**8 **21:**16,17,17,23 **23:**15 **24:**4,6 **25:**6,14,22,23 **26:**13 **28:**9,10 **29:**5,6 **30:**17 **31:**20 **32:**19 **33:**5,11 **34:**19 **36:**15 **37:**7,13 **38:**25 **39:**15 **41:**7 **43:**18 **45:**1 **47:**7,16 **48:**6 **53:**10,12,17 **56:**2 **58:**11,14 **59:**7,25 **62:**1,9,15 **63:**15,22 **64:**7,12 **67:**10 **68:**4,24 **69:**22 **70:**4 **74:**4 **75:**2 **76:**21
once [2] **26:**19 **54:**15
one [68] **5:**6,14 **6:**4 **8:**4 **12:**11 **13:**17 **15:**13 **16:**10,10 **17:**4 **18:**22 **19:**10,14 **21:**16,16,16,17,23 **22:**5,12,17 **23:**6,22 **25:**4,19,22 **26:**19 **28:**3,3 **31:**1,1 **32:**3,4 **34:**2,2 **35:**4,16 **36:**8 **39:**19 **40:**17,18 **48:**13 **51:**8 **52:**3,11 **53:**4,8 **54:**16,16 **55:**6,19,19,20,24,24 **57:**8,15 **58:**2 **64:**7 **65:**23 **67:**20 **68:**19 **73:**9 **74:**6 **75:**13,25 **76:**12,24
ones [1] **76:**8
one-size-fits-all [1] **57:**25
only [12] **11:**4 **18:**22 **20:**21 **23:**2 **25:**12 **30:**22 **35:**2 **45:**16 **46:**4,17 **62:**3 **75:**25
open [1] **40:**3
opening [1] **39:**6
operate [1] **69:**18
operating [1] **70:**23
operationally [1] **69:**22
operative [2] **7:**8 **69:**20
opinion [1] **39:**22
opinions [1] **74:**10
opportunities [1] **27:**10
opportunity [1] **26:**21
opposite [2] **36:**25 **72:**13
or [45] **5:**4,22 **6:**10 **9:**13 **10:**1,1,4 **11:**5,8,14 **13:**6 **17:**8 **19:**11,21,21 **22:**3,10,12 **26:**11 **36:**23 **41:**4,12,19 **43:**22 **45:**24 **48:**5,12,12,21 **49:**7 **50:**1 **53:**18,20 **54:**6 **55:**25 **57:**15 **61:**15 **65:**8,24 **66:**6 **67:**16 **73:**23 **74:**6 **76:**8,19
oral [6] **10:**10,12 **29:**9 **36:**14 **39:**13 **57:**1
order [1] **47:**3
ordered [1] **8:**2
ordinary [1] **70:**24
original [3] **49:**6 **53:**24 **54:**22
originally [1] **51:**20
other [33] **6:**25 **7:**3,5 **9:**8 **14:**5 **17:**9 **18:**20 **19:**9 **21:**18 **25:**18,23 **27:**11 **34:**21 **35:**22 **36:**2 **41:**25 **42:**24 **44:**24 **45:**4 **47:**14 **50:**11 **52:**16 **57:**15 **58:**4,12,25 **59:**7 **60:**1 **63:**4,8 **66:**11 **70:**19 **75:**18
others [2] **71:**21,24
otherwise [3] **40:**19 **46:**5 **58:**19
our [23] **5:**6,17 **14:**10 **18:**13 **20:**20 **23:**2 **26:**17 **30:**9 **32:**20 **38:**5 **40:**9,18 **42:**9 **43:**18 **50:**3 **51:**6 **53:**10,12,20 **55:**14,24 **56:**2 **59:**15
out [14] **18:**9 **25:**7 **30:**15 **53:**9,12 **55:**17 **56:**2 **59:**15 **62:**12 **67:**24 **68:**6,17,19 **70:**15
outside [1] **28:**25
over [2] **23:**3 **27:**6
overcome [2] **27:**15,19
overcoming [1] **42:**17
overlapping [1] **33:**20
overruled [2] **26:**9 **53:**2
own [7] **14:**20 **47:**7 **48:**21,25 **49:**18 **63:**16,17

P

page [1] **43:**18
part [7] **29:**15 **39:**5 **46:**8,9 **49:**17 **73:**9,18
particular [4] **13:**23 **35:**3 **72:**6,16
particularly [1] **74:**2
parties [1] **30:**22
passage [2] **14:**9,9
passed [2] **22:**18,23
past [1] **60:**16
pearce [5] **25:**21 **26:**12 **53:**3,21 **72:**13
peel [2] **15:**23 **34:**17
p-e-e-l [1] **15:**23
penalties [18] **23:**25 **30:**14,15 **34:**11 **37:**15 **40:**13 **41:**23 **42:**6 **58:**20 **64:**4,5 **65:**22 **69:**2,2 **70:**9,17 **76:**7,7
penalty [16] **12:**18,24 **14:**25 **15:**4,6,6,7,12,14 **16:**7 **18:**21 **29:**4 **41:**22 **63:**17 **64:**17 **71:**1
performed [1] **73:**10
perhaps [1] **5:**18
permits [2] **10:**25 **11:**9
person [9] **6:**23 **7:**1 **18:**10,11,15,18 **19:**5 **25:**8 **65:**6
perspective [2] **47:**21 **64:**1
petition [1] **60:**24
petitioner [9] **36:**16 **57:**6,17 **60:**20,23 **66:**14 **68:**18 **73:**6

75:2
petitioner's [5] **39:**5 **57:**12 **58:**17 **59:**16 **61:**25
phrase [2] **30:**24 **71:**10
phrased [1] **60:**23
phraseology [1] **20:**8
piece [1] **62:**16
pile [3] **17:**3 **19:**8 **30:**17
place [2] **14:**1 **19:**4
places [2] **23:**21 **41:**25
plain [1] **28:**7
plausible [2] **64:**19 **70:**12
play [2] **64:**17 **68:**6
please [2] **36:**18 **57:**5
point [14] **6:**17 **13:**8 **33:**12 **35:**17 **38:**2 **47:**17 **55:**5 **62:**9 **66:**16 **67:**15 **69:**16 **70:**22 **75:**15 **76:**21
pointed [7] **19:**19 **31:**3,5 **59:**15 **68:**19 **76:**13,14
pointing [2] **9:**9 **47:**8
points [3] **36:**25 **40:**24 **75:**4
posited [1] **16:**5
position [9] **23:**2 **28:**20 **30:**9 **38:**20 **41:**6 **49:**3 **66:**24 **68:**24 **69:**14
posner [2] **15:**23 **16:**8
possess [1] **8:**4
possession [5] **6:**14 **8:**21 **11:**13 **13:**13,16
possibilities [1] **64:**6
possibility [2] **26:**14 **41:**8
possible [3] **26:**16 **52:**11 **69:**14
possibly [1] **21:**22
post-lora [1] **69:**10
posture [1] **6:**13
powerful [1] **66:**17
powers [3] **23:**23 **24:**13 **52:**13
practical [1] **68:**16
practice [2] **25:**2 **48:**1
precedent [3] **57:**24 **62:**6 **71:**5
precedents [5] **53:**21 **55:**24 **56:**10 **69:**19 **72:**3
precise [1] **30:**18
precisely [3] **9:**16,19 **28:**1
predicate [13] **37:**3,4,16 **45:**18 **46:**24 **48:**17,21,22,25 **49:**6 **62:**24 **63:**5 **74:**7
pre-existing [1] **65:**2
premise [1] **23:**16
premises [1] **42:**13
present [2] **14:**1 **27:**4
presented [3] **5:**5 **34:**19 **60:**24
presumably [1] **67:**19
presume [2] **51:**18,19
presuming [1] **51:**11
presumption [20] **23:**19 **24:**9 **25:**17 **26:**9 **27:**13,14,18 **36:**21,24 **37:**24 **42:**17 **51:**5,7 **52:**13,20,21 **53:**13,15 **56:**11 **57:**23
presuppose [2] **32:**7,8
pretty [1] **72:**4
prevail [1] **32:**14
prevent [2] **67:**16,16
principle [1] **25:**13
principles [1] **53:**24
prior [1] **68:**21
prison [5] **12:**22,24 **13:**7 **19:**18 **76:**20
probably [1] **61:**10
problem [7] **14:**18,18,19 **39:**23 **61:**14 **75:**7 **76:**1
procedural [1] **75:**11
prohibits [1] **25:**19
prolong [1] **44:**8
promise [1] **55:**23
proper [1] **37:**10
proportionally [1] **70:**3
proposal [2] **12:**25 **76:**16
prosecution [2] **55:**13,15
prosecutions [1] **54:**25
prosecutors [1] **67:**24
protect [1] **19:**4
protected [1] **25:**15
provide [2] **14:**23 **35:**23
provided [1] **43:**21
provision [14] **7:**4,5 **8:**24 **9:**2,8 **13:**23 **17:**9 **37:**12 **43:**7 **44:**24 **47:**14 **58:**10 **70:**13 **75:**18
provisions [9] **13:**25 **35:**22 **37:**9,9 **43:**2 **59:**24 **63:**14 **64:**22 **68:**2
proxy [1] **71:**14
punish [7] **14:**20 **30:**14 **56:**12 **60:**9 **62:**22 **66:**19 **75:**12
punished [9] **7:**12 **12:**9 **19:**13,16,20 **28:**3 **40:**21 **52:**18 **57:**13
punished/convicted [1] **61:**18
punishing [2] **23:**23 **76:**11
punishment [59] **8:**5 **12:**4,6 **13:**1 **17:**7 **18:**17 **19:**9 **25:**6 **26:**2,3,14,22 **31:**9 **33:**16,18,25 **34:**2,15,21,23 **38:**13 **40:**21 **41:**10 **43:**10,20,21 **44:**5 **45:**11,13,17,20,21 **46:**8,11 **49:**10,15 **53:**5 **57:**19 **58:**2,3,11,11 **59:**25 **60:**1,5 **61:**6,9,11,22 **62:**3,20,23 **67:**1,3,9 **71:**18 **72:**6 **73:**16 **76:**3
punishment/conviction [1] **46:**18
punishments [39] **8:**3,9 **9:**7 **11:**17 **12:**14 **14:**24 **15:**19 **16:**25 **17:**8,18,25 **25:**19 **26:**15 **28:**11 **36:**22 **37:**2,18,22 **43:**15 **45:**24 **46:**22 **47:**7 **48:**16,20 **50:**13 **51:**8,13,24 **53:**4,5,8 **54:**14,16 **55:**3,6,25 **61:**5 **65:**2 **76:**24
purpose [3] **58:**6 **59:**23 **73:**13
purposes [9] **30:**21 **34:**12 **39:**17 **42:**10 **46:**3,7 **50:**9,16 **73:**21
push [2] **53:**17 **67:**23
put [9] **24:**6 **31:**13 **44:**10 **49:**14,18 **54:**6 **72:**24 **73:**1 **76:**20
putting [2] **24:**23 **44:**9

Q

question [45] **5:**5 **7:**11,13,15 **9:**14,20 **10:**18 **12:**12 **22:**15 **23:**13 **27:**3 **29:**11 **30:**18,23 **31:**22,24 **32:**4,8 **38:**17 **40:**11,15 **41:**2 **42:**19 **45:**2,2 **47:**20 **50:**5 **60:**3,13,15,23 **61:**21 **62:**15 **63:**9 **64:**13 **65:**20 **67:**6,23,25 **68:**15 **69:**20 **71:**5 **73:**20 **76:**10,10
questions [5] **34:**17 **37:**25 **40:**1,15 **59:**2
quite [2] **47:**17 **66:**17

R

raised [1] **66:**3
raises [1] **64:**13
raising [1] **61:**13
rape [2] **6:**1,3
rather [4] **14:**16 **19:**21 **22:**3 **74:**14
rationally [2] **58:**16 **65:**5
reach [1] **29:**22
read [4] **40:**5 **44:**21 **69:**19 **71:**7
reading [3] **20:**21,22 **45:**20
real [1] **47:**23
realistic [1] **36:**1
really [12] **26:**16 **35:**9 **39:**18 **46:**4 **48:**24 **64:**6 **67:**15 **68:**11 **69:**5,10 **70:**20 **73:**7
reason [3] **30:**7 **40:**17 **62:**20
reasonable [2] **20:**22 **47:**18
reasonably [2] **40:**4,5
reasons [2] **39:**18 **67:**11
rebuts [1] **36:**23
rebuttal [2] **74:**24 **75:**1
receive [3] **40:**21 **60:**5 **66:**25
received [2] **58:**12 **60:**2
receives [1] **64:**3
recognize [1] **5:**5
recognized [1] **76:**6
reconcile [3] **25:**22 **63:**19 **70:**21
refer [1] **54:**5
reference [1] **69:**5
referenced [2] **63:**20 **73:**4
referring [1] **5:**3
refers [1] **63:**4
regardless [1] **32:**12
regime [1] **13:**2
rehnquist [1] **74:**9
reinforced [1] **63:**24
reinforces [1] **29:**2
rejected [9] **12:**24 **13:**14 **32:**20 **40:**24,24 **42:**12 **53:**1 **57:**21 **76:**16
relationship [2] **40:**1 **60:**10
relative [2] **9:**11 **62:**23
relevance [1] **63:**12
relevant [3] **13:**25 **60:**2 **62:**16
relies [1] **37:**13
relying [1] **38:**25
remains [1] **74:**12
remand [1] **33:**5
remedy [1] **71:**2
remember [1] **12:**15
repeating [1] **51:**18
replicate [1] **30:**17
reply [1] **38:**6
require [6] **17:**7,7 **35:**23 **38:**2 **39:**1 **58:**22
required [3] **37:**21 **57:**20 **66:**7
requirement [5] **5:**21 **38:**7 **59:**16 **62:**2,6
requires [2] **10:**25 **22:**7
requiring [2] **8:**17,17
reserved [1] **30:**19
resist [1] **39:**4
resisted [2] **38:**5 **57:**8
respect [8] **50:**4 **59:**11 **62:**17 **64:**23 **65:**23 **66:**3,10 **72:**5
respectfully [1] **31:**19
respondent [1] **36:**15
response [2] **62:**13 **63:**5
responses [2] **60:**13 **62:**11
result [3] **20:**20 **36:**5 **58:**21
resulted [2] **27:**1 **65:**9
results [1] **40:**20
results-based [1] **50:**1
reverse [1] **76:**25
review [2] **20:**13,17

revisited [1] **56:**7
rico [1] **21:**6
right [39] **8:**11 **9:**17 **10:**15 **11:** 7,11,22 **14:**7 **15:**10 **20:**3,4 **22:**20 **23:**7 **24:**9 **25:**4 **26:**10 **28:**1,21 **30:**12 **32:**25 **33:**2,4, 21 **34:**25 **35:**5,6,15,20 **46:** 12 **47:**12 **52:**7 **55:**5 **59:**7 **67:** 22 **68:**13 **69:**4 **71:**25 **72:**14 **73:**6,25
rise [1] **40:**16
rises [1] **41:**1
rob [1] **57:**7
robbery [2] **49:**7 **57:**7
robbing [1] **22:**10
roberts [12] **17:**15 **18:**6 **20:** 23 **23:**11 **28:**16 **33:**7 **36:**11 **50:**19 **56:**16,21 **74:**15,24
robust [1] **72:**4
room [1] **24:**21
rooted [1] **52:**12
rule [6] **27:**6,11 **38:**3,25 **39:**7 **57:**22
ruling [1] **30:**10
run [14] **6:**24 **7:**6 **9:**10,12,13, 25 **11:**1,19,25 **31:**21 **44:**12 **46:**16 **61:**15 **75:**11
running [1] **21:**2
rutledge [7] **17:**11 **27:**10 **34:** 9 **75:**5,16,17,24

S

safeguard [1] **20:**11
safeguards [2] **19:**3 **20:**19
said [41] **6:**2,6 **8:**4,7,16 **13:** 18 **17:**12 **21:**22 **25:**11,17,18 **28:**23 **29:**1,3,21 **30:**9,13 **31:** 23 **32:**10 **34:**14 **39:**24 **41:**2 **42:**1 **43:**2,8 **44:**4 **46:**6 **52:** 21 **53:**2 **54:**19,22 **60:**24 **62:** 7,10 **67:**12 **68:**15 **72:**11,12 **75:**17,22,25
same [29] **5:**16 **7:**13 **9:**23,23 **10:**20 **12:**10 **16:**8 **17:**22 **19:** 7 **30:**20,22 **33:**19 **34:**12 **38:** 14 **41:**23 **44:**17 **46:**4 **47:**3 **49:**22 **50:**17,18 **51:**13 **52:** 19 **54:**7,9 **60:**23 **61:**19 **63:** 10 **74:**5
satisfactory [1] **72:**9
say [19] **5:**8 **12:**2 **17:**18 **27:** 25 **28:**23 **39:**16 **49:**6 **52:**10 **53:**22 **55:**24 **57:**18 **61:**6,14 **62:**3,4,9 **63:**3 **67:**14,23
saying [14] **9:**4 **11:**2 **13:**10 **17:**9 **29:**12 **31:**3 **33:**15 **40:**6 **47:**1 **62:**2 **65:**21 **69:**6 **76:**14, 15
says [14] **15:**6 **16:**8 **18:**18 **20:** 14 **25:**7 **28:**15 **31:**8,16 **32:**5 **43:**19 **52:**18 **58:**2 **61:**5 **65:**1
scale [2] **24:**5,6
scalia [1] **54:**22
scenario [17] **5:**7,19 **9:**3 **11:** 19 **16:**5 **17:**11 **18:**5 **19:**5,20 **21:**15 **22:**5 **23:**3 **33:**23 **34:**1, 17 **47:**3 **66:**4
scheme [7] **15:**1,4,7 **33:**18, 25 **63:**17 **69:**18
schemes [2] **29:**5 **57:**14
second [13] **28:**19 **29:**2,11, 21 **32:**9,12 **33:**1,13 **40:**4 **47:** 17 **57:**11 **69:**10 **70:**24
seconds [1] **22:**10
section [8] **7:**8 **36:**19 **41:**24 **57:**8,10 **58:**8,19,24
sections [1] **58:**13
see [4] **43:**12 **44:**1 **46:**20 **62:** 5
seem [2] **14:**15 **44:**17
seems [4] **9:**8 **44:**16 **68:**7,8
sees [1] **61:**11
sending [1] **16:**9
sense [8] **15:**13 **16:**17,19,21, 22 **18:**25 **22:**16 **39:**19
sent [1] **10:**25
sentence [38] **11:**5,18,19,25 **12:**6 **17:**10 **19:**22 **31:**21 **32:** 2,11,23 **36:**4 **37:**10 **41:**12, 19 **43:**7 **45:**3,22 **46:**15,17 **48:**9 **58:**9 **60:**22 **61:**7,9,15, 24 **63:**22 **67:**4,17 **69:**15 **70:** 3 **75:**8,10,19,20,22,23
sentenced [7] **13:**6 **14:**13 **20:** 1 **41:**9 **43:**9 **67:**20 **76:**19
sentences [11] **9:**10,24 **21:**1 **35:**23 **41:**21 **43:**4 **45:**4,25 **46:**1 **47:**22 **60:**25
sentencing [13] **10:**16 **35:**21, 25 **36:**2,4 **37:**9 **41:**14 **48:**7, 11 **57:**14 **67:**2,18 **70:**3
separate [15] **9:**12,15,22,25 **33:**18 **39:**16 **40:**2 **50:**9,15 **57:**12 **58:**7,7 **65:**17,20 **66:** 16
separated [1] **28:**25
separately [1] **57:**13
separation [3] **23:**22 **24:**13 **52:**12
separation-of-powers [1] **25:**12
seriousness [2] **13:**3 **42:**4
serve [1] **46:**5
serving [1] **46:**4
set [6] **23:**24 **30:**15 **54:**16 **55:** 24 **65:**2,8
sets [2] **53:**4,8
seventh [1] **15:**24
several [2] **21:**25 **28:**25
shall [6] **6:**24 **7:**6 **44:**12 **46:** 16 **75:**19,21
share [1] **37:**16
shiro [5] **25:**21 **26:**11 **53:**3, 22 **72:**13
shocked [1] **54:**2
shooting [4] **12:**25 **22:**7 **31:** 1 **76:**17
short [1] **17:**17
shot [1] **22:**9
should [23] **12:**25 **13:**1,7 **21:** 2 **31:**21 **38:**14,17 **39:**8,16, 22,25 **40:**7,16 **42:**20 **43:**8,9, 20 **44:**5 **54:**24 **56:**1 **58:**23 **75:**11 **76:**25
show [1] **11:**4
shown [3] **6:**9,10,11
shows [4] **57:**24 **62:**17 **63:** 13 **66:**18
side [2] **24:**23 **59:**7
sides [3] **53:**9,12 **56:**3
signaled [1] **33:**15
significant [1] **66:**13
silence [1] **7:**17
silencer [2] **5:**4 **6:**10
silent [1] **7:**16
similar [2] **44:**2 **59:**12
simple [3] **6:**14 **22:**13 **35:**17
simply [5] **18:**3 **31:**2 **63:**14 **69:**21 **72:**22
simpson [4] **8:**14,16 **63:**6,25
since [5] **14:**4 **23:**1 **53:**1,2 **72:**12
single [2] **22:**5 **66:**25
situation [19] **5:**17 **15:**19 **16:** 6 **19:**15 **21:**1 **22:**4,13 **23:**6 **26:**4 **34:**8,9,22 **35:**12 **36:**3 **65:**6 **69:**1 **70:**10,16 **76:**3
skilled [1] **19:**2
so [92] **5:**2,16,18 **6:**8,21 **7:**7 **8:**22 **9:**17 **10:**21 **11:**1,9 **12:** 12,19 **15:**5,7 **16:**4 **17:**1,19 **18:**15,22 **19:**1 **20:**5,6,9 **21:** 8 **22:**21 **23:**15 **24:**2 **25:**6 **26:** 10,18,22 **27:**3 **28:**21 **29:**14 **30:**22 **31:**3,10,10,11,18 **32:** 1,18,24 **33:**4,10 **35:**13 **36:**1 **37:**23 **38:**22 **40:**8,9 **42:**7,21 **43:**6,17 **44:**14,25 **45:**7 **46:**1, 19 **47:**25 **48:**8 **49:**2,22 **50:** 16 **51:**24 **53:**9,14 **54:**11,14 **56:**4 **60:**12,19 **63:**7,18 **64:**1 **66:**1,16 **67:**19 **68:**25 **69:**4,9 **70:**6 **71:**7,16 **72:**13,16,23 **76:**12,14,15
some [9] **20:**14 **38:**24 **39:**1,2 **42:**22 **51:**21,21 **67:**8 **71:**20
somebody [1] **20:**15
somehow [1] **14:**7
someone [13] **7:**12 **10:**18 **12:** 13,21 **13:**6 **14:**13,20 **19:**20 **36:**4,5 **58:**20 **66:**20 **69:**1
something [11] **7:**25 **13:**9 **22:** 11 **23:**4 **25:**9 **31:**13 **49:**7 **56:** 6 **61:**16 **68:**17 **70:**20
sometimes [3] **25:**17 **58:**1 **74:**13
somewhat [1] **54:**4
somewhere [1] **24:**25
sorry [4] **10:**6 **31:**7 **42:**25 **44:** 7
sort [3] **61:**1 **70:**14 **72:**8
sotomayor [15] **10:**21 **11:**8, 15,22 **20:**24,25 **21:**5,8,11 **22:**14,21 **23:**5,9 **31:**20 **50:** 23
sovereign [1] **38:**25
spanning [2] **21:**19 **22:**12
speak [5] **6:**17 **23:**18 **56:**2 **57:**20 **76:**9
speaking [6] **5:**20 **6:**3 **11:**4 **12:**3 **25:**3 **26:**25
speaks [3] **23:**18 **26:**4 **61:**24
special [1] **30:**24
specific [2] **45:**15 **46:**22
specifically [7] **28:**24 **32:**22 **37:**17 **39:**3,21 **63:**3 **76:**15
specified [1] **42:**20
spoken [2] **53:**9,11
stack [1] **11:**17
stacked [2] **48:**22 **60:**7
stand [2] **63:**15 **76:**1
standard [2] **41:**16 **59:**20
starts [1] **7:**3
statement [2] **38:**3,24
states [1] **61:**5
status [2] **71:**5 **72:**4
statute [21] **8:**1,15,20 **12:**2 **13:**19 **15:**7 **19:**12 **20:**21 **21:** 13 **22:**18,22 **38:**8 **42:**11 **47:** 11 **49:**13 **58:**2,4 **70:**19 **75:** 16,17,20
statutes [13] **9:**3 **12:**16 **17:**7 **21:**21 **24:**4 **34:**4,10 **35:**17, 19 **57:**14 **75:**22 **76:**6,14
statutory [20] **18:**12 **26:**7 **35:** 22 **36:**23 **38:**11,16,18 **39:**3, 9 **40:**10,25 **42:**3 **51:**6 **52:**3, 25 **58:**6 **59:**12 **69:**17 **71:**12 **73:**12
still [4] **19:**17 **26:**11 **42:**10 **71:**19
stop [2] **52:**8 **64:**21

strange [1] **13:**9
strictly [2] **5:**20 **6:**3
strong [1] **73:**5
structural [1] **37:**13
structure [7] **36:**23 **38:**12 **57:**15 **58:**6 **59:**23 **67:**11 **73:**13
structured [1] **45:**3
subject [6] **13:**1 **19:**9 **29:**4 **57:**13 **59:**10 **63:**17
subsection [8] **6:**24 **7:**10 **42:**6 **46:**12,15 **49:**14,17,19
subsections [2] **29:**1 **37:**15
subset [1] **62:**18
substantive [3] **21:**6 **71:**9 **75:**12
successive [3] **54:**25 **55:**13, 14
succinctly [1] **39:**24
such [5] **19:**1,1 **43:**21 **61:**23 **74:**13
sufficient [5] **8:**18 **30:**16 **35:**24 **47:**6 **52:**6
suggest [6] **51:**22 **59:**17 **64:**10 **69:**20 **71:**8 **74:**1
suggested [1] **50:**2
suggesting [2] **38:**23 **65:**20
suggestion [2] **14:**11 **73:**7
suggests [2] **56:**6 **73:**15
supercharged [1] **63:**14
superfluity [2] **47:**10,13
superfluous [1] **47:**9
supervised [1] **53:**7
supervisory [1] **55:**12
supplant [1] **33:**17
supplement [1] **33:**17
supplemental [1] **32:**19
support [3] **36:**16 **57:**3,16
supporting [1] **40:**6
suppose [4] **15:**8,9 **18:**10 **32:**13
sure [5] **42:**25 **52:**9 **53:**23 **62:**11 **70:**9
suspect [1] **67:**20
suspend [2] **17:**10 **75:**19
suspended [2] **75:**21 **76:**8
system [1] **70:**1

T

table [1] **64:**7
take [9] **38:**18 **39:**11 **42:**4 **47:**15 **48:**10 **66:**16 **69:**23 **70:**22 **71:**1
talk [2] **28:**21 **46:**14
talked [3] **10:**3,10 **23:**21
talking [5] **12:**11 **35:**10 **46:**15 **61:**16 **68:**10
talks [1] **12:**5
targeting [1] **58:**7
tease [1] **55:**17
telling [1] **14:**3
tension [1] **56:**1
term [11] **6:**20,25 **7:**5,9,11 **14:**16 **41:**22 **44:**12,23 **46:**16 **53:**6
terms [2] **47:**22 **70:**4
test [1] **60:**10
text [18] **18:**1,3 **20:**22 **36:**23,25 **37:**5 **38:**8,11 **39:**3,9 **42:**3 **49:**13 **54:**17 **57:**15 **59:**12 **67:**10 **73:**9 **76:**13
than [16] **11:**6 **12:**21 **14:**16 **20:**1 **34:**23 **35:**24 **36:**5 **40:**22 **41:**10 **59:**5 **61:**17 **66:**9 **73:**22,23,24 **74:**14
thank [15] **17:**15 **18:**6 **28:**12 **33:**6 **36:**10,11,17 **50:**19 **56:**14,20,21 **57:**4 **74:**22,23 **75:**3
that'll [1] **47:**22
that's [63] **5:**14 **6:**12,13 **7:**2,2,13 **8:**19 **9:**17,21 **13:**20 **18:**2 **19:**15 **21:**2 **22:**9 **23:**7 **25:**10 **27:**15 **28:**1,5 **29:**24 **31:**22 **32:**1,4,25 **35:**9,15 **36:**8 **39:**19 **42:**15 **43:**23,25,25 **44:**2,6,8 **45:**2,5,23 **46:**13,19 **47:**4,9 **48:**2 **51:**18 **52:**5,6 **55:**1,9 **59:**6 **60:**22 **63:**12,16 **64:**9 **68:**13 **69:**16 **70:**19 **71:**2 **72:**3,11,14,18 **73:**25 **75:**11
their [1] **56:**3
them [7] **16:**10 **19:**8 **35:**23 **50:**15 **62:**12 **67:**16 **75:**25
themselves [2] **30:**16 **45:**25
then [19] **16:**16 **18:**21 **21:**24 **23:**1 **39:**21,22 **40:**8 **41:**7 **47:**7 **49:**14 **50:**10 **52:**5,5 **53:**2 **65:**13 **66:**1,10,22 **75:**9
there [62] **5:**25 **9:**1,2 **12:**12 **13:**9,16 **14:**11 **15:**22,25 **17:**13,14,24 **18:**3,10 **19:**3 **20:**8,11,19,25 **21:**12,12,16 **22:**4 **25:**8,18 **26:**21 **30:**21,23,24 **31:**2 **33:**18 **34:**3,13 **37:**18 **38:**7,24 **39:**5 **40:**12 **41:**3 **42:**2 **48:**16 **49:**23 **51:**20,21,24 **52:**8 **55:**5,15,16 **59:**13 **60:**16,21 **61:**3,22 **62:**19 **64:**6 **65:**1 **67:**3,12 **69:**7 **71:**25 **72:**3
therefore [1] **26:**8
there's [21] **5:**10 **10:**16 **13:**5,18 **14:**11 **17:**21 **19:**7 **20:**16 **37:**22 **48:**19 **49:**1,5 **51:**5,7 **55:**20 **57:**24 **62:**20 **67:**18 **76:**1,2,21
these [18] **9:**2,15 **12:**6 **30:**19 **34:**19 **39:**16 **40:**2,19 **41:**11 **50:**8,8 **53:**16 **59:**24 **63:**13 **64:**11 **66:**19 **68:**20 **76:**13
they [24] **6:**11 **12:**17 **17:**3 **19:**7,12 **23:**5,24 **28:**15,23 **30:**22 **31:**6,12,13,13 **33:**20 **34:**10,10,11 **42:**20 **43:**1 **44:**20,21 **57:**18 **59:**8
they're [9] **5:**9 **12:**20 **28:**20,20,22,25 **43:**3 **44:**9 **48:**22
they've [1] **31:**5
thing [2] **28:**6 **62:**8
things [3] **5:**3 **44:**17 **73:**12
think [94] **7:**23 **10:**11,22 **11:**2 **12:**15 **14:**3,8,10,22 **15:**2,17 **16:**14,18,22 **18:**1 **20:**7 **22:**24 **29:**24 **30:**1,5,8 **31:**4 **36:**1 **38:**6,14,22 **39:**1,7,10 **40:**4,23 **42:**7,12,21 **43:**6,12,17 **44:**10,21,25 **45:**21 **47:**17,25 **48:**8,11,13,15 **49:**2,11 **50:**16 **51:**10,20 **52:**6,11 **53:**18,23 **54:**14,18,21 **56:**5 **59:**6,11,22 **61:**8,20,23,25 **62:**14,20 **63:**11,18 **64:**2,9,18 **65:**4,11 **66:**2,18 **67:**10,21 **68:**13,17,20 **69:**16 **70:**11 **71:**2,19,23 **72:**1 **73:**5,14,25 **74:**8,12
thinking [2] **25:**21,21
thinks [1] **35:**4
third [1] **62:**13
thomas [7] **5:**11,14 **18:**7 **38:**1 **50:**21 **59:**3 **74:**16
thomas's [1] **50:**4
those [23] **5:**8 **9:**13,13,25 **11:**17 **25:**23 **28:**7 **37:**9,16 **40:**15,24 **43:**13 **44:**16 **48:**14,20 **57:**9 **59:**8 **65:**6,14 **66:**15 **70:**13 **75:**21,22
though [2] **42:**17 **71:**20
thought [9] **10:**2,9 **13:**6 **34:**20 **40:**13,17 **47:**5 **60:**8 **62:**18
three [2] **60:**13 **62:**11
through [7] **39:**12 **41:**18 **42:**8 **44:**20 **49:**4 **55:**13 **58:**5
thumb [4] **24:**4,6,7 **57:**22
time [9] **14:**1,9,9 **20:**1 **22:**22 **32:**21 **46:**4 **47:**10 **72:**24
times [2] **58:**4 **63:**23
timing [2] **11:**5,9
today [3] **12:**17 **13:**24 **60:**9
together [2] **14:**7 **40:**16
told [2] **32:**22 **70:**2
too [1] **24:**21
took [1] **52:**14
tool [3] **26:**7 **52:**24 **71:**12
toolkit [1] **38:**18
top [7] **13:**8 **14:**14 **19:**8 **58:**11,14 **59:**25 **76:**21
totally [1] **23:**14
traditionally [1] **76:**5
trafficking [2] **11:**14 **43:**22
treated [1] **26:**7
treating [1] **52:**23
trench [1] **25:**13
tried [1] **19:**6
triggers [1] **36:**21
trouble [1] **64:**14
true [3] **58:**1 **59:**13 **74:**12
truly [1] **64:**24
try [2] **26:**19,20
trying [4] **28:**21 **63:**19 **64:**17 **65:**5
turn [1] **71:**4
twice [7] **12:**10 **28:**3 **52:**18 **54:**5,20 **75:**12 **76:**11
two [38] **8:**1 **9:**7,7,11,14,22,25 **10:**25,25 **15:**16 **17:**6,19 **18:**16,20 **21:**15 **25:**19 **30:**19 **40:**1,15,24 **43:**13 **44:**17 **50:**9,13 **51:**8 **52:**11 **53:**3,4,8 **60:**25,25 **64:**6 **65:**14,14 **69:**3 **75:**6,9 **76:**23
typically [2] **58:**15 **60:**16

U

u.s [1] **15:**23
ultimately [5] **19:**16 **40:**3 **66:**18 **67:**1 **71:**14
unanimously [1] **13:**14
unavoidable [4] **58:**19 **62:**19,23 **64:**4
under [45] **5:**21 **6:**23 **7:**10,12,12 **9:**15,21 **10:**19 **11:**18 **12:**8 **13:**6 **19:**9,13,17,20,21,24 **31:**21 **32:**3,3 **35:**3,16,18 **37:**11 **48:**10,12,14 **50:**3,7,7 **51:**16,22 **52:**23 **58:**2,3 **60:**5,9 **65:**14 **66:**5,7 **69:**14 **70:**18 **75:**10,24 **76:**20
underlying [4] **8:**6 **11:**13,20 **26:**3
understand [6] **33:**14 **34:**18 **47:**15,16 **61:**12 **64:**25
understanding [1] **61:**3
understood [4] **28:**9 **37:**20 **63:**21 **65:**5
under-theorized [1] **72:**3
undoubtedly [1] **58:**14
unfortunate [1] **28:**20
united [1] **61:**5
unjust [1] **23:**4

unless [1] **10:**16
unlike [1] **21:**15
unreasonable [1] **20:**18
unrelated [1] **29:**1
unsurprised [1] **54:**5
unwarranted [1] **35:**25
up [11] **12:**24 **13:**7 **19:**17 **29:**12 **32:**16 **33:**11 **41:**21 **67:**1 **72:**19,22 **76:**19
us [6] **24:**5,5 **29:**10,17 **39:**15 **60:**8
use [16] **5:**4,4 **6:**10,15 **8:**7 **13:**13,17 **17:**23 **19:**12 **29:**6 **30:**24 **41:**19 **45:**9 **55:**16 **59:**13 **73:**8
used [7] **12:**7 **33:**25 **36:**5,6 **44:**3 **57:**6,9
useful [3] **74:**2,2,9
uses [3] **14:**21 **41:**16 **66:**22
using [2] **59:**18 **74:**3
usually [2] **47:**13 **67:**20
utter [1] **24:**18

V

v [1] **15:**23
vacated [1] **16:**11
valid [1] **10:**16
validly [1] **9:**11
variation [1] **62:**1
veers [1] **25:**7
verdicts [1] **48:**6
versed [1] **18:**12
version [2] **25:**25 **63:**15
versus [4] **9:**7 **21:**6 **34:**6 **61:**6
very [13] **7:**2 **11:**16 **14:**3 **17:**2 **18:**11 **24:**2 **25:**9 **39:**24 **52:**1 **60:**20 **70:**18,19 **75:**5
vexing [1] **73:**19
view [5] **19:**24 **33:**14 **59:**8 **69:**6 **74:**10
viewed [2] **42:**2 **59:**24
violate [1] **25:**12
violated [2] **57:**7,10
violating [3] **19:**25 **20:**2 **24:**12
violation [1] **22:**8
violations [1] **57:**13
violence [3] **8:**6 **11:**13 **43:**21
violent [1] **66:**21
voluntary [1] **5:**7

W

waiting [1] **32:**17
wake [1] **47:**19
want [13] **8:**22,23 **13:**12 **17:**24 **18:**19 **22:**17 **30:**16,17 **32:**2 **45:**8 **49:**25 **66:**23 **75:**14
wanted [11] **8:**21 **12:**13 **13:**21 **14:**12 **17:**3 **57:**18 **58:**10 **62:**11 **66:**19 **67:**13 **69:**17
wants [1] **67:**17
warranted [1] **67:**9
was [79] **5:**25 **6:**17 **8:**11,15,18 **10:**11 **12:**18,19 **13:**15 **14:**4 **16:**1,3 **21:**12,12,16,18 **22:**11,18,22 **25:**25 **26:**6 **29:**8 **30:**19 **31:**20,24 **32:**11 **33:**18 **34:**7,7,8,9,22 **38:**23 **39:**14 **40:**3,6,10,11,14,18,18 **41:**3,3,3 **42:**10 **44:**4 **45:**14 **46:**2 **47:**8,11,17 **51:**25 **52:**22 **54:**22,23 **55:**5,15 **56:**8 **57:**9 **59:**21,22 **60:**17,21 **63:**7,19 **64:**16,20 **65:**1,12,21 **67:**9 **69:**1,21,25 **70:**12,23 **72:**3 **75:**16,24
wasn't [6] **22:**18 **26:**16 **27:**4 **34:**13 **70:**7 **72:**18
way [13] **5:**18 **6:**4 **29:**11 **38:**21 **43:**12 **49:**3 **50:**18,18 **56:**13 **58:**18 **60:**23 **63:**18 **65:**18
we [98] **5:**4,6,8 **6:**13 **8:**1 **9:**14,22 **10:**2,9,11,11,15 **12:**11 **13:**10,22,23,24 **14:**5,6 **15:**22 **16:**12 **17:**20 **18:**1 **21:**1,11 **22:**21 **24:**3 **25:**11,11,13,22 **26:**6 **27:**14,14 **28:**3,23 **29:**1 **31:**22 **32:**6,7,17,17,18 **33:**4,5 **34:**21 **35:**11 **38:**4,6,9,14 **39:**3,7,22 **40:**6,11,13,17 **42:**7,13 **43:**17 **44:**1,10 **45:**21 **46:**10,20 **47:**1,1 **48:**11,12,13,18 **49:**11 **50:**7,16 **51:**19 **52:**6,13,21,22 **53:**2,14,17,21 **54:**19 **55:**16,18 **56:**1,5,8 **59:**14 **68:**19 **69:**23 **71:**20 **72:**12 **75:**6,9 **76:**20
weird [1] **16:**6
welcome [2] **37:**25 **59:**2
well [34] **6:**2 **10:**2,8,14 **12:**4,5 **13:**22 **15:**2 **16:**12 **18:**9,12 **19:**23 **24:**3 **25:**24 **26:**5,24 **27:**22 **28:**18 **30:**7 **31:**4 **38:**6 **41:**25 **42:**2 **44:**10 **46:**9 **47:**11 **49:**18,23 **51:**24 **55:**5 **61:**8 **62:**10 **73:**1,17
went [1] **41:**7
were [19] **30:**15 **32:**17,17 **33:**19,20 **34:**10,11 **40:**11 **43:**1 **45:**14,24,25 **46:**1,4 **47:**6 **51:**21,21 **52:**22 **53:**24
we're [13] **12:**11 **24:**9,9,15 **29:**13,22 **39:**10,10 **46:**14,15 **49:**4 **51:**6 **68:**10
we've [6] **53:**1,2,9,11 **67:**12 **72:**12
whalen [7] **5:**25 **6:**6 **23:**22 **25:**11 **30:**25 **34:**9 **60:**19
what [49] **5:**11,11 **7:**19,22,24,25 **10:**11,24 **11:**3,9 **12:**2 **13:**20,23 **17:**17 **19:**23 **20:**12 **22:**9 **26:**22 **29:**14 **31:**16 **33:**5 **35:**11,11 **40:**6,8 **44:**3 **45:**23 **47:**18,18 **51:**2 **53:**21 **54:**21 **55:**2,12 **63:**19 **64:**9 **65:**11,21 **67:**2,14,25 **68:**15 **69:**6,20,21 **70:**4 **72:**11 **73:**20 **74:**14
whatever [2] **10:**5 **28:**14
what's [3] **13:**8 **23:**1 **27:**15
when [25] **8:**13 **12:**5,16 **13:**10,22,22 **22:**18 **26:**6 **31:**5 **35:**10 **37:**3 **44:**9 **45:**2 **52:**22 **54:**22 **57:**8 **60:**14 **61:**14 **63:**21,24 **64:**11 **65:**23 **68:**2 **69:**24 **76:**17
where [23] **5:**25 **6:**9 **8:**2 **16:**6 **21:**11 **23:**19 **24:**6,14,14 **28:**23 **33:**22 **38:**2,10 **40:**20 **41:**17 **48:**3 **51:**9 **66:**4 **67:**4 **69:**1 **70:**17 **74:**3,7
whereas [1] **66:**6
whether [16] **9:**10,12,24 **30:**19 **37:**11 **40:**12 **42:**19 **59:**20,21 **60:**4,9,16,21 **61:**21 **63:**9 **76:**10
which [25] **5:**19 **6:**14 **16:**4 **19:**20 **20:**21 **21:**1 **32:**4 **34:**22 **35:**12 **36:**3,20 **39:**1 **46:**23 **48:**9,13 **52:**12,17,19 **56:**2,7 **60:**19 **65:**6 **66:**3 **68:**23 **70:**2
while [5] **19:**25 **20:**2 **32:**16,17 **52:**15
who [9] **14:**20 **18:**10 **19:**24 **20:**1 **36:**4,6 **64:**3 **66:**20 **67:**17
whole [1] **6:**16
why [27] **8:**19 **9:**18 **13:**11,11 **14:**19 **16:**16,20,21 **27:**18,18,22 **29:**19 **30:**3 **33:**1 **36:**8 **46:**20 **48:**2 **51:**15,17,19,19 **55:**20 **64:**13 **65:**13 **71:**20,25 **72:**18
will [8] **6:**11 **11:**19 **26:**9 **31:**9 **33:**5 **64:**12 **66:**25 **68:**18
wish [1] **18:**4
with [41] **5:**7 **6:**24 **7:**3 **8:**7 **9:**18 **16:**2,23 **19:**12 **26:**1 **30:**10 **31:**6 **32:**3,13 **33:**23 **37:**19 **38:**9,11 **39:**15 **40:**14 **41:**1,4,4 **43:**15 **45:**3,23 **50:**4 **55:**4 **59:**11 **62:**17 **64:**23 **65:**11,22,23 **66:**3,10 **68:**3,24 **69:**2 **72:**5,18 **76:**6
within [1] **22:**10
without [2] **24:**4 **42:**5
won [1] **68:**22
wonder [1] **26:**10
wondering [3] **26:**5,22 **27:**18
word [2] **24:**18 **46:**11
words [13] **9:**8 **12:**6 **14:**5 **28:**7 **34:**21 **39:**20 **42:**24 **51:**18 **59:**16,18 **62:**2 **73:**8 **74:**4
work [4] **46:**21 **64:**9 **68:**17 **70:**15
work-around [1] **67:**25
works [1] **14:**10
world [2] **47:**23 **70:**6
worried [1] **70:**8
would [57] **7:**19,22,24,25 **10:**22 **13:**12 **15:**17 **17:**18 **19:**5,9 **22:**16,17 **32:**12 **34:**23 **36:**3,4 **40:**19 **44:**18 **45:**12,14 **46:**5 **47:**1,7,9,10 **49:**16,23 **50:**8,10,11,14,14,15,17 **53:**10,17 **56:**5,8 **59:**5,9 **62:**8,19 **64:**2,3,14,19 **65:**4,13 **66:**7,7,12 **67:**20,22 **68:**6,10,10 **70:**11
wouldn't [1] **59:**3
wow [1] **18:**18
write [2] **23:**23 **39:**22
written [1] **14:**4
wrong [2] **25:**11 **32:**23
wrote [5] **12:**16,23 **30:**14 **74:**9 **76:**17

Y

yada [2] **53:**7,7
yeah [9] **10:**7 **24:**11,11 **33:**6 **44:**20,22 **63:**2 **69:**11 **72:**17
year [2] **15:**14 **18:**22
years [23] **12:**19,21 **13:**7 **14:**4,13,17 **15:**16 **18:**17,20 **21:**25 **22:**12 **23:**3 **27:**7 **28:**22 **35:**4,5 **41:**22 **66:**6,6,8 **68:**9 **69:**5 **76:**21
years-long [1] **21:**18
yes [16] **5:**16 **8:**13 **14:**2 **20:**5 **21:**4 **22:**24 **24:**8 **25:**1 **27:**3,24 **32:**15 **34:**3,5 **47:**4 **49:**1 **54:**9
yet [1] **37:**16
yields [1] **71:**16
you'd [1] **62:**10
you'll [1] **32:**23
your [57] **5:**2,19 **6:**8,16,16 **7:**

7,21 **8:**14 **9:**1,14,16,19 **11:** 21 **14:**2,10,17 **15:**6,21 **16:**5, 23 **19:**3,15,24 **20:**5 **21:**15, 25 **23:**21 **24:**20 **26:**25 **27:** 16 **28:**7 **29:**15,16,17 **30:**3,8, 10,19 **31:**18 **32:**6 **33:**14 **34:** 3,8 **35:**15 **36:**7 **38:**4,20 **47:** 15 **49:**3 **62:**25 **63:**12 **69:**6,8 **72:**21 **74:**23 **76:**3,24
you're [17] **5:**3 **8:**8 **10:**15 **11:** 1,2 **26:**19,20 **35:**10 **38:**2 **45:** 20 **47:**1 **48:**3 **61:**13,16 **69:**6 **70:**7 **76:**19
you've [6] **44:**17 **45:**6 **52:**11 **54:**15 **68:**5,5