(ORDER LIST: 573 U. S.)

MONDAY, JUNE 16, 2014

CERTIORARI -- SUMMARY DISPOSITION

13-576 NOMURA HOME EQUITY LOAN, ET AL. V. NATIONAL CREDIT UNION ADMIN.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Tenth Circuit for further consideration in light of *CTS Corp*. v. *Waldburger*, 573 U. S. ___ (2014).

ORDERS IN PENDING CASES

13M130 RODRIGUEZ, MAYA V. COLORADO

The motion to direct the Clerk to file a petition for a writ of certiorari out of time is denied.

13-817 KELLOGG BROWN & ROOT SERVICES V. HARRIS, CHERYL, ET AL.

13-1241 KBR, INC., ET AL V. METZGAR, ALAN, ET AL.

The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

13-9254 RILEY, JAMES W. V. DELAWARE

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied.

13-9969 WAGNER, PETER V. IL LABOR RELATIONS BOARD, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until July 7, 2014, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI GRANTED

13-983 ELONIS, ANTHONY D. V. UNITED STATES

The petition for a writ of certiorari is granted. In addition to the question presented by the petition, the parties are directed to brief and argue the following question: "Whether, as a matter of statutory interpretation, conviction of threatening another person under 18 U. S. C. §875(c) requires proof of the defendant's subjective intent to threaten."

13-1041) PEREZ, SEC. OF LABOR, ET AL. V. MORTGAGE BANKERS ASSOC.
)
13-1052) NICKOLS, JEROME, ET AL. V. MORTGAGE BANKERS ASSOC., ET AL.

The petitions for writs of certiorari are granted. The cases are consolidated and a total of one hour is allotted for oral argument.

CERTIORARI DENIED

13-897 BROWN, SUPT., WABASH VALLEY V. SHAW, TROY R.

13-936 SWIFT TRANSPORTATION CO., ET AL. V. VAN DUSEN, VIRGINIA, ET AL.

13-947 CARET, ROBERT L., ET AL. V. UNIVERSITY OF UTAH

13-950 PERI & SONS FARMS, INC. V. RIVERA, VICTOR R., ET AL.

13-1001 RAJARATNAM, RAJ V. UNITED STATES

13-1091 GARDA CL NORTHWEST, INC. V. HILL, LAWRENCE, ET AL.

13-1222 BARAKAT, FRED V. BOARD ON PROF'L RESPONSIBILITY

13-1225 GRANDOIT, GERARD D. V. USDC D MA

13-1231 AMERICAN COMMERCIAL LINES V. LAURIN MARITIME AB, ET AL.

13-1258 TURNER, SUSAN C. V. UNITED STATES, ET AL.

13-1289) C.O.P. COAL DEVELOPMENT CO. V. JUBBER, GARY E., ET AL.
)
13-1292) ANR COMPANY, INC., ET AL. V. JUBBER, GARY E., ET AL.

13-1293 SPRINKLE, JIMMY R. V. GIBSON, ACTING SEC. OF VA

13-1295 LAHAINA FASHIONS, INC. V. BANK OF HAWAI'I, ET AL.

13-1325 CHEN, MICHAEL V. UNITED STATES

13-1326 YEAGER, CHARLES E. V. AVIAT AIRCRAFT, INC., ET AL.

13-1331 MICHELOTTI, PAUL V. UNITED STATES

13-1336 ARNAUTA, MIHAI V. FLORIDA

13-1338 AM. PETROLEUM & TRANSPORT, INC. V. NEW YORK, NY, ET AL.

13-1347 BEACH, OLIVER V. ILLINOIS

13-1355 PIPPEN, SCOTTIE V. NBC UNIVERSAL MEDIA, ET AL.

13-1357 FERNANDEZ DE IGLESIAS, MARIA V. UNITED STATES

13-1364 SHENEMAN, JEREMIE V. UNITED STATES

13-8226 GREEN, MARK V. UNITED STATES

13-8245 QUICHOCHO, CLIFFORD V. CALIFORNIA

13-8346 WILLIAMSON, ANTHONY T. V. SOUTH CAROLINA

13-8801 DONG, HUNG X. V. UNITED STATES

13-8900 COOK, BETTY D. V. IL DOC

13-8923 JEFFERSON, KENNETH A. V. UNITED STATES

13-9150 PEREZ-MEJIA, MANUEL V. UNITED STATES

13-9151 PREYOR, TAI C. V. STEPHENS, DIR., TX DCJ

13-9281 GEORGE, ROSEVELT V. UNITED STATES

13-9568 GILBERT, KEVIN A. V. WASHINGTON

13-9583 FOSTER, JOHN M. V. GEORGIA

13-9584 WRIGHT, MICHAEL J. V. CREWS, SEC., FL DOC

13-9586 WASHINGTON, ADRIAN V. DENNEY, WARDEN, ET AL.

13-9596 JOHNSON, DARRIN V. CONNOLLY, SUPT., FISHKILL

13-9598 KALLUVILAYILL, BABU S. V. TX BOARD MEMBERS, ET AL.

13-9612 RICHARDS, DANNY R. V. MITCHEFF, MICHAEL, ET AL.

13-9613 JOHNSON, DEXTER L. V. TRAMMELL, WARDEN

13-9615 McCLUSKEY, PETER V. COMM'R OF NASSAU COUNTY, ET AL.

13-9617 CASTERLINE, DEAMUS T. V. STEPHENS, DIR., TX DCJ

13-9618 RODRIGUEZ-RODRIGUEZ, ALEXIS V. UNITED STATES

13-9622 PRIETO, ALFREDO R. V. PEARSON, WARDEN

13-9631 GULBRANDSON, DAVID V. RYAN, DIR., AZ DOC

13-9634 MACK, JASON J. V. WASHINGTON

13-9635 GUZMAN, SAMUEL S. V. LONG, WARDEN

13-9642 RICHARDSON, JOHN V. SANTIAGO, ADM'R, NJ, ET AL.

13-9648 SHAREEF, TACUMA V. TEXAS

13-9654 LaBRANCHE, JAMIE V. BECNEL, MARY H.

13-9659 ALEXANDER, MICHAEL A. V. WISCONSIN

13-9667 CORBIN, JOHN L. V. LAMAS, MARIROSA

13-9677 BURKS, LAMAR V. STEPHENS, DIR., TX DCJ

13-9680 EVANS, MAURICE V. ILLINOIS

13-9809 HOLMES, JOEL C. V. ROBERTS, SARAH, ET AL.

13-9813 HAMILTON, JAMES J. V. MISSOURI

13-9830 BROWN, QUINTIN I. V. CLARKE, DIR., VA DOC

13-9831 OROZCO, HECTOR V. McDONALD, WARDEN, ET AL.

13-9868 ZHAO, JIN V. WARNOCK, SUSAN C.

13-9907 ADKINS, WILLIAM R. V. DINGUS, WARDEN

13-9943 CROSBY, JAMES V. V. FLORIDA

13-9960 JORDAN, KEITH L. V. FLORIDA

13-9970 D. H. V. NEW JERSEY

13-10013 JOHNSON, WILLIAM R. V. WEST VIRGINIA

13-10021 COLLINS, JERMAINE V. CREWS, SEC., FL DOC, ET AL.

13-10040 MANTZ, ANNIE V. US BANK NATIONAL ASSOCIATION

13-10064 PHILBERT, MORTIMER V. MSPB

13-10093 CAMPBELL, ROBERT J. V. LIVINGSTON, EXEC. DIR., TX DCJ

13-10117 RODRIGUEZ, RAMIRO V. UNITED STATES

13-10118 WEISCHEDEL, STACY V. TEWS, WARDEN

13-10122 ALEBORD, GLEN V. MASSACHUSETTS

13-10126 BLAKE, BYRON V. UNITED STATES

13-10129 ONTIVEROS, TITO V. UNITED STATES

13-10132 WARNER, ADELBERT H. V. UNITED STATES

13-10136 KING, DARON C. V. UNITED STATES

13-10141 MANLEY, BRANDON V. UNITED STATES

13-10147 PARKER, RUSHAUN N. V. UNITED STATES

13-10153 PHILLIPS, GARLAND V. UNITED STATES

13-10154 ALVAREZ-ALDANA, MARIO V. UNITED STATES

13-10155 COPRICH, DANIEL, ET AL. V. UNITED STATES

13-10157 MARSHALL, DYLAN V. UNITED STATES

13-10166 GUTIERREZ, RUDY V. UNITED STATES

13-10167 GRIFFIN, CAMERON S. V. UNITED STATES

The petitions for writs of certiorari are denied.

13-990) ARGENTINA V. NML CAPITAL, LTD., ET AL.
)
13-991) EXCHANGE BONDHOLDER GROUP V. NML CAPITAL, LTD., ET AL.

The petitions for writs of certiorari are denied. Justice Sotomayor took no part in the consideration or decision of these petitions.

13-9604 NIXON, TRACY S. V. USDC ND TX

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

13-9816 JONES, FELICIA N. V. USPS

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept

any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

HABEAS CORPUS DENIED

13-10236 IN RE CAREL A. PRATER

13-10258 IN RE MICHAEL GREEN

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

13-9621 IN RE TERRY L. FISH

The petition for a writ of mandamus is denied.

PROHIBITION DENIED

13-10124 IN RE HENRY U. JONES

The petition for a writ of prohibition is denied.

REHEARINGS DENIED

12-794 WHITE, WARDEN V. WOODALL, ROBERT K.

13-926 LUTFI, GEORGE V. UNITED STATES

13-985 THOMASON, MARILYNN V. MADISON REAL PROPERTY, LLC

13-987 THOMASON, MARILYNN V. BAGLEY, JOHN K., ET AL.

13-1130 HEADIFEN, GRANT R. V. HARKER, VANESSA

13-8033 MATTHEWS, ALEXANDER V. UNITED STATES

13-8638 MANEY, BILLY R. V. NEELY, SUPT., PIEDMONT

13-8679 DRIESSEN, ROCHELLE V. HOME LOAN STATE BANK

13-8713 ROSS, ALVIN R. V. SCHWARZENEGGAR, ARNOLD, ET AL.

13-8951 RILEY, KYJAHRE V. UNITED STATES

13-9004 TOOLE, CATHY L. V. OBAMA, PRESIDENT OF U.S., ET AL.

13-9018 CURTIS, JERMAINE V. UNITED STATES

13-9039 KIDD, SHAUN V. UNITED STATES

The petitions for rehearing are denied.

ATTORNEY DISCIPLINE

D-2759 IN THE MATTER OF DISBARMENT OF NORMAN MALINSKI

Norman Malinski, of Miami, Florida, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Norman Malinski is disbarred from the practice of law in this Court.

D-2760 IN THE MATTER OF DISBARMENT OF TIMOTHY FRANCIS DALY

Timothy Francis Daly, of Rockville Centre, New York, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Timothy Francis Daly is disbarred from the practice of law in this Court.

D-2761 IN THE MATTER OF DISBARMENT OF B. MICHAEL CORMIER

B. Michael Cormier, of Haverhill, Massachusetts, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that B. Michael Cormier is disbarred from the practice of law in this Court.

D-2763 IN THE MATTER OF DISBARMENT OF BRUCE ALLEN CRAFT

Bruce Allen Craft, of Baton Rouge, Louisiana, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Bruce Allen Craft is disbarred from the practice of law in this Court.

D-2764 IN THE MATTER OF DISBARMENT OF AMAKO N. K. AHAGHOTU

Amako N. K. Ahaghotu, of Washington, District of Columbia, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Amako N. K. Ahaghotu is disbarred from the practice of law in this Court.

D-2765 IN THE MATTER OF DISBARMENT OF LEON IRWIN EDELSON

Leon Irwin Edelson, of Deerfield, Illinois, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Leon Irwin Edelson is disbarred from the practice of law in this Court.

D-2766 IN THE MATTER OF DISBARMENT OF JASON W. SMIEKEL

Jason W. Smiekel, of Lisbon, Ohio, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and

the time to file a response having expired;

It is ordered that Jason W. Smiekel is disbarred from the practice of law in this Court.

D-2767 IN THE MATTER OF DISBARMENT OF HOWARD ALLEN WITTNER

Howard Allen Wittner, of St. Louis, Missouri, having been suspended from the practice of law in this Court by order of February 24, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Howard Allen Wittner is disbarred from the practice of law in this Court.

D-2769 IN THE MATTER OF DISBARMENT OF LENNOX JACINTO SIMON

Lennox Jacinto Simon, of Mitchellville, Maryland, having been suspended from the practice of law in this Court by order of March 24, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Lennox Jacinto Simon is disbarred from the practice of law in this Court.

SUPREME COURT OF THE UNITED STATES

ELMBROOK SCHOOL DISTRICT *v.* JOHN DOE 3, A MINOR BY DOE 3'S NEXT BEST FRIEND DOE 2, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 12–755 Decided June 16, 2014

The petition for a writ of certiorari is denied.

JUSTICE SCALIA, with whom JUSTICE THOMAS joins, dissenting from the denial of certiorari.

Some there are—many, perhaps—who are offended by public displays of religion. Religion, they believe, is a personal matter; if it must be given external manifestation, that should not occur in public places where others may be offended. I can understand that attitude: It parallels my own toward the playing in public of rock music or Stravinsky. And I too am especially annoyed when the intrusion upon my inner peace occurs while I am part of a captive audience, as on a municipal bus or in the waiting room of a public agency.

My own aversion cannot be imposed by law because of the First Amendment. See *Ward* v. *Rock Against Racism*, 491 U. S. 781, 790 (1989); *Erznoznik* v. *Jacksonville*, 422 U. S. 205, 210–211 (1975). Certain of this Court's cases, however, have allowed the aversion to religious displays to be enforced directly *through* the First Amendment, at least in public facilities and with respect to public ceremonies—this despite the fact that the First Amendment explicitly favors religion and is, so to speak, agnostic about music.

In the decision below, the en banc Court of Appeals for the Seventh Circuit relied on those cases to condemn a suburban Milwaukee school district's decision to hold high-school graduations in a church. We recently con-

fronted and curtailed this errant line of precedent in *Town of Greece* v. *Galloway*, 572 U. S. ___ (2014), which upheld under the Establishment Clause the saying of prayers before monthly town-council meetings. Because that case made clear a number of points with which the Seventh Circuit's decision is fundamentally inconsistent, the Court ought, at a minimum, to grant certiorari, vacate the judgment, and remand for reconsideration (GVR).

Endorsement

First, *Town of Greece* abandoned the antiquated "endorsement test," which formed the basis for the decision below.

In this case, at the request of the student bodies of the two relevant schools, the Elmbrook School District decided to hold its high-school graduation ceremonies at Elmbrook Church, a nondenominational Christian house of worship. The students of the first school to move its ceremonies preferred that site to what had been the usual venue, the school's gymnasium, which was cramped, hot, and uncomfortable. The church offered more space, air conditioning, and cushioned seating. No one disputes that the church was chosen only because of these amenities.

Despite that, the Seventh Circuit held that the choice of venue violated the Establishment Clause, primarily because it failed the endorsement test. That infinitely malleable standard asks whether governmental action has the purpose or effect of "endorsing" religion. See *County of Allegheny* v. *American Civil Liberties Union, Greater Pittsburgh Chapter*, 492 U. S. 573, 592–594 (1989). The Seventh Circuit declared that the endorsement test remains part of "the prevailing analytical tool for the analysis of Establishment Clause claims." 687 F. 3d 840, 849 (2012) (internal quotation marks omitted).* And here,

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*More precisely, the court stated that "[t]he three-pronged test set

"the sheer religiosity of the space created a likelihood that high school students and their younger siblings would perceive a link between church and state." *Id.*, at 853.

In *Town of Greece*, the Second Circuit had also relied on the notion of endorsement. See 681 F. 3d 20, 30 (2012). We reversed the judgment without applying that test. What is more, we strongly suggested approval of a previous opinion "disput[ing] that endorsement could be the proper [Establishment Clause] test, as it likely would condemn a host of traditional practices that recognize the role religion plays in our society, among them legislative prayer and the 'forthrightly religious' Thanksgiving proclamations issued by nearly every President since Washington." 572 U. S., at ___ (slip op., at 11) (describing *County of Allegheny*, *supra*, at 670–671 (KENNEDY, J., concurring in judgment in part and dissenting in part)). After *Town of Greece*, the Seventh Circuit's declaration—which controlled its subsequent analysis—that the endorsement test remains part of "the prevailing analytical tool" for assessing Establishment Clause challenges, 687 F. 3d, at 849 (internal quotation marks omitted), misstates the law.

Coercion

Second, *Town of Greece* made categorically clear that mere "[o]ffense . . . does not equate to coercion" in any manner relevant to the proper Establishment Clause analysis. 572 U. S., at ___ (slip op., at 21) (opinion of KENNEDY, J.). "[A]n Establishment Clause violation is not made out any time a person experiences a sense of affront from the expression of contrary religious views." *Ibid.* See

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forth by the Supreme Court in *Lemon* v. *Kurtzman*, 403 U. S. 602 (1971), remains the prevailing analytical tool for the analysis of Establishment Clause claims." 687 F. 3d, at 849 (internal quotation marks and citations omitted). It then explained that the endorsement test has become "a legitimate part of *Lemon*'s second prong." *Id.*, at 850.

also *id.*, at ___ (THOMAS, J., concurring in part and concurring in judgment) (slip op., at 7–8) (same).

Here, the Seventh Circuit held that the school district's "decision to use Elmbrook Church for graduations was religiously coercive" under *Lee* v. *Weisman*, 505 U. S. 577 (1992), and *Santa Fe Independent School Dist.* v. *Doe*, 530 U. S. 290 (2000). 687 F. 3d, at 854. *Lee* and *Santa Fe*, however, are inapposite because they concluded (however unrealistically) that students were coerced to engage in school-sponsored prayer. In this case, it is beyond dispute that no religious exercise whatever occurred. At most, respondents complain that they took offense at being in a religious place. See 687 F. 3d, at 848 (plaintiffs asserted that they "'felt uncomfortable, upset, offended, unwelcome, and/or angry' because of the religious setting" of the graduations). Were there any question before, *Town of Greece* made obvious that this is insufficient to state an Establishment Clause violation.

It bears emphasis that the original understanding of the kind of coercion that the Establishment Clause condemns was far narrower than the sort of peer-pressure coercion that this Court has recently held unconstitutional in cases like *Lee* and *Santa Fe*. "The coercion that was a hallmark of historical establishments of religion was coercion of religious orthodoxy and of financial support *by force of law and threat of penalty*." *Lee*, *supra*, at 640 (SCALIA, J., dissenting). See also *Town of Greece*, *supra*, at ___–___ (opinion of THOMAS, J.) (slip op., at 5–8).

As the Supreme Court of Wisconsin explained in a 1916 case challenging the siting of public high-school graduations in local churches:

> "A man may feel constrained to enter a house of worship belonging to a different sect from the one with which he affiliates, but if no sectarian services are carried on, he is not compelled to worship God contrary

to the dictates of his conscience, and is not obliged to do so at all." *State ex rel. Conway* v. *District Board of Joint School Dist. No. 6*, 162 Wis. 482, 490, 156 N. W. 477, 480.

History

Last but by no means least, *Town of Greece* left no doubt that "the Establishment Clause must be interpreted 'by reference to historical practices and understandings.'" 572 U. S., at ___ (slip op., at 7–8). Moreover, "if there is any inconsistency between [a 'test' set out in the opinions of this Court] and . . . historic practice . . . , the inconsistency calls into question the validity of the test, not the historic practice." *Id.*, at ___ (ALITO, J., concurring) (slip op., at 12).

In this case, however, the Seventh Circuit's majority opinion said nothing about history at all. And there is good reason to believe that this omission was material. As demonstrated by *Conway*, the Wisconsin case mentioned above, public schools have long held graduations in churches. This should come as no surprise, given that "[e]arly public schools were often held in rented rooms, church halls and basements, or other buildings that resembled Protestant churches." W. Reese, America's Public Schools 39 (2005). An 1821 Illinois law, for example, provided that a meetinghouse erected by a Presbyterian congregation "may serve to have the gospel preached therein, and likewise may be used for a school-house for the township." Ill. Laws p. 153.

We ought to remand this case to the Seventh Circuit to conduct the historical inquiry mandated by *Town of Greece*—or we ought to set the case for argument and conduct that inquiry ourselves.

* * *

It is perhaps the job of school officials to prevent hurt

feelings at school events. But that is decidedly not the job of the Constitution. It may well be, as then-Chief Judge Easterbrook suggested, that the decision of the Elmbrook School District to hold graduations under a Latin cross in a Christian church was "unwise" and "offensive." 687 F. 3d, at 869 (dissenting opinion). But *Town of Greece* makes manifest that an establishment of religion it was not.

In addition to being decided incorrectly, this case bears other indicia of what we have come to call "certworthiness." The Seventh Circuit's decision was en banc and prompted three powerful dissents (by then-Chief Judge Easterbrook and Judges Posner and Ripple). And it conflicts with decisions that have long allowed graduation ceremonies to take place in churches, see, *e.g.*, *Miller* v. *Cooper*, 56 N. M. 355, 356–357, 244 P. 2d 520, 520–521 (1952); *Conway*, 162 Wis., at 489–493, 156 N. W., at 479–481, and with decisions upholding other public uses of religious spaces, see, *e.g.*, *Bauchman* v. *West High School*, 132 F. 3d 542, 553–556 (CA10 1997) (sanctioning school-choir performances in venues "dominated by crosses and other religious images"); *Otero* v. *State Election Bd. of Okla.*, 975 F. 2d 738, 740–741 (CA10 1992) (upholding the use of a church as a polling station); *Berman* v. *Board of Elections*, 19 N. Y. 2d 744, 745, 226 N. E. 2d 177 (1967) (same).

According to the prevailing standard, a GVR order is potentially appropriate where "intervening developments . . . reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration, and where it appears that such a redetermination may determine the ultimate outcome of the litigation." *Lawrence* v. *Chater*, 516 U. S. 163, 167 (1996) (*per curiam*). The Court has found that standard satisfied on numerous occasions where judgments were far less obviously undermined by a

subsequent decision of ours.

For these reasons, we should either grant the petition and set the case for argument or GVR in light of *Town of Greece*. I respectfully dissent from the denial of certiorari.