

(ORDER LIST: 574 U.S.)

TUESDAY, OCTOBER 14, 2014

CERTIORARI -- SUMMARY DISPOSITIONS

14-5936 VANEGAS, JOSE D. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fourth Circuit for further consideration in light of *Riley v. California*, 573 U. S. ____ (2014).

ORDERS IN PENDING CASES

14M34 SCOTT, ANDRE R. V. SWARTHOUT, WARDEN

14M35 YOUNG, MATTHEW R. V. NOOTH, SUPT., SNAKE RIVER

14M37 HUNTER, TYRONE V. UNITED STATES

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

13-684 JESINOSKI, LARRY D., ET UX. V. COUNTRYWIDE HOME LOANS, INC.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

13-1361 SAMANTAR, MOHAMED A. V. YOUSEF, BASHE, ET AL.

The Solicitor General is invited to file a brief in this case expressing the views of the United States. Justice Kagan took no part in the consideration or decision of this petition.

14-124 HERBERT, GOV. OF UT, ET AL. V. KITCHEN, DEREK, ET AL.

The motion of Chris Sevier for leave to intervene is denied.

14-5574 PILGER, PAUL W. V. BANK OF AMERICA
14-5642 JOHNSON, LATRICE V. DESJARDINS, MICHAEL, ET AL.
14-5738 YANG, PEI-YU V. MARSHACK, RICHARD A.
14-5763 ASHMORE, BENJAMIN J. V. LEWIS, WILMA C.
14-5948 ZINNI, RENEE M., ET VIR V. JACKSON WHITE, PC, ET AL.
14-5974 BLUME, GUY A. V. AMERICAN DAIRY QUEEN CORPORATION
14-6019 MORAL, JULIE K. V. HAGEN, RONALD
14-6063 LIVINGSTON, RAY S. V. OH BUREAU OF MOTOR VEHICLES

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioner is allowed until November 4, 2014, within which to pay the docketing fee required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

13-1274 RICHARDS, MICHELLE V. ERNST & YOUNG
13-1309 BATTLES, SAFIYYAH T. V. UNITED STATES
13-1313 ASSOC. DES ELEVEURS, ET AL. V. HARRIS, ATT'Y GEN. OF CA, ET AL.
13-1315 DUNLAP, TIMOTHY A. V. IDAHO
13-1457 LINCOLN, STEVEN V. DIR., OFFICE OF WORKERS, ET AL.
13-1465 DUPRIS, JESSE, ET AL. V. PROCTOR, PERRY, ET AL.
13-1474 ELECTRONIC FRONTIER FOUNDATION V. DEPT. OF JUSTICE
13-8705 JOHNSON, WILLIAM V. CALIFORNIA
13-9783 PURKEY, WESLEY I. V. UNITED STATES
13-9961 RODRIGUEZ-CASTELLON, HECTOR M. V. HOLDER, ATT'Y GEN.
13-10039 AYOR, SOLOMON V. HOLDER, ATT'Y GEN.
13-10179 MORGANTI, ROBERT J. V. MASSACHUSETTS
13-10504 STRINGER, THOMAS B. V. UNITED STATES
14-6) DANVILLE REDEVELOPMENT & HOUSING V. CARNELL CONSTRUCTION CORP.

14-117)) CARNELL CONSTRUCTION CORP. V. DANVILLE REDEVELOPMENT & HOUSING
 14-28 NAQUIN, LARRY V. ELEVATING BOATS, L.L.C.
 14-106 STEVENSON, JOHN E., ET UX. V. FIRST AMERICAN TITLE INSURANCE
 14-111 SMALLWOOD, RENEE A. V. CITIBANK, N.A.
 14-115 SMITHRUD, LeROY V. ST. PAUL, MN, ET AL.
 14-119 LEITE, DOUGLAS, ET AL. V. CRANE COMPANY, ET AL.
 14-120 HOLKESVIG, RANDY V. GROVE, GARY
 14-126 SEABRON, EARL V. SEABRON, AYESHA
 14-134 SMITH, JASON V. GEORGIA
 14-137 MIROWSKI FAMILY VENTURES, LLC V. MEDTRONIC, INC., ET AL.
 14-138 TURNER, BARRY D. V. NAT. COUNCIL STATE BDS. NURSING
 14-140 HSU, JOHN V. CA STATE PERSONNEL BD., ET AL.
 14-142 A&G COAL CORPORATION, ET AL. V. INTEGRITY COAL SALES, INC.
 14-164 HASAN, SYED M. V. DEPT. OF LABOR
 14-173 DASHGIR, NAHAYAT V. UNITED STATES
 14-176 WELLS, PRINCESS V. CHRYSLER GROUP LLC, ET AL.
 14-184 APODACA, MARK M. V. CALIFORNIA
 14-186 MIRANDA, JESUS V. BYLES, STEPHEN
 14-187 ATALIG, JOAQUIN Q. V. UNITED STATES, ET AL.
 14-190 BERTRAND, RICK V. MULLIN, RICK, ET AL.
 14-199 SCHAEFER, DAVID V. UNION SAVINGS BANK
 14-203 JONES, CURTIS L. V. INDIANA
 14-204 WEIGEL, JOSEPH W. V. WI OFFICE OF LAWYER REGULATION
 14-215 CHAUDHRY, MUHAMMAD V. JOHNSON, SEC. OF HOMELAND
 14-216 CALHOUN, RONALD C. V. SUTHERS, ATT'Y GEN. OF CO
 14-223 ATES, EDWARD R. V. NEW JERSEY
 14-227 BASSMAN, ROBERT S. V. D.C. OFFICE OF PLANNING

14-228 MINACT V. MO DIRECTOR OF REVENUE
14-230 BARTLOW, RHONDA, ET AL. V. COSTIGAN, DIR., IL DOL
14-234 WILKERSON, RAYLEN D. V. UNITED STATES
14-236 BRISTER, BRIAN V. SMITH, QUENTIN
14-237 BROWN, HENRY R. V. UNITED STATES
14-241 LUONG, PHI CAM V. US BANK NATIONAL ASSOCIATION
14-244 BLANTON, MISTY R., ET AL. V. CONTINENTAL INSURANCE COMPANY
14-247 MILES, ROBERT L. V. UNITED STATES
14-248 HOBGOOD, ROBERT V. MS POWER CO.
14-249 RECHTZIGEL, GENE V. APPLE VALLEY, MN, ET AL.
14-252 DeCAY, KEITH V. HOUSTON, CHANDRA, ET AL.
14-254 PENINGER, MICHAEL D. V. UNITED STATES
14-261 SARNO, MICHAEL V. UNITED STATES
14-262 McMURRIN, JUSTIN H. V. UNITED STATES
14-268 POLCHAN, MARK V. UNITED STATES
14-283 HICKS, SUZANNE V. HUDSON INSURANCE CO., ET AL.
14-288 RODRIGUEZ, MARIO P. V. UNITED STATES
14-5037 FRATTA, ROBERT A. V. TEXAS
14-5102 MUNOZ, RODOLFO R. V. BALCONES HEIGHTS, TX, ET AL.
14-5108 HERNANDEZ-REYES, JERONIMO V. UNITED STATES
14-5265 HERNANDEZ-FLORES, SEIDER I. V. UNITED STATES
14-5340 RODRIGUEZ, ANGELINA V. CALIFORNIA
14-5476 STEWART, JAMES C. V. TEXAS
14-5477 TURNER, ANTHONY R. V. CA FORENSIC MEDICAL GROUP, ET AL
14-5491 GERMAIN, JEAN B. V. ARNOLD, KEITH, ET AL.
14-5492 FRANK, WILBERT V. CALIFORNIA
14-5495 HAYES, LARRY C. V. HILE, SHERRY, ET AL.
14-5498 HICKMAN, DUDLEY K. V. TEXAS

14-5499 GARFIAS, CHRISTOPHER V. TEXAS
14-5505 HARRIS, RANDALL V. GEORGIA
14-5509 HART, LEWIS R. V. STEPHENS, DIR., TX DCJ
14-5522 HARRIS, DAVID V. ILLINOIS
14-5523 HARPER, TIMMIE R. V. STEPHENS, DIR., TX DCJ
14-5524 IRVING, ANTWON V. TEXAS
14-5525 FARMER, WILLIE N. V. TEXAS
14-5533 HILL, CHAUNCEY A. V. HERSHBERGER, WARDEN, ET AL.
14-5543 PAIGE, RICHARD W. V. STEPHENS, DIR., TX DCJ
14-5549 NIEVES, MANUEL V. DELAWARE, ET AL.
14-5550 MITCHELL, AARON V. HAAS, WARDEN
14-5558 WARITH, LAURA V. CLEVELAND REGIONAL TRANSIT AUTH.
14-5561 HARRISON, MARQUEION J. V. DANIELS, CORR. ADM'R, MAURY
14-5563 C. R. V. VERMONT, ET AL.
14-5570 ALLEN, MARGARET A. V. FLORIDA
14-5572 AMIR-SHARIF, LAKEITH V. USDC WD TX
14-5573 MADDOX, LEO V. CITIMORTGAGE, INC.
14-5580 MARTINEZ, JOSE V. STEPHENS, DIR., TX DCJ
14-5581 BANKS, RAMIK V. PENNSYLVANIA
14-5582 CARY, QUINTON E. V. VIRGINIA
14-5583 DEGORSKI, JAMES V. ILLINOIS
14-5597 VENEGAS, JUSTIN L. V. STEPHENS, DIR., TX DCJ
14-5601 SMITH, MICHAEL V. TEXAS
14-5602 ROBERSON, TIMOTHY V. RAY, GAYLE, ET AL.
14-5609 KEENE, DOUGLAS V. CREWS, SEC., FL DOC, ET AL.
14-5621 HUTCHINSON, DENNIS D. V. HOBBS, DIR., AR DOC
14-5631 JOHNSON, DEBRA V. NLRB, ET AL.
14-5632 JACKSON, ELEANOR V. MEMORIAL HOSPITAL OF GARDENA

14-5638 SUTTON, KARIMI K. V. SOTO, WARDEN
14-5643 MEDEARIS, RONI L. V. STEPHENS, DIR., TX DCJ
14-5645 HITCHCOCK, JAMES V. CREWS, SEC., FL DOC, ET AL.
14-5649 BENNETT, VERNON W. V. WASHINGTON
14-5653 SOLOMON, CARGYLE B. V. DAWSON, JUDGE, ETC.
14-5657 SIMMONS, ERNEST V. PENNSYLVANIA
14-5663 LANZ, ANDREW V. TEXAS
14-5671 JONES-RANKINS, WELTHA V. CARDINAL HEALTH, INC., ET AL.
14-5675 SANDERSON, DONALD R. V. MARSHALL, SHERIFF, ET AL.
14-5676 ROBY, KENNETH R. V. FRONTIER ENTERPRISES, INC.
14-5680 MADEN, NATHANIEL V. TEXAS
14-5683 WERBER, GREGORY V. OHIO
14-5685 SUTTON, NAKIA R. V. CASKEY, DALE, ET AL.
14-5694 CHAPMAN, JAMES W. V. ARIZONA
14-5701 CABOT, GEORGE V. ILLINOIS
14-5716 NORWOOD, LAMONT V. ILLINOIS
14-5721 LEON, MICHAEL A. V. DUNLOP, JANET, ET AL.
14-5722 MONBO, DEAFUEH V. MANUFACTURERS & TRADERS TRUST
14-5723 TYLER, ARTHUR V. LAZAROFF, WARDEN
14-5724 MOODY, FERRARI V. CHAPPELL, WARDEN, ET AL.
14-5726 CICHOCKI, TIMOTHY E., ET AL. V. MASSACHUSETTS, ET AL.
14-5728 THOMAS, DAN M. V. OREGON, ET AL.
14-5729 ARLINE, LEONARD H. V. VIRGINIA
14-5730 BALEY, KEVIN C. V. STEPHENS, DIR., TX DCJ
14-5734 MANNARINO, LORI, ET AL. V. BANK OF AMERICA, ET AL.
14-5735 LEWIS, SHARON D. V. DETROIT PUBLIC SCHOOLS, ET AL.
14-5745 TEPLITZ, ELINA V. ALLEGHENY AUTO & TRUCK
14-5746 WELVAERT, THOMAS V. STEPHENS, DIR., TX DCJ

14-5747 THOMAS, MELVIN J. V. SUPERIOR COURT OF CA
14-5752 KNOX, ANTONE L. V. TRAMMELL, WARDEN
14-5762 JOHNSON, LEROY V. ARTUS, SUPT., WENDE
14-5778 CANTLEY, AARON V. PRELESNIK, WARDEN
14-5779 TRIPLETT, ROY V. USPS, ET AL.
14-5802 JOHNSON, ELBERT V. RAZDAN, SANJAY
14-5813 DAVIS, RICHARD V. ARKANSAS
14-5815 DALTON, TINA V. WARREN, WARDEN
14-5818 MITCHELL, CLAUDETTE V. UNIVERSITY MEDICAL CENTER, INC.
14-5857 CHRISTOPHERSON, IAN V. UNITED STATES
14-5871 SHIVERS, DEVON V. MICHIGAN
14-5881 GOODWILL, DAVID A. V. RAPELJE, WARDEN
14-5889 JONES, LABRELL V. WOODS, WARDEN
14-5905 BOLES, DAMIENE V. SHELDON, WARDEN
14-5907 COTTER, JOSEPH P. V. LAW OFFICES OF PAUL GERTZ
14-5914 KINLEY, ROBERT V. LaVALLEY, SUPT., CLINTON
14-5922 MEYER, RONNIE T. V. CALIFORNIA
14-5927 SOTO, ABRAHAM V. DAVEY, ACTING WARDEN
14-5929 PLAMONDON, TODD V. BURT, WARDEN
14-5957 QUINN, ROSIE M. V. UNITED STATES
14-5962 DeVONE, JAMES M. V. NATIONAL CASUALTY CO., INC.
14-5986 MURRAY, TED R. V. UNITED STATES
14-6001 HARRIS, JASON L. V. YBARRA, SANDRA
14-6002 HOLDER, THOMAS V. MISSISSIPPI
14-6005 GARCIA, MATTHEW A. V. GROUNDS, WARDEN
14-6006 FOSS, RAYMOND C. V. MARTELL, WARDEN, ET AL.
14-6007 CHAPMAN, RICHARD V. MISSISSIPPI
14-6008 CLARK, HERMAN T. V. OAKLEY, MICHAEL, ET AL.

14-6012 SUBDIAZ-OSORIO, NICOLAS V. WISCONSIN
14-6015 RICHARDSON, FLOYD V. PFISTER, WARDEN
14-6016 VICTORY, BRIAN V. CREWS, SEC., FL DOC, ET AL.
14-6032 RODGERS, OTIS L. V. VALENZUELA, WARDEN
14-6035 DE LA REY ROSSOUW, ANDRE V. TENNESSEE
14-6041 BAILEY, HERNANDEZ V. LEMKE, WARDEN
14-6056 NORFLEET, MARC V. SPILLER, TOM
14-6057 STROUSE, JAMES V. WILSON, WARDEN, ET AL.
14-6061 BARBER, SAMYEIL B. V. STEVENSON, WARDEN
14-6064 LYIMO, NEVILLE V. UNITED STATES
14-6076 PAGE, TYREEK V. MARTUSCELLO, SUPT., COXSACKIE
14-6080 AIKENS, LEO V. FLORIDA
14-6082 WEST, DONALD J. V. UNITED STATES
14-6084 WHITE, CHARLES V. UNITED STATES
14-6091 LEE, FRANK V. VIRGINIA
14-6094 ANDERSON, WILLIAM V. UNITED STATES
14-6097 MELBIE, HAROLD W. V. UNITED STATES
14-6099 STARKS, ALLEN J. V. BECHTOLD, WARDEN
14-6101 GONZALEZ-ARREOLA, JOSE V. UNITED STATES
14-6102 GOMEZ-JIMENEZ, ERASTO V. UNITED STATES
14-6103 FRENCH, JENNIFER L. V. UNITED STATES
14-6104 HUMPHREY, BRUCE E. V. UNITED STATES
14-6105 HAITH, KEVIN G. V. UNITED STATES
14-6106 HANDS, LEANDER S. V. UNITED STATES
14-6111 MCGREW, MACE V. UNITED STATES
14-6112 ROBINSON, DAVID M. V. UNITED STATES
14-6113 NETO, JOSE V. USDC MA
14-6118 GAYTAN, KENNETH V. UNITED STATES

14-6123 NICKSON, KENNETH B. V. UNITED STATES
14-6124 PATE, LEWIS V. UNITED STATES
14-6125 BUCZEK, SHANE C. V. CONSTRUCTIVE TRUST, ET AL.
14-6128 RUSSELL, RODNEY L. V. UNITED STATES
14-6130 COLONEL, ANTONIO D. V. UNITED STATES
14-6132 WILTSHIRE, CARLOS V. UNITED STATES
14-6133 WALKER, GERALD E. V. UNITED STATES
14-6134 YOUKELSONE, NADIA V. FDIC
14-6137 CANO, LUIS H. V. UNITED STATES
14-6140 YOUNG, DAVON V. UNITED STATES
14-6141 TRUDEAU, WILLIAM A. V. UNITED STATES
14-6144 KERR, DESMOND V. UNITED STATES
14-6146 MATHIS, JAY V. UNITED STATES
14-6148 ECKSTROM, CARL A. V. VALENZUELA, WARDEN
14-6149 JOHNSON, DONALD B. V. MASSACHUSETTS
14-6153 CHAMBLISS, THOMAS V. UNITED STATES
14-6157 PORTILLO-VEGA, LEONARDO V. UNITED STATES
14-6158 SNIPES, LEON V. ILLINOIS
14-6159 KALLAS, CONSTANTINE V. UNITED STATES
14-6160 KING, SHEROND D. V. UNITED STATES
14-6161 LIENDO-SAUCEDO, LIBRADO V. UNITED STATES
14-6162 McLEAN, CAROLINA V. UNITED STATES
14-6167 CROSBY, GREGORY L. V. UNITED STATES
14-6172 MUSGROVE, JEFFREY L. V. UNITED STATES
14-6173 SANCHEZ, JOSE V. UNITED STATES
14-6179 SOLIS-VENEGAS, JUAN C. V. UNITED STATES
14-6180 RODRIGUEZ-VALENCIA, AGUSTIN V. UNITED STATES
14-6181 MOORE, RONALD D. V. STEWARD, WARDEN

14-6187 PEREZ-CRESPO, PEDRO J. V. UNITED STATES
14-6192 HULLABY, BRANDON V. UNITED STATES
14-6193 HOWELL, CRAIG C. V. UNITED STATES
14-6194 HONAKER, KEITH V. UNITED STATES
14-6195 FREEMAN, STONEY V. UNITED STATES
14-6196 FIELDS, DEMETRIOUS V. UNITED STATES
14-6197 HANNA, ERIC V. UNITED STATES
14-6198 HYLES, TONYA J. V. UNITED STATES
14-6202 ETHRIDGE, RAMONE H. V. UNITED STATES
14-6203 SHOWALTER, EDWARD V. UNITED STATES
14-6206 EUGENE, WINEX V. UNITED STATES
14-6208 EVERETT, RONNIE V. V. UNITED STATES
14-6210 DAVIS, LARRY V. UNITED STATES
14-6216 MENDOZA-CANO, ALEX N. V. UNITED STATES
14-6220 THOMAS, TIMOTHY R. V. UNITED STATES
14-6221 WEAVER, ROYCE V. UNITED STATES
14-6231 MANESS, MICHAEL C. V. UNITED STATES
14-6239 DeLEON, GIOVANNI C. V. UNITED STATES
14-6243 LUIS, KEVIN V. UNITED STATES
14-6244 LYONS, ANTHONY V. UNITED STATES
14-6245 ROJAS-OLIVERA, JORGE V. UNITED STATES
14-6247 RAMIREZ, JAVIER V. UNITED STATES
14-6249 BROWN, DWAYNE V. FL DOC
14-6253 MUZIO, MICHAEL J. V. UNITED STATES
14-6254 ORTIZ-BAEZ, NELSON V. UNITED STATES

The petitions for writs of certiorari are denied.

14-221 SIGRAM SCHINDLER V. CISCO SYSTEM, INC., ET AL.
14-5504 GARCIA RODRIGUEZ, JOSE V. RUNNELS, WARDEN

The petitions for writs of certiorari are denied. Justice Breyer took no part in the consideration or decision of this petition.

14-5578 WHEELER, LeROY K. V. DeSAUTEL, RENA M., ET AL.

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*).

14-5612 CLAIBORNE, DENNIS G. V. CALIFORNIA

14-5679 PUGH, LEON V. BALISH, WILLIAM, ET AL.

14-5697 HUNTER, CHASE C. V. FL DEPT. OF FINANCIAL SERVICES

14-5698 HUNTER, CHASE C. V. DISTRICT COURT OF TX

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

14-5732 BOONE, MICHAEL R. V. TEXAS

The petition for a writ of certiorari is denied. Justice Kagan took no part in the consideration or decision of this petition.

14-5741 TARKINGTON, ANTHONY L. V. CALIFORNIA

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.

14-6116 HALL, MARC P. V. DANIELS, WARDEN
14-6117 GRUBBS, JIMMIE V. V. UNITED STATES
14-6185 MINCOFF, JAMES V. UNITED STATES

The petitions for writs of certiorari are denied. Justice Kagan took no part in the consideration or decision of this petition.

HABEAS CORPUS DENIED

14-6190 IN RE LEANDRO CARDENAS LUNA
14-6228 IN RE CALVIN EDWARDS
14-6292 IN RE MORRIS WILLIS

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

14-145 IN RE MICHAEL VOELTZ
14-5555 IN RE RICHARD PRICE TUCKER
14-5748 IN RE JAMES J. ZARYCHTA, JR.
14-5751 IN RE ALVIN LAVON MOORE

The petitions for writs of mandamus are denied.

14-5596 IN RE DAVID LEE SMITH

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

14-5648 IN RE FELIX A. PRICE

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

REHEARINGS DENIED

13-8235 IN RE JAMES BRADLEY HAAG

The petition for rehearing is denied.

ATTORNEY DISCIPLINE

D-2776 IN THE MATTER OF DISBARMENT OF WILLIAM I. BELK

William I. Belk, of Charlotte, North Carolina, having been suspended from the practice of law in this Court by order of June 9, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and a response having been filed;

It is ordered that William I. Belk is disbarred from the practice of law in this Court.

D-2812 IN THE MATTER OF DISBARMENT OF CLARENCE T. NALLS

Clarence T. Nalls, of Baton Rouge, Louisiana, having been suspended from the practice of law in this Court by order of August 29, 2014; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and a response having been filed;

It is ordered that Clarence T. Nalls is disbarred from the practice of law in this Court.

SCALIA, J., dissenting

SUPREME COURT OF THE UNITED STATES

JOSEPH JONES, DESMOND THURSTON, AND
ANTWUAN BALL *v.* UNITED STATES

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

No. 13–10026. Decided October 14, 2014

The petition for a writ of certiorari is denied.

JUSTICE SCALIA, with whom JUSTICE THOMAS and JUSTICE GINSBURG join, dissenting from denial of certiorari.

A jury convicted petitioners Joseph Jones, Desmond Thurston, and Antwuan Ball of distributing very small amounts of crack cocaine, and acquitted them of conspiring to distribute drugs. The sentencing judge, however, found that they *had* engaged in the charged conspiracy and, relying largely on that finding, imposed sentences that petitioners say were many times longer than those the Guidelines would otherwise have recommended.

Petitioners present a strong case that, but for the judge’s finding of fact, their sentences would have been “substantively unreasonable” and therefore illegal. See *Rita v. United States*, 551 U. S. 338, 372 (2007) (SCALIA, J., joined by THOMAS, J., concurring in part and concurring in judgment). If so, their constitutional rights were violated. The Sixth Amendment, together with the Fifth Amendment’s Due Process Clause, “requires that each element of a crime” be either admitted by the defendant, or “proved to the jury beyond a reasonable doubt.” *Alleyne v. United States*, 570 U. S. ___, ___ (2013) (slip op., at 3). Any fact that increases the penalty to which a defendant is exposed constitutes an element of a crime, *Apprendi v. New Jersey*, 530 U. S. 466, 483, n. 10, 490 (2000), and “must be found by a jury, not a judge,” *Cunningham v.*

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California, 549 U. S. 270, 281 (2007).^{*} We have held that a substantively unreasonable penalty is illegal and must be set aside. *Gall v. United States*, 552 U. S. 38, 51 (2007). It unavoidably follows that any fact necessary to prevent a sentence from being substantively unreasonable—thereby exposing the defendant to the longer sentence—is an element that must be either admitted by the defendant or found by the jury. It *may not* be found by a judge.

For years, however, we have refrained from saying so. In *Rita v. United States*, we dismissed the possibility of Sixth Amendment violations resulting from substantive reasonableness review as hypothetical and not presented by the facts of the case. We thus left for another day the question whether the Sixth Amendment is violated when courts impose sentences that, but for a judge-found fact, would be reversed for substantive unreasonableness. 551 U. S., at 353; see also *id.*, at 366 (Stevens, J., joined in part by GINSBURG, J., concurring) (“Such a hypothetical case should be decided if and when it arises”). Nonetheless, the Courts of Appeals have uniformly taken our continuing silence to suggest that the Constitution *does* permit otherwise unreasonable sentences supported by judicial factfinding, so long as they are within the statutory range. See, e.g., *United States v. Benkahla*, 530 F. 3d 300, 312 (CA4 2008); *United States v. Hernandez*, 633 F. 3d 370, 374 (CA5 2011); *United States v. Ashqar*, 582 F. 3d 819, 824–825 (CA7 2009); *United States v. Treadwell*, 593 F. 3d 990, 1017–1018 (CA9 2010); *United States v. Redcorn*, 528 F. 3d 727, 745–746 (CA10 2008).

This has gone on long enough. The present petition

^{*}With one exception: We held in *Almendarez-Torres v. United States*, 523 U. S. 224 (1998), that the fact of a prior conviction, even when it increases the sentence to which the defendant is exposed, may be found by a judge. But see *id.*, at 248 (SCALIA, J., dissenting); *Rangel-Reyes v. United States*, 547 U. S. 1200, 1202 (2006) (THOMAS, J., dissenting from denial of certiorari).

SCALIA, J., dissenting

presents the nonhypothetical case the Court claimed to have been waiting for. And it is a particularly appealing case, because not only did no jury convict these defendants of the offense the sentencing judge thought them guilty of, but a jury *acquitted* them of that offense. Petitioners were convicted of distributing drugs, but acquitted of conspiring to distribute drugs. The sentencing judge found that petitioners had engaged in the conspiracy of which the jury acquitted them. The Guidelines, petitioners claim, recommend sentences of between 27 and 71 months for their distribution convictions. But in light of the conspiracy finding, the court calculated much higher Guidelines ranges, and sentenced Jones, Thurston, and Ball to 180, 194, and 225 months' imprisonment.

On petitioners' appeal, the D. C. Circuit held that *even if* their sentences would have been substantively unreasonable but for judge-found facts, their Sixth Amendment rights were not violated. 744 F. 3d 1362, 1369 (2014). We should grant certiorari to put an end to the unbroken string of cases disregarding the Sixth Amendment—or to eliminate the Sixth Amendment difficulty by acknowledging that all sentences below the statutory maximum are substantively reasonable.