

(ORDER LIST: 596 U.S.)

MONDAY, APRIL 18, 2022

**CERTIORARI -- SUMMARY DISPOSITIONS**

20-37 ) BECERRA, SEC. OF H&HS, ET AL. V. GRESHAM, CHARLES, ET AL.  
20-38 ) ARKANSAS V. GRESHAM, CHARLES, ET AL.

The motion to vacate the judgments is granted. The judgment of the United States Court of Appeals for the District of Columbia Circuit in Nos. 19-5094 and 19-5096 is vacated, and the cases are remanded to that court with instructions to direct the District Court to vacate its judgment and dismiss the case as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950). The judgment of the United States Court of Appeals for the District of Columbia Circuit in Nos. 19-5293 and 19-5295 is vacated, and the cases are remanded to that court with instructions to direct the District Court to remand to the Secretary of Health and Human Services.

21-700 SMITH, KEITH V. CHICAGO, IL, ET AL.

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 Seventh Circuit for further consideration in light of *Thompson v. Clark*, 596 U. S. \_\_\_\_ (2022).

**ORDERS IN PENDING CASES**

21M103 BROWN, BRYAN K. V. NEAL, WARDEN

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

21-757 AMGEN INC., ET AL. V. SANOFI, ET AL.

21-1013 TURKEY V. USOYAN, LUSIK, ET AL.

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

21-7098 LANDRETH, THOMAS G. V. UNITED STATES, ET AL.

21-7395 ZOGRAFIDIS, KONSTANTINOS V. UNITED STATES

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until May 9, 2022, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

**CERTIORARI DENIED**

20-1351 HURD, PHILLIP W., ET AL. V. LASKAR, JOY

20-1788 NEW YORK, NY, ET AL. V. FROST, JARRETT

21-626 BOYD & ASSOCIATES V. WHITE, BRYAN K., ET AL.

21-640 FIVE STAR AUTOMATIC PROTECTION V. DEPT. OF LABOR

21-669 GUIDO, JOSE B. V. GARLAND, ATT'Y GEN.

21-796 MARCHAND & ROSSI, L.L.P. V. WHITE, BRYAN K., ET AL.

21-838 ) PENOBSCOT NATION V. FREY, ATT'Y GEN. OF ME, ET AL.

)  
21-840 ) UNITED STATES V. FREY, ATT'Y GEN. OF ME, ET AL.

21-848 SPIRE MISSOURI INC., ET AL. V. ENVTL. DEFENSE FUND, ET AL.

21-854 MANISCALCO, RACHEL, ET AL. V. NYC DEPT. OF ED., ET AL.

21-898 CONYERS, BLAKE, ET AL. V. CHICAGO, IL

21-906 KCLICKITAT COUNTY, WA, ET AL. V. CONFEDERATED TRIBES AND BANDS

21-951 RIO GRANDE FOUND. V. SANTA FE, NM, ET AL.

21-966 NEW YORK, ET AL. V. YELLEN, SEC. OF TREASURY, ET AL.

21-978 RIVERO, CARMELA V. FIDELITY INVESTMENTS, INC.

21-1010 NIX, TRACY V. ADVANCED UROLOGY INSTITUTE

21-1071 MURRAY, STEPHEN L. V. TAYLOR, JANELLE I., ET AL.  
21-1077 REYES, YACAIRA V. WESTCHESTER CTY. HEALTH, ET AL.  
21-1080 GARRETT, JACKY S. V. LUMPKIN, DIR., TX DCJ  
21-1091 ESPEJO, EDWIN V. WASHINGTON  
21-1094 KABONGO, JACQUES J. V. MICHIGAN  
21-1096 GUAN, ALICE V. ELLINGSWORTH RESIDENTIAL ASSOC.  
21-1097 DAHIYA, VINOD K. V. NEPTUNE SHIPMANAGEMENT, ET AL.  
21-1103 PELAEZ, RAUL A. V. GEICO  
21-1104 DAVIS, JOHN V. ANDREWS, TX, ET AL.  
21-1110 BOYS, TRAVIS V. LOUISIANA  
21-1112 GORBEA, SONYA V. VERIZON NEW YORK, INC.  
21-1116 LIEBOVICH, MATTHEW, ET AL. V. TOBIN, DIANE J., ET AL.  
21-1119 FRANCIS, PAUL V. DESMOND, JOHN O.  
21-1129 ZHENG-SMITH, WEN-TING V. NASSAU HEALTH CARE CORP., ET AL.  
21-1130 MUTUA, RAINEY M. V. GARLAND, ATT'Y GEN.  
21-1137 PHILLIPS, BYRON W. V. LIFE PROPERTY MANAGEMENT, ET AL.  
21-1148 SB BLDG. ASSOC. LTD. PARTNERSHIP V. ATKINSON, BUNCE, ET AL.  
21-1156 DAVID, RODRIC V. KAZAL, TONY, ET AL.  
21-1162 BAILEY-JOHNSON, ERIKA V. UNITED STATES  
21-1166 GRAMAJO-REYES, ROLAND O. V. GARLAND, ATT'Y GEN.  
21-1167 CHAPMAN, TERRY R. V. SSA, ET AL.  
21-1186 MANOR, MICHELLE, ET VIR V. MAYORKAS, SEC. OF HOMELAND  
21-1199 GAETJENS, SALLY V. LOVES PARK, IL, ET AL.  
21-1213 BROADEN, MICHAEL V. DEPT. OF TRANSPORTATION  
21-1226 WASHINGTON, MICHAEL V. FL DEPT. OF TRANSPORTATION  
21-1227 MRI ASSOCIATES OF TAMPA, INC. V. STATE FARM  
21-6186 ROSE, FARUQ V. UNITED STATES  
21-6348 RAMIRO-MEDINA, RAFAEL V. UNITED STATES

21-6551 AGUILERA FERNANDEZ, DENIS A. V. GARLAND, ATT'Y GEN.  
21-6630 RODRIGUEZ, DANIEL A. V. UNITED STATES  
21-6719 N. R. V. KANSAS  
21-6747 TAYLOR, VICTOR D. V. JORDAN, WARDEN  
21-6815 FLORES-PEREZ, NOE V. UNITED STATES  
21-6846 REYNOSO, JUAN J. V. LUMPKIN, DIR., TX DCJ  
21-7015 JAMES, EDWARD T. V. FLORIDA  
21-7046 HAILE, MAKEDA V. CONTEH, ABDUL  
21-7075 COOKE, IAN T. V. WILLIAMS, JOHN R., ET AL.  
21-7091 COLEY, ZACHARY E. V. SHAW INDUSTRIES, INC.  
21-7096 REED, DANIEL L. V. LUMPKIN, DIR., TX DCJ  
21-7100 DUNKINS, ALKIOHN V. PENNSYLVANIA  
21-7104 SIMMERMAKER, JEFFREY R. V. CEDAR CTY. SHERIFF, ET AL.  
21-7108 RYAN, KEVIN S. V. MINNESOTA  
21-7109 MILLS, JAMIE V. HAMM, COMM'R, AL DOC  
21-7111 WORTHY, DAVID R. V. CORIZON MEDICAL GROUP, ET AL.  
21-7113 JAKO, GERALD W. V. WEST VIRGINIA  
21-7114 SMITH, ROBERT N. V. FLORIDA  
21-7118 DAVOREN, JOSHUA B. V. MASSACHUSETTS  
21-7121 WILSON, JOSEPH L. V. PHOENIX POLICE DEPT., ET AL.  
21-7122 WARNER, THOMAS V. ILLINOIS  
21-7126 BUTLER, QUINCY D. V. LUMPKIN, DIR., TX DCJ  
21-7127 NWANERI, NGOZIKA J. V. QUINN EMANUEL URQUHART SULLIVAN  
21-7130 JOHNSON, JABARI J. V. DeFRANCESCO, ET AL.  
21-7131 JONES, BOBBY R. V. MITCHELL, WARDEN, ET AL.  
21-7138 ECHOLS, ROY F. V. CSX TRANSPORTATION, INC.  
21-7159 WILLIAMS, GARLAND E. V. UNITED STATES  
21-7166 OZSUSAMLAR, MUSTAFA V. ADAMS, WARDEN

21-7167 M. D. V. MT DEPT. OF PUB. HEALTH, ET AL.

21-7172 ZINMAN, COREY J. V. NOVA SOUTHEASTERN UNIV., ET AL.

21-7179 WILEY, PRECIOUS V. DEPT. OF VA, ET AL.

21-7185 TATE, BRIAN A. V. HOGAN, GOV. OF MD, ET AL.

21-7194 CANALES, MAINOR V. TENNESSEE

21-7197 SHAFFER, DENNIS L. V. KANSAS

21-7198 AHART, REMEL V. MASSACHUSETTS

21-7200 JACQUES, JOHN L. V. WISCONSIN

21-7206 DUCKWORTH, CHUCK V. ILLINOIS

21-7207 BREWER, ROBERT V. NEW YORK

21-7208 BAILEY, THERESA V. NY LAW SCHOOL, ET AL.

21-7213 MCKINNEY, KWASI V. ARKANSAS

21-7228 DINGLE, TIMOTHY D. V. KENDALL, WARDEN

21-7231 MCGILLVARY, CALEB L. V. NEW JERSEY

21-7240 CARR, ROBERT V. WISCONSIN

21-7250 FORTUNA, MICHAEL R. V. HUDGINS, WARDEN, ET AL.

21-7261 IFESINACHI, EZEANI G. V. CIRILLO, WARDEN

21-7265 MANNS, VICTOR L. V. FLORIDA

21-7278 JAMES, CALVIN V. WILCHER, SHERIFF

21-7280 CARROLL, SAMMIE V. MARYLAND

21-7303 PINCHON, EDWARD V. BYRD, WARDEN

21-7308 COLVIN, DEON D. V. HOWARD UNIVERSITY

21-7310 KLINE, CHRIS W. V. JOHNS, ADM'R, DEPT. OF H&HS

21-7320 CARTER, DEVIN M. V. IOWA

21-7330 RAJAB, JAPHER Y. V. UNITED STATES

21-7331 ROBINSON, DARREGUS T. V. UNITED STATES

21-7332 SISNERO-GIL, MARLON V. UNITED STATES

21-7333 PENNY, ANDREW M. V. UNITED STATES

21-7334 NUMANN, GREGORY T. V. UNITED STATES  
21-7339 GORDON, ROBERT D. V. UNITED STATES  
21-7340 HALL, JOSEPH L. V. UNITED STATES  
21-7341 FRUIT, JERRY V. UNITED STATES  
21-7342 GARCIA, ALEJANDRO S. V. UNITED STATES  
21-7343 HUESTON, HARRY V. UNITED STATES  
21-7344 CALLIGAN, EDWIN V. UNITED STATES  
21-7345 ARING, DAVID W. V. UNITED STATES  
21-7346 BRULE, AVIAN V. UNITED STATES  
21-7347 PHILLIPS, ANTHONY V. UNITED STATES  
21-7349 JOHNSON, CHARLES V. KIJAKAZI, COMM'R, SOCIAL SEC.  
21-7351 CRUZ-POLANCO, MIGUEL A. V. UNITED STATES  
21-7352 INTZIN-GUZMAN, PEDRO V. UNITED STATES  
21-7353 CHAVARRIA, ALEJANDRO V. UNITED STATES  
21-7354 KEEL, JOSEPH P. V. FLORIDA  
21-7355 VANCE, JON C. V. UNITED STATES  
21-7356 JOHNSON, STACEY T. V. UNITED STATES  
21-7357 CASTRO-LOPEZ, JOEL V. UNITED STATES  
21-7359 GATTIS, KALEB V. UNITED STATES  
21-7360 GREENBERG, MARC N. V. UNITED STATES  
21-7362 KURTZ, KYLE V. GRAY, WARDEN  
21-7367 SWINDLE, ADAM S. V. MA'AT, S.  
21-7369 PARKER, DANNIE S. V. UNITED STATES  
21-7372 ABADI, AARON V. DEPT. OF TRANSPORTATION  
21-7373 CHAPMAN, STEVEN M. V. FCC COLEMAN - USP II, WARDEN  
21-7374 NOGUERA, WILLIAM A. V. DAVIS, WARDEN  
21-7375 RODRIGUEZ, RODOLFO V. UNITED STATES  
21-7376 STAFFORD, KHAIL V. UNITED STATES

21-7382 HUERTA, ADOLFO V. UNITED STATES  
21-7385 ALCARAZ, JUAN M. V. WILLIAMS, WARDEN, ET AL.  
21-7386 CODY, SANDCHASE V. UNITED STATES  
21-7387 WOOD, HENRY E. V. UNITED STATES  
21-7390 HAILEY, CHOYA D. V. UNITED STATES  
21-7391 HENDERSON, ISAIAH R. V. UNITED STATES  
21-7393 SKAGGS, TRAVIS R. V. UNITED STATES  
21-7403 BREEDEN, JAMES C. V. UNITED STATES  
21-7404 BARAHONA-PAZ, JOSE A. V. UNITED STATES  
21-7405 GUILTY-NUNEZ, JOSHUA V. UNITED STATES  
21-7409 STRIZICH, JORY R. V. MONTANA  
21-7414 HAWES, GREGORY M. V. PACHECO, WARDEN, ET AL.  
21-7415 RAUSENBERG, MATTHEW V. LANGFORD, WARDEN  
21-7418 L'HEUREUX, JAMES R. V. WEST VIRGINIA  
21-7423 KEYES, DELBERT V. MISSISSIPPI  
21-7427 SNOW, WILLIAM G. V. ILLINOIS  
21-7429 MARTINEZ, DAMON R. V. UNITED STATES  
21-7430 ESPINOZA, ROBERTO P. V. UNITED STATES

The petitions for writs of certiorari are denied.

21-788 APARTMENT ASSN. OF LA CTY. V. LOS ANGELES, CA, ET AL.

The motion of Foundation for Moral Law for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

21-870 MICHIGAN V. TERRANCE, TRESHAUN L.

21-871 LOUISIANA V. BROWN, DAVID H.

The motions of respondents for leave to proceed *in forma pauperis* are granted. The petitions for writs of certiorari are denied.

21-1144 LEACH, TRACIE, ET AL. V. MENTOR WORLDWIDE, LLC

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

21-7123 WILSON, JOHN J. V. FLORIDA

21-7168 LIVIZ, ILYA V. SUPREME COURT OF MA

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. As the petitioners have repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioners unless the docketing fees required by Rule 38(a) are paid and the petitions are submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

21-7366 ROGERS, RAYMOND L. V. UNITED STATES

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

21-7389 ALEXANDER, JOHN P. V. MISSISSIPPI

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**

21-7410 IN RE EDUARDO PINEDA

The petition for a writ of habeas corpus is denied.

**MANDAMUS DENIED**

21-1115 IN RE WANDA BOWLING

The petition for a writ of mandamus is denied.

**PROHIBITION DENIED**

21-7364 IN RE DAVID LOPEZ

The petition for a writ of prohibition is denied.

**REHEARINGS DENIED**

21-8 PENNINGTON-THURMAN, WILMA M. V. FED. HOME LOAN MORTGAGE, ET AL.

21-787 RUSSOMANNO, GINA V. DUGAN, DAN, ET AL.

21-815 PIERSON, RAYMOND H. V. ROGOW, BRUCE S., ET AL.

21-5557 MILLER, CHASMIND D. V. GEICO, ET AL.

21-5938 JOHNSON, BRENDA M. V. ELECTRONIC TRANSACTION

21-6172 SULZNER, JUSTIN P. V. USDC ND IA

21-6444 IN RE JAMES J. KNOCHEL

21-6470 KOGIANES, MICHAEL G. V. JENSEN, EDWARD, ET AL.

21-6498 PARK, HYE-YOUNG V. UNIV. BD. OF TRUSTEES, ET AL.

21-6571 BENITEZ, RUBEN O. V. MISSISSIPPI

21-6588 ANDERSON, AMY B. V. WRIGHT, WARDEN, ET AL.

21-6694 BRANTLEY, LAWRENCE S. V. TX DEPT. OF FAMILY

21-6709 WIJE, SURAN V. UNITED STATES

21-6840 BART, SANDRA L. V. UNITED STATES

21-6910 CRUZADO-LAUREANO, JUAN M. V. MULDROW, W. STEPHEN

21-7005 DeVORE, ADAM M. V. BLACK, WARDEN

The petitions for rehearing are denied.

21-881 SHAO, LINDA V. McMANIS FAULKNER, LLP

The petition for rehearing is denied. The Chief Justice took no part in the consideration or decision of this petition.

21-934 WEINBACH, LANA V. BOEING CO., ET AL.

The petition for rehearing is denied. Justice Alito took no part in the consideration or decision of this petition.

21-6979 JOHNSTON, ANDREW J. V. UNITED STATES

The petition for rehearing is denied. Justice Barrett took no part in the consideration or decision of this petition.

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**SUPREME COURT OF THE UNITED STATES**

**KRISTOPHER LOVE v. TEXAS**

ON PETITION FOR WRIT OF CERTIORARI TO THE  
COURT OF CRIMINAL APPEALS OF TEXAS

No. 21–5050. Decided April 18, 2022

The petition for a writ of certiorari is denied.

JUSTICE SOTOMAYOR, with whom JUSTICE BREYER and JUSTICE KAGAN join, dissenting from the denial of summary vacatur.

Racial bias is “odious in all aspects,” but “especially pernicious in the administration of justice.” *Buck v. Davis*, 580 U. S. \_\_\_, \_\_\_ (2017) (slip op., at 22) (internal quotation marks omitted). When racial bias infects a jury in a capital case, it deprives a defendant of his right to an impartial tribunal in a life-or-death context, and it “‘poisons public confidence’ in the judicial process.” *Ibid.* The seating of a racially biased juror, therefore, can never be harmless. As with other forms of disqualifying bias, if even one racially biased juror is empaneled and the death penalty is imposed, “the State is disentitled to execute the sentence,” *Morgan v. Illinois*, 504 U. S. 719, 729 (1992).

In this case, petitioner Kristopher Love, a Black man, claims that one of the jurors in his capital trial was racially biased because the juror asserted during jury selection that “[n]on-white” races were statistically more violent than the white race. 29 Record 145. The Texas Court of Criminal Appeals never considered Love’s claim on the merits. Instead, relying on an inapposite state-law rule, the court concluded that any error was harmless because Love had been provided with two extra peremptory strikes earlier in the jury selection proceeding, which he had used before the juror at issue was questioned. That decision was plainly erroneous. An already-expended peremptory strike is no cure

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for the seating of an allegedly biased juror. The state court thus deprived Love of any meaningful review of his federal constitutional claim. I would summarily vacate the judgment below and remand for proper consideration.

## I

In 2018, a jury convicted Love of capital murder in the course of a robbery that occurred in 2015. Prior to trial, prospective members of the jury filled out a questionnaire that included the following questions:

“68. Do you sometimes personally harbor bias against members of certain races or ethnic groups?”

“69. Do you believe that some races and/or ethnic groups tend to be more violent than others?” Jury Questionnaire, p. 12 (Juror 1136B).

To the first question, No. 68, the prospective juror at issue answered, “No.” *Ibid.* But to the second question, No. 69, he answered, “Yes.” *Ibid.* He explained that “[s]tatistics show more violent crimes are committed by certain races. I believe in statistics.” *Ibid.*

During the *voir dire* proceeding that followed, both Love and the State questioned the prospective juror about his response to question No. 69. He explained that he understood “[n]on-white” races to be the “more violent races.” 29 Record 145. He claimed that he had seen statistics to this effect in “[n]ews reports and criminology classes” he had taken. *Id.*, at 144. He stated that his answer to question No. 69 was based on these statistics, rather than his “personal feelings towards one race or another,” *id.*, at 107, and he indicated that he did not “think because of somebody’s race they’re more likely to commit a crime than somebody of a different race,” *id.*, at 145. He told defense counsel that he would not feel differently about Love “because he’s an African American.” *Id.*, at 146.

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Following the examination, Love’s counsel moved to exclude the prospective juror for cause based on “his stated beliefs that . . . non-whites commit more violent crimes than whites.” *Id.*, at 153. Counsel argued that, under Texas law, the first issue the jury would have to decide at sentencing (referred to as Special Issue No. 1) was “whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society.” Tex. Code Crim. Proc. Ann., Art. 37.071, §2(b)(1) (Vernon 2021). Counsel explained that “leaving this man on the jury would be an invitation to leaving someone on there that might make a decision on Special Issue No. 1 that would ultimately lead to a sentence of death on his preconceived notions and beliefs that have to do with the race of the defendant.” 29 Record 153–154.

The trial court denied defense counsel’s challenge for cause without explanation. At that point, counsel had exhausted all of Love’s allotted peremptory challenges and two extra challenges the trial court had previously granted. Love’s counsel requested a third additional peremptory challenge in order to strike the prospective juror at issue. The trial court denied that request, again without explanation, and seated the juror on the jury.

At the conclusion of the trial, the jury convicted Love. At sentencing, the jury unanimously concluded that there was a sufficient probability that Love would commit future violent crimes and that there were not sufficient mitigating circumstances to warrant a sentence of life. Accordingly, the trial court sentenced Love to death.

On appeal, Love argued that he was “denied the constitutional right to an impartial jury” because the trial court seated a “racially biased juror.” Brief for Appellant in No. AP–77,085 (Tex. Crim. App.), pp. 101–102. Rather than address this federal constitutional claim on the merits, the Court of Criminal Appeals of Texas held that, “even if we assume that the trial court erred in denying Appellant’s

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challenges [to the juror at issue and another prospective juror] for cause,” Love could not show any harm under Texas law. 2021 WL 1396409, \*24 (Apr. 14, 2021). The court reasoned that the trial judge had previously granted Love two extra peremptory challenges, which he had already used by the time the prospective juror at issue was called up. Nevertheless, in the state appellate court’s view, each extra peremptory challenge operated to cure any harm from the erroneous denial of any challenge for cause. See *ibid.* (citing *Chambers v. State*, 866 S. W. 2d 9, 23 (Tex. Crim. App. 1993) (en banc)). The court concluded that Love could not make out any claim for relief stemming from the juror’s alleged bias. See 2021 WL 1396409, \*24.

Love now petitions this Court for a writ of certiorari.

## II

“[T]he Sixth and Fourteenth Amendments guarantee a defendant on trial for his life the right to an impartial jury.” *Ross v. Oklahoma*, 487 U. S. 81, 85 (1988). Biases capable of destroying a jury’s impartiality can take many forms. See *Morgan*, 504 U. S., at 729 (juror who would automatically vote for the death penalty in every case); *Parker v. Gladden*, 385 U. S. 363, 365–366 (1966) (*per curiam*) (prejudicial comments by the bailiff); *Irvin v. Dowd*, 366 U. S. 717, 725–727 (1961) (public opinions and press coverage about the case); *Morford v. United States*, 339 U. S. 258, 259 (1950) (*per curiam*) (potential influence of an executive order requiring loyalty to United States). Whatever the nature of the bias, if a trial court seats a juror who harbors a disqualifying prejudice, the resulting judgment must be reversed. See *United States v. Martinez-Salazar*, 528 U. S. 304, 316 (2000); *Morgan*, 504 U. S., at 729; see also *Rose v. Clark*, 478 U. S. 570, 578 (1986) (“Harmless-error analysis thus presupposes a trial . . . before an impartial judge and jury”).

This Court has recognized that claims of racial bias must

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be treated “with added precaution” in light of the special danger such bias poses. *Pena-Rodriguez v. Colorado*, 580 U. S. \_\_\_, \_\_\_ (2017) (slip op., at 17). For instance, when a juror makes a clear statement indicating that racial stereotypes or animus influenced a conviction, the Sixth Amendment requires the trial court to make an exception to the general rule shielding juror deliberations from scrutiny in order “to consider the evidence of the juror’s statement and any resulting denial of the jury trial guarantee.” *Ibid.* In addition, in some circumstances, courts must permit defendants to ask questions about prospective jurors’ racial biases during *voir dire*. See *Turner v. Murray*, 476 U. S. 28, 36–37 (1986); *Ham v. South Carolina*, 409 U. S. 524, 527 (1973). The principle underlying these cases is simple: “[R]acial bias in the justice system must be addressed—including, in some instances, after the verdict has been entered.” *Pena-Rodriguez*, 580 U. S., at \_\_\_ (slip op., at 17). That is because racial bias is too grave and systemic a threat to the fair administration of justice to be tolerated or ignored.

In this case, no court has meaningfully reviewed Love’s allegations of racial bias in violation of the Sixth and Fourteenth Amendments. Instead, the Court of Criminal Appeals “assume[d]” that the juror at issue was biased, but concluded that allowing him to sit on the jury was harmless. 2021 WL 1396409, \*24. That is an inherently contradictory determination. If the juror were indeed biased, then because he sat on the jury, Love’s conviction and sentence “would have to be overturned.” *Ross*, 487 U. S., at 85.

The Court of Criminal Appeals reached its erroneous conclusion by relying upon a state-law rule that has no application to Love’s claim. Texas courts have developed a rule aimed at evaluating the harm when a party is forced to use a peremptory challenge on a juror who should have been excluded for cause, thereby “wrongfully depriv[ing]” the party of an allotted challenge. *Hernandez v. State*, 563

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S. W. 2d 947, 948 (Tex. Crim. App. 1978) (en banc). In such cases, a trial court can cure any harm from its erroneous ruling by granting an additional peremptory strike. See *Chambers*, 866 S. W. 2d, at 22–23. This rule has no bearing on Love’s federal constitutional claim that a racially biased juror actually sat on his jury and helped convict him and sentence him to death. As to that type of claim, a previously used peremptory strike does not eliminate the need to inquire into the juror’s bias.

The State acknowledges that the Court of Criminal Appeals “never reached the federal issues Love raises,” Brief in Opposition 13, but the State contends that the court’s harmless-error analysis constitutes an independent and adequate ground for the judgment below, precluding this Court’s jurisdiction. See *Foster v. Chatman*, 578 U. S. 488, 497 (2016). As already shown, however, the state harmless-error rule was not “an ‘adequate’ basis for the court’s decision” on Love’s federal claim. *Ibid.* Indeed, in this situation, the rule is entirely beside the point. The State’s jurisdictional argument therefore fails.

The State also predicts that, on the merits, Love’s claim would be rejected if it were reviewed, especially given the deference owed to the trial court’s assessment of prospective jurors. A reviewing court should give the trial judge appropriate deference, see *Uttecht v. Brown*, 551 U. S. 1, 7 (2007), but it may not turn a blind eye to claims of bias entirely. The merits of Love’s claim should be reviewed by the Court of Criminal Appeals in the first instance. As this Court has often said, “[w]e are a court of review, not of first view.” *Manuel v. Joliet*, 580 U. S. \_\_\_, \_\_\_ (2017) (slip op., at 14); see *Sandstrom v. Montana*, 442 U. S. 510, 527 (1979) (“As none of these issues was considered by the Supreme Court of Montana, we decline to reach them as an initial matter here”).



SOTOMAYOR, J., dissenting

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Over time, we have endeavored to cleanse our jury system of racial bias. One of the most important mechanisms for doing so, questioning during *voir dire*, was properly employed here to identify a potential claim of bias. Safeguards like this, however, are futile if courts do not even consider claims of racial bias that litigants bring forward. The task of reviewing the record to determine whether a juror was fair and impartial is challenging, but it must be undertaken, especially when a person's life is on the line. I would ensure that Love's claim is heard by the Court of Criminal Appeals, rather than leave these questions unanswered. I respectfully dissent.