

(ORDER LIST: 601 U.S.)

MONDAY, MAY 13, 2024

ORDERS IN PENDING CASES

23M87 HILL, GLORIA V. LIFE LINE SCREENING OF AMERICA

23M88 KIMBRELL, JODY D. V. BANK OF AMERICA, ET AL.

23M89 ABERRA, NATANYA V. NEW YORK, NY

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

23M90 CHRUSTOWSKI, RENEE V. NAACP, ET AL.

The motion for leave to file a petition for a writ of certiorari under seal is denied.

23M91 E.R. V. COLORADO

The motion for leave to file a petition for a writ of certiorari with the supplemental appendix under seal is granted.

23M92 MILLER, ANGELA D. V. SALLAZ, SUPT., LAKIN

23M93 WILSON, JOHN D. V. DIXON, SEC., FL DOC, ET AL.

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

23-689 LOS ANGELES, CA, ET AL. V. M. A. R., ET AL.

The motion of petitioners to hold the petition in abeyance is granted.

23-6200 GREEN, COURTNEY V. LG ELEC. USA, ET AL.

23-6613 ALLEN, KATHY V. ALLEN, ARTHUR, ET AL.

23-6614 ALLEN, KATHY V. ALLEN, ARTHUR, ET AL.

23-6734 HOLMES, C. V. MILGRAM, ADM'R, DEA

The motions of petitioners for reconsideration of orders

denying leave to proceed *in forma pauperis* are denied.

23-6863 BILBRO, RENA V. EDUCATION PROFESSIONAL STANDARDS

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until June 3, 2024, 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.

23-6970 ALLEN, KATHY R., ET AL. V. L3HARRIS TECHNOLOGIES, INC.

The motion of petitioner Kathy Allen for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until June 3, 2024, 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. The petition for a writ of certiorari as to petitioner Jay Allen is denied.

23-7005 CHAN, SIMON V. HEALEY, GOV. OF MA, ET AL.

23-7218 SHANNON, LESLIE V. CHERRY CREEK SCH. DIST., ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until June 3, 2024, 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

23-323 GAMBOA, JOSEPH V. LUMPKIN, DIR., TX DCJ

23-631 GREENLAW, HOLLIS M., ET AL. V. UNITED STATES

23-669 MASSACHUSETTS COASTAL, ET AL. V. MARSH, CHAD

23-675) COMM. OF ASBESTOS CLAIMANTS V. BESTWALL LLC, ET AL.

)

23-702) ESSERMAN, SANDER L. V. BESTWALL LLC, ET AL.

23-722) DIAZ, RALPH, ET AL. V. POLANCO, PATRICIA, ET AL.
)
 23-842) POLANCO, PATRICIA, ET AL. V. DIAZ, RALPH, ET AL.
 23-729 KIVITI, ROEE, ET UX. V. BHATT, NAVEEN P.
 23-891 SACKS, DEANA P. V. TEXAS UNIVERSITY, ET AL.
 23-899 AHMED, IFTIKAR V. OAK MANAGEMENT CORP.
 23-943 RUSSELL, SAMUEL T. V. PAXTON, ATT'Y GEN. OF TX, ET AL.
 23-958 MOON, JOSHUA, ET AL. V. GREER, RUSSELL G.
 23-968 KNEZOVICH, STEVEN D., ET AL. V. UNITED STATES, ET AL.
 23-973 TARUM, RANDY, ET AL. V. STATE FARM INSURANCE
 23-974 RIDDLE, SAMMY J. V. LUMPKIN, DIR., TX DCJ
 23-978 PHUONG, LOAN V. NGUYEN, CONG VAN
 23-986 RUED, JOSEPH, D. ET AL. V. HATCHER, JUDGE, ET AL.
 23-988 HOLDER, JUSTIN V. YOUNG, JEFFREY, ET AL.
 23-989 MURPHY, ROBERT J. V. USDC ED PA
 23-990 PREWITT, GEORGE D. V. YAZOO COUNTY, MS
 23-993 KLEIDMAN, PETER V. COURT OF APPEAL OF CA, ET AL.
 23-994 MARCHMAN, MARCUS V. AMERIHOM MORTGAGE CO.
 23-998 JERUSALEM, MELANIE V. LA DEPT. OF STATE, ET AL.
 23-1000 WATERS, THERESE M. V. BECERRA, SEC. OF H&HS
 23-1005 REDD-OYEDELE, ANN V. OFFICE OF ED., ET AL.
 23-1009 CARPENTER, LEISL M. V. VILSACK, SEC. OF AGRIC., ET AL.
 23-1018 JEAN-BAPTISTE, HAROLD V. NEW YORK, NY, ET AL.
 23-1024 COUNTRY MUT. INS. CO. V. SUDHOLT, ANGELA, ET AL.
 23-1025 D.L. MARKHAM DDS, MSD, ET AL. V. VARIABLE ANNUITY LIFE INS. CO.
 23-1029 MORALES-CARDOSO, JOSE L. V. GARLAND, ATT'Y GEN.
 23-1031 SACKS, DEANA P. V. TEXAS UNIVERSITY, ET AL.
 23-1035 DeBOSE, ANGELA W. V. USDC MD FL
 23-1042 GASKIN, SEAN, ET AL. V. MAY, STEPHEN, ET AL.

23-1043 ANARIBA, AMIR V. CALIFORNIA
23-1080 MOSLER, WARREN, ET AL. V. GERACE, JOSEPH, ET AL.
23-1082 SLITER-MATIAS, ATTICUS V. UNITED STATES
23-1086 TETER, MEGAN M. V. UNITED STATES TRUSTEE
23-1089 CORONAVIRUS REPORTER, ET AL. V. APPLE INC.
23-1092 DONAHUE, SEAN M. V. PENNSYLVANIA
23-1098 COLE, THOMAS V. FOXMAR, INC.
23-1100 JONES, ALBERT V. CALIFORNIA
23-1101 FERGUSON, JACOB N. V. OWEN, ROBBIN M.
23-1102 DAVIS, TIMOTHY A. V. APOPKA, FL
23-1106 AKERMAN, MARTIN V. UNITED STATES
23-1114 HAYS, CHARLES R. V. UNITED STATES
23-1115 ING, MELISSA V. TUFTS UNIVERSITY
23-1118 IKORONGO TEXAS LLC, ET AL. V. BUMBLE TRADING LLC
23-1124 HAWKINS, JUDSON, ET AL. V. OHIO DEPT. OF NATURAL RESOURCES
23-5835 FINNELL, SEAN C. V. UNITED STATES
23-5996 PACE, LYNDON F. V. EMMONS, WARDEN
23-6161 HERRERA PASTRAN, NORMAN J. V. UNITED STATES
23-6276 HILL, DANNY V. SHOOP, WARDEN
23-6451 GREEN, TRAVIS D. V. LUMPKIN, DIR., TX DCJ
23-6621 AYALA-GARCIA, ADRIAN, ET AL. V. UNITED STATES
23-6648 MENDONCA, ANTHONY C. V. UNITED STATES
23-6692 REYNOLDS, MUSTAFA D. V. UNITED STATES
23-6738 MASHBURN, ELLIS L. V. HAMM, COMM'R, AL DOC
23-6776 INGRAM, ROBERT S. V. WARDEN, HOLMAN CF
23-6858 SESSION, TUJUAN E. V. GIANNOTTI, FNU, ET AL.
23-6885 RENDON, JOSEPH V. SKINNER, DIR., IA DOC, ET AL.
23-6890 WHITE, LAMAR L. V. CALIFORNIA

23-6898 CASTILLO, JOSE G. V. HARPER, JEAN, ET AL.
23-6911 MOORE, JEREMIAH V. DURAND, MS., ET AL.
23-6914 MILLER, MATTHEW W. V. WILCOT, DAN, ET AL.
23-6917 THOMPSON, SALADIN V. PLATKIN, ATT'Y GEN. OF NJ
23-6918 A. S. V. PALMDALE SCH. DIST.
23-6920 MORROW, NICHOLAS V. NASHVILLE, TN, ET AL.
23-6921 EASON, HANNIBAL V. RAOUL, ATT'Y GEN. OF IL, ET AL.
23-6923 GORHAM, CURTIS V. LAVINE, GARY H., ET AL.
23-6924 WILLIS, LEONARD F. V. LUMPKIN, DIR., TX DCJ
23-6925 EL-AMIN, SADAT V. LOUISIANA
23-6926 TIGER, PIDY T. V. WILLIAMS, WARDEN
23-6932 THOMAS. TREMOND V. HOOPER, WARDEN
23-6933 TRAN, HUY T. V. CAMPBELL, WARDEN
23-6938 GARCIA, FRANK V. WOLCOTT, SUPT., ATTICA
23-6946 INKO-TARIAH, CHARLES A. V. LAMBERTH, ROYCE C., ET AL.
23-6947 VELARDE, B. NICHOLAS V. BIDEN, PRESIDENT OF U.S., ET AL.
23-6948 WANJIKU, ERICK V. OKLAHOMA
23-6955 KISSNER, DONALD V. MICHIGAN
23-6956 WILBANKS, DAVID V. LUMPKIN, DIR., TX DCJ
23-6958 THARJIATH, MAL P. V. MINNESOTA
23-6959 ELLISON, LIONEL S. V. BLUDWORTH, WARDEN, ET AL.
23-6961 SMITH, JACOB V. HENLEY, WARDEN, ET AL.
23-6962 ROBBINS, VERNON D. F. V. WETZEL, JOHN E., ET AL.
23-6964 CANTRELL, HARVEY V. DEPT. OF VA
23-6972 KERR, JEREMY L. V. LENZ, KEITH, ET AL.
23-6981 DAVIS, EZEKIEL V. ANSARI, SHADID, ET AL.
23-6991 PEACE, SPENCER P. V. WISCONSIN
23-7004 THOMAS, NOEL V. V. FL DEPARTMENT OF HIGHWAY SAFETY

23-7006 PORTER, KELLY V. AXELON, INC., ET AL.

23-7010 HERRERA FLORES, SALVADOR A. V. GARLAND, ATT'Y GEN.

23-7033 TAYLOR, DONTE V. CALIFORNIA

23-7038 THURMAN, BENJAMIN V. RUG DOCTOR

23-7044 OGLE, MELANIE A. V. HOCKING CTY. COMMON PLEAS CT.

23-7062 THOMAS, CLARK D. V. NEWTON, WARDEN, ET AL.

23-7076 VILLAVICENCIO, JOSE R. V. TERLECKY, MYRON N.

23-7089 LEWIS, STEVEN L. V. MISSISSIPPI

23-7093 QUINN, JEREMY J. V. OHIO

23-7113 BUTLER, NICHOLAS V. UNITED STATES

23-7114 MARSCHALL, RICHARD V. UNITED STATES

23-7129 JONES, CEDRIC V. ELLER, WARDEN

23-7132 O'LEAR, THOMAS G. V. UNITED STATES

23-7134 JACKSON, DANIEL L. V. UNITED STATES

23-7135 MARTINEZ, ANTONIO B. V. UNITED STATES

23-7143 ORDONEZ-DOMINGUEZ, ARMANDO V. UNITED STATES

23-7144 HUSKEY, DRICKO D. V. UNITED STATES

23-7145 LEWIS, RICHARD D. V. UNITED STATES

23-7146 OCHOA-LEYVA, ANTONIO V. UNITED STATES

23-7147 CRUZ-RAMIREZ, MARGARITO V. UNITED STATES

23-7156 SHIELDS, ROBERT V. UNITED STATES

23-7157 DIXON, ROY R. V. HOOPER, WARDEN

23-7160 CARRASCO, JOHN M. V. UNITED STATES

23-7161 HOMAN, JAMES V. UNITED STATES

23-7163 MELKONIAN, KYLE V. UNITED STATES

23-7164 CASS, JASON B. V. CALIFORNIA

23-7173 BARLOW, JOHN L. V. UNITED STATES

23-7178 TITUS, SHAWN V. SCHENSE, DONALD L.

23-7179 JONES, XAVIER L. V. UNITED STATES

23-7181 DAY, AUSTIN D. V. UNITED STATES

23-7182 WRAY, JONATHAN V. UNITED STATES

23-7184 SANSONE, DANIEL P. V. UNITED STATES

23-7185 NORTHERN, LAWRENCE V. TEGELS, LIZZIE

23-7190 SWINGTON, TRIVANSKY V. UNITED STATES

23-7196 CARSON, ADAM V. UNITED STATES

23-7203 BLASKO, VLADIMIR V. BOYDEN, U.S. MARSHAL

23-7204 HAGINS, SEAN L. V. UNITED STATES

23-7205 JOSELIN, LUKE V. UNITED STATES

23-7213 BLANKS, JERRIS M. V. UNITED STATES

23-7215 HUESTON, DAVID V. UNITED STATES

23-7217 CHUTA, JULIO R. V. UNITED STATES

23-7220) SCOTT, LUKE J. V. UNITED STATES

23-7221) SCOTT, LUKE J. V. UNITED STATES

23-7222 SILVA, EVARISTO C. V. UNITED STATES

23-7223 CARTER, DAQUAN D. V. UNITED STATES

23-7225 HOYLE, LEROY V. UNITED STATES

23-7226 VILLAMONTE, MICHAEL L. V. UNITED STATES

23-7229 JACKSON, FREDARIUS D. V. UNITED STATES

23-7234 BELL, ORLANDO V. USDC DC

23-7235 WILLIAMS, TROY D. V. UNITED STATES

The petitions for writs of certiorari are denied.

23-1081 STAFINIAC, JOSEPH, ET AL. V. KIRSCHNER, MARK, ET AL.

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

23-7051 LARSON, LOREN J. V. SCHMIDT, COMM'R, AK DOC, 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.

HABEAS CORPUS DENIED

23-7195 IN RE DECHAUN TOLIVER

23-7199 IN RE JOSEPH R. DICKEY

23-7251 IN RE RAYNADA JONES

23-7259 IN RE QUELYORY A. RIGAL

23-7274 IN RE JOSEPH T. SWIFT

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

23-941 IN RE FIRST CHOICE WOMEN'S RESOURCE CENTERS, INC.

23-982 IN RE JOSHUA MARBLEY

23-6927 IN RE ANTOINE THOMAS

23-7194 IN RE FULVIO FLETE-GARCIA

The petitions for writs of mandamus are denied.

23-1006 IN RE CHRISTOPHER G. BAYLOR

The petition for a writ of mandamus and/or prohibition is denied.

REHEARINGS DENIED

23-116 CALDWELL, RAHIM V. ANTHONY, JASON, ET AL.

23-740 GOLDEN, LARRY V. QUALCOMM, INC.

23-746 NIKOLENKO, DMITRY V. NIKOLENKO, LUIZA

23-780 MISQUITH, EUGENE V. ST. MARY'S MEDICAL CENTER

23-904 GOLDEN, LARRY V. UNITED STATES

23-5321 REAVES, SAMUEL V. LUMPKIN, DIR., TX DCJ, ET AL.

23-5735 FRENCH, MICHAEL J. V. SALAMON, SUPT., ROCKVIEW

23-6001 JACKSON, KENRIC L. V. TEXAS
23-6064 KIMBROUGH, ANTHONY V. OKLAHOMA
23-6069 SAINTVIL, JEREMIE V. UNITED STATES
23-6111 REMSEN, LAWRENCE, ET AL. V. SHAFFER, JENNIFER, ET AL.
23-6160 HENDERSON, KENNATH A. V. POUNDS, WARDEN
23-6208 SCOTT, PLEADRO J. V. MIAMI DADE COUNTY, FL, ET AL.
23-6222 JOHNSON, CHARLES F. V. BECERRA, SEC. OF H&HS, ET AL.
23-6234 ROBINSON, HARLAND L. V. COMPASS GROUP USA, INC.
23-6354 EASTERLING, DEVONTE V. MISSISSIPPI
23-6407 WOODS, NIRA V. DEPT. OF HOUSING, ET AL.
23-6534 JACKSON, LUCIOUS M. V. FLORIDA
23-6677 SANCHEZ, MICHAEL I. V. THORNELL, DIR., AZ DOC, ET AL.
23-6685 WOODS, WILLIE P. V. RAY, WARDEN

The petitions for rehearing are denied.

JACKSON, J., dissenting

SUPREME COURT OF THE UNITED STATES

GUSTAVO TIJERINA SANDOVAL *v.* TEXAS

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

No. 23–5618. Decided May 13, 2024

The petition for a writ of certiorari is denied.

JUSTICE JACKSON, with whom JUSTICE SOTOMAYOR joins, dissenting from the denial of certiorari.

Criminal defendants have a “fundamental righ[t]” “to personal presence at all critical stages of the trial.” *Rushen v. Spain*, 464 U. S. 114, 117 (1983) (*per curiam*). We have long held that *voir dire*—the moment that “represents jurors’ first introduction” to the facts of a case—is one such stage. *Gomez v. United States*, 490 U. S. 858, 873–874 (1989). In this capital case, however, the Texas Court of Criminal Appeals (TCCA) determined that a defendant had no due process right to attend “special venire” proceedings held prior to *voir dire*, during which a judge preevaluated potential jurors who were summonsed specifically for that case and given information about the defendant and the allegations against him. The TCCA’s ruling raises a significant and certworthy question about whether criminal defendants have a due process right to be present in such circumstances. In my view, the answer is yes, and this Court should have granted the petition for certiorari to furnish that important holding.

I

Petitioner Gustavo Tijerina Sandoval was charged in Texas with capital murder. Under Texas law, prospective jurors are typically first assembled into a general, non-case-specific jury pool; only after members of that pool are individually qualified for service based on certain statutory criteria are they then assigned to specific cases for *voir dire*.

JACKSON, J., dissenting

See *Jasper v. State*, 61 S. W. 3d 413, 422–423 (Tex. Crim. App. 2001). In capital cases, however, Texas trial courts may summon a “special venire”—a panel of prospective jurors who are called for a particular trial. Tex. Code Crim. Proc. Ann., Art. 34.01 (Vernon 2006).

That is what happened here. Prospective jurors were mailed a summons along with a detailed questionnaire that included case-specific information such as the parties’ identities, the facts of the alleged offense, and the State’s intention to seek the death penalty. From February to May 2018, the trial court then summonsed three special venires to prequalify potential jurors for this case. During those proceedings, the judge explained the statutory prerequisites for jury service and described grounds for exemption from service. She also had colloquies with the potential jurors and disqualified many of them.

Tijerina Sandoval was not present for any of those qualification hearings. 665 S. W. 3d 496, 509–510 (Tex. Crim. App. 2022). Moreover, most of the exchanges between the prospective jurors and the court troublingly took place entirely off the record, without any recording or transcription, leaving little trace of what was said, who was excused, or why. *Id.*, at 510.

After being subsequently tried and convicted, Tijerina Sandoval maintained on appeal that it was legal error for the trial court to hold the special venire qualification proceedings outside of his presence. *Id.*, at 511. But the TCCA disagreed, concluding that “[w]hether the prospective juror is assigned first to the central jury room or to a special venire, a preliminary inquiry into his general qualifications, excuses, and exemptions is not the sort of proceeding that needs to be conducted in the defendant’s presence” in order to comport with due process. *Id.*, at 511–512.

JACKSON, J., dissenting

II

The TCCA’s categorical distinction between a “preliminary inquiry” into juror qualifications in the context of a special venire, on the one hand, and standard *voir dire* proceedings, on the other, stands in deep tension with a criminal defendant’s “right to personal presence at all critical stages of the trial.” *Rushen*, 464 U. S., at 117; see *United States v. Gagnon*, 470 U. S. 522, 526 (1985) (*per curiam*). The baseline is well established: A “defendant has a due process right to be present at a proceeding ‘whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge.’” *Id.*, at 526 (quoting *Snyder v. Massachusetts*, 291 U. S. 97, 105–106 (1934)). This Court has also already determined that *voir dire* proceedings qualify as such a moment. *Gomez*, 490 U. S., at 873. *Voir dire* is typically the point in which prospective jurors are made privy “to the substantive factual and legal issues in a case,” *id.*, at 874, and it “is the primary means by which a court may enforce a defendant’s right to be tried by a jury free from . . . predisposition about the defendant’s culpability,” *id.*, at 873. And, because the “atmosphere of the *voir dire* . . . may persist throughout the trial,” a defendant’s pretrial opportunity to “scrutinize” the “gestures and attitudes of all participants to ensure the jury’s impartiality” is essential to the fairness of the entire proceeding. *Id.*, at 875.

To be sure, we have also distinguished between *voir dire* and a mere “administrative empanelment process” that occurs before jurors have been assigned to a case or told anything about it on the grounds that the latter does not ordinarily carry the same significant implications for the fairness of the trial. *Id.*, at 874. Thus, at bottom, the legal question here is whether Texas’s “special venire” qualification sessions are sufficiently similar to standard *voir dire* proceedings to implicate the defendant’s due process right to be present.

JACKSON, J., dissenting

I believe that they are. Just as with *voir dire*, “a fair and just hearing would be thwarted by” a defendant’s absence from the special venire proceedings. *Snyder*, 291 U. S., at 108. To start, even before they arrived at the courthouse, the potential jurors in this case had already been informed of the parties’ identities, the allegations against Tijerina Sandoval, and the fact that the State sought the death penalty—critical facts about this case in particular. Then, on the day they were brought in for questioning, the prospective jurors came before the judge, where they could react to that case-related information in the context of the court’s assessment of their qualifications and ability to serve. Texas’s special venire hearings thus shared many of the key qualities that make the defendant’s presence at *voir dire* proceedings constitutionally indispensable. See *Gomez*, 490 U. S., at 873–875.

Moreover, given this reality, it is simply not the case that Tijerina Sandoval “could have done nothing” and would not “have gained anything by attending” these special venire proceedings. *Gagnon*, 470 U. S., at 527. Because most of these proceedings took place off the record, there is no full account of what was said. But what is known of the facts here plainly demonstrates why Tijerina Sandoval’s presence might have mattered.

In one of the few transcribed special venire exchanges, one prospective juror stated: “In this case, I feel uncomfortable.” 50 Reporter’s Record in No. AP–77,081 (Tex. Crim. App.), p. 20. It is entirely possible that that particular juror was predisposed to look unfavorably at the facts of the case or at Tijerina Sandoval himself. But the defense could not follow up on that comment, since Tijerina Sandoval was not present for those prequalification proceedings and was thus presumably unaware of that remark. There is no evidence that the trial court informed Tijerina Sandoval of this panel member’s comment before *voir dire*. Nor is it clear whether that juror was ever asked to explain the reasons for the

JACKSON, J., dissenting

stated discomfort, either during the special venire proceedings or subsequently during *voir dire*. It is also indisputable that a prospective juror’s discomfort “[i]n this case” is the kind of information that defense counsel would have probed at length in subsequent questioning, because such an inquiry might result in the juror’s disqualification for cause—saving the defendant a valuable peremptory strike.

The fact that Texas’s special venire process is available only in capital cases, which often receive abnormally extensive media coverage, makes matters worse. In those circumstances, it is all the more likely that those prospective jurors who are called for a special venire prequalification process may have seen reporting on the case and formed opinions before trial. Such media coverage might also lead prospective jurors to reveal a “predisposition about the defendant’s culpability” at the earliest opportunity—*i.e.*, during the special venire proceedings. *Gomez*, 490 U. S., at 873.

Again, this case further illustrates the point. During Tijerina Sandoval’s trial, the judge expressly noted that “the media has had [this case] publicized so much.” 58 Reporter’s Record in No. AP–77,081 (Tex. Crim. App.), p. 35. And, indeed, some of the prospective jurors disclosed on their questionnaires that they had seen media coverage about the case. That pretrial coverage was often highly prejudicial, suggesting, for instance, that Tijerina Sandoval might have been associated with Mexican cartels. Yet, Tijerina Sandoval was not present during the court’s initial vetting of the prospective jurors, despite their likely exposure to this coverage and preexisting knowledge of the case.

* * *

Because this Court has already recognized the due process right of a defendant to be present at *voir dire*, it seems to me self-evident that a defendant’s presence for the first

JACKSON, J., dissenting

court appearance of prospective jurors assembled specifically for his case likewise bears on “the fulness of his opportunity to defend against the charge.” *Snyder*, 291 U. S., at 105–106. But here, without even the benefit of a full record of the exchanges between the trial court and prospective jurors, the TCCA held categorically that a defendant in Tijerina Sandoval’s position had no right to be present during the court’s preliminary assessment of the jury pool. 665 S. W. 3d, at 511–512.

Other state and federal courts have held otherwise. They have recognized a defendant’s right to be present during preliminary proceedings where potential jurors have been exposed to the facts of a case or are subject to being excused for case-specific reasons.* For present purposes, that means the lower courts diverge as to whether a criminal defendant has a due process right to attend proceedings like the qualification hearings here. That debate involves an issue of clear constitutional and practical significance that this Court should have granted certiorari to resolve. Therefore, I respectfully dissent.

*See, e.g., *United States v. Bordallo*, 857 F. 2d 519, 522–523 (CA9 1988) (right to presence applied in pre-*voir dire* proceedings where “prospective jurors knew which specific case they would hear, and some were excused due to factors related to” the case); *State v. Irby*, 170 Wash. 2d 874, 880–884, 246 P. 3d 796, 799–801 (2011) (right applied when judge exchanged email with counsel about excusing jurors, who had filled out questionnaires about that case, based on their “general qualifications” and “their fitness to serve as jurors in this particular case”); *State v. Wilson*, 323 Ore. 498, 504–505, 918 P. 2d 826, 830–831 (1996) (right applied to pre-*voir dire* preliminary orientation during which potential jurors filled out lengthy questionnaires and were informed of the facts of the case and the parties’ identities).